

## TOWN OF STARKSBORO ANIMAL CONTROL ORDINANCE

The Town of Starksboro's Animal Control Ordinance, adopted on September 1, 1998 has been repealed by the Selectboard at a duly warned meeting held on June 21st, 2004 at the Town Clerk's Office. A new ordinance, including civil enforcement of violations by the Judicial Bureau of the State of Vermont, has been adopted by the Selectboard on June 21<sup>st</sup> 2004.

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Amended ordinance to become effective on August 20th, 2004

A copy of the Ordinance as Amended is available at the Town Clerk's office for review.

Citizens have the right to petition for a vote on the Ordinance under V.S.A. 24: Section 1973. This provides that a petition calling for a vote at a special or annual meeting duly warned for the purpose, signed by not less than 5% of the registered voters may be presented to the Selectboard within forty-five days of the date of adoption (June 21st, 2004).

Anyone interested in further information may contact Town Clerk Cheryl Estey at the Starksboro Town Clerk's office - 802-453-2639.

## **Section 1: AUTHORITY**

The Selectboard of the Town of Starksboro, under the grant of authority set forth in 10 V.S.A. section 3549 and 24 V.S.A. sections 2291(10) and (14), hereby enacts the following ordinance in order to protect the health, safety and welfare of the citizens of the Town of Starksboro and others by regulating the keeping of domestic pets and wolf-hybrids. This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

The Selectboard shall annually appoint an Animal Control Officer or other appropriate official to enforce this Ordinance.

## **Section 2: Definitions**

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context otherwise indicates. The word "shall" is construed as mandatory.

- a) "Animal Control Officer" or "Enforcement Officer" shall mean the person appointed by the Selectboard or any other individual specifically designated by the Selectboard to enforce the provisions of this Ordinance from time to time. The term ACO may be used hereinafter, and refers to this definition.
- b) "Domestic Pet" or "Pet" shall mean domestic dog, domestic cat, or ferret. The term shall also include any animal that can be construed as a pet.
- c) "Wolf-Hybrid" shall mean any animal which is the progeny or descendent of a domestic dog (*canis familiaris*) and a wolf (*canis lupus* or *canis rufus*). It also means any animal which is advertised, registered, licensed or otherwise described or represented as a wolf-hybrid by its owner or an animal which exhibits primary physical and behavioral wolf characteristics (as defined by the Vermont Department of Fish and Wildlife)
- d) "Owner" shall mean any person or persons, firm, association or corporation owning a domestic pet or wolf-hybrid and includes any person who has actual or constructive possession of the animal(s). The term also includes those persons who provide feed and shelter to a domestic pet or wolf-hybrid. However, it is not the intent of the Selectboard to require a person to be responsible under this Ordinance for feral animals that take up residence in a building other than a persons home, even if the person occasionally provides feed to the animals.
- e) "Domestic cat" shall mean an animal, either male or female, which is the progeny or descendent of the species *felis catus* or *felis domestica*.

f) "Domestic dog" shall mean an animal, either male or female, which is the progeny or descendent of the species canis familiaris.

g) "Ferret" shall mean an animal, either male or female, which is the progeny or descendent of the species mustela putorius furo.

h) "Selectboard" shall mean the legislative body of the Town of Starksboro, as it may be constituted from time to time.

I) "Poundkeeper" shall mean that person designated from time to time by the Selectboard of the Town of Starksboro to keep and/or humanely destroy domestic pets and wolf-hybrids determined by the Animal Control Officer to have violated any provisions of this Ordinance.

j) "Uncontrolled" or "At Large" shall mean a dog or wolf-hybrid that is off the premises of the owner or keeper, and not under the control of the owner or keeper, a member of his immediate family or an agent of the owner, either by leash, cord, chain or other reasonable means of restraint, and not lawfully engaged in hunting with the owner or keepers, so that at all times the dog or wolf-hybrid may be prevented from causing damage, disturbance or annoyance.

k) "Excessive Noise" shall mean any noise that is created by a domestic pet or wolf-hybrid, audible to an individual in a location where he or she is lawfully permitted to be, that is of such volume, duration or frequency that a reasonable person would find it disturbing or irritating.

l) "Vicious Animal" shall mean a domestic pet or wolf-hybrid that causes any person to suffer or reasonably fear bodily injury by attack or threat of attack, except that a domestic pet or wolf-hybrid shall not be deemed "vicious" as the result of an attack or threat upon a person in the act of trespassing upon private property of the owner or keeper of the domestic pet or wolf-hybrid.

m) An "appropriate complaint" shall be deemed to have been made under the Ordinance when a person gives the Selectboard or their Enforcement Officer a full description of the domestic pet or wolf-hybrid, including breed, size, color and other distinguishing features which description must be sufficient for a proper identification. The person who makes such a complaint shall do so on a form supplied by the Town of Starksboro setting forth his or her name, address, phone number and the names and addresses of any and all witnesses to the violation, a description of domestic pet or wolf-hybrid, and the circumstances under which the domestic pet or wolf-hybrid was believed to be in violation of this Ordinance.

n) "Nuisance Animal" shall mean any domestic pet or wolf-hybrid that:

1. Makes excessive noise,

2. Causes damage to public or private property,
3. Scatters refuse,
4. Molests or threatens passers-by or passing vehicles on public roads or property,
5. Acts viciously or attacks other animals,
6. Obstructs traffic,
7. Is unlicensed in violation of 20 V.S.A. section 3581,
8. Is uncontrolled or running at large or,
9. Otherwise acts to create a nuisance or disturbance.

### **Section 3: RUNNING AT LARGE**

No owner or keeper shall permit a dog or wolf-hybrid owned by him/her or under his/her keeping or control to run at large. The owner or keeper of the dog or wolf-hybrid shall not allow the animal to enter or remain on the property of others, including lawns, gardens, yards, schoolyards, public buildings, parks and/or playgrounds at any time or in any manner in which it would be unlawful for the owner to so enter or remain.

### **Section 4: DISTURBANCES AND NUISANCES**

- a) The owner or keeper of a domestic pet or wolf-hybrid shall not allow the domestic pet or wolf-hybrid to be vicious or to be a nuisance animal.
- b) The owner or keeper of any domestic pet or wolf-hybrid shall not allow waste from the domestic pet or wolf-hybrid to accumulate so that either a health or odor problem results.
- c) The owner or keeper of a domestic pet or wolf-hybrid shall remove immediately and properly dispose of any waste created by the domestic pet or wolf-hybrid when the domestic pet or wolf-hybrid is not on the private property of the owner or keeper.
- d) An owner or keeper shall not permit a female domestic pet or wolf-hybrid to be outside a building or other secured enclosure while in heat (estrus). Such an animal shall be considered a nuisance animal within the meaning of this Ordinance.
- e) Animals kept as livestock in accepted agricultural practice, as defined by the Commissioner of the Department of Forests, Parks and Recreation from time to time shall not be deemed as nuisance animals under this Ordinance, or otherwise be subject to regulations hereunder.

### **Section 5: APPROPRIATE COMPLAINTS**

No later than three (3) days after an appropriate complaint is made in accordance with Section 2(m) of this Ordinance, the Animal Control Officer shall investigate the information provided in the complaint in order to determine if a domestic pet or wolf-hybrid has violated any provision(s) of this Ordinance.

## **Section 6: IMPOUNDMENT**

The Animal Control Officer may apprehend and impound any domestic pet or wolf-hybrid that has violated any provision of this Ordinance. Such impoundment shall occur in an animal shelter or other appropriate place designated by the Selectboard. Any nuisance animal may not be released until all fines and an impounding fee, as specified in Section 9, below, are paid to the Town and a certification of rabies vaccination and any necessary licenses for the current year are shown to the Animal Control Officer. The owner of the domestic pet or wolf-hybrid shall, in addition, be responsible for any and all fees and expenses incurred by the pound keeper or any other person designated by the Selectboard for the care of the domestic pet or wolf-hybrid while impounded.

## **Section 7: NOTICE OF VIOLATION**

a. The Enforcement Officer may issue a Notice of Violation whenever he has reasonable grounds to believe that a person has violated this Ordinance.

b. Upon apprehending and impounding a vicious or nuisance animal, the Enforcement Officer shall issue a Notice of Violation.

c. A Notice of Violation shall be delivered in person or mailed to the respondent by registered mail and shall include:

- 1) A brief statement of the alleged violation
- 2) A statement that the owner has a right to a hearing before the Selectboard and a statement that failure to request a hearing within ten (10) days of the date of mailing the notice shall constitute a waiver of the right to a hearing.
- 3) A statement of charges and fines due if the Selectboard finds that the domestic pet or wolf-hybrid has violated this Ordinance or if the owner does not request a hearing.
- 4) If the owner of the vicious or nuisance animal is unknown, written notice that contains the information in Section 7c (a) and (3) above shall be posted for at least three days in conspicuous places in the Town.

## **Section 8: SELECBORAD HEARING FOLLOWING IMPOUNDMENT: DECISION**

a. A person who received a Notice of Violation shall be provided a hearing before the Selectboard if the person submits a written request for a hearing to the Town Clerk within ten(10) days of the date of mailing of the Notice of Violation. If the owner does not request a hearing in a timely fashion, the owner shall be obligated to pay all charges and fines due under this Ordinance. If the owner does request a hearing in a timely manner, the Selectboard shall hold a hearing within fourteen (14) days of receipt of the request. The Selectboard shall render its decision in writing within ten (10) days of the date of the hearing is concluded. The Selectboard's decision shall be delivered in person or mailed to the owner by certified mail.

b. The decision of the Selectboard may affirm, reverse or modify the Enforcement Officers findings that the subject domestic pet or wolf-hybrid violated any provisions(s) of this Ordinance, as described in the notice of violation. The decision of the Selectboard may include, without limitation, in order to protect the health, safety and welfare of the citizens of the Town of Starksboro, an order providing that the domestic pet or wolf-hybrid shall be:

1. Disposed of in a humane manner,
2. Given to the Addison County or Chittenden County Humane Society,
3. Muzzled,
4. Chained, or
5. Confined.

c) Failure to comply with the Selectboard's decision and/or order shall be in violation of this Ordinance.

#### **Section 9: IMPOUNDMENT FEES**

a. Any domestic pet or wolf-hybrid impounded under the provisions of this Ordinance shall be released only on payment of a \$20.00 impoundment fee; provided however that any domestic pet or wolf-hybrid impounded for the third time in any one calendar year shall be released on the payment of a \$35.00 impoundment fee, and if impounded for four(4) or more times in any one calendar year, shall be released only on payment of a \$60.00 impoundment fee.

b. In addition to the impoundment fee charged herein, there shall be a boarding charge of \$8.00 per day, or fraction thereof, during which the domestic pet or wolf-hybrid is impounded. For large dogs or wolf-hybrids the boarding fee shall be \$12.00 per day.

c. The Selectboard is hereby empowered to increase the impoundment fees and boarding charges provided in this section by appropriate resolution.

#### **Section 10: IMPOUNDING DOMESTIC PETS AND WOLF-HYBRIDS THAT HAVE BITTEN PERSONS**

In response to an appropriate complaint that is made in accordance with Section 2(m) of this Ordinance, an Enforcement Officer shall apprehend and impound any domestic pet or wolf-hybrid that has bitten any person. The domestic pet and wolf-hybrid shall be impounded for ten days to determine if the pet or wolf-hybrid shall be reclaimed by the owner, or if the owner is not known, sold, given away or humanely destroyed. The owner of any domestic pet or wolf-hybrid impounded for observation is responsible for all fines and fees that may be imposed.

#### **Section 11: DISPOSITION OF UNCLAIMED DOMESTIC PETS OR WOLF-**

## **HYBRIDS**

If, after ten (10) days of impoundment, the owner of any domestic pet or wolf-hybrid cannot be found, the domestic pet or wolf-hybrid may be given to the Addison County or Chittenden County Humane Society for adoption or to be destroyed in a humane way. If the owner of any domestic pet or wolf-hybrid is known, and he/she does not claim the domestic pet or wolf-hybrid, the domestic pet or wolf-hybrid may be given to the Addison County or Chittenden County Humane Society or destroyed in a humane way and the owner of the domestic pet or wolf-hybrid will be liable for any and all fees involved.

The Selectboard may choose to collect any and all fees involved in the impounding of a dog by a civil action against the owner.

### **Section 12: ENFORCEMENT BEFORE THE JUDICIAL BUREAU**

Any person who owns a domestic pet or wolf-hybrid that violates any provision of this ordinance shall be subject to a civil penalty of up to \$500 per day for each day that such violation continues. Any Enforcement Officer, constable, or Animal Control Officer may, in lieu of apprehending a domestic pet or wolf-hybrid found at large, act as an issuing Municipal Official and issue and pursue before the Judicial Bureau a municipal complaint for any domestic pet or wolf-hybrid found to have violated any provision of this Ordinance.

### **Section 13: WAIVER FEE FOR MUNICIPAL COMPLAINT**

An Issuing Municipal Official has the authority to recover a waiver fee, in lieu of civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First offense	\$37.50
Second offense	\$56.25
Third offense	\$75.00
Fourth offense	\$112.50
Fifth and subsequent offenses	\$150.00

Offenses shall be counted on a calendar year basis.

### **Section 14: CIVIL PENALTY FOR ORDINANCE VIOLATION**

An issuing Municipal Official has the authority to recover civil penalties in the following amounts for each violation of this ordinance:

First offence	\$50.00
Second offence	\$75.00
Third offence	\$100.00
Fourth offence	\$150.00
Fifth offence	\$200.00

Offenses shall be counted on a calendar year basis.

**Section 15: RIGHT TO CIVIL ENFORCEMENT**

In addition to the enforcement procedures available before the Judicial Bureau, the Town has the authority to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

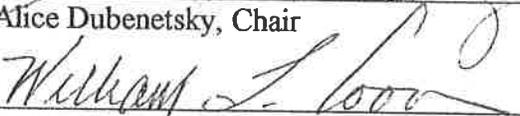
**Section 16: SEVERABILITY**

If any part of provision of this Ordinance shall be deemed invalid by a court of competent jurisdiction, that portion of the ordinance shall be severable, and invalidity of said part or provision shall not invalidate any other part of provision of this Ordinance.

Dated and adopted this 21<sup>st</sup> day of June, 2004, in the State of Vermont, Country of Addison, Town of Starksboro.

Ordinance to become effective  
On Friday, August 20, 2004

  
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Alice Dubenetsky, Chair

  
\_\_\_\_\_  
William Coop

  
\_\_\_\_\_  
Glynda McKinnon

Selectboard