

# **TOWN OF MORETOWN, VERMONT ANIMAL CONTROL ORDINANCE**

The Selectboard of the Town of Moretown hereby adopts the following Animal Control Ordinance **as amended** pursuant to 24 V.S.A. Section 1971 and following and 20 V.S.A. Section 3549. This ordinance is designated a civil ordinance. **Amendments are delineated with underlined bold and italic print.**

## **Section I. Purpose**

The purpose of this Ordinance is to protect the comfort, health, repose, property, safety and general welfare of the residents of the Town of Moretown. For that reason, the Selectboard deems it necessary to establish procedures for handling complaints, enforcement and appeals, and to establish penalties for violations of this Ordinance.

## **Section II. Duty of Maintenance of Property and Control of Animals**

No person owning, leasing, occupying or having control of a premises in the Town of Moretown and no person owning, keeping, harboring or maintaining any animal shall allow such premises or animal(s) to become or remain a public nuisance as herein defined.

## **Section III. Definitions**

- A.** Public Nuisance means any continuing or often repeated act, omission, condition or conduct which endangers life, health, or property or which unreasonably annoys, injures or disturbs or intrudes upon the free use and comfortable enjoyment of private and public lands in the Town of Moretown, provided, however, such nuisance is specifically enumerated and defined in subsection (2) of this Section.

### **Enumeration of Nuisances**

- B.** Animal Nuisances – Animals are hereby declared a public nuisance under the following circumstances or conditions:
  - 1. An animal that repeatedly disturbs the rights of or threatens the safety of or injures a member of the general public or substantially interferes with the ordinary use and enjoyment of their property.
  - 2. An animal repeatedly allowed or permitted to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damage to gardens, flowers or vegetables, or defecating upon the property of another, or injury to or worrying domestic animals and pets.
  - 3. Animals maintained in an environment or unsanitary conditions or lack of cleanliness which results in offensive odor or is dangerous to the public health, welfare, or safety, or which substantially increases the probability of the transmission of disease.

4. Property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property.
  5. Animals repeatedly, continuously or habitually allowed or permitted to bark, whine, howl, crow, cackle, or make loud noises in an excessive, continuous or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises.
  6. An animal that is diseased and dangerous to the public health.
  7. An animal that habitually or repeatedly chases, snaps at, attacks or barks in a threatening manner at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles.
  8. An animal kept or maintained contrary to the conditions of a lawful order issued by the Selectboard under Section VIII of this Ordinance.
- C. Animal Control Officer means the person or persons appointed by the Selectboard to police and enforce this Ordinance in cooperation with appropriate law enforcement agencies and shall include, without limitation, sworn enforcement officers working for the Town of Moretown.
- D. Dog means any animal of the canine species, including wolf-hybrids.
- E. Owner means any person who owns a domestic pet or wolf-hybrid and includes any person who has actual or constructive possession of the pet or wolf-hybrid. The term also includes those persons who provide feed or shelter to a domestic pet or wolf-hybrid. However, it is not the intent of the general assembly to require a person to be responsible under this chapter for feral animals that take up residence in a building other than the person's home, even if the person occasionally provides feed to the animal.
- F. The definitions of 20 V.S.A. Section 3541 are incorporated by reference.
- G. **Running at large means that a dog is not:**
1. **on a leash;**
  2. **in a vehicle;**
  3. **on the owner's property;**
  4. **on the property of another person with the person's permission;**
  5. **clearly under the verbal or non-verbal control of the owner; or**
  6. **hunting with the owner.**

#### **Section IV. Licensing of Dogs**

It shall be the duty of every person owning, keeping or harboring any dog over six (6) months of age, within the Town of Moretown to procure a license by April 1<sup>st</sup> in accordance with Chapter 193, Title 20 of the Vermont State Statutes Annotated, as amended. The Animal Control Officer (ACO), is authorized to enforce the provisions of 20 V.S.A., Chapter 193 and this Ordinance as applied to the enforcement of unlicensed dogs within the town.

## Section V. Animal Control Officer Duties

The Selectboard shall designate a person to act as Animal Control Officer (ACO) to enforce the provisions of this Ordinance. It shall be the duty of the ACO, or his or her authorized designee, to investigate complaints of animal nuisances and unlicensed dogs and to enforce the provisions of the Ordinance.

It is the intent of this Ordinance to resolve a complaint at the lowest possible level. Where appropriate, a warning shall be given prior to issuance of a formal complaint and the party(ies) encouraged to resolve the problem directly. Upon a complaint to the ACO or Selectboard, the ACO shall investigate the complaint. The ACO shall make every effort to contact the owners of the animals.

## Section VI. General Violations

- A. Any animal allowed to become or remain a public nuisance, or unlicensed, as herein defined, shall constitute a violation of this Ordinance and may be impounded or fined. The owner of any animal impounded, if the owner can be identified, shall be guilty of a violation of this Ordinance and subject to the penalties hereinafter provided.
- B. **No dog shall run at large in the Village District or on any public property.**
- C. **The person in control of a dog that defecates in any public area or on the private property of another person shall immediately remove the fecal material and dispose of it in a sanitary manner.**

## Section VII. Enforcement

- A. The ACO may impound any animal which constitutes a public nuisance in violation of this Ordinance. If the owner of such dog is known or can be located with reasonable diligence, then the person who has control of impounding shall personally notify the owner within three days of the receipt of such dog. If the owner of such dog is unknown or cannot be located with reasonable diligence, then the person who has control of impounding shall post, within forty eight (48) hours of the time such person shall have taken such dog into possession, written notice at the Town Clerk's office, giving a description of the dog, stating where it is impounded and the conditions for its release. If the owner within seven (7) days after receiving notice, or within fourteen (14) days after notice has been posted, does not claim such dog, then the person having control of impounding shall notify the Selectboard which may authorize disposal of the dog in a proper and humane manner. The owner shall be liable for all costs incurred by the Town for seizure, impoundment or disposal.
- B. An unlicensed dog may be impounded by virtue of the above Section VII – A of this Ordinance. If the owner of an unlicensed dog is located and the owner wishes to reclaim the dog, the ACO shall not release the dog until all required licenses have been obtained. The owner shall also pay to the Town a fee of no more than \$100.00 plus all charges incurred by the Town for the impoundment of the dog. If the dog has been disposed of, the owner shall be liable for all costs incurred by the Town for such impoundment and disposal.

- C. In addition to or in lieu of impoundment, an animal found upon investigation of the ACO to be a nuisance animal as defined in Section III, the ACO may issue to the known owner of such animal a "Notice of Fine" as in Section VII – B of the Ordinance, and as follows;

First Offense	\$ 25.00
Second Offense	\$ 50.00
Third Offense	\$100.00
Subsequent Offenses	\$100.00 each

Within five (5) business days or receipt of Notice of Fine, the owner or keeper may elect to:

1. Pay the amount of the fine to the Town Clerk in full satisfaction of these penalties: or
  2. File with the Town a request for hearing before the Selectboard, in which case a hearing shall be held in accordance with the procedures of Section VIII of this Ordinance and in which case no fine shall be due until a determination has been made by the Selectboard.
- D. In addition to or in lieu of impounding an animal found to be a nuisance animal as defined in Section III of this Ordinance, the ACO may issue to the known animal owner a Notice of Complaint. A copy of the Notice of Complaint should be filed with the Selectboard. The Selectboard shall proceed with a hearing in accordance with Section VIII of this Ordinance.

In the event of failure to pay any fine assessed or the filing of an appeal therefrom in a timely manner, the Town Attorney or other designated officer of the Town may initiate an action for enforcement of civil ordinance violations before the Judicial bureau, and upon establishment of a violation of this Ordinance, the owner shall be fined not less than \$50.00 nor more than \$500.00. Each day a violation continues shall constitute a separate violation. Upon application by the Town, the Judicial bureau may also order that any continuing violation cease. In addition to or in lieu of an action before the Judicial Bureau, the Town may file an appropriate civil action in Superior Court.

## **Section VIII. Procedure for Complaints and Action**

### **A. Complaints and Hearings**

1. The ACO, in accordance with Section VII – E or three (3) legal residents of the Town not satisfied with the action of the ACO, who upon knowledge that an animal constitutes a public nuisance under this Ordinance may file a written complaint with the Selectboard. The complaint shall contain the names and addresses of the three complaining residents, the nature and basis of the complaint, the name and address of the victim or victims, and any other facts that may assist the Selectboard in conducting its investigation.

2. The Selectboard, within twenty-one (21) days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter, If the owner or keeper of the animal which is the subject of the complaint can be ascertained with due diligence, said owner or keeper shall be provided with a written notice of the time, date and place of hearing and the facts of the complaint.
3. After hearing, if the animal is found to be a nuisance under this Ordinance, the Selectboard may make findings of fact and such order for the abatement of such nuisance as the facts and circumstances of the case may require, including, without limitation, that the animal be disposed of in a proper humane way, muzzled, chained, or confined, and the owner or keeper of such animal may be assessed damages and/or a fine not to exceed \$500.00 The order shall be sent by certified mail, return receipt requested, or served personally upon the owner or keeper of the animal.

## **Section IX. Appeals**

### **A. Actions of the Animal Control Officer**

1. Any owner or keeper of an animal found to be in violation of this Ordinance by the Animal Control Officer may appeal to the Selectboard any action, findings, impoundment charges, or boarding fees by filing written notification to the Town Clerk within seven (7) business days following the payment of any such charges, fees or fines.
2. The Selectboard shall convene a hearing on the appeal in accordance with the procedures under Section VIII of this Ordinance. The Selectboard, after notice and hearing, may determine to affirm or reverse any or all findings, actions, charges, fees or fines, and may determine to affirm or reverse any or all findings, actions, charges, fees or fines, and may direct the Town Treasurer to return any amounts paid as deemed appropriate.

### **B. Actions of the Selectboard**

1. Any owner or keeper of any animal found to be in violation of this Ordinance may appeal any decision, order, action or finding of the Selectboard to the Washington Superior Court. Any appeal from the decision of the Selectboard under this Ordinance shall be filed within thirty (30) days of the rendering of such decision.

## **Section X. Savings**

Nothing herein shall be construed to limit, supercede, repeal or annul any other law, ordinance, or regulation related to nuisances generally or to animals, including dogs, in particular.

## **Section XI. Severability**

Each separate provision of this Ordinance shall be deemed independent of all other provisions of this Ordinance, and if any provisions of this Ordinance shall be declared invalid in a court of law, all other provisions of this Ordinance shall remain valid and enforceable.

Adopted at a regular meeting of the Town of Moretown Selectboard, duly warned for such purpose, this 3<sup>rd</sup> day of May, 2004.

**TOWN OF MORETOWN SELECTBOARD**

By: \_\_\_\_\_  
John Hoogenboom, Chairman

ATTEST: \_\_\_\_\_ Date \_\_\_\_\_  
Susan Goodyear, Town Clerk