

# 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. Definitions

- A. The definitions of 20 V.S.A. Section 3541 are incorporated by reference.
- B. Animal Control Officer (ACO) means the person or persons appointed by the Selectboard to police and enforce this Ordinance in cooperation with appropriate law enforcement agencies.
- C. Dog means any animal of the canine species, including wolf-hybrids.
- D. Enforcement Officer shall include, without limitation, the Animal Control Officer and all sworn enforcement officers working for the Town of Moretown.
- E. Owner means any person who owns a domestic animal and includes any person who has actual or constructive possession of the domestic animal. The term also includes those persons who provide feed or shelter to a domestic animal. It is not the intent of the Selectboard to require a person to be responsible 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. Public Nuisance – The following are hereby declared a public nuisance:
  - 1. A domestic animal that repeatedly 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. A domestic animal repeatedly damages 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 of domestic animals.
  - 3. Domestic 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.

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4. Property that is offensive, annoying, or dangerous to the public health, safety, or welfare of the general public because of the number, type, variety, density, or location of the animals on the property.
5. Domestic animals barking, whining, howling, crowing, cackling, or making loud noises, in an excessive, continuous, or untimely fashion, so as to interfere with the reasonable use and enjoyment of neighboring premises.
6. A domestic animal that is diseased and dangerous to the public health.
7. A domestic 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. A domestic animal kept or maintained contrary to the conditions of a lawful order issued by the Selectboard under Section VIII of this Ordinance.
9. A domestic animal running at large on any public property or the private property of another person.
10. It shall not be a public nuisance for a registered working farm dog, pursuant to 20 V.S.A. § 3581(a), to bark or run at large in the following circumstances: (a) if the working farm dog is barking in order to herd or protect livestock or to protect crops, or (b) if the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.

G. **Running at large means that a domestic animal 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 III. Duty of Maintenance of Property and Control of Animals**

- A. 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 domestic animal, shall allow such premises or domestic animal(s) to become or remain a public nuisance as herein defined; and allowing any such premises or animal(s) to become or remain a public nuisance shall constitute a violation of this Ordinance.
- B. A 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; and failing to immediately remove the fecal material and dispose of it in a sanitary manner shall constitute a violation of this Ordinance.

**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 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 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, the ACO shall investigate the complaint. The ACO shall make every effort to contact the owner(s) of the animal(s).

**Section VI. Enforcement**

- A. A violation of this Ordinance shall be a civil matter.
- B. Each day a violation continues shall constitute a separate violation.
- C. A violation of this Ordinance may be enforced by the ACO or by the Selectboard pursuant to 24 V.S.A. § 1974a, as follows:
  - a. ACO enforcement:
    - i. The ACO shall investigate all complaints.
    - ii. If, upon investigation, the ACO determines there has been a violation of the Ordinance, and where the penalty for the violation and for all continuing violations is \$800.00 or less, the ACO may bring an action before the Judicial Bureau pursuant to 24 V.S.A. §§ 1974a and 1977 and following and Title 4.
    - iii. If, upon investigation, the ACO determines there has been a violation of the Ordinance, and where the penalty is greater than \$800.00, or where the ACO determines that a remedy in addition to or in lieu of a fine is appropriate, the ACO may bring a complaint to the Selectboard requesting the Selectboard to enforce the violation.
  - b. Selectboard enforcement:
    - i. As provided in this Section VI, the ACO may bring a complaint before the Selectboard requesting the Selectboard to enforce a violation. As provided in Section IX, three residents of the Town may also bring a complaint before the Selectboard requesting the Selectboard to enforce a violation.
    - ii. As provided in Section IX, when a complaint of a violation is thus brought before the Selectboard, the Selectboard shall investigate the complaint, hold a hearing, and issue an order.
    - iii. Where the Selectboard's order imposes a penalty for the violation and for all continuing violations of \$800.00 or less, the ACO may bring an action to enforce the Selectboard's order before the Judicial Bureau pursuant to 24 V.S.A. §§ 1974a and 1977 and following and Title 4.
    - iv. Where the Selectboard's order imposes a penalty that is greater than \$800.00, or where the Selectboard has ordered a remedy that is in addition to or in lieu of a fine, the Selectboard may bring an action in the Criminal Division of the Washington Superior Court, pursuant to 24 V.S.A. § 1974a.
- D. For purposes of enforcement in the Judicial Bureau, the ACO may issue tickets and represent the Town at any hearing.

**Section VII. Penalties and Costs**

- A. The ACO is authorized to recover civil penalties for violations of this Ordinance in the following amounts:

First Offense	\$25.00	Waiver fee	\$15.00
Second Offense	\$50.00	Waiver fee	\$25.00
Third Offense	\$100.00	Waiver fee	\$75.00
Subsequent Offenses	\$100.00 each	Waiver fee	\$75.00

- B. The ACO is authorized to recover a waiver fee in lieu of a civil penalty, in the stated amount, for any person who declines to contest a municipal complaint and pays the waiver fee.
- C. A warning shall not be counted toward the calculation of the number of offenses under this Ordinance.

**Section VIII. Impoundment.**

- A. An Enforcement Officer may impound an animal that:
1. Has reportedly bitten a person off the premises of the owner;
  2. Is in violation of State licensing law;
  3. Has an unknown rabies vaccination history or is suspected of having been exposed to rabies;
  4. Is found without a collar and license; or
  5. Is running at large in violation of this Ordinance.
- B. If the owner of such animal is known or can be located with reasonable diligence, then the person who has control of impounding shall personally notify the owner within twenty-four (24) hours. Notification may be accomplished by in-person notification, by telephone call, or by written statement sent to the last known address of the owner.
- C. If the owner of such animal is unknown or cannot be located with reasonable diligence, then the person who has control of impounding shall post, within twenty-four (24) 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. Such notice shall be posted for at least seven (7) days.
- D. If the owner does not claim such animal within seven (7) days after receiving notice, or within fourteen (14) days after notice has been posted, then the ACO shall notify the Selectboard by submitting a written Complaint pursuant to Section IX of this Ordinance. The Selectboard may authorize disposal of the dog in a proper and humane manner.
- E. The owner shall be liable for all costs incurred by the Town for seizure, impoundment, or disposal, and the ACO may retain the animal until all such costs have been paid. Further, in the event a dog is impounded because it is unlicensed, the ACO shall not release the dog until all required licenses have been obtained.
- F. The ACO may pursue recovery of any costs in the manner provided in Section VI for the enforcement of violations of this Ordinance.

**Section IX. Procedure for Complaints to the Selectboard**

- A. As provided in Section VI of this Ordinance, the ACO may submit a written complaint to the Selectboard pursuant to this section.

- B. Three (3) legal residents of the Town not satisfied with the action of the ACO with regard to an alleged violation under this Ordinance (including any inaction of the ACO), may submit a written complaint to the Selectboard pursuant to this section.
- C. The complaint shall contain the names and addresses of the person(s) bringing the complaint, the nature and basis of the complaint, the name and address of the alleged victim or victims, a concise statement of the action requested of the Selectboard, and any other facts that may assist the Selectboard in making its determination.
- D. The Selectboard, within twenty-one (21) days from receipt of the complaint, shall investigate the allegations and hold a hearing on the matter. If the owner of the animal that is the subject of the complaint can be ascertained with due diligence, said owner shall be provided with a written notice of the time, date, and place of hearing and the facts of the complaint.
- E. After a hearing, if the Selectboard determines there was a violation under this Ordinance, the Selectboard may make findings of fact and such order for the abatement of such violation as the facts and circumstances of the case may require, including, without limitation, that the animal be disposed of in 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 of the animal.

**Section X. Appeals**

- A. Appeal of Judicial Bureau or Washington Criminal Court action: An appeal of an action brought in the Judicial Bureau or the Washington Criminal Court pursuant to 24 V.S.A. § 1974a may be brought as provided by law.
- B. Appeal of Impoundment:
  - 1. The owner of an animal that has been impounded by the ACO may appeal the impoundment to the Selectboard by filing a written complaint with the Selectboard. The complaint shall contain the names and address of the owner, the nature and basis of the complaint, and any other facts that may assist the Selectboard in making its determination.
  - 2. The Selectboard, within twenty-one (21) days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter.
  - 3. After hearing, the Selectboard shall make findings of fact and such order as the facts and circumstances of the case may require, including, without limitation, upholding, modifying, or reversing the ACO's decision, in whole or in part. The order shall be sent by certified mail, return receipt requested, or served personally upon the owner of the animal. In the event the Selectboard determines that impoundment was unjustified, the Selectboard shall order the owner is not liable for the costs of said impoundment, and, if paid, such costs shall be promptly refunded to the owner.
  - 4. An appeal of the Selectboard's impoundment decision may be brought pursuant to Vermont Rule of Civil Procedure 75.
- C. Other appeals: An appeal of any other municipal action under this Ordinance may be brought in the Washington Civil Court pursuant to Vermont Rule of Civil Procedure 75.

**Section XI. Savings**

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

**Section XII. 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 5<sup>th</sup> day of September, 2023

**TOWN OF MORETOWN SELECTBOARD**

By:   
Thomas Martin, Chairman

ATTEST: Cherilyn Brown  
Cherilyn Brown, Town Clerk

Date 9/6/2023

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CHERYLYN BROWN, TOWN CLERK  
MORETOWN, VT

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