

**AN ORDINANCE TO AMEND THE TOWN ORDINANCE
FOR THE CONTROL OF DOGS**

THE SELECTBOARD OF THE TOWN OF BOLTON HEREBY ORDAINS THAT
THE ORDINANCE FOR THE CONTROL OF DOGS, LAST AMENDED JULY 10, 1997, BE
AMENDED, IN ITS ENTIRETY, AS FOLLOWS:

ORDINANCE FOR THE CONTROL OF DOMESTIC PETS

Section 1: AUTHORITY

The Selectboard of the Town of Bolton, under the grant of authority set forth in 20 V.S.A. section 3549 and 24 V.S.A. sections 2291(10) and (14), hereby enact the following ordinance in order to protect the health, safety and welfare of the citizens of the Town of Bolton and others by regulating the keeping, leashing, muzzling, restraint, impoundment and destruction of domestic pets and wolf hybrids. This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

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) An “appropriate complaint” shall be deemed to have been made under this Ordinance when a person gives the Selectboard or other 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 complaint shall do so on a form supplied by the Town of Bolton setting forth his or her name, address, phone number, 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.
- b) “Domestic cat” shall mean an animal, either male or female, which is the progeny or descendant of the species felis catus or felis domestica.
- c) “Domestic dog” shall mean an animal, either male or female, which is the progeny or descendant of the species canis familiaris.
- d) “Domestic pet” or “Pet” shall mean domestic dog or domestic cat. The term shall also include any animal that can be construed as a pet.
- e) “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.
- f) “Issuing Municipal Official” or “Enforcement Officer” shall mean the Animal Control Officer, the Poundkeeper, the constable of the Town of Bolton, or any police officer, deputy sheriff or any other individual specifically designated by the Selectboard to enforce the provisions of this Ordinance from time to time.
- g) “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 towards or attacks other animals,
 - 6. Obstructs traffic,
 - 7. Is not licensed as required by this Ordinance,
 - 8. Is uncontrolled or running at large or

9. Otherwise acts to create a nuisance or disturbance.

h) "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.

i) "Poundkeeper" shall mean that person designated from time to time by the Selectboard of the Town of Bolton, 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) "Selectboard" shall mean the legislative body of the Town of Bolton as it may be constituted from time to time.

k) "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 or her 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 keeper, so that at all times the dog or wolf-hybrid may be prevented from causing damage, disturbance or annoyance.

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 the private property of the owner or keeper of the domestic pet or wolf-hybrid.

m) "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).

n) "Working farm dog" means a dog that is bred or trained to herd or protect livestock or poultry or to protect crops and that is used for those purposes and that is registered as a working farm dog pursuant to 20 V.S.A. section 3581(a).

Section 3: LICENSING

No person shall keep a dog within the limits of the Town of Bolton unless it is licensed in accordance with the requirements of the Vermont Statutes Annotated now in effect and as may be amended. It shall be the duty of every Enforcement Officer to apprehend and impound any domestic pet or wolf-hybrid found unlicensed in violation of this Ordinance.

Any domestic pet or wolf-hybrid impounded pursuant to this section may be released to its owner or keeper when said animal is properly licensed with the Town and all impoundment fees and boarding charges are paid. Unclaimed animals shall be disposed of in accordance with the provision of Section 12 of this Ordinance.

Section 4: RUNNING AT LARGE

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

owner or keeper of a domestic dog or wolf-hybrid shall not allow the animal to enter any public building unless the animal is a necessary service animal. A working farm dog is permitted to run at large when a working farm dog is on the property being farmed by the person who registered the working farm dog and the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.

Section 5: 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 a vicious animal 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. This paragraph does not apply to operating farms.
- c) An 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. Such an animal shall be considered a nuisance animal within the meaning of this Ordinance.
- e) A working farm dog is permitted to bark, and will not be considered a nuisance animal, when a working farm dog is on the property being farmed by the person who registered the working farm dog and the working farm dog is barking in order to herd or protect livestock or poultry or to protect crops.

Section 6: INVESTIGATION OF VICIOUS DOMESTIC PETS OR WOLF-HYBRIDS

- a) When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is off the premises of the owner or keeper, and the person bitten requires medical attention for the attack, such person may file a written complaint with the Selectboard. The complaint shall contain the information in Section 2(a), the time, date and place where the attack occurred, the name and address of the victim or victims, and any other facts that may assist the Selectboard in conducting its investigation required by subsection (b) of this section.
- b) The Selectboard, within seven days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the domestic pet or wolf-hybrid which is the subject of the complaint can be ascertained with due diligence, said owners shall be provided with a written notice of the time, date and place of hearing and the facts of the complaint.
- c) If the domestic pet or wolf-hybrid is found to have bitten the victim without provocation, the Selectboard shall make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation, that the domestic pet or wolf-hybrid is disposed of in a humane way, muzzled, changed or confined. The order shall be sent by certified mail, return receipt requested. A person who, after receiving notice, fails to comply with the terms of the order shall be subject to the penalties provided in this Ordinance.
- d) The procedures outlined in this section shall apply if the domestic pet or wolf-hybrid is not a rabies suspect. If the domestic pet or wolf-hybrid is a rabies suspect, then 20 V.S.A. Chapter 193, subchapter 5 and the rules of the department of health shall apply.

Section 7: APPROPRIATE COMPLAINTS

No later than three (3) days after an appropriate complaint is made in accordance with Section 2(a) of this

Ordinance, the Enforcement Officer shall investigate the information provided in the complaint in order to determine if an owner or keeper has violated any provision(s) of this Ordinance.

Section 8: IMPOUNDING

An Enforcement Officer may apprehend any domestic pet or wolf-hybrid found running at large contrary to the provisions of this Ordinance, and may impound such animal in a municipal pound or other appropriate place designated by the Selectboard. Upon an appropriate complaint, investigated and confirmed, it shall be the duty of every Enforcement Officer to apprehend and impound a domestic pet or wolf-hybrid found running at large contrary to the provisions of this ordinance.

Section 9: RELEASE FROM IMPOUNDMENT

Any domestic pet or wolf-hybrid impounded under the authority of this Ordinance shall be released only by authority of the impounding Enforcement Officer or his designee, after provision of proof that such domestic pet or wolf-hybrid is licensed and payment of the impoundment fee and boarding charges. In the event the domestic pet or wolf-hybrid does not have current vaccination against rabies, and in addition to the boarding charges and impoundment fees, the owner shall deposit the sum of \$20 with the town clerk which shall be refunded upon licensing of the domestic pet or wolf-hybrid.

The Selectboard shall prescribe and may revise by resolution the impoundment fees and boarding charges to be charged. All fees, charges and deposits shall be paid at the office of the town clerk.

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(a) 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 is rabid. At the expiration of ten days such domestic 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, charges and fees that may be imposed.

Section 11: NOTICE TO OWNER AND REDEMPTION

Not later than 2 days after the impounding of any domestic pet or wolf-hybrid, the owner shall be notified, or if the owner is unknown, written notice shall be posted for at least 3 days in 3 or more conspicuous places in town, describing the domestic pet or wolf-hybrid and the place and time of taking. The owner of any domestic pet or wolf-hybrid so impounded shall reclaim such animal upon payment of the license fees and other charges required under this Ordinance.

Section 12: DISPOSITION OF UNCLAIMED DOMESTIC PETS OR WOLFHYBRIDS

If any animal is impounded and is not claimed, it shall be the duty of the poundkeeper to keep all domestic pets and wolf-hybrids so impounded for no less than seven (7) days. If, at the expiration of seven (7) days from the date of notice to the owner or of the publication in the area newspaper, such animal shall not have been redeemed, the animal may be sold, given away or humanely destroyed. Any owner who, within thirty (30) days of the initial impoundment, fails to redeem his/her domestic pet or wolf-hybrid or to pay boarding fees, impoundment fees, euthanasia fees, or any other fees associated with the animal, shall be assessed all of said fees and charges. The Selectboard may choose to collect any and all fees involved in the impounding of a domestic pet or wolf-hybrid by a civil action against the owner. Any proceeds from the sale of the impounded domestic pet or wolf-hybrid, over and above impoundment fees, license fees and other charges required under this Ordinance shall be paid over to the owner, if any is identified.

Section 13: NOTICE OF ALLEGED VIOLATION

- a) When the Selectboard has reasonable grounds to believe that a person has violated a provision of this Ordinance, the Selectboard may issue a notice of alleged violation, which shall be delivered to the respondent in person or mailed to the respondent by registered mail. The notice of alleged violation shall include:
- (i) A civil penalty of up to \$500.00.
 - (ii) A brief description of the alleged violation and identification of the law alleged to have been violated.
 - (iii) A statement that the respondent has a right to a hearing before the Selectboard at no cost to the respondent, that the respondent must make the request for a hearing in writing to the Town Clerk no later than 21 days after the date of mailing of the notice of alleged violation, and that failure to request a hearing within 21 days of the date of mailing of the notice of alleged violation shall result in a final decision with no right of appeal.
 - (iv) If applicable, a directive that the respondent take actions necessary to achieve compliance with the law.
- b) In determining the amount of the civil penalty to be ordered, the Selectboard shall consider the following:
- (i) The degree of actual or potential impact on public health, safety, and welfare resulting from the violation.
 - (ii) Whether the respondent has cured the violation.
 - (iii) The presence of mitigating circumstances.
 - (iv) Whether the respondent knew or had reason to know the violation existed.
 - (v) The respondent's record of compliance.
 - (vi) The deterrent effect of the penalty.
 - (vii) The costs of enforcement.
 - (viii) The length of time the violation has existed.

Section 14: HEARING ON NOTICE OF ALLEGED VIOLATION

- a) A person who receives a notice of alleged violation has an opportunity for a hearing before the Selectboard, provided that the person makes the request for a hearing in writing to the Town Clerk no later than 21 days after the date of mailing of the notice of violation.
- b) If the respondent does not request a hearing in a timely fashion, the decision shall be final and the penalty shall be payable within 35 days following mailing of the notice of violation.
- c) If the respondent does make a timely request for a hearing, the Selectboard shall hold a hearing within 14 days of receipt of the request.
- d) After the hearing the Selectboard may affirm, reduce or eliminate the penalty. The decision shall be delivered to the respondent in person or mailed to the respondent by registered mail and shall be effective five days following mailing of the decision or immediately following delivery of the decision.
- e) The civil penalty shall be paid to the Selectboard. If the respondent fails to pay the penalty in a timely fashion, the Selectboard may bring a collection action in small claims court or the superior court.

Section 15: ENFORCEMENT BEFORE THE JUDICIAL BUREAU

Any owner or keeper in violation of 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 Issuing Municipal Official may, in lieu of impounding 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 owner or keeper found to have violated any provision of this Ordinance.

Section 16: WAIVER FEE FOR MUNICIPAL COMPLAINT

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

- First Offense \$15
 - Second offense \$35
 - Third offense \$60
 - Fourth offense \$100
 - Fifth and subsequent offenses \$120
- Offenses shall be counted on a calendar year basis.

Section 17: 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 offense \$25
 - Second offense \$50
 - Third offense \$75
 - Fourth offense \$150
 - Fifth and subsequent offenses \$200
- Offenses shall be counted on a calendar year basis.

Section 18: 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 19: SEVERABILITY

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

Dated and adopted this ___ day of _____, 2009, in the State of Vermont,
County of Chittenden, Town of Bolton.

Bolton Selectboard

