

AN ORDINANCE TO AMEND THE TOWN ORDINANCE FOR THE CARE AND CONTROL OF ANIMALS

The Selectmen of the Town of Shelburne hereby ordain:

The Town of Shelburne Ordinance to Amend the Town Ordinance for the Care and Control of Dogs adopted August 11, 1992, and amended August 22, 1995 and June 27, 2006, is amended so that the Ordinance shall now read in its entirety as follows:

ORDINANCE FOR THE CARE AND CONTROL OF ANIMALS

Section 1: AUTHORITY

The Selectmen of the Town of Shelburne, 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 Shelburne 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.

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 Shelburne 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.

SHELburne TOWN CLERK'S OFFICE
MARCH 08, 2011
RECEIVED FOR RECORD 3 O'CLOCK MINUTES
M., AND RECORDED IN BOOK 01 PAGE 31-37
OF SHELburne Ordinance RECORDS
ATTEST Sue Moraska, ASST. CLERK

- 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, any Shelburne Police Officer 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 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 person's 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 Shelburne, 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 Shelburne as it may be constituted from time to time.
- 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 or her immediate family, or an agent of the owner, not on either by a 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.
- k) 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.

- l) 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).

Section 3: RUNNING AT LARGE

No owner or keeper shall permit a domestic dog or wolf-hybrid owned by him/her or under his/her keeping or control 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 to so enter or remain. The owner or keeper of a domestic dog or wolf-hybrid shall not allow the animal to enter any municipal building unless the animal is a necessary service animal, is attending a dog obedience class, is necessary as an aid in an education class, or if the owner or keeper is a visitor and the animal is leashed and no one present objects. No person shall allow his dog or cat to be at the Town Beach property off Bostwick Road.

Notwithstanding Section 2, j. of this Ordinance, all domestic dogs or wolf-hybrids present on either (1) the paths in Bay Park or (2) on the Ti-Haul Trail shall be on a suitable restraint or leash no longer than eight (8) feet in length. Any dog within these two defined areas without a suitable restraint or leash eight (8) feet or less in length shall be considered to be running at large.

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. 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) 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 nuisance animals under this Ordinance, or otherwise be subject to regulation hereunder.

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

Section 5: APPROPRIATE COMPLAINTS

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 6: IMPOUNDING FOR RUNNING AT LARGE

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. Impoundment may also be initiated by an Enforcement Officer based on that Officer's personal knowledge. Any impounded animal may not be released until all fines and an impounding fee, as specified in Section 8, 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 poundkeeper or any other person designated by the Selectboard for the care of the domestic pet or wolf-hybrid while impounded.

Section 7: 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 matter will then be referred to the Town Health Officer for proper disposition.] 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 and fees that may be imposed.

Section 8: IMPOUNDMENT FEES

a. Any domestic pet or wolf-hybrid impounded under the provisions of this Ordinance shall be released only on payment of a \$30.00 impoundment fee; provided however, that any domestic pet or wolf-hybrid impounded for the second time in any 12-month period shall be released only on the payment of a \$55.00 impoundment fee, and if impounded for three or more times in any 12-month period, shall be released only on the payment of a \$105.00 impoundment fee.

b. In addition to the impoundment fee charged herein, there shall be a boarding charge of \$10.00

per day, or fraction thereof during which the domestic pet or wolf-hybrid is impounded. For large domestic dogs or wolf-hybrids the boarding fee will be \$12.00 per day.

c. An impounded animal shall be released between the hours of 8 a.m. and 4 p.m. Monday through Friday or during a weekend only upon payment of an additional \$20.00 fee.

d. The Selectboard is hereby empowered to increase the impoundment fees and boarding charges provided in this section by appropriate resolution as the Selectboard deems appropriate and necessary from time to time.

Section 9: ENFORCEMENT ON PRIVATE PROPERTY

In enforcing the provisions of Sections 6 and 7, this Ordinance, an Enforcement Officer may apprehend a domestic pet or wolf-hybrid found on public or private property, including the property of the animal's owner. However, prior to entering on private property, an Enforcement Officer shall make a reasonable attempt to obtain permission from the property's owner or occupant.

Section 10: NOTICE TO OWNER AND REDEMPTION

Not later than two 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 placed in the area newspaper at its earliest publication date, describing the domestic pet 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 11: DISPOSITION OF UNCLAIMED DOMESTIC PETS OR WOLF-HYBRIDS

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 and creations 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 12: LICENSING

a. All owners of domestic pets and wolf-hybrids shall be required to annually register and license each animal with the Town Clerk's Office, in a manner prescribed by the Town. Proof of a

current rabies vaccination shall be required for the licensing of any animal.

b. Pursuant to 20 V.S.A. section 3581(c), the fee for such license shall be \$2.00 above the fee required by state statutes.

c. 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.

d. 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 set forth in Section 8 herein are paid. Unclaimed animals shall be disposed of in accordance with the provision of Section 11 herein.

Section 13: 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 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 owner or keeper found to have violated any provision of this Ordinance.

Section 14: 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 15: 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 16: 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 17: 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.

This ordinance shall take effect upon passage.

Dated and adopted this 25th day of January, 2011 in the State of Vermont, County of Chittenden, Town of Shelburne by the Shelburne Selectboard.



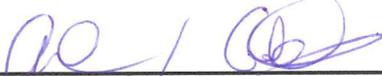
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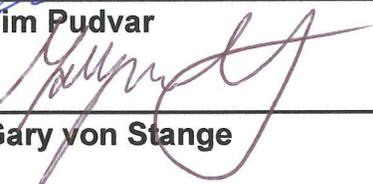
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Tim Pudvar



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