

TOWN OF WELLS, VERMONT

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NOTICE OF AMENDMENT OF DOG ORDINANCE TO INCLUDE  
DOMESTIC ANIMALS

On November 24, 2020, the Select Board of the Town of Wells, Vermont, adopted amendments to the existing “Ordinance for the Control of Dogs” to include domestic animals as follows:

Domestic Animal: those animals defined by 6 V. S. A. 1151(2) as follows: cattle, sheep, goats, equines, deer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), and water buffalo.

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NOTICE OF AMENDMENT OF DOG ORDINANCE

On September 3, 2019, the Selectboard of the Town of Wells, Vermont, adopted amendments to the existing "Ordinance for the Control of Dogs" pursuant to 20 V.S.A. §3459. This notice is published pursuant to 24 V.S.A. §1972 to inform the public of these amendments and of the citizens' right to petition for a vote to disapprove these amendments.

The new ordinance updates the former ordinance to cover changes in the law as well as makes the following changes:

- expands the ordinance to cover dogs, cats, ferrets and such other domestic animals as the selectboard may establish;
- exempts working farm dogs from portions of the ordinance;
- clarifies how subsequent offenses accrue;
- allows enforcement officers to issue tickets and take advantage of the Vermont Judicial Bureau;
- updates the title Dog Control Officer to animal Control Officer; and
- allows for the use of expedited Vermont Department of Health rules and guidelines to be used if an animal is a rabies suspect.

The full text of the Ordinance may be examined at the Wells Town office at 1064 Vermont Route 30, Wells, Vermont and may be examined during regular office hours.

CITIZENS' RIGHT TO PETITION FOR VOTE

Title 24 V.S.A. § 1973 grants citizens the right to petition for a vote at a special or annual Town Meeting to disapprove ordinance amendments adopted by the Selectboard. To exercise this right, citizens must present to the Selectboard or the Town Clerk a petition for a vote on the question of disapproving the amendments signed by not less than five percent (5%) of the Town's qualified voters. The petition must be presented within forty-four (44) days following the date of the adoption of the amendments. Unless a petition requesting a vote is filed pursuant to 24 V.S.A. § 1973, the amended "Ordinance for the Control of Pets" shall become effective sixty (60) days from the date of said adoption.

PERSON TO CONTACT

Additional information pertaining to this Ordinance may be obtained by contacting **Selectboard**, at **po box 585 wells VT 05774** or by calling **802-645-0486** during regular office hours.

AN ORDINANCE FOR THE CONTROL OF PETS  
IN THE TOWN OF WELLS, VERMONT

Pursuant to the provisions of 20 V.S.A. Section 3459, as amended, and such special or general enactments as may be material thereto, the following PET and DOG ORDINANCE is hereby ORDAINED by the Selectboard of the Town of Wells, Vermont.

SECTION 1: DEFINITIONS

As used in this ordinance:

(1) "Domestic Pet" or "pet" means any domestic dogs, domestic cats and ferrets. The term shall also include such other domestic animals as the Selectboard shall establish, provided that the Selectboard finds that the animal has the potential to become an imminent danger to public health or welfare if not subjected to the provisions of this ordinance.

(2) "Dog" means (a) a domestic dog (*Canis familiaris*) as well as (b) a "wolf-hybrid" which is the progeny or descendent of a domestic dog (*Canis familiaris*) and a wolf (*canis lupus* or *canis rufus*).

(3) "Owner" means any person or group of persons who owns, harbors, keeps or has custody of, either temporary or permanent, or permits any pet to be or remain in or about their buildings; or premises.

(4) "Landowner" means any person who owns, leases, rents, or is otherwise presently entitled to occupy land or premises in the Town of Wells.

(5) "To run at large" means to move at will without restraint, control or limitations as to property lines or areas.

(6) "Uncontrolled Dog" means a dog owned or kept by any person which is running at large within the Town, including a dog, while on any public way or place, which is not under restraint. A dog is under restraint within the meaning of this ordinance if it is controlled by a leash not more than eight (8) feet long, or is "at heel" beside a competent person and obedient to that person's commands, or is on or within a vehicle. Nothing in this ordinance shall be construed to require the leashing of any dog while on private property by permission of the property owner or his agent, or to restrict the use of dogs for lawful hunting. An uncontrolled dog shall include all dogs which, by reason of habitual or frequent barking, howling or yelping, disturb the peace and quiet of surrounding landowners.

(7) "Vicious pet" means a pet which has caused reasonable fear of bodily injury by attacking or threatening to attack a person lawfully upon the premises.

(8) "Legislative Body," and "Selectboard" of the Town of Wells are one and the same.

(9) "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 Title 20 V.S.A. Section 3581(a).

#### SECTION 2: PETS AND DOGS PROHIBITED AT LARGE

An uncontrolled dog, a vicious pet, or a pet which has bitten a person other than in defense of property of its owner or in protection of members of its immediate family or in protection of guests or invitees of its owner, shall not run at large or without restraint if a complaint has been made to the Animal Control Officer or the Selectboard and the Selectboard has determined that the dog or pet is either dangerous to the public or is creating a nuisance and has notified the owner of such determination. The use of a dog for lawful hunting or the use of a working farm dog running at large to herd or protect livestock or poultry or to protect crops, may not be restricted, when being used on property where said dog is authorized to be used for hunting or farming.

#### SECTION 3: DOGS IN HEAT TO BE RESTRICTED

The owner of any dog in heat shall keep such dog confined within the bounds of such owner's property and shall not permit such dog to be at large within the town. Every such dog running at large is hereby declared to be a public nuisance and shall be impounded in accordance, with the provisions of Section 12 hereof.

#### SECTION 4: KEEPING OF BARKING, HOWLING DOGS PROHIBITED

No person shall keep or harbor any dog which by frequent or habitual barking, howling or yelping, disturbs the peace or quiet of surrounding landowners., except a working farm dog that is barking in order to herd or protect livestock or poultry or to protect crops.

#### SECTION 5: VICIOUS PETS DECLARED NUISANCE

A vicious pet is hereby declared to be a public nuisance. The owner of such pet shall keep it confined in a secure enclosure or on a chain leash.

#### SECTION 6: CRUELTY TO PETS PROHIBITED

Any person who shall torture, torment, or cruelly neglect to provide with necessary sustenance or shelter, or shall cruelly beat or needlessly mutilate or kill or cause or procure to be tortured, tormented or deprived of necessary sustenance, or to be cruelly beaten or needlessly mutilated or killed as aforesaid, any pet, shall be guilty of a misdemeanor (9 V.S.A. Section 403(a) and as amended).

#### SECTION 7: LICENSE REQUIRED

It shall be the duty of every person owning, keeping or harboring in the town, any dog over six (6) months of age, to procure a license therefor in accordance with 20 V.S.A. Sections 3581-3592 and to affix it to the collar worn by the dog along with a current rabies vaccination

tag.

#### SECTION 8: LICENSE TO BE WORN ON COLLAR

It shall be the duty of every person owning, keeping or harboring in the town any dog to have a collar or harness on said dog at all times and to fasten securely to said collar or harness the license tag and rabies vaccination tag for that dog.

#### SECTION 9: UNLAWFUL TO REMOVE; EXCEPTION

It shall be unlawful for any person OTHER than the owner or said owner's agent or constable or Animal Control Agent of the town to remove a license tag or rabies vaccination tag from any dog.

#### SECTION 10: EFFECT OF FAILURE TO PROCURE LICENSE

Any person failing to license a dog over six (6) months of age kept or harbored on his premises shall be fined not more than \$250.00.

#### SECTION 11: IMPOUNDMENT

All unlicensed dogs within the town limits found in violation of Sections 7 through 8 hereof, shall be impounded.

#### SECTION 12: IMPOUNDMENT: DOGS IN HEAT: BARKING DOGS

(a) Any dog found in violation of section 3 and/or 4 hereof may be impounded in the town animal shelter, designated by the Selectboard of the Town of Wells, and there confined in a humane manner for a period of five (5) days, unless sooner reclaimed by its owner, and may thereafter, after notice and hearing, be given away, sold, or disposed of in a humane manner.

(b) When a dog is found in violation of Sections 3 and/or 4 hereof, either in lieu of impoundment or in addition thereto, the owner or keeper of such dog may be fined for such violation.

#### SECTION 13: IMPOUNDMENT: DISPOSITION OF PETS AT LARGE

(a) 1st offense: When the Town receives a written complaint of any pet found in violation of Section 2 hereof, the pet may be impounded in the animal shelter designated by the Selectboard and therein be confined for a period of five (5) days unless sooner reclaimed by its owner, and may thereafter be given away, sold, or disposed of in a humane manner. Before an owner of an impounded pet may retrieve the pet the impoundment fee must be paid. Also, written notice will be given such owner by the Selectboard designating the pet as a "vicious pet" which must thereafter not be off the owner's property unless restrained by a leash, muzzle and/or such other devices so as to keep said pet from posing an imminent danger to the public health or welfare.

(b) 2nd offense: When the Town receives a written complaint for a second offense on any pet found in violation of Section 2 hereof, the pet may be impounded in the town animal shelter as designated by the Selectboard and there confined in a humane manner for a period of five (5) days unless sooner reclaimed by its owner, and may thereafter be given away, sold, or disposed of in a humane manner. Before an owner of an impounded pet may retrieve the pet the impoundment fee must be paid. Also, written notice will be given such owner by the Selectboard stating that if the town receives a third written complaint on the pet, the pet may be impounded and given away or disposed of in a humane manner.

(c) 3rd offense: When the town receives a written complaint for a third offense on any pet found in violation of Section 2 hereof, the pet will be impounded and given away or disposed of in a humane manner.

(d) For purposes of determining the sequence of offenses, second and third offenses shall be those that occur within the 12-month period of the anniversary day of the first offense. Any offense occurring after this 12-month period shall be considered a new first offense. For purposes of calculating the sequence of offenses, offenses shall be counted against the owner not a particular animal.

#### SECTION 14: IMPOUNDMENT - REDEMPTION

The owner shall be entitled to reclaim any impounded unlicensed dog upon compliance with the provisions of Section 7 and payment of all impoundment fees, as hereinafter set forth. Any other pet impounded under Sections 2, 3, 7, 8, 12, and 13 may be reclaimed upon payment of all outstanding impoundment fees, with the exception of a pet impounded under Section 13 c).

#### SECTION 15: IMPOUNDMENT - DISPOSITION OF UNCLAIMED PETS

Any impounded pet which is not claimed by its owner within five (5) days may be sold or given to a responsible person, provided, nevertheless, that the owner shall not be deprived of any remedies otherwise provided by law.

#### SECTION 16: IMPOUNDMENT FEES

(a) Any pet impounded under the provisions of Sections 2, 3, 4, 7, 8, 11, 12 and 13 of this Ordinance may be reclaimed, with the exception of a pet impounded under Section 13 (c), upon payment by the owner of the following fees:

(b) Impoundment costs shall be set annually by the Selectboard.

#### SECTION 17; ENFORCEMENT

The violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Rutland County Superior Court, at the election of the Selectboard. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial

Bureau, the Animal Control Officer, Constable, Police Officers or their deputies of the Town of Wells or others duly authorized by the Selectboard shall be the designated enforcement officer(s). The enforcement officer shall issue tickets and may be the appearing officer at any hearing.

Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town of Wells may pursue all appropriate injunctive relief.

#### SECTION 18: PERSON BITTEN BY PET; COMPLAINT

(a) Notwithstanding the provisions of Section 13, any legal resident of the Town who upon knowledge that a pet has bitten a person while the pet is off the premises of its owner or keeper, may file a written complaint with the Selectboard of the Town. The complaint shall contain the name and address of the complaining resident, 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 their investigation.

(b) The Selectboard, within seven (7) days from receipt of the complaint shall investigate the charges and hold a hearing upon the matter. If the owner of the pet which 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.

(c) If the pet is found to have bitten the victim without provocation, the Selectboard may make such order for the protection of persons as the facts and circumstances of the case may require, including, without limitation, that the pet be disposed of in a humane way, muzzled, chained, or confined. The order shall be sent certified mail, return receipt requested. A person who, after receiving notice, fails to comply with the terms of the order shall be fined not more than \$500.00.

(d) The procedures provided in this section shall only apply if the pet is not a rabies suspect. If a member of the selectboard or a municipal official designated by the selectboard determines that the pet is a rabies suspect, the provisions of Subchapter 5 of Title 20 Chapter 193 and the rules of the Vermont Department of Health shall apply. If the pet is deemed healthy, the terms and conditions set forth in the selectboard's order shall be enforced.

#### SECTION 19: PENALTIES; ENFORCEMENT; APPEAL

(a) In determining the amount of the civil penalty to be ordered for violation of any provision of this ordinance, the legislative body or officer shall consider the following:  
following:

- (1) The degree of actual or potential impact on public health, safety, and welfare resulting from the violation.
- (2) Whether the respondent has cured the violation.
- (3) The presence of mitigating circumstances.
- (4) Whether the respondent knew or had reason to know the violation existed.

- (5) The respondent's record of compliance.
- (6) The deterrent effect of the penalty.
- (7) The costs of enforcement.
- (8) The length of time the violation has existed.

(b) When the legislative body or officer has reasonable grounds to believe that a person has violated a provision of this ordinance, the legislative body or officer may issue a notice of the alleged violation, which shall be delivered to the respondent in person or mailed to the respondent by registered mail. The notice of violation shall include:

- (1) A civil penalty of up to \$500.00.
- (2) A brief description of the alleged violation and identification of the law alleged to have been violated.
- (3) A statement that the respondent has a right to a hearing before the legislative body at no cost to the respondent, a description of the procedures for requesting a hearing and a statement that failure to request a hearing within 21 days of the date of mailing of the notice shall result in a final decision with no right of appeal.
- (4) If applicable, a directive that the respondent take actions necessary to achieve compliance with the law.

(c) A person who receives a notice of violation shall be offered an opportunity for a hearing before the legislative body provided that the request for hearing is made in writing to the clerk of the municipality no later than 21 days after the date of notice of violation. 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. If the respondent does make a timely request for a hearing, the legislative body shall hold a hearing within 14 days of receipt of the request. After the hearing, the legislative body may affirm, reduce or eliminate the penalty. The decision shall be delivered or mailed to the respondent in the same manner as the notice of violation and shall be effective five days following mailing of the decision or immediately following delivery of the decision.

(d) Imposition of a penalty under this section precludes imposition of any other administrative or civil penalty under any other provision of law for the same violation.

(e) The civil penalty shall be paid to the enforcing agency or enforcing legislative body. If the respondent fails to pay the penalty within the time prescribed, the legislative body may bring a collection action in small claims court or the superior court.

(f) A respondent aggrieved by a decision made following a hearing before the legislative body or may appeal within 30 days of receipt of the decision to the superior court which shall consider the matter de novo.

(g) On application of a municipality, the superior court shall have jurisdiction to enjoin the violation of any provision of this chapter. The court may also authorize the seizure and disposition of pets, dogs or wolf-hybrids when owners refuse to have the pets, dogs or wolf-hybrids inoculated or licensed, or when the court determines that there is a threat to the public welfare.



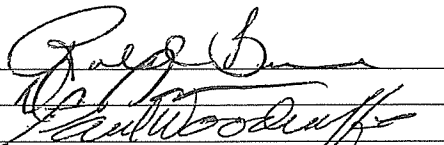
SECTION 20: OTHER LAWS

This ordinance is in addition to all other ordinances of the Town of Wells and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 21. SEVERABILITY. If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

SECTION 22. EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the Wells selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Adopted this 3 day of Sep, 2019.

  
SIGNATURES

Adoption History

1. Agenda item at regular selectboard meeting held on August 20, 2019 and September 3, 2019.
2. Read and approved at regular/special selectboard meeting on September 3, 2019 and entered in the minutes of that meeting which were approved on September 17, 2019.
3. Posted in five (5) public places on Sept 18, 2019
4. Notice of adoption published in the Granville Sentinel newspaper on Sept 20 with a notice of the right to petition.
5. Other actions [petitions, etc.]