


TOWN OF MONKTON
CERTIFICATE OF ADOPTION OF ANIMAL CONTROL ORDINANCE

I, Carmelita C. Burritt, duly elected clerk of the Town of Monkton, hereby certify as follows:

1. The Animal Control Ordinance was adopted by majority vote of the Town of Monkton Selectboard on July 10, 2006.
2. A Notice of Adoption of Ordinance (a copy is attached) was published on the Addison Independent, a newspaper circulated in the Town of Monkton, on July 17, 2006, which was a day not more than fourteen (14) days following the date of adoption of the Animal Control Ordinance.
3. On July 12, 2006, I posted in five conspicuous places within the municipality the full text of the Animal Control Ordinance.
4. The Adoption of the Ordinance was recorded in the minutes of the Monkton Selectboard for its meeting of July 10, 2006.
5. Neither the Selectboard nor the Clerk of the Town of Monkton received a petition on the question of disapproving the Animal Control Ordinance within forty-four (44) days following July 10, 2006.

Dated at Monkton, Vermont this 19th day of January, 2007.



Carmelita C. Burritt, Town Clerk
of the Town of Monkton

TOWN OF MONKTON
ANIMAL CONTROL ORDINANCE

The Town of Monkton Ordinance Regulating Dogs, adopted on April 28, 1994 has been repealed by the Selectboard at a duly warned meeting held on July 10, 2006 at the Town Clerk's Office. A new Animal Control Ordinance, including civil enforcement of violations by the Judicial Bureau of the State of Vermont, has been adopted by the Selectboard on July 10, 2006.

The new Animal Control Ordinance is to become effective on September 8, 2006. A copy of the Animal Control Ordinance is available at the Town Clerk's Office for review.

Citizens have the right to petition for a vote on the Animal Control Ordinance under 24 V.S.A. § 1973. This provides that a petition calling for a vote at a special or annual meeting duly warned for the purpose, signed by not less than 5% of the registered voters may be presented to the Selectboard within forty-four (44) days of the date of adoption (August 23, 2006).

Anyone interested in further information may contact the Town Clerk at the Monkton Town Clerk's Office - (802) 453-3800.

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Article 1: Authority

1.1. The Selectboard of the Town of Monkton, acting under the authority of 20 V.S.A. § 3541, et seq., and 24 V.S.A. § 1971, et seq., hereby adopts this Animal Control Ordinance (hereinafter "Ordinance") regulating domestic pets and wolf-hybrids in the Town of Monkton, County of Addison, State of Vermont.

Article 2: Purpose

2.1. This Ordinance is adopted to protect the health, safety and welfare of the citizens of the Town of Monkton and others by regulating the keeping of domestic pets and wolf hybrids. In furtherance of this purpose, the Selectboard of the Town of Monkton shall annually appoint an Animal Control Officer (hereinafter "ACO") or other appropriate official(s) to enforce this Ordinance.

Article 3: 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.

3.1. "Domestic Pets" shall mean domestic dogs, domestic cats, domestic ferrets, wolf-hybrids, and any other animal that can be construed as a pet.

3.2. "Domestic dogs" shall include male and female canine species and shall include animals kept as pets, for breeding, or otherwise, that are part canine and part other species. However, the inclusion within the definition of breeds that are only partly canine is not intended to and does not vary or lessen any restrictions that are imposed or may be imposed in the future on such mixed breeds by state statute.

3.3. "Domestic cat" shall mean an animal, either male or female, which is the progeny or descendent of the species *felis catus* or *felis domestica* and shall include animals kept as pets, for breeding, or otherwise.

3.4. "Domestic ferret" shall mean an animal, either male or female, which is the progeny or descendent of the species and shall include animals kept as pets, for breeding, or otherwise.

3.5. "Wolf-hybrids" shall mean any animal which is the progeny or descendent of a domestic dog (*canis familiaris*) and a wolf (*canis lupus* or *canis rufus*). "Wolf-hybrid" 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 Department of Fish and Wildlife.

3.6. "Owner" shall mean any person or persons, firm, association, corporation, organization, or other entity owning a domestic pet as defined above, and includes any person who has actual or constructive possession of said domestic pet(s). The term "owner" also includes those persons who provide feed and shelter to said domestic pets. 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 animal.

3.7. "Animal Control Officer" (hereinafter "ACO") shall mean the person or persons appointed by the Selectboard or specifically designated by the Selectboard to enforce the provisions of this Ordinance. The Selectboard shall annually appoint an ACO or other appropriate official(s) to enforce this Ordinance. A person appointed ACO by the Selectboard may be a private contractor or a resident of another town.

3.8. "Selectboard" shall mean the legislative body of the Town of Monkton, as it may be constituted from time to time.

3.9. "Pound" shall mean any kennel, pound, or other facility for holding or housing domestic pets, which is designated by the Selectboard, regardless of whether such facility is operated by the Town or within the Town limits.

3.10. "Pound keeper" shall mean that person designated from time to time by the Selectboard to keep or humanely destroy domestic pets determined by the ACO to have violated any provisions of this Ordinance.

3.11. "Uncontrolled" or "at large" shall mean a domestic pet [other than a cat] 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 keepers, so that at all times the animal may be prevented from causing damage, disturbance, or annoyance.

3.12. "Excessive noise" shall mean any noise that is created by a domestic pet, audible to an individual from 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.

3.13. "Vicious animal" shall mean any domestic pet that causes any person to suffer or reasonably fear bodily injury by attack, or fear of attack, or because of the animal's size, physical nature, or propensity and/or capability of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this Ordinance. "Vicious animal" shall also mean any domestic pet owned or harbored primarily or in part for the purpose of fighting or any domestic pet trained for fighting except that a domestic pet shall not be deemed a "vicious animal" under this Ordinance as a result of an attack or threat upon a person in the act of trespassing upon private property of the owner or the keeper of the pet.

3.14. "Appropriate complaint" under the Ordinance shall be a complaint made by a person who gives the Selectboard, ACO, or any other town official a description of the domestic pet, including breed if possible, size, color, and other distinguishing features, which description must be sufficient for a proper identification. The person who makes such a complaint shall do so in a manner, either written or verbal, that sets forth the complainant's name, address, telephone number, and the names and addresses of any and all witnesses to the violation of this Ordinance, and the circumstances under which the domestic pet was believed to be in violation of this Ordinance. This requirement may be waived in situations deemed an emergency by the ACO or any other responsible Town Official.

3.15. "Nuisance animal" shall mean any domestic pet that makes excessive noise, causes damage to public or private property, scatters refuse, molests or threatens passers-by or passing vehicles on public roads or property, acts viciously toward or attacks other animals, obstructs traffic, is unlicensed in violation of 20 V.S.A. § 3581, is uncontrolled or running at large, is not vaccinated for rabies in violation of 20 V.S.A. § 3581a, or otherwise acts to create a nuisance or disturbance.

Article 4: Pet License Required/Rabies Vaccination/Pet License Surcharge

4.1. All domestic dog and wolf-hybrid owners shall be required to annually register and license each pet in the manner prescribed by the Town of Monkton Selectboard and pursuant to applicable State Statutes.

4.2. In addition to any other licensing requirements required by the State Statutes, all owners of domestic dog and wolf-hybrid shall be required to demonstrate proof of current rabies vaccination as a prerequisite to licensure.

4.3. All domestic dog and wolf-hybrid owners shall be required to attach to the pet's collar or harness on any pet that may be off the premises of the owner a current license tag issued by the Town, and a current rabies vaccination tag [all licensors].

4.4. A pet license fee surcharge of \$3.00 per license shall be added to those fees prescribed by State Statute and shall be used to defray the expense of the Town animal control program. This fee may be changed by resolution of the Selectboard.

Article 5: Running At Large Prohibited

5.1. No owner or keeper of a domestic pet shall permit said pet to run at large. The owner or keeper of the pet shall not allow the animal to enter or remain on the property of others, including lawns, gardens, yards, schoolyards, public buildings, 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.

5.2. A domestic pet found running at large may be captured by the ACO for impoundment or other enforcement measures.

Article 6: Disturbances and Nuisances Other Than Running At Large

6.1. The owner or keeper of a domestic pet shall not allow said pet to be a vicious animal or to be a nuisance animal as defined by this Ordinance.

6.2. The owner or keeper of a domestic pet shall not allow waste from said pet to accumulate so that either a health or odor problem results.

6.3. The owner or keeper of a domestic pet shall remove immediately and properly dispose of any waste created by said pet when said pet is not on the private property of the owner or keeper.

6.4. The owner or keeper of a domestic pet shall not allow said pet, due to frequent or long continued noise, barking, or howling, to disturb the comfort or repose of persons in the vicinity.

6.5. The owner or keeper of a domestic pet shall not permit said pet to be kept outside a building or other secured enclosure while in heat (*estrus*) as such an animal shall be considered a nuisance animal within the meaning of this Ordinance.

6.6. All animals kept as livestock in accepted agricultural practice, as defined by the Commissioner of the Department of Forest, Parks and Recreation from time to time, shall not be deemed a nuisance animal under this Ordinance, or otherwise be subject to regulations hereunder.

Article 7: Enforcement

7.1. No Later than three (3) days after an “appropriate complaint” as defined in Article 3, paragraph 3.14 of this Ordinance is made, the ACO shall investigate the information provided in the complaint and determine if a violation of any provisions of this Ordinance has occurred.

7.2. Even without an “appropriate complaint,” the ACO may apprehend any dog domestic pet found running at large or any dog or wolf-hybrid found to be unlicensed or found to be not wearing a current license tag and current rabies vaccination tag and may impound such animal in the pound or take other necessary measures to insure the health and safety of the public.

7.3. Even without an “appropriate complaint,” the ACO may also apprehend any domestic pet found to be in violation of the terms and conditions of an Order issued under this Ordinance and impound such animal or take other necessary measures to insure the health and safety of the public.

7.4. The ACO may impose a civil penalty of up to \$500.00 per violation per day in accordance with the provisions of 20 V.S.A. § 3550 *et seq.* and issue and pursue before the Vermont Judicial Bureau a municipal complaint concerning the owner of any domestic pet found to have violated any provisions of this Ordinance. In determining the amount of the civil penalty to be ordered, the ACO shall consider the following:

- (i) the degree or 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 cost of enforcement; and
- (viii) the length of time the violation has existed.

7.5. Any domestic pet may be apprehended by the ACO and impounded for violating the provisions of this Ordinance or for violating the terms and conditions of an Order issued under this Ordinance upon receipt of a written complaint or complaints, filed with the Town Clerk or any other town official.

7.6. The ACO, when enforcing the provisions of this Ordinance, may apprehend any pet found on public or private property, including the property of the animal's owner. However, prior to entering on private property, the ACO shall make a reasonable attempt to obtain permission from the property owner or occupant. If permission is denied, the ACO may enter the property if this can be done without breach of the peace.

7.7. An ACO who has attempted to seize a domestic pet under this Ordinance, and has not been permitted to search for or take the animal, may apply to a judicial officer authorized to issue search warrants, for a warrant to search the property of the owner of the animal or any other property if the officer has a reasonable cause to believe that the animal may be on such property.

7.8. If the judicial officer is satisfied that there is a reasonable cause to believe the animal is on a property, the judicial officer shall issue a search warrant authorizing a law enforcement officer of the State of Vermont to search the property and premises for the animal within a specified period, of time not to exceed ten (10) days, and to seize the animal. The warrant shall be served between the hours of 6:00 a.m. and 10:00 p.m. unless the warrant directs that it may be served at any time. The judicial officer may, by appropriate provision in the warrant, and for reasonable cause shown, authorize its execution at other times. The warrant shall designate the Court to which it shall be returned.

7.9. No later than two (2) days after the impounding of any pet, written notice shall be mailed by United States Mail, first-class postage prepaid, to the owner of the animal, and if the owner is unknown written notice shall be posted for at least three (3) days at three (3) or more conspicuous places in the Town of Monkton describing the animal and the place and time of its taking. The owner of any animal so impounded may reclaim such animal upon payment of impoundment fees, penalties, and a license fee if known to be unpaid.

Article 8: Notice of Violation

8.1. A Notice of Violation shall include a brief description of the violation and identification of the provision(s) of this Ordinance alleged to have been violated, a statement that the owner of the animal in question has a right to a hearing before the Selectboard or a hearing officer designated at no cost to the respondent, a description of the procedures for requesting a hearing, and a statement that the failure to request a hearing within ten (10) days of the date of mailing of the notice shall constitute a waiver of said hearing and result in a final decision with no right of appeal.

8.2. If the owner of the animal in question is not known, written notice described above in section 8.1 shall be posted for at least three (3) days in at least three (3) conspicuous places in the Town of Monkton. The notice of violation may also include, if applicable, a directive that the respondent take actions necessary to achieve compliance with the law.

Article 9: Impoundment

9.1. The ACO may apprehend and impound any domestic pet that has violated any provision of this Ordinance. Such impoundment shall occur in an animal shelter or other appropriate place designated by Selectboard. Any impounded animal may not be released until all fines and an impounding fee are paid to the Town and a certification of rabies vaccination and any necessary licenses for the current year are shown to the ACO.

9.2. The owner of the domestic pet so impounded shall, in addition, be responsible for any and all fees and expenses incurred by the pound keeper or any other person or entity designated by the Selectboard for the care of the domestic pet while impounded.

9.3. Impoundment fees under the provisions of this Ordinance shall be \$20.00 for first and the second violations within the calendar year, \$35.00 for a third violation within the calendar year, and \$60.00 for a fourth violation within the calendar year.

9.4. In addition to the impoundment fee charged, there shall also be a daily boarding charge for each day the domestic pet is impounded at the rate charged by the facility.

9.5. The Selectboard is hereby empowered to increase the impoundment fees and boarding charges provided in this section by appropriate resolution.

Article 10: Selectboard Hearing Following Impoundment Decision

10.1. A person who receives a Notice of Violation shall be provided a hearing before the Selectboard if the person submits a written request for a hearing to the Town Clerk within ten (10) days of the date of mailing of the Notice of Violation.

10.2. If the owner does not request a hearing in a timely fashion, the owner shall be obligated to pay all charges and fines due under this Ordinance.

10.3. If the owner does request a hearing in a timely manner, the Selectboard shall hold a hearing within fourteen (14) days of receipt of the request. The Selectboard shall render its decision in writing within ten (10) days of the date to the hearing conclusion.

10.4. The Selectboard's decision shall be delivered in person or mailed to the owner by certified mail.

10.5. The decision of the Selectboard may affirm, reverse or modify the ACO's findings that the subject domestic pet violated any provision(s) of this Ordinance, as described in the Notice of Violation. The decision of the Selectboard may include, without limitation, in order to protect the health, safety and welfare of the citizens of the Town of Monkton, an Order providing that the domestic pet or wolf-hybrid shall be:

- (i) Disposed of in a humane manner;
- (ii) Given to the Addison County or Chittenden County Humane Society;
- (iii) Muzzled;
- (iv) Chained, or
- (v) Confined.

10.6. Failure to comply with the Selectboard's decision and/or order shall be a violation of this Ordinance.

Article 11: Impounding Domestic Pets That Have Bitten Persons

11.1. In response to an appropriate complaint made in accordance with this Ordinance, the ACO shall apprehend and impound any domestic pet that has bitten any person.

11.2. A domestic pet that has bitten any person shall be impounded for ten (10) days to determine if the domestic pet shall be reclaimed by the owner, if known, or sold, given away, or humanely destroyed. The owner of any domestic pet impounded for observation is responsible for all fines and fees that may be imposed under this Ordinance.

Article 12: Disposition of Unclaimed Domestic Pets

12.1. If, after ten (10) days of impoundment, the owner of any domestic pet cannot be found or is not known, the domestic pet may be given to the Addison County or Chittenden County Humane Society for adoption or to be destroyed in a humane way.

12.2. If the owner of any domestic pet is known, and the owner does not claim the domestic pet, the domestic pet may be given to the Addison County or Chittenden County Humane Society or destroyed in a humane way and the owner of the domestic pet will be liable for any and all fees involved.

12.3. The Selectboard may choose to collect any and all fees involved in the impounding of a domestic pet by a civil action against the owner.

Article 13: Enforcement Before the Judicial Bureau

13.1. The ACO may, in lieu of apprehending a domestic pet found at large, act as an issuing Municipal Official and issue and pursue before the Vermont Judicial Bureau a municipal complaint for any domestic pet found to have violated any provision of this Ordinance.

Article 14: Waiver Fee For Municipal Complaint

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

First offense	\$ 37.50
Second offense	\$ 56.25
Third offense	\$ 75.00
Fourth offense	\$ 112.50
Fifth and subsequent offenses	\$ 150.00

14.2. Offenses shall be counted on a calendar year basis.

Article 15: Civil Penalty for Ordinance Violation

15.1. An issuing Municipal Official has the authority to recover civil penalties in the following amounts for each violation of this ordinance.

First offense	\$ 50.00
Second offense	\$ 75.00
Third offense	\$ 100.00
Fourth offense	\$ 150.00
Fifth offense	\$ 200.00

15.2. Offenses shall be counted on a calendar year basis.

Article 16: Right to Civil Enforcement

16.1. In addition to the enforcement procedures available under this Ordinance before the Selectboard and Vermont 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.

Article 17: Severability

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

Dated and adopted this 10th day of July 2006, in the State of Vermont,
County of Addison Town of Monkton.

Ordinance to become effective
On August 23, 2006

Town of Monkton Selectboard

John Phillips
John Phillips, Chair

Henry Boisse
Henry Boisse

Norton Bennett
Norton Bennett

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