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Dummerston Animal Nuisance Control Ordinance

EFFECTIVE DATE JUNE 12, 1995

Section 1: Purpose

The purpose of this Ordinance is to protect the health and general welfare of the residents of the Town of Dummerston. In order to accomplish the foregoing purpose, it is deemed necessary to establish a mechanism of review, provide for procedures for enforcement and appeal, and establish penalties for violations of this Ordinance.

Section 2: Definitions

(A) Public Nuisance Defined - Any continuing or often repeated act, omission or conduct which endangers life, health, or property or which unreasonably annoys, injures, or disturbs, or intrudes upon the free use and comfortable enjoyment of private and public lands in Dummerston is a public nuisance, provided, however, such act is specifically enumerated and defined in this Ordinance.

(B) Enumeration of Nuisances

1. Vicious Dog: A dog which causes reasonable fear of bodily injury by attacking or threatening to attack a person or another domestic animal not on the owners property, or, a dog that is diseased and dangerous to the public health.

2. Nuisance Dog: Dogs are hereby declared a public nuisance under the following circumstances or conditions:

(a) A dog repeatedly allowed or permitted to damage 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 injury to domestic animals and pets; or

(b) Dogs maintained in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or which is dangerous to the public health, welfare, or safety or which substantially increases the probability of transmission of disease; or

(c) A dog repeatedly, continuously, or habitually allowed or permitted to bark in an excessive, continuous, or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises; or

(d) Any dog that habitually or repeatedly leaves his or her owner's property and chases or snaps at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles; or

(e) A dog kept or maintained contrary to the conditions of a lawful order issued by the Selectboard.

(C) Animal Control Officer - Shall mean the person or persons appointed by the Selectboard to police and enforce this Ordinance in cooperation with appropriate law enforcement agencies.

(D) Dog - Shall mean any animal of the canine species including wolf-hybrids.

(E) Owner - shall mean any person or group of persons who owns, harbors, or permits any dog to be or remain in or about building or premises owned or occupied by them.

Section 3: Licensing of Dogs

It shall be the duty of every person owning, keeping or harboring any dog over six months of age, within the town of Dummerston to procure a license therefore in accordance with Chapter 193, Title 20 of the Vermont Statutes Annotated, as amended. The owner of a dog shall cause it to wear a collar, and attach thereto a license tag issued by the Town Clerk.

Section 4: Animal Control Officer Duties

The Selectboard shall designate a person to act as Animal Control Officer to enforce the provisions of this Ordinance. It shall be the duty of the Animal Control Officer to investigate complaints of animal nuisances and to enforce the provisions of this Ordinance. The Selectboard shall also designate the names of persons and their locations to receive dogs for confinement under the terms of this Ordinance.

The Animal Control Officer is hereby authorized and empowered to take all reasonable and necessary measures to abate a public nuisance, subject to law.

Section 5: General Violation

Any dog allowed to become or remain a public nuisance as herein defined shall be in violation of this Ordinance and is subject to the provisions of this Ordinance. The owner of any dog deemed a public nuisance is also guilty of a violation of this Ordinance and is subject to the penalties hereinafter listed.

Section 6: Enforcement

(A) The Animal Control Officer may take the following steps if he or she deems a dog constitutes a public nuisance as defined in this Ordinance:

(1) If the owner or keeper of the dog is known the Animal Control Officer may contact said person and issue a written Notice of Violation. A copy of this Notice is to be filed with the Selectboard. The Notice of Violation shall include:

1. A civil penalty up to \$500 according to the following schedule:
 - a. First offense - written warning for a nuisance dog; \$20 civil penalty plus charges incurred by the Town for a vicious dog.
 - b. Second offense within six month period of first offense - \$20 civil penalty plus charges incurred by the Town for a nuisance dog; \$40 civil penalty plus charges incurred by the Town for a vicious dog.
 - c. Additional violations of a similar nature within a six month period of the previous offense - \$40 civil penalty plus charges incurred by the Town.
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.

All civil penalties shall be paid at the Town Clerk's office within 35 business days following issuing of Notice of Violation.

(3) If a dog has committed an act of vicious attack against another domestic animal or against any person not on the owner's property, the Animal Control Officer has the right to impound the dog immediately. A dog can also be impounded for any serious repeated offense. The Animal Control Officer shall also issue a Notice of Violation in accordance with subsection (2) above.

- (a) If the dog impounded is licensed, the Animal Control Officer shall notify the owner, or keeper, of the location where the dog is impounded by phoning the owner and sending a notice by certified mail, with return receipt requested, stating that the dog can be reclaimed within six business days from the mailing of said notice. In order to reclaim a dog, the owner shall pay to the Town a penalty of \$20.00 plus any charge incurred by the Town for the impoundment of the dog plus any other unpaid penalties. If a licensed dog is not claimed within six business days, the dog will be given away to the Humane Society or disposed of in a humane manner and the owner will be liable for the penalty of \$20 plus all costs incurred by the Town for said disposal.

(b) If an unlicensed dog is impounded by virtue of this Ordinance, the Animal Control Officer shall confine such dog for up to six business days. If after six business days, it has been impossible to determine the owner of such a dog, the dog shall be given away to the Humane Society or disposed of in a humane manner. If the owner of an unlicensed dog can be located and the owner wishes to reclaim the dog, the Animal Control Officer shall not authorize the release of the dog until all required licenses have been obtained and evidence of anti-rabies inoculation is shown. The owner shall pay to the Town a civil penalty of \$20.00 plus any charges incurred by the Town for the impoundment of the dog. If the dog has been disposed of, the owner shall be liable for the penalty amount plus all costs incurred by the Town.

(B) In the event of failure to pay any penalty and cost assessed or the filing of an appeal therefrom in a timely manner, the Town may initiate a collection action in Small Claims Court or in Superior Court.

Section 7: Procedure for Owner to Appeal

(A) Actions of the Animal Control Officer

1) A person who receives a Notice of Violation shall be offered an opportunity for a hearing before the Dummerston Selectboard provided that the request for hearing is made in writing to the Dummerston Town Clerk or to the Dummerston Selectboard no later than 21 days after the date of mailing of the 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 Dummerston Selectboard shall hold a hearing within 14 days of receipt of the request. After the hearing, the Dummerston Selectboard 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.

(a) The Notice of Violation shall include:

1. A statement that the individual has the right to a hearing before the Dummerston Selectboard 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.

(2) Residents of the Town who are not satisfied with the actions of the Animal Control Officer in pursuing a complaint may file a written appeal with the Selectboard.

(B) Actions of the Selectboard

Any owner or keeper of any animal found to be in violation of this Ordinance may appeal any decision, order, action or finding of the Selectboard to the Windham Superior Court. Any appeal from the decision of the Selectboard under this ordinance must be filed within thirty days of the rendering of such a decision.

Section 8: Restitution

In certain cases restitution may be made in accordance with 20 VSA Chapter 193 Sections 3741 to 3746.

Section 9: Other Animals

(A) Emergency rules effective July 11, 1994 were required by Vermont Department of Agriculture to activate 20 V.S.A. Section 3581 (a) which mandates rabies vaccination of all domestic pets (dogs, cats, and ferrets) and wolf/hybrids. The rabies vaccination certificate must be signed by the veterinarian vaccinating the animal.

Section 10: Savings

Nothing herein shall be construed to limit, supersede, repeal, or annul any other law, ordinance, or regulation related to nuisances.

Section 11: Separability

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.

This ordinance shall take effect on June 12, 1995.

PURPOSE:

The Dummerston Selectboard has adopted an ordinance under authority granted by V.S.A. Title 24, Chapter 102. The purpose of the ordinance is to protect the health and general welfare of the residents of the Town of Dummerston.

PRINCIPAL PROVISIONS:

Vicious Dog: A dog which causes reasonable fear of bodily injury by attacking or threatening to attack a person or another domestic animal not on the owners property, or , a dog that is diseased and dangerous to the public health.

Nuisance Dog: Dogs are declared a public nuisance under the following conditions:

- a. A dog repeatedly allowed or permitted to damage the property of anyone other than its owner.
- b. Dogs maintained in an environment of unsanitary conditions.
- c. A dog repeatedly allowed to bark in an excessive manner.
- d. A dog that habitually leaves its owners property and chases or snaps at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles.
- e. A dog kept or maintained contrary to the conditions of a lawful order issued by the Selectboard.

It shall be the duty of every person owning any dog over six months of age within the Town of Dummerston to procure a license in accordance with V.S.A. Title 20, Chapter 193.

The Selectboard shall designate a person to act as Animal Control Officer to enforce the provisions of this Ordinance.

The Animal Control Officer shall not authorize the release of an impounded unlicensed dog until all required licenses have been obtained and evidence of anti-rabies inoculation is shown.

This Ordinance will be enforced through a system of written warnings and civil penalties.

A person who receives a Notice of Violation shall be offered an opportunity for a hearing before the Dummerston Selectboard at no cost to the respondent.

SECTION HEADINGS:

- 1. Purpose, 2. Definitions, 3. Licensing of Dogs, 4. Animal Control Officer Duties, 5. General Violation, 6. Enforcement, 7. Procedure for Owner to Appeal, 8. Restitution, 9. Other Animals, 10. Savings, 11. Separability.

The full text of this ordinance can be examined at the Dummerston Town Offices.

Questions regarding the ordinance may be directed to: Jack W. Manix, RD 2 Box 556, Dummerston , VT 05346, 254-2476.

This ordinance was adopted on April 12, 1995. It will take effect on June 12, 1995, unless a petition signed by at least five percent of the voters of Dummerston is filed with the Town Clerk by May 26, 1995, asking for a vote to disapprove the ordinance. If a petition is received, the Dummerston Selectboard will warn a special meeting and the voters may vote on that question. (24 V.S.A. Section 1973)

TOWN OF DUMMERSTON PUBLIC NOTICE

PURPOSE:

The Dummerston Selectboard has adopted an Animal Nuisance Control Ordinance under authority granted by V.S.A. Title 20, Chapter 193, Section 3549. The purpose of the ordinance is to protect the health and general welfare of the residents of the Town of Dummerston.

PRINCIPAL PROVISIONS:

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