

PUBLIC NOTICE

Town of Swanton, VT

Notice is hereby given that the Town of Swanton Selectboard will conduct a public discussion of the definition of “**domestic pet**” or “**pet**” as provided in the *Town of Swanton Dog Ordinance*. The Selectboard is proposing to revise the definition of “**domestic pet**” or “**pet**” by limiting it to include only male or female domestic dogs or male or female wolf-hybrids. All other animals would be excluded from the proposed definition. The new definition in *Section One* of the ordinance would read: ***(a) “Domestic pet” or “pet” means any male or female domestic dogs as defined in paragraph (e) below or male or female wolf-hybrids as defined in paragraph (b) below.*** The Selectboard is also proposing to revise the definition of “**Enforcement Officer**” by adding “**Animal Control Officer**” to it. “**Animal Control Officer**” would also be inserted in those ordinance provisions dealing with enforcement and wherever else appropriate. Also being proposed is adding a reference to the ordinance definition of “**At large**” to *Section Six: Domestic Pets or Wolf-Hybrids At Large*. And the title of the ordinance is proposed to be changed to “**TOWN OF SWANTON, VT DOG & WOLF-HYBRID ORDINANCE.**”

The discussion will take place at the Selectboard’s Tuesday, August 18, 2015 meeting as part of the agenda in the Town Office Meeting Room at 1 Academy Street in Swanton, Vermont. The meeting begins at 7 p.m. The Board is seeking input on these proposed revisions from pet owners and property owners. Members of the public are also welcome to attend the public discussion and offer input. Please call 868-7418 for more information.

Copies of the proposed revisions are available at the Town Clerks Office or on the Town’s website at www.townofswantonvermont.weebly.com . Click on the ANIMAL CONTROL OFFICER button in the left column to access a copy.

DELETED TEXT

ADDED TEXT

TOWN OF SWANTON, VT DOG & WOLF-HYBRID ORDINANCE

THE SELECTBOARD OF THE TOWN OF SWANTON HEREBY ORDAINS THAT THE ORDINANCE PROVIDING FOR THE LICENSING OF ALL DOGS WITHIN THE TOWN OF SWANTON TO REGULATE THE KEEPING AND RUNNING OF DOGS PURSUANT TO TITLE 20, SECTION 3549, V.S.A., AND AUTHORIZING THE IMPOUNDING AND DESTRUCTION OF DOGS AND PROVIDING FOR PENALTIES BE AMENDED TO READ AS FOLLOWS:

AN ORDINANCE PROVIDING FOR THE LICENSING OF ALL DOGS AND WOLF-HYBRIDS WITHIN THE TOWN OF SWANTON AND TO REGULATE THE KEEPING AND RUNNING AT LARGE OF DOMESTIC PETS AND WOLF-HYBRIDS PURSUANT TO CHAPTER 193 OF TITLE 20, VERMONT STATUTES ANNOTATED AND AUTHORIZING THE IMPOUNDING AND DESTRUCTION OF DOMESTIC PETS AND WOLF-HYBRIDS AND PROVIDING FOR PENALTIES.

SECTION ONE DEFINITION OF TERMS

As used in the ordinance unless the context clearly indicates otherwise, the following words or phrases shall have the following meanings:

- (a) “Domestic pet” or “pet” means any male or female domestic dogs as defined in paragraph (e) below or male or female wolf-hybrids as defined in paragraph (b) below. domestic cats and ferrets. The term shall also include such other domestic animals as the Vermont Commissioner of the Department of Agriculture, Food and Markets or his or her designee shall establish by rule, as established by rule pursuant to Chapter 193, Title 20 Vermont Statutes Annotated.
- (b) “Wolf-hybrid” means an animal, male or female, which is the progeny or descendant of a domestic dog (*Canis familiaris*) and a wolf (*Canis lupus* or *Canis rufus*). “Wolf-hybrid” also means an animal, male or female, which is the progeny or descendant of a domestic dog (*Canis familiaris*) and any member of the family *Canidae*. “Wolf-hybrid” also means an animal, male or female, 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 may be described by rule by the Vermont

Commissioner of the Department of Fish and Wildlife pursuant to Chapter 193 of Title 20 Vermont Statutes Annotated.

- (c) “Owner” means any person who owns a domestic pet or wolf-hybrid and includes any person who has actual or constructive possession of the pet or wolf-hybrid. The term also included those persons who provide feed or shelter to a domestic pet or wolf-hybrid. However, it is not the intent of this ordinance to require a person to be responsible under this chapter for feral animals that take up residence in a building other than the person’s home, even if the person occasionally provides feed to the animal.
- (d) “Vicious domestic pet or vicious Wolf-hybrid” is a domestic pet or wolf-hybrid found to be vicious pursuant to Section Five (5) below.
- (e) “Domestic Dog” or “Dog” means any male or female domestic dog (*Canis familiaris*).
- (f) “Ferret” means only the European ferret (*Mustela putorius furo*).
- (g) “**At Large**” means off the premises leased or owned by the owner and not under the **control of the owner by leash**.
- (h) “Enforcement Officer” shall be the Town Constable, **Animal Control Officer** or such other person or persons as may be appointed by the Selectboard from time to time to enforce or execute the provisions of this ordinance.
- (i) “Poundkeeper” shall be the Town Constable, **Animal Control Officer** or such other person or persons as may be appointed by the Select Board from time to time to receive, maintain, and dispose of domestic pets or wolf-hybrids impounded pursuant to this ordinance or Chapter 193, Title 20 Vermont Statutes Annotated.
- (j) “Heat” means when a female domestic pet or wolf-hybrid is in estrus.

SECTION TWO LICENSING

Every owner of a dog or wolf-hybrid six months of age or older shall procure a license therefore in accordance with Subchapter 2, Chapter 193, Title 20 Vermont Statutes Annotated. Pursuant to Chapter 193, Title 20 Vermont Statutes Annotated, the Select Board may, at any time, issue a warrant to the Enforcement Officer, **Animal Control Officer** or Poundkeeper, directing them to proceed forthwith to destroy in a humane way or cause to be destroyed in a humane way, all dogs or wolf-hybrids within the Town of Swanton not properly

licensed or exempt according to this ordinance or Chapter 193, Title 20 Vermont Statutes Annotated, and to enter a complaint against the owners thereof.

SECTION THREE COLLAR REQUIRED

It shall be the duty of every owner to keep on each dog or wolf-hybrid a collar or harness to which shall be securely fastened a metal license tag and a metal tag with the name and address of the owner whenever such dog or wolf-hybrid is at large. It shall be unlawful for any person other than the Enforcement Officer, **Animal Control Officer**, a Police Officer, or the owner of a dog or wolf-hybrid to remove the license tag or name and address tag from a dog or wolf-hybrid. The Enforcement Officer or **Animal Control Officer** shall impound all dogs or wolf-hybrids found without a collar.

SECTION FOUR DOG OR WOLF-HYBRID IN HEAT

It shall be the duty of every owner of an unsprayed female dog or wolf-hybrid to keep such dog or wolf-hybrid confined while it is in heat. The Enforcement Officer or **Animal Control Officer** shall impound any female dog or wolf-hybrid in heat found at large.

SECTION FIVE VICIOUS DOMESTIC PETS OR WOLF-HYBRIDS

- (a) When a domestic pet or wolf-hybrid has bitten or viciously attacked a person while the domestic pet or wolf-hybrid is off the premises of the owner or keeper, such person may file a written complaint with the Selectboard pursuant to Section 3546, Title 20 Vermont Statutes Annotated. The complaint shall contain 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 Select Board in conducting its investigation.
- (b) The Selectboard, within seven (7) 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, the 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 domestic pet or wolf-hybrid is found to have bitten or viciously attacked 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 be disposed of in a humane way, muzzled, chained, or confined per specific order and direction. The order shall be sent by certified mail, return receipt requested, or shall be served in the same manner as civil process. A person who, after receiving notice, fails to comply with the terms of the order shall be penalized and assessed not more than \$500.00.

SECTION SIX DOMESTIC PETS OR WOLF-HYBRIDS AT LARGE

Any domestic pet or wolf-hybrid **at large** which enters the property of another and there causes property damage or creates a nuisance may, upon a signed written complaint of the owner or legal occupant of the property, be impounded by the Enforcement Officer or **Animal Control Officer**. Please see the definition of **“at large”** in **Section One**.

SECTION SEVEN DOG OR WOLF-HYBRID LITTERING

A person who owns, possesses or controls a dog or wolf-hybrid shall not permit the animal to deposit fecal matter on a sidewalk, lawn, floor, wall or stairway of any public or private premises. All fecal matter deposited on same shall be immediately removed by the owner or person in control of the dog or wolf-hybrid. Violators will be subject to impoundment of their dog or wolf-hybrid and fines pursuant to Section Ten below.

SECTION EIGHT BARKING OR HOWLING DOGS OR WOLF-HYBRIDS

No owner shall keep or harbor a dog or wolf-hybrid which by frequent or habitual barking, howling, or yelping, disturbs the peace or quiet of persons of ordinary sensibility. The Enforcement Officer or **Animal Control Officer** shall, upon receipt of a signed complaint of a person or persons disturbed, issue a written warning, in triplicate, to the owner of the dog or wolf-hybrid. One copy of the warning shall be given to the owner(s), one copy shall be retained in the Enforcement Officer's or **Animal Control Officer's** records, and one copy shall be kept on file in the Town Clerk's Office for a period of a year from the date of issuance of the warning. Upon receiving a second signed written complaint, the dog or wolf-hybrid shall be impounded.

SECTION NINE POUNDKEEPERS AND IMPOUNDING FEES

The Selectboard may appoint or contract with the Town Constable **Animal Control Officer** or other person or persons to act as poundkeeper for the Town. The Poundkeeper shall be entitled to a daily fee which will adequately reimburse him/her

for the cost of feeding, housing and otherwise maintaining impounded domestic pets or wolf-hybrids and which in any event shall not that which is generally charged by veterinarians, boarding kennels and others in the area who perform similar services.

SECTION TEN
DISPOSITION OF IMPOUNDED DOMESTIC PETS OR
WOLF-HYBRIDS AND PENALTIES

- (a) The Enforcement Officer or Animal Control Officer shall no later than twenty-four (24) hours after impounding a domestic pet or wolf-hybrid, notify the owner of the domestic pet or wolf-hybrid of the impoundment. Notification shall be given by either telephoning the owner or by giving, in person, verbal notification to the owner and by mailing a written notice first class mail, postage prepaid, addressed to the owner at his or her last known address. If verbal notification in person or by telephone cannot be given or if the owner of the domestic pet or wolf-hybrid is unknown, written notice shall be posed on or before 12:00 noon on the next business day following impoundment in the Town Clerk's Office and Swanton Village Clerk's Office describing the domestic pet or wolf-hybrid and the time and the location where it was impounded. The date of notification shall be the date verbal notice is given, the date of mailing written notice, or the date written notice is posted, whichever is later.

- (b) The owner of any domestic pet or wolf-hybrid so impounded may reclaim or redeem such domestic pet or wolf-hybrid upon payment of the license fee, if unpaid, all impoundment fees for the period of time of impoundment, and in addition, the following charges:
 - (1) Seventy-Five Dollars (\$75.00) and the cost of the impoundment for the first impoundment;
 - (2) One Hundred and Fifty Dollars (\$150.00) and the cost of the impoundment for the second impoundment;
 - (3) Two Hundred and Twenty-Five Dollars (\$225.00) and the cost of impoundment for the third and subsequent impoundments in any twelve (12) month period.

Any impounded domestic pet or wolf-hybrid not redeemed or reclaimed by its owner within four (4) business days after the date of notification of the impoundment may be destroyed by the Poundkeeper, sold or given for adoption in such a way as not to become a burden to the Town. If the domestic pet wolf-hybrid is sold, the proceeds received therefrom shall be applied to the costs of impoundment and the above-established charges. The owner shall be liable to the Town for the above charges and cost of impoundment.

- (c) In the event that any domestic pet or wolf-hybrid shall be impounded three (3) times within any twelve (12) month period, or be impounded in violation of Section Six above, the Selectboard may, at their discretion, hold a public hearing on the matter and may order the animal placed for adoption, confined, muzzled, chained or humanely destroyed. The owner of the domestic pet or wolf-hybrid shall receive at least five (5) day's notice of such hearing. Notice shall be deemed to be received upon the Town mailing a written notice of such hearing to the owner by certified mail, postage prepaid. If such a hearing is scheduled, the domestic pet or wolf-hybrid shall remain impounded until the Selectboard holds the hearing and reaches a decision. The owner shall be responsible for all impoundment and postage charges.

SECTION ELEVEN DOMESTIC PETS OR WOLF-HYBRIDS WHICH HAVE BITTEN PERSON

Until written permission to do otherwise is received from the Town Health Officer and Enforcement Officer, the owner of any domestic pet or wolf-hybrid, at his or her expense, when notified by the Enforcement Officer or **Animal Control Officer** that such domestic pet or wolf-hybrid has bitten any person, shall have such domestic pet or wolf-hybrid immediately confined or impounded. No owner shall, without written permission of the Health Officer and Enforcement Officer or **Animal Control Officer**, allow to run at large, sell, give away or transport or cause to be transported any such domestic pet or wolf-hybrid so confined or impounded beyond the limits of the Town except under the care of a licensed veterinarian. Any person who violates this section shall be penalized and assessed not more than \$500.00.

SECTION TWELVE RECORDS

The Enforcement Officer or **Animal Control Officer** shall make a complete record of each domestic pet or wolf-hybrid impounded and/or issued a warning against. The record shall show the date, the breed, type of domestic pet or wolf-hybrid, color, sex and whether or not licensed. If licensed, he shall enter the name and address of the owner and license tag number.

Additionally, the Enforcement Officer or **Animal Control Officer** shall record the date of verbal or written notification of impoundment and to whom notification was given and shall keep copies of all written or posted notifications.

SECTION THIRTEEN ORDINANCE VIOLATION

At the discretion of the Selectboard in addition to any of the penalties set forth herein, or in lieu of impounding a domestic pet or wolf-hybrid under this

ordinance, the Enforcement Officer or **Animal Control Officer** may issue to the known owner of such domestic or wolf-hybrid a notice of ordinance violation. Such notice shall be delivered in hand to the owner or shall be mailed to him or her by certified mail, postage prepaid. Notice shall be deemed to be received when the notice is deposited in the U.S. Mail. Such notice shall impose upon the owner a penalty or assessment in the amount of One Hundred Dollars (\$100.00) for each violation, which shall be paid to the **Town of Swanton at the Town** Clerk's Office within three (3) business days after receipt of notice of ordinance violation. Notwithstanding anything herein to the contrary, if any violation be continuing, each day's violation shall be deemed to be a separate violation. If this penalty or assessment is not paid, then it may be collected as set forth in Section Thirteen below.

SECTION FOURTEEN COLLECTION

The Town may, at its discretion, seek collection of any penalties, assessments, charges or amounts due under the ordinance by bringing a civil action in County or Small Claims Court against the owner of any domestic pet or wolf-hybrid which has been impounded under this ordinance. All costs of collection, including a reasonable attorney's fees shall be added to the amounts due under this section if such action is necessary. Additionally, all amounts for charges due under the ordinance and not paid as set forth herein shall accrue interest at the rate of one and one-half percent (1½%) per month for each month or portion thereof during which the charge or amount remains unpaid from the date when the charges first became due and payable.

SECTION FIFTEEN ENFORCEMENT

- (a) A violation of this ordinance shall cause an Enforcement Officer or Animal Control Officer to serve a notice of violation or other order on the animal owner. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.
- (b) Where a person fails to remedy a violation to the satisfaction of an Enforcement Officer or **Animal Control Officer**, the Enforcement Officer or **Animal Control Officer** may bring appropriate action to enforce the provisions of the ordinance. Enforcement may be by any means allowed under state law including, but not limited to:
- (1) An Enforcement Officer or **Animal Control Officer** may issue, or direct to have issued, a Municipal Complaint and pursue enforcement before the Judicial Bureau in accordance with the provisions of 24 V.S.A. § 1974 and § 1977 with penalties as prescribed in this ordinance:
 - (2) An Enforcement Officer or **Animal Control Officer** may notify the Town Attorney of the violation, who can take action in Superior Court seeking injunctive relief with penalties as prescribed by law.

(c) Each day that a violation continues after the initial notice shall constitute a separate offense.

All fines imposed and collected shall be paid to the "Town of Swanton."

(d) This section does not preclude the Town from recourse under Section Fourteen above.

This amended Ordinance was passed by the Selectboard of the Town of Swanton on the _____ day of _____, A.D. 2015.

TOWN OF SWANTON SELECTBOARD:

DANIEL E. BILLADO, CHAIRMAN

JOEL CLARK, VICE CHAIRMAN

L. JOHN LAVOIE, SELECTMAN

WILLIAM 'TURK' THOMPSON, SELECTMAN

JAMES GUILMETTE, SELECTMAN

ADOPTED by the Selectboard in regular meeting this ___ day of _____, A.D. 2015 and ordered to be recorded in the Office of the Town Clerk.

ATTEST _____
CATHY L. FOURNIER, TOWN CLERK

I hereby certify that the foregoing ordinance was posted in five (5) public places in the Town of Swanton on the _____ day of _____, A.D. 2015, to wit: Town Clerk's Office, Zoning & Planning Office, Swanton Village Complex, U.S. Post Office, and Swanton Public Library; and was published in the *St. Albans Messenger*, a newspaper having general circulation in the Town of Swanton on the _____ day of _____, A.D. 2015, and was recorded in the Ordinance Records of the Town of Swanton on the _____ day of _____, A.D. 2015.

ATTEST: _____
Cathy L. Fournier, Town Clerk