

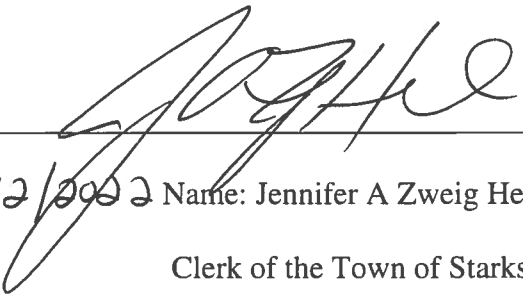
ANIMAL CONTROL ORDINANCE

of the

TOWN OF STARKS

ENACTED: 3/12/2022
Date

EFFECTIVE: 3/12/2022
Date

CERTIFIED BY: 
Date: 3/12/2022 Name: Jennifer A Zweig Hebert
Clerk of the Town of Starks

ANIMAL CONTROL ORDINANCE of the TOWN OF STARKS

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Section 1 – Authority

The prior ordinance entitled “Dog Ordinance for the Town of Starks” as enacted is hereby repealed and all references to that Ordinance shall be deemed to be references to this Ordinance.

1. This Ordinance is adopted pursuant to the Home Rule powers as provided in Article VII-A of the Maine Constitution and Title 30-A M.R.S. §4401, et. seq., as amended.
2. This Ordinance shall be known as “The Animal Control Ordinance of the Town of Starks, Maine” as enacted March 11, 2022.

Section 2 - Purpose

The purpose of this ordinance is to require all animals in the Town of Starks to be kept under the control of their owner or keeper at all times so they will not injure persons or other animals, damage property, or create a public health threat or nuisance.

Provisions of this ordinance which apply to the owner of an animal apply equally to any person keeping, or having control, custody, or possession of that animal.

Section 3 – Definitions

1. **ABANDONED ANIMAL:** an animal which, in the opinion of the Animal Control Officer (ACO), has been deserted by its owner or keeper.
2. **ABUSE:** to treat or keep an animal unlawfully or harmfully in such a way that injury or harm to the animal has occurred or is likely to occur in the reasonable opinion of the ACO.
3. **ANIMAL:** every living, sentient creature which is not a human being.
4. **ANIMAL CONTROL:** control of dogs, cats and domesticated or undomesticated animals.
5. **ANIMAL CONTROL OFFICER (ACO):** any person appointed by the Town of Starks to enforce animal control laws.
6. **ANIMAL SHELTER:** a facility operated by an entity which includes a physical structure, and which provides appropriate and safe temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals.
7. **AT-LARGE:** off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the dog.
8. **CONTROL:** the power or ability to direct the proper and safe activity of an animal.
9. **DOG:** any of the large and varied groups of domesticated animals in the canine family.
10. **DOMESTIC ANIMAL:** animals which normally and customarily share human habitat and are normally dependant on humans for shelter and/or food, such as, but not limited to, dogs, cats, cattle, horses, swine, fowl, sheep, and goats.

11. **LEASH or HALTER:** a handheld device (lead, chain, or cord) which can be used to restrain a dog or other animal if the animal fails to respond to voice commands. In cases where a leash is required by law, ordinance or by order of a law enforcement officer, the leash must be less than fifteen (15) feet in length.
12. **OWNER:** any person or persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.
13. **RESPONSIBLE PARTY:** as used in this ordinance, the term "responsible party" means any person who has possession or custody of an animal. If an animal is present in any location in violation of the restrictions of this Ordinance, the owner of the animal and the responsible party are jointly and severally liable for the violation.
14. **STRAY:** an animal off the owner's premises and not under the control of a person.
15. **VOICE CONTROL:** as used in this ordinance, the term "voice control" refers to dogs and means the dog returns immediately to and remains by the side of the responsible party in response to the responsible party's verbal command. If a dog approaches or remains within 10 feet of any person other than the responsible party, the dog will be presumed to not be under voice control and a violation of this Ordinance will be presumed unless such person has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog. In the case of a minor child approached by the dog, an adult capable of giving consent must be present with the minor child to consent to the presence of the dog.

Section 4 – Animal Control Officer (ACO)

The Animal Control Officer (ACO) shall be a qualified person appointed by the Board of Selectmen. The ACO will be principally responsible for the enforcement of this Ordinance. The ACO will also handle complaints about undomesticated (wild) animals and either handle locally or refer any or all complaints to the appropriate outside agency for assistance.

Section 5 – Control of Dogs

When off the premises of the owner, a dog shall always be on a leash or otherwise under the immediate voice control of a person responsible for the dog's behavior, except as follows:

1. dogs at use during hunting, provided however, the provisions of Section 3.16 apply as to the dog approaching other persons;
2. dogs used for law enforcement;
3. service dogs; or,
4. dogs on private property with that property owner's permission to be unleashed while within voice control.

The owner of any dog found in violation of the above provisions shall be subject to the civil penalties provided in this ordinance.

Section 6 – Return of At-Large Dogs

All dogs found at-large in violation of Title 7, M.R.S. §3911 may be impounded at an animal shelter or returned to the owner, at the discretion of the ACO. No dog caught at-large (and not impounded) may be returned to the owner unless the owner first pays a twenty-five-dollar (\$25.00) return fee payable to the Town of Starks. This payment may be made to the ACO, who shall issue a receipt. All fees will be deposited in the Town of Starks Municipal Animal Welfare Account required by Title 7, M.R.S. §3945. The Owner shall in addition pay any costs incurred by the ACO.

Section 7 – Disposition of Impounded Animals

In the ACO's absolute discretion, the animal may be impounded at an animal shelter or other appropriate place. An owner is entitled to resume possession of any impounded animal provided all provisions of this Ordinance have been met, and all impoundment fees due under the provisions of Section 8 of this Ordinance have been paid. Any animal not claimed after the owner has been notified shall be deemed abandoned, and the animal's owner is subject to all civil penalties authorized by this Ordinance. Unless otherwise determined, if an animal is not claimed by its owner or keeper within ten (10) days after the date of impoundment, then the person in charge of said animal shelter, or such other place of impoundment, may give away, sell or otherwise humanely dispose of said animal.

Section 8 – Impoundment Fee

An owner may reclaim an impounded animal by first paying to the Town of Starks a fee of fifty dollars (\$50.00) for the 1st offense and one hundred dollars (\$100.00) for each subsequent offense for each animal impounded. In addition, the Owner or Responsible party must reimburse the Town for all costs incurred before and during the impoundment. These fees and reimbursements shall be paid at the Starks Town Office by any means by which a receipt can be obtained. Fees must be paid and a receipt from the Town must be presented to the animal shelter holding the animal before the release of the animal. All fees will be deposited in the Town of Starks Municipal Animal Welfare Account required by Title 7 M.R.S. §3945.

Section 9 – Animal Noise

Owning, possessing, or harboring any animal that makes loud or unreasonable sounds either by their frequency or by their duration such that they create a disturbance on other properties is hereby declared to be a nuisance and is prohibited. For purposes of this ordinance, a dog that barks, bays, cries, howls, or makes any other noise continuously and/or incessantly for a period of ten (10) minutes or barks intermittently for one-half (½) hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon the Owner's private property shall be considered to have created such a disturbance under this Section. Provided, however, this shall not pertain to a dog if, at the time the dog is barking or making any other noise, the ACO determines a person was trespassing or threatening to trespass upon the Owner's private property in or upon which the dog is situated, or the dog was being teased or provoked, or for any other legitimate cause.

Section 10 – Private Action

The provisions of Section 9 above regarding Animal Noise shall be enforceable by any person aggrieved by the disturbance created by a dog if the Animal Control Officer provides a written statement of finding that the noise created by the dog does in fact constitute a nuisance, and the Animal Control Officer has indicated a waiver in writing of the Town’s prerogative to enforce the provisions of this Ordinance against the Owner in the particular instance.

Section 11 - Control of Animal Waste

An owner must remove and dispose of any feces left by his/her animal on any sidewalk, street, beach, public property, or private property (other than the property of the owner of the animal or of a person who has consented to the presence of the animal on his or her property) and dispose of it properly elsewhere. An owner whose animal is present on any property from which the animal's feces is required to be removed pursuant to this section must have in his or her possession a plastic bag or similar container, for collecting and removing the feces. This regulation shall not apply to any person who, by reason of physical handicap, is unable to comply with the requirement.

Section 12 – Dangerous Dogs

Any person who is assaulted by a dog or any person witnessing an assault against a person or domestic animal by a dog or a person with knowledge of an assault by a dog against a minor, may within thirty days of the assault make a written complaint to the Animal Control Officer that the dog is a dangerous dog. On investigation by the Animal Control Officer, the ACO may issue a civil violation citation for keeping a dangerous dog pursuant to 7 M.R.S. sub-§3952. If after issuing the citation, the dog continues, in the ACO’s estimation, to pose an immediate or continuing threat to the public, the ACO shall order the owner of the dog to muzzle, restrain or confine the dog to the owner's premises. If deemed necessary in the reasonable discretion of the ACO, the ACO may direct the dog to be kept at a place determined by the ACO to be an appropriately safe place, and to do so at the owner's expense. If the owner fails to comply with such order, the ACO may apply to the District Court, Superior Court, or a Justice of the Peace pursuant to 7 M.R.S. sub-§3952 for an ex parte order for authorization to take possession of the subject dog that poses an immediate or continuing threat to the public.

Section 13 – Trespass

An owner of an animal may not allow an animal to enter onto the property of another after the owner has been warned by the ACO or a law enforcement officer that the animal was found on the property of another. Such an animal shall be considered to be “at-large”. The owner of an animal is responsible, at the owner's expense, for removing an animal found trespassing. The ACO may, at the owner's expense, control and remove the animal if the owner fails to remove the animal within 24 hours after having been notified of the trespass by the ACO, or if the animal is an immediate danger to itself, to other persons or to another person’s property. Any animal so removed shall be subject to the provisions of Sections 6, 7, and 8 of this Ordinance in the same manner as an at-large dog.

Section 14 – License and Registration Required

No dog shall be kept within the limits of the Town of Starks unless such dog is licensed in accordance with Title 7, M.R.S. §§3923-A and 3923-C and this ordinance. This requirement shall be the

responsibility of the owner of the dog.

Section 15 – Rabies Tags

Rabies tags showing immunization against rabies must be securely attached to the collar which must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of license and proof of rabies immunization within twenty-four hours upon request of the ACO.

Section 16 – Violations/Penalties

Any person who violates this ordinance shall be subject to a civil penalty of \$100.00 for the first offense, \$150.00 for the second offense, and \$250.00 for the third and subsequent offenses, except as provided in Section 6 and Section 8.

Section 17 – Waiver of Defense/ Payment of Fines

Any person charged with a violation of this section, shall be allowed to waive defense, admit such violation and tender to the Town of Starks the amount of fine if paid within 20 days of issuance of the summons. If the fine is paid, no appearance before a District Court Judge or other judicial officer shall be required. If the offender pays the said fine and any other fees and reimbursements, the matter will be closed as to that violation, but listed as a prior offense for future violations. If the offender chooses not to pay the fine, he/she shall appear in court on the specified date to answer for the violation. If the offender is found in court to have committed the offense, fines, applicable court fees, attorney's fees, and other costs of prosecution may be imposed.

Section 18 – Severability Clause

If any part of this ordinance is held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.