

HINKLEY & DONOVAN
ATTORNEYS AT LAW
LANCASTER, N. H. 03584

WALTER D. HINKLEY
PAUL F. DONOVAN

TEL. 788-2525

ARTHUR H. K. DAVIS

April 5, 1977

Mr. Paul Hawley
Selectmen's Office
No. Stratford, NH 03590

Re: Dog Ordinance

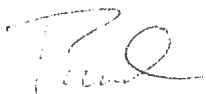
Dear Paul:

Your letter of March 29th inquired as to the legality of a dog ordinance and your letter specifies the language in that ordinance. RSA 466:39 does empower a town to make additional bylaws (ordinances) concerning licensing and restraining dogs as a town may deem appropriate, so that clearly there is a legal authorization in the statutes for the Town to adopt an ordinance. Hence, Stratford's adoption of a dog ordinance by vote at the Town Meeting certainly is a legal act.

On looking at the content in your ordinance, aside from the question of the legality of a town adopting an ordinance, I am puzzled at the absence of any standard which can be the basis for a complaint. The text which you have given to me does not indicate any standard to be the basis for a complaint. Hence, in theory if I just plain did not like dogs I could complain to the Police regarding a particular dog who perhaps fertilized my front yard and that would trigger the dog being picked up by the Police and the dog owner would then be under the burden of having to come claim his dog and be under the burden of paying a ten dollar fine or the dog would be disposed of. It would seem to me that the absence of an expressed standard which would be the basis for a complaint renders your ordinance of questionable enforceability. I would suggest that the Selectmen themselves may amend the ordinance by adding a provision along the lines that a complaint against a particular dog or dogs may be lodged due to the causes expressed in RSA 466:31(II). This at least gives some basis which a complaint being brought other than "I don't like a particular dog".

After you have considered this, please let me know if you have any further questions.

Sincerely yours,



Paul F. Donovan

PFD:jmb