

PUBLIC NOTICE
TOWN OF BARNET, VERMONT
ANIMAL CONTROL ORDINANCE

The Selectboard of the Town of Barnet, Vermont, at its duly warned regular meeting on March 23, 2015, has amended the Ordinance for the Control of Dogs adopted June 7, 1982 in its entirety and the Animal Control Ordinance adopted February 23, 2015 in its entirety. The amendments cover the following topics:

- Section 1: Authority and Adoption
- Section 2: Definitions
- Section 3: Running at Large
- Section 4: Disturbances and Nuisances
- Section 5: Impoundment and Enforcement
- Section 6: Release from Impoundment
- Section 7: Impoundment Fees
- Section 8: Investigation of Bites by Domestic Pets or Wolf Hybrids
- Section 9: Confining, Impounding and Euthanasia of Suspect or Rabid animals
- Section 10: Right to Kill Domestic Pets or Wolf Hybrids
- Section 11: Licensing
- Section 12: Designation as a Civil Ordinance; Additional Remedies
- Section 13: Civil Penalties
- Section 14: Severability

The above Animal Control Ordinance was adopted by the Barnet Selectboard on March 23, 2015 at their duly warned regular Selectboard meeting held at the Town Clerk's Office in Barnet. The amendment will take effect on May 26, 2015 unless a petition signed by at least five percent of the voters of Barnet is filed with the Selectboard or Town Clerk within forty-four days following the date of adoption of the ordinance by the Selectboard. If a petition is received, the Barnet Selectboard will warn a special meeting and the voters may vote on the ordinance. See 24 V.S.A. Section 1973.

The full text of this ordinance may be examined in the Barnet Town Clerk's Office, or at the Town of Barnet's municipal website: www.barnetvt.org. For more information about this ordinance, contact Town Clerk, Benjamin Heisholt at (802) 633-2256 or Selectboard Chair Jeremy Roberts at (802) 748-1557. The above persons may be reached by mail addressed to them at the Town of Barnet, PO Box 15, Barnet, Vermont 05821.

TOWN OF BARNET, VERMONT
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Section 1: Authority and Adoption

Pursuant to Title 20 V.S.A. §3549 and V.S.A. §2291(10) and §1973 (e) the following ordinance is promulgated in order to regulate the keeping of domestic pets and wolf-hybrids in the town of Barnet.

Any Animal Control or Dog Ordinance previously adopted by the Town of Barnet is hereby amended by deleting such ordinance in its entirety upon the effective date of the ordinance as set forth below pursuant to 24 V.S.A. §1971 et. seq. as amended.

Section 2: Definitions

A. *Commissioner* shall mean the Commissioner of the Department of Agriculture, Food and Markets, and shall include his or her designee.

B. *Selectboard* shall mean the legislative body of the Town of Barnet as it may appear from time to time.

C. *Enforcement Official* shall mean any Constable, Police Officer, Poundkeeper or Animal Control Officer(s).

D. *Animal Control Officer* shall mean the First Constable elected by the Town of Barnet and such other individual(s). and such other individual(s) as are duly appointed by the Selectboard to administer this Ordinance.

E. *Pound and Poundkeeper* shall mean that place and that person, respectively, designated from time to time by the Selectboard of the Town of Barnet, to keep domestic pets and wolf-hybrids found by the Enforcement Officer to be violating any provision of this ordinance.

F. *Cat* shall mean an animal, both male and female, which is the progeny or descendent of the species *felis catus* or *felis domestica*.

G. *Dog* shall mean an animal, both male and female, which is progeny or descendant of the species *canis familiaris*.

H. *Ferret* shall mean an animal, both male and female, which is the progeny or descendent of the species *mustela putorius furo*.

I. *Wolf-hybrid* shall mean an animal which is the progeny of a dog(*canis familiaris*)and a wolf(*canis lupus* or *canis rufus*). *Wolf-hybrid* also means an animal which is advertised, registered, licensed or otherwise described or represented as a wolf-hybrid by its owner or keeper or an animal which exhibits primary physical and behavioral wolf characteristics.

J. *Domestic Pet* shall mean any dog, cat or ferret. The term shall also include such other domestic animals as the Commissioner shall establish, from time to time, by rule.

K. *Owner or Keeper* shall mean any person, persons or entity who owns, harbors, keeps or permits any domestic pet or wolf-hybrid to be kept in or about their buildings or premises, and includes any person who has actual or constructive possession of a domestic pet or wolf-hybrid. However, it is not the intent of the Selectmen to require a person to be responsible under this chapter 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(s).

L. *Running at large* shall mean a dog or wolf-hybrid which is not on the property of its owner or keeper and is not (1) on a leash, or (2) on or within a vehicle, or (3) clearly under the verbal command of its owner or keeper or the owner or keepers agent, (4) engaged in hunting with its owner or keeper.

M. *Excessive Noise* shall mean any noise created by a domestic pet or wolf-hybrid that is audible to those persons, other than the keeper or owner of the animal, who are in a location where they are lawfully permitted to be, that is of such volume, duration or frequency that to a reasonable person would be improper or irritating.

N. *Vicious Domestic Pet or Wolf-hybrid* shall mean a domestic pet or wolf-hybrid which causes any person to reasonably fear a bodily injury by attacking or threatening to attack any person, other than persons who are in the act of trespassing upon the private property of the owner or keeper of the domestic pet or wolf-hybrid.

O. *Leash* shall mean an instrument consisting of rope, leather, chain or cord with a fixed clasp on the collar end not to exceed eight feet in length.

Section 3: Running at Large

A. No owner or keeper shall permit a dog or wolf-hybrid owned by him or under his or her keeping or control run at large.

B. An owner or keeper who permits a dog or wolf-hybrid to run at large as defined herein shall be subject to such civil penalties or other enforcement remedies as are hereinafter provided and as are otherwise provided by law.

Section 4: Disturbances and Nuisances

A. An owner or keeper shall not permit a domestic pet or wolf-hybrid to commit a disturbance or nuisance as hereinafter defined:

1. make excessive noise so as to disturb adjoining landowners or pedestrians.
2. cause damage to personal property
3. scatter refuse
4. harass pedestrians, bicyclists or other passersby
5. attack persons or other animals
6. obstruct traffic

7. defecate in any public area or on the private property of another person. The person in control shall immediately remove the fecal material and dispose of it in a sanitary manner.

8. cause any person to reasonably fear a bodily injury or sustain a bodily injury by attacking or threatening to attack any person other than persons who are in the act of trespassing upon the private property of the owner or keeper of the domestic pet or wolf-hybrid; or

9. otherwise be a nuisance or create a disturbance.

B. An owner or keeper shall not permit a female domestic pet or wolf-hybrid in heat to be outside a building or secured enclosure. A violation of this provision shall be considered a nuisance.

C. Owners or keepers who permit a domestic pet or wolf-hybrid to create a disturbance or nuisance as defined herein shall be subject to civil penalties and such other enforcement remedies as are hereinafter provided and as are otherwise provided by law.

Section 5: Impoundment and Enforcement

A. The Animal Control Officer(s) shall be the primary Enforcement Official(s) under the provisions of this Ordinance.

B. In the absence of an Animal Control Officer, or in a situation of an emergency nature, any Enforcement Official may enforce the provisions of this Ordinance.

C. Any Enforcement Official, in addition to any other remedies available by statute or as are hereinafter set forth, may apprehend any domestic pet or wolf-hybrid found running at large or creating a disturbance or nuisance contrary to the provisions of this ordinance, and may impound such domestic pet or wolf-hybrid with the Poundkeeper.

D. the Animal Control Officer(s) or Enforcement Official(s) may use all reasonable and lawful methods for catching and impounding domestic pet or wolf-hybrid found to be in violation of this Ordinance, including the use of tranquilizing and marking apparatus.

E. An Enforcement Official shall make a reasonable investigation to determine whether a violation of this ordinance has occurred when an appropriate complaint is lodged with the Selectboard or any Enforcement Official. If the Enforcement Official reasonably concludes pursuant to his or her investigation that a domestic pet or wolf-hybrid is running at large, or is creating a disturbance or nuisance, he or she may impound said domestic pet or wolf-hybrid with the Poundkeeper.

F. An appropriate complaint shall be deemed to have been made when a person gives the Selectboard or other Enforcement Officer a full description of the domestic pet or wolf-hybrid,

including breed, size, color and other distinguishing features, which description must be sufficient for an Enforcement Official to make proper identification. If such description is insufficient for a proper identification, no domestic pet or wolf-hybrid shall be impounded. The person who made such complaint shall file in writing with the Selectboard or other Enforcement Official a written complaint on a form furnished by the Town of Barnet setting forth his or her name, address, phone number, description of the domestic pet or wolf-hybrid and circumstances under which the domestic pet or wolf-hybrid was believed to be in violation of this Ordinance. If no written complaint is filed, the Enforcement Officer, at his or her option, may release the domestic pet or wolf-hybrid upon receipt of payment of any impoundment fees or boarding fees which may be due.

G. The Enforcement Official, upon apprehending and impounding any domestic pet or wolf-hybrid, shall make a complete registry, entering the breed, color and sex of such domestic pet or wolf-hybrid, and whether the domestic pet or wolf-hybrid is licensed and shall, if possible after reasonable inquiry, notify the owner or keeper. If a domestic pet or wolf-hybrid is licensed, the Enforcement Officer shall enter the name and address of the owner or keeper and number of the license tag. He or she shall immediately forward a duplicate copy to the Town Clerk to be filed with the domestic pet or wolf-hybrid licenses.

Section 6: Release from Impoundment

A. Upon delivery to the pound the impounding Enforcement Official shall notify the owner or keeper, if the domestic pet or wolf-hybrid is licensed and has identifying tags. Notice shall be sufficient if given to its owner or keeper by certified mail. The domestic pet or wolf-hybrid shall be held for ten (10) working days from mailing notice unless claimed earlier. If, at the end of this period, the Town of Barnet has not received confirmation via returned certified mail receipt that the certified mail was received by the owner or keeper, a Town Official shall visit the residence of the owner or keeper to attempt to deliver the notice; the domestic pet or wolf-hybrid shall be held for ten (10) working days from this visit to the residence unless claimed earlier.

B. If a domestic pet or wolf-hybrid is unlicensed, the Enforcement Official shall notify the owner or keeper by certified mail, if known, and shall post a notice containing the description of the domestic pet or wolf-hybrid in the Town Clerk's Office for ten (10) working days.

C. If the owner or keeper does not claim the domestic pet or wolf-hybrid within ten (10) working days from mailing or posting the notice, or within the additional ten (10) working days provided in Section 6, Part A when a Town Official must visit the residence of owner or keeper, the domestic pet or wolf-hybrid may be transferred to an animal shelter or rescue organization for the purpose of finding an adoptive home for the domestic pet or wolf-hybrid. If the domestic pet or wolf-hybrid cannot be placed in an adoptive home or transferred to a humane society or rescue organization within ten (10) working days, the domestic pet or wolf-hybrid may be destroyed in a humane way, and the Town of Barnet shall pay all necessary costs incident hereto.

D. No domestic pet or wolf-hybrid shall be released unless the owner or keeper shall first have applied for and received a valid current license, and all impoundment, boarding and license fees, and the cost of any necessary shots, as required herein, have been paid.

E. Prior to destruction of an impounded domestic pet or wolf-hybrid, the Constable shall notify the Town Clerk or Selectboard Chair of the proposed destruction.

Section 7: Impoundment Fees

A. Any domestic pet or wolf-hybrid impounded under the provisions of this ordinance shall be released only on payment of an impoundment fee of \$20.

B. In addition to the impoundment fees charged herein, there shall be a daily boarding charge of \$15 per day, or fraction thereof during which the domestic pet or wolf-hybrid is impounded.

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

Section 8: Investigation of Bites by Domestic Pets or Wolf-hybrids

A. When a domestic pet or wolf-hybrid has bitten a person or other domestic animal while the domestic pet or wolf-hybrid is off the premises of the owner or keeper; and the person or other domestic animal bitten requires medical attention for the attack, such person or owner or keeper of the other domestic animal may file a written complaint with the Selectboard. 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 Selectboard in conducting its investigation required by subsection (B) of this section.

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 or keeper of the domestic pet or wolf-hybrid which is the subject of the complaint can be ascertained with due diligence, said owner or keeper shall be provided with a written notice of the time, date and place of the hearing and the facts of the complaint.

C. If the domestic pet or wolf-hybrid is found to have bitten 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 is disposed of in a humane way, muzzled, chained or confined in a manner satisfactory to the Enforcement Official or Animal Control Officer. The order shall be sent by certified mail, return receipt requested. A person who, after receiving notice, fails to comply with the terms of the order shall be subject to the penalties provided in 20 V.S.A. §3551, as amended.

D. The provisions in this section shall apply only if a domestic pet or wolf-hybrid is not a rabies suspect.

E. If a member of the Selectboard or an Animal Control Officer determines that a domestic pet or wolf-hybrid is a rabies suspect, the provisions of 20 V.S.A. *Chapter 193, Subchapter 5*, as

amended, and such rules as adopted by the Commissioner shall apply.

Section 9: Confining, Impounding and Euthanasia of Suspect or Rabid Animals

- A. Any Enforcement Official may confine or impound any domestic pet or wolf-hybrid when:
1. It is suspected of having been exposed to rabies;
 2. It is believed to have been attacked by another animal which may be rabid;
 3. It has been attacked by a rabid animal;
 4. It has been running at large in violation of any of the provisions of this ordinance;
 5. It has an unknown rabies vaccination history.
- B. In the event that a domestic pet or wolf-hybrid is confined or impounded under this section, the owner or keeper, if known, shall be notified within 24 hours. Notification may be accomplished by in-person communication, by telephone call, or by written statement sent to the last known address of the owner. If the owner or keepers address is not known, notification may be posted in the Town Clerk's office and other usual places for public notice for a one week period.
- C. Any domestic pet or wolf-hybrid which is considered a rabies suspect shall be managed in accordance with the rules of the Department of Health.
- D. The owner or keeper of any domestic pet or wolf-hybrid that is a suspect rabid animal, as defined in this section, which is confined or impounded, or euthanized for the purpose of testing for rabies, shall be responsible for all costs associated with said confinement, impoundment, euthanization and the rabies testing.
- E. The Town of Barnet shall not be responsible for damages incurred in euthanization and rabies testing, or be liable for the value of such animals.

Section 10: Right to Kill Domestic Pets or Wolf Hybrids

- A. A person may kill a domestic pet or wolf-hybrid that suddenly assaults him or when necessary to discontinue an attack upon the person or another person provided the attack or assault does not occur while the domestic pet or wolf-hybrid is restrained, within an enclosure containing the domestic pet or wolf-hybrid, or on the premises of the owner. 20 V.S.A. §3545(a)
- B. A domestic pet or wolf-hybrid found wounding, killing or worrying another domestic pet or wolf hybrid, a domestic animal or fowl may be killed when the attendant circumstances are such that the killing is reasonably necessary to prevent injury to the animal or fowl which is the subject of the attack. 20 V.S.A §3545(b)

Section 11: Licensing

A. A person who owns harbors or keeps a dog or wolf-hybrid more than six months old shall annually, on or before April 1, cause it to be registered, numbered, described and licensed on a form provided by the Barnet Town Clerk, and shall pay for the license those amounts permitted or required by 20 V.S.A. §3581, as amended. If the license fee for any dog or wolf-hybrid is not paid by April 1, its owner or keeper may thereafter procure a license for that license year by paying a fee of fifty percent in excess of that otherwise required on or before August 1. If the license fee for any dog or wolf-hybrid is not paid by August 1, its owner or keeper may thereafter procure a license for that license year by paying a fee of seventy five percent in excess of that required if paid on or before March 31 of the year following the delinquent license fee.

B. Before a person shall be entitled to obtain a license for a spayed female or neutered male dog or wolf-hybrid, he or she shall exhibit to the clerk a certificate signed by a duly licensed veterinarian showing that the female or male dog or wolf-hybrid has been sterilized.

C. A license surcharge fee of \$1.00 per license is mandated by the State of Vermont, which will be forwarded to the State Treasurer to be used for rabies control programs. This surcharge shall not be considered to part of the license fee for the purpose of calculating a penalty for late payment.

D. A license fee surcharge of up to \$10.00 per license is hereby implemented by the Selectboard for the sole purpose of funding a domestic pet or wolf-hybrid control program. This surcharge shall not be considered to part of the license fee for the purpose of calculating a penalty for late payment.

E. Before obtaining a license for a dog or wolf-hybrid six months of age or older, a person shall deliver to the town clerk a certificate or certified copy thereof signed by a duly licensed veterinarian, stating that the dog or wolf-hybrid has received a current vaccination against rabies with a vaccine approved by the Commissioner, and the person shall certify that the dog or wolf-hybrid described in the certificate or copy is the dog or wolf-hybrid to be licensed. The Town Clerk shall keep the certificates or copies thereof on file. The owner of any dog or wolf-hybrid shall maintain a copy of the rabies vaccination form and provide it to state and Barnet officials upon request.

F. Any dog or wolf-hybrid impounded pursuant to this section may be released to its owner or keeper only when said dog or wolf-hybrid is properly licensed with the Town of Barnet and all impoundment fees set forth in Section 7 herein are paid. Unclaimed dogs or wolf-hybrids shall be disposed of in accordance with the provisions of Section 6 herein.

G. Pursuant to 20 V.S.A. §3590, as amended, the Board of Selectmen shall annually certify a list of unlicensed dogs or wolf-hybrids as of May 30. Such list shall be given to the Town Clerk and/or Animal Control Officer for licensing and further action as required by law.

Section 12: Designation as a Civil Ordinance; Additional Remedies

A. For the purpose of 24 V.S.A. §1971 this ordinance is designated as a civil ordinance.

B. In addition to the remedies provided herein or otherwise available at law, this ordinance may be enforced pursuant to 20 V.S.A. §3550, as amended, or 24 V.S.A. §1974a, as amended, at the election of an Enforcement Official who shall be, and is hereby, designated as an issuing municipal official for the purpose of pursuing civil remedies. The Enforcement Official shall notify the Selectboard of this choice of remedies election, who shall forthwith issue the notice of violation.

C. Enforcement remedies for violation of domestic pet or wolf-hybrid control ordinance.

1. The Enforcement Officer or Selectboard may impose a civil penalty of up to \$500.00 per violation in accordance with the provisions of this section.

2. Any owner, keeper or other person who violates any section of this ordinance may, in addition to any other fines, penalties and remedies as provided by law, be subject to the following progressive civil penalties:

a. At the option of the Enforcement Official or Selectboard, the issuance of a warning letter notifying the owner or the keeper to license the domestic pet or wolf-hybrid immediately, if applicable, or take other action to prevent the domestic pet or wolf-hybrid from causing a disturbance or nuisance or running at large.

b. A fine of \$50.00 for the first violation, \$75.00 for the second violation, and \$100.00 for each violation thereafter.

c. Each day that the violation continues shall constitute a separate violation.

d. A waiver fee of one-half the civil penalty to which an owner or keeper is subject shall be assessed for those owners or keepers who admit or do not contest the ordinance violation, which amount and the date for acceptance of the waiver fee shall be affixed to the complaint or notice.

3. In determining the amount of the civil penalty to be ordered, the Selectboard or Enforcement Official shall consider the following:

a. The degree of actual or potential impact on public health, safety, and welfare resulting from the violation.

b. Whether the respondent has cured the violation.

c. The presence of mitigating circumstances.

d. Whether the respondent knew or had reason to know the violation existed.

e. The respondent's record of compliance.

f. The deterrent effect of the penalty.

g. The costs of enforcement.

h. The length of time the violation has existed.

4. When the legislative body or officer has reasonable grounds to believe that a person has violated a provision of this chapter under its purview a notice of violation may issue, which shall be delivered to the respondent in person or mailed to the respondent by registered mail. The notice of violation shall include:

- a. A civil penalty of up to \$500.00
- b. A brief description of the alleged violation and identification of the law alleged to have been violated.
- c. A statement that the respondent has a right to a hearing before the legislative body or a hearing officer designated by the commissioner 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.
- d. If applicable, a directive that the respondent take actions necessary to achieve compliance with the law.

5. A person who receives a notice of violation shall be offered an opportunity for a hearing before the legislative body, provided that the request for hearing is made in writing to the clerk of the municipality no later than 21 days after the date 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 legislative body shall hold a hearing within 14 days of receipt of the request. After the hearing, the legislative body 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.

6. Imposition of a penalty under this provision precludes imposition of any other administrative or civil penalty under any other provision of law for the same violation.

7. The civil penalty shall be paid to the enforcing Selectboard. If the respondent fails to pay the penalty within the time prescribed, the Selectboard may bring a collection action in small claims court or the superior court.

8. A respondent aggrieved by a decision made following a hearing before the Selectboard may appeal within 30 days of receipt of the decision to the superior court which shall consider the matter de novo.

9. On application of a municipality, the superior court shall have jurisdiction to enjoin the violation or any provision of this chapter: The court may also authorize the seizure and disposition of domestic pets or wolf-hybrids when owners refuse to have the pets or wolf-hybrids inoculated or licensed, or when the court determines that there is a threat to the public welfare.

D. Search Warrants authorized under 20 VSA §3551.

An officer who has attempted to seize a domestic pet or wolf-hybrid 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 properties of the owner of the animal or any other property if the officer has reasonable cause to believe that the animal may be on it. 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 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.

Section 13: Severability

Any part of this provision of this ordinance shall be considered severable, and the invalidity of any part or section will not be held to invalidate any other part or provision of this ordinance.

Approved as amended on this 23rd day of March, 2015.

Selectboard

Jeremy Roberts, Chair

Gary Bunnell, Member

Dylan Ford, Member