

TOWN OF BARNET, VERMONT

ANIMAL CONTROL ORDINANCE

ORDINANCE REGULATING DOMESTIC PETS AND WOLF HYBRIDS WITHIN THE TOWN OF BARNET, VERMONT

SECTION 1. AUTHORITY. This ordinance is adopted by the Town of Barnet under authority of 20 V.S.A. § 3549, 24 V.S.A. §§ 2291 (10), (14), and (15), and 24 V.S.A. Chapter 59.

SECTION 2. PURPOSE. The purpose of this ordinance is to regulate the keeping of domestic pets, including dogs, cats, ferrets and wolf hybrids and to provide for their leashing, muzzling, restraint, impoundment, and destruction, to protect the public health and safety of the Town of Barnet (hereinafter referred to simply as the Town) and preserve the quiet enjoyment of its residents' homes and properties.

SECTION 3. DEFINITIONS. For purposes of this ordinance, the following words and phrases shall apply:

A. "Dog" means any member of the canine species. For purposes of this ordinance, this term shall also include "wolf-hybrids" and "working farm dogs" except as otherwise stated. All enforcement mechanisms described in this Ordinance shall apply equally to wolf-hybrids.

B. "Domestic pet" or "pet" means any domestic dog, domestic cat, or ferret. The term shall also include any other animal which is domesticated, which may include some or all of the following characteristics: is generally housed inside a residential structure or in a specially used structure not typically used for farm animals; is domesticated so as to live in close association with humans and generally under their control, or other animals as defined by the Vermont Secretary of Agriculture or their designee pursuant to 20 V.S.A. § 3541.

C. "Enforcement Officer" means any Town Constable, Police Officer, Animal Control Officer,

humane Officer, individual members of the Barnet Selectboard (hereinafter referred to simply as the Selectboard) , or any other person designated as an Enforcement Officer by the Selectboard.

D. "Impoundment" means being held by the Town at a place designated by the Selectboard or by an "enforcement officer." Such a place may or may not be operated by the Town and may or may not be within Town limits.

E. "Owner" means any person who has actual or constructive possession of a domestic pet. The term also includes those persons who provide food and shelter to a domestic pet, whether on a temporary or full time basis. "Owner" also includes the person or entity with legal title to the property, so long as the individual or an entity representative, prior to an event giving rise to a violation of this Ordinance, had actual or constructive knowledge that a domestic pet with vicious propensities was living on the property.

F. "Potentially vicious domestic pet" means a domestic pet that, while running at large:

1. inflicts minor injuries on a person not necessitating medical attention;
2. chases, worries, threatens to attack or attacks another domestic pet or domestic animal;
3. causes damage to personal or real property;
4. chases a person; or
5. causes any person to reasonably fear attack or bodily injury from such domestic pet.

This definition shall not apply if the domestic pet was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault or the person attacked or threatened by the domestic pet was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the domestic pet.

G. "Premises" means the home and real property of the domestic pet owner, whether owned or rented, and includes short term rental property where the owner is living temporarily.

H. "Running at large" means that a domestic pet is not:

1. on a leash; or
2. in a vehicle; or

3. on the owner's premises;
4. on the premises of another person with that person's permission; or
5. clearly under the verbal or non-verbal control of its owner.

I. "Wolf hybrid" means an animal that:

1. is the progeny of a dog and a wolf (*Canis lupus* or *Canis rufus*); or
2. is advertised or otherwise described or represented to be a wolf hybrid; or
3. exhibits primary physical and/or behavioral wolf characteristics.

K. "Working farm dog" means a dog that:

a.

is bred or trained to herd or protect livestock or poultry or to protect crops; and

b.

is used for those purposes; and

c.

is registered as a working farm dog pursuant to State law.

L. "Complaint," in the case of a vicious or potentially vicious domestic pet, shall mean a written complaint filed with an enforcement officer with a copy delivered in person or electronically by the enforcement officer, the complainant, or someone on behalf of the complainant, to the Barnet Town Clerk's office. A complaint that a domestic pet is causing a nuisance or disturbing the peace may be filed in writing by delivering in person or electronically the written complaint to any enforcement officer for the Town of Barnet. Either type of complaint may utilize the complaint form appearing on the town website. Any enforcement officer, as defined herein, may also initiate a complaint.

SECTION 4. NUISANCES.

An owner of a domestic pet shall not allow, permit, or suffer such pet to create a nuisance. The following activities shall be deemed nuisances:

A. A dog without a collar or harness with a current license and/or valid rabies tag securely attached.

B. A dog running at large in the Town.

C. A dog that defecates in any public area or on the private premises of another person and whose owner does not promptly remove the fecal material and dispose of it in a sanitary manner.

D. A female dog in heat not confined to a building or other secured enclosure, except while under the direct control of the owner.

E. A dog (or in appropriate circumstances, another domestic pet) that disturbs the quiet, comfort and repose of others by barking, whining, calling, or howling for a continuous period of 30 minutes or more. This regulation shall not apply to dogs in a kennel or boarding facility which has received a zoning permit under the Town's Zoning Regulations. The zoning permit will govern the use of the kennel or boarding facility.

F. A potentially vicious dog (or in appropriate circumstances, another domestic pet), that while running at large: inflicts minor injuries on a person not necessitating medical attention; chases, worries, threatens to attack or attacks another domestic pet or domestic animal; causes damage to personal or real property; chases a person; or causes any person to reasonably fear attack or bodily injury from such dog. This definition shall not apply if the dog or other domestic pet was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault or the person attacked or threatened by the domestic pet was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the pet.

Exemptions for Working Dogs. The provisions of the sections pertaining to running at large and disturbing the peace shall not apply to working farm dogs if the working farm dog is:

1.

barking to herd or protect livestock or poultry or to protect crops; or

2.

running at large to herd or protect livestock or poultry or to protect crops.

SECTION 5. COLLAR AND LICENSE. Each dog shall be licensed according to the laws of this State and shall wear a collar or harness with the current license attached. A dog that is visiting from out of state must wear a collar or harness with a current license from its home state attached. A dog found without a collar or harness and license shall be in violation of this Ordinance and may be immediately impounded.

SECTION 6. ENFORCEMENT. A violation of this Ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Caledonia County Superior Court, at the election of the Selectboard.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, any Enforcement Officer shall have authority to issue tickets, assess fines and represent the Town at any hearing. Nothing in this ordinance is intended to preclude the Town from being represented by Counsel should it so desire.

Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. In addition to all penalties and fines authorized by law, as may be amended from time to time, the Town may pursue all appropriate injunctive relief.

SECTION 7. PENALTIES AND COSTS.

A. The Enforcement Officer, after receiving a complaint, is authorized to recover civil penalties for violations of this Ordinance in the following amounts for each violation:

Failure to remove waste

1st Offense: warning or \$50 fine;	waiver fee \$25
2nd Offense: \$75 fine;	waiver fee \$50
3rd & Subsequent Offense: \$125 fine;	waiver fee \$100

Disturbing the peace

1st Offense: warning and/or \$50 fine;	waiver fee \$25
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2nd Offense: \$75 fine; waiver fee \$50
3rd & Subsequent Offense: \$125 fine; waiver fee \$100

Unconfined Dog in Heat

1st Offense: warning or up to \$100 fine; waiver fee \$50
2nd Offense: \$150 fine; waiver fee \$75
3rd & Subsequent Offense: \$250 fine; waiver fee \$125

Lack of current license and/or rabies tag

1st Offense: warning or up to \$100 fine; waiver fee \$50
2nd Offense: \$150 fine; waiver fee \$75
3rd & Subsequent Offense: \$250 fine; waiver fee \$125

Running at large

1st Offense: warning, or impoundment and/or up to \$150 fine plus impoundment costs
Waiver Fee: \$75 plus impoundment costs
2nd Offense: impoundment and/or \$250 fine plus impoundment costs
Waiver Fee: \$125 plus impoundment costs
3rd & Subsequent Offense: impoundment and/or \$500 fine plus impoundment costs
Waiver Fee: \$250 plus impoundment costs

Potentially vicious domestic pet

1st Offense: warning, or impoundment and/or up to \$500 fine plus impoundment costs
Waiver Fee: \$250 plus impoundment costs
2nd Offense: impoundment and/or \$750 fine plus impoundment costs
Waiver Fee: \$375 plus impoundment costs
3rd & Subsequent Offense: impoundment and/or \$800 fine plus impoundment costs
Waiver Fee: \$500 plus impoundment costs

B. The Enforcement Officer is authorized to recover a waiver fee in lieu of a civil penalty, in the stated amount, for any person who agrees not to contest a municipal complaint and pays the waiver fee within twenty-one (21) calendar days of receiving the ticket. Payments made by mail shall be timely if postmarked (by stamp or meter) within this 21 day period. Any waiver fee collected by an enforcement officer shall be promptly turned over to the Town and the date of receipt by the enforcement officer shall determine whether the payment is timely. Payment of the waiver fee shall be deemed a waiver of the right to contest the complaint. In appropriate cases, the enforcement officer may refer a domestic pet complaint directly to the Selectboard for hearing.

C. Determining the sequences of offenses for violations of this Ordinance shall be as follows: a subsequent violation that is reasonably similar to, and that occurs within 24 months of, a previous violation shall be considered a higher offense (i.e., second, third, or subsequent offense). Any subsequent violation that occurs after 24 months of a previous violation shall be considered a new first offense.

D. Reckless Domestic pet Owner. Any owner who has been found to have violated this Ordinance four or more times, whether the offenses are identical or not, within a 36 month period shall, at the discretion of the Selectboard, provide proof to the Enforcement Officer of successful completion of a animal behavior modification program, at the owner's expense, pre-approved by the Selectboard, and designed to improve the owner's understanding of domestic pet ownership responsibilities, within 2 months from the date of notification. The Enforcement Officer or Selectboard shall notify the owner of this requirement, in writing by regular mail, postage prepaid, to the owner's last known address. Failure to provide such certification within the time allotted shall subject the offending dog(s) or other domestic pet to immediate seizure and impoundment. This requirement is in addition to any other penalties imposed by law or this ordinance.

E. For purposes of calculating the number of offenses, offenses shall be counted which are determined to have occurred, whether after hearing or by waiver. Payment of a fine, whether by waiver or otherwise, shall be conclusive proof that an offense has occurred.

F.

A warning, or a complaint that has not been found valid by a preponderance of the evidence, shall not be counted towards the calculation of the number of offenses under this Ordinance.

SECTION 8. IMPOUNDMENT.

E. Grounds for Impoundment. Any domestic pet may be immediately impounded if that pet:

1.
has been determined by an Enforcement Officer to be a "potentially vicious domestic pet," which presents an imminent danger to people or other animals;
2.
has reportedly bitten a person off the premises of its owner;
3.
is in violation of State licensing law;
4.
has an unknown rabies vaccination history or is suspected of having been exposed to rabies;
5.
is running at large;
6.
is an unconfined dog in heat; or
7.
is found without a collar or harness and license.

B. Notice of Impoundment. The officer who impounds a domestic pet shall, within twenty-four (24) hours, give notice to the owner thereof either personally, by telephone call, by email or by regular mail postage prepaid at the owner's last known address. Such notice shall inform the owner of the nature of the violations, the domestic pet's location, and the necessary steps to have it returned to the owner.

If the owner of the domestic pet is unknown, the officer who impounds that pet shall, within twenty-four (24) hours of impoundment, post a public notice. Notification shall be posted in the town clerk's office and other usual places for public notice for a ten (10) calendar day period. The public notice shall include a description of the pet, including any significant marks of

identification, and when and where it was impounded or found by the person placing the pet in the Town's custody. The public notice must also declare that, unless the owner 1) claims the pet, 2) pays all expenses incurred by the Town for treatment, boarding and care of the pet, and any applicable penalties, and 3) takes all necessary remedial action within ten (10) calendar days following posting, the town may place the pet in an adoptive home or transfer it to a humane society or rescue organization. If the pet cannot be placed in an adoptive home or transferred to a humane society or rescue organization, it may be destroyed in a humane way.

C. Release from Impoundment. Impounded domestic pets shall be released to the owner only after payment of all penalties and impoundment fees (including, but not limited to, boarding, food, and veterinary expenses), the final disposition of a potentially vicious domestic pet violation, or a vicious domestic pet hearing if applicable, and after all necessary remedial action, as determined by the enforcement officer or Town Selectboard, in consideration of the violation committed, is taken by the owner. Remedial action shall include, but is not limited to, such actions as providing a collar and current license; verification of current rabies vaccination; payment of all applicable fines or waiver fees; and proof of satisfactory completion of a program designed to improve the owner's understanding of pet ownership responsibilities.

If the owner of a domestic pet impounded under the provisions of this ordinance refuses to take the remedial action necessary to secure the pet's release within ten (10) calendar days following notice of impoundment or gives notice either personally, by telephone call, by email or in writing to the Town of forfeiture of ownership before that time, the pet may be placed in an adoptive home, transferred to a humane society or rescue organization; or, if the Town is unable to transfer ownership of the domestic pet, it may be humanely destroyed. The owner of a pet transferred or humanely destroyed shall remain liable for all expenses incurred by the Town for treatment, boarding and care of the dog for the duration of its impoundment, and any expenses associated with its transfer or humane disposal, including all legal fees incurred by the Town. In the event the notice is oral, the Town official receiving such notice from the domestic pet owner may require a confirmatory writing. Under no circumstances may the Town be held liable for any injury, sickness or harm to a domestic pet impounded under the authority of this Ordinance.

D. Rabies Suspect. The procedures provided in this section shall only apply if the domestic pet is not a rabies suspect. If an official designated by the Selectboard to enforce the provisions of this ordinance determines that the pet is a rabies suspect, the Selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the Vermont Department of Health's rules.

SECTION 9. INVESTIGATION OF VICIOUS PET.

A. Complaint. When a dog or other domestic pet has bitten a person while the domestic pet is off the premises of its owner or keeper, and the person bitten receives medical attention for the attack, such person, or someone on the person's behalf, may file a written complaint with the Selectboard. The complaint shall, to the extent possible, 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. The complaint may be emailed, hand delivered or mailed to the Barnet Town Clerk and may use the Animal Complaint Form on the Barnet website.

B. The Selectboard, within seven (7) business days from receipt of the complaint, shall commence an investigation into the charges and shall schedule a hearing on the matter. If the owner of the domestic pet 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 a copy of the complaint. If the owner of the domestic pet is unknown, the Selectboard will follow the same procedure as applies in the case of impoundment where the owner is unknown. The hearing shall, if at all practical, be held within fourteen (14) days of delivery of notice to the owner or posting of the notice in the case of an unknown owner.

C. Order of Selectboard. If, after a hearing on the matter, the domestic pet is found by a majority of the Selectboard, by a preponderance of the evidence, to have bitten the victim without provocation, the Selectboard shall make such order for the protection of persons and the community generally as the facts and circumstances of the case may require, including, without limitation, that the domestic pet is disposed of in a humane way, muzzled, chained, or confined. The order shall be delivered to the owner so as to provide actual notice, including by hand delivery, service by the constable, service by anyone authorized to serve papers under the

Vermont Rules of Civil Procedure, or it may be sent by certified mail with a return receipt, to the owner at the last known address. 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. § 3550, including fines of up to \$500 per violation, plus actual costs and legal fees incurred by the Town in the investigation and hearing of the complaint. The owner may also be subject to enforcement of an order pursuant to 20 V.S.A. § 3551 which provides for issuance of a search warrant to seize the domestic pet. The failure to comply with an Order by the Town Select board shall be considered a separate violation of this Ordinance and the fines and penalties imposed hereunder shall be in addition to any fines which may be imposed for violation of other provisions of this Ordinance.

On owner may, within thirty (30) calendar days of receipt of the decision by the Selectboard, appeal the decision to the Civil Division of the Superior Court pursuant to 20 V.S.A. § 3550(i).

Nothing in this section shall preclude the owner from negotiating a resolution to the complaint with the Selectboard.

D. Rabies suspect. The procedures provided in this section shall only apply if the domestic pet is not a rabies suspect. If a member of the Selectboard or an Enforcement Officer determines that the domestic pet is a rabies suspect, the Selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the Vermont Department of Health's rules. If the domestic pet is deemed healthy, the terms and conditions set forth in the Selectboard's order shall be enforced.

SECTION 10. POTENTIALLY VICIOUS PETS.

A person claiming a pet is a "potentially vicious domestic pet" may file a written complaint with the Selectboard. The complaint shall contain the time, date, and place where the alleged behavior occurred, an identification of the domestic pet or animal threatened or attacked, the name and address of any victim or victims, and any other facts that may assist the Selectboard in conducting its hearing. Upon receipt of a "potentially vicious domestic pet" complaint, the Selectboard may proceed as in the case of a "vicious pet" complaint using Section 9 B.-D. above, with the exception that if the Selectboard determines that the behavior classifies the

pet as “potentially vicious” the Selectboard may order any protective measures be taken absent the pet being humanely destroyed. The Selectboard may also, in its discretion and having in mind the factors listed in Section 11 of this Ordinance, issue a ticket with appropriate fines in lieu of a hearing. In such cases, the Owner may pay the fine or, within thirty (30) calendar days of receipt of the decision, appeal the decision to the Civil Division of the Superior Court pursuant to 20 V.S.A. § 3550(i).

SECTION 11. FACTORS TO CONSIDER IN DETERMINING PENALTIES

For any violation of this ordinance, the Selectboard or the Enforcement Officer, as the case may be, may consider any aggravating or mitigating circumstances, in addition to the eight factors listed in 20 V.S.A. § 3550(d), including such things as:

- A. The degree of actual or potential impact on public health, safety and welfare.
- B. Whether the actual or potential harm is likely to reoccur.
- C. The extent to which the owner knew or should have know of the potential for harm

SECTION 12. APPEAL FROM DECISION OF THE SELECTBOARD

The owner of a domestic pet aggrieved by the actions of the Selectboard may appeal such decision to the Caledonia Superior Court, Civil Division in accordance with the Vermont Rules of Civil Procedure. In the event the order of the Selectboard is substantially upheld, the owner, upon application by the Selectboard to the Superior Court judge, shall be liable for all legal fees incurred by the Town, in addition to such other penalties or conditions as may be imposed by the Selectboard.

SECTION 13. OTHER LAWS. This ordinance is in addition to all other ordinances of the Town of Barnet and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 14. SEVERABILITY. If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

SECTION 15. EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Adopted this 13 day of Jan, 2025.

SIGNATURES:



Dylan Ford



Benjamin Gates



Benjamin Adams

Adoption History

- 2 Agenda item at regular Selectboard meeting held on 13 JANUARY 2025
- 3 Read and approved at regular/special Selectboard meeting on 13 JANUARY 2025 and entered in the minutes of that meeting which were approved on 27 JANUARY 2025
- 4 Posted in public places on 24 JANUARY 2025

- 5 Notice of adoption published in the CALEDONIAN-RECORD newspaper on 24 JANUARY 2025 with a notice of the right to petition.
- 6 Other actions [petitions, etc.