

## **Animal Control Ordinance**

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### AN ORDINANCE ESTABLISHING REGULATIONS FOR THE CONTROL OF DOMESTIC PETS AND WOLF-HYBRIDS

#### SECTION I: AUTHORITY AND ADOPTION.

Pursuant to 20 V.S.A. '3549 and 24 V.S.A. '2291(10), the Select board hereby adopts the following ordinance in order to regulate the keeping of domestic pets and wolf-hybrids in the Town of Brandon.

#### SECTION II: DEFINITIONS.

As used in this Ordinance, unless the context otherwise indicates:

- A. "Animal Control Officer": Shall mean the First Constable elected by the Town of Brandon, and such other individual(s) as are duly appointed by the Select board to administer this Ordinance;
- B. "Cat": Shall mean an animal, both male and female, which is the progeny or descendent of the species felis catus or felis domestica.
- C. "Commissioner": Shall mean the Commissioner of the Department of Agriculture, Food and Markets, and includes his or her designee;
- D. "Dog": Shall mean an animal, both male and female, which is the progeny or descendent of the species canis familiaris;
- E. "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;
- F. "Enforcement Official": Shall mean any constable, police officer, Poundkeeper or Animal Control Officer(s);
- G. "Ferret": Shall mean an animal, both male and female, which is the progeny or descendent of the species mustela furo.
- H. "Owner" or "Keeper": Shall mean any person who owns or keeps a domestic pet or wolf-hybrid and includes any person who has actual or constructive possession of a domestic pet or wolf-hybrid. The term shall also include those persons who provide feed or shelter to a domestic pet or wolf-hybrid. However, it is not the intent of the Select board 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;
- I. "Pound" and "Poundkeeper": Shall mean the Rutland County Humane Society or such other facility designated by the Select board to keep domestic pets or wolf-hybrids found by an Enforcement Official, the Select board or a judicial or quasi-judicial officer of competent jurisdiction to be violating any provision of this ordinance or relevant statutes.
- J. "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 owner's or keeper's agent, or (4) engaged in hunting with its owner or keeper;

K. "Select board": Shall mean the Legislative Body of the Town of Brandon as it may appear from time to time.

L. "Wolf-hybrid": Shall mean an animal which is the progeny or descendant 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.

#### SECTION III: RUNNING AT LARGE.

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

B. An owner, keeper or other person 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 IV: DISTURBANCES AND NUISANCES.

A. An owner, keeper or other person 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. 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
8. otherwise be a nuisance or create a disturbance.

B. An owner, keeper or other person 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, keepers or other persons 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.

D. No owner or keeper of a dog shall permit the dog to defecate on any public school ground, public sidewalk, public roadway, public park or any privately owned property of another person without such person's consent unless said defecation is removed immediately and properly disposed of at the owner's or keeper's property. This provision shall apply whether or not the owner or keeper of the dog has knowledge that the dog is defecating on the premises.

An appropriate complaint shall be deemed to have been made when a person gives any town enforcement officer a description of the violation of Section IV D. The person violating this ordinance shall be warned in writing by the appropriate enforcement officer that he is in violation. A fine of \$25.00 will be levied for each subsequent violation.

#### SECTION V: INVESTIGATION OF VICIOUS OR RABID DOMESTIC PETS OR WOLF- HYBRIDS.

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

B. The Select board, within seven 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 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 Select board 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. 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.

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

E. If a member of the Select board or an Animal Control Officer determines that a domestic pet or wolf-hybrid is a rabies suspect, the provisions of subchapter 5, Chapter 193 of Title 20 and such rules as are adopted by the Commissioner shall apply.

#### SECTION VI: IMPOUNDMENT AND ENFORCEMENT.

A. 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 dog with the Poundkeeper.

B. 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 Brandon Police Department 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.

C. An appropriate complaint shall be deemed to have been made when a person gives the Brandon Police Department or other Enforcement Official 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 a 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 Brandon Police Department a written complaint on a form furnished by the Town of Brandon setting forth his 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 Official, at his or her option, may release the domestic pet or wolf-hybrid and charge the complainant with any impoundment fees or boarding fees which may be due.

D. The Enforcement Official, upon apprehending and impounding any domestic pet or wolf-hybrid, shall make a complete registry, entering the breed, color and sex to 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 Official shall enter the name and address of the owner or keeper and the number of the license tag. He or she shall immediately forward a duplicate registry to the Town Clerk to be filed with the domestic pet or wolf-hybrid licenses.

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

F. 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.

G. The Animal Control Officer or Enforcement Official may use all reasonable and lawful methods for catching and impounding domestic pets or wolf-hybrids found to be in violation of this Ordinance, including the use of tranquilizing and marking apparatus.

H. For the purposes of 24 V.S.A. '1971, this ordinance is designated as a civil ordinance.

I. In addition to those remedies provided herein or otherwise available at law, this ordinance may be enforced pursuant to 20 V.S.A. '3549 or 24 V.S.A. '1974a at the election of any Enforcement Official who shall be, and is hereby, designated as the issuing municipal official for the purposes of pursuing civil remedies under 24 V.S.A. '1977(b) et seq. If the Enforcement Official seeks to enforce this ordinance pursuant to 20 V.S.A. '3550, said official shall notify the Brandon Town Manager of this election who shall forthwith secure the notice from the Select board as required by 24 V.S.A. '3550(e).

#### SECTION VII: RELEASE FROM IMPOUNDMENT.

The procedure for securing the release of a domestic pet or wolf-hybrid from the pound shall be as follows:

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 or 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 five (5) working days from mailing of notice unless claimed earlier.

B. If the animal is a dog or wolf-hybrid and is unlicensed, the Enforcement Official shall notify the owner or keeper by certified mail, if known, and shall post a notice containing a description of the dog or wolf-hybrid in the Town Clerk's Office for five (5) working days.

C. If the owner or keeper does not claim the domestic pet or wolf-hybrid within five (5) working days from mailing or posting of the notice, the domestic pet or wolf-hybrid may be given to any person who pays the Pound keeper's fees and the cost of any necessary shots and license fees.

D. No dog or wolf-hybrid shall be released unless the owner or keeper shall first have applied for and received a valid current license and all fees, as required herein, have been paid.

E. If no person claims an impounded domestic pet or wolf-hybrid on or within 10 days of the mailing or posting of notice, the domestic pet or wolf-hybrid may be humanely destroyed, and the Town of Brandon shall pay all necessary costs incident thereto.

#### SECTION VIII: IMPOUNDMENT FEES

A. Any domestic pet or wolf-hybrid impounded under the provisions of this Ordinance shall be released only on payment of a \$20.00 impoundment fee; provided, however, that any domestic pet or wolf-hybrid impounded for the third time in any fiscal year shall be released only on payment of a \$35.00 impoundment fee, and if so captured four (4) or more times in any fiscal year, it shall be released only upon payment of a \$60.00 impoundment fee.

B. In addition to the impoundment fees charged herein, there shall be a boarding charge of \$8.00 for each day or fraction thereof during which the domestic pet or wolf-hybrid is impounded.

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

#### SECTION IX: CIVIL PENALTIES

A. Any owner, keeper or other person who violates any section of this Ordinance shall, in addition to any other fees, penalties and remedies as provided by law, be subject to the following progressive civil penalties:

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

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

3. Each day that the violation continues, shall constituted a separate violations.

4. 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.

#### SECTION X: 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 Brandon Town Clerk and shall cause it to wear a collar, and attach thereto a license tag issued by the 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.

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 license veterinarian showing that the female or male dog or wolf-hybrid has been sterilized.

C. 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 a 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 Brandon officials upon request.

D. 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 Brandon and all impoundment fees set forth in Section IX herein are paid. Unclaimed dogs or wolf-hybrids shall be disposed of in accordance with the provisions of Section VII herein.

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

#### SECTION XI: SEVERABILITY.

Any part or 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 on January 23, 1995 by the Select board. Amended Section IV. by adding subsection D. effective on January 9. 1998.

#### SUMMARY OF PROPOSED CHANGES

Section I – Authority and Adoption No change

Section II – Definitions

(E) – Add definition of “domestic pets,” which includes dogs, cats and ferrets.

(J) – Under “running at large,” add “wolf-hybrids”

Section III – Running at Large

Under “Running at Large,” add application in (A) and (B) to wolf-hybrids as well as dogs.

Section IV – Disturbances and Nuisances

(A), (B), & (C) – Under disturbances and nuisances, make the prohibition of such apply to all domestic pets and wolf-hybrids. (It previously applied only to dogs.)

Section V – Investigation of Vicious or Rabid Domestic Pets or Wolf-Hybrids

(D) & (E) – Incorporate reference to new State Statutes giving the right to immediately kill a suspected rabid domestic pet if it has killed, worried, wounded another animal or if it is necessary to prevent injury to the victim animal. This effectively means that the citizen petition and Select board seven-day-notice and hearing provisions do not have to take place before a suspected rabid animal is safely contained or euthanized.

#### Section VI – Impoundment and Enforcement

Adds domestic pets to provisions which empower Town enforcement officials to impound animals found to be creating a disturbance or nuisance as described in Section IV.

(H) designates the ordinance as a civil ordinance, thus permitting prosecution of violations through the new municipal court.

#### Section VII – Release from Impoundment

Domestic pets are added to the provisions that apply to release from impoundment.

#### Section VIII – Impoundment Fees No change.

#### Section IX – Civil Penalties No change.

#### Section X – Licensing

Make licensing apply to dogs and wolf-hybrids, but not other domestic pets.

#### Section XI – Severability No change.

In accordance with 24 VSA 1972, the Select board may adopt or amend an ordinance which shall become effective only after it is entered in the minutes, published in the designated newspaper, and posted in five conspicuous places in town. Unless a petition is filed in opposition or disapproval of the ordinance in accordance with 24 VSA 1973, the ordinance shall become effective sixty (60) days from the date of adoption.