

**TOWN OF BRANDON
SELECT BOARD
NOTICE OF PUBLIC HEARING**

Monday, July 13, 2020 at 6:00 p.m.

This is a remote meeting via Zoom

Notice is hereby given that the Town of Brandon Select Board will hold a Public Hearing on July 13, 2020 at 6:00 p.m. to discuss and take public comments on the proposed amendments to the Animal Control Ordinance. Brandon Residents are encouraged to participate.

TO ATTEND VIA ZOOM –

To attend this meeting you have 2 options:

Option 1: Video Conference. This option is available only if:

You have a computer with a built-in or external camera and microphone (*Zoom Software download required*)

Have a phone with a built-in camera (*Zoom App download required*)

- Visit: <https://zoom.us/j/2532794161> (This will prompt the download if you do not have the software/app already installed)

Meeting ID (253 279 4161)

Option 2: Conference Call: To dial in for audio only:

1. Dial: (929) 205 6099
2. Follow instructions to enter Meeting ID (253 279 4161) then confirm by hitting pound

TOWN OF BRANDON
ANIMAL CONTROL ORDINANCE - - - DRAFT

SECTION 1. AUTHORITY. This ordinance is adopted by the select board of the Town of BRANDON under authority of 20 V.S.A. § 3549, 24 V.S.A. §§ 2291 (10), (14), and (15), and 24 V.S.A. Chapter 59 vsa 1974a.

SECTION 2. PURPOSE. It is the purpose of this ordinance to regulate the keeping of animals; and the keeping of dogs and to provide for their leashing, muzzling, restraint, impoundment and destruction and their running at large, so as to protect the public health and safety of the Town and the quiet enjoyment of its residents' homes and properties.

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

A. "Animal" shall mean any animal that is owned by a person. Ownership implies that a person is providing food and shelter for the animal. This term specifically does NOT include farm animals (as defined by the VT Agency of Agriculture) on a farm (as defined by the VT Agency of Agriculture).

B. "Dog" means any member of the canine species. For purposes of this ordinance, this term, wherever used, shall also include "wolf-hybrids" and "working farm dogs" except where specifically exempted.

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

D. "Owner" means any person who has actual or constructive possession of an animal. The term also includes those persons who provide food and shelter to an animal.

E. "Potentially vicious dog" means a dog running at large that inflicts minor injuries on a person not necessitating medical attention; chases, threatens to attack or attacks another domestic pet or animal as defined in 20 V.S.A. § 3541; causes damage to personal 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 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 dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog.

F. "Running at large" means that an animal is not:

1. on a leash;
2. in a vehicle;
3. on the owner's premises;
4. on the premises of another person with that person's permission;
5. clearly under the verbal or non-verbal control of the owner; or
6. hunting with the owner.

G. "Wolf hybrid" means:

1. An animal that is the progeny of a dog and a wolf (*Canis lupus* or *Canis rufus*);

2. An animal that is advertised or otherwise described or represented to be a wolf hybrid; or
3. An animal that exhibits primary physical and/or behavioral wolf characteristics.

H. "Working farm dog" means a dog that is bred or trained to herd or protect livestock or poultry or to protect crops and that is used for those purposes and that is registered as a working farm dog pursuant to State law.

SECTION 4. NUISANCES. An owner of a animal shall not allow, permit, or suffer such animal to create a nuisance. The following activities shall be deemed nuisances:

A. Running at large in the Town.

B. An animal that defecates in any public area or on the private premises of another person and whose owner does not immediately remove the fecal material and dispose of it in a sanitary manner.

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

D. An animal 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/boarding facility which has received a zoning permit under the Town's Zoning Regulations. The zoning permit will govern the use of the kennel / boarding facility.

E. The provisions of this section pertaining to running at large and disturbing the quiet, comfort and repose of others shall not apply to working farm dogs if:

1. the working farm dog is barking in order to herd or protect livestock or poultry or to protect crops; or

2. the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.

SECTION 5. VACCINATIONS AND LICENSE. Per Vermont Statute 20 V.S.A. §§3581a, an owner of a domestic pet or wolf hybrid shall have that animal inoculated against rabies by a licensed veterinarian.

Each dog shall be licensed per Vermont Statute under 20 V.S.A. §§ 3851 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 that is found without a collar or harness and license shall be immediately impounded.

SECTION 6. ENFORCEMENT. The violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the RUTLAND County Superior Court, at the election of the select board.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. The enforcement officer shall issue tickets and may be the appearing officer at

any hearing.

Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town of BRANDON may pursue all appropriate injunctive relief.

SECTION 7. PENALTIES AND COSTS.

A. First offense \$50.00 full penalty/\$25.00 waiver penalty.

B. Second offense \$100.00 full penalty/\$50.00 waiver penalty.

C. Third offense Impoundment & impoundment costs, any remedial action as required by the enforcement officer, plus \$150.00 full penalty/\$75.00 waiver penalty.

D. Subsequent offenses Impoundment & impoundment costs, any remedial action as required by the enforcement officer, plus \$200.00 full penalty/\$100.00 waiver penalty.

E. For purposes of determining the sequence of offenses, second and third offenses shall be those that occur within the 12-month period of the anniversary day of the first offense. Any offense occurring after this 12-month period shall be considered a new first offense.

F. Any owner whose dog has been impounded for its initial third offense shall provide the enforcement officer with proof of satisfactory completion of a responsible dog owner training course pre-approved by the enforcement officer within 6 months of the anniversary date of impoundment. Failure to provide such certification may result in forfeiture of the offending animal.

G. For purposes of calculating the sequence of offenses, offenses shall be counted against the owner.

H. Impoundment costs and pre-approved responsible owner training programs shall be set annually by the select board.

SECTION 8. IMPOUNDMENT.

A. Any dog that is determined by an Enforcement Officer to be a potentially vicious dog, which presents an imminent danger to people or other animals, has reportedly bitten a person off or on the premises of its owner, or is in violation of State licensing law or 20 V.S.A. § 3806 may be immediately impounded.

B. A person claiming a dog is a "potentially vicious dog" may file a written complaint with the select board. 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 select board in conducting its hearing.

C. Upon receipt of a "potentially vicious dog" complaint the select board shall proceed as in the case of a "vicious dog" complaint with the exception that if the select board determines that the behavior classifies the dog as "potentially vicious" the select board may order any protective measures be taken absent the dog being humanely destroyed.

D. The Animal Control Officer shall be the primary Enforcement Official under the provisions of this

Ordinance.

E. In the absence of an Animal Control Officer, or in a situation of an emergency nature, the Brandon Police may enforce the provisions of this Ordinance.

SECTION 9. NOTICE OF IMPOUNDMENT AND RELEASE FROM IMPOUNDMENT.

A. The officer who impounds an animal shall, within twenty-four (24) hours, give notice to the owner thereof, either personally, by telephone call, or by written notice at the owner's dwelling. Such notice shall inform the owner of the nature of the violations, the location of the animal and the steps that are necessary to have it returned to the owner.

B. If the owner of the animal is unknown, the officer who impounds an animal 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) day period. The public notice shall include a description of the animal, including any significant marks of identification, when and where it was impounded or found by the person placing the animal in the town's custody, and declare that unless the owner claims the animal and pays all expenses incurred by the town for treatment, boarding and care of the animal, any applicable penalties and takes all necessary remedial action within ten (10) days following posting, the town may place the animal in an adoptive home, transfer it to a humane society or rescue organization. If the animal 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. Impounded animals 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 dog or vicious dog hearing if applicable, and after all necessary remedial action is taken by the owner. Remedial action shall include, but is not limited to, such actions as providing a collar and current license, and verification of certification of current vaccination against rabies.

D. If the owner of an animal impounded under the provisions of this ordinance refuses to take the remedial action necessary to secure the animal's release within ten (10) days following notice of impoundment or gives notice either personally, by telephone call, or in writing to the town of forfeiture of ownership before that time, the animal may be placed in an adoptive home, transferred to a humane society or rescue organization, or if the town is unable to transfer the animal it may be humanely destroyed. The owner of an animal transferred or humanely destroyed shall remain liable for all expenses incurred by the Town for treatment, boarding and care of the animal for the duration of its impoundment and any expenses associated with its transfer or humane disposal.

E. The procedures provided in this section shall only apply if the animal is not a rabies suspect. If an official designated by the select board to enforce the provisions of this ordinance determines that the animal is a rabies suspect, the select board shall immediately notify the Town Health Officer who shall proceed in accordance with the rules of the Vermont Department of Health.

SECTION 10. INVESTIGATION OF VICIOUS DOGS.

A. When a dog has bitten a person while the dog is off or *on* the premises of its owner or keeper, and the person bitten requires medical attention for the attack, such person may file a written complaint with the select board of the municipality. 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.

B. The select board, within seven (7) days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the dog which is the subject of the complaint can be ascertained with due diligence, said owner shall be provided with a written notice of the time, date and place of hearing and a copy of the complaint.

C. If the dog 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 dog is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent by certified mail, return receipt requested to the owner. 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.

D. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If the animal control officer or a municipal official designated by the select board determines that the dog is a rabies suspect, the provisions of Subchapter 5 of Title 20 Chapter 193 and the rules of the Vermont Department of Health shall apply. If the dog is deemed healthy, the terms and conditions set forth in the select board's order shall be enforced.

SECTION 11. OTHER LAWS. This ordinance is in addition to all other ordinances of the Town of BRANDON 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 12. 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 13. EFFECTIVE DATE. This ordinance shall become effective 60 days after its adoption by the BRANDON select board. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Adopted this _____ day of _____, 2020.

SIGNATURES

Adoption History

DATE _____

1. Agenda item at regular select board meeting held on _____.
2. Read and approved at regular/special select board meeting on _____ and entered in the minutes of that meeting which were approved on _____.
3. Posted in public places on _____.
4. Notice of adoption published in the _____ newspaper on _____ with a notice of the right to petition.
5. Other actions [petitions, etc.]