

Adopted by the Select Board on May 20, 2013

TOWN OF BENNINGTON, VERMONT

ARTICLE - 9. CARE AND CONTROL OF ANIMALS ORDINANCE

ARTICLE 9-1. AUTHORITY

The Select Board of the Town of Bennington under the grant of authority set forth in 20 V.S.A. section 3549 and 24 V.S.A. sections 2291 (10) and (14) , hereby enact the following Ordinance in order to protect the health, safety and welfare of the citizens of the Town of Bennington and others by regulating the keeping of pets. This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

ARTICLE 9-2. DEFINITIONS

- 9-2.01** Cat shall mean an animal of the feline species.
- 9-2.02** Dog shall mean an animal of the canine species.
- 9-2.03** Pet shall mean a dog or cat or any animal that is kept for companionship, interest or amusement.
- 9-2.04** Excessive Noise shall mean any noise that is created by a pet audible to an individual in a location where he or she is lawfully permitted to be; which noise occurs repeatedly for at least a seven minute period of time with one minute or less lapse of time between each noise during the seven minute period.
- 9-2.05** Animal Control Officer shall mean any Bennington Police Officer or any other individual designated by the Town Manager or Chief of Police to enforce the provisions of this Ordinance.
- 9-2.06** Nuisance animal shall mean any pet that:
1. Makes excessive noise,
 2. Acts viciously or attacks other animals,
 3. Causes damage to public or private property,
 4. Molests or threatens passers-by or passing vehicles on public roads or property,
 5. Scatters refuse,
 6. Obstructs traffic,
 7. Is not licensed as required by this Ordinance,

8. Is uncontrolled or running at large, or
9. Otherwise acts to create a nuisance or disturbance.

9-2.07 Owner shall mean any person or group of persons who owns, harbors or keeps any pet, or permits any pet to be or remain in or about buildings or premises owned or occupied by him or them.

9-2.08 Vicious animal shall mean a pet that causes a person to suffer or reasonably fear bodily injury by attack or threat of attack, except that a pet shall not be deemed vicious as the result of an attack or threat upon a person trespassing upon the private property of the owner of the pet.

ARTICLE 9-3. PET OWNER RESPONSIBILITY

The owner of a pet shall at all times comply with all provisions of this Ordinance and shall ensure that any pet he/she owns complies at all times with all provisions of this Ordinance.

ARTICLE 9-4. CONFINEMENT/CONTROL

9-4.01 The owner of a dog shall at all times confine the dog within a building or other secure enclosure or securely tie the dog on an exercise wire or similar contrivance, except as otherwise provided in Article 9-4.02. Perimeter, underground electric fences qualify as confinement.

9-4.02 The owner of a dog may have his/her dog outside a building or enclosure or not otherwise confined or restrained as required in Article 9-4.01, but only when the dog is:

1. Securely held on a leash; or
2. Within a vehicle preventing escape; or
3. On land owned or occupied by such dog owner; or
4. Clearly subject to the verbal command of such owner and within sight of the owner and not trespassing upon the land of others. Dogs under such command shall not harass citizens or other pets to remain in compliance with this Ordinance.

9-4.03 A dog found in violation of this Article 9-4 shall be deemed to be running at large.

ARTICLE 9-5. AUTHORIZED AGENT

The owner of a dog may release his/her dog in the charge of his/her duly authorized agent, who shall thereupon control the dog in accordance with Article 9-4.

ARTICLE 9-6. DOG IN HEAT

The owner of any dog in heat shall keep such dog confined or on a leash at all times.

ARTICLE 9-7. DISTURBANCES AND NUISANCES

- A. The owner of a pet shall not allow the pet to be vicious or to be a nuisance animal.
- B. The owner of a pet shall not allow waste from the pet to accumulate so that either a health or odor problem results.
- C. The owner of a pet shall remove immediately and properly dispose of any waste created by the pet when the pet is not on the private property of the owner or keeper.

ARTICLE 9-8. IMPOUNDING FOR VIOLATION OF ORDINANCE

An Animal Control Officer may apprehend and impound in a facility designated by the Town Manager any pet found to be in violation of this Ordinance including, but not limited to, any dog found running at large or unlicensed, or any pet that has bitten a person. Impoundment may be initiated by an Animal Control Officer based on a complaint or based on the Officer's personal knowledge. The owner of an impounded pet shall be responsible for all fines, fees and costs associated with the impoundment and, if applicable, humane destruction of the pet.

ARTICLE 9-9. IMPOUNDING PETS THAT HAVE BITTEN PERSONS

A pet that has been impounded for biting a person may be impounded for ten days to determine if the pet is rabid. At the expiration of ten days, such pet may be redeemed by the owner in accordance with Article 9-12.

ARTICLE 9-10. VICIOUS DOG HEARING

No person shall keep or harbor a dog deemed vicious under the terms of this Ordinance. A dog known to be vicious or to have attacked a person or animal or to have done damage constituting a menace to the public health and safety shall, at the discretion of an Animal Control Officer, be impounded by the Town or strictly confined by the owner until the outcome of a hearing. Upon the receipt of a complaint by the Town Manager, a hearing shall be scheduled and warned as a special Select Board meeting. All parties shall be invited to attend. A failure of any party to attend shall not prevent the hearing from proceeding. The hearing board shall consist of the members of the Select Board. After presentation of all evidence, the Board shall issue findings of

fact and issue an order to chain the dog permanently, or muzzle the dog whenever off-premise, or dispose of the dog in a humane manner, or issue such other order deemed appropriate by the Select Board.

ARTICLE 9-11. ENFORCEMENT ON PRIVATE PROPERTY

In enforcing this Ordinance, an Animal Control Officer may apprehend a pet found on public or private property, including the property of the pet's owner.

ARTICLE 9-12. NOTICE TO OWNER AND REDEMPTION

Not later than two days after the impounding of any pet, the owner, if known, shall be notified in writing by an Animal Control Officer. An impounded pet shall not be released to the owner until all fines imposed under this Ordinance and all impoundment costs incurred by the Town are paid to the Town in full, and a certification of rabies vaccination and a health certificate from a veterinarian, if required by an Animal Control Officer, and any necessary licenses for the current year are shown to the Animal Control Officer.

ARTICLE 9-13. DISPOSITION OF UNCLAIMED PETS

If after seven (7) days from the date of notice to the owner, an impounded pet has not been redeemed by payment of all fines, fees and costs imposed under this Ordinance, the impounded pet may be sold, given away, humanely destroyed or placed with a breed rescue organization or animal shelter. Whether or not an impounded pet is reclaimed or redeemed, the owner of an impounded pet shall be responsible for all fines, fees and costs associated with the impoundment and, if applicable, humane destruction of the pet. The Town may collect any and all fines, fees and costs involved in the impounding of a pet by a civil action against the owner. Any proceeds from the sale of an impounded pet, over and above fines, fees and costs imposed under this Ordinance shall be paid over to the owner, if known.

ARTICLE 9-14. LICENSING

By April 1 of each year, every owner of a dog over six months of age, within the Town of Bennington shall procure a license and shall provide proof of all inoculations for all dogs to be licensed. Every dog shall wear a collar with attached license at all times except when it is on the owner's premises.

ARTICLE 9-15. ENFORCEMENT BEFORE THE JUDICIAL BUREAU

Any owner in violation of any provision of this Ordinance shall be subject to a civil penalty of up to \$500.00 per day for each day that such violation continues. Any Animal Control Officer may issue and pursue before the Judicial Bureau a municipal complaint against any owner found to have violated any provision of this Ordinance.

ARTICLE 9-16. WAIVER FEE FOR MUNICIPAL COMPLAINT

The Town has the authority to recover a waiver fee, in lieu of a civil penalty, in the following amount, for any person who declines to contest a municipal complaint and pays the waiver fee:

First Offense	\$ 35.00
Second Offense	\$ 50.00
Third Offense	\$ 100.00
Fourth Offense	\$ 150.00
Fifth and subsequent Offenses	\$ 300.00

Offenses shall be counted on a calendar year basis.

ARTICLE 9-17. CIVIL PENALTY FOR ORDINANCE VIOLATION

The Town has the authority to recover civil penalties in the following amounts for each violation of this Ordinance:

First Offense	\$ 75.00
Second Offense	\$ 100.00
Third Offense	\$ 200.00
Fourth Offense	\$ 300.00
Fifth and subsequent Offenses	\$ 500.00

Offenses shall be counted on a calendar year basis.

ARTICLE 9-18. RIGHT TO CIVIL ENFORCEMENT

In addition to the enforcement procedures available before the Judicial Bureau, the Town has the authority to commence a civil action to obtain injunctive and other appropriate relief, or to pursue any other remedy authorized by law.

ARTICLE 9-19. SEVERABILITY

If any part or provision of this Ordinance shall be deemed invalid by a court of competent jurisdiction, that portion of the Ordinance shall be severable, and the invalidity of such part or provision shall not invalidate any other part or provision of the Ordinance.

ARTICLE 9-20. EFFECTIVE DATE

This Ordinance shall become in full force and effect 60 days after the date of adoption by the Select Board, subject to the right of petition provided by law.

This Ordinance is hereby adopted by the Select Board of the Town of Bennington, Vermont on this 20th day of May, 2013. It shall be printed in full in the minutes of the Select Board, posted in five (5) conspicuous places within the Town of Bennington and published once in the Bennington Banner within fourteen (14) days of its adoption and shall become in full force and effect sixty (60) days after the date of adoption subject to the right of petition as provided by law.

Joseph Krawczyk, Chair

Sharyn Brush, Vice Chair

James Carroll

Justin Corcoran

Thomas Jacobs

John McFadden

Greg Van Houten