

1 **BENNINGTON SELECT BOARD MEETING**

2 **130 RIVER STREET**

3 **BENNINGTON, VERMONT 05201**

4 **JUNE 28, 2021**

5 **MINUTES**

6 **SELECT BOARD MEMBERS PRESENT:** Jeannie Jenkins-Chair; Bruce Lee-Clark; Sarah Perrin; Tom Haley;  
7 and Gary Corey.

8 **SELECT BOARD MEMBERS PRESENT BY PHONE:** Jeanne Conner-Vice Chair.

9 **SELECT BOARD MEMBERS ABSENT:** Jim Carroll.

10 **ALSO PRESENT:** Stuart Hurd-Town Manager; Dan Monks-Assistant Town Manager; Nancy White; 2  
11 citizens; Jim Therrien-Bennington Banner; Mike Cutler and Josh Boucher-CAT-TV; and Nancy H. Lively-  
12 Secretary.

13 At 6:00pm, Ms. Jenkins called the meeting to order and asked those not vaccinated to wear a  
14 mask or social distance if unable to wear a mask, and that there are wipes to wipe down the  
15 microphone if you wish to speak.

16 If you have preferred to not attend the meeting in person but would like to speak, dial in at 1-  
17 646-558-8656 and enter Webinar ID 89448782346. If you wish to speak, the raise hand function is by  
18 pressing \*9 and then \*6 to unmute yourself when prompted to do so.

19 *Bruce Lee-Clark moved and Sarah Perrin seconded to remove #4. Better Bennington*  
20 *Corporation Workplan and Budget from tonight's agenda. It will be placed on the 7/12/21 Agenda.*  
21 *The motion carried unanimously with Jim Carroll absent.*

22 **1. VISION STATEMENT**

23 Ms. Jenkins read the Town's Vision Statement that was adopted by the Select Board on August  
24 24, 2020:

25 "Bennington is a welcoming, engaged, inclusive, resilient community where everyone regardless of  
26 identity shares in our vitality and benefits from an outstanding quality of life."

27 **2. CONSENT AGENDA**

28 **A. MINUTES OF JUNE 14, 2021**

29 **B. WARRANTS**

30 **C. LIQUOR LICENSE**

31 *Bruce Lee-Clark moved and Tom Haley seconded to approve the Consent Agenda with the*  
32 *Minutes of June 14, 2021 amended as follows:*

33 *Minutes of June 14, 2021 - Line 269, Change "it fast." to "it done fast."*

34 *The motion carried unanimously with Jim Carroll absent.*

35 **3. PUBLIC COMMENT**

36 The following Public Comment Practices to make the experience for all involved a productive  
37 and informative use of the Public Comment period at Select Board meetings was placed on the podium  
38 for those that wish to make Public Comments to reference:

- 39 1. Public Comment is to allow residents an opportunity to share information or make  
40 announcements that benefit the community at large.
- 41 2. The topic should **not** be related to an agenda item. If a member of the public wants to  
42 comment on an agenda item they can do so during the discussion of that item.
- 43 3. Comments should be 3 minutes or less.
- 44 4. You are required to state your name and town of residence.
- 45 5. Sharing comments, announcements and concerns are encouraged rather than asking  
46 questions. Public Comment is not a time for discussion. If you have specific questions it  
47 is best to call the Town Manager to get a full explanation and accurate information.
- 48 6. If the topic requires much discussion the item will be considered as an agenda item at a  
49 future meeting.

50 There were no Public Comments.

51 **5. COMMUNITY POLICING**

52 **A. CREATING AND MAINTAINING COLLABORATIVE PARTNERSHIPS - 2<sup>ND</sup> READING**

53 Mr. Lee-Clark stated the following:

- 54 • All recommendations from the 1<sup>st</sup> Reading are included in this document.
- 55 • This is a policy for the Police Department and not for the Partnerships. We cannot make  
56 policies for other organizations.
- 57 • Committee Members were Charlie Gingo, Rachel Blumenthal, Marsh Hudson-Knapp, and  
58 Angela Emerson along with Dan Monks, Dan Ferrara, and Mr. Lee-Clark.

59 *Bruce Lee-Clark moved and Tom Haley seconded the adoption of Policy Creating and*  
60 *Maintaining Collaborative Partnerships. The motion carried unanimously with Jim Carroll absent.*

61 The next two policies to be reviewed are Fraternization and Nepotism and The Code of  
62 Conduct.

63 **B. NACOLE PRESENTATION**

64 Ms. Jenkins noted that the NACOLE Presentation will be in person on July 15, 2021 at the Fire  
65 Facility in the Multi-Purpose Room-3<sup>rd</sup> Floor beginning at 6:00pm and will be recorded by CAT-TV.

66 **6. CARE AND CONTROL OF ANIMALS ORDINANCE AMENDMENT**

67 Ms. Jenkins explained that the Board had to use this policy when we had a vicious pet situation  
68 a couple of years ago and realized that we needed more guidance. Mr. Lee-Clark and Town Counsel  
69 have amended the ordinance that is presented.

70 Mr. Hurd added that if the Board adopts the Amendment tonight, it must be published within  
71 14 days and then people have 60-days to petition for a vote on the Ordinance itself.

72 *Bruce Lee-Clark moved and Sarah Perrin seconded to adopt the ARTICLE - 9. CARE AND*  
73 *CONTROL OF ANIMALS ORDINANCE AMENDMENT as presented.*

74 Mr. Lee-Clark clarified the following:

- 75 ➤ Anything in italics was at the suggestion of our Town Attorney as he felt that the Vermont  
76 Statutes should be referenced - 20 V.S.A. § 3541a. Feral animals - responsibility and 20 V.S.A. §  
77 3546(d) domestic pet or wolf-hybrid is not a rabies suspect.
- 78 ➤ The Amendment was intended to set a 4 level response - to give a clearer understanding of the  
79 range of responses and to clarify the Board's role as a quasi-judicial hearing body.
- 80 ➤ If an owner is asked to keep their pet in confinement - ARTICLE 9-4. CONFINEMENT/CONTROL -  
81 the electronic fence is not sufficient.

82 *The motion carried unanimously with Jim Carroll absent.*

83 **7. ADOPT WATER/SEWER BUDGETS AND SET RATES**

84 *Bruce Lee-Clark moved and Gary Corey seconded to adopt the Water and Sewer FY2022*  
85 *Budgets as presented with the following rates:*

- 86 *Water - Flat Rate - \$145.95/Quarter - same as FY2021*
- 87 *Per 1,000 Gallons - \$ 5.41/Quarter - same as FY2021*
- 88 *Meter Surcharge - \$87.73/Quarter - same as FY2021*
- 89 *Sewer - Flat Rate - \$130.89/Quarter - 10.5% increase from FY2021*
- 90 *Per 1,000 Gallons - \$4.54/Quarter - 10.5% increase from FY2021*
- 91 *Meter Surcharge - \$81.34/Quarter - 10.5% increase from FYY2021*

92 *The motion carried unanimously with Jim Carroll absent.*

93 **8. AMERICAN RESCUE PLAN ACT**

94 Mr. Monks stated that as a part of the American Rescue Plan Act (ARPA), Vermont  
95 municipalities, including Bennington, are eligible to receive Federal funding. The funding will be  
96 distributed by the State of Vermont. Bennington will receive a total of \$1,375,178. The funding will  
97 most likely come in two payments - one payment totaling half of the funds allocated in the Summer of  
98 2021 and the second half next Spring.

99 The State of Vermont will also receive \$121,202,550 in County Funding from ARPA. Since we  
100 don't have county governments, VLCT is working with the State of Vermont's Congressional Delegation  
101 to ensure this funding reaches local governments and may be more than the \$1.375M. Final  
102 allocations are not yet available but will likely be distributed to municipalities on a per capita basis.

103 There are no rules or guidance at this time as to what these funds can be spent on but we may  
104 receive those within 30-45 days. ARPA does not require the funds to be spent until December 31,  
105 2024. However, the Treasury Department issued an interim rule that proposes to allow municipalities  
106 to obligate the money by 2024 but allow funds to be spent through December 31, 2026.

107 *Tom Haley moved and Sarah Perrin seconded to accept the ARPA funds as presented, agree to*  
108 *comply with the Federal requirements, appoint Stuart Hurd as our authorized representative, and*  
109 *appoint Melissa Currier as our contact person who will use the State's Web Portal in requesting*  
110 *funding. The motion carried with Jim Carroll absent.*

## 111 9. MANAGER'S REPORT

112 *Bruce Lee-Clark moved and Sarah Perrin seconded to close Depot Street for the Summer Home*  
113 *Brew Fest from the Depot Street entrance to the public parking lot north to the sidewalk entrance to*  
114 *GBICS. After 1:00pm, the closure will be moved north to the bridge. The motion carried unanimously*  
115 *with Jim Carroll absent.*

116 Mr. Hurd reported the following:

- 117 ✓ Fireworks July 4<sup>th</sup> - The Town will be holding fireworks this year at Willow Park on July 4<sup>th</sup>. The  
118 shoot begins at 9:30pm and those who are unvaccinated should wear a mask and safe distance.  
119 The event is sponsored by the Town, Price Chopper, Casella Waste Management and the  
120 Bennington Banner for \$13,000.
- 121 ✓ Community Built Park - Town staff have worked diligently this Spring to rehabilitate several  
122 segments of the playground to ensure its continued safe use throughout this Summer. The  
123 hope is that the Town can find sufficient funds in the near future to replace this facility and we  
124 look forward to working with children and families to find an affordable welcoming and  
125 enjoyable design.
- 126 ✓ Y Funding - The YMCA has received several grants - one for \$64,450 - for the Summer Matters  
127 for All summer camp for children where they will be hosting 125 children. In addition they have  
128 received:
- 129 ○ DCF Spark Connecting Communities - \$2,800
  - 130 ○ DCF Opportunity Fund for Southshire Youth - \$3,500

- 131           ○ Health New England                                 -    \$2,000
- 132           ○ Stewart's Holiday Match                                 -    \$1,000
- 133           ○ United Way (verbally confirmed)                         -    \$3,100

134           Ms. Jenkins added that we will have Senior Programming on a future agenda.

135           ✓ To have four vacancies for the position of Patrol Officer is unusually high as there are high  
 136           police vacancies throughout the State. However, we also have four individuals that we will be  
 137           making offers to and are hoping for the best.

138           Mr. Monks shared the following Bike/Ped Projects timeline:

- 139           ▪ Orchard Village to Willowbrook Path - to be finished by the middle of August
- 140           ▪ Ninja Trail - Hope to begin construction in 2022 subject to State permits being issued in  
 141           a timely fashion
- 142           ▪ Bennington Pathway-Rail/Trail - Construction likely to begin August 2021 to be  
 143           completed in September 2022
- 144           ▪ Benmont Avenue Bike/Ped Improvements - Scheduled to be put out to bid in Spring of  
 145           2021-2022 with construction scheduled for 2022-2023
- 146           ▪ Franklin Lane - Pricing will be completed on Friday with the hope to complete the  
 147           project as presented this year if we can secure the contractors to do it

148           **10. UPCOMING AGENDA**

149           July 12, 2021 - Better Bennington Corporation Work Plan and Budget

150           July 12, 2021 - Policy 1<sup>st</sup> Reading

151           July 26, 2021 - Senior Programming

152           **11. OTHER BUSINESS**

153           Ms. Conner: Thanked Mark Sawyer for all of his work on Willow Park.

154           Ms. Perrin: With the shortage of contractors, now would be a good time for anyone considering a  
 155           career in the trades.

156           Mr. Lee-Clark: Thanked staff for their work at the Splash Pad, Willow Park, and the Stark Street  
 157           Playground.

158           Mr. Corey: Gave an update on the Energizer Reuse Plan stating that BCRC and Camoin have been  
 159           working on base information and have scheduled a Zoom meeting for July 21, 2021 at 6:00pm to elicit  
 160           public comment. Zoom information will be on the Town's and BCRC websites.

161           Nancy White asked why the Energizer meeting would not be at the Firehouse and why the neighbors  
 162           hadn't been contacted. Ms. Jenkins answered that there are Energizer people all over the country that

163 will be attending the meeting which was originally scheduled to be a Zoom meeting and there will be  
164 information going out to neighbors, as well as, everyone in town.

165 Mr. Hurd: Noted that he had attended the Dog Park Grand Opening and was "amazed" at the activity  
166 at Willow Park with the BMX 2-day event, both pavilions full with family gatherings, and people  
167 swinging in the Community Built Park. "This is quite a facility for a town our size."

168 Ms. Jenkins: Stated the "fantastic Pride Parade" that took place this past Saturday.

169

170 *At 6:55pm, Sarah Perrin moved and Gary Corey seconded the adjournment of the meeting.*  
171 *The motion carried unanimously.*

172

173

174

175

176 Respectfully submitted,

177 Nancy H. Lively

178 Secretary

179

Adopted by the Bennington Select Board on May 20, 2013  
Amendment Adopted by the Bennington Select Board on June 28, 2021

TOWN OF BENNINGTON

ARTICLE - 9. CARE AND CONTROL OF ANIMALS

ARTICLE 9-1. AUTHORITY

The Select Board of the Town of Bennington under the grant of authority set forth in 24 V.S.A. §§ 2291 (10) and (14), hereby enacts 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.

It is the intention of the Select Board of the Town of Bennington to comply with the provisions of 24 V.S.A. §§ 3541(a)<sup>1</sup> and 3546(d)<sup>2</sup>.

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/she/they 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 Pet** shall mean any pet that:

1. Makes Excessive noise.

---

<sup>1</sup> 20 V.S.A. § 3541a. Feral animals; responsibility

It is not the intent of the General Assembly to require a person to be responsible under this chapter for a feral animal that takes up residence in a building other than the person's home, even if the person occasionally provides feed to the animal.

<sup>2</sup> 20 V.S.A. § 3546(d) The procedures provided in this section shall apply if the domestic pet or wolf-hybrid is not a rabies suspect. If a member of the legislative body or a municipal official designated by the legislative body determines that the animal is a rabies suspect, the provisions of subchapter 5 of this chapter and the rules of the department of health shall apply.

2. Acts aggressively or viciously towards, or attacks, persons or other animals.
3. Causes damage to public or private property.
4. Interferes with or threatens passes-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.
9. Otherwise acts to create a common-law nuisance or unreasonable 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 Aggressive or Vicious Pet** shall mean any pet which is found to menace, chase, display threatening or aggressive behavior, or otherwise endanger the safety of any human or domestic animal, or pets with a propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals, or any pet which attacks a human being or domestic animal one or more times.

"Aggressive or vicious pets" shall be classified as follows:

Level 1. A Level 1 pet is one which menaces, chases or displays threatening behavior to any domestic animal, or has been found running at large two or more times during a 12-month period.

Level 2. A Level 2 pet is any pet which has already shown aggressive tendencies by menacing, chasing or otherwise endangering the safety of a human.

Level 3. A Level 3 pet is any pet which when unprovoked has bitten a human or physically harmed or killed a domestic animal.

Level 4. A Level 4 pet is any pet which has attacked a human resulting in serious injury or death, or which has bitten a human on two or more occasions, or which has attacked and killed another domestic animal on two or more occasions.

### **ARTICLE 9-3. PET OWNER RESPONSIBILITY**

The owner of a pet shall at all times comply with all provisions of this Ordinance and ensure that any pet they own 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 (*below*). Perimeter, underground electric fences qualify as confinement.

**9-4.02** The owner of a dog may have his/her dog outside a building enclosure or not otherwise confined or restrained as required in Article 9-4.01 (*above*), 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 the same dog's owner, or Clearly subject to the verbal command of the owner and within sight of the owner and not trespassing upon the land of others. To be in compliance with this ordinance, dogs under such verbal command shall not harass citizens or other pets.

**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. (See *Article 9-4*)

#### **ARTICLE 9-7. DISTURBANCES AND NUISANCES**

**9-7.01** The owner of a pet shall not allow the pet to be vicious or to be a nuisance pet.

**9-7.02** The owner of a pet shall not allow waste from the pet to accumulate so that either a health or odor problem results.

**9-7.03** 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 authorized agent.

#### **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 to be running at large or unlicensed, or any pet that has bitten a person or pet. Impoundment may be initiated by an Animal Control Officer based on a filed 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 killing of the pet.

#### **ARTICLE 9-9. IMPOUNDING PETS THAT HAVE BITTEN PERSONS**

A pet that has been impounded for biting a person or other pet may be impounded for ten days to determine if the pet is rabid. At the expiration of ten (10) days, such pet may be redeemed by the owner in accordance with Article 9-12 subject to the provisions of ARTICLE 9-10, below. (See also 20 V.S.A. §3546(d) as to suspected rabid animals.)

#### **ARTICLE 9-10. VICIOUS PET HEARING**

**9-10.01** A citizen of the Town of Bennington or the Animal Control Officer may file with the Town Manager a written complaint regarding a pet they believe to be vicious

under this ordinance. The Complaint shall include the date and time of the triggering events and other such information so as to assist the Hearing Board in its findings.

**9-10.02** Upon the receipt of a complaint the Town Manager, in consultation with the Chair of the Select Board, shall schedule a hearing in which the parties to the complaint shall be heard, and at which the Select Board shall sit as the Hearing Board.

**9-10.03** The hearing will be warned as a Special Select Board meeting and all parties to the complaint shall be invited to attend; however the failure of any party to attend shall not prevent the hearing from proceeding and a decision by the Select Board.

**9-10.04** The hearing shall be conducted as a "quasi-judicial" proceeding as that concept is understood under the law of the State of Vermont. As such:

1. Parties may choose to be represented by legal counsel;
2. Parties may provide competent and material evidence to support their position including any witnesses, photographs, reports, etc.;
3. Parties may conduct cross examination of witnesses subject to the consent of the hearing board;
4. All witnesses shall be sworn by oath or affirmation in accordance with State law under the pain and penalty of perjury;
5. The Chair of the Hearing Board may exclude disorderly or disruptive persons from the hearing or make other orders as necessary to ensure the fair and orderly conduct of the hearing.
6. A record of the hearing shall be kept by the Select Board for use in cases of appeal;
7. The Complaining Party shall have the burden of proving by a preponderance of the evidence that the pet is aggressive or vicious and should be subject to the restrictions pertaining to aggressive and vicious pets.
8. The Select Board shall, after all evidence is taken, issue findings of fact as well as an order to chain or confine the dog permanently, muzzle the dog whenever it is off-premise, dispose of the dog in a humane manner, or such other order deemed appropriate by the Select Board in accordance with the provisions of 10.04 (below);
9. Any party may choose to appeal the decision of the Select Board to the appropriate County Court.
10. It shall be an affirmative defense against a vicious pet complaint that the complaining party was trespassing on the respondent's property as that term is defined in Vermont Statutes. [13 V.S.A. §3705]

9-10.05 When, after a hearing, the Select Board determines that the pet is an aggressive or vicious pet as defined in this ordinance, the Board shall determine what level the pet is, and at minimum, impose the following appropriate orders. (See Art. 9-2.2.07)

1. A Level 1 pet is required to be restrained whenever outside the owner's home, and shall be prevented from reaching any adjoining or public or private property. When off the property, the pet must be on a leash of no longer than eight feet, and under the control of a responsible person.
2. A Level 2 pet is required to be restrained on the owner's property by a secure fence with a secure locking device, with the fence to be at least six feet high or securely tied on an exercise wire or similar contrivance. Underground perimeter fencing shall not be considered as restrained when a pet has been determined to be Level 2 or Level 3 (See below). When off the property, the pet must be on a leash of no longer than eight feet, and under the control of a responsible person.
3. a. A Level 3 pet is required to be restrained on the owner's property in the same manner as a Level 2 pet with the additional requirement that signs be prominently displayed at all entrances to the premises clearly warning of the presence of an aggressive or vicious pet. When off of the owner's property, the pet must be muzzled in addition to the requirement for a Level 2 pet.  
  
b. The owner of a Level 3 pet must present to the Animal Control Officer evidence that a surety bond issued by a surety insurer in a form acceptable to the Animal Control Officer in the sum of at least \$50,000 payable to any person injured by the Level 3 pet, or a policy of liability insurance, such as home owner's insurance, issued by an insurer qualified in the amount of at least \$50,000, insuring the owner for any personal injuries inflicted by the Level 3 pet.
4. A Level 4 pet shall immediately be taken into custody and be humanely killed not less than ten (10) working days after impoundment.

#### **ARTICLE 9-11 ENFORCEMENT ON PRIVATE PROPERTY**

In enforcing this Ordinance, and 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 Amended Ordinance is hereby adopted by the Select Board of the Town of Bennington, Vermont on this 28<sup>th</sup> day of June, 2021. 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.

\_\_\_\_\_  
Jeannie Jenkins, Chair

\_\_\_\_\_  
Jeanne Conner, Vice Chair

\_\_\_\_\_  
James Carroll

\_\_\_\_\_  
Tom Haley

\_\_\_\_\_  
Gary Corey

\_\_\_\_\_  
Sarah Perrin

\_\_\_\_\_  
Bruce C. Lee-Clark