

# Town of Fletcher Animal Control Ordinance

## **Section 1 – Authority**

This ordinance is adopted by the Selectboard of the Town of Fletcher 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 dogs and wolf-hybrids; to provide for their leashing, muzzling, restraint, impoundment and destruction; and to prevent 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:

Dog: any member of the canine species (*Canis familiaris*). For purposes of this ordinance, this term, wherever used, shall also include "wolf-hybrids" and "working farm dogs" except where specifically exempted.

Domestic Animal: those animals defined by 6 V.S.A. § 1151(2) as follows: cattle, sheep, goats, equines, deer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), and water buffalo.

Domestic Pet: any domestic dogs, domestic cats, and ferrets. The term shall also include such other domestic animals as the Secretary shall establish by rule, provided that the Secretary finds that the animal has the potential to become an imminent danger to public health or welfare if not subjected to the provisions of this chapter.

Enforcement Officer: any police officer, sheriff, state police officer, constable, Animal Control Officer, or Humane Officer, or any other person designated as an Enforcement Officer by the Selectboard.

Hearing: a meeting before the Selectboard to determine facts regarding a complaint of a vicious or potentially vicious dog and to impose sanctions as appropriate.

Impoundment: being held by the Town at a place designated by the Selectboard, where dogs are kept until further disposition of the Town. Such place may or may not be operated by the Town, and may or may not be within the Town limits.

Owner: any person who has actual or constructive possession of a dog. The term also includes those persons who provide food and shelter to a dog. The head of a

household possessing such a dog shall be presumed to be the “owner” of the dog.

Potentially Vicious Dog: 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.

Premises: the home and real property (land) of a dog owner.

Running at large: means that an animal that 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. in the case of a dog, hunting with the owner.

Vicious dog: any dog which bites a person on any property other than that of the dog’s owner or keeper, and that person requires medical attention for the attack.

Wolf hybrid:

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.

Working farm dog: 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.

Written Notice: a letter sent by registered mail.

#### **Section 4 - Applicability of Ordinance**

- A.** No person owning a domestic pet or domestic animal shall allow such animal to become or remain a nuisance as defined in Section 6, or to be kept in violation of this Ordinance.
- B.** Any domestic pet or domestic animal allowed to become or remain a public nuisance as herein defined shall be in violation of the Ordinance and is subject to the provisions of this Ordinance.

#### **Section 5 - Collar and License**

Each dog that is more than six (6) months old shall be licensed according to the laws of this state and when off the premises of the owner shall wear a collar or harness with the current license and valid rabies tag securely attached. An animal which is visiting from out of state must wear a collar or harness with a current license from its home state attached.

### **Section 6 - Nuisances**

An owner of a domestic animal or domestic pet shall not allow, permit, or suffer such animal to create a nuisance. The term "nuisance" means any of the following activities:

#### **Nuisance One - Lack of current license and/or rabies tag**

A dog off the premises of the owner without a collar or harness with the current license and/or valid rabies tag securely attached.

#### **Nuisance Two - Disturbing the Peace**

A dog which engages in excessive barking or howling for a continuous period lasting 10 minutes or more. This provision shall not apply to a working farm dog barking in order to herd or protect livestock or poultry or to protect crops. Nor shall the provisions of this provision 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.

#### **Nuisance Three - Running at large**

A domestic animal or dog running at large within the town. This provision shall not apply to a working farm dog running at large in order to herd or protect livestock or poultry or to protect crops.

#### **Nuisance Four - Potentially vicious dog**

A dog which has been determined by the selectboard after a hearing held pursuant to Sections 11 and 12 to be a "potentially vicious dog."

#### **Nuisance Five - Vicious dog**

A dog which has been determined by the selectboard after a hearing held pursuant to Section 12 to be a "vicious dog."

### **Section 7 - Humane Care of Dogs**

All dogs shall be furnished with clean and safe facilities sufficient to protect the animal and the public health. Any dog determined by the Enforcement Officer to be without such clean and safe facilities may be impounded.

### **Section 8 - Penalty, Enforcement, and Waiver Fees**

A violation of this Ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Franklin County Superior Court, at the election of the Enforcement Officer. Each day that a violation continues shall constitute a separate violation of this Ordinance.

A. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. 1974a and 1977.

1. Any town official designated as an Enforcement Officer by this Ordinance shall have the authority to issue tickets and represent the Town of Fletcher in hearings before the Judicial Bureau.
2. The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance in the following amounts for each violation:

Nuisance One - Lack of current license and/or rabies tag

1st Offense: warning or \$50 fine	Waiver Fee: \$25
2nd Offense: impoundment and \$100 fine	Waiver Fee: \$50
3rd Offense & Subsequent Offense: impoundment and \$200 fine.	Waiver Fee: \$100

Nuisance Two - Disturbing the peace

1st Offense: warning or \$100 fine	Waiver Fee: \$50
2nd Offense: \$200 fine	Waiver Fee: \$100
3rd Offense & Subsequent Offense: \$300 fine	Waiver Fee: \$150

Nuisance Three - Running at large

1st Offense: warning or impoundment and \$200 fine	Waiver Fee: \$100
2nd Offense: impoundment and \$400 fine	Waiver Fee: \$200
3rd Offense & Subsequent Offense: impoundment and \$600 fine.	Waiver Fee: \$300

Nuisance Four - Potentially vicious dog

1st Offense: warning or impoundment and \$200 fine	Waiver Fee: \$100
2nd Offense & Subsequent Offense: impoundment and \$600 fine.	Waiver Fee: \$300

Nuisance Five - Vicious dog

1st Offense: impoundment and \$400 fine	Waiver Fee: \$200
2nd Offense & Subsequent Offense: impoundment and \$800 fine.	Waiver Fee: \$400

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

The Enforcement Officer is authorized to recover a waiver fee, in lieu of a civil penalty, in the stated amount, for any person who declines to contest a municipal complaint and pays the waiver fee.

- B. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town may pursue all appropriate injunctive relief. In addition, a civil penalty of not more than \$800 per violation may be imposed by the Superior Court for violations of this Ordinance.

### **Section 9 - Impoundment**

- A. Any Enforcement Officer may confine or impound any domestic pet or wolf-hybrid when that domestic pet or wolf hybrid is:
1. in violation of state licensing laws;
  2. is suspected of having been exposed to rabies;
  3. is believed to have been attacked by another animal which may be rabid;
  4. has been attacked by a wild animal;
  5. has an unknown vaccination history; or
  6. has been running at large in violation of any of the provisions of this Ordinance.
- B. 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; is running at large; or is in violation of State licensing law may be immediately impounded.

### **Section 10 - Notice of Impoundment and Release from Impoundment**

- A. The officer who impounds a dog 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 dog and the steps that are necessary to have it returned to the owner.
- B. If the owner of the dog is unknown, the officer who impounds a dog 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 dog, including any significant marks of identification, when and where it was impounded or found by the person placing the dog in the town's custody, and declare that unless the owner claims the dog and pays all expenses incurred by the town for treatment, boarding and care of the dog, any applicable penalties and takes all necessary remedial action within ten (10) days following posting, the town may place the dog in an adoptive home, or transfer it to a humane society or rescue organization. If the dog 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 dogs 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 a dog impounded under the provisions of this ordinance refuses to take the remedial action necessary to secure the dog'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 dog may be placed in an adoptive home, transferred to a humane society or rescue organization, or if the town is unable to transfer the dog it may be humanely destroyed. The owner of a dog 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.
- E. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If an official designated by the Selectboard to enforce the provisions of this ordinance determines that the dog is a rabies suspect, the Selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the rules of the Vermont Department of Health.

#### **Section 11 – Potentially Vicious Dogs**

- A. A person claiming a dog is a “potentially vicious dog” 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, an identification of the attacking dog, the name and address of any victim or victims, and any other facts that may assist the Selectboard in conducting its hearing.
- B. Upon receipt of a “potentially vicious dog” complaint the Selectboard shall proceed as in the case of a “vicious dog” complaint, as per Section 12, with the exception that if the Selectboard determines that the behavior classifies the dog as “potentially vicious” the Selectboard may order any protective measures be taken absent the dog being humanely destroyed.

#### **Section 12 -Vicious Dogs**

- A. When a dog has bitten a person while the dog is either on or off 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 Selectboard of the municipality. The complaint shall contain the time, date and place where the attack occurred, an identification of the attacking dog, the name and address of the victim or victims, and any other facts that may assist the Selectboard in conducting its investigation.

- B. The Selectboard, 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 Selectboard 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 an enforcement action in Superior Court.
- D. The procedures in this section shall only apply to dogs if the dog is not a rabies suspect. If a member of the Selectboard or a municipal official designate by the Selectboard 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.

**SECTION 13. Other Laws**

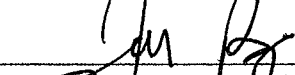
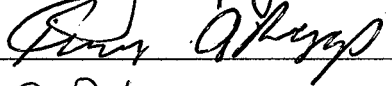
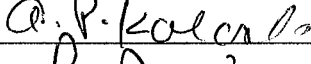
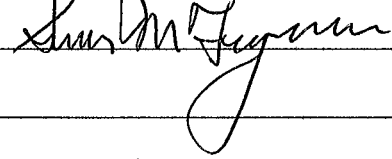
This ordinance is in addition to all other Ordinances of the Town of Fletcher and all applicable laws of the State of Vermont. All Ordinances or past Ordinances inconsistent with the provisions of this Ordinance are hereby replaced to the extent of such inconsistency.

**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 Town of Fletcher Selectboard [or at such time following the expiration of 60 days from the date of its adoption as is determined by the Selectboard per 24 V.S.A. §1973.] If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

9-14-15  
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 Date

Signatures