

TOWN OF WHITINGHAM

DOMESTIC PET/ANIMAL CONTROL ORDINANCE

Section 1 – Authority

This Ordinance is adopted by the Selectboard of the Town of Whitingham, Vermont, 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 of Ordinance

The purpose of this Ordinance is to protect the public health, safety, and welfare of the residents of the Town of Whitingham and to secure their right to the quiet enjoyment of their homes and properties.

Section 3 – Definitions

For purposes of this Ordinance, the following words and/or phrases shall apply:

3-1 Animal Control Officer - means the Whitingham Animal Control Officer, Health Officer, Law Enforcement Officer, or any person designated to enforce this Ordinance by the Selectboard.

3-2 Dog - means 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.

3-3 Domestic Animal - means 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.

3-4 Domestic Pet – means any domestic dog, wolf-hybrid, domestic cat, or European ferret (*Mustela putorius furo*) and any other domestic animal designated as such by the Secretary of the Vermont Agency of Agriculture, Food and Markets. Domestic pet also means rabbits, reptiles, and amphibians.

3-5 Owner – means any person who has actual or constructive possession of a domestic pet and/or domestic animal. This term also includes those persons who provide food and shelter to a domestic pet and/or domestic animal. However, it is not the intent of this Ordinance to require a person to be responsible under this chapter for feral animals that take up residence in a building other than the person's home, even if the person occasionally provides feed to the animal.

3-6 “Pet Dealer” – means any person who sells or exchanges or who offers to sell or exchange cats, dogs, or wolf-hybrids, or any combination thereof, from three or more litters of cats, dogs, or wolf-hybrids, in any 12-month period. A pet dealer must apply for a pet dealer permit annually. This definition shall not apply to pet shops, animal shelters or rescue organizations as State Law defines those terms.

3-7 Running at large - means any domestic pet or domestic animal that is: not on the premises of the owner or the property of another with that person's permission and not restrained or under the direct verbal or non-verbal control of the owner; not hunting with the owner; or in a vehicle.

3-8 Secretary – means the Secretary of the Vermont Agency of Agriculture, Food and Markets, and includes his or her designee.

3-9 Selectboard - means the Selectboard of the Town of Whitingham, Vermont.

3-10 Town - means the Town of Whitingham, Vermont.

3-11 Wolf-hybrid - means an animal that is the progeny or descendant of a domestic dog (*Canis familiaris*) and a wolf (*canis lupus* or *canis rufus*). Wolf-hybrid also means an animal advertised, registered, licensed or otherwise described or represented as a wolf-hybrid by its owner or an animal that exhibits primary physical or behavioral wolf characteristics.

3-12 “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 – Violations

An owner of a domestic pet or domestic animal shall not allow, permit, or suffer such domestic animal/pet to constitute a public nuisance. A domestic pet or domestic animal is hereby declared to constitute a public nuisance in violation of this ordinance in the following situations:

4-1 Licensing – Each dog shall be licensed according to the laws of this State and shall wear a collar or harness with its current license issued by the Town Clerk 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 may be impounded. Licensing applies to all dogs which are 6 (six) months of age or older. This section shall also apply to any owner who fails to obtain a “pet dealer” permit as required by State law or fails to abide by its requirements. Repeated failure of a pet dealer to consent to an inspection may result in revocation of the pet dealer permit.

4-2 Running at large – The domestic pet or domestic animal is running at large.

4-3 Disturbances – The domestic pet or domestic animal is barking, howling, calling, crowing, baaing, bleating, braying, squealing, crying or yelping for a continuous period of fifteen (15) minutes or more. This regulation shall not apply to dogs in a kennel/boarder facility which has received a zoning permit under the Town’s zoning bylaws. The zoning permit will govern the use of the kennel/boarder facility.

4-4 Defecation - The dog defecates on the private premises of another or public property - including parks, walkways, and yards - and such material is not removed of immediately and disposed of in a sanitary manner.

4-5 Dogs in heat – A female dog in heat is not confined to a building or other secured enclosure on the owner’s property, or otherwise under the owner’s direct control.

4-6 Potentially Vicious Domestic Pets - The domestic pet while running at large, inflicts minor injuries on a person not necessitating medical attention; chases, threatens to attack or attacks another domestic pet or domestic animal, causes damage to personal property; chases a person; or causes any person to reasonably fear attack or bodily injury from such domestic pet. This definition shall not apply if the domestic pet was protecting or defending itself, its offspring, another domestic pet or domestic 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 domestic pet.

The provisions of this section shall not be construed to restrict accepted agricultural practices as that term is defined by the Secretary.

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

Section 5 – Confinement and Impoundment

5-1 An Animal Control Officer is authorized to confine or impound any domestic pet or domestic animal found in violation of this Ordinance or when the domestic pet or domestic animal:

1. is suspected of having been exposed to rabies;
2. is believed to have been attacked by another animal which may be rabid;
3. has been attacked by a wild animal; or
4. has an unknown rabies vaccination history.

5-2 An Animal Control Officer who has attempted to seize a domestic pet or domestic animal and has not been permitted to search for or take the animal, may apply to a judicial officer authorized to issue search warrants for a warrant to search the properties of the owner of the animal or any other property if the officer has reasonable cause to believe that the animal may be on the property.

5-3 An Animal Control Officer who confines or impounds a domestic pet or domestic animal shall, within twenty-four (24) hours, give notice to the owner thereof, either by in-person communication, telephone call, or by written statement sent to the last known address of the owner. Such notice shall inform the owner of the nature of the violations leading to confinement or impoundment, the location where the domestic pet or domestic animal is confined or impounded, and what remedial action is necessary to have the domestic pet or domestic animal released to the owner.

If the owner's address is unknown, notification shall be posted, within twenty-four (24) hours from confinement or impoundment, in the Whitingham Town Clerk's Office and two other places in the Town for a ten calendar day period. The public notice shall include a description of the domestic pet or domestic animal, including any significant marks of identification; when and where it was apprehended or found by the person placing the domestic pet or domestic animal in the Town's custody; and declare that unless the owner claims the domestic pet or domestic animal pays all expenses incurred by the Town for treatment, boarding and care of the domestic pet or domestic animal, in addition to any and all applicable penalties and takes all necessary remedial action within ten (10) days following posting, the Town may transfer possession by placing the domestic pet or domestic animal in an adoptive home, transferring it to a humane society or rescue organization, selling it, giving it away or, if any of those options are not possible, destroying it in a humane manner.

5-4 If an unclaimed domestic pet or domestic animal has been transferred, sold, given away, or humanely disposed, its owner shall remain liable for all expenses incurred by the Town for treatment, boarding and care of the domestic pet or domestic animal for the duration of its impoundment and any expenses association with its transfer, sale or humane disposal.

5-5 No confined or impounded domestic pet or domestic animal shall be released until the payment of all penalties and impoundment fees, (including but not limited to boarding, food, and veterinary expenses); the final disposition of a potentially vicious domestic pet hearing, if applicable; and after all requisite remedial action is taken by its 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 if applicable.

5-6 The procedures provided in this section shall only apply if the domestic pet or domestic animal is not a rabies suspect. If the Animal Control Officer determines that the domestic pet or domestic animal is a rabies suspect, the Local Health Officer shall be immediately notified and shall proceed in accordance with the rules of the Vermont Department of Health.

5-7 The Selectboard shall set impoundment costs as deemed necessary by resolution.

Section 6 – Enforcement and Penalties

Section 6-1 – Civil Designation

The violation of this Ordinance shall be a civil matter, which may be enforced in the Vermont Judicial Bureau or in the Windham County Superior Court, at the election of the Animal Control Officer under the direction of the Whitingham Selectboard.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, the Animal Control Officer shall be the designated enforcement officer. 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 Whitingham may pursue all appropriate injunctive relief.

6-2 Response to Violations by Animal Control Officer

When a domestic pet or domestic animal is found to have violated any provision of this Ordinance, the Animal Control Officer, at his or her discretion, may take one or more of the following actions:

1. Issue a verbal or written warning to the owner;
2. Serve the owner with a notice of violation stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated, permanently cease and correct all violations. Any person who continues a violation beyond the specified time limit shall be issued a Municipal Complaint (ticket) whose fine amount shall be in accordance with the fine schedule specified in the penalties section of the Ordinance.
3. Require that a domestic pet or domestic animal be restrained by a leash while off the premises of its owner;
4. Issue a Municipal Complaint (ticket);
5. Confine or impound the domestic pet or domestic animal;
6. Seek enforcement in Windham County Superior Court.

6-3 Investigation of Potentially Vicious Domestic Pets

6-3-1 When a domestic pet has bitten a person while the domestic pet 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 legislative body 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 Selectboard in conducting its investigation.

6-3-2 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 domestic pet, 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.

6-3-3 If the domestic pet 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 domestic pet 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 detailed herein, injunctive relief and any other relief deemed appropriate by a court of competent jurisdiction.

6-3-4 The procedures provided in this section shall apply regardless of whether the domestic pet is a rabies suspect. If a member of the Selectboard or a municipal official designated by the Selectboard determines that the animal 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. If the domestic pet is deemed healthy, the terms and conditions set forth in the Selectboard’s order shall be enforced.

6-4 Penalties

Any person who violates the following provisions of this Ordinance shall be subject to the penalties and waiver penalties set forth below. Waiver penalties apply when an alleged violator pays the penalty without contesting the violation. “Second” and “Third & subsequent offenses” refer to those offenses committed within a two-year timeframe from the anniversary day of the first offense. For purposes of calculating the sequence of offenses, offenses shall be counted against the owner rather than the individual animal. The penalties provided for in this section shall be in addition to, not in lieu of, licensing and impoundment costs. Impoundment costs shall be set by a method as deemed prudent and necessary by the Selectboard. Each day a violation continues shall constitute a separate violation.

6-4-1 Licensing Violation Penalties (Section 5-1):

	Full Penalty	Waiver
First offense.....	\$60.00.....	\$35.00
Second offense.....	\$85.00.....	\$50.00
Third & subsequent offenses.....	\$110.00.....	\$85.00

6-4-2 Running At Large Penalties (Section 5-2):

	Full Penalty	Waiver
First offense.....	\$50.00.....	\$ 35.00
Second offense.....	\$85.00.....	\$ 50.00
Third & subsequent offenses.....	\$110.00.....	\$ 75.00

6-4-3 Immunization Violation Penalties (Section 5-3):

	Full Penalty	Waiver
First offense.....	\$60.00.....	\$ 35.00
Second offense.....	\$100.00.....	\$ 50.00
Third & subsequent offenses.....	\$200.00.....	\$100.00

6-4-4 Disturbances Penalties (Section 5-4):

	Full Penalty	Waiver
First offense.....	\$40.00.....	\$ 35.00
Second offense.....	\$80.00.....	\$ 50.00
Third & subsequent offenses.....	\$200.00.....	\$100.00

6-4-5 Defecation Violation Penalties (Section 5-5):

	Full Penalty	Waiver
First offense.....	\$40.00.....	\$ 35.00
Second offense.....	\$80.00.....	\$ 40.00
Third & subsequent offenses.....	\$200.00.....	\$100.00

6-4-6 Vicious Dogs Violation Penalties (Section 5-7):

	Full Penalty	Waiver
First offense.....	\$100.00.....	\$ 50.00
Second offense.....	\$200.00.....	\$100.00
Third & subsequent offenses.....	\$500.00.....	\$250.00

6-5 Liability for Loss by the Town Due to Violation

Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss, or damage incurred by the Town, including reasonable legal expenses, by reason of such offense.

Section 7 – Inconsistent Provisions

If there is a conflict between the provisions of this Ordinance and any other applicable statute, regulation, or ordinance, the stricter shall apply.

Section 8 – Other Laws

This Ordinance is in addition to all other Ordinances of the Town of Whitingham and all applicable laws of the State of Vermont.

Section 9 – Severability/Liability/Amendments

If any portion of this Ordinance is held unconstitutional or invalid by a court of competent jurisdiction, such finding shall not invalidate any other part of this Ordinance.

Section 10 – Ordinance in Force / Adoption

10 - 1 Effective Date

This Ordinance shall become effective sixty (60) days from the date of its adoption by the Whitingham Selectboard. 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 _____ 2015.

Keith Bronson, Chair, Selectboard

Karl Twitchell, Selectboard

Allan Twitchell, Vice Chair, Selectboard

Robin Kingsley, Selectboard

Greg Brown, Selectboard

Whitingham Selectboard

Adopted – April 15, 2015

Effective Date – June 16, 2015

Adoption History:

On agenda at Regular Selectboard Meeting April 15, 2015

Read and approved at Regular Selectboard Meeting of
04.15.15 and entered in the Minutes of that meeting
which were approved on 04.29.15.

Requested adjustments (non requested)

Posted in Public places on _____

Notice of Adoption published in the Deerfield Valley News on
05.07.15 with a notice of the right to petition.

Effective Date: June 15, 2015.