

TOWN OF JAMAICA ANIMAL CONTROL ORDINANCE OF 2002

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ARTICLE 1            GENERAL PROVISIONS

Section 1.        Title

All rules and regulations contained herein, together with such additions and amendments as may be hereafter adopted, are hereby designated as the "Town of Jamaica Animal Control Ordinance of 2002."

Section 2.        Purpose

This ordinance has been adopted for the purpose of protecting public health, safety, order and the residents' right to the quiet enjoyment of their property. The regulations set forth herein seek to achieve the aforementioned objectives by promoting the responsible care and supervision of dogs and wolf-hybrids within the Town by their owners.

Section 3.        Statutory Authority

This Ordinance has been promulgated under the authority granted the Town's Legislative Body by 20 V.S.A. chapters 191 and 193, 24 V.S.A. §2291 (10) and (14), and 24 V.S.A. §1971, as amended.

Section 4. Inconsistent Provisions

In the case of any other applicable regulations, by-law, ordinance or statute which differs from the rules and regulations of this Ordinance, the more strict shall apply.

Section 5. Civil Designation

A violation of the Ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. §§1974a and 1977 et seq.

ARTICLE 2 DEFINITIONS

Section 1. Dog: Any animal of the canine species.

Section 2. Dangerous Animal: (a) An animal that is diseased and dangerous to the public health; or (b) a wolf-hybrid which is not confined within a proper enclosure as cited in Section 7 of this Article, or which when outside of its enclosure, is not either in a cage or on a leash.

Section 3. Humane disposal: (a) Humane euthanasia by a licensed veterinarian, or (b) sold or given away to a responsible person.

Section 4. Issuing Officials: The Town Officials authorized to issue or administer to complaints received in the enforcement of this ordinance, as designated by the Board of Selectmen.

Section 5. Municipal Pound: Any facility operated by a municipal agency or its authorized agent for the purpose of impounding and caring for animals under hygienic conditions held under the authority of this Ordinance or state law.

Section 6. Owner: Any person or group of persons who owns, harbors or permits any dog or wolf-hybrid to be or remain in or about their buildings or premises.

Section 7. Proper Enclosure for Wolf-hybrids: (a) A locked fence or structure of sufficient height and sufficient depth into the ground to prevent the entry of young children and to prevent the animal from escaping. Fencing shall at a minimum consist of an 8 foot high chain link fence with a 2 foot overhang and a concrete or asphalt apron to prevent digging out and a catch pen to avoid escape and to ease veterinary care.

(b) A humane shelter for the animal, providing cover from the elements.

- Section 8. Restraint: The control of an animal by use of a leash not more than eight (8) feet long, or when the animal is on or within a vehicle. Nothing in this article shall be construed to require the leashing of any dog while on private property by permission of the property owner or his agent, or to restrict the use of dogs for lawful hunting.
- Section 9. Running At Large: An animal not on the premises of its owner and not restrained or under the direct control of its owner and moving at will without limitations as to property lines or areas.
- Section 10. Uncontrolled Animal: An animal which, by reason of habitual or frequent barking, howling or yelping, disturbs the peace and quiet of persons of ordinary sensibilities.
- Section 11. Vicious Animal: A dog or wolf-hybrid, while running at large, which causes reasonable fear of bodily injury by attacking or threatening to attack a person, domestic pet, domestic animal or wolf-hybrid on a public way or in a public or private place.
- Section 12. Wolf-hybrid: An animal which is the progeny or descendant of a domestic dog (*Canis familiaris*) and a wolf (*Canis lupus* or *Canis rufus*), or an animal which is advertised, registered, licensed or otherwise described or represented as a wolf-hybrid by its owner, or an animal which exhibits primary physical and behavioral wolf characteristics.

### ARTICLE 3                    APPLICABILITY OF ORDINANCE

- Section 1. No person owning a domestic pet, domestic animal, or wolf-hybrid shall allow such animal to become or remain a public nuisance as herein defined, or to be kept in violation of this Ordinance.
- Section 2. Any domestic pet, domestic animal, or wolf-hybrid 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 3. Nothing in this Ordinance shall be construed to restrict accepted agricultural practices.

ARTICLE 4

PROHIBITIONS, REQUIREMENTS and RESTRICTIONS

- Section 1. No dog which has bitten a person other than in defense of property of its owner or in protection of members of the immediate family of the owner, or in protection of guests or invitees of its owner, shall run at large or without restraint if a complaint has or is being made to the Issuing Official that the dog is either dangerous to the public or is creating a nuisance.
- Section 2. A wolf-hybrid, as defined in this Ordinance, owned, harbored, or permitted to remain in or about the buildings or premises of any persons within the Town of Jamaica must be leashed, penned, fenced or kept within the confines of the owner's home, building or vehicle, and may not run at large even on the owner's property.
- Section 3. Licensing: Every owner of a dog or wolf-hybrid shall annually license said animal in accordance with the provisions of 20 V.S.A. Chapter 193, Subchapter 2. The owner of a dog shall cause it to wear a collar and attach thereto a license tag issued by the Town Clerk.
- Section 4. Immunization: All dog owners shall have their animals inoculated against rabies in accordance with 20 V.S.A. §3581, 20 V.S.A. §3581 (a) and any rules adopted by the Commissioner of Agriculture.
- Section 5. Running At Large: No dogs shall lawfully run at large.
- Section 6. Vicious Animals: It shall be unlawful for a dog to attack and/or bite a person or another domestic animal.
- Section 7. Disturbances: It shall be unlawful for any dog owner to keep or harbor any animal which:
- A. by frequent or habitual barking, howling or yelping disturbs the peace, comfort or repose of any person of reasonable sensibility; or
  - B. does damage to gardens, flowers, shrubs, vegetables or lawns; or
  - C. turns over garbage containers; or
  - D. injures or worries people, domestic pets, domestic animals, or wolf-hybrids.
- Section 8. Dogs in Heat: The owner of any dog in heat shall keep such dog within the bounds of such owner's property and shall not permit such dog to run at large. Every such dog running at large is hereby declared to be a public nuisance and shall be impounded.

- Section 9. Defecation: The owner or other individual in control of any dog which defecates on private or public property, including parks, walkways, and yards, shall remove such material immediately and dispose of it in a sanitary manner.
- Section 10. Neglect: Failure to properly provide care, feeding and/or adequate shelter from the elements for a domestic pet, domestic animal or wolf-hybrid under the Owner's control.
- Section 11. Multiple Offenses: For purposes of this Ordinance, second, third and subsequent offenses are defined as those multiple and cumulative offenses committed by the dogs of a single owner.

#### ARTICLE 5 ISSUING OFFICIALS

- Section 1. Any Issuing Official is hereby authorized and empowered to obtain search warrants to enter onto private lands, to seize and impound domestic pets, domestic animals, and wolf-hybrids, and to take all reasonable and necessary measures to abate violations as herein defined.
- Section 2. It is the duty of the Issuing Official(s) to investigate complaints of animal nuisances and to enforce the provisions of this Ordinance.
- Section 3. The Board of Selectmen shall appoint Issuing Official(s) and designate the names of persons and their locations to receive domestic pets, domestic animals, and wolf-hybrids for impoundment under the terms of this Ordinance.

#### ARTICLE 6 IMPOUNDMENT

- Section 1. Reasons for Impoundment:
- A. Pursuant to 20 VSA Chapters 191 and 193, an Issuing Official is authorized to confine or impound any domestic pet, domestic animal, or wolf-hybrid which is violating subsections Article 4 Sections 1 through 8 inclusive of this Ordinance: or which:
1. Is suspected of having been exposed to rabies; or
  2. Is believed to have been attacked by another animal which may be rabid;
- or

3. Has been attacked by a wild animal; or
4. Has an unknown rabies vaccination history.

B. If an Issuing Official witnesses the neglect of an animal by its owner, which treatment is not cured within the time period stated in a written notice given to the Owner, the Issuing Official is authorized to impound the animal at the Owner's expense until the treatment is cured. If such neglect resumes or continues after a first written notice, the Issuing Official is authorized to again impound the animal and to file a criminal complaint against the Owner with the Windham County Sheriff's Department for further investigation.

C. Pursuant to 13 VSA Chapter 8, if an Issuing Official witnesses a situation in which the Official determines that an animal's life is in jeopardy and immediate action is required to protect the animal's health or safety, the Issuing Official is authorized to seize the animal and take it to a veterinarian for medical treatment, and to file criminal complaint against the Owner.

## Section 2. Impoundment Procedures

A. The Town official who impounds a dog or wolf-hybrid shall attempt to notify the owner that the animal has been impounded within twenty-four (24) hours of said impoundment. Notification may be accomplished by in-person communication, by telephone call, or by written statement sent to the last known address of the owner. If the owner is unknown or cannot be reached, the official shall post a notice in the Town Clerk's office and two other public places, for a period of seven (7) days, describing the impounded animal, and stating when and where said animal was apprehended.

B. The owner may redeem the dog from the impoundment facility by:

1. Paying all impoundment fees that the facility or the Town may charge for boarding and caring for the animal; and
2. Inoculating the animal against rabies if proof that said animal has been properly immunized cannot be provided. The Town shall not release the animal until it has been inoculated. If necessary, the Town shall have the animal inoculated and the owner shall pay fees and expenses for inoculation; and
3. Licensing the animal if said animal has not been properly licensed. The fee shall be paid by the owner.

C. Dogs that are not redeemed by their owners after seven (7) days of

impoundment, may be given over for adoption or humanely destroyed at the Town's discretion.

D. Rabies Suspect. Any dog or wolf-hybrid which is considered a rabies suspect shall be managed in accordance with the rules of the Vermont Department of Health. The owner of an animal suspected of having rabies shall reimburse the Town for all costs incurred in conjunction with the impoundment, evaluation, care and/or disposition of the subject animal.

Section 3. Impoundment Fee: The fee imposed for impoundment of any animal shall be the actual expenses incurred by the Town.

## ARTICLE 7 PENALTIES

Section 1. Violation of Article 4 Section 3 (Licensing) - A penalty of \$50.00 shall be imposed for the initial violation of this section of the Ordinance. The penalty for a second offense within a three-year period shall be \$100.00.

Section 2. Violation of Article 4 Section 5 (Running at Large) - A penalty of \$30.00 shall be imposed for the initial violation of this section of the Ordinance. The penalty for the second offense within a two-year period shall be \$40.00 and the penalty for three or more offenses within a two-year period shall be \$60.00.

Section 3. Violation of Article 4 Section 6 (Vicious Animals) - A violation of this section of the Ordinance shall be a criminal matter, enforced in accordance with the provisions of 24 V.S.A. section 1974. A violation shall be a misdemeanor, punishable by a fine of not more than \$500.00. Each day that a violation continues shall constitute a separate offense. In addition, the Board of Selectmen may issue an order in accordance with 20 V.S.A. Section 3546 to have a vicious animal muzzled, chained, impounded, confined or humanely destroyed.

Section 4. Violation of Article 4 Section.7 (Disturbances) - A penalty of \$30.00 shall be imposed for the initial violation of this section of the Ordinance. The penalty for the second offense within a two-year period shall be \$80.00 and the penalty for three or more offenses within a two-year period shall be \$200.00.

Section 5. Violation of Article 4 Section.9 (Defecation) - A penalty of \$30.00 shall be imposed for the initial violation. The penalty for the second offense within a two-year period shall be \$80.00 and the penalty for three or more offenses within a two-year period shall be \$200.00.

ARTICLE 8

ENFORCEMENT

Unless violation and penalty provisions specifically set forth elsewhere in this Ordinance provide otherwise, all violations of this Ordinance shall be handled according to the provisions of this Section.

Section 1. When a domestic pet, domestic animal or wolf-hybrid is found to be in violation of this Ordinance, an Animal Control Officer may take any one or more of the following actions:

- a. Issue a verbal warning to the owner.
- b. Issue a written warning to the owner.
- c. Serve the owner with a written notice 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 owner who fails to correct such violations within the time period specified shall be issued a "Municipal Complaint" and subject to a civil penalty of up to \$500.00 per day for each day that such violation continues. The Jamaica Health Officer, Jamaica Deputy Health Officer, Jamaica First Constable, Windham County Sheriff or Deputy, or any individual appointed by the Board of Selectmen shall be authorized to act as Issuing Municipal Officials to issue and pursue a municipal complaint before the Traffic and Municipal Ordinance Bureau.
- d. Confine or impound the domestic pet, domestic animal, or wolf-hybrid.

Section 2. Actions to Prevent, Restrain or Abate Violations

Notwithstanding any of the foregoing provisions, the Town may institute any appropriate action authorized by law, including injunction or other proceeding, to prevent, restrain, or abate any violations hereof, and in the case of emergency situations when, in the Town's determination, violations of the provision of the Ordinance may cause damage to human life or property, the Town shall have the power to take whatever action is necessary to correct such violations.

ARTICLE 9

INVESTIGATION OF A DOMESTIC PET OR WOLF-HYBRID WHICH HAS BITTEN A PERSON

When a domestic pet, domestic animal or wolf-hybrid has bitten a person, and the person bitten



requires medical attention for the attack, investigation by an Issuing Official shall be done in accordance with the following procedures, pursuant to 20 VSA §3546, as follows:

- A. Such person bitten may file a written complaint with the Jamaica Board of Selectmen. The complaint shall contain the time, date and place where the attack occurred, the name and address of the victim or victims, the names and addresses of any witnesses to the attack, and any other facts that may assist the Board of Selectmen in conducting its investigation required by Section B below.
- B. The Board of Selectmen, within seven days from the receipt of such complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the domestic pet, domestic animal or wolf-hybrid 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 the hearing, and the facts of the complaint.
- C. If the domestic pet, domestic animal or wolf-hybrid is found to have bitten the victim without provocation, the Board of Selectmen 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, domestic animal, or wolf-hybrid be disposed of in a humane way, muzzled, chained, impounded or confined. The order shall be sent by certified mail, return receipt requested. A person who, after receiving notice, fails to comply with the terms of the order shall be in violation of Article 8, Section 1 (c) of this Ordinance. The Board of Selectmen may seek injunctive relief as provided in 20 VSA §3550 (j).
- D. The procedures provided in this Article shall only apply if the domestic pet, domestic animal, or wolf-hybrid is not a rabies suspect. If a member of the Board of Selectmen or an Issuing Official determines that the animal is a rabies suspect, the provisions of Article 6 Section 2 (D) of this Ordinance shall apply.

#### ARTICLE 10 SEVERABILITY

If any provision within this Ordinance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such action shall not affect the validity of the remaining provisions of this Ordinance.

#### ARTICLE 12 PUBLICATION AND POSTING

This Ordinance shall be entered in the Selectboard minutes, filed with the Town Clerk, and posted in at least five (5) conspicuous places within the Town. A copy

of this Ordinance shall be published in the Brattleboro Reformer, not later than fourteen (14) days following the date specified below when this Ordinance is adopted.

ARTICLE 13            RIGHT TO PETITION

Citizens of the Town of Jamaica are further hereby notified that within forty-four (44) days from the date of adoption they may petition for a vote on the above Ordinance at an annual or special Town meeting as provided in 24 V.S.A. §1973.

ARTICLE 14            ADOPTION / EFFECTIVE DATE

- Section 1.        This Ordinance is hereby adopted by the Selectboard of the Town of Jamaica on this the 13<sup>th</sup> day of *may*, 2002 and shall, unless a petition is filed as provided by law, become effective upon sixty (60) days from this date.
- Section 2.        This Ordinance may be amended at any time by the Jamaica Board of Selectmen pursuant to applicable provisions of the law.
- Section 3.        This ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law, and hereby replaces in its entirety the Town of Jamaica all prior Dog Ordinances heretofore adopted by said Town.

TOWN OF JAMAICA  
BOARD OF SELECTMEN

*Bruce Chapin*  
\_\_\_\_\_

*David Hamilton*  
\_\_\_\_\_

*Benjamin Williams*  
\_\_\_\_\_

*Joel Beckwith*  
\_\_\_\_\_

*Paul J. [unclear]*  
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