

of 10 o'clock 00 minutes AM
app. recorded in Book 187 Page 8155
Attest: Julie M. Ueber
Town Clerk

TOWN OF POWNAL, VERMONT DOG AND DOMESTIC ANIMAL ORDINANCE

SECTION 1. AUTHORITY

This ordinance is adopted by the Select Board of the Town of Pownal, Vermont under authority of 20 V.S.A § 3549, 24 V.S.A. § 2291 (10) and § 2291 (14 & 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 and to provide for their leashing, muzzling, restraint, impoundment and destruction, in order to protect the public health and safety of the Town, and preserve 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" means any member of the canine species. For purposes of this ordinance, this term shall also include "wolf-hybrids" and "working farm dogs" except as otherwise stated.

"Wolf Hybrid" means:

- An animal which is the progeny of a dog and a wolf (Canis Lupis or Canis Rufus);
- An animal which is advertised or otherwise described or represented to be a wolf hybrid; or
- An animal which exhibits primary physical and/or behavioral wolf characteristics.

"Owner" means any person(s) who has actual possession of a dog or any other domestic animal. The term also includes those persons who provide food and shelter to a dog or domestic animal.

"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.

"Domestic animal" means 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. The term shall include cultured fish propagated by commercial fish farms.

"Domestic pet" or "pet" means any domestic dog, domestic cat, or ferret.

"Running at large" means that a dog or domestic animal that while not on the owner's premises is not:

- On a leash;
- In a vehicle;
- On the property of another person with that person's permission;
- Clearly under the verbal or non-verbal control of the owner; or
- Hunting with the owner

"Potentially Vicious Dog or Domestic Animal" means a dog or domestic animal that, while running at large: inflicts minor injuries on a person not necessitating medical attention; chases, worries, threatens to attack or attacks another domestic pet or domestic animal; causes damage to personal or real property;

- Acts viciously or attacks other animals
- Causes damage to public or private property
- Molests or threatens passers-by or passing vehicles on public roads or public property
- Scatters refuse
- Obstructs traffic
- Is not licensed as required by this ordinance
- Is uncontrolled or running at large or
- Otherwise acts to create a nuisance or disturbance.

“Excessive barking” is frequent, habitual or persistent barking for periods longer than 60 minutes, unless after 10:00 pm. After 10:00 pm and before 7:00 am, “excessive barking” is frequent, habitual or persistent barking for periods longer than 30 minutes.

SECTION 4. DISTURBANCES AND NUISANCE

No dog or domestic animal shall run at large in the town.

No dog or domestic animal shall harass or attack other animals or people unless such animals or people are trespassing on the private property of the owner of the dog or domestic animal.

No dog or domestic animal shall cause damage real or personal property or steal personal property of someone other than the owner.

A female dog or other domestic animal in heat shall be confined to a building or other secured enclosure, except while under the direct control of the owner.

No person shall own, keep or harbor a dog or domestic animal which disturbs the quiet, comfort and repose of others by frequent, habitual or persistent barking, howling or excessive noise making of any kind.

The provisions of the sections pertaining to running at large and disturbing the peace 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
- running at large in order to herd or protect livestock or poultry or to protect crops.

SECTION 5. ANIMAL WASTE

The person in control of a dog or domestic animal which defecates in any public area or on the private property of another person shall immediately remove the fecal material and dispose of it in a sanitary manner. The owner of a dog or other domestic animal shall not allow waste from said animal to accumulate so that either a health or odor problem results.

SECTION 6. COLLAR AND LICENSE

By April 1 of each year, every owner of a dog over six months of age, within the Town of Pownal shall procure a license and shall provide proof of all inoculations for all dogs to be licensed.

Each dog shall be licensed according to the laws of this State and shall wear a collar or harness with the current license attached. A dog that is visiting from out of state must wear a collar or harness with a

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.

“Vicious dog or domestic animal” means a dog, wolf hybrid, or any domestic animal that, without being provoked, bites, severely injures or kills a human being while the dog is off the premises of the owner and for which medical attention is required. A dog can be classified as vicious if, after its owner is notified that the dog has been classified as potentially dangerous, continues the behavior that earned the first classification of “potentially vicious dog.”.

“Humane officer” or “officer” or “AHO” means:

(A) any enforcement officer as defined in 23 V.S.A. § 4(11)(A) or investigator employed by the Office of the Attorney General or State’s Attorney; or

(B) an individual who has received the training required by Title 13, section 356 of this title who is:

(i) a designated humane society employee; or

(ii) an animal control officer appointed by the legislative body of a municipality who is authorized by the legislative body to perform the duties and functions of a humane officer.

A Humane Officer:

- Is an ACO with additional authority and responsibility
- Is, by law, a law enforcement officer
- Is an ACO appointed by the legislative body AND given specific Humane Officer Duties
- Is obligated and authorized to perform the Humane Officer duties
- Shall investigate cruelty and neglect cases (training required as of 12/31/2023)
- Is authorized and empowered to seize abused and neglected animals per state law
Is authorized to accept animals voluntarily surrendered
- May apply for a search warrant for cases of animal cruelty

An Animal Control Officer or ACO:

- Is normally a civilian
- Is appointed formally by the legislative body (selectboard/city council/village board of trustees)
- Has limited duties as outlined by the appointing authority and law
- Is authorized to issue license violations
- Is authorized to enforce leash law / roaming violations
- Has the authority to make an inspection of pet dealer’s premises
- May seize unlicensed dog upon the issuance of a warrant by the legislative body

“Enforcement Officer” means any Town Constable, Police Officer, Animal Control Officer, Humane Officer, or any other person designated as an Enforcement Officer by the Selectboard.

“Nuisance animal” means any animal that:

- Makes excessive noise

current license from its home state attached. A dog that is found without a collar or harness and license shall be in violation of this Ordinance and may be immediately impounded.

SECTION 7. ENFORCEMENT

A violation of this Ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Bennington County Superior Court, at the election of the 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, any Enforcement Officer shall have authority to issue tickets and represent the Town at any hearing.

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.

SECTION 8. IMPOUNDMENT

Grounds for Impoundment. Any dog may be immediately impounded if the dog:

- has been determined by an Enforcement Officer to be a "potentially vicious dog or domestic animal," which presents an imminent danger to people or other animals;
- has reportedly bitten a person off the premises of its owner;
- is in violation of State licensing law;
- has an unknown rabies vaccination history or is suspected of having been exposed to rabies;
- is running at large;
- is an unconfined dog in heat; or
- is found without a collar or harness and license.

SECTION 9. NOTICE OF IMPOUNDMENT AND RELEASE FROM IMPOUNDMENT

Notice of Impoundment. 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 regular mail postage prepaid at the owner's last known address. Such notice shall inform the owner of the nature of the violations, the dog's location, and the necessary steps to have it returned to the owner.

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) calendar day period. The public notice shall include a description of the dog, including any significant marks of identification, and when and where it was impounded or found by the person placing the dog in the town's custody. The public notice must also declare that, unless the owner 1) claims the dog, 2) pays all expenses incurred by the town for treatment, boarding and care of the dog, and any applicable penalties, and 3) takes all necessary remedial action within ten (10) calendar days following posting, the town may transfer the dog to a humane society or rescue organization. If the dog cannot be placed transferred to a humane society or rescue organization, it may be destroyed in a humane way.

Release from Impoundment. 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 domestic animal or vicious dog or domestic animal

hearing if applicable, and after all necessary remedial action, as determined by the enforcement officer in consideration of the violation committed, is taken by the owner. Remedial action shall include, but is not limited to, such actions as providing a collar and current license; verification of certification of current vaccination against rabies; payment of all applicable fines or waiver fees; and proof of satisfactory successful completion of a program designed to improve the owner's understanding and execution of dog ownership responsibilities.

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) calendar 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 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.

SECTION 10. INVESTIGATION OF POTENTIALLY VICIOUS DOGS OR DOMESTIC ANIMAL AND/OR DOGS OR DOMESTIC ANIMALS WHICH HAVE BITTEN OR SERIOUSLY INJURED A PERSON.

A. Complaint. When a dog has bitten a person while the dog is 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, the name and address of the victim or victims, and any other facts that may assist the Selectboard in conducting its investigation.

B. Investigation and Hearing. The Selectboard, within seven (7) calendar 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. Protective Order. If, after a hearing on the matter, 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 the penalties provided in 20 V.S.A. § 3550.

D. Rabies suspect. The procedures provided in this section shall only apply if the dog is not a rabies suspect. If a member of the Selectboard or an Enforcement Officer determines that the dog is a rabies suspect, the Selectboard shall immediately notify the Town Health Officer who shall proceed in accordance with the Vermont Department of Health's rules. If the dog is deemed healthy, the terms and conditions set forth in the Selectboard's order shall be enforced.

SECTION 11. POTENTIALLY VICIOUS DOGS DOMESTIC ANIMALS.

A person claiming a dog is a "potentially vicious dog or domestic animal" 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, the name and address

of any victim or victims, and any other facts that may assist the Selectboard in conducting its hearing. Upon receipt of a "potentially vicious dog or domestic animal" complaint, the Selectboard shall proceed as in the case of a "vicious dog or domestic animal" complaint using Section 10 B.-D. above, 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. DISPOSITION OF UNCLAIMED DOMESTIC ANIMALS

If after seven days from the date of notice to the owner, an impounded domestic animal has not been redeemed by payment of all fines, fees and costs imposed under this Ordinance, the impounded animal may be 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.

SECTION 13. PENALTIES AND COSTS

1st Offense: warning or \$35 fine. Fines are doubled for each subsequent offence.

Potentially vicious dog or domestic animal and vicious dog or domestic animal fines are determined at the discretion of the Selectboard at the conclusion of their investigation of an incident.

The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance in the following amounts for each violation.

Impoundment costs are \$25.00 per day per animal.

The owner has the right to contest the alleged violation by requesting a hearing before the Selectboard. Such a request must be in writing and received by the Selectboard no more than 10 days from the date of the notice of violation.

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

The Selectboard may seek enforcement in Superior Court against a person who, after receiving notice, fails to comply with the terms of any order by the Animal Control Officer or the Selectboard .

Any owner whose domestic animal has been impounded for its initial third offense shall provide the Selectboard with proof of satisfactory completion of a responsible dog owner training course pre-approved by the Selectboard within six months of the anniversary date of the impoundment. Failure to provide such certification may result in forfeiture of the offending animal.

For purposes of calculating the sequence of offenses, offenses shall be counted against the owner.

Impoundment costs and pre-approved responsible owner training programs shall be set annually by the Selectboard.

SECTION 14. OTHER LAWS

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

SECTION 15. SEVERABILITY

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such findings shall not invalidate any other part of this ordinance.

SECTION 16. EFFECTIVE DATE

This ordinance shall take effect and be in full force sixty (60) days after its passage, unless a petition is filed as provided by 24 V.S.A. Section 1973 requiring a vote at an annual or special meeting. Such petition shall be filed within 44 days following adoption by the Select Board.

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

This Ordinance is hereby adopted by the Selectboard of the Town of Pownal, Vermont on this 30th day of November, 2023. It shall be printed in full in the minutes of the Selectboard, posted in five conspicuous places within the Town of Pownal and published once in the Bennington Banner within fourteen days of its adoption and shall become in full force and effect sixty days after the date of adoption subject to the right of petition as provided by law.



Michael Gardner, Chair



Angie Rawling, Vice Chair

Robert Jarvis

Jamie Harry Percy



Bryan Harris