

ANIMAL CONTROL ORDINANCE FOR THE TOWN OF JOHNSON

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ARTICLE I GENERAL PROVISIONS

- A. Title: All rules and regulations contained herein, together with such additions and amendments, as may be hereafter adopted, are hereby designated as the “Animal Control Ordinance for the Town of Johnson,” hereinafter referred to as “Ordinance.”
- B. Authority: This Ordinance is adopted pursuant to authority granted under 20 V.S.A. § 3549, 24 VSA §§ 2291 (10), (14), (15) and (21), and 24 V.S.A. Chapter 59.
- C. Purpose: The purpose of this Ordinance is to protect the health, safety, and welfare of the public, domestic pets, domestic animals, and wolf-hybrids of the Town by regulating the keeping of domestic pets, domestic animals, and wolf-hybrids and their running at large and by defining what constitutes a public nuisance.
- D. Inconsistent Provisions: This Ordinance is in addition to all other ordinances of the Town of Johnson and all applicable laws of the State of Vermont. All ordinances or parts of ordinances, resolutions, regulations, or other documents inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.
- E. Civil Ordinance: This Ordinance is designated as a civil ordinance in conformance with 24 VSA Section 1971(b).

ARTICLE II DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

Enforcement Officer shall mean the Town Health Officer, Town Deputy Health Officer, Town Constable, State Police Officer, Lamoille County Sheriff, any Deputy Lamoille County Sheriff, or any individual appointed by the Selectboard to fill the position of Animal Control Officer or Lead Animal Control Officer.

“Dog” means any member of the canine species. For purposes of this ordinance, this term, wherever used, shall also include “wolf-hybrids” and “working farm dogs” except where specifically exempted.

Domestic animal shall mean those animals defined by 6 V.S.A. 1151(2) as follows: rabbits, cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds (parrot family), ferrets, camelids, ratites (ostriches, rheas, and emus), reptiles and amphibians. The term does not include those species of amphibians native to Vermont. The term shall include cultured trout propagated by commercial trout farms.

Domestic pet shall mean any domestic dog, domestic cat, or European ferret (*Mustela putorius furo*) as defined in 20 V.S.A., Chapter 193, Section 3541.

ARTICLE II

DEFINITIONS - Continued

Humane disposal shall mean (a) humane euthanasia by a licensed veterinarian.

Humane Shelter shall mean an area of sufficient size to afford an animal protection from inclement weather, in particular rain and wind.

Keeper (See definition of Owner)

Owner shall mean any person who owns a domestic pet or wolf-hybrid and includes any person who has actual or constructive possession of the pet or wolf-hybrid. The term also includes those persons who provide feed or shelter to a domestic pet or wolf-hybrid. A person shall not be deemed to be the "Owner" of 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.

Person shall mean any individual, institution, public or Private Corporation, partnership or other legal entity.

Potentially vicious dog means 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 domestic animal; 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.

Public Nuisance shall mean any conduct which endangers life, health, or property or which reasonably annoys, injures, or disturbs, or intrudes upon the free use and comfortable enjoyment of public lands is a public nuisance, provided, however, such act is specifically enumerated and defined in this Ordinance. The following activities shall be deemed nuisances:

- A. A dog running at large in the Town.
- B. A dog that defecates on public property or on the private premises of a person that is not the dog's owner or keeper and whose owner does not immediately remove the fecal material and dispose of it in a sanitary manner.
- C. A female dog in heat not confined to a building or other secured enclosure, except while under the direct control of the owner.
- D. A dog that disturbs the quiet, comfort and repose of others by barking, whining, calling, or howling for a continuous period of 20 minutes or more. This regulation shall not apply to dogs in a kennel/boarding facility which has received a zoning permit under the municipal land development regulations. The zoning permit will govern the use of the kennel / boarding facility. The provisions of this section shall not apply to licensed working farm dogs if the working farm dog is barking in order to herd or protect livestock or poultry or to protect crops.

ARTICLE II

DEFINITIONS - Continued

Public Property shall mean 1) property owned by the municipality, county or state; 2) the area within 25' of the center line of the publicly traveled way or 3) within the bounds of the right-of-way or strip of land for public use as surveyed and recorded in the Town land records.

Running at large shall mean to move about without restraint, control or limitation as to property lines or areas, for example:

- A. A domestic pet or domestic animal on a public road within the Town is considered restrained if it is on a leash or by the owner's or keeper's side at all times and obedient to that person's commands.
- B. A wolf-hybrid that is running at large in violation of Article IV, Section F.
- C. Exceptions

The provisions of this section shall not apply to licensed working farm dogs if the working farm dog is running at large in order to herd or protect livestock or poultry or to protect crops.

Nothing in this Ordinance shall be construed to require: the restraint of cats or the restraint of any domestic pet or domestic animal while on private property by permission of the property owner or while in a vehicle. Nor shall this Ordinance restrict the use of dogs for lawful hunting or service animals.

Selectboard shall mean the Selectboard for the Town of Johnson.

Service animal shall mean any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability, as defined by 28 C.F.R. § 35.104

Sufficient food and clean water means access to appropriate nutritious food at least once a day which is sufficient to maintain good health and continuous access to potable water that is not frozen and is free from debris, feces, algae, and other contaminants.

Sufficient housing, including protection from the elements means constant and unfettered access to an indoor enclosure which:

- A. has a solid floor made of any natural or manmade material but which is dry at all times of the year; and
- B. is not stacked or otherwise placed on top of or below another animal's enclosure; and
- C. is cleaned of waste at least once daily while the animal is outside the enclosure; and
- D. maintains a temperature between 45 and 85 degrees Fahrenheit.

Sufficient space means having sufficient indoor space for each animal to turn in a complete circle without any impediments and being able to extend his or her limbs.

Town shall mean the lands within the municipal boundaries of the Town of Johnson.

ARTICLE II
DEFINITIONS - Continued

Town Clerk shall mean the elected Clerk for the Town of Johnson.

Wolf-hybrid shall mean those animals defined by 20 V.S.A., Chapter 193, Section 3541, as follows: an animal which is the progeny or descendant of a domestic dog (*Canis familiaris*) and a wolf (*Canis lupus* or *Canis rufus*). A Wolf-hybrid also means 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 III
APPLICABILITY OF ORDINANCE

- A. This Ordinance applies to all domestic pets and domestic animals found or kept within the Town of Johnson and the owners and keepers of those domestic pets and domestic animals.
- B. The owner or keeper of a domestic pet, domestic animal, or wolf-hybrid shall not allow such animal to become or remain a public nuisance as herein defined, or to be kept in violation of this Ordinance.
- C. Any domestic pet, domestic animal, or wolf-hybrid allowed to become or remain a public nuisance or kept in violation of this Ordinance as herein defined shall be in violation of the Ordinance and is subject to the provisions of this Ordinance.
- D. Nothing in this Ordinance shall be construed to restrict accepted agricultural practices or the use of hunting dogs when under the control of their owner and while assisting their keeper or owner.
- E. Nothing in this Ordinance shall be construed to restrict or prohibit service animals on public lands, town cemeteries or other areas when assisting their keeper or owner.

ARTICLE IV
LICENSING, KEEPING, AND IMMUNIZATION OF DOGS AND WOLF-HYBRIDS

- A. License Required: Annually on or before April 1st, it shall be the duty of every person within the Town owning a dog more than six months old to: (1) procure a license therefore in accordance with Chapter 193, Title 20 of the Vermont Statutes, (2) to cause the dog to wear a collar, and (3) to attach to the collar a current license tag.
- B. License Fee: The Town may charge a fee for dog licenses, as authorized by Chapter 193, Title 20 of the Vermont Statutes.
- C. Inoculation Against Rabies Required: The dog shall be inoculated against rabies as required in Chapter 193, Title 20 of the Vermont Statutes.
- D. License for Breeding: The owner or keeper of domestic pets kept for breeding purposes may take out annually, on or before April 1, a special license for the domestic pets or wolf-hybrids, as authorized by 20 V.S.A., Section 3583.

ARTICLE IV
LICENSING, KEEPING, AND IMMUNIZATION OF DOGS AND WOLF-HYBRIDS -
Continued

- E. Pet Dealer's Permit Required: A 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 must apply to the Town Clerk for a pet dealer's permit, as authorized by 20 V.S.A., Section 3681. A zoning permit may also be required to conduct such activities.
- F. Wolf-hybrid Enclosure Required: Except when in a cage or on a leash and not causing a danger or nuisance, a wolf-hybrid shall be confined within a proper enclosure consisting of:
 - 1. 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' high chain link fence with a 2' overhang and a chain link, concrete apron, or asphalt apron to prevent digging out and a catch pen to avoid escape and ease of veterinary care; or
 - 2. A humane shelter as recommended by a veterinarian for wolf-hybrids which may not meet the Sufficient Housing definition of this Ordinance.

ARTICLE V
ENFORCEMENT OFFICERS AND IMPOUNDMENT LOCATIONS

- A. Enforcement Officers shall investigate complaints of violation and enforce the provisions of this Ordinance.
- C. The Selectboard shall 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 VI
VIOLATIONS

- A. Animals. A domestic pet or domestic animal is hereby declared to be a public nuisance in violation of this Ordinance, in one or more of the following situations:
- 1. The dog has not been inoculated against rabies as required in 20 V.S.A. Chapter 193;
 - 2. The dog has not been licensed in accordance with 20 V.S.A. Chapter 193;
 - 3. The dog is not wearing a collar with its current license tag attached to the collar in accordance with 20 V.S.A. Chapter 193;
 - 4. The domestic pet (except domestic cat), domestic animal, or wolf-hybrid is running at large;

5. The domestic pet, domestic animal, or wolf-hybrid is causing damage to the property of anyone other than its owner, by:
 - a) Turning over garbage containers; or
 - b) Doing damage to gardens, flowers, shrubs or vegetables; or
 - c) Injuring or worrying people, domestic pets, or domestic animals.
7. The dog has defecated on private property other than that of its owner onto which the dog has not been invited or on Public Roads or public property (including parking areas, lawns, flower beds, parks, and sidewalks) and the dog owner does not remove the resulting material immediately and dispose of it in a sanitary manner;
8. The domestic pet (except domestic cat), while running at large, is chasing and/or snapping at pedestrians, joggers or runners, pets walked on a leash, bicyclists, vehicles, or riders on horseback;
9. The domestic pet or domestic animal is barking, whining, calling, or howling for a continuous period of 20 minutes or more. This regulation shall not apply to domestic pets, domestic animals, or wolf-hybrids in a kennel which kennel has received a zoning permit under the Town Zoning Regulations.
10. The wolf-hybrid is not:
 1. Confined within a proper enclosure; or
 2. In a cage; or
 3. On a leash.

- B. Person. A person shall be in violation of this Ordinance in any of the following situations:
1. Keeping or maintaining a domestic pet, domestic animal, or wolf-hybrid without sufficient food and clean water, sufficient housing, or sufficient space;
 2. Keeping or maintaining a domestic pet, domestic animal, or wolf-hybrid contrary to the conditions of a lawful order issued by the Selectboard under this Ordinance;
 3. Failure to obtain a pet dealers license, as required by Article IV E.

ARTICLE VII ENFORCEMENT

- A. The violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in Lamoille County Superior Court, at the election of the [*insert either "Selectboard" or "Enforcement Officer"*].
- B. 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.
- C. 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.
- D. When warranted by the circumstances, and before enforcing a violation in the Judicial Bureau or Superior Court, an Enforcement Officer may issue a verbal or written warning to the owner. Such warning may include a requirement to take corrective action within a prescribed period of time.

**ARTICLE VIII
PENALTIES**

A. Fines.

An Enforcement Officer is authorized to recover civil penalties in the following amounts for each violation:

- a. First offense \$ 50.00
- b. Second offense \$ 75.00
- c. Third offense \$100.00
- d. Fourth offense \$150.00
- e. Fifth and subsequent Offenses \$200.00

B. Waiver Fees.

An Enforcement Officer is authorized 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 below:

- a. First Offense \$ 25.00
- b. Second Offense \$ 37.00
- c. Third Offense \$ 50.00
- d. Fourth Offense \$ 75.00
- e. Fifth and Subsequent Offenses \$100.00

C. Sequence of Events, Multiple Violations. For purposes of determining the sequence of offenses, second, third, fourth, and fifth offenses shall be those that occur within the 12-month period of the anniversary day of the first offense. Each day in which any violation continues or occurs shall be deemed a separate offense. For purposes of calculating the sequence of offenses, offenses shall be counted against the owner rather than the animal and violations involving multiple animals shall be considered multiple violations.

D. Additional Fees and Costs. In addition to the waiver or the penalty fees that may be imposed, the Owner is responsible for all impoundment fees and impoundment costs, and any costs for any remedial action as required by the provisions of this Ordinance and/or any duly-adopted order of the Selectboard.

C. 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 occasioned by the Town, including reasonable legal expenses, by reason of such offense.

D. Actions to Prevent, Restrain or Abate Violation: 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 violation 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 public property, the Town shall have the power to take whatever action is necessary to correct such violations.

- E. Board of Health and Health Officer: Nothing in this Ordinance shall be construed to prevent the Local Board of Health or Health Officer from carrying out their duties as prescribed in 18 V.S.A. Chapter 11.

**ARTICLE IX
CONFINEMENT AND IMPOUNDMENT**

- A. Grounds for Impoundment. An Enforcement Officer is authorized to confine or impound any domestic pet, domestic animal, or wolf-hybrid which is:
 - 1. determined to be a "potentially vicious dog," which presents an imminent danger to people or other animals;
 - 2. has reportedly bitten a person on or off the premises of its owner;
 - 3. is in violation of State licensing law;
 - 4. is suspected of having been exposed to rabies;
 - 5. is believed to have been attacked by another animal which may be rabid;
 - 6. has been attacked by a wild animal;
 - 7. has an unknown rabies vaccination history; or
 - 8. is running at large.
- B. Notification of Impoundment. In the event that a domestic pet, including puppies less than 6 months old, or a domestic animal is confined or impounded, the owner, if known, shall be notified within 24 hours. 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 not known, notification shall be posted in the Town Clerk's Office, once on the Front Porch Forum email list serve, at least once via radio press release to WDEV and in two other posting places in the Town; all postings remaining for seven (7) continuous days. (20 V.S.A. § 3621 and 20 V.S.A. § 3806). Instead of holding at the Town's kennel facility, the Enforcement Officer may allow an animal shelter or adoption agency to take the animal for holding at their facility but not sooner than 24 hours from impoundment. The Enforcement Officer shall retain control of the confined or impounded animal whether at the kennel, shelter or agency during the entire 7 continuous days provided for notice to locate the owner. Following the seven-day posting, an unclaimed animal may be formally released, in writing, to a shelter or agency for adoption.
- C. Humane Disposal. A domestic pet or domestic animal may be humanely destroyed as allowed by State law and in the following circumstances:
 - 1. When an Enforcement Officer reasonably suspects that a confined or impounded domestic pet, domestic animal, or wolf-hybrid has been exposed to rabies or has been attacked by a rabid animal; or
 - 2. When the owner of the domestic pet, domestic animal, or wolf-hybrid that has been impounded is unclaimed within 10 days of the notification of the owner.

If the unclaimed domestic pet, domestic animal, or wolf-hybrid has been disposed of, the owner shall be liable for all costs incurred by the Town.

- D. Release from Impoundment. No confined or impounded domestic pet or domestic animal shall be released until all of the following criteria have been met:

ARTICLE IX
CONFINEMENT AND IMPOUNDMENT - Continued

1. all necessary licenses and vaccinations are obtained;
 2. all fees associated with the impoundment are paid in full by the owner;
 3. the final disposition of a hearing on a vicious dog or potentially vicious dog, if applicable; and
 4. all necessary remedial action that has been ordered 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.
- E. Forfeiture. If the owner of an animal impounded under the provisions of this Ordinance refuses to take the remedial action necessary to secure the animal'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 animal may be placed in an adoptive home, transferred to a humane society or rescue organization, or if the Town is unable to transfer the animal, it may be humanely destroyed. The owner of an animal that is transferred or humanely destroyed is responsible for all costs for the duration of its impoundment and any expenses associated with its transfer or humane disposal.
- F. Exception when rabies suspected. The procedures provided in this section shall only apply if the animal is not a rabies suspect. If an Enforcement Officer 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.

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

When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is on or off the premises of its owner or keeper, and the person bitten requires medical attention for the attack, investigation by an Enforcement Officer shall be done in accordance with the following procedures, pursuant to 20 V.S.A., Section 3546, as follows:

- A. When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is on or 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 Selectboard. 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 required by Section B below.
- B. The Selectboard, within seven days from receipt of a written complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the domestic pet 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 a copy of the complaint.

**ARTICLE X
INVESTIGATION OF A DOMESTIC PET OR WOLF-HYBRID
WHICH HAS BITTEN A PERSON - Continued**

- C. If the domestic pet or wolf-hybrid 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 or wolf-hybrid is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent by certified mail, return receipt requested. The Selectboard may seek enforcement in Superior Court against a person who, after receiving notice, fails to comply with the terms of the order.
- D. The procedures in this section shall only apply if the domestic pet or wolf-hybrid is not a rabies suspect. A current rabies certificate shall mean that the animal is not a rabies suspect, unless a member of the Selectboard or an Enforcement Officer determines that the animal is a rabies suspect based upon physical evidence or observation of the animal. If the animal is determined to be a rabies suspect, the provisions of Article XII, Management of Biting Animals, Animals Exposed to Rabies or Suspected of Being Infected & Impoundment of this Ordinance shall apply.

**ARTICLE XI
POTENTIALLY VICIOUS DOGS**

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, 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” complaint the Selectboard shall proceed as described under Article X (regarding bites that require medical attention) 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.

**ARTICLE XII
MANAGEMENT OF BITING ANIMALS, ANIMALS EXPOSED
TO RABIES OR SUSPECTED OF BEING INFECTED & IMPOUNDMENT**

- A. Application. The procedures provided in this Article shall apply to an animal that has bitten a human or has been exposed or potentially exposed to rabies.
 - B. Procedure. If an Enforcement Officer determines that an 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. Domestic pets, and domestic animals which have bitten a person, or have been exposed to rabies or are suspected of being infected with rabies shall be managed by the Health Officer or Deputy Health Officer in accordance with 20 V.S.A. 3801 and related Rules adopted by the Vermont Department of Health. Animals without current rabies
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**ARTICLE XII
MANAGEMENT OF BITING ANIMALS, ANIMALS EXPOSED
TO RABIES OR SUSPECTED OF BEING INFECTED & IMPOUNDMENT - Continued**

certificates shall be deemed to be suspected of being infected with rabies.

- C. Costs. All costs associated with the impoundment and management of the biting animal, rabies suspect animal, or rabies exposed animal shall be borne by the animal owner. If no owner is found, then the Town shall be responsible for the costs, and if at a later date, the owner is found, then those costs plus interest shall be the responsibility of the owner and reimbursed to the Town upon receipt of an invoice from the Town Treasurer.

**ARTICLE XIII
SEVERABILITY, AMENDMENTS**

If any portion of this Ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

**ARTICLE XIV
EFFECTIVE DATE**

This Ordinance shall become effective 60 days after its adoption by the Selectboard, unless a petition is filed under 24 V.S.A. § 1973, in which case that statute shall govern the taking effect of this Ordinance.

Read and adopted at the _____, 2017 Selectboard Meeting

Posted in 5 places on _____, 2017, such locations being:

Johnson Municipal Office
Johnson Public Library
Johnson Elementary School
Johnson Post Office
Downtown Pizzeria & Pub

Published in the News and Citizen on _____, 2017; within 14 days of adoption.

Adopted this _____ day of _____, 20____.

SELECTBOARD SIGNATURES

