

TOWN OF BENSON, VERMONT
NOTICE OF ADOPTION OF ORDINANCE

On January 11, 2021, the Selectboard of the Town of Benson, Vermont, adopted "The Town of Benson Dog Ordinance" replacing the existing "Town of Benson Ordinance for Animal Control". This notice is published pursuant to 24 V.S.A. § 1972 to inform the public of this Dog Ordinance and of the citizens' right to petition for a vote to disapprove the Ordinance provisions.

SUMMARY OF ORDINANCE

Statement of Purpose:

The purpose of the Dog Ordinance is to regulate the keeping of Dogs in the Town of Benson and to provide for their licensing, leashing, muzzling, restraint, impoundment, and destruction, so as to protect the public health, safety, and welfare of the Town and the quiet enjoyment of its residents' homes and properties.

Principal Provisions:

- Section 1: Purpose and Authority
- Section 2: Definitions
- Section 3: Collar and License
- Section 4: Neglected Dogs
- Section 5: Nuisance Dogs
- Section 6: Potentially Vicious Dogs
- Section 7: Vicious Dogs
- Section 8: Impoundment
- Section 9: Civil Penalty; Other Enforcement
- Section 10: Other Laws
- Section 11: Severability
- Section 12: Repeal
- Section 13: Effective Date

FULL TEXT

The full text of the Ordinance may be examined at the Benson Town office at 2760 Stage Road, Benson during regular office hours.

CITIZENS' RIGHT TO PETITION FOR VOTE

Title 24 V.S.A. § 1973 grants citizens the right to petition for a vote at a special or annual Town Meeting to disapprove the ordinance provisions adopted by the Selectboard. To exercise this right, citizens must present to the Selectboard or the Town Clerk a petition for a vote on the question of disapproving the ordinance signed by not less than five percent (5%) of the Town's qualified voters. The petition must be presented within forty-four (44) days following the date of the adoption of the ordinance. Unless a petition requesting a vote is filed pursuant to 24 V.S.A. § 1973, the Town of Benson Dog Ordinance shall become effective sixty (60) days from the date of said adoption.

PERSON TO CONTACT

Additional information pertaining to this Ordinance may be obtained by contacting Daphne Bartholomew, Town Clerk at 2760 Stage Road, Benson, Vermont 05743, or by calling (802) 537-2611 during regular office hours.

TOWN OF BENSON, VERMONT

DOG ORDINANCE

1. Purpose and Authority

This Ordinance is adopted by the Selectboard of the Town of Benson under the authority of 20 V.S.A. § 3549 and 24 V.S.A. §§2291(10), (14), and (15). The purpose of this Ordinance is to regulate the keeping of Dogs in the Town of Benson and to provide for their licensing, leashing, muzzling, restraint, impoundment, and destruction, so as to protect the public health, safety, and welfare of the Town and the quiet enjoyment of its residents' homes and properties. This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

2. Definitions

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

Dog means any member of the canine species. For purposes of this Ordinance, this term, wherever used, shall also include Wolf Hybrid.

Enforcement Officer means any Town Constable, Police Officer, Animal Control Officer, Humane Officer, or any other person designated an Enforcement Officer under this Ordinance by the Benson Selectboard.

Impoundment Expenses means expenses incurred for the impoundment of a Dog, including but not limited to boarding, food, and veterinary expenses.

Owner means any person who owns a Dog or has actual or constructive possession of a Dog. The term also includes those persons who provide food and shelter to a Dog.

Remedial Action means the action of an Owner of a Dog necessary to cure a violation of this Ordinance and to release the Dog from impoundment. Remedial Action may include an agreement to complete a responsible dog owner training course approved by the Selectboard within six (6) months of the date of impoundment.

Running at Large means a Dog off the premises of the Owner and not under the control of the Owner, a member of the Owner's family, or an agent of the Owner, either by leash, cord, chain, or otherwise within control of such person so that the Dog will not cause injury, damage, disturbance, or annoyance.

Wolf Hybrid means an animal which 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 which is advertised, registered, licensed, or otherwise described or represented as Wolf Hybrid by its owner or an animal which exhibits primary physical and behavioral wolf characteristics.

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 under 20 V.S.A. §3581(a).

3. Collar and License

(A) All Dogs shall be licensed in accordance with 20 V.S.A. §§3581 and 3582, or the laws of the state in which the Dog is regularly kept. Any Dog that is not so licensed shall be an Unlicensed Dog. All Dogs shall wear a collar or harness with the current license attached.

(B) The failure of persons to timely license Dogs in accordance with Vermont law presents a risk to public safety and causes undue administrative burden and expense to the Town of Benson and is hereby declared a public nuisance under 24 V.S.A. §2291(14). To abate this public nuisance and reimburse the Town for the expense of processing late license applications, any owner of an unregistered Dog shall be assessed an additional penalty when the Selectboard turns the list of known unregistered Dogs to an Enforcement Officer. The penalty shall be as follows:

\$20.00 for the first Dog
\$ 5.00 for each additional Dog

4. Neglected Dogs

All Dogs shall be furnished with clean and safe facilities sufficient to protect the Dog and the public health. Owners shall provide their Dogs with adequate food, adequate water, and adequate shelter, as defined in 13 V.S.A. §351. Any Dog determined by an Enforcement Officer to be without adequate food, water, or shelter shall be deemed a Neglected Dog.

5. Nuisance Dogs

(A) An Owner of a Dog shall not allow, permit, or suffer such Dog to create a nuisance. The following shall be deemed a Nuisance Dog:

1. A Dog that is Running at Large.
2. A Dog that defecates in any public area or on the private premises of another person and whose Owner does not immediately remove the fecal material and dispose of it in a sanitary manner.
3. A female Dog in heat not confined to a building or other secured enclosure, except while under the direct control of the Owner.
4. A Dog that disturbs the quiet, comfort and repose of others by barking, whining, calling, or howling for a continuous period of thirty (30) minutes or more.

(B) The provisions of this section pertaining to Running at Large and disturbing the quiet, comfort and repose of others shall not apply to a Working Farm Dog 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.

6. Potentially Vicious Dogs

(A) When a Dog, without provocation, while off the premises of its Owner or keeper: (1) has bitten a person and the person bitten does not require medical attention; (2) causes a person to reasonably fear attack or bodily injury; (3) causes damage to a person's property; or (4) chases, threatens to attack, or attacks a domestic pet or animal owned by a person, 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.

(B) Upon receipt of a Potentially Vicious Dog complaint, the Selectboard shall proceed with an investigation and hearing under Section 7 as in the case of a Vicious Dog complaint. If, after a hearing, the Selectboard finds the Dog to be a Potentially Vicious Dog, the Selectboard shall make such order for the protection of persons as the facts and circumstances of the case may require, including that the Dog be muzzled, chained, or confined; however, a Potentially Vicious Dog shall not be destroyed.

7. Vicious Dogs

(A) 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. 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) 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 the 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. If the certified mail is returned unclaimed, the order may be delivered personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure. 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) The procedures provided in this section shall only apply if the Dog is not a rabies suspect. If an Enforcement Officer or Selectboard member 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.

8. Impoundment

(A) An Enforcement Officer may impound any Unlicensed Dog, Neglected Dog, Nuisance Dog, Potentially Vicious Dog, or Vicious Dog. Within twenty-four (24) hours after impounding such Dog, the Enforcement Officer shall give notice to the Owner, informing the Owner of the violation and the Remedial Action necessary to release the Dog from impoundment. If the Owner of the Dog is unknown, the Enforcement Officer shall, within twenty-four (24) hours of impoundment, post a notice in the Town Clerk's office and three (3) public places in the Town. The posted notice shall include a description of the Dog, the time and place the Dog was found or impounded, and the name, address and telephone number of the Enforcement Officer. The notice shall be posted for ten (10) days.

(B) An impounded Dog shall be released to the Owner only after completion of all Remedial Action, payment of all Impoundment Expenses, and the final disposition of a Potentially Vicious Dog or Vicious Dog hearing, if applicable. If a Dog is not claimed from impoundment, or the Owner gives notice to the Enforcement Officer of forfeiture of ownership, or the Owner fails to take the Remedial Action required to secure the Dog's release or fails to pay all Impoundment Expenses, the Dog may be placed in an adoptive home, transferred to a humane society or rescue organization, or humanely destroyed. In such case, the Owner shall remain liable for all Impoundment Expenses.

9. Civil Penalty; Other Enforcement

(A) Any Owner who keeps an Unlicensed Dog, Neglected Dog, Nuisance Dog, Potentially Vicious Dog, or Vicious Dog shall be subject to a Civil Penalty of up to \$500.00 per day, for each day constituting a new offense that such violation continues. An Enforcement Officer shall be authorized to act as an issuing municipal official to issue and pursue before the Judicial Bureau a municipal complaint. Each day a

violation continues shall constitute a separate violation. An Enforcement Officer is authorized to recover Civil Penalties and Waiver Fees in the following amounts for each violation:

	<u>Civil Penalty</u>	<u>Waiver Fee</u>
First Offense	\$ 50.00	\$35.00
Second Offense	\$200.00	\$150.00
Third Offense	\$300.00	\$225.00
Fourth Offense	\$400.00	\$300.00
Fifth and Subsequent Offenses	\$500.00	\$375.00

(B) In addition to the enforcement procedures available before the Judicial Bureau, the Selectboard may commence a civil action in Superior Court to obtain injunctive or other appropriate relief and may pursue any other remedy authorized by law.

10. Other Laws

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

11. 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.

12. Repeal

The "Town of Benson Ordinance for Animal Control," adopted April 7, 2008, is hereby repealed.

13. Effective Date

This Ordinance shall become effective sixty (60) days after adoption by the Town of Benson Selectboard. If a petition is filed under 24 V.S.A. §1973, that statute shall govern the taking effect of this Ordinance.

Adopted this 11th day of January, 2021.

Town of Benson Selectboard

Guy Charlton, Selectboard Chair
Brad Barrett
Gina Cull

John Hill
Robert St. Peter

Agenda item at regular Selectboard meeting held on December 28th, 2020.

Read and approved at regular Selectboard meeting on January 11th, 2021 and entered in the minutes of that meeting which were approved on _____, 2021.

Posted in public places on Benson Town Office, Wheel Inn, G&L, Library and Transfer Station.

Notice of adoption published in the Rutland Herald newspaper on _____, 2021 with a notice of the right to petition.