

**AN ORDINANCE AMENDING REGULATIONS OF DOGS AND CATS AND  
ESTABLISHING VICIOUS AND/OR POTENTIALLY DANGEROUS DOG REGULATIONS  
OF THE TOWNSHIP OF FRANKLIN**

**O-22-08**

**WHEREAS**, the Township Committee is desirous of amending Chapter 151 of the Code of the Township of Franklin to better regulate the ownership and possession of dogs and cats throughout the Township; and

**WHEREAS**, after due deliberation and consultation with the Clerk, Administrator and Solicitor, the Township Committee has determined that the following revisions and amendments to Chapter 151 of the Franklin Township Code are necessary and appropriate.

**NOW, THEREFORE**, the Township Committee of the Township of Franklin, in Gloucester County, New Jersey, does hereby adopt and enact the following amendments to Chapter 151 of the Township's Code:

§151-1. Definitions.

Animal Control Officer – shall mean an employee or appointee of the Gloucester County Animal Control whose specific duties include the enforcement of State statutes and local ordinances relating to animals and all references to Animal Warden within this Code are hereby replaced with Animal Control Officer.

Animal Shelter – shall mean an establishment for the confinement of any animals seized under the provisions of this Ordinance and all references to “Pound” and “Shelter” within this Code are hereby replaced with Animal Shelter.

Owner – shall mean any person offering or allowing access to food, water, or shelter to an animal for more than fifteen (15) days).

Pound – this definition should be deleted in its entirety.

Shelter – this definition should be deleted in its entirety.

§151-18 is amended so that the wording “maintenance not exceeding \$0.50 per day,” is deleted and replaced with “maintenance as charged by the Gloucester County Animal Shelter.”

§151-20 is amended so that the wording “two or more persons” is deleted.

§151-23 deleted in its entirety.

§151-26 deleted in its entirety.

§151-27 is amended so that the wording “penalty of not more than \$50” is deleted and replaced with “penalty of at least \$100 but not to exceed \$1,000”.

§151-29 A. is amended so that the wording “other than cats” is deleted and replaced at the end of the paragraph with “Cats shall be permitted to run at large provided they have been altered/sterilized and they do not create/cause a nuisance or property destruction.”

§151-32 is amended so that the wording “all swine, goats, cattle, horses, rabbits, ducks, geese, pigeons, chickens or other animals” is deleted and replaced with “all livestock, poultry and other animals traditionally raised for food, fiber, fur, or other production means.”

§151-33 A. is amended so that the wording “all swine, goats, cattle, horses, rabbits, ducks, geese, pigeons, chickens or other animals” is deleted and replaced with “all livestock, poultry and other animals traditionally raised for food, fiber, fur or other production means.”

§151-34 is amended so to add (in italics), “This five-day minimum is waived in the case of an imminent public health hazard, as determined by the Board of Health, or its agents or employees, *or if an imminent health hazard exists to the animal(s).*”

§151-35 is amended so that the wording “swine, goats, cattle, horses, rabbits, ducks, geese, pigeons, chickens, or animals” is deleted and replaced with “all livestock, poultry and other animals traditionally raised for food, fiber, fur or other production means.”

§151-37-38 deleted in their entirety.

§151-39. Definitions.

Animal Control Officer – shall mean an employee or appointee of the Gloucester County Animal Control who holds a certification in good standing from The New Jersey Department Of Health and Senior Services whose specific duties include the enforcement of State statutes and local ordinances relating to animals and all references to Animal Control Authority within this Code are hereby replaced with Animal Control Officer.

Neutered – this definition should be deleted in its entirety.

Owner – shall mean any person offering or allowing access to food, water, or shelter to an animal for more than fifteen (15) days.

Sterilized/altered – Rendered permanently incapable of reproduction as certified by a licensed veterinarian.

§151-40 shall be amended so that the title is “Mandatory treatments for Cats.” Section G shall be added and shall read as follows: All cats that shall be permitted to roam at large must be altered/sterilized. Failure to comply with this provision shall result in the assessment of penalties as further outlined in §151-41.

### **§151-37 Vicious and/or Potentially Dangerous Dogs.**

#### **1. Definitions.**

**Potentially Dangerous Dog** shall mean any dog or dog hybrid declared potentially dangerous by the Franklin Township Municipal Court or another municipal court pursuant to N.J.S.A. 4:19-23.

**Vicious dog** shall mean any dog or dog hybrid declared vicious by the Franklin Township Municipal Court or another municipal court pursuant to N.J.S.A. 4:19-22.

#### **2. Seizure and Impoundment of a Dog by Animal Control Officer.**

(a) The Animal Control Officer shall be empowered to seize and impound a dog when the Officer has reasonable cause to believe a dog has caused bodily injury, physical threat or has engaged in dog fighting activities as defined by N.J.S.A. 2C:11-1 and/or N.J.S.A. 4:22-24-26 or

(b) The dog has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.

(c) Any dog seized shall be kept until the final disposition as to whether the dog is vicious or potentially dangerous. Subject to the approval of the municipal court, the dog may be kept in an animal control facility or other structure if agreed by the owner and the animal control officer.

#### **3. Notice of Seizure and Impoundment; Determination of Identity of Owner; Notice of Hearing; Return of Statement by Owner; Destruction of Dog.**

(a) The Animal Control Officer shall notify the municipal court immediately that he has seized and impounded a dog pursuant to this subsection and N.J.S.A. 4:19-19, or that he has reasonable cause to believe that a dog has killed another domestic animal and that a hearing may be required if requested by the owner. The Animal Control Officer shall make a reasonable effort to attempt to determine the identity of the owner of any dog seized, and if its owner can not be identified within seven (7) days, that dog may be humanely destroyed.

(b) Within three (3) working days of the determination of the identity of the owner of the dog seized, the Animal Control Officer shall notify, by certified mail, return receipt requested, the owner concerning the seizure and impoundment of his or her dog and advising that if the owner wishes, a hearing will be held to determine whether the dog is vicious or potentially dangerous. This notice shall also require that the owner return within seven (7) days, by certified mail or hand delivery, a signed statement indicating whether the owner wishes the hearing to be conducted or, if not, to relinquish ownership of the dog, in which case the dog may be humanely destroyed. If the owner cannot be notified by certified mail, return receipt requested, or refuses to sign for the certified letter, or does not reply to the certified letter with a signed statement within seven (7) days of receipt, the dog may be humanely destroyed.

#### **4. Settlement Agreement.**

Nothing herein contained shall prevent the application of N.J.S.A. 4:19-17 regarding a settlement between the municipality and the owner of a dog seized upon such terms as may be mutually agreed upon. Should a settlement agreement be entered into, the Judge, exercising his own discretion, may modify any conditions of such which he deems necessary. No employee of the municipality nor the municipality itself shall have any liability by virtue of having entered into any settlement in accordance with N.J.S.A. 4:19-17 et seq.

## **5. Finding to Declare Dog Vicious.**

(a) The Franklin Township Municipal Court shall declare the dog vicious if it finds by clear and convincing evidence that the dog caused serious bodily injury as defined at N.J.S.A. 2C:11-1(b) or has engaged in dog fighting activities as described in N.J.S.A. 4:22-24 and 4:22-26. A dog shall not however be declared vicious for inflicting serious bodily injury if the dog was provoked, and the municipality shall bear the burden of proof that the dog was not provoked.

## **6. Appeal.**

No dog shall be destroyed pending an appeal of the municipal court's decision pursuant to N.J.S.A. 4:19-25. If however no appeal has been taken, the dog shall be destroyed in a humane and expeditious manner.

## **7. Liability of Owner for Costs.**

The liability of owners for costs of impoundment and destruction shall be governed by N.J. S.A. 4:19-26.

## **8. Potentially Dangerous Dogs-Order and Schedule for Compliance; Conditions.**

If the municipal court declares the dog to be potentially dangerous, the Court shall issue and order a compliance schedule pursuant to N.J.S.A. 4: 19-24.

## **9. Finding to Declare Potentially Dangerous.**

The municipal court shall declare a dog to be potentially dangerous if it finds by clear and convincing evidence that the dog caused bodily injury as defined by N.J.S.A. 2C:11-1(a) to a person during an unprovoked attack and poses a serious threat of bodily injury; severely injured or killed another domestic animal and poses a threat of serious bodily injury to a person or poses a threat of death to another domestic animal; or has been trained, tormented, badgered, baited, or encouraged to engage in unprovoked attacks upon persons or domestic animals. A dog shall not be declared potentially dangerous if having caused bodily injury as a result of being provoked or severely injuring or killing a domestic animal if the domestic animal was the aggressor. The municipality shall bear the burden of proof to demonstrate that the dog was not provoked.

## **10. Order and Schedule for Compliance for Potentially Dangerous Dog.**

If the municipal court declares the dog to be potentially dangerous it shall issue an order and a schedule for compliance requiring the following:

(a) The owner shall apply at his own expense to the municipal clerk or other official designated to license dogs for a special municipal potentially dangerous dog license, municipal registration number, and red identification tag issued pursuant to N.J.S.A. 4:19-30. The owner shall at his own expense have the registration number tattooed upon the dog in a prominent location. A potentially dangerous dog shall be impounded until the owner obtains a "municipal potentially dangerous dog license", "municipal registration number" and "red identification tag". In addition to any license fee required pay a potentially dangerous dog license fee to the Township of Franklin in the amount of \$500.00 per year.

(b) The owner shall display a conspicuous sign on his premises warning that a potentially dangerous dog is on the premises and said sign shall be visible and legible from fifty (50) feet of the enclosure required under paragraph (c) following.

(c) The owner shall immediately erect and maintain an enclosure for the potentially dangerous dog on his property where the dog will be kept and maintained. The enclosure shall have sound sides, top and bottom to prevent the dog from escaping by climbing, jumping or digging and shall include an entry way with a fence of at least six (6) feet in height separated by at least three (3) feet from the confined area. The owner shall securely lock the enclosure to prevent the entry of the general public or escape of a dog. If removed from the enclosure, the dog shall be securely muzzled and restrained with a tether approved by the Animal Control Officer and having a minimum tensile strength in excess of that required to restrict the dog's movement to a radius of no more than three (3) feet from the handler.

(d) The owner shall be required to maintain liability insurance in an amount determined by the municipal court to cover any damage or injury caused by the potentially dangerous dog. Said insurance shall also contain a provision naming the municipality as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

## **11. Appeal Procedure.**

The owner of a dog or the Animal Control Officer may appeal any decision, order or judgment of the municipal court to the Superior Court Law Division as provided under N.J.S.A. 4:19-25.

## **12. Right to Convene Hearing for Subsequent Action of Dog.**

If the municipal court finds that the dog is not vicious or potentially dangerous, the municipal court shall retain the right to convene a hearing to determine whether the dog is vicious or potentially dangerous for any subsequent action of the dog.

## **13. Duties of Owner of Potentially Dangerous Dog.**

The owner of a potentially dangerous dog shall:

(a) Comply with all provisions of this Ordinance and N.J.S.A. 4:19-17 et seq., in accordance with a schedule established by the municipal court but in no case more than sixty (60) days subsequent to the date of determination;

(b) Notify the Franklin Township Police Department and the Animal Control Officer if a potentially dangerous dog is at large or has attacked a human being, attacked or killed a domestic animal;

(c) Notify the licensing authority and Franklin Township Police Department and the Animal Control Officer within 24 hours of the death, or 24 hours prior sale or donation of a potentially dangerous dog;

(d) At least 24 hours prior to the selling or the donating of the dog, inform the prospective owner that the dog has been declared potentially dangerous;

(e) Upon sale or donation of the dog, notify the Police Department, licensing authority and Animal Control Officer of the municipality to which the dog shall be transferred of the new owners name, address and telephone number;

(f) In addition to any license fee required pay a potentially dangerous dog license fee to the Township of Franklin in the amount of \$500.00 per year.

**14. Violations.**

Among any other penalties as may be provided by N.J.S.A. 4:19-17 et seq., the owner of a potentially dangerous dog who is found by clear and convincing evidence to have violated this ordinance or any rule or regulation adopted or to have failed to comply with a court's order shall be subject to a fine of not less than \$1,000.00 per day for such violation and each day's continued violation shall constitute a separate and distinct violation. The municipal court shall have jurisdiction and an Animal Control Officer is authorized to seize and impound any potentially dog whose owner fails to comply with the provisions hereunder or N.J.S.A. 4:19-17 et seq. or any rule or regulation adopted pursuant thereto including a court's order. The municipal court shall have the power to order that the dog so seized and impounded may be destroyed in an expeditious and humane manner.

**15. Inspection to Determine Compliance.**

The Animal Control Officer shall inspect the enclosure and the owner's property at least monthly to determine continuing compliance with this ordinance and N.J.S.A. 4:19-17 et seq.

**16. Fees and Fines.**

All fees and fines collected by the Township of Franklin shall be deposited in a special account to be used to administer and enforce the provisions of this Act.

**17. Provisions.**

The provisions of this Act shall not apply to dogs used for law enforcement activities.

Introduced: August 26, 2008

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| YES     |  |  |  |  |  |
| NO      |  |  |  |  |  |
| ABSTAIN |  |  |  |  |  |
| ABSENT  |  |  |  |  |  |

Public Hearing Held:

Adopted:

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| YES     |  |  |  |  |  |
| NO      |  |  |  |  |  |
| NO      |  |  |  |  |  |
| ABSTAIN |  |  |  |  |  |

**NOTICE**

The above ordinance was introduced and passed on first reading at the meeting of the Township Committee of the Township of Franklin in the County of Gloucester held on the 26th day of August, 2008 and will be considered for final passage at a meeting to be held by the Township Committee at 8 p.m. on the    day of    , 2008 at which time and place any person interested will be given an opportunity to be heard.

ATTEST:

TOWNSHIP OF FRANKLIN

\_\_\_\_\_  
CAROLYN K. TOY, CLERK

\_\_\_\_\_  
FRANK SCAVELLI, MAYOR

**CERTIFICATION**

I, CAROLYN TOY, Clerk of the Township of Franklin, County of Gloucester, do hereby certify that the foregoing ordinance was introduced at a regular meeting of the Township of Franklin held on Tuesday, August 26, 2008, and thereafter duly advertised in the legal newspaper of the Township at least 10 days prior to it being considered for final passage and adoption at a subsequent meeting to be held on Tuesday,    , 2008, at which time any person interested therein will be given an opportunity to be heard.

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CAROLYN TOY, Clerk