

# Town of St. Albans

## ANIMAL CONTROL ORDINANCE

### SECTION 1. AUTHORITY

This ordinance is adopted by the Selectboard of the Town of St. Albans under authority of 20 V.S.A. § 3549, 24 V.S.A. § 2291 (10), (14), (15), and 24 V.S.A. Chapter 59.

### SECTION 2. PURPOSE

The purpose of this Ordinance is to protect the health, safety, quiet enjoyment, and welfare of the public of the Town by regulating the keeping of dogs, domestic pets and domestic animals.

### SECTION 3. DEFINITIONS

For purposes of this ordinance, the following words and/or phrases shall apply:

“Enforcement Officer” means the Town of St. Albans Animal Control Officer, Town of St. Albans Assistant Animal Control Officer, Town of St. Albans Health Officer, Town of St. Albans Deputy Health Officer, Town of St. Albans Constable, Vermont State Police Officer, Franklin County Sheriff or any Deputy, and St. Albans City Police Officer, or any other individual designated as an enforcement officer by the Selectboard.

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

“Domestic animal” means rabbits, cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus) and reptiles. The term does not include those species of amphibians native to Vermont.

“Domestic pet” means domestic dogs, cats and ferrets. The term shall also include such other domestic animals as the Secretary of Agriculture, Food and Markets shall establish by rule.

“Nuisance animal” means an animal, the conduct, keeping or maintenance of which is in violation of any section of this Ordinance or applicable Vermont statute (20 V.S.A. Chapters 191 and 193)

“Owner” means any person who has actual or constructive possession of, or those persons who provide food and shelter to a domestic animal or domestic pet.

“Running at large” means a domestic animal or domestic pet not:

1. on a leash;
2. in a vehicle;
3. on the owner’s property;
4. on the property of another person with that person’s permission;
5. clearly under the verbal or non-verbal control of the owner; or
6. a dog hunting with the owner.

Exception: Nothing in this Ordinance shall be construed to require the restraint of cats.

“Town Pound” means the facility which the Selectboard has contracted for impoundment and disposal of dogs pursuant to this ordinance.

“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 animal as defined in 20 V.S.A. § 3541; 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.

“Wolf hybrid” means:

1. An animal which is the progeny of a dog and wolf (*Canis lupus* or *Canis Rufus*);
2. An animal which is advertised, registered, licensed or otherwise described or represented to be a wolf hybrid; or
3. An animal which exhibits primary physical and/or behavioral wolf characteristics.

#### **SECTION 4. APPLICABILITY OF ORDINANCE**

- A. No person owning a domestic pet or domestic animal shall allow such animal to become or remain a public nuisance as herein defined, or to be kept in violation of this Ordinance.
- B. Any domestic pet or domestic animal 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 5. NUISANCES**

An owner of a domestic animal or domestic pet shall not allow, permit, or suffer such animal to create a nuisance. The following activities shall be deemed nuisances:

### **Nuisance One**

1. An owner and/or person in control of a dog who fails to immediately remove and sanitarily dispose of fecal material of a dog which defecates in any public area (i.e., Bay Park, Cohen Park or Hard'Ack) or on the private property of another person.

### **Nuisance Two**

1. A dog that disturbs the quiet, comfort and repose of others, by frequent, habitual, or persistent barking or howling lasting more than one hour. This provision shall not apply to working farm dogs barking in order to herd or protect livestock or poultry or to protect crops.
2. A dog that disturbs trash and/or waste containers.

### **Nuisance Three**

1. A domestic animal or dog running at large in the town. This provision shall not apply to working farm dogs running at large in order to herd or protect livestock or poultry or to protect crops.
2. A domestic animal or domestic pet which harasses or attacks other domestic pets, domestic animals or people, unless such animal or people are trespassing on the private property of the owner.
3. A female dog in heat which is unconfined to a building or other secured enclosure unless under direct control of the owner.
4. A dog that is determined by an Enforcement Officer to be a "vicious dog."

## **SECTION 6. COLLAR AND LICENSE**

- A. Each dog shall be licensed according to the laws of this state and shall wear a collar or harness with the current license attached. An animal which is visiting from out of state must wear a collar or harness with a current license from its home state attached.
- B. A dog which is found without a collar or harness and license may be immediately impounded.

## **SECTION 7. HUMANE CARE OF DOGS**

All dogs shall be furnished with clean and safe facilities sufficient to protect the animal and the public health. Any dog determined by the Enforcement Officer to be without such clean and safe facilities may be impounded.

**SECTION 8. PENALTY, ENFORCEMENT AND WAIVER FEES**

A violation of this Ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Franklin County Superior Court, at the election of the Enforcement Officer. Each day that a violation continues shall constitute a separate violation of this Ordinance.

A. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. 1974a and 1977. A civil penalty of not more than \$800 per violation may be imposed for violation of this Ordinance.

1. For purposes of enforcement in the Judicial Bureau, the Enforcement Officer shall be the designated enforcement officer. Said designee shall issue tickets and may be the appearing officer at any hearing.
2. The Enforcement Officer is authorized to recover civil penalties for violations of this Ordinance in the following amounts for each violation:

Nuisance One, 1st Offense:	\$50 or warning	Waiver Fee: \$25
Nuisance One, 2nd Offense:	\$100	Waiver Fee: \$50
Nuisance One, 3rd Offense:	\$200	Waiver Fee: \$100
Nuisance One, 4th & Subsequent Offense:	\$300	Waiver Fee: \$150
Nuisance Two, 1st Offense:	\$100 or warning	Waiver Fee: \$50
Nuisance Two, 2nd Offense:	\$200	Waiver Fee: \$100
Nuisance Two, 3rd Offense:	\$300	Waiver Fee: \$150
Nuisance Two, 4th & Subsequent Offense:	\$400	Waiver Fee: \$200
Nuisance Three, 1st Offense:	\$200 or warning	Waiver Fee: \$100
Nuisance Three, 2nd Offense:	\$400	Waiver Fee: \$200
Nuisance Three, 3rd Offense:	\$600	Waiver Fee: \$300
Nuisance Three, 4th & Subsequent Offense:	\$800	Waiver Fee: \$400

For purposes of determining the sequence of offenses, second, third and fourth offenses within the same classification shall be those that occur within the 12-month anniversary day of the first offense. Any offense of the same classification occurring after the 12-month period shall be considered a new first offense.

The 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.

B. 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. In addition, a civil penalty of not more than \$800 per violation may be imposed for violations of this Ordinance.

## **SECTION 9. INVESTIGATION OF VICIOUS DOGS**

- A. When a dog has bitten a person while the dog is 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 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. The Selectboard, within seven (7) 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 the facts of the complaint.
- C. If the dog is found to have bitten the victim without provocation, the municipal officials 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. 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 a member of the Selectboard or a municipal official designated by the Selectboard 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.

## **SECTION 10. IMPOUNDMENT**

- A. Any dog which is determined by the Animal Control Officer to be a vicious dog, which presents an imminent danger to people or other domestic pets or domestic animals, is a dog that has been running at large, is a dog in violation of state licensing law or 20 V.S.A. 3806, shall be immediately impounded. Upon impounding any dog, a record shall be made by the Enforcement Officer of the breed, color, and sex of the animal, where it was apprehended, and address of the owner, if known, and whether or not it was licensed. The record of the impounding officer shall be filed at the Town Clerk's Office.
- B. Any dog which is apprehended for a third or subsequent violation of any provision of this ordinance shall be impounded.
- C. The Enforcement Officer who impounds a dog shall, within 24 hours, post at the Town Clerk's office a notice and give notice to the owner thereof, either personally, by telephone, or by written notice at the owner's dwelling. Such

notice shall inform the owner of the nature of the violation(s), the location of the animal and the steps which are necessary to have the animal returned to the owner. If no owner claims the animal within ten (10) days of such notice, the animal shall be placed in an adoptive home, transfer it to a humane society or rescue organization, or destroyed in a humane manner.

- D. If the owner of a dog is unknown, the officer who impounds the animal 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) day period.<sup>1</sup> The public notice shall include a description of the dog, including any significant marks of identification, when and where it was impounded or found by the person placing the animal in the town's custody, and declare that unless the owner claims the animal and pays all expenses incurred by the town for treatment, boarding and care of the animal, any applicable penalties and takes all necessary remedial action within ten (10) days following posting, the town may place the animal in an adoptive home, transfer it to a humane society or rescue organization. If the dog cannot be placed in an adoptive home or transferred to a humane society or rescue organization, it may be destroyed in a humane way.
- E. Impounded animals shall be released to the owner only after payment of all penalties and impoundment fees and after remedial action is taken by the owner. Remedial action shall include, but is not limited to, such actions as providing a dog a collar and current license, certification of current vaccination against rabies, and providing a plan for compliance with the provisions of this ordinance and with state law.
- F. The procedures in this section shall only apply to dogs if the dog is not a rabies suspect. If a member of the Selectboard or a municipal official designate by the Selectboard 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.

## **SECTION 11. OTHER LAWS**

This ordinance is in addition to all other Ordinances of the Town of St. Albans and all applicable laws of the State of Vermont. All Ordinances or past of Ordinances inconsistent with the provisions of this Ordinance are hereby replaces to the extent of such inconsistency.

## **SECTION 12. SEVERABILITY**

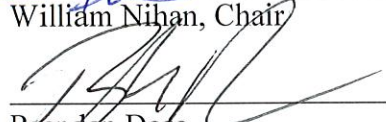
If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

**SECTION 13. EFFECTIVE DATE**

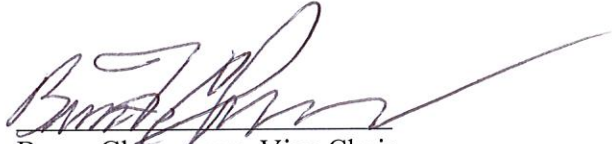
This ordinance shall become effective 60 days after its adoption by the Town of St. Albans Selectboard [or at such time following the expiration of 60 days from the date of its adoption as is determined by the Selectboard per 24 V.S.A. §1973.] If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

**Town of St. Albans Selectboard**

  
\_\_\_\_\_  
William Nihan, Chair

  
\_\_\_\_\_  
Brendan Deso

  
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Al Voegele

  
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Bruce Cheeseman, Vice Chair

  
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Stan Dukas

  
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Date

Attest By:    
Anna Bourdon, Town Clerk Date

## Adoption History – Animal Control Ordinance

1. Agenda item at regular Selectboard meeting on 4/14/2014, 4/28/2014 and 5/19/2014.
2. Read and approved at regular Selectboard meeting on 6/9/2014 and entered in the minutes of that meeting which were approved at the meeting of 6/23/2014.
3. Posted in public places on 6/11/2014.
4. Notice of adoption published in the **St. Albans Messenger** newspaper on 6/13/2014 with a notice of the right to petition.
5. No petitions received.
6. Ordinance effective 8/8/2014.
7. Agenda item at regular Selectboard meeting on 5/11/2015 to remove the ban on Pitt Bull dogs.
8. Read and approved at regular Selectboard meeting on 6/8/2015 and entered in the minutes of that meeting which were approved at the meeting of 5/18/2015.
9. Posted in public places on 6/10/2015.
10. Notice of adoption published in the St. Albans Messenger newspaper on 6/10/2015 with a notice of the right to petition.
11. No petitions received.
12. Ordinance effective 8/7/2015.
13. Agenda item at regular Selectboard meeting on 4/2/2018. Read and approved at the same meeting.
14. Posted in public places on 4/3/2018.
15. Notice of adoption published in the **St. Albans Messenger** newspaper on 4/4/2018 with a notice of the right to petition.
16. No petitions received.
17. Ordinance effective 6/1/2018.

ST. ALBANS TOWN CLERK'S OFFICE  
RECEIVED FOR RECORD / DISCHARGE  
at June 4 o'clock 00 minutes 2018 A.D.  
and recorded in Book 062 Pages 152-159  
Attest: [Signature] Asst. Town Clerk