

# TOWN OF ALBURGH ANIMAL CONTROL ORDINANCE

PREAMBLE: The Selectboard of the Town of Alburgh, being mindful of the fact that there are numerous dogs and domestic pets running at large in the Town and that these pets represent not only a danger to young children and all Alburgh residents, but may be a source of annoyance and concern to many citizens, hereby declare that it is in the best interest of the health and safety of all citizens that the keeping of the dogs within the Town limits be controlled as hereinafter set forth.

WHEREFORE: The Town of Alburgh pursuant to Titles 24 Section 1971 and 20 Section 3549 Vermont Statutes Annotated and any other such provisions as may be material hereto, the Selectboard hereby orders that the following Ordinance be adopted to protect the health, safety and welfare of the citizens of Alburgh:

## Section 1: Definitions

As used in this ordinance, unless the context clearly indicates otherwise, the following words or phrases shall have the following meanings:

1. **"Animal Control Officer"** (ACO) shall mean any police officer of the Town of Alburgh, State Police officer, Deputy Sheriff or any other person appointed "Animal Control Officer" by the Selectmen and authorized to enforce this Ordinance.
2. An **"Appropriate Complaint"** shall be deemed to have been made under this Ordinance when a person gives the Selectboard or the ACO a full description of the domestic pet, including breed, size, color and other distinguishing features, which description must be sufficient for a proper identification. A complaint may also be filed at the Town Clerks Office giving detail of the necessary information. The person who makes such a complaint shall do so in writing and include his or her name, address, phone number, the names and addresses of any and all witnesses to the violation, and the circumstances under which the domestic pet was believed to be in violation of this Ordinance. An complaint form can be found on the Town website at [www.alburghvt.org](http://www.alburghvt.org).
3. **"At large"** shall mean a domestic pet that is off the premises of the owner or keeper, and not under the control of the owner or keeper, a member of his or her immediate family, or an agent of the owner, either by leash, cord, chain or other reasonable means of restraint, and not lawfully engaged in hunting with the owner or keeper, so that at all times the domestic pet may be prevented from causing damage, disturbance or annoyance.
4. **"Basic Care"** shall mean adequate food, water, shelter, rest, sanitation and medical care.
5. **"Domestic Pet"** For the purposes of this Ordinance, shall include domestic dogs, off duty farm dogs and "wolf hybrids" or similar animal of both sexes.
6. **"Excessive Noise"** shall mean any noise that is created by a domestic pet, audible to an individual in a location where he or she is lawfully permitted to be, that is of such volume, duration or frequency that a reasonable person would find it disturbing or irritating.
7. **"Nuisance Animal"** shall mean any domestic pet that:
  - a. Makes excessive noise,
  - b. Causes damage to public or private property,
  - c. Scatters refuse,
  - d. Molests or threatens passers-by or passing vehicles on public roads or property,
  - e. Attacks other animals,
  - f. Obstructs traffic, and/or
  - g. Otherwise acts to create a nuisance or disturbance.

8. **"Town Pound"** shall mean a pound or facility designated by the Selectmen for the confinement and disposition of domestic pets in violation of any provision of this Ordinance whereby the ACO is authorized to impound such animal, whether or not operated by the Town and whether or not within the Town limits.
9. **"Owner"** shall mean any person owning, keeping or harboring a domestic pet or who has actual or constructive possession of the pet or wolf hybrid. The term includes those who provide feed and shelter to a domestic pet or wolf hybrid, but does not apply to feral animals that take up residence in buildings other than the person's home.
10. **"Potentially Vicious Animal"** shall mean any domestic pet running at large that inflicts minor injuries on a person not necessitating medical attention. This definition shall not apply if the domestic pet was protecting or defending itself, its offspring, another domestic pet or animal or a person from attack or assault. It shall also not apply if the person attacked was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the domestic pet.
11. **"Vicious Animal"** shall mean any domestic pet that causes any person to suffer or reasonably fear bodily injury by attack or threat of attack, except that a domestic pet shall not be deemed "vicious" as the result of an attack or threat upon a person in the act of trespassing upon the private property of the owner or keeper of the domestic pet.
12. **"Bite"** shall mean any bite that clearly leaves a physical mark, such as a puncture wound, bruise or scrape on the victim.
13. **"Wolf Hybrid"** shall mean an animal which is the progeny of descendent of a wolf and a domestic dog or which is advertised, licensed, described, or represented as a wolf hybrid by its owner, or which exhibits primary physical and behavioral wolf characteristics. Any provision of this Ordinance applying to domestic pets shall also apply to the wolf hybrids.

## **Section 2: License Required**

- A) The Owner of any domestic pet which is kept within the Town and is more than six months old shall annually cause it to be registered, described, numbered and licensed with the Clerk of the municipality on or before April 1<sup>st</sup> of each year in accordance with the provisions of Title 20, Chapter 193 of the Vermont Statutes Annotated, as the same are now in effect of may be amended from time to time. No person shall refuse to exhibit the license of his dog or a receipt therefore to any ACO when requested to do so.
- B) The Selectboard of the Town shall adopt a schedule of fees, in accordance with statutory requirements, for the licensing of domestic pets. Such fee schedule may include license surcharges to help offset the cost of administering this Ordinance.
- C) Prior to being entitled to obtain a license as a neutered domestic pet or wolf hybrid, the owner shall provide to the Clerk a copy of a certificate from a licensed veterinarian stating that the domestic pet has been sterilized.
- D) All domestic pet owners shall submit a certificate or certified copy of a certificate signed by a licensed veterinarian stating that the pet has received a current pre-exposure rabies vaccination with a vaccine approved by the Commissioner and the person shall certify that the animal described in the certificate is the animal to be licensed. The certificate shall be kept by the owner and displayed to a proper municipal or state official upon request.

### **Section 3. Failure to License**

- A) All domestic pets must be licensed and display license tags in accordance with the provisions of Section 2 and 3 of this ordinance. All unlicensed domestic pets found within the limits of the Town shall be given a 14-day grace period, with proof of current rabies vaccination, to become licensed. In the event that the domestic pet is not licensed within the 14-day grace period, the domestic pet may be impounded.

### **Section 4.**

- (A) It shall be the duty of every owner of an unsprayed female dog or wolf-hybrid to keep such dog or wolf-hybrid confined while it is in heat. The Enforcement Officer shall impound any female dog or wolf-hybrid in heat found at large.

### **Section 5: Basic Care**

- A) A person who owns, possesses or acts as an agent for a domestic pet shall provide basic care to the domestic pet.

### **Section 6: Disturbances and Nuisances**

- A) Any owner shall not allow a domestic pet to run or be at large within the Town.
- B) The owner of a domestic pet(s) shall not allow the domestic pet to be a vicious animal.
- C) The owners of a domestic pet(s) shall not allow the domestic pet to be a nuisance animal.
- D) The owner of a domestic pet shall not allow waste from any domestic pets to accumulate so that either a health or an odor problem results.
- E) The owner of a domestic pet shall remove immediately and properly dispose of any waste created by the domestic pet when the domestic pet is not on the private property of the owner.

### **Section 7: Impounding of Domestic Pets**

- A) It shall be the duty of any ACO to apprehend any domestic pet running at large and to confine such domestic pet in the Town Pound. At the discretion of the Selectboard and or ACO, domestic pets may be impounded for any violation of this Ordinance.
- B) Upon impounding of any domestic pet the ACO shall make and keep a record of the breed, color, and sex of such domestic pet, where the domestic pet was caught and whether it was licensed. The report shall also include specifics of the circumstances and any other relevant details leading to the impoundment. The record of the impounding officer shall be filed with the Selectboard at regular intervals.
- C) The impounding ACO shall, within twenty-four (24) hours, if possible, give notice to the owner or person having care of such domestic pet (if known), either in person, by telephone, by written notice left at his dwelling-house, or by written notice mailed to the last known address of the owner, of the impoundment of such domestic pet. If the owner or address is not known, the ACO shall be obligated to, post a notice at the Town Clerk's Office and on the Town website for one week (7 days).

## **Section 8: Redemption of Impounded Domestic Pets**

A) The owner of an impounded domestic pet, or his agent carrying written authorization, may reclaim such domestic pet upon payment of the penalties and charges set forth below. It shall be the duty of the ACO to ensure that all penalties and charges have been paid to the Municipality before authorizing the release of an impounded domestic pet.

If not claimed after one week (7 calendar days), after proper notification as described in section 7C, the ACO shall be authorized to sell, give away, or rehome the impounded domestic pet. The owner of any domestic pet which has been impounded shall pay the daily boarding fees, as established by the Selectboard, prior to having a domestic pet released into their custody.

B) If any impounded domestic pet is unlicensed the ACO may, at his/her discretion, release the impounded domestic pet into the custody of the owner or agent, after payment of \$50 refundable deposit solely for the purpose of obtaining required immunizations and to license such pet as required by section two of this ordinance.

If the ACO has reasonable cause to believe that the owner or agent will fail to immunize and license said pet, he/she may refuse to release said pet into the custody of the owner or agent.

If the owner or agent, who has been granted custody as above, fails to license the pet within 14 calendar days of release into their custody, the deposit shall be forfeited and the ACO shall assess additional fines as herein allowed and re-impound and rehome the subject pet.

## **Section 9: Rabies Control**

A) Any owner of a domestic pet which has contracted rabies or which has been exposed to rabies or which is suspected of having rabies or which has bitten any person, shall, upon demand of any law enforcement office, the health officer, selectmen, or the ACO, surrender such domestic pet to be held for observation and treatment, the total cost of which shall be the responsibility of the owner.

If, in the opinion of the above town officials, the domestic pet can be responsibly confined and observed at the owner's home and in the owner's care, the town officials may authorize such confinement as an alternative to impoundment.

All domestic pets suspected of being exposed to rabies shall be managed in accordance with the provisions as set forth in Title 20 Ch. 193, subchapter 5 and such rules and protocols as may be established by the Department of Agriculture and the Department of Health. Said rules and protocols shall supersede any provisions of this Ordinance if they are more restrictive than the provisions of this Ordinance.

B) It shall be the duty of every owner of a domestic pet which has been attacked or bitten by another domestic pet or animal showing the symptoms of rabies to notify a law enforcement officer, health officer, selectmen, or ACO immediately that such person has a domestic pet or other animal in his possession.

C) Whenever a domestic pet is impounded after having bitten a person, the domestic pet shall be held and observed for a sufficient length of time to meet the requirements of Section 9 (A) above (not less than ten days). If the health officer or ACO determines at any time that the domestic pet is rabid, or a licensed veterinarian determines that there is a reasonable likelihood that the pet is rabid, the domestic pet shall be destroyed in accordance with the rabies control protocol. The owner shall be held liable for any and all disposal, pick-up, and confinement charges as approved by the Selectmen.

D) It shall be unlawful for the owner when notified that his domestic pet has bitten any person, to sell or give away such domestic pet, or permit it to be taken beyond the limits of the Town except under the care of a licensed veterinarian without the prior permission of the health officer or ACO.

### **Section 10: Appropriate Complaints**

A) It shall be the duty of the ACO to investigate appropriate complaints filed by residents for alleged violations of this Ordinance. If the ACO finds there has been a violation involving failure to license, a vicious or nuisance animal, or a second violation for running at large, he/she shall take any and all measures necessary to cure and abate the violation in accordance with this Ordinance.

For all other violations the ACO may exercise reasonable discretion in issuing tickets and orders so as to prevent future violations from occurring.

### **Section 11: Investigation of Vicious Domestic Pets**

A) When a domestic pet has bitten a person, while off the premises of the owner or keeper of the domestic pet, such person may file a written complaint with the Selectboard. The written complaint must contain the time, date, place and circumstances of the attack, the name and address of the victim or victims, the name and address of the domestic pet's owner (if known), names of witnesses (if any) and any other information that would aid the investigation of the complaint.

B) The Selectboard and or ACO shall investigate a written complaint within 7 calendar days of receipt and the Selectboard shall hold a hearing on the matter. If the owner can be ascertained with due diligence, the Selectboard shall provide the owner with written notice of a time, date, and place of hearing and the facts of the complaint.

C) If, after hearing on the case, the Selectboard concludes that the attack was unprovoked, then they shall make an order for the protection of persons as the facts and circumstances of the case may require, including, without limitations, that the domestic pet is muzzled, chained, confined or disposed of in a humane way. This order shall be sent by certified mail, return receipt requested. A person who fails to comply with the order may be fined in accordance with the provisions of this Ordinance.

D) It shall be unlawful for the owner or person having custody of any domestic pet, after receipt of notice by the ACO that the domestic pet has bitten any person, to sell or give away such domestic pet, or permit it to be taken beyond the limits of the Town without having first obtained written permission of the Selectmen.

### **Section 12: Prohibition of Domestic Pets in Town Cemeteries, Schools and Recreation Area**

A) No owner or person in control of any domestic pet shall allow the same to enter any cemetery located within the town, whether or not such domestic pet may be on a leash or under other restraint or control.

- B) No owner or person in control of any domestic pet shall allow the same to enter the School grounds for School events without being leashed.
- C) No owner or person in control of any domestic pet shall allow the same to enter the recreation trail without being under the direct control of the owner/keeper of said domestic pet.
- D) Removal of domestic pet waste required. The owner or person in control of any domestic pet or service animal shall be responsible for the removal of any defecation deposited on any public or private property by such animal.

Enforcement:

Enforcement penalties for Part B and Part C additions to these ordinances shall apply under the same standards and penalties currently set forth in Section 14 of the Town of Alburgh Animal Control Ordinances.

### **Section 13: Damage to Domestic Animals by Domestic Pets**

A) A person who suffers loss by the maiming, or killing of his/her animals by domestic pet(s) shall report the nature and amount of such damage to the Selectboard and or ACO within 24 hours of his discovery of such damage. The burden of proof to the extent of the damages shall lie on the complainant. Evidence may be submitted in writing, witness testimony, using photographic evidence when possible and other means deemed appropriate.

- 1) One or more Selectmen and or the ACO shall forthwith cause an investigation to be made of alleged damage so as to determine whether or not damage was done by domestic pets and if so appraise the amount of said damages.
- 2) If accused domestic pet is found to have been the cause of damages, the amount deemed appropriate by the Selectboard shall be paid by the owner of said domestic pet.

### **Section 14: Enforcement & Penalties**

A) **Violations.** Any violation of this Ordinance or of any requirement of any order issued by the Selectboard under provisions of this Ordinance shall be subject to penalties set forth below. Violations of this Ordinance shall be a civil matter enforced in accordance with the provisions of 24 VSA Section 1974a and 1977 et seq. Any ACO may act as an issuing Municipal Official and issue and pursue before the Judicial Bureau a municipal complaint for any violation of this Ordinance. Each day a violation exists shall constitute a separate offense.

B) **Penalties.** A violation of Sections 2,3,4,6 and 11 of this ordinance is subject to a written warning for the first offense, a \$25 fine for the second offense, \$75 fine for the third offense and \$150 fine for subsequent offenses within a 12-month period. If the animal is not vaccinated or licensed, these fees will also need to be expended to comply with this ordinance as well as any impound fees charged by the kennel owner.

C) A violation of Section 7 of this ordinance is subject to a written warning for the first offense, a \$25 fine for the second offense, \$75 fine for the third offense and \$150 fine for subsequent offenses within a 12-month period. If the animal is not vaccinated or licensed, these fees will also need to be expended to comply with this ordinance as well as impound fees charged by the kennel owner.

D) A violation of Section 12 of this ordinance is subject to a \$10 fine for the first offense, \$20 fine for the second offense and \$30 for subsequent offenses within a 12-month period.

E) Appeals. Appeals may be taken in the manner set forth in 24 VSA Section 1974a and 1977 et seq.

**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: Ordinance Repealed

All ordinances and part of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Adopted by the Selectboard at their regular meeting on 22 November 2016.

Ordinance effective date: 21 January 2017