

TOWN OF ALBURGH
ORDINANCE TO REGULATE NUISANCE PROPERTIES

The Selectboard of the Town of Alburgh hereby ordains:

Section 1. Authority. This Ordinance to Regulate Nuisance Properties (the "Ordinance") is adopted by the Selectboard of the Town of Alburgh pursuant to the authority of 24 V.S.A. §§ 2291(13), (14), and (15), and 24 V.S.A. Chapter 59, and shall supersede and replace all other ordinances of the Town with respect to the herein contained subject matter. This Ordinance is a civil ordinance.

Section 2. Definitions. As used in this Ordinance, unless the context clearly indicates otherwise, the following words or phrases shall have the following meanings:

- A. "Enforcement Officer" means any Health Officer, Assistant Health Officer, Fire Warden, or any other person appointed by the Selectboard from time to time to enforce or execute the provisions of this Ordinance.
- B. "Owner" means any person who owns a Property, or any person who has actual or constructive possession of a Property.
- C. "Property" means buildings, structures, land, land conditions, land improvements, or land development of any kind without limitation.

Section 3. Nuisance Properties Prohibited. An owner of a Property shall not allow, permit, or suffer such Property to become or create a nuisance. The following shall be deemed nuisances and violations of this Ordinance, with each violation being a separate offense:

- A. A Property that poses a risk to the public health, safety or welfare due to its physical condition, use, or occupancy.
- B. A Property that poses a risk to the public health, safety or welfare due to a lack of maintenance, repair, or sanitization by the Owner.
- C. A vacant building that is unoccupied by a person, or occupied by unauthorized persons, for a period of one hundred twenty (120) days, excepting: (i) warehouses or similar storage buildings; (ii) garages; (iii) vacation homes, camps, or other buildings occupied on a seasonal basis; (iv) buildings actively marketed for sale or lease; and (v) buildings that are regularly maintained despite being unoccupied by a person or occupied by unauthorized persons for a period of one hundred twenty (120) days.

D. A Property that is found to be or contain a fire hazard.

Section 4. §9103. Enforcement.

(a) Complaints and violation resolution shall be conducted according to the following procedures and in accordance with the provisions of 24 VSA §1974a and §1977 et seq.:

(1) A complaint must be filed either in writing or properly presented at a Selectboard meeting.

(2) The Alburgh Selectboard will investigate the complaint.

(3) The Alburgh Selectboard will first attempt to resolve the issue with the violator.

(4) If a compromise cannot be met, the Selectboard will refer the matter to the enforcement officer.

(5) The enforcement officer will write the appropriate ticket and give the proper amount of time for the violator to come into compliance.

(6) If compliance is not met, the ticket issued and amount of fine will remain pending for 30 days.

(7) Unresolved tickets will be pursued through the judicial process, according to state statute. Violations of this Ordinance may be enforced through the imposition of civil penalties and such protective orders of the Selectboard as it deems necessary for the protection of public health, safety and welfare:

A. Protective Orders. The Selectboard shall hold a hearing and upon testimony by the Enforcement Officer and others interested, including Owner of the Property, it may make such protective order as it deems the facts and circumstances of the violation requires. Such protective order may include, but shall not be limited to, requiring that buildings or structures be taken down, demolished or made safe, and may be issued in conjunction with the imposition of civil penalties.

If the Owner of the Property can be ascertained with reasonable due diligence, said Owner shall be provided with advanced written notice of the time, date and place of the Selectboard's hearing, and the facts of the alleged violation or violations. Any protective order(s) imposed under this Ordinance shall be sent by certified mail, return receipt requested to the Owner of the Property if

known. Failure to comply with the terms of a protective order shall also be a violation of this Ordinance, with each day constituting a separate violation.

B. Penalties. Violations of this Ordinance shall constitute a civil ordinance violation and may be punishable by the following penalties:

- i. First Offense: A first offense for violation of any provision of this Ordinance or a protective order issued hereunder shall be punishable by a fine of no less than two hundred dollars (\$200.00) and no more than four hundred dollars (\$400.00). The waiver fee, in lieu of a civil penalty for any person who declines to contest a municipal complaint or protective order issued hereunder, for a first offense shall be one hundred dollars (\$100.00).
- ii. Second offense: A second offense for violation of any provision of this Ordinance or a protective order issued hereunder shall be punishable by a fine of no less than four hundred dollars (\$400.00) and no more than six hundred dollars (\$600.00). The waiver fee, in lieu of a civil penalty for any person who declines to contest a municipal complaint or protective order issued hereunder, for a second offense shall be two hundred dollars (\$200.00).
- iii. Third offense and subsequent offenses: A third or subsequent offense for violation of any provision of this Ordinance or a protective order issued hereunder shall be six hundred dollars (\$600.00) and no more than eight hundred dollars (\$800.00). The waiver fee, in lieu of a civil penalty for any person who declines to contest a municipal complaint or protective order issued hereunder, shall be four hundred dollars (\$400.00).

Offenses shall be counted on a calendar year basis.

C. In the event a waiver fee is not paid by the Owner, the Selectboard may, at its discretion, seek enforcement of this Ordinance by injunctive or other appropriate relief and collection of any penalties, assessments, charges or amounts due under this Ordinance by bringing a civil action in the Judicial Bureau or the Vermont Superior Court against the Owner of a nuisance property that is the subject of a protective order or monetary fine issued hereunder in accordance with 24 V.S.A. §§ 1974a and 1977, et.seq.

Section 5. Other Laws. This Ordinance shall apply in addition to all other ordinances, bylaws or rules of the Town of Alburgh and all applicable laws of the State of Vermont.

Section 6. Severability. If any subsection, sentence, clause, phrase, section or part of this Ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not affect the remaining portions, which shall remain in full force: and to this end, the provisions of this Ordinance are severable.

Section 7. Effective Date. This Ordinance shall become effective sixty (60) days after its adoption by the Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this Ordinance.

[Signature Page Follows.]

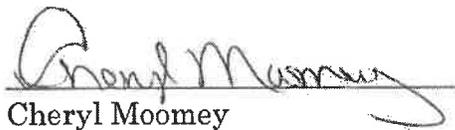
ADOPTED this 11th day of July 2017.


Tyler Gotshall, Chair


Alton Brusio


Lee Kimball


Chuck Pease


Cheryl Moomey

Adoption History

1. Agenda item at regular Selectboard meeting held on 11 July 2017.
2. Read and approved at regular Selectboard meeting on 11 July 2017 and entered in the minutes of that meeting which were approved on 23 July 2017,
3. Posted in public places on 26 July 2017
4. Notice of adoption published in the Islander newspaper on 2 Aug. 2017 with a notice of the right to petition.
5. Other actions, including petitions pursuant to 24 V.S.A. § 1973: _____.

