

**TOWN OF WINDHAM, VERMONT**  
**WINDHAM NUISANCE ANIMAL ORDINANCE**

**ARTICLE I**  
**GENERAL PROVISIONS**

**A. Title**

All rules and regulations contained herein, together with such additions and amendments as may be hereafter adopted, are hereby designated as the "Windham Nuisance Animal Ordinance" or "Ordinance".

**B. Authority**

This Ordinance is adopted pursuant to authority granted under 24 VSA Section 1971, 24 VSA Section 2291, subsection (14), 20 VSA Chapter 191.

**C. Purpose**

The purpose of this Ordinance is to protect the health, safety and welfare of the public and domestic animals of the Town of Windham by regulating the keeping of domestic animals and their running at large and by defining what constitutes a nuisance animal. To accomplish the foregoing purpose, it is deemed necessary to establish procedures for enforcement and establish penalties for violations of this ordinance.

**D. Filing of Ordinance**

The Town Clerk of the Town of Windham shall file a certified copy of this Ordinance, as well as certified copies of any additions or amendments to this Ordinance as may be hereafter adopted, in the municipal records.

**E. Inconsistent Provisions**

In the case of any other applicable regulation, by-law, ordinance or statute which differs from the rules and regulations of this Ordinance, the more strict shall apply.

**F. Civil Ordinance**

This Ordinance is designated as a civil ordinance in conformance with 24 VSA Section 1971(b).

**ARTICLE II**  
**DEFINITIONS**

Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

"Animal Control Officer" shall mean the Windham Health Officer, Windham Constable, Windham County Sheriff, any Deputy Windham County Sheriff or any individual appointed by the Selectboard.

"Domestic animal" shall mean those animals defined by 6 VSA 1151(2) including, but not limited to: rabbits, cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, pheasant, peacock, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), water buffalo, reptile and amphibians. The term does not include those species of amphibians native to Vermont. The term shall include cultured trout propagated by commercial trout farms.

"Domestic pet" shall mean any domestic dog, domestic cat, or European ferret (*Mustela putorius furo*) as defined in 20 VSA, Chapter 193, Section 3541.

"Humane disposal" shall mean (a) humane euthanasia by a licensed veterinarian, or (b) sold or given away to a responsible person.

"Keeper" see owner.

"Nuisance animal" shall mean a domestic animal or domestic pet running at large and is further defined in Article IV herein. (Exception: This shall not apply if the animal was protecting or defending itself, its offspring, a domestic pet or another domestic animal or a person from attack or assault or the person attacked or threatened by the animal was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the animal.)

"Owner" shall mean any person who owns a domestic animal or domestic pet and includes any person who cares for or has actual or constructive possession of the animal. The term also includes those persons who provide feed or shelter to an animal. However, it is not the intent of the Town to require a person to be responsible under this ordinance for feral animals that take up residence in a building other than the person's home, even if the person occasionally provides feed to the animal.

"Person" shall mean any individual, institution, public or private corporation, partnership or other legal entity.

"Running at large" means that a domestic pet or domestic animal is not:

- a. On a leash;
- b. In a vehicle;
- c. On the owner's premises;
- d. On the premises of another person with that person's permission;
- e. Clearly under the verbal or non-verbal control of the owner;
- f. Hunting with the owner;

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

"Selectboard" shall mean the Selectboard of the Town of Windham, Vermont.

"Town" shall mean the Town of Windham, Vermont.

"Town Clerk" shall mean the Town Clerk of Windham, Vermont.

**ARTICLE III**  
**APPLICABILITY OF ORDINANCE**

This ordinance applies to domestic animals and domestic pets in the Town of Windham.

**ARTICLE IV**  
**NUISANCE ANIMALS**

- A. No owner, keeper or other person having control of a domestic animal or domestic pet shall allow such animal to become or remain a public nuisance as herein defined, or to be kept in violation of this ordinance. For the purposes of this section, nuisance animal means any animal which:
1. Is allowed to run at large; or
  2. Molests or harasses passersby or passing vehicles, or otherwise creates a public safety hazard; or
  3. Obstructs traffic; or
  4. Defecates off the premises of the animal's owner, and the owner, or other individual in control of the animal, fails to remove such deposit immediately; or
  5. Barks, whines, howls, cries, or makes a noise commonly made by such animals in an excessive and continuous fashion so as to disturb the peace and quiet of any other person; or
  6. Causes damage to the personal property of anyone other than its owner; or
  7. Otherwise acts to create a nuisance or disturbance.
- B. The owner of any domestic animal or domestic pet allowed to become or remain a public nuisance as herein defined shall be in violation of the Ordinance is subject to the provisions of this Ordinance.
- C. Nothing in this Ordinance shall be construed to restrict accepted agricultural practices.

**ARTICLE V**  
**ANIMAL CONTROL OFFICER**

- A. Any Animal Control Officer is hereby authorized and empowered to obtain search warrants to enter onto private lands, to seize and to impound nuisance animals and to take all reasonable and necessary measures to abate violations as herein defined.
- B. It is the duty of an Animal Control Officer to enforce the provisions of this Ordinance.
- C. The Selectboard shall designate the names of persons and their locations to receive nuisance animals for impoundment under the terms of this Ordinance.



## **ARTICLE VI**

### **VIOLATIONS**

A domestic animal or domestic pet in the following situations is hereby declared to be in violation of this ordinance when:

- A. The domestic animal or domestic pet is a nuisance animal as determined by an Animal Control Officer; or
- B. The domestic animal or domestic pet (except domestic cat) is running at large; or
- C. The domestic animal or domestic pet is obstructing traffic; or
- D. The domestic animal or domestic pet is creating a public safety hazard or worrying people;
- E. The domestic animal or domestic pet is causing damage to the personal property of anyone other than its owner. Examples of such behavior include but are not limited to:
  - 1. Turning over garbage containers or scattering refuse; or
  - 2. Doing damage to gardens, flowers, shrubs, vegetables or lawns.
- F. The domestic animal or domestic pet has defecated on private property other than that of its owner onto which the animal has not been invited or on public roads or public property (including parking areas, lawns, flower beds, parks and sidewalks) and the owner does not remove the resulting material immediately and dispose of it in a sanitary manner; or
- G. The domestic animal or domestic pet (except domestic cat), while running at large, is chasing and/or snapping at pedestrians, joggers, pets walked on a leash, bicyclists, vehicles, or riders on horseback or is jumping onto people; or
- H. The domestic animal or domestic pet is barking, whining, calling, or howling in an excessive and continuous fashion so as to disturb the peace and quiet of any other person,

## **ARTICLE VII**

### **ENFORCEMENT AND PENALTIES**

#### **A. Violations of Ordinance**

Unless violation and penalty provisions specifically set forth elsewhere in this Ordinance provide otherwise, all violations of this Ordinance shall be handled according to the provisions of this Article.

#### **B. Response to Violations by Animal Control Officer**

When a nuisance animal is found to be in violation of this Ordinance, an Animal Control Officer may take one or more of the following actions:

- Serve the owner with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within

the period of time stated, permanently cease and correct all violations. Any person who continues any violation beyond the time limit specified in the written notice shall be issued a "Municipal Complaint" (ticket).

- Require that the nuisance animal be restrained by a leash while off the premises of its owner.
- Issue a "Municipal Complaint" (ticket) per the provisions of 24 VSA 1974a and 1977 et. Seq.
- Confine nuisance animal.

#### **C. Fines**

1. Any person who violates any provision of this ordinance and is issued a "Municipal Complaint" (ticket) under Article VII, shall be subject to a civil penalty of up to \$150 per day for each day that such violation continues. The Windham Health Officer, Windham Constable, Windham County Sheriff, Deputy Windham County Sheriff or any individual appointed by the Selectboard shall be authorized to act as Issuing Municipal Officials to issue and pursue before the Traffic and Municipal Ordinance Bureau a municipal complaint.

#### **2. TABLE OF FINES**

	Full Penalty	Waiver
First Offense	\$50.00	\$25.00
Second Offense	\$100.00	\$50.00
Third or Subsequent Offense	\$150.00	\$75.00

3. Any person who violates the provisions of this Ordinance shall be subject to the penalties and waiver penalties set forth above. Waiver penalties apply when an alleged violator pays the penalty without contesting the violation.

"Second" and "Third or subsequent offenses" refer to those offenses committed within a 12-month period of the anniversary day of the first offense. Any offense occurring after this 12-month period shall be considered a new first offense. The penalties provided for in this section shall be in addition to, not in lieu of, licensing and impoundment costs. Violations involving multiple animals shall be considered multiple violations. Each day a violation continues shall constitute a separate violation.

#### **D. Liability for Loss by the Town Due to Violation**

Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss or damage occasioned by the Town, including reasonable legal expenses, by reason of such offense.

#### **E. Actions to Prevent, Restrain or Abate Violation**

Notwithstanding any of the foregoing provisions, the Town may institute any appropriate action authorized by law, including injunction or other proceeding, to prevent, restrain or abate any violation hereof, and in the case of emergency situations when, in the Town's determination, violations of the provision of the Ordinance may cause damage to human life or public property, the Town shall have the power to take whatever action is necessary to correct such violations.



**F. Health Officer**

Nothing in this Ordinance shall be construed to prevent the Town Health Officer from carrying out their duties as prescribed in 18 VSA Chapter 11.

**ARTICLE VIII**  
**CONFINEMENT AND IMPOUNDMENT**

- A. Any domestic animal or domestic pet that is determined by an Animal Control Officer to be a nuisance to people or other animals or, has reportedly bitten a person off the premises of its owner, may be immediately impounded.
- B. Pursuant to 20 VSA Chapter 191, an Animal Control Officer is authorized to confine or impound any nuisance animal which is violating this Ordinance or which:
1. Is suspected of having been exposed to rabies; or
  2. Is believed to have been attacked by another animal which may be rabid; or
  3. Has been attacked by a wild animal; or
  4. Has an unknown rabies vaccination history.
- C. In the event that a nuisance animal is confined or impounded, the owner, if known, shall be notified within 24 hours. Notification may be accomplished by in-person communication, by telephone call, or by written statement sent to the last known address of the owner. Notification shall include the nature of the violations, the location of the nuisance animal and the steps necessary to have it returned to its owner. If the owner's address is not known, public notice shall be posted in the Windham Town Clerk's Office and 2 other places in Town for a 10-day period. The public notice shall include a description of the nuisance animal including any significant marks of identification, when and where it was impounded or found, and declare that unless the owner claims it and pays all expenses incurred by the Town for treatment, boarding and care, any applicable penalties, and takes all necessary remedial action within ten (10) days following posting, the Town may place the nuisance animal in an adoptive home or transfer it to a humane society or rescue organization. If the nuisance animal cannot be placed in an adoptive home or transferred to a humane society or rescue organization, it may be destroyed in a humane way.
- D. If the nuisance animal is unclaimed after 10 days of the notification to the owner or after 10 days of posting, the Animal Control Officer may dispose of the nuisance animal in a humane manner.
- E. If the unclaimed nuisance animal has been disposed of, the owner shall be liable for all costs incurred by the Town.

**ARTICLE IX**  
**SEVERABILITY/LIABILITY/AMENDMENTS**

- A. If any portion of this Ordinance is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.
- B. These rules and this Ordinance may be amended at any time by the Windham Selectboard pursuant to applicable provisions of law.

**ARTICLE X**  
**ORDINANCE IN FORCE**

**A. Ordinance in Effect**

This Ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

**B. Date of Enactment**

Duly enacted and ordained by the Selectboard of the Town of Windham, County of Windham, State of Vermont, on this 7th day of September 2020, at a duly warned and held meeting of said Selectboard.

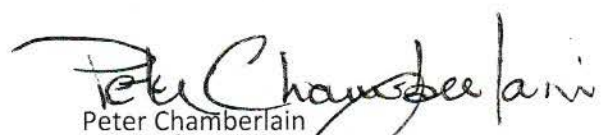
**C. Effective Date**


This Ordinance shall become effective sixty (60) days from the date hereof, that is on the 7<sup>th</sup> day of November 2020.

WINDHAM SELECTBOARD



Maureen Bell

  
Peter Chamberlain

  
Kord Scott

ATTESTED BY:

Date: \_\_\_\_\_

**Adoption History**

1. Agenda item discussed at regular Selectboard meeting held on September 7, 2020.
2. Posted in public places on \_\_\_\_\_.
3. Notice of adoption published in the \_\_\_\_\_ newspaper on \_\_\_\_\_ with a notice of the right to petition.