# TOWN OF CALAIS
# ANIMAL NUISANCE CONTROL ORDINANCE

Effective Date August 30, 1999

## Section 1: Purpose

The purpose of this Ordinance is to protect the health of and general welfare of the residents of the Town of Calais. In order to accomplish the foregoing purpose, it is deemed necessary to establish a mechanism of review, provide for procedures for enforcement and appeal and establish penalties for the violations of the Ordinance.

## Section 2: Definitions

A) Public Nuisance Defined - Any unreasonable, continuing or often repeated conduct which endangers life, health, property or which reasonably annoys, injures, or disturbs or intrudes upon the free use of public lands in Calais is a public nuisance, provided, however, such act is specifically enumerated and defined in this Ordinance.

B) Enumeration of Nuisances

1. Vicious Dog: A dog which caused reasonable fear of bodily injury by the attacking or threatening to attack a person or another domestic animal not on the owner's property, or a dog that is diseased and dangerous to the public health.

2. Nuisance Dog: Dogs are hereby declared a public nuisance under the following circumstances or conditions:

(a) A dog repeatedly allowed or permitted to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damage to gardens, flowers or vegetables or injury to domestic animals and pets; or

(b) A dog maintained in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or which is otherwise dangerous to the public health, welfare or safety, or which substantially increases the probability of transmission of disease; or

(c) A dog repeatedly, continuously or habitually allowed or permitted to bark in an excessive, continuous untimely or otherwise unreasonable fashion so as to interfere with the reasonable use and enjoyment of neighboring premises; or

(d) Any dog that repeatedly leaves his or her owner's property and chases or snaps at pedestrians, joggers, dogs walked on a leash by owners, bicycles, vehicles; or

(e) A dog kept or maintained contrary to the conditions of a lawful order issued by the Selectboard.

C) Animal Control Officer - Shall mean the person or persons appointed by the Selectboard to police and enforce the Ordinance in cooperation with the appropriate law enforcement agencies.

D) Enforcement Official - Shall mean any Sheriff, Constable, Health Officer, Animal Control Officer or Selectboard member.

E) Dog - Shall mean any animal of the canine species including wolf-hybrids.

F) Owner - Shall mean any person or group of persons who owns, harbors or permits any dog to be or remain in or about buildings or premises owned or occupied by them.

**Section 3: Licensing of Dogs**

Every dog within the Town of Calais shall be licensed in accordance with Chapter 193, Title 20 of the Vermont Statutes Annotated, as amended. The owner of a dog shall cause it to wear a collar, and attach thereto a license tag issued by the Town Clerk.

**Section 4: Animal control Officers Duties**

The Selectboard shall designate a person to act as Animal control Officer to enforce the provisions of this Ordinance. It shall be the duty of the Animal Control Officer or other Enforcement Official to investigate complaints of animal nuisances and to enforce the provisions of this Ordinance. The Selectboard shall designate the names of persons and their locations to receive dogs for confinement under the terms of this Ordinance.

The Animal Control Officer is authorized to take all reasonable and necessary measure to abate a public nuisance, subject to law.

**Section 5: How to File a Complaint**

A) Any person may make a complaint to the Selectboard or any Enforcement Official, which must be followed with a writing within 48 hours filed for record in the Town Clerk's office and which includes the complainant's name, address, phone number, description of the dog and the circumstances alleging a violation of this ordinance, and including name of the dog's owner and any witnesses to the incident.

B) Within 14 days from receipt of the complaint, or at its next regularly scheduled meeting, the Selectboard shall investigate the charges and hold a hearing on the matter. The complainant and the owner or keeper of the dog which is the subject of the complaint shall be provided with a written notice of the time, date and place of hearing and the facts of the case.

C) If the dog is found to have bitten a victim without provocation, the Selectboard shall make such order for the protection of persons as required, including that the dog be disposed of in a humane way, muzzled, chained or confined. The order shall be sent by certified mail, return receipt requested. A person who fails to comply with the terms of the order shall be subject to the penalties provided herein.

**Section 6: General Violation**

Any dog allowed to become or remain a public nuisance in violation of this Ordinance is subject to the provisions of this Ordinance. The owner of any dog deemed a public nuisance is also guilty of a violation of this ordinance and is subject to the penalties herein after listed.

**Section 7: Enforcement**

A) The Animal Control Officer or other Enforcement Official may take the following steps if he or she deems a dog constitutes a public nuisance or is not licensed.

1) Unlicensed dogs - If an unlicensed dog is impounded pursuant to this Ordinance, the Animal Control Officer shall confine such dog for up to six business days. If after six business days, it has been impracticable to determine the owner of such a dog, the dog may be given away to a Humane Society or disposed of in a humane manner. If the owner of an unlicensed dog can be located and wishes to reclaim the dog, the Animal Control Officer shall not authorize the release of the dog until all required licenses have been obtained and evidence of anti-rabies inoculation is shown. The owner shall pay the Town a civil penalty of $20 plus any charges incurred by the Town for the impoundment of the dog. If the dog has been disposed of, the owner shall be liable for the penalty amount plus all costs incurred by the Town.

a) In the event of failure to pay any penalty and cost assessed and failing an appeal, the Town may initiate a collection action in Small Claims Court or in Superior Court.

2) Nuisance Dogs - If the owner or keeper of the dog is known, the Animal Control Officer or other Enforcement Official may issue a written Notice of Violation, filing a copy with the Selectboard. The Notice of Violation shall include:

a) Assessment of a civil penalty up to $500 according to the following schedule:

1) First offense - written warning for a nuisance dog; $20 civil penalty plus charges incurred by the Town for a vicious dog.
2) Second offense - $50 civil penalty plus charges incurred by the Town for a nuisance dog; $50 civil penalty plus charges incurred by the Town for a vicious dog.
3) Third offense - will be $100 civil penalty plus charges incurred by the Town.
4) Fourth offense - Civil penalty to be decided by the Selectboard of an amount not to exceed $500 plus charges incurred by the Town.
5) All civil penalties shall be paid at the Town Clerk's office within 35 business days following issuing of the Notice of Violation.

b) A brief description of the violation and citation to this Ordinance.

c) A statement that the respondent has a right to a hearing before the legislative body at no cost, a description of the procedures for requesting a hearing and a statement that failure to request a hearing within 21 days of the date of mailing of the Notice of Violation shall be a waiver of the right to appeal.

d) If applicable, a directive that the respondent take actions necessary to achieve compliance with the law.

B) If a dog has committed an act of vicious attack against another domestic animal or against any person not on the owner's property, the Animal Control Officer or other Enforcement Officer may immediately impound the dog. A dog may also be impounded for any serious repeated offense. The Animal Control Officer shall also issue a Notice of Violation in accordance with subsection 2 above.

1) If the dog impounded is licensed, the Animal Control Officer shall notify the owner or keeper of the location where the dog is impounded by phoning the owner and sending a notice by certified mail, with return receipt requested, stating that the dog can be reclaimed within six business days from the mailing of the said notice. In order to claim a dog, the owner shall pay to the Town the penalty of $20 plus any cost incurred by the Town for the impoundment of the dog plus any other unpaid penalties. If a licensed dog is not claimed within six business days, the dog will be given away to the Humane Society or disposed of in a humane manner and the owner shall be liable for the penalty of $20 plus all costs incurred by the Town for the said disposal.

C) Appealing the Decision - Any owner or keeper of any animal found to be in violation of the Ordinance may appeal any decision, order, action, or fining of the Selectboard to the Washington Superior Court pursuant to V.R.C.P. 74. Any appeal for the decision of the Selectboard under this ordinance must be filed within thirty days of the Board's written decision.

**Section 8: Procedure for Owner to Appeal**

A) Action of the Animal Control Officer

1) A person who receives a Notice of Violation shall be offered an opportunity for a hearing before the Calais Selectboard provided that the request for the hearing is made in writing to the Calais Town Clerk or to the Calais Selectboard no later than 21 days after the date of mailing of the Notice of Violation. If the respondent does not request a hearing in a timely fashion, the decision shall be final and the penalty shall be payable within 35 days following the mailing of the Notice of Violation. If the respondent does make a timely request for a hearing, the Calais Selectboard shall hold a hearing within 14 days of receipt of the request. After the hearing, the Calais Selectboard may affirm, reduce or eliminate the penalty. The decision shall be delivered or mailed to the respondent in the same manner as the Notice of Violation and shall be effective five days following the mailing of the decisions or immediately following delivery of the decision.

a) The Notice of Violation shall include:

1. A statement that the individual has the right to a hearing before the Calais Selectboard at no cost to the respondent, a description of the procedures for requesting a hearing and a statement that failure to request a hearing within 21 days of the date of the mailing of the Notice shall result in a final decision with no right to appeal.

2) Residents of the town who are not satisfied with the actions of the Animal Control Officer in pursuing a complaint may file a written appeal with the Selectboard.

**Section 9: Restitution**

Restitution may be made in accordance with 20 V.S.A. Chapter 193 §§ 3741 to 3746, where appropriate.

**Section 10: Other Animals**

Emergency rules effective July 11, 1994 were required by Vermont Department of Agriculture to activate 20 V.S.A. §3581(a) which mandates rabies vaccination of all domestic pets (dogs, cats and ferrets) and wolf-hybrids. The rabies vaccination certificate must be signed by the veterinarian vaccinating the animal.

**Section 11: Savings**

Nothing herein shall be construed to limit, supersede, repeal or annul any other law, ordinance or regulation related to nuisances.

**Section 12: Separability**

Each separate provision of this ordinance shall be deemed independent of all other provisions of this ordinance, and if any provisions of this ordinance shall be declared invalid in a court of law, all other provisions of this ordinance shall remain valid and enforceable.

This ordinance is adopted and shall take effect on August 30, 1999.

Carl H. Lambertson

Randall M. Fitch

Donna C. Fitch

Per Vermont Statutes Annotated, Title 24, Section 1973, voters may petition for a vote on the questions of disapproving this ordinance. Such petition must be signed by at least 5% of the Calais registered voters and petition must be presented to the Selectboard and the Town Clerk within forty-four days of the adoption of this ordinance by the Selectboard (or by October 13, 1999). If a petition is received, the legislative body shall call a special Town meeting within sixty days from receipt of the petition to decide on the issue. If no petition is received, this ordinance will become effective on October 29, 1999.

As required by law, a summary of this ordinance is being published in the ~~Hardwick Gazette~~ Times Argus on September 6, 1999.

Filed in office of town clerk on August 30, 1999 at 11:10 p.m.

Attest, Eva M. Morse Town Clerk