

## ARTICLE II. DOG AND ANIMAL CONTROL ORDINANCE

### Sec. 8-200. ORDINANCE INDEX.

- 8-201. Authority and Purpose
- 8-202. Definitions
- 8-203. Calculation of Offenses
- 8-204. Licensing
- 8-205. Penalties for Failure to License
- 8-206. Enforcement
- 8-207. Running at Large Prohibited
- 8-208. Penalties for Running at Large
- 8-209. Duties of Enforcement Officers and Persons Having Control of Impoundment
- 8-210. Conditions of Release from Impoundment
- 8-211. Dogs as a Nuisance
- 8-212. Penalties for Nuisance Dogs
- 8-213. Potentially Dangerous Dogs
- 8-214. Penalties for Potentially Dangerous Dogs
- 8-215. Dangerous Dogs
- 8-216. Investigation of Dogs or Domestic Pets which have Bitten or Seriously Injured a Person
- 8-217. Penalties for Dangerous Dogs and Bites Requiring Medical Attention
- 8-218. Waste Removal
- 8-219. Penalties for Failure to Remove Waste
- 8-220. Management and Impoundment of Animals Exposed to Rabies or Suspected of Being Infected
- 8-221. Repeal of Conflicting Ordinances
- 8-222. Separability of Provisions
- 8-223. Effective Date

### Sec. 8-201. AUTHORITY AND PURPOSE.

The ordinance is adopted by the City Council of the City of Montpelier under authority granted pursuant to 20 V.S.A. §§ 3546, 3549, 24 V.S.A. §§ 2291(10), (14), (15), and (21), 24 V.S.A. Chapter 59, 24 App. V.S.A. § ch. 5, §§ 301(b)(2), (5), and (8), 24 App. V.S.A. §§ ch. 5, § 701, 702, 705, and 707.

**Purpose.** The purpose of this ordinance is to protect the health, safety, and welfare of the public, domestic animals, and dogs of the City of Montpelier by regulating dogs and domestic animals, public nuisances, and to protect the quiet enjoyment of its residents' homes and property.

### Sec. 8-202. DEFINITIONS.

1. "Animal Control Committee" or "ACC" shall mean a Committee appointed by the City Council for the purpose of determining a recommended course of remedial action for dogs and owners with violations after sufficient police investigation in order to maintain public safety consistent with provisions of this ordinance. The ACC shall be composed of 5 individuals: the Health Officer, the Police Chief or designee, 2 qualified volunteers (i.e., veterinarian, veterinary behaviorist, or certified animal behaviorist), and 1 other appointee. In the event that qualified volunteers are not available, the City will contract

with professionals to fill the qualified volunteer appointments.

2. "Dangerous" shall mean any dog who, when unprovoked:
  - a. inflicts a serious injury on, or kills a domestic animal; or
  - b. inflicts an injury on a person which requires medical attention.
  - c. on two separate occasions within a twelve (12) month period, is in violation of this ordinance as a "potentially dangerous" dog, as defined in this ordinance.

This definition shall not apply if the dog was protecting or defending itself, was in reaction to pain or an injury, protecting its offspring, another domestic animal or a person, or protecting its owner's property 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.

3. "Dog" shall mean any member of the canine species or "wolf-hybrid" as defined in this ordinance. For purposes of this ordinance, this term, whenever used, shall also include "working farm dogs" except where specifically exempted.
4. "Domestic animal" shall mean any "domestic pet" as defined in this ordinance, cattle, sheep, goats, equines, deer, American bison, swine, poultry, pheasant, partridge, Coturnix quail, psittacine birds, ferret, camelids, ratites, and water buffalo, and cultured trout propagated by commercial trout farms.
5. "Domestic pet" or "pet" shall mean any dog, cat, or ferret. The term shall also include such other domestic animals as the State of Vermont establishes by rule.
6. "Enforcement Officer" shall mean any police officer, animal control officer, or any other person designated as Enforcement Officer by the City Council.
7. "Montpelier Community Justice Center" or "MCJC" shall mean the department of the City of Montpelier known as the Montpelier Community Justice Center that operates programs and provides services that build and support the community's capacity to be accountable to one another and respond to destructive behavior in ways that help repair harm.
8. "Nuisance" shall mean any dog that:
  - a. chronically disturbs the quiet, comfort, and repose of others by frequent or continued barking, howling, yelping or screaming. This definition shall not apply to: (1) dogs in a kennel/boarding facility which has received a zoning permit under the City's Zoning Regulations; or (2) "working farm dogs" barking in order to herd or to protect livestock or poultry or to protect crops.
  - b. causes damage to property.
9. "Owner" shall mean any person or persons, firm, association, or corporation owning, keeping, or harboring a dog; or any person or persons, firm, association, or corporation who has actual or constructive possession of a dog.
10. "Potentially Dangerous" shall mean any dog who when unprovoked:
  - a. chases, threatens to attack, or attacks another domestic animal;

- b. chases, threatens to attack, or attacks another person;
- c. causes a person to reasonably fear attack or bodily injury from such dog;
- d. inflicts an injury on a person that does not require medical attention; or
- e. causes damage to personal property as a result of aggressive behavior.

For purposes of this definition, vocalization or barking, alone, shall not cause a dog to be deemed potentially dangerous. This definition shall not apply if the dog was protecting or defending itself, was in reaction to pain or an injury, protecting its offspring, another domestic animal or a person, or protecting its owner's property 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.

11. "Rabies Suspect" means a dog or domestic animal that:

- a. is suspected of having been exposed to rabies;
- b. is believed to have been attacked by another animal which may be rabid;
- c. has been attacked by a wild animal; or
- e. has an unknown rabies vaccination history.

12. "Running at large" or "run at large" shall mean any dog that is off the premises of the owner and not:

- a. on a leash if on a City street, sidewalk, or bike/recreation path;
- b. clearly under the verbal or non-verbal control and in sight of the owner who has a leash in their possession, when not on a City street, sidewalk or bike/recreation path;
- c. in a vehicle;
- d. on the premises of another person with that person's permission; or
- e. hunting with the owner.

This definition shall not apply to "working farm dogs" running at large in order to herd or protect livestock or poultry or to protect crops. This definition shall not apply to Hubbard Park if dogs are in compliance with the Hubbard Park Canine Code of Conduct (CCC) as promulgated by the Parks Commission.

13. "Wolf-hybrid" shall mean an animal that is the progeny of a dog and a wolf (*Canis lupus* or *Canis rufus*); an animal that is advertised or otherwise described or represented to be a wolf hybrid; or an animal that exhibits primary physical and/or behavioral wolf characteristics.

14. "Working farm dog" shall mean a dog that is bred or trained to herd or protect livestock or poultry or to protect crops and that is used for those purposes and that is registered as a working farm dog pursuant to State law.

Sec. 8-203. CALCULATION OF OFFENSES.

For purposes of calculating sequence of offenses of any violation of this ordinance, second, third, and fourth offenses shall be those that occur 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, unless specifically noted otherwise. Offenses shall be counted against the owner.

Sec. 8-204. LICENSING.

No dog shall be kept within the limits of the City of Montpelier, County of Washington, State of Vermont, unless such dog is licensed in accordance with the statutes of the State of Vermont. Dog license fees shall be set at \$5 above the amount set by the State of Vermont.

Sec. 8-205. PENALTIES FOR FAILURE TO LICENSE.

The penalties for violating Section 8-204 of this ordinance (failure to license a dog) shall be as follows:

- |  |                                      |
|--|--------------------------------------|
| 1 <sup>st</sup> Offense:                 | Formal warning.                      |
| 2 <sup>nd</sup> Offense:                 | Fine of \$100. Waiver fine of \$50.  |
| 3 <sup>rd</sup> Offense:                 | Fine of \$200. Waiver fine of \$100. |
| 4 <sup>th</sup> and Subsequent Offenses: | Fine of \$500. Waiver fine of \$250. |

Sec. 8-206. ENFORCEMENT.

Any violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau in Washington County Superior Court at the election of the Chief of Police or Enforcement Officer. In addition to, or alternatively, the Chief of Police or Enforcement Officer may refer violators of this ordinance to complete a restorative process with the Montpelier Community Justice Center.

Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. 1974a and 1977 et seq. For purposes of enforcement in Judicial Bureau, any Enforcement Officer shall have authority to issue tickets and represent the City at any hearing.

Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The City of Montpelier may pursue all appropriate injunctive relief.

Sec. 8-207. RUNNING AT LARGE PROHIBITED.

It shall be unlawful for the owner of any dog to permit such dog to “run at large” as defined in this ordinance.

Sec. 8-208. PENALTIES FOR RUNNING AT LARGE.

The penalties for violation of Section 8-207 (“running at large”) shall be as follows:

- |                          |  |
|--------------------------|--|
| 1 <sup>st</sup> Offense: | Formal warning.  |
| 2 <sup>nd</sup> Offense: | Fine of \$250. Waiver fine of \$125. No fine shall be levied if the owner completes a restorative process with the Montpelier Community Justice Center and completion of restorative process is certified by the MCJC. |

3<sup>rd</sup> Offense: Fine of \$450. Waiver fine of \$225. The fine shall be reduced to \$150 if the owner completes a restorative process with the MCJC and completion of restorative process is certified by the MCJC.

4<sup>th</sup> and Subsequent Offenses: Fine of \$500. Waiver fine of \$250. In addition, violators shall participate in meetings of the Animal Control Committee and follow the Committee's recommendations.

Sec. 8-209. DUTIES OF ENFORCEMENT OFFICERS AND PERSONS HAVING CONTROL OF IMPOUNDMENT.

Any Enforcement Officer within the City of Montpelier shall have the authority to seize, impound, or restrain any dog in violation of this ordinance and deliver such dog to the person or organization duly authorized or contracted to have control of impounding. If the owner of such dog is known or can be located with reasonable diligence, then the Enforcement Officer who impounds a dog shall give notice to the owner, either personally, by telephone call, or by written notice at the owner's dwelling, within twenty-four (24) hours of the receipt of such dog.

If the owner of such dog is not known or cannot be located with reasonable diligence, then the Enforcement Officer who impounds a dog shall post, within twenty-four (24) hours, public notice. Notification shall be posted for at least a ten (10) day period. Notification shall be posted in the City Clerk's Office, other usual places in City Hall, and on the City's website. Notification shall include a description and photo image of the dog, stating where it is impounded, and declare that unless the owner claims the dog, and takes all necessary action pursuant to Section 8-210 "Conditions of Release from Impoundment" within ten (10) days following the posting, the City may place the dog in an adoptive home, transfer it to a humane society or rescue organization, or dispose of it through euthanasia.

The Enforcement Officer having control of impounding shall keep a record of every dog disposed of by sale, adoption, transfer, or otherwise. Such record shall include (a) a description including a photo image which identifies the dog with reasonable certainty; (b) the manner of disposing of the dog; and (c) if the dog was transferred or adopted by another person or organization the name and address of the transferee. In addition, the transferee must sign a statement giving his/her name, address, and the date of delivery or receipt of the dog.

Any Enforcement Officer may order a dog impounded or kept within the owner's residence pending: (1) an order of the City Council pursuant to an investigation under Section 8-216; or (2) a determination of a recommendation by an Animal Control Committee referral.

Sec. 8-210. CONDITIONS OF RELEASE FROM IMPOUNDMENT.

Before an impounded dog may be released to the owner or transferred to another person or organization, the following requirements must be met: (a) such dog shall be vaccinated with anti-rabies vaccine, unless there is proof of vaccination within the previous year; (b) such dog must be licensed in accordance with the statutes of the State of Vermont; and (c) the owner or transferee shall pay to the City Treasurer of Montpelier the sum of the following charges:

1. \$150.00 transportation charge;
2. Vaccination charge, if applicable;

3. License fee, if applicable;
4. Penalties and Fines, if applicable; and
5. Impoundment costs.

In addition to the above conditions of this Section, completion of remedial action as ordered by the City Council pursuant to Section 8-216, or the Animal Control Committee, where applicable, may be required prior to release of an impounded dog to such owner or transferee.

Sec. 8-211. DOGS AS A NUISANCE.

The owner of a dog shall not allow their dog to be or create a “nuisance” as defined in this ordinance.

Sec. 8-212. PENALTIES FOR NUISANCE DOGS.

The penalties for violation of Section 8-211 (“nuisance” dogs) shall be as follows:

- |  |  |
|--|--|
| 1 <sup>st</sup> Offense:                 | Formal warning.  |
| 2 <sup>nd</sup> Offense:                 | Fine of \$200. Waiver fine of \$100. No fine shall be levied if the owner completes a restorative process with the Montpelier Community Justice Center and completion of restorative process is certified by the MCJC. |
| 3 <sup>rd</sup> Offense:                 | Fine of \$450. Waiver fine of \$225. The fine shall be reduced to \$150 if the owner completes a restorative process with the MCJC and completion of restorative process is certified by the MCJC.                     |
| 4 <sup>th</sup> and Subsequent Offenses: | Fine of \$500. Waiver fine of \$250. In addition, violators shall participate in meetings of the Animal Control Committee and follow the Committee’s recommendations.  |

Sec. 8-213. POTENTIALLY DANGEROUS DOGS.

The owner of a dog shall not allow their dog to be “potentially dangerous” as defined in this ordinance.

Sec. 8-214. PENALTIES FOR POTENTIALLY DANGEROUS DOGS.

The penalties for violation of Section 8-213 (“potentially dangerous” dogs) shall be as follows:

- |                          |   |
|--------------------------|---|
| 1 <sup>st</sup> Offense: | Fine of \$450. Waiver fine of \$225. The fine shall be reduced to \$150 if the owner completes a restorative process with the MCJC and completion of restorative process is certified by the MCJC. In addition, violators |
|--------------------------|---|

may be required to participate in meetings of the Animal Control Committee and follow the Committee's recommendations.

Sec. 8-215. DANGEROUS DOGS.

The owner of a dog shall not allow their dog to behave in a "dangerous" manner as defined by this ordinance. A person claiming a dog is "dangerous" may file a written complaint with the City Council, Enforcement Officer, or Police Department. The complaint shall contain the time, date, and place where the alleged behavior occurred, an identification of the domestic animal or dog injured, the name and address of any person or people injured, and any other facts that may assist the investigation.

Upon receipt of a complaint of a "dangerous" dog, the City Council shall proceed as described under Section 8-216, with the exception that if the dog is found "dangerous" as a result of two separate "potentially dangerous" violations as defined in this ordinance, the City Council and/or Animal Control Committee may order any protective measures be taken absent the dog being euthanized.

Sec. 8-216. INVESTIGATION OF DOGS OR DOMESTIC PETS WHICH HAVE BITTEN OR SERIOUSLY INJURED A PERSON.

When a dog or domestic pet has bitten a person while the dog or domestic pet is off the premises of the owner or keeper, and the person bitten requires medical attention, the person bitten may file a written complaint with the City Council, Enforcement Officer, or Police Department who shall, within seven (7) days, investigate the incident pursuant to 20 V.S.A. § 3546. The written complaint must contain the time, date, place of the incident, and any other facts that may assist the investigation.

The City Council shall hold a hearing on the matter. If the owner of the dog or domestic pet 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 the hearing and a copy of the complaint.

If the dog or domestic pet is found to have bitten, or seriously injured the victim without provocation, the dog or domestic pet shall be deemed "dangerous" and the owner shall be fined pursuant to Section 8-217 of this ordinance. In addition, the City Council 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 or domestic pet is disposed of in a humane way (euthanized), muzzled, or confined. The City Council may also refer the incident to the Animal Control Committee for recommendation or further remedial action.

An order for euthanasia may only be given upon the recommendation of the Animal Control Committee, and only after the Committee has consulted with a certified animal or veterinary behaviorist and that individual has determined euthanasia is the only appropriate remedy.

Any order shall be sent to the owner by certified mail, return receipt requested. The City Council may seek enforcement in Superior Court against a person who, after receiving notice, fails to comply with the terms of any order by the City Council and/or Animal Control Committee.

The procedures in this Section shall only apply if the domestic pet or dog is not a "rabies suspect" as defined in this ordinance. If the dog or domestic pet is a rabies suspect then of Section 8-220 shall apply.

Sec. 8-217. PENALTIES FOR DANGEROUS DOGS AND BITES REQUIRING MEDICAL

ATTENTION.

If a dog has been deemed “dangerous,” or if a dog or domestic pet has been found to be violation of Section 8-216, the penalties shall be as follows:

1<sup>st</sup> and Subsequent Offenses: Fine of \$600. Waiver fine of \$300. In addition, violators shall participate in, where applicable, City Council and Animal Control Committee meetings and follow any orders and recommendations of such bodies, respectively.

Sec. 8-218. WASTE REMOVAL.

The owner of any dog which defecates in any public area or on the private premises of another person shall remove such material immediately and dispose of it in a sanitary manner.

Sec. 8-219. PENALTIES FOR FAILURE TO REMOVE WASTE.

The penalties for violation of Section 8-218 (“waste removal”) shall be as follows:

1<sup>st</sup> Offense: Fine of \$75. Waiver fine of \$40.

2<sup>nd</sup> Offense: Fine of \$100. Waiver fine of \$50.

3<sup>rd</sup> and Subsequent Offenses: Fine of \$150. Waiver fine of \$75.

Sec. 8-220. MANAGEMENT AND IMPOUNDMENT OF ANIMALS EXPOSED TO RABIES OR SUSPECTED OF BEING INFECTED.

Application. The procedures provided in this Section shall apply to an animal that is a “rabies suspect” as defined in this ordinance.

Procedure. If an Enforcement Officer determines that an animal is a rabies suspect, the City Council and Enforcement Officer shall immediately notify the Health Officer who shall proceed in accordance with the rules of the Vermont Department of Health relating to rabies. A rabies suspect shall be managed by the Health Officer or Deputy Health Officer in accordance with 20 V.S.A. 3801 and related Rules adopted by the Vermont Department of Health.

Costs. All costs associated with the impoundment and management of the rabies suspect shall be borne by the owner. If no owner is found, then the City shall be responsible for the costs, and if at a later date, the owner is found, then those costs plus interest shall be the responsibility of the owner and reimbursed to the City upon receipt of an invoice from the City.

Sec. 8-221. REPEAL OF CONFLICTING ORDINANCES.

All existing ordinances of the City of Montpelier are hereby repealed insofar as they may be inconsistent with the provisions of this ordinance.

Sec. 8-222. SEPARABILITY OF PROVISIONS.

It is the intention of the City that each separate provision of this ordinance shall be deemed



independent of all other provisions herein, and it is further the intention of the City that if any provision of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

Sec. 8-223. EFFECTIVE DATE.

This ordinance shall be effective 15 days after passage as per 24 App. V.S.A. ch. 5, § 702(c) of the City Charter.