SAINT ALBANS
Vermont

Development Review Board
Application Staff Report

Hearing Date: **August 28, 2025**

Case: **Case # 2025-012**

Applicant(s): **St. Albans Creamery, LLC**

Subject Parcel: **#22033142**

Address: **138-142 Federal Street**

Review Requested: **ZA Decision Appeal**

I. Description of Request and Relevant Facts

1. Applicant requests ZA Decision Appeal of a Notice of Violation
2. This property is located in the Service-Industrial Zoning District.
3. The City Attorney has supplied a memorandum included with this report.

II. Public Notice

The warning of the public hearing and the certified mailings to abutters were completed as per statutory requirements in 24 V.S. A. Chapter 117.

III. Completeness of Application

The applicant has submitted an application with sufficient information for the Development Review Board to make a ruling on the completeness of the application, including possible requirements for supplemental information and evidence before the hearing can be Closed. Staff will advise the applicant of any known deficiencies in the application before the hearing.

IV. Applicable Regulations and Review Standards

The process and standards for this review are found in the City of St. Albans Land Development Regulations in Section 521, and there are other applicable standards in the Regulations.

V. Other Relevant Information

Previous Permitting Actions for Subject Parcel

- Permit B24-000070 Issued for removal of tank 2 & 3, demo of existing foundation, sewer relocation, and other changes as approved in DRB Case 2024-001.
- Permit B24-000022 Issued for relocation of water service, demolition of steel tank, construct 24000 gallon steel tank for wastewater treatment as approved in DRB Case 2024-001.

***Staff note there are many permits, site plans, and documents associated with this file over the years. For a full account, reference the ZA File on record.**

Respectfully Submitted,

Sara Bennett

Sara Bennett
Property Services Administrator

CITY OF ST. ALBANS
DEVELOPMENT REVIEW BOARD

In re St. Albans Creamery, LLC Noxious Odors	))	Case Number DRB 2025-012

BRIEF IN SUPPORT OF UPHOLDING INITIAL DECISION OF THE ZONING ADMINISTRATOR

Re: Appeal of Notice of Violation – 142 Federal Street (St. Albans Creamery, LLC)

I. Introduction

This matter arises from the appeal of a Notice of Violation ("NOV") issued by the City of St. Albans on July 17, 2025 to St. Albans Creamery, LLC ("Appellant"), citing violations of Section 519(B) of the City's Land Development Regulations. The NOV concerns the repeated and sustained emission of offensive odors from Appellant's facility at 142 Federal Street. These emissions, confirmed by neighbors, City officials, and members of the general public, were plainly "readily detected" and materially interfered with the comfort and quiet enjoyment of life in surrounding neighborhoods. The Development Review Board ("DRB"), sitting in review of this appeal under 24 V.S.A. §§ 4465–4466, must determine whether the City acted within its statutory and regulatory authority. The record demonstrates that it did. Both the plain text of Section 519(B) and Vermont precedent confirm that municipalities have the authority and obligation to address nuisance-level odors through performance standards. The NOV issued here was lawful, properly noticed, and supported by substantial evidence.

II. Governing Legal Framework

The statutory framework governing this appeal is clear. Pursuant to 24 V.S.A. § 4451, municipalities are empowered to issue notices of violation where they determine that zoning standards have been breached. Subsection (a)(2)(B) of that statute requires the NOV to "state the facts giving rise to the alleged violation." That notice, once issued, is subject to appeal to the DRB under §§ 4465–4466. On such appeal, the DRB acts as a quasi-judicial body charged with reviewing whether the violation occurred. In this sense, the DRB steps into the shoes of the zoning administrator and must assess whether the factual record supports a determination of violation.

The City's regulations explicitly implement this statutory authority. Section 519(B), entitled "Odor," prohibits the emission of odorous gases "in such quantities as to be readily detected or as to interfere unreasonably with the comfort of the public." This standard incorporates a dual test—first, whether the odors were readily detectable, and second, whether they unreasonably interfered with public comfort. The provision further requires the installation of safeguard systems to control odors,

ensuring continued compliance even in the event of equipment failure. Finally, Section 519(B) incorporates by reference the Odor Thresholds in the Air Pollution Manual (1951), establishing an objective reference point for assessing offensive odors.

Vermont Supreme Court precedent reinforces the legitimacy of such performance standards. *In Town of Randolph v. Estate of White*, 166 Vt. 280 (1997), the Court held that due process requires notices of violation to contain sufficient information to allow landowners to understand and respond to the allegations. That requirement was satisfied here, as the NOV clearly identified the violation, the governing regulation, and the corrective actions required. In *In re Jewell*, 169 Vt. 604 (1999), the Court further clarified that municipalities bear the burden of proving violations by substantial evidence, not by proof beyond a reasonable doubt. Substantial evidence, as the Court has consistently explained, may include credible lay testimony, observations of municipal officials, and contemporaneous complaints. Finally, in *Coty v. Ramsey Associates, Inc.*, 149 Vt. 451 (1988), the Court recognized that offensive odors, even when arising from agricultural or industrial operations, may constitute a nuisance subject to abatement. That principle is echoed in 24 V.S.A. § 4414(5), which explicitly authorizes municipalities to adopt and enforce performance standards to protect the public welfare.

III. Factual Basis for the NOV

The record supporting the NOV is extensive. Between January and July 2025, the City received dozens of complaints concerning offensive odors originating from the Appellant's facility. Neighbors described the odors as "terrible," "horrendous," "like raw sewage," and "rotten milk." These complaints were not isolated or speculative—they were confirmed by independent observations of City officials, including Public Works employees, City Hall staff, and elected representatives. The documentation reflects complaints across multiple neighborhoods—Federal Street, Aldis Street, Best Court, Cherry Tree Court, and even from locations as central as City Hall—demonstrating that the odors were both widespread and intrusive.

The frequency of the complaints further underscores their significance. Multiple complaints were received on the same day, and residents reported having to close their windows during summer months due to the offensive emissions. Recreational spaces, including baseball fields, were affected, with parents and children alike commenting on the noxious smell. This breadth of impact is precisely what Section 519(B) was intended to prevent. The Appellant's assertion that the NOV "states no facts" is contradicted by the administrative record, which contains ample documentation of dates, times, and locations of odor events. The NOV itself identified the nature of the violation, the governing provision, and the required remedies—thus providing sufficient notice to satisfy both statutory and constitutional standards.

IV. Application of Section 519(B)

Applying Section 519(B) to the facts at hand compels the conclusion that Appellant violated the ordinance. The first element—that odors be "readily detected"—is easily met. Complaints and official reports alike establish that the odors were perceptible without instrumentation, in public and residential spaces across the City. This alone constitutes a violation. The second element—unreasonable interference with public comfort—is likewise satisfied. Residents reported that the odors forced them to close their windows, interfered with outdoor recreation, and were so pervasive that visitors commented on the unpleasant environment. Such impacts rise well above mere inconvenience and fall squarely within the category of unreasonable interference recognized in nuisance law.

Appellant's facility also failed to comply with the safeguard requirements of Section 519(B). The regulation mandates that processes involving odors employ secondary control systems to ensure that emissions are contained even if primary systems fail. Appellant has admitted to ongoing wastewater odor issues and has acknowledged the need for additional remedial measures. This is, in effect, a concession that existing safeguards were insufficient. Section 519(B) demands proactive measures to prevent odors from escaping into the community, and Appellant's failure to meet that standard constitutes a direct violation.

V. Rebuttal to Appellant's Arguments

Appellant raises three primary defenses, none of which withstand scrutiny. First, Appellant argues that the NOV was deficient for lack of factual detail. As already noted, the NOV satisfied statutory and constitutional requirements by identifying the nature of the violation, the legal provision at issue, and the corrective measures required. The Vermont Supreme Court has made clear that the measure of adequacy is whether the notice provides a fair opportunity to respond. The detailed appeal filed by Appellant demonstrates that it understood the nature of the violation and was not deprived of that opportunity.

Second, Appellant claims that the City has not produced sufficient evidence of violation. This argument fails in light of the substantial body of complaints and corroborating observations in the record. Vermont law recognizes that credible lay testimony is sufficient to establish nuisance conditions. The suggestion that scientific testing is required finds no support in statute or case law. To the contrary, the Air Pollution Manual and related authorities explicitly recognize that odor offensiveness is a subjective phenomenon best demonstrated by human perception and community complaints.

Third, Appellant speculates that other sources may be responsible for the odors. This assertion is wholly unsubstantiated. The clustering of complaints around Appellant's facility, combined with the temporal consistency of odor reports and the independent confirmation by City officials, establishes Appellant's facility as the

source. Mere speculation about alternative sources cannot overcome the weight of evidence directly tying the odors to Appellant's operations.

VI. Conclusion

For the foregoing reasons, the City has met its burden of proving that St. Albans Creamery, LLC violated Section 519(B) of the Land Development Regulations. The odors emitted from its facility were readily detectable, unreasonably interfered with the comfort of the public, and reflected a failure to maintain adequate safeguards. The NOV was lawfully issued, provided sufficient notice, and was supported by substantial evidence in the record. Vermont statutory law, the City's zoning authority, and Supreme Court precedent all support the City's position. The Development Review Board should therefore affirm the July 17, 2025 Notice of Violation and uphold the City's authority to require immediate abatement of the nuisance.

Dated at Burlington, Vermont this 28th day of August, 2025.

CITY OF ST. ALBANS

By: _____

Edward G. Adrian, Esq.
Monaghan Safar PLLC
27 Main Street
Burlington, VT 05401
eadrian@msvtlaw.com
(802) 660-4735
(802) 419-3662 (facsimile)

DRB/DAB Material Submission
CASE # DRB 2025-012
EVIDENCE # 2

RECEIVED
AUG 01 2025
CITY OF ST. ALBANS Zoning Office

Case Number: DRB 2025-012

SAINT ALBANS
Vermont

APPLICATION for a PUBLIC HEARING and/or DESIGN REVIEW

under the CITY OF SAINT ALBANS LAND DEVELOPMENT REGULATIONS

Applicant(s) St Albans Creamery LLC. **Daytime Phone** 802 801 9034

Landowner(s) _____ **Daytime Phone** _____

Mailing Address 138-142 Federal Street VT 05478 **Parcel ID #** 220 33 142

Parcel Address _____ **Zoning District** S-IND

Design Review Dist. _____

Email plekkas@dfamilk.com

Description of Proposed Activity (attach additional pages as needed)

See attached

Print Name of Owner: _____

Signature of Owner: _____ **Date:** _____

Print Name of Applicant: PANOS LEKKAS

Signature of Applicant: Plekkas **Date:** 8/1/25

Required Reviews and Fees – To be completed by Staff			
Design Advisory Board[1]		**Development Review Board**[2,3]	
Design Review - $15 / $45[4]		(Some combined reviews are $50 each. See below.)	
Site Plan Review - $15 / $45[4]		Design Review - $90 / $140[4]	
		Conditional Use Review - $90 / $140[4]	
		Site Plan Review - $90 / $140[4]	
		Subdivision (per lot) - $90 / $140[4] #lots	
		ZA Decision Appeal - $90 / $140[4]	$ 90
		Variance Request - $100	
		Abutters Notice $7 x 9 (# abutters) (DRB ONLY)	$63
		Records Management Fee - $12 (DAB & DRB)	$ 12
		City Clerk Fee (DRB ONLY)- $15	$ 15
		Amount Remitted:	
		Check #_____ or Cash Date:_____	

Total Due $ 180

Warning Posting Dates:

_____ to _____

(PLEASE TURN OVER FOR ADDITIONAL INFORMATION)

[1] For any DAB review, the applicant will not be placed on the required meeting agenda until all fees are paid. Failure to pay fees on time could delay your review by at least one month.
[2] For any DRB review, the applicant will not be placed on a warning and will not receive the required hearing notice to post on site until all fees are paid. Keep in mind that all applications must be warned and posted AT LEAST 15 days before the hearing. Failure to pay fees on time could delay your review by at least one month.
[3] When a warned hearing is combined for design review, conditional use, site plan, and/or subdivision, the first request is $90 and each subsequent request is $50. This does not include combining with a variance.
[4] After the fact.

SAINT ALBANS
Vermont

NOTICE OF VIOLATION

July 17, 2025

St. Albans Creamery, LLC
138 Federal Street
St. Albans, VT 05478

Dear property owner,

According to records of the City of St. Albans, you are the owner of property located at **142 Federal Street, Tax Parcel # 22033142.**

You are hereby notified that your property has been found to be in violation of the City of St. Albans Land Development Regulations.

The Violation: Emissions of offensive odors. Odors have been documented by neighboring properties and City officials on multiple instances. Emissions of odorous gases or other odorous matter is in violation of Section 519 of the City Land Development Regulations, specifically that;

Section 519 Performance Standards
***
B. Odor
No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detected or as to interfere unreasonably with the comfort of the public. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if primary safeguard system should fail. Table III, Odor Thresholds, in Chapter 5, Air Pollution Manual, copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C. or its equivalent shall serve as a guide in determining such quantities of offensive odors.

Remedies Ordered: To remedy this violation, the following corrective measures MUST be taken no later than **July 24, 2025.** (Seven days from this letter.)

1. **The discharged odors shall be remedied and all offensive odors brought under control.**
2. **Notify the City immediately so that evidence of this remedy can be recorded.**

Court Action: If the above remedies are not made, the City will pursue court action for injunctive relief (24 V.S.A. § 4452), a fine of up to $200 per day (24 V.S.A. § 4451) and/or other possible remedies as available.

No More Warnings: You will not be entitled to further warnings after the seven-day period that ends on July 24, 2025.

You May Appeal this Notice: This notice of violation is appealable to the St. Albans City Development Review Board, as provided under 24 V.S.A. Section 4465. To exercise your right to appeal, you must file an appeal hearing application with the St. Albans City Clerk at PO Box 867, 100 No. Main St., St.

Albans, VT 05478 or via email to s.bennett@stalbansvt.com by **August 1, 2025**, within 15 days of this notice. Contact the signatory of this notice below if you would like a copy of the appeal hearing application.

Finality of this Notice: Failure to file an appeal within the 15-day period described above will render this Notice of Violation the final decision on this matter.

If you have questions, please contact me.

_____

Sara Bennett
Property Services Manager
CITY OF SAINT ALBANS, VERMONT

(802) 524-1500 ext. 252
S.bennett@stalbansvt.com

Manners of Transmittal and Recording:

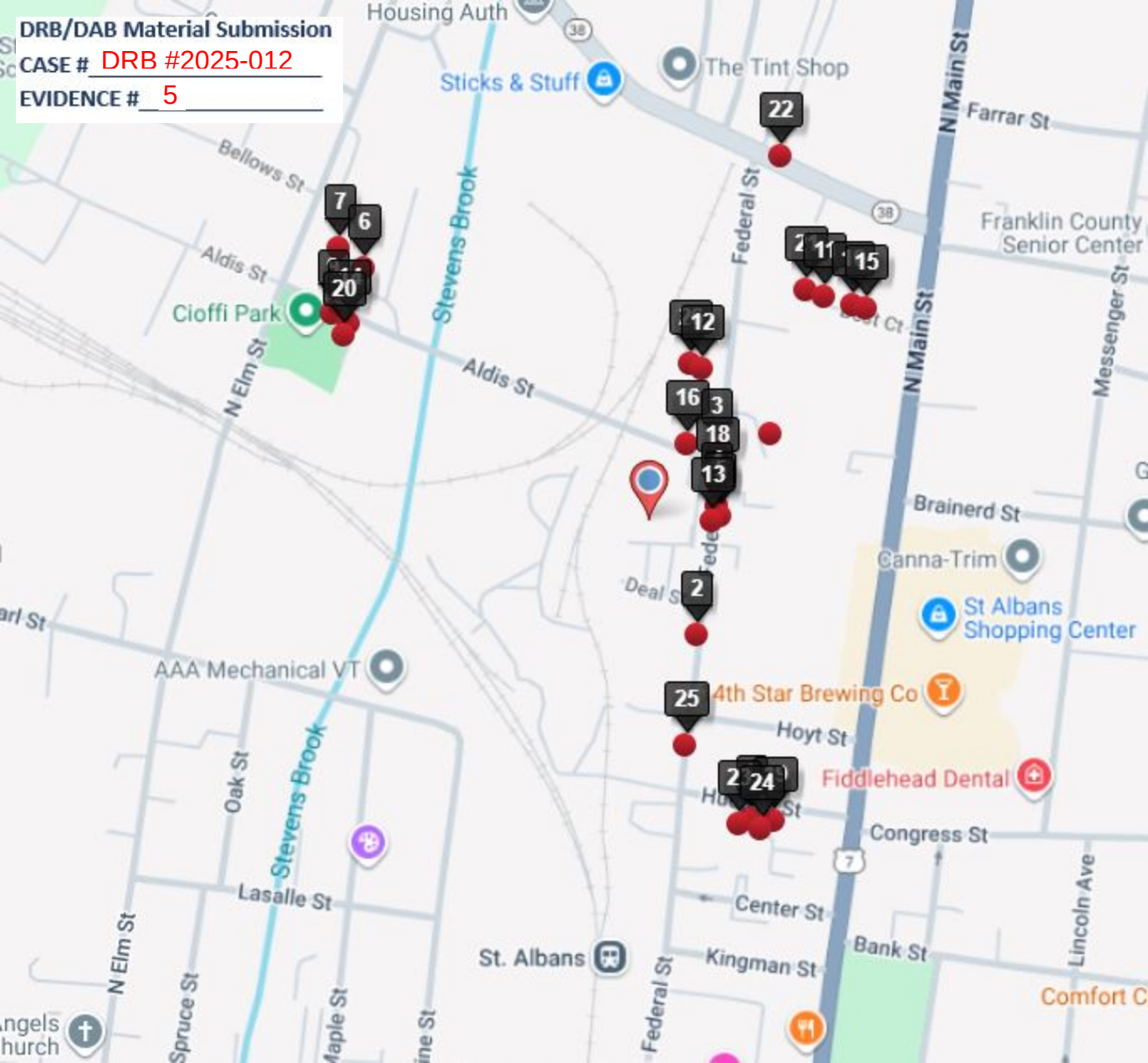
Sent to property owner at the above address via certified USPS mail, regular USPS mail.

Recorded in City of St. Albans land records.

DRB/DAB Material Submission
CASE # DRB #2025-012
EVIDENCE # 4

DATE	SOURCE	COMPLAINT DETAILS	MARKER # on Map
		DFA Location	1
1/16/2025	Facebook on St. Albans Page	Comment received: I have a question: Part of my morning commute takes me down Federal Street in the morning and I've been at it for a couple of years now. I don't remember it smelling quite the way it has been lately. I imagine it has something to do with the Dairy Co-op, but I was wondering if anybody had some insight about the pungent odor wafting around lately?	2
2/11/2025	Dispatch	Rec'd complaint about smell on Federal near Aldis	3
2/14/2025	Marty Manahan	Marty sent email to DFA; they responded that they were aware and monitoring.	
2/18/2025	Marty Manahan	Marty sent email to DFA; he could smell odor when he drove by at 6:30 am	4
3/1/2025	Marty Manahan	Marty sent email to DFA; odor was bad at 9:30 pm	
3/7/2025	Neighbor on Federal Street	Marty rec'd email from neighbor across the street from the plant on Federal Street regarding "terrible" odors. He confirmed at 2:45 pm.	5
3/19/2025	Public Works Employee	Marty rec'd complaint of odor at 10:30 am by Public Works employee.	6
3/19/2025	Neighbor on Federal Street	Marty rec'd complaint of odor at 1:40 pm.	
3/20/2025	Citizen (unknown location)	Marty rec'd complaint of odor at 11:00 pm.	
3/24/2025	Citizen (unknown location)	Marty rec'd complaint of odor at 9:30 am.	
3/25/2025	Citizen (unknown location)	Marty rec'd complaint of odor at 1:00 pm.	
5/1/2025	Citizen (unknown location)	Marty rec'd complaint of very bad odors. PW crew confirmed they smelled it all day.	7
5/1/2025	Citizen (unknown location)	Marty rec'd complaint of very bad odor.	
5/1/2025	Citizen (unknown location)	Marty rec'd complaint of very bad odor.	
5/4/2025	Marty Manahan	Marty sent email to DFA; he could smell rotten eggs at 10:15 am	8
5/6/2025	Matt Mulheron	Matt was at baseball field and reported several parents making comments about bad smells coming from DFA. He confirmed.	9
5/8/2025	Neighbor on Best Court	Marty rec'd complaint of foul odoar at 12:40 pm.	
5/12/2025	Marty Manahan	Marty sent email to DFA; v ery bad odors at 1:01 pm	
5/13/2025	Neighbor on Best Court	Marty rec'd message from Best Ct. smelling odors at 8:45 am	10
5/15/2025	Marty Manahan	Marty sent email to DFA; bad odors like foul sewage around Aldis/Federal instersection at 11:30 am	
5/21/2025	Marty Manahan	Marty rec'd complaint of odor at 9:00 am.	
5/24/2025	Citizen (unknown location)	Marty rec'd complaint of odor at 2:30 pm.	
6/11/2025	Neighbor on Best Court	Marty rec'd complaint of bad odor at 9 am	11
6/12/2025	Neighbor on Best Court	Marty rec'd complaint of bad odor at 11:20 am from Federal Street in front of George Wood Tire.	12
6/12/2025	Neighbor on Best Court	Marty rec'd complaint of bad odor at 12:10 pm from Federal Street in front of co-op.	13
6/13/2025	Marty Manahan	Marty sent email to DFA regarding bad sewage odors at 8:45 am on Federal and Aldis.	
6/13/2025	Matt Mulheron	He could smell odor when he dropped mail off at City Hall and each evening that week around 5 pm from baseball fields on Aldis	14
6/27/2025	Citizen (unknown location)	Marty rec'd call today about odors.	
6/27/2025	Citizen (unknown location)	Marty rec'd call today about odors.	
6/27/2025	Citizen (unknown location)	Marty rec'd call today about odors.	
6/29/2025	Neighbor on Best Court	Marty rec'd complaint of odor at 8:00 am.	15
6/29/2025	Marty Manahan	Marty reported foul odor on Aldis Street at 2:30 pm.	
7/2/2025	Marty Manahan	Marty reported the worst smell yet on Aldis Street at 9:20 am.	16
7/3/2025	Aaron Scowcroft (realtor)	Rec'd complaint from realtor who represents Cherry Tree Court and is President of Association and would like to know where smell is coming from.	17
7/3/2025	Facebook on St. Albans Page	Comment received: Has anyone else noticed the smell surrounding the DFA facility in the last month or so? Every time I drive by it smells exactly like a natural gas leak.	18
7/8/202	Marty Manahan	Marty reported very strong odors coming from plant after walking out of rear door at City Hall.	19
7/10/2025	Matt Mulheron	Reported horrible odor like a dead animal or gas from baseball fields at 6:24 pm.	20
7/11/2025	Neighbor on Best Court	Marty rec'd email from neighbor that this is a daily occurrence and offensive having to close windows during summer weather. They had family visit and also commented on the smell of sewer.	21
7/12/2025	Facebook on St. Albans Page	Comment received: I live off lower Newton in the city of St Albans and it seems like every other day all I can smell is raw sewage it's not sour milk it's raw sewage does anyone know anything about this you drive by the park on elm Street the kids are playing baseball and I can smell is raw sewage just curious if I'm the only one smelling this	22
7/23/2025	Katie Landry	Katie sent email re: strong odor of rotten milk when leaving work at 4:30 pm.	23
7/25/2025	Katie Landry	Katie reported strong odor of rotten milk when leavintg work at 4:30 pm.	24
7/25/2025	Kristen Smith	Kristen reported rotten milk smell while driving down Federal Street at 4:40 pm.	25
7/28/2025	Andrew Wood	Andrew Wood from George Wood Tires called to report foul odor almost daily between 10 am and 1 pm. He noted that he's had dairy farmers come into his shop as customers who have even complained about he horrendous smell.	26

DRB/DAB Material Submission
CASE # DRB #2025-012
EVIDENCE # 5



NOTICE OF APPEAL OF NOTICE OF VIOLATION

TO ST. ALBANS CITY DEVELOPMENT REVIEW BOARD

St. Albans Creamery, LLC (the "Company" or "Appellant") submits this notice ("Appeal Notice") to the Saint Albans City Development Review Board (the "DRB") pursuant to 24 V.S.A. §§ 4465(a) and 4466 to appeal the notice of violation ("NOV") issued to the Company by the City of Saint Albans, Vermont (the "City") on Thursday, July 17, 2025, and to request an appeal hearing before the DRB. The Creamery is an "interested person" entitled to appeal pursuant to 24 V.S.A. § 4465(b)(1).

SUBJECT PROPERTY DESCRIPTION

The property that is the subject of the appealed NOV is located at 138-142 Federal Street, St. Albans, Vermont 05478 (the "Property"). The Tax Parcel Number for the Property is #22033142. The Property consists of approximately 3.4 acres off of Federal Street in St. Albans. Appellant has operated a dairy processing plant (the "Plant") at the Property since August 2019.

NOTICE OF VIOLATION & FACTUAL BACKGROUND

On Thursday, July 17, 2025, the City issued the NOV, attached to this Appeal Notice as Exhibit A, to the Company. The NOV provided:

> *"Emissions of offensive odors. Odors have been documented by neighboring properties and City officials on multiple instances. Emissions of odorous gases or other odorous matter is in violation of Section 519 of the City Land Development Regulations."*

Section 519 (Performance Standards) of the City of St. Albans Land Development Regulations, subsection B (Odor) provides:

> *"No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detected or as to interfere unreasonably with the comfort of the public. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if primary safeguard system should fail. Table III, Odor Thresholds,*

> *in Chapter 5, Air Pollution Manual, copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C. or its equivalent shall serve as a guide in determining such quantities of offensive odors."*

The NOV provided no additional details regarding the odors allegedly "documented by neighboring properties and City officials on multiple instances," nor is it apparent whether any of the alleged "documented instances" of odor emissions were identified as actually coming from Appellant's Property versus some other source in the City. Although the NOV contained no information on the times, dates, or locations of any alleged odor events; details regarding the intensity or duration of such events; or any characterization or description of the alleged odors, the NOV ordered the Company to, within one week of receipt of the NOV, abate these unspecified odors and notify the City of the measures taken. The Company submitted a response to the City on July 25, 2025, detailing all recent and planned actions relating to general Plant wastewater odor control. In that letter, a copy of which is attached to this Appeal Notice as Exhibit B, the Company requested that the City provide specific factual details supporting the City's odor citation, but as of the date of this Appeal Notice, no such details have been provided.

GROUNDS FOR APPEAL

I. THE CITY'S NOV IS UNENFORCEABLE & VIOLATES THE COMPANY'S DUE PROCESS RIGHTS.

Vermont law requires that a notice of violation issued by a city under its zoning laws must, in order to be enforceable, "state … the facts giving rise to the alleged violation." 24 V.S.A. § 4451(a)(2)(B). The NOV issued by the City to the Company states no facts. It does not state the time, date, or place of any odors. It does not provide descriptions of the nature or intensity of any odors. It does not describe when or where the alleged odors were observed and why or how the City concluded such odors originated from the Company's Plant, rather than some other source in

the City. Instead, the NOV vaguely states only that there have been "odors … documented by neighboring properties and City officials on multiple instances." The NOV supplies no specifics that could allow the Company (i) to confirm whether there was actually a violation of City Performance Standards with respect to the Plant's odor emissions at the time the NOV was issued and (ii) if there was, to correct it. At least one court has previously objected to the City's practice of issuing vague notices of violation, "urg[ing] municipalities to comport with the statutory requirements [of 24 V.S.A. § 4451(a)(2)(B)] by specifying, *in as much detail as possible* … the facts that demonstrate a transgression for each alleged violation referenced in a notice of violation." *In re Benoit Conversion Applic.*, No. 126-7-04 VTEC, 2021 WL 5876455, at *10 (Vt. Super. Ct. Oct. 14, 2021) (emphasis added). The City has not met this requirement.

The absence of any details regarding the basis for the NOV from the City violates the clear statutory mandate that an NOV must "state … the facts giving rise to the alleged violation" and also violates the Company's constitutional due process rights, rendering the NOV invalid and unenforceable. The Vermont Supreme Court has "held that three requirements must be met for the contents of a notice [of violation] to satisfy due process." *Town of Randolph v. Est. of White*, 693 A.2d 694, 696 (Vt. 1997). Specifically, "the notice must state the facts that support the finding of a violation, the action the [city] intends to take, and information on how to challenge the notice." *Id*. at 697. The NOV did not include any facts to support the finding of a violation, which is the first of these three constitutional due process pillars. The Company is entitled to know the specific allegations made against it so that it can properly respond to, or, if appropriate, defend itself in this enforcement action. Without details regarding the nature and extent, times, and places of the alleged odor emissions referenced in the NOV, the Company is placed in the unfortunate—and unconstitutional—position of having to guess at the City's specific basis for the NOV and to

potentially expend significant resources to address odors that, without further confirmation and information from the City, may not even be attributable to the Company. The NOV states that the alleged odor emissions have been "documented by … City officials on multiple instances," but, to date, the City has not provided this documentation. The Company requests that the City provide these details, consistent with the City's constitutional due process obligations, particularly because the administrative burden of producing this documentation should be minimal. *See Town of Randolph*, 693 A.2d at 697 (city violated appellant's due process rights by failure to provide adequate notice of violation where the burden of providing adequate notice was "minuscule").

II. THE COMPANY DISPUTES THAT THE PLANT IS IN VIOLATION OF CITY PERFORMANCE STANDARDS.

The City has the ultimate burden of proving odor emissions violations. *See In re Jewell*, 737 A.2d 897, 900 (Vt. 1999). The City has not supplied evidence demonstrating odor emissions from the Company's Plant that are in violation of the City's Performance Standards. Although the NOV alleges that "[o]dors have been documented by neighboring properties and City officials on multiple instances," it does not include any characterization of the nature of these odors or when or where they purportedly occurred, such that the alleged odors could plausibly be attributed solely to the Company's Plant operations. The Plant is by no means the only potential source of odor emissions in the City. Without additional details from the City regarding reports of alleged odor emissions, the Company cannot corroborate these reports or properly investigate potential alternative sources of reported odor emissions.

The Company reserves the right to supplement these grounds for challenge during the course of this appeal in the event that further details regarding the violation alleged by the City are made available to the Company.

RELIEF REQUESTED

Appellant respectfully requests that the DRB issue an order declaring the City's July 17, 2025 NOV invalid and unenforceable based on the deficiencies in the NOV identified by Appellant in this Notice of Appeal.

Submitted: Friday, August 1, 2025

By:

Panos Lekkas
General Manager
On behalf of St. Albans Creamery, LLC
140 Federal Street, St. Albans, VT 05478

EXHIBIT A

NOTICE OF VIOLATION

July 17, 2025

St. Albans Creamery, LLC
138 Federal Street
St. Albans, VT 05478

Dear property owner,

According to records of the City of St. Albans, you are the owner of property located at **142 Federal Street, Tax Parcel # 22033142.**

You are hereby notified that your property has been found to be in violation of the City of St. Albans Land Development Regulations.

The Violation: Emissions of offensive odors. Odors have been documented by neighboring properties and City officials on multiple instances. Emissions of odorous gases or other odorous matter is in violation of Section 519 of the City Land Development Regulations, specifically that;

Section 519 Performance Standards
***
B. Odor
No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detected or as to interfere unreasonably with the comfort of the public. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if primary safeguard system should fail. Table III, Odor Thresholds, in Chapter 5, Air Pollution Manual, copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C. or its equivalent shall serve as a guide in determining such quantities of offensive odors.

Remedies Ordered: To remedy this violation, the following corrective measures MUST be taken no later than **July 24, 2025.** (Seven days from this letter.)

1. **The discharged odors shall be remedied and all offensive odors brought under control.**
2. **Notify the City immediately so that evidence of this remedy can be recorded.**

Court Action: If the above remedies are not made, the City will pursue court action for injunctive relief (24 V.S.A. § 4452), a fine of up to $200 per day (24 V.S.A. § 4451) and/or other possible remedies as available.

No More Warnings: You will not be entitled to further warnings after the seven-day period that ends on July 24, 2025.

You May Appeal this Notice: This notice of violation is appealable to the St. Albans City Development Review Board, as provided under 24 V.S.A. Section 4465. To exercise your right to appeal, you must file an appeal hearing application with the St. Albans City Clerk at PO Box 867, 100 No. Main St., St.

Albans, VT 05478 or via email to s.bennett@stalbansvt.com by **August 1, 2025**, within 15 days of this notice. Contact the signatory of this notice below if you would like a copy of the appeal hearing application.

Finality of this Notice: Failure to file an appeal within the 15-day period described above will render this Notice of Violation the final decision on this matter.

If you have questions, please contact me.

Sara Bennett

Sara Bennett
Property Services Manager
CITY OF SAINT ALBANS, VERMONT

(802) 524-1500 ext. 252
S.bennett@stalbansvt.com

Manners of Transmittal and Recording:

Sent to property owner at the above address via certified USPS mail, regular USPS mail.

Recorded in City of St. Albans land records.

EXHIBIT B

St. Albans Creamery, LLC
140 Federal Street
St. Albans, VT 05478

Tel: 802-524-6581
800-559-0343

Via Email
July 24, 2025

Sara Bennett
Property Services Manager
P.O. Box 867
100 North Main Street
Saint Albans, VT 05478
Email: s.bennett@stalbansvt.com

Re: Notice of Violation dated July 17, 2025

Dear Ms. Bennett:

This letter is in response to the Notice of Violation ("NOV") the St. Albans Creamery, LLC (the "Creamery") received from the City of St. Albans (the "City") for alleged emissions of offensive odors from the Creamery's facility located at 142 Federal Street, St. Albans, VT (the "Facility"). For ease of reference, the alleged violation is set forth below:

> "Emissions of offensive odors. Odors have been documented by neighboring properties and City officials on multiple instances. Emissions of odorous gases or other odorous matter is in violation of Section 519 of the City Land Development Regulations, specifically that;
>
> *Section 519 Performance Standards*
>
> ***B. Odor***
> *No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detected or as to interfere unreasonably with the comfort of the public. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system so that control will be maintained if primary safeguard system should fail. Table III, Odor Thresholds, in Chapter 5, Air Pollution Manual, copyright 1951 by Manufacturing Chemists' Association, Inc., Washington, D.C. or its equivalent shall serve as a guide in determining such quantities of offensive odors."*

At the outset, the Creamery wants to emphasize its commitment to being a good corporate citizen and contributor to the St. Albans economy and community, as demonstrated by its significant investments in the Facility over the last six years and the improvements it continues to make to the Facility, its operations, and its environmental and wastewater systems.

Each time the City has shared a complaint regarding odors from the Facility, the Creamery has responded swiftly and transparently about events at the Facility that may have contributed to the reported odors. To equip us to investigate reported odors and take appropriate responsive actions, we have consistently requested specific information about odor complaints from the City, including location, timing, and descriptions of the reported odors. As shared in prior correspondence, this information is critical to helping us determine the root cause of reported odors and to develop appropriate responsive actions. The Creamery

has also requested meetings with the City to discuss odor concerns and maintain an open, productive dialogue.

I. Background

In November 2024, the Creamery completed construction of a new wastewater pretreatment plant. This new pretreatment plant significantly reduced the loadings (including biochemical oxygen demand, total suspended solids, and phosphorus) of wastewater sent to the City of St. Albans' wastewater treatment plant and was necessary to ensure that Facility wastewater discharge to the City is consistently in compliance with the Creamery's Pretreatment Discharge Permit.

As with any new significant system upgrade, the Creamery anticipated that there would be a number of necessary refinements to the system as we worked to optimize its performance. The Facility has taken a number of actions over the past several months to improve odor emissions, as outlined below.

II. Actions to Reduce Odors from January to June 2025

a. January 2025: The Facility's sludge tank mixing mechanism was changed from an air sparge to mechanical mixing, which better contains odorous air within the system. We determined that the carbon in the original carbon filtration system, installed as part of the original pretreatment system upgrades, was spent and required replacement. The carbon filtration system neutralizes and absorbs odors generated by the system. The filters were replaced, and we started evaluating increasing the size of the carbon filtration system, along with other odor control options.

b. February 2025: Sludge hauling was increased from three times per week to daily to prevent the sludge from becoming septic, which would increase odor emissions. Automatic drains were installed on the carbon filters to prevent moisture build-up that interfered with the effectiveness of the carbon filters and, in turn, odor neutralization/absorption. Air intake for the equalization ("EQ") tank blower was rerouted to the interior of the dissolved air flotation ("DAF") building to create negative air pressure, forcing odors in the DAF unit to move through the carbon filtration system where they could be neutralized/absorbed. The Facility hired a dedicated wastewater operator to manage the new system.

c. March 2025: The Facility's carbon system vendor, General Carbon, came onsite to evaluate the system and make recommendations for improvements. At General Carbon's recommendation, saturation indicators were installed on the carbon filtration system to provide a visual indicator of remaining carbon filter life.

d. April 2025: A larger, 2,000-pound carbon filter was added to the system, and the filters were rearranged to more effectively absorb odors generated in the system. The Facility started utilizing gravity for sludge loadouts, which eliminated the use of the vacuum system, reducing odor generation. A bi-weekly cleaning schedule for the DAF unit was implemented to reduce the build-up of sludge and resulting odor.

e. May 2025: The Facility's wastewater engineer, Aries Chemical, conducted wastewater testing using hydrogen peroxide and sodium permanganate to explore the further reduction of odor generation in wastewater. Aeration to the equalization tank was increased, creating better conditions for microbial control and reducing odor generation.

f. June 2025: At the request of the City, a scent box was installed at the discharge point of the carbon vessel. Unfortunately, the scent box restricted air flow out of the discharge vent and made odors worse. The scent box was removed.

III. Actions to Reduce Odors in July 2025

The Creamery believes there has been significant improvement in odor emissions from the activities described above, and we are still exploring avenues to effectively reduce odor emissions over the long-term. To that end, since receiving the City's NOV, the Facility raised the discharge end of the pipe from the primary carbon filtration system to above the maintenance roof line. This improves the dispersion of air discharged from the system and, in turn, odor emissions.

IV. Actions to Reduce Odors Planned for July - September 2025

In addition to the actions described above to reduce odor emissions, the following actions are planned over the next two months as we continue to explore the best avenue for sustained reduction of odor emissions:

a. Trials of the addition of hydrogen peroxide and sodium permanganate to Facility wastewater are planned for August. Both products are commonly used to treat odors in wastewater systems, and previous testing by Aries Chemical suggests this will help with odor reduction at the Facility.
b. The Creamery is evaluating the possibility of increasing the size of the carbon filtration system, which is expected to improve odor absorption, and moving it inside the maintenance area where it will be better protected from weather elements in the winter.
c. The Facility is exploring the value of adding a mister in the DAF room to minimize odors at this stage of the wastewater system. A mister trial is scheduled for August. The mister functions similarly to the scent box that was previously installed at the City's request, but it is not connected to the carbon filtration system and will not interfere with carbon filtration, as was unfortunately the case with the scent box.
d. Currently, the DAF is regularly manually cleaned, and odors tend to increase during cleaning events. A clean-in-place ("CIP") unit is being added to the DAF, which will reduce dispersal of sludge particles and reduce odors.

The Creamery is optimistic that the combination of actions and system adjustments already implemented, along with the additional actions and trials planned, will adequately address odor emissions. The Creamery respectfully requests the City's documentation of odors reported by neighboring properties and City officials. As stated above, these details are critical to understanding corresponding Facility wastewater activities and how to adjust the same to appropriately manage odors. Diagnosing root causes and mitigating odors at a facility of the size and complexity of the Creamery Facility takes considerable time and investment, and the Creamery asks that the City take into consideration the significant steps the Creamery has taken—and continues to take—to address odor emissions control at the Facility.

Please provide a copy of the appeal hearing application at your earliest convenience. In the meantime, the Creamery welcomes the opportunity to meet with the City to discuss the Facility's planned actions to address odors and to achieve a collaborative go-forward solution. As always, if you have questions or need additional information, please contact me at (802) 801-9034.

Respectfully,

Panos Lekkas
General Manager,
On behalf of: St Albans Creamery, LLC