

Chapter 81. ANIMAL CONTROL

§ 81-1. Definitions.

ANIMAL CONTROL OFFICER — Any officer appointed by the Board of Selectmen to enforce the laws relating to animals.

ANIMALS

All animals of any species, both male and female, including but not limited to dogs and cats.

COMMERCIAL KENNEL

A kennel maintained as a business for or to include the boarding or grooming of dogs.

LICENSE PERIOD

The time between January 1 and December 31; both dates are inclusive.

LIVESTOCK OR FOWL

Animals or fowl kept or propagated by the owner for food or as a means of livelihood, kept in proper houses or suitably enclosed yards. Such phrase shall not include dogs, cats and other pets.

MULTIPLE PET HOUSEHOLD

More than four dogs over the age of six months of age in a single private residence.

OWNER or KEEPER

Any person or persons, firm, association or corporation owning, keeping, or who has in his possession, for 30 consecutive days in any calendar year, a dog or any other animal, licensed or unlicensed; and cannot show to the satisfaction of the Animal Control Officer/Dog Officer that such animal was sold, had died, was given away or otherwise disposed of. Further, if the owner or keeper of a dog or other animal were a minor, the parent or guardian of such minor shall be held liable for any violation of this bylaw.

RUN AT LARGE

Free of restraint and permitted to wander on private or public ways at will.

§ 81-2. Dogs required to be leashed; exceptions.

- A. No owner or keeper of a dog shall permit such dog, whether licensed or unlicensed, to run at large within the Town of Great Barrington, including Housatonic. No person shall permit a dog owned or kept by him beyond the confines of the property of the owner or keeper unless the dog is physically restrained by a leash, which shall not exceed six feet in length.
- B. No person shall permit a dog owned or kept by him to run freely within the confines of the property of the owner or keeper unless leashed so as to restrain the dog in such manner that the dog will not go beyond the property of the owner or keeper, or unless the dog is securely confined to the premises of the owner or keeper by fencing or appropriate barriers.
- C. No person shall permit a dog owned or kept by him to be accompanied by a person of inadequate age and discretion to properly control its actions.
- D. This section shall not apply to property owned and/or controlled by the Commonwealth of Massachusetts where a separate set of rules and regulations apply.
- E. A dog for the purposes of events such as working, hunting, field trials or training purposes is exempt from the restraining order for such period of time as the dog is actually engaged in the event or sport, provided the dog is under the direct supervision of a person of adequate age and discretion to properly control its actions.

§ 81-3. License requirements; fees; exceptions.

- A. Any owner or keeper of a dog six months of age or older in the Town of Great Barrington shall cause that dog to be licensed as required by Massachusetts General Laws Chapter 140 commencing on January 1 of each year.
- B. Any owner or keeper of more than four dogs must acquire a multiple pet permit.
- C. Commercial kennels must be fully licensed pursuant to the provisions of MGL c. 140 and subject to Great Barrington's Zoning Bylaws.^[1]
[1]: *Editor's Note: See Ch. 171, Zoning.*
- D. Each multiple pet household and commercial kennel shall be available to inspection by the Animal Control Officer, police officer or Board of Health agent.
- E. All dogs and cats six months of age or older must be currently vaccinated against rabies as per MGL c. 140, § 145B.
- F. The annual fee for every animal license, multiple pet permit and commercial kennel license and all fines relevant to animal control shall be established by the Town

Manager. No fee shall be charged for a license for a dog specifically trained to lead or serve a blind or deaf person, provided that the Division of the Blind or Deaf certifies that such dog is so trained and actually in the service of a blind or deaf person.

- G. The registering, numbering, describing and licensing of animals shall be performed in the office of the Town Clerk on a form prescribed and supplied by the Town, and shall be subject to the condition expressed therein that the dog so licensed shall be controlled and restrained from killing, chasing or harassing livestock or fowls.
- H. No license fee shall be refunded in whole or part for any reason.
- I. Should any owner or keeper of an animal fail to license that animal as required under MGL c. 140 before April 1, the owner or keeper shall pay a late fee as established by the Town Manager before obtaining said license, except a dog brought into the Town as provided by MGL c. 140, § 138. This late fee shall be applicable from the 61st day after arrival of such dog. Any person maintaining a commercial kennel in the Town of Great Barrington who fails to license as prescribed by this section and the laws of the commonwealth shall pay a late fee as established by the Town Manager commencing April 1.
- J. The owner or keeper of a licensed animal shall cause it to wear around its neck or body a collar or harness to which shall be securely attached a tag issued by the Town Clerk at the time of licensing.
- K. In addition to all other sums due and owing for any license fee hereunder, a person who applies for a license hereunder shall be obligated to pay all prior amount of license fees determined to be due and owing by the Town Clerk pursuant to this bylaw for past periods in which said person was obligated to obtain a license. It shall be a violation of the bylaw to fail to pay any said sum due hereunder; this remedy shall be cumulative.

§ 81-4. Muzzling dogs.

- A. Any owner or keeper of a dog may be ordered to muzzle said dog by a duly appointed Animal Control Officer and, in his/her absence, by a police officer for either of the following reasons:
 - (1) For having bitten, injured or physically molested any person; or
 - (2) For having physically injured any dog or other animal.
- B. This order shall remain in effect until removed by the officer after having been satisfied that the dog is unlikely to repeat its offense. Such decision by the officer to remove said order should not be unreasonably withheld.

§ 81-5. Impounding, release and disposition of animals.

- A. Animal Control Officers or, in their absence, police officers may cause an animal to be impounded for any of the following causes:
- (1) If found without a license when a license is required; or
 - (2) If found unrestrained as set forth in § 81-2 of this bylaw; or
 - (3) For violation of a muzzling order as provided for in § 81-4 of this bylaw; or as provided under MGL c. 140, § 167, as amended; or
 - (4) For having bitten, injured or physically molested any person; or
 - (5) For having physically injured any dog or animal; or
 - (6) To restore peace when the owner or keeper of an animal is otherwise unavailable, unwilling, or physically unable to restrain his/her animal from causing a nuisance by continuous barking or howling; or
 - (7) To ensure the safety and well-being of the particular animal; or
 - (8) For any violation of this bylaw.
- B. No later than two days after the impounding of any animal, the owner or keeper shall be notified, or if the owner or keeper of the animal is unknown, or, after reasonable efforts, is not contacted, written notice shall then be posted for seven consecutive days in the location for posting notices in the Town Hall, which notice shall describe the animal and the place and time of taking. Animals impounded and unclaimed by the owner or keeper after such ten-day period shall be disposed of in accordance with the provisions of MGL c. 140, § 151A. Prior to the end of said ten-day period, the owner or keeper may obtain the release of such dog or other animal upon the payment of all pound fees, fines and notification costs, if any; and in the case of a violation of § 81-5A(1) of this section, upon obtaining a license as required by law. [Amended 5-6-2013 ATM, Art. 14]
- C. No animal shall be turned over or sold in any manner inconsistent with MGL c. 140, § 151, as amended, or disposed of inconsistent with the provisions of MGL c. 140, § 151A, as amended.

§ 81-6. Person convicted of cruelty to animals.

Any person or persons found guilty of a violation of any provisions of MGL c. 272, § 77, 80A, 94 or 95, as amended, will forfeit the right to own or keep any animal within the Town of

Great Barrington and must immediately, upon conviction, surrender all animals in his/her possession to the Animal Control Officer.

§ 81-7. Complaint of dangerous dogs or excessive barking.

If written complaint is made to the Board of Selectmen regarding a vicious or dangerous dog or excessive barking or other disturbance, such complaint shall be acted upon in conformance with MGL c. 140, §§ 157 and 158, as amended.

§ 81-8. Form of warrant to Animal Control Officers.

The provisions of MGL c. 140, § 153, as amended, are incorporated herein.

§ 81-9. Liability of owner.

- A. The owner or keeper of a dog which has done damage to livestock, fowl, person, cats or dogs shall be liable for such damage, and the Selectmen may order the owner or keeper to pay such damages after an investigation as set forth in MGL c. 140.
- B. In the event that the owner or keeper of such dog known to have done damage to livestock, fowl, person, cats or dogs refuses to pay upon the order of the Selectmen, the Selectmen shall enter or cause to be entered a complaint in the District Court for the enforcement of the order.
- C. In addition the Board of Selectmen or its agent thereto authorized in writing may, after written notice to the owner or keeper, enter upon the premises of the owner or keeper of any dog known to them to have killed livestock, fowl, person, cats or dogs and then and there kill such dog, unless such owner or keeper whose premises are thus entered for the said purpose shall give a bond in the sum of \$200 with sufficient sureties approved by the Board of Selectmen, conditioned that the dog is continually restrained. If the owner or keeper of the dog declares his intention to give such a bond, said Board of Selectmen or its agent shall allow him seven days, exclusive of Sundays and holidays, in which to procure and prepare the same and to present it to the Board or to file it with the Town Clerk.
- D. If a dog which has previously been ordered restrained by the Board of Selectmen or upon review by the District Court wounds any person or shall maim or kill any livestock, fowl, person, cats or dogs, the owner or keeper of such dog will be liable to the person injured thereby in treble the amount of damages sustained by him.
- E. The owner or keeper of any animal injured or killed by a motor vehicle shall be responsible for the cost of all rescue response, emergency care, treatment and/or disposal of said animal.

§ 81-10. Enforcement; violations and penalties.

- A. The Animal Control Officer(s) duly appointed or, in their absence, police officers shall enforce the provisions of this Animal Control bylaw and shall attend to all complaints or other matters pertaining to animals in the Town of Great Barrington.
- B. Notwithstanding any provisions of the General Laws to the contrary, any person(s) who:
- (1) Refuses to answer or answers falsely questions of an Animal Control Officer or a police officer pertaining to his/her ownership of an animal; or
 - (2) Is found guilty of cruelty to animals; or
 - (3) Refuses to turn over any animal to the Animal Control Officer upon demand as authorized by §§ **81-5** and **81-6** of this bylaw; or
 - (4) Violates a Selectmen's order.
shall be punished by a fine of not less than \$100 nor more than \$300.
- C. Any owner or keeper who:
- (1) Violates the provisions of this bylaw; or
 - (2) Is the owner/keeper of any animal who shall be found by an Animal Control Officer to have defecated on private property other than that of its owner/keeper or on a public sidewalk or public lands; or
 - (3) Is the owner/keeper of any animal who intentionally allows any such animal to cause a nuisance by barking, howling or otherwise disturb another person's right to peace; or
 - (4) Is the owner/keeper of an animal found to have bitten or injured any person, dog or other animal.
may be penalized by noncriminal disposition as provided in MGL c. 40, § 21D.
- D. Where applicable, each day shall constitute a separate offense.

§ 81-11. Alternate procedure under MGL c. 140. § 173A.

- A. Notwithstanding any provisions of the General Laws to the contrary, any Animal Control Officer who takes cognizance of a violation of:

- (1) This by-law; or
- (2) Failure to license animals pursuant to MGL Chapter 140 and this by-law; or
- (3) Failure to obtain multiple per permit or commercial kennel license; or
- (4) Failure to vaccinate against rabies pursuant to MGL Chapter 140 Section 145B; or
- (5) Intentionally allowing a dog to cause a nuisance by barking, howling or otherwise.
[Added 5-17-2004 ATM, Art. 22]

may issue or mail a Notice of Complaint of Violation of Municipal Animal Control bylaw to the owner or keeper of such animal.

- B. Any owner/keeper found in violation of the above-mentioned procedure shall be subject to a fine of not more than \$50 per offense. Where applicable, each day a violation exists shall constitute a separate offense.

[Amended 5-17-2004 ATM, Art. 22; 5-4-2009 ATM, Art. 13]

§ 81-12. Disclaimer; severability.

- A. Nothing contained within this bylaw shall limit or restrict any enforcement officer's authority to seek criminal prosecution of any violation of state or federal law.
- B. If any part, section or provision of this bylaw is found to be invalid, the remainder of the bylaw shall not be affected thereby.