

## **Chapter 403. Dog Control**

### **§ 403-1. Authority; intent.**

- A. The following regulations, relative to the regulation, control and disposition of dogs within the Town of Barnstable are adopted by the Town Manager under the authority of Chapter 24, Article I, Regulation of Dogs of the Code of the Town of Barnstable.
- B. These regulations are intended to guide those persons owning or keeping dogs within the Town of Barnstable in their role as responsible pet owners. Although it is hoped these regulations will act as an educational tool, it must also be understood that enforcement of same is necessary to protect the rights and safety of the public. Any owner/keeper seeking relief from any portion of these regulations may file or appeal for same with the Town Manager.

### **§ 403-2. Licenses and tags.**

- A. The owner or keeper of a dog kept within the Town of Barnstable, said dog being six months of age or older, shall cause that dog to be licensed annually. The license year shall be from January 1 to the following December 31, inclusive.
- B. The Town Clerk shall issue dog licenses and tags on a form as prescribed by the Town Manager. The Clerk shall maintain records for each license issued, the name, address and telephone number of the owner or keeper of each dog so licensed, the tag number issued, date of last rabies vaccination, breed, age, color, or other description of the dog. Each tag shall contain the tag number, the name "BARNSTABLE" and the year of issue.
- C. The owner or keeper shall cause said dog to wear around its neck or body a collar or harness to which he/she shall securely attach the tag issued. In the event that any tag is lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the Town Clerk, at a cost of \$2 each.
- D. The fee for each dog licensed shall be \$13, unless a certificate of a veterinarian stating that the dog has been spayed or neutered has been presented to the Town Clerk, in which case the fee shall be \$10. No license fee or part thereof shall be refunded because of a subsequent death, loss, spaying or neutering, or removal from the Town of such dog. License fees shall be reviewed annually in accordance with the Town of Barnstable ordinances. All dogs must be licensed every year. If a dog owner fails to license or relicense a dog for one or more years, the dog owner must pay the license fee for the year(s) missed, before obtaining the current year's license.
- E. A license shall not be issued for any dog unless the owner or keeper provides the Clerk with a veterinarian's certificate verifying that the dog is currently vaccinated against rabies or indicating that, because of infirmity, other physical condition or regimen of therapy, said vaccination is deemed inadvisable. The rabies vaccination date shall be recorded on the license record.
- F. No fee shall be charged for a dog specially trained to lead or serve a handicapped person. Emotional support dogs do not qualify for this exemption.
- G. The owner or keeper of any dog shall provide proof of said license upon request of the Animal Control Officers, police officers or other authorized officials.

- H. The penalty for violation of this section, in addition to any other penalties provided by law, shall be \$50. The penalty for failure to license said dog within 30 days of notification of violation of this section shall be \$75.
- I. The provisions of this section shall not apply to any domestic charitable corporation incorporated in the commonwealth, exclusively for the purpose of protecting animals from cruelty, neglect or abuse; or stray dogs housed in a kennel operated under contract with the Town of Barnstable for the purpose of housing stray dogs; or pet shops licensed under Chapter 129, § 39A, of the General Laws and where otherwise provided by law.

**§ 403-3. Restriction on number of dogs per residence.**

No person shall keep more than three dogs, said dogs being over the age of six months, at any single-family residence within the Town of Barnstable, unless a Kennel license or Multiple Dog license has been first obtained. Penalty for violation of this section shall be \$25 per dog in excess per day of violation.

**§ 403-4. Multiple Dog licenses.**

- A. Kennel maintained in a private residence for the collection of four to six dogs, or for breeding dogs for show or sport which sells dogs from two or less litters per year, not to exceed 6 dogs on the premises over the age of six months, may secure a Multiple Dog license in lieu of obtaining a Kennel license. Such license issuance shall be contingent upon inspection of the licensed premises by Animal Control to insure the basic standards of cleanliness and proper care and confinement of said dogs as recommended by the Massachusetts Society for the Prevention of Cruelty to Animals.
- B. The Town may impose such conditions or restrictions on the issuance of a Multiple Dog license as deemed necessary for the public good.
- C. The holder of a Multiple Dog license shall cause each dog in its possession that is over the age of six months to be licensed annually as required under 403-2 of these regulations and to wear around its neck or body a collar or harness to which he/she shall securely attach the tag issued.
- D. The period for a Multiple Dog license shall be from January 1 through December 31, inclusive. The annual fee for each Multiple Dog license shall be \$25.

**§ 403-5. Kennel licenses.**

- A. A kennel maintained as a business for the day and/or night boarding of dogs, grooming of dogs, or which sells dogs born on the premises from more than two litters per year must secure a Kennel license. Such license shall be in a form prescribed by the Town Manager and issued by the Town Clerk. Such license shall be in lieu of any other license for any dog while kept at such kennel during any portion of the period for which such Kennel license is issued. The holder of a license for a kennel shall cause each dog kept therein to wear, while it is at large, a collar or harness of leather or other suitable material, to which shall be securely attached a tag upon which shall appear the number of

such Kennel license, the year of issue, and the inscription "BARNSTABLE." Such tags shall be in a form prescribed by the Town Manager and issued by the Town Clerk.

B. In order to obtain a Kennel license:

- (1) The applicant must apply to Site Plan Review, and then to the Zoning Board of Appeals to see if the property meets the requirements of § 240-27 (Service and Distribution District); and if so, under Subsection C, Conditional uses, Subsection C(2), kennels subject to § 240-125C, the Zoning Board of Appeals would grant a special permit.
- (2) Once a special permit is obtained, then the Town Manager, or his designee, shall hold a public hearing and may impose conditions or restrictions as he or she may deem necessary for the public good; since kennels are considered a commercial use, and not allowed under § 240-46, Home occupation.
- (3) Upon approval, the Manager, or his designee, will forward a notification to the Town Clerk for the license and payment of the annual fee as defined in Subsection D below. Failure of the Zoning Board of Appeals to issue a special permit as required under Chapter 240, Zoning, will cause a kennel license not to be issued at such location by the Town Clerk.

C. The annual fee for Kennel license shall be \$100. The license period for a Kennel license shall be from January 1 to the following December 31, inclusive.

D. The name and address of the owner of each dog kept in any kennel, if other than the person maintaining the kennel, shall be kept on file thereat and available for inspection by any authorized agent of the Town Manager. The Town Clerk shall, upon application, issue without charge a kennel license to any domestic charitable corporation, incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, and for the relief of suffering among animals.

E. A veterinary hospital shall not be considered a kennel unless it contains an area for the selling or boarding of dogs for other than medical purposes, in which case it shall apply for a Kennel license.

F. Failure to obtain or keep current the Kennel license will result in a fine of \$100 per day; each day will be considered to be a separate offense.

**§ 403-6. Kennel and Multiple Dog licenses: inspection and regulation.**

The Town Manager, or his authorized agent, may at any time inspect or cause to be inspected any kennel and if, in their or his judgment, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, the Town Manager may by order revoke or suspend, and in the case of suspension may reinstate, such license. Upon written petition of 15 residents, filed with the Town Manager, setting forth that they are aggrieved, or annoyed to any unreasonable extent, by one or more dogs at a kennel, because of excessive barking or vicious disposition of said dogs or other conditions connected with such kennel constituting a public nuisance, the Town Manager, or his authorized agent, within seven days after the filing of such petition, shall give notice to all parties in interest of a public hearing to be held within 14 days after the date of such notice. Within seven days after such public hearing the Town Manager shall make an order either revoking or suspending such Kennel license or Multiple Dog License or otherwise regulating said kennel, or dismissing said petition. The holder of such license may petition

the District Court for relief in accordance with Massachusetts General Law Chapter 140, § 137C. Any person maintaining a kennel after the license therefore has been so revoked, or while such license is so suspended, may be punished by a fine of \$50 for each day in violation of said revocation or suspension.

**§ 403-7. Leashing and restraint of dogs.**

- A. No person owning or keeping a dog in the Town of Barnstable shall permit such dog to be kept at large in the Town of Barnstable elsewhere than on the premises of the owner or keeper, except if on the premises of another person with the knowledge and permission of such other person. Such owner or keeper of a dog in the Town of Barnstable which is not on the premises of the owner or upon the premises of another person with the knowledge and permission of such person shall restrain such dog by a leash or chain. Said leash and dog must be secured and under control by a human at all times.
- B. In any prosecution hereunder, the presence of such dog at large upon premises other than the owner or keeper of such dog shall be prima facie evidence that such knowledge and permission was not had.
- C. Any dog found to be at large in violation of this section may be caught and confined by an officer authorized to do so, or returned to the owner or keeper of record forthwith. The Animal Control Officer, or authorized agent, shall attempt to notify the owner/keeper of record of a confined dog. The owner/keeper of said dog shall have a period of time, not to exceed seven days, within which to recover said dog. Return of the dog to the owner/keeper of record shall be dependent upon admission of ownership or the keeping of said dog, and assumption of responsibility by the owner or keeper. If said dog is unlicensed, a current license shall be obtained and all impound fees paid prior to release of the dog. In addition to fees charged by the kennel for boarding, medical or other care costs, there shall be an impound fee paid to the Town of Barnstable of \$20 for licensed dogs and \$30 for dogs unidentified and/or unlicensed at time of impound.
- D. This section shall not be construed to limit or prohibit the use of hunting dogs during the hunting season, the conducting of field trials for hunting dogs or the training or use of police K-9 units.
- E. The penalty for violations of this section shall be \$25 for the first offense and \$50 for the second offense and each subsequent offense.

**§ 403-8. Nuisances committed by dogs; removal by owner; exception.**

No person owning or having the care, custody or control of any dog shall permit such dog to soil or defile or commit any nuisance upon any sidewalk, street, thoroughfare, beach or wetland, in or upon any public property, or in or upon the property of persons other than the owner or persons having the care, custody or control of such dog, unless said person picks up any such waste and disposes of same in a sanitary manner. Anyone having custody or control of a dog in a public place shall have in his or her possession a device or equipment to pick up and remove dog feces. This section shall not apply to physically handicapped persons in sole custody or control of said dog. The penalty for violation of the section shall be \$20 per offense.

**§ 403-9. Dogs on beaches and recreation areas.**

- A. No person owning or having the care, custody or control of any dog shall allow said dog on any Town saltwater designated bathing beach from April 1 to September 15 without the written authorization of the Town Manager or official in control of said beach.
- B. No person owning or having the care, custody or control of any dog shall allow said dog on any Town freshwater designated bathing beach from May 15 to September 15 without the written authorization of the Town Manager or official in control of said freshwater bathing beach.
- C. No person owning or having the care, custody or control of any dog shall allow said dog on any town owned athletic field, athletic court, cemetery or playground without the written authorization of the Town Manager or official in control of said area.
- D. The Town Manager or official in control of said beach, conservation area, park, recreation area, way to water or open space shall reserve the right to prohibit dogs from these areas for reasons of public health and safety and for the protection of the Town's natural resources.
- E. The penalty for violation of this section, in addition to any other penalties herein or otherwise by law, \$25 for the first offense and \$50 for the second offense and each subsequent offense.

*Editor's Note: The list of designated bathing beaches is included as an attachment to this chapter.*

**§ 403-10. Dog Park regulations.**

- A. The Town of Barnstable, its staff, officers, officials, employees and volunteers are not responsible for personal injury to the people or animals using the park. Users of this dog park do so at their own risk and are solely responsible for injuries and/or damage caused by their actions and their animals, or to their persons or to their animals by other users or animals.
- B. These regulations are applicable to the Barnstable dog park as described and shown on the plan on file in the Town Clerk's office and posted at the site.
- C. The dog park is open seven days a week, sunrise to sunset.
- D. No parking is allowed for activities other than activities directly connected with the dog park.
- E. Dogs must have current vaccinations and be licensed as required by law and free of communicable diseases.
- F. Dogs must wear a collar at all times affixed with a current license tag.
- G. Dogs exhibiting aggressive, intimidating or dangerous behavior must be leashed and removed from the dog park immediately.
- H. Excessive barking must be restrained.
- I. Female dogs in heat shall not use the dog park.

- J. No other animals besides dogs are allowed within the dog park.
- K. Alcohol, smoking or e-cigarettes are not allowed at the dog park.
- L. No commercial activities or solicitation is allowed without prior permission.
- M. No littering or disposal of household trash is allowed.
- N. Dogs must be leashed before entering and after leaving any fenced area.
- O. All gates must be closed at all times except when entering and exiting.
- P. Owners/handlers:
  - (1) Must be at least 16 years of age. Any person under 16 must be supervised by a responsible adult.
  - (2) Must closely supervise and control their dog within the park at all times.
  - (3) Must stop dogs from digging and fill in all holes dug in the pea stone.
  - (4) Must have no more than three dogs under the supervision of any one person.
  - (5) Must immediately pick up and properly dispose of pet waste.
- Q. Within the fenced areas:
  - (1) No children 10 or under are permitted.
  - (2) No dogs under the age of three months are permitted.
  - (3) To avoid injury, prong, pinch or spiked collars are not allowed with the exception of the designated training area.
  - (4) Training treats and dog toys are not allowed with the exception of the designated training area.
  - (5) Food/beverages, glass containers, strollers, bicycles and children's toys are prohibited.
- R. Penalties, suspensions and fines:
  - (1) Dog park patrons are expected to be courteous and cooperative with other park users, staff and volunteers. Aggressive or abusive behavior may result in loss of privileges.
  - (2) The Director of Natural Resources reserves the right to suspend or revoke dog park access to a dog as a result of problematic behavior and/or due to irresponsible pet ownership. Problem behavior can include, but is not limited to, aggression such as attacking, drawing blood, threatening, bullying and bothering dogs and people.
  - (3) Any person who is issued a suspension or revocation notice will be provided the opportunity for a hearing with the Director of the Marine and Environmental Affairs Department. Any person desiring such a hearing must submit a written request for said hearing postmarked within five business days of the effective date of the suspension. An appeal of the Director of the Marine and Environmental Affairs' decision may be filed with the office of the Town Manager within five days of issuance of said decision.

- (4) The Town of Barnstable has the authority to close the dog park if it believes it to be in the public's best interest because of safety and/or health reasons, abuse of privileges, adverse weather conditions, maintenance work, or any other condition the Town believes warrants a closure.
- (5) The penalty for violation of this section, in addition to any other penalties herein or otherwise by law, shall be \$25 for each violation with the exception of 403-10-D which shall be for \$40.

**§ 403-11. Barking dogs.**

No person owning, keeping or otherwise responsible for a dog shall allow or permit said dog to annoy another person's reasonable right to peace or privacy by making loud and continuous noise, where such noise is plainly audible at a distance of 150 feet from the building, premises, vehicle or conveyance housing said dog, and such noise is continuous in excess of 10 minutes. The fact that such noise is plainly audible at said distance or continuous in excess of 10 minutes shall be prima facie evidence of a violation. If upon complaint, and observation by authorities, the Animal Control Officer, or a police officer determines a barking nuisance under this regulation, the penalty for violation of this section shall be \$25 for the first offense and \$50 for the second offense and each subsequent offense.

**§ 403-12. Property damage; appraisal; reimbursement.**

- A. Whoever suffers loss by the worrying, killing or maiming of his livestock or fowl by dogs shall inform the Animal Control Officer who shall forthwith proceed to the scene to view the damage, who shall determine if the damage was done in fact by dogs and, if so, appraise the amount of damage if it does not exceed \$50.
- B. If in the opinion of the Animal Control Officer the damage exceeds \$50, the damage shall be appraised on oath by three persons, one of whom shall be the Animal Control Officer, one shall be appointed by the person alleged to have suffered the loss and the third appointed by the other two.
- C. Said appraisers shall consider and include in such damages the number and kind of animals damaged, the extent of the damage and the approximate weight of the killed animals. The appraisers will also note in their report whether or not any animals were sent for medical treatment in an effort to save them, the number and kind of such animals. Such report shall be filed in the office of the Town Manager and the office of the Director of Natural Resources within 10 days of said appraisal. The Town Manager or the Director may require the appraisers to provide any additional information that they deem appropriate. The appraisal will be reviewed and submitted for payment as deemed appropriate. Reimbursement may be denied or limited in accordance with Chapter 140, § 161A, of the Massachusetts General Law.

**§ 403-13. Liability of dog owner.**

- A. The owner or keeper of a dog which has done damage to livestock or fowl shall be liable for such damage, and the Town Manager may order the owner or keeper to pay such damages after an investigation by the Animal Control Officer of the facts of the matter and appraisal conducted as outlined in § 403-11.

- B. In the event that the owner or keeper of such dog known to have done damage to livestock or fowl refuses to pay upon the order of the Town Manager, the Animal Control Officer shall enter or cause to be entered a complaint in District Court for the enforcement of the order.

**§ 403-14. Vaccination against rabies.**

- A. The owner or keeper of a dog four months of age or older, housed or sheltered in the Town of Barnstable, shall cause such animal to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Massachusetts Department of Public Health. Such owner or keeper shall procure a veterinarian's certification that such animal has been so vaccinated and setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued, or a metal rabies tag bearing an expiration date indicating that such certification is still in effect.
- B. Vaccinated animals shall be revaccinated periodically in accordance with rules and regulations adopted and promulgated by the Massachusetts Department of Public Health.
- C. The owner or keeper of a dog shall present certification of rabies vaccination upon demand of the Animal Control Officers, police officers or other authorized officials of the Town.
- D. The penalty for violation of this section shall be \$50 for each offense. The penalty for failure to vaccinate said animal within 30 days of notification of a violation of this section shall be \$75.

**§ 403-15. Quarantine of dogs suspected of having contagious disease.**

- A. The Town Manager, or his authorized agent, may order any dog which said person has reason to believe is affected with a contagious disease, to be quarantined or isolated for at least 10 days upon the premises of the owner or of the person in whose charge it is found, or in such other place as the Town Manager or agent may designate.
- B. A dog which has been quarantined or isolated by order of the Town Manager or his agent shall, during the continuance of such quarantine or isolation, be deemed to be affected with a contagious disease. The owner or keeper shall be responsible for any fees incurred for any off-premises quarantine. Whoever knowingly breaks or authorizes or causes to be broken a quarantine so imposed; or whoever contrary to such order of quarantine or isolation knowingly removes a dog or authorizes or causes it to be removed from a building, place or enclosure where it is quarantined or isolated; or whoever contrary to an order or notice of quarantine knowingly places or causes or authorizes to be placed any other animals within a building, place or enclosure where a dog is quarantined or in contact therewith; or knowingly causes or authorizes to be concealed, sold, removed or transported a dog, knowing or having reasonable cause to believe that it is affected with a contagious disease; or whoever knowingly authorizes or permits such dog to go at large within the Town of Barnstable shall be punished by a fine of \$200. Any such dog found at large by the Animal Control Officer, or other authorized agent of the Town, shall be captured and confined at the expense of said owner or keeper. This section shall not apply to authorized Town officials in the performance of their duties.



**§ 403-16. Adoption policy.**

It shall be the policy of the Town of Barnstable to attempt to make available for adoption those impounded dogs which have gone unclaimed and are deemed healthy and suitable for pets. The kennel holding a contract with the Town of Barnstable for impound services may offer said adoption service in accordance with Massachusetts General Laws, Chapter 140, § 139A, acting in the capacity of a "shelter" as defined in MGL Ch. 140, § 136A. Alternatively, the Town may place unclaimed dogs, suitable for adoption, with the Animal Rescue League of Boston, Brewster facility, the MSPCA or other breed-specific or charitable rescue organization. The Town of Barnstable will not assume financial responsibility for the upkeep and boarding of said dogs beyond the initial required seven day holding period.

**§ 403-17. Complaint investigation; nuisance and dangerous dogs.**

If any person shall make a complaint in writing to the Town Manager that a dog owned or kept in the Town of Barnstable is a nuisance by reason of excessive barking or other disturbance or may have a dangerous disposition, the Town Manager shall cause to be investigated such complaint, including an examination on oath of the complainant, and may make such order concerning the restraint or disposal of such dog as may be deemed necessary. Within 10 days after such order the owner or keeper of such dog may petition for relief of said order in accordance with the provisions of Massachusetts General Law, Chapter 140, § 157. Any person owning or keeping a dog subject to any order of the Town Manager, who shall fail to comply with said order of the Town Manager, shall be punished by a fine of \$200 for each offense. The owner/keeper of any dog subject to an order of the Town Manager shall be responsible for any and all costs of carrying out said order.

**§ 403-18. Violations and penalties.**

A violation of any provision of these regulations shall be punishable by a fine of \$100.00 for the first violation, \$200.00 for the second violation, and \$300.00 for the third violation and each subsequent violation. Each day of each violation shall constitute a separate violation. The provisions of these regulations may be enforced utilizing the procedures contained in Massachusetts General Laws Chapter 40, Section 21D, the non-criminal disposition statute.

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Mark S. Ells

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Date

