

**DIVISION VIII
ARTICLE II
RULES AND REGULATIONS RELATIVE TO ANIMAL CONTROL IN
THE TOWN OF WAREHAM**

SECTION 1: DEFINITIONS:

The following words and phrases shall have the following meanings:

BEACH - Any town-owned part thereof; including parking lot, pier, grass, dune, sand, shore, and water.

MARSH - Town-owned area of low-lying wet land.

ANIMAL CONTROL

OFFICER - any officer appointed under the By-laws in the Town of Wareham for the enforcement of these Rules and Regulations.

KEEPER - any person, corporation or society, other than the owner, harboring or having in his possession any dog.

KENNEL - one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained.

SMALL KENNEL - a kennel maintained for a collection of four or five dogs.

HOBBY KENNEL - a kennel maintained for a collection of six to ten dogs or for breeding dogs for show or sport, or which sells dogs from less than four litters per year, not to exceed ten dogs on the premises over the age of three months.

COMMERCIAL KENNEL - a kennel maintained as a business for the boarding and rooming of dogs, or which sells dogs born and raised on the premises from more than four litters per year, or a kennel of 11 or more dogs.

LICENSE PERIOD - the time between January First and the following December Thirty-First, both dates inclusive.

LIVE STOCK OR FOWL - animals or fowl kept or propagated by the owner for food; also deer, elk, cottontail rabbits and northern hares, pheasants, quail, partridge and other birds and quadrupeds determined by the Department of Fisheries, Wildlife and Environmental Law Enforcement to be wild and kept by, or under, a permit from said Department in proper houses or suitable enclosed yards. Such phrases shall not include dogs, cats or other pets.

POOPER SCOOPER - a device manufactured for the express purpose of picking up dog feces or any sanitary means of collecting feces including but not limited to plastic containers, rubbish bags, and garbage bags.

SECTION 2: **RESTRAINT AND CONTROL/LEASH LAW:**

No dog owned or kept in the Town of Wareham shall be allowed to be off the premises of its owner or keeper or premises of other private property of which permission of use has been obtained from the owner of such property, except in the immediate restraint and control of some person by means of a chain or leash. The owner or keeper of any dog that is not so restrained or controlled off the premises of its owner or keeper or premises of other private property of which permission of use has been obtained from the owner of such property shall be punishable by a warning for the first offense and **\$25.00 (twenty-five dollars)** for the second offense, to be deposited to the Town of Wareham General Fund. For subsequent offenses, the schedule of fines provided in Massachusetts General Laws, Chapter 140, Section 173A, as amended from time to time, shall apply.

SECTION 3: **BEACH/MARSH:**

No dog shall be allowed upon any public salt water or fresh water beaches or marshes, either loose or on a leash. Seeing-eye dogs, when accompanied by the owner, shall be the only exception to this section of the by-law.

Any party in control of a dog in the absence of the owner or keeper, while the dog is off the owners's or keeper's property, shall be required to observe all rules and regulations pertaining to the owner or keeper as contained in these rules and regulations.

Any person who violates this regulation shall be fined minimum **\$25 (twenty-five dollars)** for the first offense, **\$50.00 (fifty dollars)** for the second offense, and **\$100.00 (one hundred dollars)** for the third and subsequent offenses. (Article 7, October Special Town Meeting/Approved by Attorney General on December 12, 2005)

SECTION 4: **DISPOSAL OF WASTE:**

The dog owner or keeper shall keep control over the dog with a chain or leash at all times that the dog is off the owner's or keeper's property. The dog owner or keeper shall be required to have in his possession a means, acceptable to the Board of Health of the Town of Wareham, to pick up all feces and waste deposited by the dog on any public property in the Town of Wareham. All feces and waste collected shall be disposed of as directed by the Board of Health.

Any person who violates this regulation shall be fined **\$50.00 (fifty dollars)** for each offense.

SECTION 5: **APPLICATION OF RULES AND REGULATIONS:**

Any party in control of a dog in the absence of the owner or keeper, while the dog is off the owner's or keeper's property, shall be required to observe all rules and regulations pertaining to the owner or keeper as contained in these rules and regulations.

Seeing-eye dogs, when accompanied by the owner, shall be the only exception of this by-law.

SECTION 6: LICENSES AND TAGS:

The owner or keeper of a dog kept within the Town of Wareham subject to these Rules and Regulations shall cause the dog(s) to be licensed when it attains the age of six (6) months and annually thereafter. Licensing period shall begin January 1st through the following December 31st, both dates inclusive.

The Town Clerk shall issue dog licenses and tags on a form prescribed and furnished by the Town of Wareham. Licensure may be conducted by mail. The applicant for the license should enclose the license fee, current rabies certificate, spay/neuter certificate, if applicable, and a self-addressed, stamped envelope.

The Town Clerk shall record on each license issued, the name of the owner or keeper of each dog so licensed, and the name, registered number and description of each dog, and rabies vaccination certification. The owner or keeper of any dogs so licensed shall state upon the license form the breed, color, weight, age and special markings of the dog. Each tag shall include the license number, a statement that the dog is licensed in the Town of Wareham, and the year of issuance of the license.

The owner or keeper shall cause said dog to wear around its neck or body a collar or harness to which he 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 **\$5.00 (five dollars)**, to be deposited to the Town of Wareham General Fund.

For any dog which moves into the Town of Wareham, any license duly recorded in another jurisdiction within the Commonwealth shall be valid until the expiration of the license, at which time the owner or keeper will cause the dog to be licensed in the Town of Wareham. The owner or keeper of a dog licensed in another jurisdiction is required to notify the Town Clerk within 30 days that the dog shall be housed in the Town of Wareham, stating the address, and providing the name of the town where the dog is currently licensed.

The fees for licensing of dogs shall be:

\$10.00 for any neutered or spayed animal, upon submission of a certificate
from a registered veterinarian

\$13.00 for any animal not spayed or neutered

Any person Seventy (70) years of age or older, upon proof of age, shall be exempt from the annual fee for one dog, per household, per year.

The owner of a kennel license, age Seventy (70) years of age or older, shall be excluded from this exemption. This exemption shall take effect on January 1, 2005. (Article 22 of the April 26, 2004 Annual Town Meeting; Approved by Attorney General on May 28, 2004). (Article 13 of the October 25, 2004 Annual Fall Town Meeting, acceptance of Massachusetts General Law, Chapter 140, §139)

Licensing fees are due and payable to the Town Clerk from January 1st to December 31st of each calendar year. No fee shall be charged for a dog specially trained to lead or serve a blind or deaf person upon the presentation to the Town Clerk of a certificate of such training.

A license fee shall not be refunded because of a subsequent death, loss, spaying, or removal of such dog from the Town of Wareham.

The provisions of this section shall not apply to institutions licensed under Chapter 49A of the General Laws, to pet shops licensed under Section 39A of Chapter 129 of the General Laws, to any person operating a licensed kennel and where otherwise provided by law.

The Town Clerk shall receive the fees specified in this section for the issuance of licenses and tags and shall deposit them into the Town of Wareham General Fund. The Town Clerk shall certify under the penalties of perjury to the amounts of money thus received and deposited.

SECTION 7: KENNEL LICENSES:

Any owner or keeper of four or more dogs, three months of age or over, shall obtain an application for a kennel license from the Building Inspector. Upon approval of the application by the Building Inspector or the Board of Appeals, the applicant will submit the written approval to the Town Clerk, indicating the location of the kennel. Kennels are defined and classified in Section 1 of these Rules and Regulations.

The kennel license shall be on a form prescribed and furnished by the Town of Wareham and shall specify the name of the owner, the name of the kennel, the name of the keeper, the location of the kennel and the maximum number of dogs that are allowed to be kept on the premises at any one time.

Failure of the Building Inspector or the Board of Appeals to give written approval to a kennel at the proposed location of such kennel will cause a kennel license not to be issued at such location by the Town Clerk.

The fees for each classification of kennel license shall be as follows:

Small Kennel License:	\$40 (thirty dollars) per year
Hobby Kennel License:	\$70 (sixty dollars) per year
Commercial Kennel License:	\$160 (one hundred sixty dollars) per year

(Article 78 of the October 25, 2010 Annual Fall Town Meeting: approved by the Attorney General on March 10, 2011)

A kennel license shall be obtained in lieu of any other license required for any dog which may be kept in such kennel for any portion of the period for which the license is issued. The owner or keeper of such kennel shall renew the license prior to the commencement of each succeeding license period.

While at large, each dog in a kennel shall wear a collar or harness to which shall be securely attached a tag upon which shall appear the number of the kennel license, the town issuing such license, and the year of issuance. Such tag shall be in a form prescribed and furnished by the Town of Wareham and shall be issued by the Town Clerk along with the kennel license.

If a kennel owner desires to increase the capacity of his kennel during a license period, he shall obtain an application from the Building Inspector to request modification. Upon written approval from the Building Inspector or the Board of Appeals, the applicant shall submit written proof to the Town Clerk, who shall issue a new license in accordance with the modification. The owner shall pay full price for the new kennel license most recently approved.

(Article 78 of the October 25, 2010 Annual Fall Town Meeting: approved by the Attorney General on March 10, 2011)

The Town Clerk shall issue, without charge, upon written application to and approval from the Building Inspector or the Board of Appeals, a kennel license to any domestic charitable corporation incorporated in the commonwealth exclusively for the purpose of protecting animals from cruelty, neglect or abuse.

A veterinary hospital shall not be considered a kennel unless it contains an area for the grooming or selling of dogs, or for the boarding of dogs for other than medical or surgical purposes, in which case it shall apply in writing to the Town Clerk of Wareham, submitting approval from the Building Inspector or the Board of Appeals for the required kennel license.

All holders of kennel licenses shall notify the Town Clerk in writing, of the sale of any dog or pup, including a description of the animal, the age, color, identifying marks, sex and whether the dog has been spayed or neutered. A copy of such notice shall be forwarded by the kennel owner to the Town Clerk in the town where the new owner of the dog resides.

Any and all license holders in the business of selling and/or boarding dogs for profit, in accordance with Massachusetts General Laws, Chapter 110, Section 5, must register with the Town of Wareham by acquiring a business certificate from the office of the Town Clerk.

(Article 78 of the October 25, 2010 Annual Fall Town Meeting: approved by the Attorney General on March 10, 2011)

SECTION 8: KENNEL INSPECTION AND REGULATION:

The Board of Selectmen, the Chief of Police, the Animal Control Officer within his jurisdiction or person appointed under Chapter 147, Section 10, of the General Laws, shall at any time inspect or cause to be inspected any kennel and if, in his judgment, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by the law, the Board of Selectmen of Wareham shall by order revoke or suspend said kennel license. In the case of suspension of said license, the Board of Selectmen may reinstate such kennel license and impose conditions and regulations upon the operation of said kennel.

Any person maintaining a kennel after the license has been suspended or revoked, shall be punished by a fine of **\$50.00 (fifty dollars)** per day, which fines shall be returned by the court to the Town of Wareham General Fund. (This section of the by-law in no way imposes requirements on the jurisdiction of the courts of the Commonwealth).

SECTION 9: PENALTIES FOR FAILURE AND/OR TARDINESS TO LICENSE:

Whoever violates any provision of Section 6 or Section 7 of these Rules and Regulations shall be fined **\$50.00 (fifty dollars)** for each violation, which shall be paid to the Town of Wareham General Fund.

If the dog, incurring any violation, was unlicensed at the time of such violation, an additional **\$50.00 (fifty dollars)** fine shall be imposed and paid to the Town of Wareham General Fund, and the owner or keeper of such dog will be required to immediately procure all delinquent licenses and tags, as well as the current license and tag. Late fees for the licensing of dogs are as follows:

	Non-altered	Altered
April 1st to May 31st:	\$ 23.00	\$ 20.00
June 1st to July 31st:	\$ 33.00	\$ 30.00
August 1st to December 31st:	\$ 50.00	\$ 50.00

Proof that a dog has been altered (spayed/neutered) must be submitted at the time of payment of the license fee. Certification from a licensed veterinarian is required.

Late fees for the licensing of kennels:

Small Kennels:		
April 1st to May 31st:	\$ 50.00	
June 1st to July 31st:	\$ 70.00	
August 1st to December 31st:	\$ 90.00	

Hobby Kennels:		
April 1st to May 31st:	\$ 80.00	
June 1st to July 31st:	\$100.00	
August 1st to December 31st:	\$120.00	

Commercial kennel:		
April 1st to May 31st:	\$170.00	
June 1st to July 31st:	\$190.00	
August 1st to December 31st:	\$210.00	

Exclusion from the above fines include new and/or first time dog and kennel licenses.

(Article 78 of the October 25, 2010 Annual Fall Town Meeting: approved by the Attorney General on March 10, 2011)

SECTION 10: RABIES:

The owner or keeper of a dog or cat which has reached the age of six months shall cause that dog or cat to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Department of Public Health.

Upon vaccination, a rabies tag is provided by the veterinarian and may be secured to a collar or harness of the dog or cat.

The Board of Health of Wareham will provide free of charge to the dog officer, a rabies vaccination upon request of such officer.

Unvaccinated dogs acquired or brought into the Town of Wareham shall be vaccinated within thirty days or immediately upon reaching the age of six (6) months. Vaccinated dogs shall be revaccinated periodically in accordance with rules adopted and promulgated by the Department of Public Health.

Violations of the provisions of this Section shall be punished by a fine of **\$50.00 (fifty dollars)**, which shall be paid to the Town of Wareham General Fund.

SECTION 11: DISPOSITION OF FEES AND FINES:

The Town Clerk shall issue said licenses and tags, receive the money there from and pay it into the General Fund of the Town of Wareham no later than the first Monday of each month.

The Town Clerk shall make a record in books kept therefore and to be furnished by the Town of Wareham of each license issued, of the name and address of the owner or keeper of such dog so licensed, the registered number and description of each dog, and such books shall be open to public inspection during the usual office hours of the Town Clerk. All license forms, tags, record books, and all standard operating forms shall be paid for from the dog license proceeds and/or fines deposited into the General Fund.

The Town Clerk shall, within thirty days next succeeding January 1st of each year, report to the Board of Selectmen and/or their designee all license books and tags furnished for the preceding year, including all stubs and void licenses, unused license blanks and all licenses and tags taken up in accordance with Sections 6 and 7.

SECTION 14: VIOLATIONS/ NON-CRIMINAL DISPOSITION:

A violation of any provision of this article may be dealt with as a non-criminal offense in accordance with the provision of General law, Chapter 40, Section 21D, and shall be subject to the specific fine or penalty listed in each provision. If no specific fine or penalty is listed, the fine or penalty shall be **\$50.00 (fifty dollars)** for each offense.

In addition to police officers, who shall in all cases be considered enforcement personnel for purposes of non-criminal enforcement, a duly appointed Animal Control Officer shall be the enforcement officer with respect to the provisions set forth in this article.

(Article 18 of the October 18, 1999 Annual Fall Town Meeting; Approved by Attorney General on February 8, 2000).

SECTION 15:

I. Definitions

Dog: All animals of canine species.

Domestic Animal: An animal designated as domestic by regulations promulgated by the Massachusetts Department of Fish and Game.

Owner: Any person or persons, business, association, society, or corporation owning, keeping, harboring or having possession of a dog.

Controlling Person: A person of seventeen (17) years old or older having sufficient size, strength and ability to maintain proper control of the dog while on a leash.

Owner's Property:

1. Property owned or occupied by the dog owner.
2. Property not open to the general public where the owner or occupant has invited the dog, with or without its owner onto the property.

Attack: Aggressive physical contact initiated by an animal.

Secure Enclosure: A fence or other structure of at least one hundred (100) square feet in accordance with MGL Chapter 140 Section 157 on suitable enclosures to reasonably prevent the entry of young children and other unauthorized persons and to confine the dog securely. Such enclosure shall have sides and top and shall be designed and constructed to prevent the dog from escaping. If the enclosure has no floor secured to the sides, the sides shall be embedded into the ground for not less than two (2) feet.

Muzzle: A device that prevents a dog from biting any person or animal. It may be constructed of strong material. A muzzle may not interfere with the vision or respiration of the dog that wears it, nor shall it cause any injury to the dog.

Dangerous Dog:

1. Any dog that has, without clear provocation, significantly bitten or attacked a human being resulting in significant physical injury or death.
2. Any dog that has, without clear provocation, inflicted severe physical injury or killed any other domestic animal.
3. Any dog that behaves in a manner a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.
4. Any dog owned, kept or harbored currently or in the past for the purpose of dog fighting or any dog trained for fighting.
5. Any dog that has been deemed dangerous or vicious in any other jurisdiction.

At Risk Dog

1. Any dog that, when unprovoked, engages in any behavior that requires a defensive action by a human or other dog to prevent bodily injury.
2. Any dog that, when unprovoked, acts in a highly aggressive manner within a fenced yard or enclosure and appears, in the opinion of the Animal Control Officer, to be able to escape.

Hearing Authority: The Board of Selectmen or any person or persons designated by the Board of Selectmen who are in conformance with the definition of hearing authority in MGL Chapter 140 Section 136A.

II. Exceptions To Dangerous Or At Risk Classifications

No dog shall be determined dangerous:

1. for inflicting injury or damage on a person committing a crime or willful trespass upon the premises occupied by the owner of the dog, or teasing, tormenting, abusing or assaulting the dog or committing or attempting to commit a crime;
2. for taking action to defend or protect the owner or other person from an attack or assault by another person or animal;
3. for attacking a domestic animal, which, at the time the injury was sustained, was teasing,

- tormenting, abusing or assaulting the dog;
4. for attacking a domestic animal while on the Owner's Property if, in the past, the domestic animal had been teasing, tormenting, abusing or assaulting the dog;
5. for protecting or defending itself, its offspring or other domestic animal from attack or assault, or reacting to pain or injury, if such reaction was not grossly disproportionate;
6. for attacking or injuring a person or domestic animal while performing its expected duties as a military, correctional or police dog;
7. at the time of the attack or threat, the person or animal that was attacked or threatened by the dog had breached an enclosure or structure in which the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure including, but not limited to, a gated, fenced-in area if the gate was closed, whether locked or unlocked; provided, however, that if a person is under the age of Seven (7), it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing;
8. Solely based on growling or barking.

III. Dangerous and At Risk Dogs

1. The determination that a dog is dangerous or at risk under this section shall be made by the hearing authority. The hearing authority shall notify the owner in writing of any such determination; such notice shall include information on the hearing and appeal process.
2. Any confinement or other restrictions imposed by the determination shall remain in effect while a hearing or appeal is pending.
3. Within ten (10) days after an order by the hearing authority, the owner of a dog may bring a petition in the district court within the judicial district in which the order relative to the dog was issued or where the dog is owned or kept, addressed to the justice of the court, praying that the order be reviewed by the court or a magistrate of the court.

IV. Restrictions For Dangerous Dogs

If the hearing authority deems a dog a dangerous dog, the hearing authority shall order one or more of the following:

1. When not under direct control of a controlling person, the dog shall be contained within a building, vehicle, or secure and locked enclosure;
2. The dog may only leave owner's property accompanied by a controlling person on a leash of not more than four (4) feet having a minimum tensile strength of three hundred (300) pounds, used in conjunction with a muzzle;
3. Microchip or tattoo identification for the dog;
4. Behavior training for the dog from a trainer approved by the Animal Control Officer;
5. Spaying or neutering of the dog unless an owner of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the owner of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact;
6. Proof of insurance for the dog in an amount not less than \$100,000, insuring the owner

against any claim, loss, damage or injury to persons, domestic animals or property resulting from the dog's acts, whether intentional or unintentional;

7. Dog will be humanely euthanized.

V. Restrictions For At Risk Dogs

1. When not under direct control of a controlling person, the dog shall be contained within a building, vehicle, or secure enclosure.
2. The dog may only leave Owner's Property accompanied by a Controlling Person on a leash of not more than four (4) feet having a minimum tensile strength of three hundred (300) pounds.
3. With consideration given to recommendations from the Animal Control Officer, the hearing authority may order any or all of the following:
 - a. Microchip identification;
 - b. Behavior training from a trainer approved by the Animal Control Officer.
4. After two years of compliance, the dog shall no longer be considered At Risk

VI. By-Law Enforcement

By-Laws relating to dog control matters may be enforced by the Animal Control Officer or any Police Officer.

Seizure of Dangerous Dog. In the event that the Animal Control Officer or law Police Officer has cause to believe that a dangerous dog is being harbored or cared for in violation of this By-Law, or in violation of restrictions previously issued, the Animal Control Officer or law enforcement agent may order and affect the seizure and impoundment of the dog.

Violations and Dispositions

Any person authorized to enforce provisions of this By-Law may, in addition to any seizure of a dog pursuant to this By-Law, which may or may not occur, issue a citation to the owner of any dog violating the provisions of the By-Law. Any such citation shall include, in addition to the violation charged, the name and address of the owner of the dog, the date and time and location of the alleged offense, and the amount of the penalty due, if known. Said citation shall be on a form prescribed by and furnished by the Police Department.

If an owner of a dog is found in violation of an order of the hearing authority, the dog shall be subject to seizure and impoundment by the Animal Control Officer or Police Officer.

VII. Penalties For Violating The Restrictions Placed On Dogs Deemed To Be Dangerous Or At Risk

1st Offense: \$50 fine.

2nd Offense within a 24 month period: \$100.00 fine.

3rd Offense within a 24 month period: \$200.00 fine.

4th or Subsequent Offense within a 24 month period: \$300.00 fine.

VIII. Barking / Howling Nuisance

No person owning, keeping or otherwise responsible for a dog shall allow said dog, if unprovoked, to annoy another person by making a loud or continuous noise, where such noise would be found by a reasonable person to be disruptive to one's quiet and peaceful enjoyment. Continuous and clearly audible barking or howling by a dog is prima facie evidence of a violation, if:

1. It occurs between the hours of 11:00 PM and 7:00 AM, or
2. It is in excess of twenty (20) minutes between 7:00 AM and 11:00 PM.

IX. Penalties for Barking / Howling Nuisance

If, upon written complaint, or observation by authorities, the Animal Control Officer or a police officer determines a barking / howling nuisance under this By-Law, said officer may issue a warning or citation based on the following schedule:

- 1st Offense: Warning
- 2nd Offense within any 12 month period: \$25 fine.
- 3rd Offense within any 12 month period: \$50 fine.
- 4th or Subsequent Offense within a 12 month period: \$100 fine.

X. Effective Date

This By-Law shall take effect upon approval by the Attorney General.

XI. Severability

If any provision of this By-Law should be found invalid, the remainder of this By-Law shall remain in force. (Voted at the Spring Town Meeting, April 22, 2013, Article 28; Approved by the Attorney General on October 15, 2013)