

ARTICLE XV
ANIMAL CONTROL

15.1 Purpose

The purpose of these by-laws is the control of animals to prevent injury to property, persons and animals.

15.2 Administration

The Board of Selectmen shall appoint an Animal Control Officer who, in addition to any other authorized enforcement officers, shall be responsible for the enforcement of these by-laws.

15.3 Definitions

For the purposes of this bylaw, the following terms shall have the following definitions:

Adequate Shelter - Means a structure that is large enough for the animal to stand naturally, turn around and lie down inside of the structure without being exposed to the elements of weather. The roof and walls of the structure are waterproof and windproof. Bedding must be kept dry and changed regularly to preserve insulating qualities. Insulation and an inner wall must be included in shelter for dogs with short fur (example: Pointers, Staffordshire Terriers, Boxers, Labrador Retrievers) to provide adequate protection from cold. During cold weather a moveable flap must be placed over the entrance to a shelter to preserve the animal's body heat. Adequate shelter from sun may be provided by a tarp placed in a manner to provide deep shade and allow air to pass through for ventilation.

Beach – The zone above the water line at a shore of a body of water, marked by an accumulation of sand, stone, or gravel that has been deposited by the tide or waves.

Domesticated Animal – Any of various animals that have been tamed and made fit for a human environment.

Keeper – Any person, other than the owner, possessing, harboring, keeping, or having control or custody of a dog either permanently or on a temporary basis. If a person under the age of 18 owns or keeps a dog, that person's custodial parent(s) or legal guardian(s) shall be responsible for complying with the requirements of these by-laws.

Kennel, Commercial – A kennel maintained as a business where four (4) or more dogs three (3) months of age or older are kept for the breeding, boarding, sale, in-residence training, grooming or other business purposes, and including any shop where dogs are on sale or a kennel of ten (10) or more dogs regardless of the purpose for which the kennel is maintained.

Kennel, Residential – Means a collection of four (4) up to and including nine (9) dogs,

three (3) months of age or older, owned or kept on a single premises, maintained for any non-commercial purpose except for the sale of one litter per year; provided, however, that 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.

Licensing Period – The licensing period means the time between January 1st and the following December 31st of each year, both dates inclusive.

Vicious Dog - Any dog that attacks, bites or injures any human or domesticated animal without provocation or which, because of its temperament, conditioning or training, has a propensity to attack, bite or injure humans or domesticated animals.

15.4 Licensing and Regulation of Vicious Dogs

A. Determination of Viciousness

1. The Animal Control Officer shall investigate all complaints made to the Animal Control Officer, the Town of Wellfleet Police Department, the Board of Selectmen, or the Town Administrator that any dog owned or kept within the Town of Wellfleet has attacked, bitten, or injured any person or domesticated animal, or which by its temperament, conditioning or training has a propensity to attack, bite or injure persons or domesticated animals.

2. The Animal Control Officer is authorized to make whatever inquiry is deemed necessary to determine the accuracy of said complaint, and if the Animal Control Officer determines that the complaint is accurate, the Officer may find that the dog is vicious and may make such orders as he or she deems necessary to ensure compliance with the provisions of these by-laws and to promote public safety.

3. Upon determination by the Animal Control Officer that a dog is vicious, the Animal Control Officer shall issue a written order to the owner or keeper of said dog concerning the restraint or disposal of such dog as they may deem necessary. At a minimum, said order shall state that the dog has been determined to be vicious and shall require the owner or keeper of such dog to comply with the requirements of Section 15.4 Subsection B of these by-laws.

4. Without limiting the generality of the foregoing, the Animal Control Officer may order that said dog be permanently removed from the Town of Wellfleet, that said dog be humanely euthanized in accordance with the provisions of Massachusetts General Laws, Chapter 140, Section 151A, or that said dog be confined in accordance with such limitations as the Animal Control Officer deems appropriate. If an order to euthanize is issued, a certificate must be provided to the Animal Control Officer confirming the action was carried out. If the Animal Control Officer determines that the dog is to be permanently removed, the owner or keeper shall provide the Animal Control Officer with the name, address, and telephone number of the new owner or keeper of the vicious dog.

5. The owner or keeper of any dog determined to be vicious by the Animal Control

Officer may request a hearing before the Board of Selectmen. Said request shall be in writing and received by the Board of Selectmen within five (5) business days of the owner's or keeper's receipt of the Animal Control Officer's order. A copy of the hearing request shall also be delivered to the Animal Control Officer. The hearing request shall include an explanation of the measures that the owner or keeper intends to take to protect public safety pending disposition of the matter by the Board of Selectmen. If the Board of Selectmen determines that the measures described are inadequate, it may order that said dog be impounded, at the owner's or keeper's expense, until such time as the Board of Selectmen rules otherwise.

6. After hearing, at which those testifying shall be sworn under oath, the Board of Selectmen may affirm the order, reverse or nullify the order, or issue any such order as it deems necessary to ensure compliance with the provisions of these by-laws and the protection of public safety. The determination of the Board of Selectmen after a hearing shall be final.

7. Nothing in this by-law is intended to limit or restrict the authority of the Board of Selectmen to act in accordance with Massachusetts General Laws, Chapter 140, Sect.157.

B. Control of Vicious Dogs

1. The Animal Control Officer shall notify the Town Clerk of all dogs determined to be vicious pursuant to the terms of these by-laws.

2. The owner or keeper of any dog determined to be vicious in accordance with Subsection A of Section 15.4 of these by-laws, which has not been ordered euthanized or permanently removed from Town, shall re-license said dog as "vicious" within thirty days of such determination. A unique licensing number shall be assigned to a vicious dog by the Town Clerk. That number shall be noted on the town licensing files.

3. No vicious dog shall be licensed by the Town of Wellfleet for any licensing period unless the owner or keeper of such vicious dog displays a sign not to exceed one square foot on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public or private roadway.

4. All vicious dogs shall be confined in an enclosure approved in writing by the Animal Control Officer. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have a locked enclosure or for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or outside of the enclosure, unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog, or to sell or give away the vicious dog or to comply with the orders or directions of the Animal Control Officer and/or Board of Selectmen with respect to the vicious dog, or to comply with the provisions of these by-laws. In such event, the vicious dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog. Vicious dogs shall not be permitted to run loose on any public or private way or any

area within the Town of Wellfleet that is open to the general public, including but not limited to parks and beaches.

C. Enforcement and Penalties

1. License Revocation - If the Animal Control Officer determines that a vicious dog is being kept in the Town in violation of these by-laws or any order issued by the Animal Control Officer, Board of Selectmen or of any Court, the Animal Control Officer shall so notify the Selectmen. After giving notice to the owner or keeper of the hearing, the Selectmen shall hold a public hearing on whether to revoke the license of said dog or to take further action including banning the dog from the Town or euthanizing the dog. If the Selectmen revoke the license of said dog and do not order it to be euthanized, they shall notify the owner or keeper of the dog and the Town Clerk within ten (10) days that said dog will be impounded and euthanized if it is found within the Town after the succeeding seven days. The Animal Control Officer or any Town of Wellfleet police officer shall seize and impound any vicious dog found outside of its enclosure in violation of these by-laws or any order issued by the Animal Control Officer, Board of Selectmen or any Court.

2. Non-Criminal Disposition - This regulation may be enforced by the Animal Control Officer or any Town of Wellfleet police officer. Whoever violates any provision of these by-laws may be penalized by a non criminal disposition process as provided in Massachusetts General Laws, Chapter 40, Section 21D and the Town's non-criminal disposition by-law. If a non-criminal disposition is elected, then any person who violates any provision of these by-laws shall be subject to a penalty in the amount of fifty dollars (\$50.00) per day for each day of violation. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

3. Whoever violates any provision of this by-law or order of the Animal Control Officer and/or Board of Selectmen may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be fifty dollars (\$50.00), assessed in accordance with the provisions of Massachusetts General Laws, Chapter 140, Sections 173-174. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

15.5 Kennel licenses, inspection, and regulation.

A. Any owner or keeper of four (4) up to and including nine (9) dogs, three (3) months of age or older, being maintained at a premises, shall secure a Residential Kennel License. The Town Clerk shall not issue a Residential Kennel License unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that each dog three (3) months of age or older is currently vaccinated against rabies. Any owner or keeper of ten (10) or more dogs, three (3) months of age or older, or of a premises maintained as a

commercial kennel, shall obtain a Commercial Kennel License.

B. Application and Issuance of License and Fees: A Residential or Commercial Kennel License shall be issued annually by the Town Clerk upon written application by an owner or keeper of dogs and after inspection of the kennel and a determination, made by the Animal Control Officer, that the basic standards of cleanliness, proper care, confinement and adequate shelter of said dogs exist on the premises. The name and address of the owner or keeper of each dog kept in any kennel, if other than the person maintaining the kennel, and a veterinarian's certificate verifying that each dog, three (3) months of age or older, is currently vaccinated against rabies and kennel cough, shall be kept on file on the premises and available for inspection by the Animal Control Officer or any authorized persons. Such license shall be in the form prescribed by the Town Clerk.

The Residential Kennel License fee shall be fifty dollars (\$50.00). The Commercial Kennel License fee shall be one hundred fifty dollars (\$150.00). The Town Clerk shall, upon application, issue without charge a Commercial 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. 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 current dog license information of the town of where the dog resides. 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 Commercial Kennel License. The license period for a kennel license shall be from January 1 to December 31, inclusive. Kennel licenses are non-transferrable.

C. The Animal Control Officer, Animal Health Inspector, or any agent authorized by the Town may at any reasonable time inspect any kennel or premises for which a Residential or Commercial Kennel License has been issued.

D. If the Animal Control Officer, Animal Health Inspector, or other authorized agent, after inspection, determines that the kennel or premises that are the subject of a kennel license are not kept in a sanitary or humane condition, or if records are not kept as required by law, the inspecting officer shall notify the Board of Health of that determination and the facts upon which it is based. The Board of Health may, by order after a hearing, revoke or suspend such license. If a license has been revoked or suspended, the license may be reinstated after inspection and a reinstatement order by the Board of Health after a new hearing.

E. Upon written petition of any person or persons, filed with the Board of Selectmen, setting forth that they are aggrieved or annoyed to an 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, said Selectmen, within seven (7) days after the filing of such a petition, shall give notice to the owner or keeper of the kennel, the petitioner(s), and any other person the Selectmen determine should be given notice, of a public hearing to be held within fourteen (14) days after the date of such notice. Said notice shall also be posted on a Town bulletin board. Within seven (7) days after such public

hearing, said Selectmen shall make an order either revoking or suspending such kennel license, or otherwise regulating said kennel or premises, or dismissing said petition.

F. The holder of a kennel license or other person who is the subject of an order under Section 15.5E may petition the district court for relief in accordance with Massachusetts General Laws, Chapter 140, Section 137C.

G. Violations and Penalties.

1. Fines - Any person maintaining a residential or commercial kennel after the license has been so revoked, or while such license is so suspended, or who has failed to obtain a license for the kennel in violation of this By-law, Section 15.5, may be punished by a fine of fifty dollars (\$50.00) for each day in violation of this By-law.

2. Non-Criminal Disposition - In addition to any other legal remedies that may be available, the Animal Control Officer or other designated enforcing person, may enforce this By-law by Non-Criminal Disposition. If a Non-Criminal Disposition process, as provided in Massachusetts General Laws, Chapter 40, Section 21D and the Town's Non-Criminal disposition By-law is elected, then any person who violates the provisions of §15.5 shall be subject to a penalty in the amount of fifty dollars (\$50.00) per day for each day of violation. Each day or portion thereof shall constitute a separate offense. If more than one, each provision violated shall constitute a separate offense.