

## Animal Control Ordinance

### Chapter 81

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81-1 Title

This article shall be known as the "Animal Control Ordinance of the Town of Windham, Maine...

81-2 Purpose

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*The Town of Windham has established an Animal Ordinance to protect the public health and safety of its citizens and to promote the general welfare of the citizens and animals residing within the town. Animal ownership is encouraged and welcomed within Windham; however, strong emphasis is placed on responsible ownership of animals. Animal owners are encouraged to respect the rights of their fellow citizens and also those of their animals. Primary responsibility is placed upon animal owners to properly train and/or secure their animals so as to prevent them from causing injuries and/or creating nuisances.*

81-3

#### Licensing

##### *A. Dog license*

*All dogs over six months old or within 30 days of acquisition by the owner or keeper, must be properly licensed by the owner or keeper. Dogs are to be licensed at the Town Clerk's Office or at any veterinary office approved by the Department of Agriculture Animal Welfare Program to license dogs. License fees shall be those established by 7 M.R.S.A. Section 3923-A ( REPEAL)*

*Dogs shall be licensed in accordance with 7 M.R.S.A. § 3921 et seq. Anyone possessing a dog which must be licensed under 7 M.R.S.A. § 3921 et seq. and which has not been licensed prior to the issuance of a municipal warrant shall pay a late fee, as provided in 7 M.R.S.A. § 3943. All such late fees shall be deposited in a separate account as provided in 7 M.R.S.A. § 3945.*

##### **R Kennel License**

Kennel is defined under 7 M.R.S.A. section 3907 subsection 1 7 as one pack or collection of dogs or wolf hybrids kept in a single location under one ownership for breeding, hunting, show, training, field trials and exhibition purposes.

A kennel license shall be obtained from the town clerk's office after the Animal Control Officer has inspected the kennel as required by 7 MRS A. section 3923-C subsection 5

The Animal Control Officer shall follow the sanitation and health rules established by the Department of Agriculture Animal Welfare Program.

Kennel license fees shall be those established by 7 MRSA. section 3923-C. There will also be an inspection fee of \$20 for each kennel license payable to the Town of Windham. This inspection fee shall be placed in the town's Dog Licenses-Town revenue account

This section shall not include boarding kennels as defined under 7 MRSA. section 3907 subsection 8, which shall be subject to regulation by the Department of Agriculture Animal Welfare Program.

81-4

#### Vaccination

All dog owners must show proof of current vaccination against the rabies virus prior to being licensed. All cat owners are required to show proof of current vaccination against the rabies virus if the cat is picked up as a stray or the cat has bitten a person or other domesticated animal. A cat owner may show proof of exemption from the requirement for vaccination in accordance with the requirements of 7 MRSA, Section 3916 subsection 4.

81-5

#### Impoundment I Return of Animal

A. Animals found to be at large and/or stray shall be impounded by the town at an animal shelter designated by the Town of Windham or may be returned to the animal's owner at the discretion of the Animal Control Officer, a Police Officer, or other person appointed by the Chief of Police. If the owner/keeper of the animal is known, the Animal Control Officer, a Police Officer, or other person appointed by the Chief of Police will attempt to contact such person.

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R Animals impounded at the shelter may be reclaimed upon payment by the owner/keeper of the following

1 An impoundment fee of twenty-five (\$25.00) dollars for each animal, except that upon the second impoundment within a year, the fee shall be fifty (\$50.00) dollars and upon the third and all subsequent impoundment within a year from the first impoundment, the fee shall be one hundred (\$100.00) dollars.

2. Board in the amount charged by the contracted boarding facility per day for each animal impounded as allowed by state law.

3. Owners of dogs that cannot show proof that the dog impounded is licensed will be issued a temporary license by the shelter. The temporary license is good for ten (10) days, at the end of which the dog is to be licensed as directed by state law. Copies of temporary licenses will be forwarded by the shelter to the Animal Control Officer.

C. If the animal owner/keeper is contacted or comes forward before the animal is taken to the animal shelter, then they shall pay a fee of half the impoundment fee, section 8-5 B 1 of this Ordinance. This fee shall be paid to the town of Windham before the animal is released to the owner/keeper. Payment must be made at the public safety dispatch center, which shall issue a receipt therefore

81-6

#### Draft Dogs At Large

##### - Off-premises control; impoundment.

No dog under the control or care of any person shall be permitted to leave the property of that person unless the dog is on a leash of suitable strength not more than six feet in length. Any dog so found may be impounded by the animal control officer at the owner's expense, including the impoundment fee in the amount established by the town council and on file in the town offices.

Any person who violates this section commits a civil violation which will result in the forfeiture of not less than \$50.00 nor more than \$250.00 for the first violation and a forfeiture of not less than \$100.00 nor more than \$500.00 for a second or subsequent violation. Any person who has been found to have committed a civil violation under this section or under 7 M.R.S.A. § 3911 more than three times within any 12-month period, shall have the option, in lieu of a fine, of erecting a secure enclosure for the dog or dogs. The enclosure shall be of suitable size to accommodate the animal or animals. At a minimum, the enclosure shall be high enough to prevent the dog or dogs from leaping out of the enclosure and shall also contain a floor or other structure that will prevent the dog or dogs from digging under the enclosure and escaping. Any enclosure shall be completed within 30 days of the date of the finding by the court except that such time frame may be extended by the animal control officer due to weather or ground

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81-7

#### Stray Animals

Any domesticated animal, except livestock, that is found to be running at large on a public way, public property, or the property of someone other than the owner of the animal, may be seized by the Animal Control Officer, a Police Officer, or other person appointed by the Chief of Police

81-8

#### Cemeteries

No dogs or other domestic animals shall be allowed in any town owned/maintained cemeteries (Chapter 15 Cemetery Ordinance section 15-4)

81-9

#### Nuisance Dogs

##### - Animals creating a nuisance by noise.

Any animal which, by prolonged barking, howling, or the making of other sounds common to its species, causes undue annoyance to individuals residing in the neighborhood shall be deemed to constitute a nuisance. No person shall have or keep any animal which creates a nuisance. Any person found in violation shall be subject to a fine of up to \$100.00 for each offense. Any fine collected shall inure to the town.

##### - Nuisances; noise.

(a) Authority. This section is enacted under the general home rule power of municipalities and under the specific authority of 7 M.R.S.A. § 3950.

(b) Purpose. The purpose of this section is to prohibit dogs from creating nuisances and disturbing neighborhoods through unreasonable or objectionable noise caused by frequently and habitually barking, howling or creating other noise.

(c) Prohibited. No owner or keeper of any dog shall permit such dog to disturb the peace and quiet of the neighborhood or disturb the peace of any person by frequently and habitually barking, howling or creating such other loud or unusual noise.

(d) Impoundment. Where the owner or keeper of a dog cannot be located, the animal control officer is empowered to impound the dog creating the nuisance and to remove it from the property of the owner or keeper for the purpose of abating the nuisance. The animal control officer shall leave a notice at a conspicuous location on the property from which the dog has been removed indicating that the dog has been impounded. The notice shall include the date and time of the impoundment and where the animal can be redeemed. The owner or keeper shall have 48 hours from receipt of that notice, or of verbal notification of the impoundment, to redeem the dog.

An owner or keeper who refuses to reclaim the dog shall be subject to the penalties in subsection (e) of this section.

##### (e) Penalties.

(1) The owner or keeper of a dog which has caused a nuisance shall, for the first offense, be punished by a fine of not less than \$50.00 nor more than \$100.00. For any

second or subsequent offense, the owner or keeper shall be punished by a fine of not less than \$100.00 nor more than \$200.00.

(2) Any owner or keeper who fails to reclaim a dog that has been impounded under the provisions of this section, will be subject to a fine of not less than \$200.00 nor more than \$500.00.

(3) All fines assessed pursuant to this section shall ensure to the benefit of the town.

(f) Costs. Any costs associated with the administration of this section, including expenses for apprehension, maintenance, keeping and disposition of the dog, shall be reimbursed in full to the town, in addition to any penalties. These administrative expenses may include but are not limited to impoundment fees and boarding fees. If court action is required, all costs of court, penalties assessed by the court, and reasonable attorney's fees shall accrue to and be for the benefit of the town.

(g) In the event an owner refuses to reclaim their dog, in addition to the penalties set forth in section e. above, will cause to begin the process set forth in title 7 MRSA section 3913 for the animal shelter contracted by the town to formally take ownership of the dog. .

A Except as provided in subparagraph (B) below, no owner or keeper of a dog within the legal limits of the Town shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking, howling, or other loud or unusual noises anytime day or night Upon a signed, written complaint by the person disturbed, the Animal Control Officer, a Police Officer or any other person appointed by the Chief of Police may investigate and may give written notice to the owner or keeper of such dog that such annoyance or disturbance must cease Thereafter, upon continuance of such annoyance or disturbance, such owner or keeper shall be guilty of a civil violation and shall be subject to the penalties established by Section 8-12 of this Ordinance .

B. Section 8-9(A) shall not apply if any animal is provoked by trespassing people or animals on private property on which the animal is situated or by other legitimate cause for provocation

81-10                      *Nuisance Animals*  
(REPEAL)

*A. Except as provided in Subsections B and C of this section, no owner or keeper shall permit or allow any animal to make sounds common to its species if such sounds recur in steady, rapid rate for any hour 01 more*

*B.. Section 8-1 0(A) shall not apply to farm animals kept on a property located in an area that is allowed to have farm animals under the Town of Windham Zoning Ordinance.*

*C Section 8-1 0(A) shall not apply to dogs*

*In order for the owner/keeper to be summonsed, the complainant must make a signed statement to the Animal Control Officer, a Police Officer, 01 other person appointed by the Chief of Police .*

Nothing in this Ordinance shall be construed as having any impact upon the State animal welfare laws prohibiting cruelty to animals, regulating dangerous dogs and prohibiting animal trespass or any other matter involving animals.

## **OUTDOOR LIVING STANDARDS**

**“Outside and unattended” for purposes of this section, shall mean any dog who is exposed to the elements for a duration of longer than 15 minutes and not in visual range and physical presence of the owner. This expressly includes, but is not limited to, a dog in a securely fenced-in yard, a dog in a kennel, or a dog tethered. For purposes of this section, a dog shall be considered "outside" regardless of access to adequate shelter.**

**“Adequate shelter” for dogs kept outside and unattended shall mean a structure that is moisture-proof, windproof and of a suitable size to accommodate the dog, allowing for freedom of movement to make normal postural adjustments, including the ability to stand, turn around and lie down with limbs outstretched. The shelter shall be made of durable material with a solid, moisture-proof floor or a floor that is raised at least two inches off the ground. Between November 1st and April 30th shall be provided with a sufficient quantity of suitable bedding material consisting of straw, shavings, or the equivalent, to provide insulation and protection against the cold and promote retention of body heat. Hay, blankets, rags and other material(s) that retain moisture shall not be utilized for bedding. Between May 1st and October 31st, all dogs must be afforded one or more separate areas of shade large enough to accommodate the entire body of the dog at one time and protect from the direct rays of the sun.**

**“Adequate shelter” for dogs kept outside and unattended shall not include structures made of metal or any material that readily conducts heat or cold; cars; refrigerators; crawl spaces under buildings, parts of buildings, or vehicles; shelters made of cardboard or other materials easily degraded by the elements; crates or carriers designed to provide temporary housing; shelters with wire or chain-link floors; shelters surrounded by waste, debris or other impediments that could adversely affect the animal’s health; and other similar structures.**

**Dogs kept outside and unattended must be provided constant access to adequate shelter. No dog shall be kept outside and unattended between the hours of 10:00pm and 6:00am local time. No dog shall be kept outside and unattended during an extreme weather advisory that has been issued by the National Weather Service.**

**In the event that a dog is found to be living outside and unattended without adequate shelter or in violation of this section shall cause the Animal Control Officer or Police Officer to make a reasonable effort to locate the owner or person in control of the dog**

**First offense: the owner or person in control of the dog will be given an opportunity to bring the dog inside to an environment which meeting the standards set forth in Title 7 MRSA Part 9 Chapter 739 Paragraph 1. and given written warning In the event that**



**the owner / persons in control of the dog refuses to comply, the ACO or Police officer shall seize the dog(s) and bring them to the animal rescue organization contracted with the Town.**

**Second and subsequent offense: The ACO or Police officer shall seize the dog(s) and bring them to the animal rescue organization contracted with the Town.**

**Penalty & Impound fees: The penalties, impound fees and any fees associated with the subsection shall be the same as set forth in section 81-9 above.**

81-12

#### Violations and Penalties

Whoever violates the licensing requirements of this Ordinance shall be subject to those penalties established by 7 M.R.S A Section 3924. Whoever violates the at-large provisions of this Ordinance shall be subject to those penalties established by 7 M.R.S A Section 3915. Whoever violates any other section of this Ordinance shall be subject to a civil penalty of no less than fifty dollars (\$50.00) for a first violation, of no less than one hundred dollars (\$100.00) for a second violation, and no less than two hundred dollars (\$200.00) for a third or subsequent violation. Said fines may be recovered before the Portland District Court. In addition to the penalties set forth, the Town may seek any appropriate injunctive relief to prevent repeated violations of this Ordinance, including but not limited to, an order requiring that a nuisance dog be removed from the Town of Windham, an order requiring the utilization of electronic stimulus collars on such dog, an order limiting the length of time such dog is allowed to remain outside unattended, or such further order regarding the restraint or other disposition of such dog as the Court deems appropriate. All costs incurred by the Town as a result of prosecution, including attorneys' fees, shall be recoverable from a person found in violation of this Ordinance.

#### **Examples of injunctive relief;**

- **Limiting the length of time dogs are allowed to remain outside unattended.**
- **Utilization of electronic stimulus collars that are designed and intended to prevent barking and howling.**
- **Impoundment of dogs in accordance to section 81-9 of this ordinance**

A person who is issued a civil violation citation for a violation of this Ordinance may elect to pay half the fine amount specified above for each violation alleged in the citation, *in lieu* of appearing in court to answer the citation. Such payment must be received in full at the Office of the Town Clerk within ten (10) days of receipt of the citation. Upon receipt of such payment by the Town Clerk, the Animal Control Officer shall notify the District Court that the violation has been resolved. However, the

violations alleged in the citation shall be deemed admitted for the purposes of assessing any future penalties under this section

81-13 Administration and Enforcement

This Ordinance shall be administered and enforced by the Animal Control Officer, a Police Officer, or other person appointed or contracted to do so by the Chief of Police.

81-14 Severability clause

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

81-15 Effective Date

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The provisions of this Ordinance shall take effect as of February 28, 2003

**Adopted Date: January 28, 2003**  
**Town Council Act 03-18**