

Animal Control Ordinance

Chapter 81

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81-1 Title

This ordinance shall be known and referred to as the Town of Windham Animal Control Ordinance.

81-2 Purpose

The Town of Windham has established this Animal Control 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 Severability

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

81-4 Licensing

A. Dog License

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.

B. Kennel License

Kennel is defined under 7 M.R.S.A. Section 3907(17) as 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

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 M.R.S.A. Section 3923-C(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 M.R.S.A. 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(8), which shall be subject to regulation by the Department of Agriculture Animal Welfare Program.

81-5 Vaccination

All dog owners must show proof of current vaccination against rabies 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 M.R.S.A. Section 3916(4).

81-6 Impoundment / 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.
- B. Animals impounded at the shelter may be reclaimed upon payment by the owner/keeper of the following
 - 1. A municipal 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. Payment shall be made at the Town Clerk's office.
 - 2. Board in the amount charged by the contracted boarding facility per day for each animal impounded as allowed by state law.
 - 3. Such other fees as required by law.
- C. . 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.
- D. 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 municipal 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 shall be made at the Town Clerk's office.

81-7 Dogs At Large

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 allowing the animal to be brought immediately under control, or under direct voice command or electronic collar control. Voice or electronic collar control shall be defined as an immediate response upon voice command or stimulus application and return to within arm's length of the owner or person on control of the dog. Any dog so found may be impounded by the Animal Control Officer as set forth in Section 81-6 of this Ordinance.

This Section shall not apply to dogs engaged in legal hunting activities, law enforcement dogs engaged in active law enforcement activities.

81-8 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 or otherwise authorized by law.

81-9 Cemeteries

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

81-10 Nuisance Animals

Animal Noise

A. Except as provided in subparagraph (B) and (C) below, no owner shall permit or allow any animal to bark, howl or make other sounds common to its species if such sounds recur in steady, rapid succession for 10 minutes or more or recur intermittently for 30 minutes or more.

B. This section 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.

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C. This section 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. For purposes of this exception, dogs are not “farm animals” and kennels are not “farms.”

Deleted: Section 81-9

81-12 Animal Waste

A. It shall be the duty of any owner or keeper of a dog or anyone in possession or control of a dog to remove and dispose of, in a safe and healthful manner, any waste left by the animal on any street, sidewalk or publicly owned property, or any private property where that person does not have permission of the owner to leave waste.

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B. The requirements for removing dog waste under this section shall not apply to a dog accompanying any handicapped person, who, by reason of the handicap, is physically unable to comply with the requirements of this section.

81-13 Effect of Ordinance upon Matters Covered by the State Animal Welfare Laws

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.

81-14 Violations and Penalties

A. Whoever violates the licensing requirements of this Ordinance shall be subject to those penalties established by 7 M.R.S A Section 3924 (\$100). Whoever violates the at-large provisions of this Ordinance shall be subject to those penalties established by 7 M. R.S. A. Section 3915, (Not less than \$50 nor more than \$250 for first violation and not less than 100 nor more than \$500 for 2 or more violations). Whoever violates any other section of this Ordinance shall be subject to a civil penalty of no less \$100 for a first violation, no less than \$250.00 for a second violation, and no less than \$500. 00 for a third of subsequent violation. Said fines may be recovered before the Portland District Court and shall inure to the benefit of the Town.

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.

In addition to the penalties set forth herein, the Town may seek any appropriate injunctive relief to prevent repeated violations of this Ordinance.

Examples of injunctive relief may include, but are not limited to:

- 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.
- Utilization of muzzles to limit howling and barking
- Impoundment of dogs in accordance to section 81-9 of this ordinance
- Prohibition of keeping dogs or other nuisance animals on the premises

B. 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.

C. Any person who has been found to have committed a civil violation under Section 81-7 of this Ordinance 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.

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.

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