



Measure #: 2024-065

# TOWN COUNCIL MEASURE SUBMITTAL

<b>Date:</b> 2/26/2024	<b>Submitted By:</b> Town Manager	<b>Telephone #:</b> 508-699-0100
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**MEASURE DESCRIPTION:**

To See if the Town Council will vote to amend the North Attleborough Bylaws, Chapter 108, Animals.

Signed: Michael Borg

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**PURPOSE AND JUSTIFICATION:**

To See if the Town Council will vote to amend the North Attleborough Bylaws, Chapter 108, Animals.

A study was conducted by a working group consisting of the Bylaw Sub-Committee members, Town Clerk, Town Planner, ZBA Administrative Assistant, and Animal Control Officer.

The group met and reviewed, studied, and made recommendations for amendments to the General Bylaws as per Measure 2024-040- To see if the Town Council will conduct a comprehensive examination of Chapter 108, Article 1 within the General Bylaws, as well as Chapter 290, Use Schedule B found in the Zoning Bylaws and then provide revisions as necessary or needed.

See recommendations for amendment (in red print) attached.

This measure will be referred to the Bylaw Sub-Committee for review and a referral back to the Town Council where there will be a First Reading, and a Public Hearing with a Second Reading and Vote.

Therefore, it is respectfully requested that the Town Council vote to amend the North Attleborough Bylaws, Chapter 108, Animals.

**SPECIAL REQUIREMENTS:** This measure requires 2 readings and public hearing

**ATTACHMENTS:** Recommendations per study & Measure 2024-040

**REFER TO SUB-COMMITTEE:** Bylaw Sub-Committee

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## TOWN COUNCIL MEASURE SUBMITTAL

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PURPOSE AND JUSTIFICATION CONTINUED:

# General Bylaws amendments

## Chapter 108 Animals

### Article I Animal Control

[Adopted as Art. VIII of the Bylaws]

#### § 108-1 Purpose.

This article is adopted by the Town for the control and restriction of animals and pets within the Town.

#### § 108-2 Definitions.

##### **Adoption**

The delivery of an animal to any person 18 years of age or older for the purpose of harboring as a pet.

##### **Animal**

Every nonhuman species of animal, both domestic and wild.

##### **Animal shelter**

Any facility operated by a humane society, or municipality or its authorized agent, for the purpose of impounding animals under the authority of this bylaw or state law for care, confinement, return to owner, adoption, or euthanasia.

##### **Dangerous Animal**

A animal that either:

- A. Without justification, attacks a person or domestic animal, causing physical injury or death; or
- B. Behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to one or more persons, domestic or owned animals.

##### **Animal**

Any animal of the canine species.

##### **Loose Animal**

Any animal not under the restraint of a person capable of controlling the animal and/or off the premises of the owner or the keeper.

##### **Domestic Animal**

Any animal designated as domestic by regulations promulgated by the Department of Fish and Game.

##### **Grooming Establishment**

A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

##### **Keeper**

Any person, business, corporation, entity, or society, other than the owner, harboring or having

possession of a animal.

### **Kennel**

A pack or collection of animals or cats on a single premises, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel, or veterinary kennel (*see Zoning Bylaws for definitions*).

### **Owner**

Any person, partnership, or corporation owning, keeping, or harboring one or more animals. A animal shall be deemed to be harbored if it is fed or sheltered for seven consecutive days or more.

### **Public Nuisance**

Any animal or animals that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal that:

- A. Is repeatedly found at large.
- B. Damages the property of anyone other than its owner.
- C. Molests or intimidates pedestrians or passersby.
- D. Chases vehicles.
- E. Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored (except where the location of the harbored animal is a licensed boarding or breeding kennel).
- F. Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- G. Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.
- H. Is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained.
- I. Attacks other domestic animals.
- J. Has been found by the Animal Control Officer/Chief of Police, after notice to its owner, to be a public nuisance animal by virtue of being a menace to the public health, welfare, or safety.
- K. Is a female animal in heat not confined to a building or secure enclosure; or
- L. Has bitten any person.

### **§ 108-3 Animal licensing.**

- A. The owner or keeper of a animal within the Town of North Attleborough six months old or over shall

cause it to be licensed during each license period and pay the fee therefor. The licensing of a animal shall be conducted through the office of the Town Clerk.

- B.** The annual license period shall commence on April 1 of each year and terminate thereafter on March 31. During the license period, the owner or keeper of the licensed animal shall cause it to **always** wear around its neck or body a collar or other suitable material to which is securely attached **a current rabies tag** and a tag in the form established by the Town Clerk, and upon which shall appear the license number, license year, and name of the Town. A substitute tag for a lost tag can be obtained from the Town Clerk for a fee of \$5. The license fee shall be:
- (1) Male animal: \$20.
  - (2) Female animal: \$20.
  - (3) Spayed female or neutered male: \$10.
- C.** Any license purchased on or after May 1 of each year shall include a late charge of \$25, unless proof, such as a bill of sale or affidavit or similar document, can be shown that the animal was purchased or brought into Town within the previous 60 days. No license fee or part thereof is refundable. There shall be no license fee charged for:
- (1) **A service animal specifically trained to provide a service. Animals that are trained to assist the physically handicapped, or other service animals as defined by the Americans with Disabilities Act or governmental police animals.**
  - (2) Animal owners over the age of 70 (1 animal per household).
  - (3) Disabled veterans and/or their surviving spouse (as defined by VA benefits).
- D.** The Town Clerk shall not grant a license for any animal unless the owner or keeper thereof provides a veterinarian's certificate of vaccination in accordance with MGL c. 140, § 145B, or a certificate of exemption pursuant to MGL c. 140, § 145B; and a certificate from a veterinarian shall be required for a spayed female or neutered male. The license shall be in a form established by the Town Clerk and shall be subject to conditions and requirements approved by the Town Council. This subsection shall not apply to a person to whom a valid kennel license has been issued.
- E.** Kennel licenses. See MGL c. 140, § 137A, and inspections, MGL c. 140, § 137C. This subsection shall include commercial boarding or training kennels issued by the Town Clerk and the annual fees shall be in accordance with chapter 108-3(B). Such kennel license shall be in a form established by the Town Clerk and shall be subject to conditions and requirements approved by the Town Council.
- F.** The Animal Control Officer may at any time inspect any facility commercial boarding and training kennels, charitable kennels, kennels, and, if in his/her judgment it is not being maintained in a sanitary and humane manner, shall file a request to revoke or suspend said license with the Town Manager, who shall act in accordance with MGL c. 140, § 137C.
- G.** This section shall not apply to any pet shop licensed under MGL c. 129, § 39A.
- H.** Any license or kennel license of any kind herein defined held by any person found guilty of or having admitted sufficient facts or penalized for cruelty to animals or for possessing or training a fighting animal shall be void as of the date thereof and shall be immediately surrendered to the Town Clerk, together with any tag thereunder. No new license or new kennel license shall be issued to such person for five years after the date of the surrender of the license or kennel license.
- I.** The fee for all licenses hereunder shall be set by Town Council.

**§ 108-4 Animal Control Officer.**

- A. Animal Control Officer shall be appointed by the Town Manager subject to Article IV of the Charter.
- B. The Town Manager shall annually within 10 days after June 1 in each licensing year issue a warrant to the Animal Control Officer directing him/her to catch and confine all animals within the Town that have not been licensed and tagged as hereinabove required, to file and prosecute complaints for failure to comply with this section against the owners or keepers thereof, and to destroy by approved methods each animal which has been detained for a period of at least seven days, provided that the Animal Control Officer may make available for adoption any animal not found to be diseased for such sum as is approved by the Town Manager. Any animal so adopted shall be licensed before delivery to the purchaser. The Animal Control Officer shall keep and maintain records required by the Town Council for each confined animal (MGL c. 140, § 151A).
- C. Each owner or keeper of a animal, cat, or ferret that is six months of age or older shall cause such animal, cat, or ferret to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to manufacturer's directions and shall cause such animal, cat, or ferret to be revaccinated at intervals as recommended by the manufacturer. In accordance with MGL c. 140, § 145B(a) to (f), whoever violates this section shall be punished by a fine of not more than \$100.
- D. Any owner or keeper of a animal who shall fail to comply with any order of the Animal Control Officer or fail to comply with this section shall be punished by a fine of \$50 for a first offense in the calendar year, \$100 for second offense in the calendar year, \$150 for a third offense in the calendar year and \$200 for a fourth or subsequent offense in the calendar year. This section follows MGL c. 140, § 174E.

**§ 108-5 Miscreant animal or pet.**

In accordance with MGL c. 140, § 157, in part: The Animal Control Officer shall investigate or cause the investigation of any complaint to determine whether a animal is a nuisance or a dangerous animal in accordance with MGL c. 140, § 157.

**Motor vehicles; striking, injuring or killing animals or cats**

The operator of a motor vehicle that strikes and injures or kills a animal or cat shall forthwith report such a accident to the owner or custodian of said animal or cat or to a police officer in the town wherein such accident has occurred. A violation of this section shall be punished by a fine of not more than \$100 for a first offense or not more 10 days in a house of corrections and a fine of \$500 and the cost of medical expenses, not to exceed \$2,500, imprisonment in a house of correction for not more than 6 months or both such fine and cost and imprisonment for a second and subsequent offense. Nothing in this section shall preclude a civil cause of action including, but not limited to medical expenses, by the aggrieved party.

**§ 108-6 Restraints.**

- A. No person owning or keeping a animal within the Town shall permit it to go at large on public ways, parks, playgrounds, school yards, or public properties, or buildings unless it is restrained or controlled by a leash of suitable material and being not more than six feet in length and as further restricted pursuant to MGL c. 140, § 174E.
- B. Any working animals, such as police animals, farm animals, guide animals, or hunting animals, shall be allowed to perform their necessary duties with the proper restraint and control as may be required by its master or person or persons in whose charge the animal is assigned.
- C. Any owner or keeper of a animal who shall fail to comply with any order of the Animal Control Officer or fail to comply with this section shall be punished by a fine of \$50 for a first offense in the calendar

year, \$100 for second offense in the calendar year, \$150 for a third offense in the calendar year and \$200 for a fourth or subsequent offense in the calendar year. This section follows MGL c. 140, § 174E.

- D. The Animal Control Officer shall apprehend and confine all animals observed by him/her within the limits of the Town in violation of this section. He shall forthwith release any animal so confined if duly licensed to its owner or keeper upon payment to the Animal Control Officer of \$50, together with the sum of \$25 for each day or fractional portion thereof of such confinement. Such payment shall be considered reimbursement for the time and expense necessary to prevent further violation of this bylaw and shall not bar proceedings under Subsection C of this section. The Animal Control Officer shall not make any complaint to the District Court after having collected such payment unless directed by the Town Manager.

#### § 108-7 **Removal of waste.**

It shall be the duty of each person who owns, possesses, controls, or harbors a animal(s) to remove and dispose of any feces left by his/her animal(s) on any public area within the Town of North Attleborough or any private property neither owned nor occupied by said person. This regulation shall not apply to a animal accompanying a handicapped person who, by reason of his or her handicap, is physically unable to comply with the requirements of this section or to any person who utilizes a service animal. Violation of this section shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-3.

#### **108-8 Confinement of animal in a motor vehicle causing exposure to extreme heat or cold; protection of animal by animal control or law enforcement officer or fire fighter; penalties. MGL 140 sec. 174F**

- (a) A person shall not confine an animal in a motor vehicle in a manner that could reasonably be expected to threaten the health of the animal due to exposure to extreme heat or cold.
- (b) After making reasonable efforts to locate a motor vehicle's owner, an animal control officer, as defined in section 136A, law enforcement officer or fire fighter may enter a motor vehicle by any reasonable means to protect the health and safety of an animal. An animal control officer, law enforcement officer or fire fighter may enter the motor vehicle for the sole purpose of assisting the animal and may not search the vehicle or seize items found in the vehicle unless otherwise permitted by law.
- (c) An animal control officer, law enforcement officer or fire fighter who removes or otherwise retrieves an animal under this section shall leave written notice in a secure and conspicuous location on or in the motor vehicle bearing the officer's or fire fighter's name and title and the address of the location where the animal may be retrieved. The owner may retrieve the animal only after payment of all charges that have accrued for the maintenance, care, medical treatment and impoundment of the animal.
- (d) An animal control officer, law enforcement officer or fire fighter who removes or otherwise retrieves an animal from a motor vehicle under subsection (b), and the agency or municipality that employs the officer or fire fighter shall be immune from criminal or civil liability that might otherwise result from the removal.
- (e) After making reasonable efforts to locate a motor vehicle's owner, a person other than an animal control officer, law enforcement officer or fire fighter shall not enter a motor vehicle to remove an animal to protect the health and safety of that animal in immediate danger unless the person: (i) notifies law enforcement or calls 911 before entering the vehicle; (ii) determines that the motor vehicle is locked or there is no other reasonable means for exit and uses not more force than reasonably necessary to enter the motor vehicle and remove the animal; (iii) has a good faith and reasonable belief, based upon known circumstances, that entry into the vehicle is reasonably necessary to prevent imminent danger or harm to the animal; and (iv) remains with the animal in a safe location in reasonable proximity to the vehicle until law enforcement or another first responder arrives.

(f) A person who removes an animal from a motor vehicle pursuant to subsection (e) shall be immune from criminal or civil liability that might otherwise result from the removal.

(g) A violation of subsection (a) shall be a civil infraction punishable by a fine of not more than \$150 for a first offense, by a fine of not more than \$300 for a second offense and by a fine of not more than \$500 for a third or subsequent offense.

(h) Nothing in this section shall preclude prosecution under section 77 of chapter 272.

(i) A city or town shall enforce this section through its animal control officers or police officers in a manner consistent with the disposition provisions in section 21D of chapter 40.