



Measure #: 2024-026

TOWN COUNCIL MEASURE SUBMITTAL

Date: 10/11/2023

Submitted By: Town Manager

Telephone #: 508-699-0100

MEASURE DESCRIPTION:

That the Town Council amend the North Attleborough Zoning Bylaws, Chapter 290, Section 54, Schedule B, Principal use Agriculture #5 Commercial Stables, Kennels...and Selected words and terms; Animal Kennel, or Hospital.

Signed:

Michael Borg

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PURPOSE AND JUSTIFICATION:

To clarify and expand the definitions of Kennels in the Zoning Board of Appeals By-law language. That the Town Council vote to amend the North Attleborough Zoning Bylaws, Schedule B, Principal Use, Agriculture.

SPECIAL REQUIREMENTS:

ATTACHMENTS: Proposed Amendment to Zoning By-Laws

REFER TO SUB-COMMITTEE: Bylaw

North Attleboro Zoning Board of Appeals



Proposed Amendment to Zoning By-Laws

ZBA stand on Kennels

Currently in the ZBA By-laws on kennels it states the following:
Chapter 290, Section 54, Schedule B, Principal use:

“Commercial stables, kennels, or veterinary hospital in which all animals, fowl, or other forms of life are completely enclosed in pens or other structures...”

Are not an allowed use in the residential districts except for R-40 where it is allowed via special permit. For Commercial Districts a kennel is allowed via Special Permit for Zones C-60 and IC-30 and In Zone IC-60 is a permitted use.

Originally, it was thought this applied more to commercial uses but based on the definition of “animal kennel or hospital”, in the Zoning By-law, which reads:

Animal Kennel or Hospital. *A structure used for the harboring and/or care of more than three dogs that are more than six months old, WHETHER COMMERCIALLY OPERATED OR NOT.*

Because of this definition it appears that private or personal kennels is included in the section and would be subject to that zoning section since this is the only section of the use schedule that discusses kennels.

ZBA PROPOSED CHANGES TO SCHEDULE B

Measure # _____: To see if the Town will vote to amend the North Attleborough Zoning Bylaws Schedule B Section Use Regulations, relative to the Kennel Regulations as follows...

Chapter 290, Section 54, Schedule B, Principal use, Agriculture Section; #5 as shown in the following table:

PRINCIPAL USE	SCHEDULE B										
	R-10	R-10S	Residential District			Business District			Office and Business	Industrial District	
			R-15	R-20	R-40	C-7.5	C-30	C-60	Park District OP-60	IC-30	I-60
^c 5 Commercial stables, kennel or veterinary hospital in which all animals, fowl, or other forms of life are completely enclosed in pens or other structures.....	---	---	---	---	S	---	---	S	---	S	P
6 Non commercial forestry and growing of all vegetables and flowers.....	P	P	P	P	P	P	P	P	P	P	P

Note: “S/P” = allowed by Special Permit / Permitted “---” = Not Permitted

^cAll Applications for the special permit require prior written approval from Animal Control and Board of Health

AND to clarify the definition to read as follows:

°5 Commercial/Private stables, Large Animal Kennel, or Veterinary Hospital in which all animals, fowl, or other forms of life are completely enclosed in pens or other structures.

AND

Inserting a New Row with the following addition with regards to Private/Personal Kennels that will be permitted with a Special Permit in R-10 & R-10S, R-15, R-20, and permitted in District R-40 but not permitted in Commercial Districts

SCHEDULE B												
PRINCIPAL USE	R-10	Residential District				Business District			Office and Business		Industrial District	
		R-10S	R-15	R-20	R-40	C-7.5	C-30	C-60	Park District OP-60	IC-30	I-60	
° 5 Commercial/Private stables, Large Animal Kennel, or Veterinary Hospital in which all animals, fowl, or other forms of life are completely enclosed in pens or other structures.....	---	---	---	---	S	---	---	S	---	---	P	P
° 5A Small Animal Kennels	S	S	S	S	P	---	---	---	---	---	---	---
6 Non commercial forestry and growing of all vegetables and flowers.....	P	P	P	P	P	P	P	P	P	P	P	P

ZBA DEFINITIONS ON KENNELS

Measure _____:

To see if the Town will vote to amend Section IX Definitions of the North Attleborough Zoning Bylaws relative to Animal Kennel or Hospital as follows:

Amend the North Attleborough Zoning Bylaw Section IX Definitions, by deleting the definition “**Animal Kennel or Hospital**” in its entirety and replace with the following definitions for Veterinary Clinic/Animal Hospital, Commercial Animal Kennel, and Private/Personal Kennel:

Section IX Definitions:

Animal Kennel or Hospital:

Harboring and/or care of more than three dogs, three months old or over, irrespective of the purpose for which they are maintained.

Veterinary Clinic/Animal Hospital:

A hospital or clinic used solely to house dogs and/or animals that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

Commercial Animal Kennel:

An establishment, facility, or domestic charitable corporation used for boarding, training, breeding, harboring, and/or caring for a pack or collection of 4 or more dogs, 3 months old or over, with a commercial or non-commercial purpose.

Private (Personal) Kennel:

An owner or keeper of less than 4 dogs, 3 months old or older with a commercial or non-commercial purpose.

Explanation:

As currently regulated in the Zoning Bylaw, a person who owns 4 or more dogs is required to apply to the Zoning Board of Appeals for a special permit for a kennel. This zoning article defines the difference between private/personal kennels and a commercial kennel or veterinary clinic/hospital. Owners of dogs for private/personal keeping would continue to be licensed with the Town Clerk's office under the Town Bylaw Article VIII, section 2 Dog. Ownership of 4 or more dogs, whether commercial or personal, would continue to be regulated by the ZBA, Board of Health Kennel Regulations with enforcement from the Department of Animal Control/Shelters.

Mass. General Laws c.140 § 137A

Kennels:

(a) A person maintaining a kennel shall obtain a kennel license. An owner or keeper of less than 4 dogs, 3 months old or older, who does not maintain a kennel may elect to secure a kennel license in lieu of licensing the dogs under section 137 and shall be subject to this section, sections 137B and 137C and so much of section 141 as it relates to violations of this section to the same extent as though the owner or keeper were maintaining a kennel. In the case of an applicant for initial licensure and in the case of an applicant for license renewal, a licensing authority shall not issue a kennel license until a kennel has passed inspection by an animal control officer

(b) A kennel license shall be in lieu of any other license for a dog kept at a kennel during any portion of the period for which the kennel license is valid. A kennel licensee shall cause each dog kept in its kennel to wear, while it is at large, a collar or harness of leather or other suitable material, to which a tag shall be securely attached. The tag shall have inscribed upon it the number of the kennel license, the name of the city or town issuing the license and the year of issue. Tags shall be furnished to the owner or keeper by the licensing authority in quantities not less than the number of dogs kept in the kennel. The issuing city or town shall determine the period of time for which a kennel license shall be valid, including the date of issuance of the license through the date on which the license expires, inclusive, and shall further determine the fee for the issuance and renewal of the license. To determine the amount of the license fee for a kennel, a dog under the age of 6 months shall not be counted in the number of dogs kept in a kennel. The name and address of the owner of each dog kept in a kennel, if other than the person maintaining the kennel, shall be kept at the kennel and available for inspection by an animal control officer, natural resource officer, deputy natural resource officer, fish and game warden or police officer.

(c) The licensing authority shall issue a kennel license without charge to a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse or for the relief of suffering.

(d) A person who violates this section shall be assessed a fine of \$500 for a first offense and a fine of not more than \$1,000 for a second or subsequent offense.



Current North Attleboro Towns By-laws

ARTICLE VIII. ANIMAL CONTROL Animal Control Regulations This Article is adopted by the Town for the control and restriction of dogs and pets within the Town.

Section 1. Definitions:

Are referenced in M.G.L. Ch. 140, §136A included in part but not limited to all that section foregoing.

Section 2. DOG LICENSING

- A. The owner or keeper of a dog within the town of North Attleborough six (6) months old or over shall cause it to be licensed during each license period and pay the fee, therefore. *The licensing of a dog 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 dog shall cause it to wear around its neck or body a collar or other suitable material to which is securely attached 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 one dollar (\$1.00). The license fee shall be: Male dog \$20.00 Female dog \$20.00 Spayed female or neutered male \$10.00
- C. Any license purchased on or after May 1 of each year shall include a late charge of twenty-five dollars (\$25.00), unless proof, such as a bill of sale or affidavit or similar document, can be shown that the dog was purchased or brought into Town within the previous sixty (60) days. No license fee or part thereof is refundable. There shall be no license fee charged for (i) A service dog specifically trained provided a certificate is provided by a medical or governmental authority. (ii) Dog owners over the age of seventy (70). (iii) Disabled veterans and/or their surviving spouse (as defined by VA benefits).
- D. The Town Clerk shall not grant a license for any dog unless the owner or keeper thereof provides a veterinarian's certificate of vaccination in accordance with M.G.L. Ch. 140, 145B or a certificate of exemption pursuant to M.G.L. Ch. 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 section shall not apply to a person to whom a valid kennel license has been issued.
- E. Kennel licenses: See Ch. 140, §137A, and Inspections M.G.L. Ch. 140, §137C. This section shall include commercial boarding or training kennels issued by the Town Clerk and the annual fee of twenty-five dollars (\$25.00) for five (5) dogs or less or fifty dollars (\$50.00) for more than (5) dogs for the license period herein above. 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 & 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 M.G.L. Ch. 140, §137C.
- G. This section shall not apply to any pet shop licensed under Section 39A of Chapter 129 of the General Laws.
- 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 (5) 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.

Section 3. 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 ten (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 dogs within the Town that have not been licensed and tagged as herein above 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 dog which has been detained for a period of at least seven (7) days, provided that the Animal Control Officer may make available for adoption any dog not found to be diseased for such sum as is approved by the Town Manager Any dog 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 dog. M.G.L. Ch. 140, §151A.
- C. Each owner or keeper of a dog, cat, or ferret that is six months of age or older shall cause such dog, 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 dog, cat, or ferret to be revaccinated at intervals as recommended by the manufacturer. In accordance with M.G.L. Ch. 140, §145B-F, whoever violates this section shall be punished by a fine of not more than \$100.

Section 4. MISCREANT DOG or PET

In accordance with M.G.L. Ch. 140, §157 in part: The Hearing Authority shall investigate or cause the investigation of any complaint to determine whether a dog is a nuisance or a dangerous dog in accordance with Section 157 of M.G.L. Ch. 140.

Section 5. RESTRAINTS

- A. No person owning or keeping a dog 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 (6) feet in length and a further restricted pursuant to M.G.L. Ch. 140, §174E. B. Any working dogs, such as police dogs, farm dogs, guide dogs, or hunting dogs, 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 dog is assigned.
- C. Any owner or keeper of a dog who shall fail to comply with any order of the Animal Control Officer or fail to comply with this by-law shall be punished by a fine of fifty dollars (\$50.00) for a first offense in the calendar year, sixty dollars (\$60.00) for second offense in the calendar year, eighty dollars (\$80.00) for a third offense in the calendar year and one hundred dollars (\$100.00) for a fourth or subsequent offense in the calendar year. This Article follows the General Laws, Chapter 140, 174E
- D. The Animal Control Officer shall apprehend and confine all dogs observed by him/her within the limits of the Town in violation of this by-law. He shall forthwith release any dog so confined, if duly licensed to its owner or keeper upon payment to the Animal Control Officer of twenty dollars (\$20.00) together with the sum of seven dollars (\$7.00) 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 by-law and shall not bar proceedings under subsection c of this by-law. The Animal Control Officer shall not make any complaint to the District Court after having collected such payment unless directed by the Town Manager.

Section 6. REMOVAL OF WASTE

- A. It shall be the duty of each person who owns, possesses, controls, or harbors a dog(s) to remove and dispose of any feces left by his/her dog(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 dog 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 dog