

Proposed amendments to Town of West Newbury Animal By-Law Discussion Draft, March 2024

Proposed Bylaw revisions included in redline below:

VI. ANIMAL-DOG BY-LAW

DOG BY-LAW [Adopted at the Annual Town Meeting April 28, 1986, approved by the Attorney General June 12, 1986, and posted according to law June 20, 1986. See also notes on amendments and additions at the end of the Bylaw.]

Section 1. Dog Licensing

The Office of the Town Clerk shall be responsible for the licensing of dogs within West Newbury. All dogs three months or older must be licensed and tagged. Licenses are to be obtained by April 1 each year and will expire on the following March 31.

Section 2. License Fees

2.1- License and kennel fees shall be established and revised from time to time by the Town by vote ~~at Town Meeting of the Select Board~~, based upon the recommendation of the Town ~~Fees Committee~~Clerk and after the Select Board ~~of Selectmen~~holds a public hearing on the proposed fees. License and kennel fees are intended to be sufficient to fund all related costs of the Animal Control Officer and Town Clerk, and any property damages caused by unidentified dogs within Town boundaries. A notice of the fee hearing shall be published in at least one local newspaper at least two weeks prior to the meeting.

2.2 -Any license or kennel fee due on April 1 but remaining unpaid on May 1 ~~shall~~may be subject to a supplemental fine of \$10.00 per dog; an additional fine of \$10.00 per dog shall~~may~~ be charged if the fee remains unpaid on June 1, and likewise, an additional fine of \$10.00 per dog on July 1 and August 1.

Section 3. Animal Control Officer's Duties

3.1. The Animal Control Officer shall perform assigned duties in accordance with Chapter 140 of the General Laws of the Commonwealth of Massachusetts, and any other appropriate statutes relative hereto. The Animal Control Officer shall attend to all complaints and any other matters pertaining to dogs and shall take whatever action deemed necessary.

3.2 If the Animal Control Officer determines that a female dog in heat, even if confined, is attracting other animals, thus causing a disturbance or damage to neighboring property or public areas, the owner or keeper may be required to keep said animal, while in heat, in a kennel or to remove it from the area so that the nuisance is abated.

3.3 The Animal Control Officer ~~may~~will require dog owners or keepers to restrain their dogs with a fixed, physical leash on their dogs from running at large all Town owned

buildings and property, and in on schools, school playgrounds, parks, trails or and recreational areas.

3.34 .1.-If the Animal Control Office determines that a dog's behavior is causing a nuisance or is dangerous, they will require the owner to prevent such behavior.

~~Dangerous or nuisance dog behavior, or other domesticated animals causing a nuisance.~~

For the purpose of this Bylaw, dog behavior which is dangerous or a nuisance includes, but is not limited to, the following: molesting pedestrian passers-by or passing vehicles, including bicycles, attacking persons or domestic animals; or damaging public or private property. If the dog's behavior continues, it will be considered a violation of Section 6 – Restraint of Dogs – and the owner will be subject to the fines and fees set forth therein.

~~3.3.2.: No person owning, harboring, or having custody and/or control of 4 or more dogs shall permit such dogs to run at large in the Town of West Newbury at any time. A dog shall be deemed running at large when it is both off the premises of the owner or such person in custody or control of, and is not on a leash, or electronic leash collar (also known as an electric leash). Any violation of this Section shall be considered a violation of Restraining of Dogs and subject to the fines and fees set forth therein~~

3.5 Penalties:

A person who owns or keeps a dog ~~, or other domesticated animal,~~ shall be responsible for the following fees which require the service of the Animal Control Officer ~~in connection with any such dog or domesticated animal.~~

First Offense	Warning
Second Offense within twelve months	\$ 25 50.00
Third Offense, and any subsequent within twelve months of the first offense	\$ 75 100.00

Service of the Animal Control Officer is the response of the officer to a specific location, and requiring the removal, restraining or impounding of the dog or domesticated animal, whether occasioned by the request of a citizen, town official or otherwise. Fees shall be paid to the Town of West Newbury.

3.6. If the owner or keeper of a dog fails to comply with the order of the Animal Control Officer and does not appeal to the Select Board of Selectmen, as provided in the next section, the Animal Control Officer shall proceed to enforce said order as provided by law.

3.7. The Animal Control Officer having custody of a confined dog shall be allowed the sum of eight dollars per day for the care of such dog, payable by the owner or keeper thereof, if known, otherwise from the dog fund.

Section 4. Appeal of Animal Control Officer Ruling

4.1. The owner or keeper of a dog, about which the Animal Control Officer issued an order under the above sections of this By-Law, may appeal said order in writing to the Select Board ~~of Selectmen~~ within ten days of the issuance of the order.

4.2. The Select Board ~~of Selectmen~~ shall hold a public hearing on the ruling and accept testimony from any and all interested parties, including the Animal Control Officer, after which the Board may overrule the Animal Control Officer, reach an agreement with the appellant, or instruct the Animal Control Officer to proceed with enforcement procedures as prescribed in Chapter 140, Section 173A of the General Laws.

Section 5. Applicability of Other Statutes

Notwithstanding the provisions of this By-Law, all other aspects of Chapter 140, Sections 136A through 175 shall still be in effect.

Section 6. Restraint of Dogs

No person owning, harboring or having custody or control of a dog shall permit such dog to be at large in the Town of West Newbury at any time, elsewhere than on the premises of the owner, except if such dog be on the premises of another person with the knowledge and consent of such person. Any dog which is not held firmly on a fixed, physical leash ~~or under the immediate control of such owner or keeper~~, may be fined and taken into custody of the Animal Control Officer. The owner shall be subject to:

1. A fine for violation of the Restraint Bylaw
2. Boarding fees for the number of days the animal is in the custody of the Animal Control Officer
3. Any necessary veterinary charges while the animal is in the custody of the Animal Control Officer

Fines:

First Offense	\$ 50.00 <u>25.00</u>
Second Offense	\$ 50 <u>100</u> .00
Third Offense and Subsequent Offenses	\$ 100 <u>200</u> .00

All town fees, fines, and charges shall be paid before the animal is returned to the owner or keeper.

This § shall be included within the scope of the provisions of Massachusetts General Laws, Chapter 40, § 21D, adopted at the fourth session of the 1995 Annual Town Meeting held on May 15, 1995, as § XXVIII, Enforcement of Town Bylaws. In addition to police officers, the Animal Control Officer shall also be an enforcing person for this section.

Dog License Fees

Neutered Male Dogs	\$15.00
Spayed Female Dogs	\$15.00
Male & Female Dogs	\$25.00

Kennel: _____	
Not more than 4 dogs _____	\$35.00
Not more than 10 dogs _____	\$50.00
Over 10 dogs _____	\$100.00

Section 7. Disposal of Waste

7.1. Duty to dispose. It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by ~~his~~their dog on any sidewalk, street, park, public way, public area or any private property of another. A copy of this section shall be given to every dog owner when licensing ~~his~~their dog.

7.2. Duty to possess means of removal. No person who owns, possesses or controls a dog shall appear with such dog on any sidewalk, street, park, public area, or private property of another without the means of removing any feces left by such dog.

7.3. Method of removal. For the purpose of this section, the means of removal shall be any tool, implement or other device carried for the purpose of picking up and containing such feces which provides protection to the person and/or the public.

7.4. Method of disposal. Disposal shall be accomplished by transporting such feces to a suitable place for placement in a designated waste receptacle, or other suitable container which is regularly emptied by a refuse collector.

7.5. Exemption. This section shall not apply to service dogs accompanying any person physically incapable of collecting said waste.

7.6. Enforcement and fines. Violations of this section will result in a fine of \$50.00 for the first offense, and \$50.00 for the second and subsequent offenses within twelve months of a previous offense. This section may be enforced pursuant to the noncriminal disposition procedure of MGL Chapter 40, § 21 D and the Town Bylaws Section XXVIII, Enforcement of Town Bylaws. In addition to police officers, the Animal Control Officer shall also be an enforcing person for this section.

[Amendment Adding Section 3.5 to the Dog By-Law voted at the October 22, 1991, Special Town Meeting, Approved by the Attorney General on January 7, 1992, and posted according to law on January 9, 1992.]

[Amendment changing Section VI. "Dog Bylaw" to read "Animal By-Law" and the amendment to add Section 3.3.1. to the Animal Bylaw voted at the third session of the 1994 Annual Town Meeting held on June 16, 1994. Approved by the Attorney General on August 26, 1994, and posted according to law on August 31, 1994.]

[Amendment to Sections 2.2 and 3.3.1. adopted as Enforcement of Town By-Laws (See XXVIII) at the Annual Town Meeting, fourth session, held May 15, 1995, approved by the Attorney General June 28, 1995, and posted according to law July 10, 1995, allows the Animal Control Officer to act as an enforcing person in addition to Police Officers.]

[Amendment to add the section entitled “Restraint of Dogs” voted on May 3, 2001, at the second session of the 2001 Annual Town Meeting, and posted according to law on September 6, 2001. Fines were increased by an amendment voted on May 6, 2009 at the second session of the 2009 Annual Town Meeting, approved by the Attorney General on August 11, 2009 and posted according to law on August 20, 2009]

[Dog License Fees adopted under Article 20 of the 1986 Annual Town Meeting and approved by the Attorney General. Amendment voted at the 1990 Annual Town Meeting under Article 25, approved by the Attorney General on September 5, 1990, and posted according to law on October 22, 1990. Amendment voted at the 2003 Annual Town Meeting under Article 16, approved by the Attorney General on July 30, 2003 and posted according to law on August 11, 2003]

[Amendment to add Section 3.3.2 was adopted at the Annual Town Meeting of April 27, 2015, approved by the Attorney General on May 26, 2015 and posted according to law on May 27, 2015]

[Amendment to add Section 7 was adopted at the Annual Town Meeting of May 23 2021, as Article 20, which was approved by the Attorney General on October 28, 2021 and posted according to law on November 3, 2021.]

Public comments may be provided by participation in the March 11, 2024 Select Board Meeting beginning at 7:15 and/or by email to selectboard@wnewbury.org prior to the meeting. The Board will provide additional opportunities for public comment regarding these proposed bylaw changes as we get closer to Town Meeting.