

DOG CONTROL BYLAW REVIEW COMMITTEE

MINUTES AUGUST 9, 2011

MEMBERS

Michael Bouchard	Present
Lt. James Cullen	Absent (police court appearance)
Tom Delaney	Present
Susan Hogan	Present
George Moore	Present

General discussion

- Add a time frame within which to file a complaint (i.e. 30 days from incident)
- Dog Officer receives 30 to 100 calls per month; most are “public nuisance” dog complaints
- Member of the public: Is there a mediation service available for a dog owner with a neighborhood conflict?
- Suggestion: Publish a dog owner pamphlet distribute at licensing time

TOWN OF GROTON
DOG CONTROL BYLAW

DRAFT VERSION July 12, 2011

- **Town Counsel comments “Accepted” as basis for further public comment**
- **Comments from July 12, 2011 Committee meeting incorporated**

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CHAPTER 128. DOGS

§ 128-1. Definitions

§ 128-2. Public nuisances prohibited.

§ 128-3. Enforcement.

§ 128-3.1. License required; penalty.

§ 128-4. Violations and penalties.

CHAPTER 128. DOGS

[HISTORY: Adopted by the Annual Town Meeting of the Town of Groton 5-20-1980 by Art. 42; amended in its entirety 6-3-1996 STM by Art. 8. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Dog bites — See Ch. 233, Art. I.

Dangerous dogs – See Chapter 223, Art. II

Massachusetts General Laws Chapter 140 Sections 136A to 174B

§ 128-1. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

ABANDON

A dog is considered abandoned within the meaning of this chapter when it has been left alone or unattended by the owner for any period greater than 24 hours without the owner providing for its needs.

AT LARGE

Off the premises of the owner and not under the physical control of the owner or authorized agent of the owner.

COMPLAINANT

Any person, including the Dog Officer, who witnesses an animal committing a violation under this chapter. In the case where the complaint is from other than the Dog Officer, it shall be in writing, using the Groton Dog Incident Complaint form.

OWNER

Any person, group of persons or corporation owning, keeping or harboring a dog or dogs. The owner is responsible for a dog's actions at all times.

LICENSE

A valid and current municipal dog license and dog license tag

PUBLIC NUISANCE

Any dog shall be deemed a public nuisance when such dog is engaged or has engaged in any combination of one or more of the following activities. Each instance of a public nuisance is considered to be a violation. Each day of a violation is determined to be a separate violation. :

- A. Attacking, threatening, harassing or menacing, as determined by the Dog Officer following an appropriate investigation, persons, fowl, livestock or other domestic animals, such as cats,

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dogs or other household pets while outside the property of its owner, whether under such owner's control or not.

- B. Destroying, disturbing or otherwise molesting the property, including refuse, of another while outside the property of its owner, whether under such owners control or not.
- C. Being upon any public park, playground, schoolyard, beach or in any place to which the public has a right of access while not under the physical control of its owner or keeper. The determination of physical control shall be that of the Dog Officer.
- D. Being upon any public way or in any place to which the public has a right of access, chasing motor vehicles, bicycles or pedestrians.
- E. As determined by the Dog Officer, continually or prolongedly barking or making other objectionable noise, such as howling, crying or scratching which disturbs the peace and quiet of any neighbor for more than a reasonable period of time.
- F. Being an unspayed female or unneutered male at large.
- G. *Being over the age of six months and not wearing a suitable collar and current municipal dog license tag issued to that dog and while not on the property on the owner.*
- H. Being a dog which has been abandoned.
- I. Being a dog which is permitted to run unrestrained at large. The running of hunting dogs, certified service dogs and search and rescue dogs shall not constitute a public nuisance hereunder. The exercising of other dogs which are under the immediate control of their owner or keeper, shall not constitute a public nuisance hereunder, providing written permission of the landowner has been obtained.
- J. Being a dog which deposits solid waste not removed or improperly disposed of by the dog's owner or agent upon any public park, playground, schoolyard, beach, public or private way, sidewalk, in any place to which the public has a right of access or any property other than that of its owner

RESTRAINT

The control of a dog by physical means, such as a leash, fence or other means of physically confining or restraining a dog.

§ 128-2. Public nuisances prohibited.

No owner of any dog shall, while such dog is within the confines of the Town of Groton, allow such dog to be a public nuisance as defined above.

§ 128-3. Enforcement.

Nothing contained in this bylaw shall prevent the Board of Selectmen from passing any orders authorized by law at such times as the Board shall deem it necessary to safeguard the public.

A. In all cases it shall be the duty of the duly appointed Dog Officer to investigate any violation under this chapter either witnessed by a police officer or the Dog Officer, or reported in a written complaint.

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The Dog Officer shall provide the dog owner and the complainant with a written copy of the complaint and investigation report not more than *seven* days after the conclusion of the investigation, but in any event, not more than 30 days after receiving the complaint.

B. If, after the Dog Officer's investigation of an alleged violation under this chapter, such officer has reason to believe that the described violation did in fact occur as set forth in said written complaint or as witnessed by him/her or a police officer, it shall be the Dog Officer's duty to issue the owner, in writing, the appropriate order and/or to impose the appropriate fine designed to prevent a recurrence or continuation of such violation. The period of time during which the order shall be in effect shall be on the order. If the complainant and the owner involved are in agreement with the order so issued, then the matter respecting that particular violation under this chapter shall be considered resolved. If the parties are not in agreement, then recourse can be had to the remedies of each under provisions of applicable law.

C. In all cases it shall be the duty of the Dog Officer, if, in his/her opinion, appropriate action is necessary to prevent further or continued violations of this chapter pending a complete investigation, to take the following action:

(1) Notify the owner, if known and available, of the alleged violation and issue a preliminary order, in writing, requiring the owner to take appropriate action, pending a complete investigation.

(2) If the owner is not known or, if known, is not immediately available:

(a) Take the dog into custody in the most humane manner possible.

(b) Confine the dog in a suitable facility.

(c) Use every means available to identify and make contact with the owner.

(d) Take such further action as is allowed by law.

D. It shall be the responsibility of the owner of any dog impounded under the provisions of Subsection [C\(2\)\(b\)](#) to reclaim such dog subject to the following criteria:

(1) The owner shall pay the Dog Officer such sum as is established by the Board of Selectmen by regulation for taking the dog into custody and a further sum for room and board as determined by regulations promulgated by the Board of Selectmen.

(2) The owner of the dog shall also be responsible for costs incurred by the Town or Dog Officer for reasonable and customary care of the dog while in the custody of the Dog Officer.

(3) The owner shall have in his possession a current municipal License and related tag for the dog, both of which shall have been issued with respect to the dog. The license tag shall be attached to the dog by a suitable collar before the dog is released from the custody of the Dog Officer.

E. Disposition of dogs

If an unclaimed dog has been in the custody of the Dog Officer for more than 10 days, the Dog Officer may dispose of the dog in accordance with applicable provisions of Massachusetts law. The owner shall be responsible for any costs incurred in the keeping and disposition of the dog.

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§ 128-3.1. License required; penalty.

A. Pursuant to Chapter 140, § 173, of the Massachusetts General Laws, any person who fails to register, number, describe and license his or her dog annually by January 1 in the Town of Groton, Middlesex County, and pay the fees and charges under rules and regulations pursuant to Chapter 140, § 139, will be required to pay to the Town of Groton a penalty after the last day of February annually, in accordance with a Fee / Fine Schedule established by the Board of Selectmen. By virtue of the Town's acceptance of the applicable provision of Section 139 of Chapter 140 of the General Laws, no fee shall be charged for a License for a dog owned by a person aged 70 years or over.

[Amended 10-25-2004 STM, Art. 14]

B. Failure to comply with this section shall constitute a violation of § [128-2](#) and may subject the owner of any unlicensed dog to financial penalties as are allowed by this chapter or as provided for in regulations promulgated by the Board of Selectmen.

C. All monies received by the Town Clerk's office for the issuance of dog licenses or other fees, fines, charges, and penalties under § 147 of Chapter 140 of the Massachusetts General Laws and this chapter shall be paid into the treasury of the Town.

[Added 10-20-1997 ATM, Art. 13]

§ 128-4. Violations and penalties.

A. Except as otherwise provided by existing statute or in this chapter, any person who violates this chapter shall be subject to the payment of a penalty in the amount of not less than \$25 nor more than \$50 for each violation and for each day of violation, to be recovered for the use of the Town.

B. The owner of any dog which is in violation of § [128-2](#) may be subject to this penalty whether such dog is in the custody of the Dog Officer or not. As an alternative to criminal prosecution, the Dog Officer and Town Police Officers, as enforcing persons under this chapter, may enforce this chapter and orders issued hereunder pursuant to the noncriminal disposition statute, MGL C. 40, § 21D and the Town Code, Chapter 1, Article I, § [1-4B\(2\)](#). When so enforced, the fines shall be as follows:

[Amended 12-4-1996 STM, Art. 29]

- A. Penalties for Public Nuisance Violations
 - a. First violation \$50
 - b. Second violation \$75
 - c. Third and subsequent violations \$100
- B. Fees for dogs in the custody of the Dog Officer
 - a. Fee for dog pick up \$25
 - b. First calendar day board \$25
 - c. Second and subsequent calendar day board \$40
- C. Annual dog licensing Fee (between January 1 and February 28)
 - a. Neutered or spayed dogs \$10
 - b. Unaltered dogs \$15
 - c. Kennel license
 - i. Up to 4 dogs \$40
 - ii. 5 to 9 dogs \$70

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- iii. 10 or more dogs \$100
 - d. Dangerous Dog license \$500
 - e. Dog owners over 70 years old free (registrations only)
- D. Late registration fines (per dog , in addition to registration fee)
- a. Between March 1 and May 31 \$10
 - b. June 1 or later \$15
 - c. Failure to report or license a Dangerous Dog \$500
- E. Replacement Dog Tag \$3

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BOARD OF SELECTMEN REGULATIONS

CHAPTER 223. DOGS

ARTICLE I. Definitions

ARTICLE II Dog Bites

§ 223-1. Enforcement procedure.- Dog bites

§ 223-2. Bites subject to enforcement procedure.

ARTICLE III Dangerous Dogs

§ 223-3 Dangerous dogs

§ 223-4 Enforcement procedure - Dangerous dogs

ARTICLE IV Fees and Fines

§ 223-5 Fees and Fines

CHAPTER 223. DOGS

[HISTORY: Adopted by the Board of Selectmen of the Town of Groton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Dogs — See Ch. [128](#).

ARTICLE I. Definitions

COMPLAINANT

Any person, including the Dog Officer, who makes a complaint regarding an animal committing a violation under this chapter. In the case where the complaint is from other than the Dog Officer, it shall be in writing, using the Groton Dog Incident Complaint form.

SERIOUS BODILY INJURY

Serious bodily injury shall mean bodily injury which creates a substantial risk of death or which involves either total disability, protracted and obvious disfigurement or the loss or substantial impairment of some bodily function, member, organ or mental faculty for a substantial period of time, as determined in writing by a medical doctor.

ARTICLE II. Dog Bites

[Adopted 9-12-1988]

§ 223-1. Enforcement procedure - Dog Bites.

As provided by the Massachusetts General Laws, the following enforcement procedure has been adopted by the Board of Selectmen in response to dog bites in the Town of Groton:

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- A. First bite: minimum thirty-day restraint order, which will not expire until proof of rabies shot and verification that rabies are not present in the dog are provided to the Town. Notice will be sent to the owner/keeper by registered mail. The person bitten will receive a copy of the order.
- B. Second bite: permanent restraint order. Notice will be sent to the owner/keeper by registered mail. The owner and the person bitten will be advised that, under the provisions of the Dog Control Bylaw, a hearing to appeal the order can be requested by either party.
- C. Violation of restraint order. A hearing will be held in order to review the facts related to bite incidents and restraint order violation(s). All parties (owner, keeper, complainants and witnesses) connected with incidents involving the dog will be requested to attend, with the owner/keeper notified by registered mail. Upon review of the facts, if it is shown that the dog has bitten twice and has violated the permanent restraint order, the Board of Selectmen shall order a remedy, which may include that the dog shall be ordered destroyed.

§ 223-2. Bites subject to enforcement procedure.

The following dog bites are subject to the Section 223-1 enforcement procedure:

- A. Bites reported to the Board of Selectmen by the Animal Inspector, Dog Officer, Police Department, Groton Board of Health or Nashoba Board of Health, determined not to be committed by a Dangerous Dog, as defined in these Regulations, or a dog being teased or abused.
- B. Bites reported directly to the Board of Selectmen or Police Department and verified by an investigation by the Dog Officer or Animal Inspector determined not to be committed by a Dangerous Dog or a dog being teased or abused.

ARTICLE III. Dangerous Dogs

§ 223-3. Dangerous Dogs

The Dog Officer may declare a dog dangerous when it has committed any of the below listed infractions:

- A. *has attacked a person without justification, resulting in that person's death.*
- B. *has engaged in or has been trained to engage in exhibitions of fighting other dogs.*
- C. *has attacked a person without justification causing serious bodily injury.*
- D. *has bitten an individual repeatedly (more than once) during the course of an unprovoked attack.*
- E. *has attacked a domestic animal or livestock causing serious injury or death while the dog is outside the property of the owner, not including an isolated attack on a single chicken, duck or other fowl or rabbit which was not appropriately contained in a cage or pen.*
- F. *has repeatedly (on more than one occasion) harassed or chased livestock, wildlife or domestic animals whether any such animal is injured or not while off the premises of the owner.*

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G. has been declared to be a vicious or dangerous dog by the animal control authority or court of another jurisdiction. The Owner is required to report a vicious or dangerous dog to the Town Clerk or Dog Officer.

H. has been previously determined to be dangerous dog, which, after it's owner or keeper has been notified of this determination, continues any behavior described in this section.

I. has committed some other act not listed here, of such severity that it represents a clear physical danger to the public as determined by the Dog Officer.

J. has been previously ordered restrained by the Town of Groton for violations as described in this section.

Any subsequent infractions shall be grounds for a separate or further declation that a dog is dangerous.

§ 223-4. Enforcement procedure - Dangerous Dogs

1. *Any dog which is declared dangerous under Subsection 223-3.A shall be ordered euthanized.*
2. *Any dog declared dangerous under Subsections 223-3. B through I shall, upon the first offense and at the owner's expense, be ordered permanently restrained in an escape-proof enclosure as approved by the Dog Officer, shall be neutered, shall be micro-chipped with the microchip number supplied to the Dog Officer and be remanded to an appropriate training facility, which must be approved by the Dog Officer, for the completion of prescribed training. Completion of such training shall be certified in writing to the Dog Officer by the trainer. The dog shall not be allowed outside of its escape-proof enclosure except for necessary medical, training and grooming, and any other necessity which has prior approval of the Dog Officer. The dog shall be muzzled any time it is outside its escape-proof enclosure*
3. Any dog which commits a second infraction under Subsections 223-3.B through I, and any dog which has violated a previous order of restraint issued by the Town of Groton, shall be ordered euthanized or ordered removed from the Town of Groton, as determined at a hearing before the Board of Selectmen.
4. Any dog declared dangerous shall be subject to an annual licensing fee of \$500.00, or the maximum allowed by law.
5. Failure to license or report a dog declared dangerous shall be an offense subject to a penalty of \$500, or the maximum allowed by law.
6. The owners of any dog declared dangerous must obtain additional liability insurance throughout the lifetime of such dog, and must provide proof of such to the Dog Officer.

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REFERENCED IN Ch 128 Section 4 B

- Town Code (Charter) Chapter 1, Article 1, Sec 1-4b (1 and 2)

§ 1-4. Complaints.

[Added 4-27-1991 ATM, Art. 18]

The following procedures shall apply with respect to the bylaws and rules and regulations, a schedule of which is on file with the office of the Town Clerk, in order to supplement and comply with the provisions of MGL C. 40, § 21D:

A. Criminal complaint. Whoever violates any provision of this bylaw may be penalized by indictment or on complaint brought in the District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the maximum penalty for each violation or offense, brought in such manner, shall be \$300.

B. Noncriminal complaint.

(1) Whoever violates any provision of these bylaws, the violation of which is subject to a specific penalty, may be penalized by a noncriminal disposition as provided in MGL C. 40, § 21D. The noncriminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department which is subject to a specific penalty.

(2) Without intending to limit the generality of the foregoing, it is the intention of this provision that the following bylaws and sections of bylaws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that, in addition to police officers who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be enforcing persons for such section. Each day on which any violation exists shall be deemed to be a separate offense.