

**Town of Bernardston
Selectboard Meeting Minutes**



Board Members

Brian J. Keir

Stanley D. Garland, Chairman

Kenneth R. Bordewieck

Minutes for the meeting of January 17, 2024

Meeting held at Bernardston Town Hall
38 Church St, Bernardston, MA 01337

Selectboard Members Present:

Stan Garland
Ken Bordewieck
Brian Keir

Others Present:

Per attached sign in sheet

Stan called the meeting to order at 5:02pm.

Purpose of the meeting: Communities across the Commonwealth are using a non-criminal process to enforce a variety of local laws and regulations. The statute allows each town to determine for itself those local bylaws which are best enforced by this method. On November 29, 2023, the Selectboard approved scheduling an initial meeting that would include representation, at a minimum, from the Bernardston Selectboard, Town Coordinator, Police Chief, Board of Health, Building Inspector, Conservation Commission and Town Counsel to review 21D and make some determination as to whether or not the town sees any benefit in its adoption. Town Counsel will be brought into the conversation if we decide to move forward with the implementation of this process.

The problem: All bylaws require enforcement. Public health & safety, property values, community image and public welfare are some of the many benefits to bylaw enforcement for small towns. The difficulties of bylaw enforcement can seem insurmountable, leading towns to not enforce. This results in systemic problems that develop through long periods of not enforcing a bylaw. As a direct result, residents do not gain the benefit of good bylaw enforcement, and the systemic problems become cyclical.

(Continued on next page)

Possible Solutions - How is the statute implemented? In order to take advantage of this noncriminal procedure, the Town must first adopt the bylaw authorizing its use. The bylaw must, in addition, specify if the use of the procedure is to be mandatory or only one option available. The bylaw must also specify:

- a) Who the enforcing persons are to be, and
- b) the specific penalty to be applied for violations of each provision.

A sample implementing bylaw, which incorporates these requirements, is at Appendix C in the attached handout. Prior to the bylaws adoption, it will be necessary to secure approval of the State's District Court for the noncriminal citation form. A sample of a citation form is at Appendix D in the attached handout. These two steps: (1) Implementation of a bylaw authorizing the noncriminal method of enforcement and specifying the penalties to be enforced for each bylaw violation, and (2) securing approval of the District Court for the citation form must be completed before noncriminal disposition procedures can be implemented locally.

Determination of local interest: If 21D is adopted, it will be another method to be used to secure enforcement of local bylaws. Making this method of enforcement available, leaves in place all other existing enforcement methods; in no way is it to be construed as a substitute method which must be used instead of any other available method. If 21D is implemented, it provides another option to be used at the discretion of the enforcing person.

List of potential bylaws we may want to consider for 21D enforcement procedure: Included in the attached handout is a list of potential bylaws we may want to consider subject to noncriminal enforcement pursuant to MGL, Chapter 40, Section 21D:

BYLAW	RESPONSIBLE PERSON
Dog Bylaws	ACO, Police Department
Sidewalks	Not listed
Unregistered Motor Vehicles	Police Department
Winter Parking Ban	Police Department
All Zoning Bylaws	FCCIP

Does the Town see any benefit in 21D implementation? General consensus determined that the existing Dog and Unregistered Vehicle bylaws will be modified under 21D.

- a. Dog Bylaw: A recommended draft by the State and Kyle Dragon, ACO is attached. The Police Chief added that more work needs to be done regarding animal livestock, etc.
- b. Unregistered Vehicles: A preliminary draft will need to be prepared updating the penalty fee and including the Police Department as the enforcing person.

The Town Administrator will coordinate with the Town Counsel to prepare the preliminary drafts. Town Counsel will speak individually with the relevant departments (Police Department, ACO) who will have enforcement responsibilities and ensure complete understanding of all provisions included in the draft bylaws.

After the preliminary drafts are completed, a special meeting will be scheduled with the Selectboard, Town Counsel, Town Clerk, Police Department and ACO and other affected departments and individuals for comments on the drafts. We may want to consider including the Finance Committee and the public in general for comment and to explain the rationale behind the implementation of 21D when the matter is ultimately put to the Town meeting for adoption.

Following this meeting, a final draft of the proposed bylaws will be prepared and submitted to the Annual Town Meeting, by appropriate warrant article for enactment.


Other business unknown at time of posting.

-Brian made a motion to appoint Michaelene Telega into an interim position as a Program Assistant/Administrative Assistant. Ken seconded and the motion was approved.

With no further business to be discussed, Ken motioned to adjourn the meeting at 6:30pm. Brian seconded and the meeting was adjourned.

Selectboard Meeting Minutes
January 17, 2024
(continued)

Attested by: Karen Kelly, Town Administrator


Stanley D. Garland

, Chairman


Kenneth R. Bordewieck


Brian J. Keir

Town of Bernardston
Selectboard Special Meeting Agenda
Wednesday, January 17, 2024, 5:00 PM



Bernardston Town Hall, 38 Church Street, Bernardston MA

Board Members

Brian J. Keir

Stanley D. Garland, Chairman

Kenneth R. Bordewieck

Agenda

Call to Order

Non-Criminal Disposition for Bylaw Enforcement

-Determination of Local Interest.

-Identify local bylaws that are not enforced and why?

-Develop a list of offenses which might be specifically applicable to the 21D enforcement procedure.

-Come to an agreement that each participant review the bylaws or regulations for which their office is primarily responsible, keeping in mind the matters discussed at this meeting.

-Schedule the next meeting: This meeting will lead to preliminary conclusions regarding the scope and variety of bylaws that might be included under the 21D procedure, the penalties to apply and identification of appropriate enforcing personnel.

Adjourn

This meeting was posted on December 16, 2023 at 11:50am

APPENDIX C

PROPOSED AMENDMENT TO GENERAL TOWN BY-LAWS

ARTICLE I

SECTION 1 - ENFORCEMENT

a) Criminal Complaint

Whoever violates any provision of these by-laws may be penalized by indictment or on complaint brought in the district court. Except as otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation, or offense, brought in this manner, shall be three hundred dollars.

b) Non-criminal disposition

Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in General Laws, Chapter 40, section 21D. The non-criminal 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.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following by-laws and sections of by-laws 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 sections. Each day on which any violation exists shall be deemed to be a separate offense.

GENERAL BY-LAWS

Article X

Section 10	Fireworks, etc.	\$50.00
Section 12	Rude, indecent speech or behavior	\$50.00
Section 13	Loitering	\$50.00
Section 20	Curfew	\$50.00
Section 21	Dumping refuse on private property, without permission (Health Agent)	\$50.00
Section 22	Anti-noise regulations (Health Agent)	\$50.00

APPENDIX D

NONCRIMINAL DISPOSITION CITATION FORM AS APPROVED BY THE DISTRICT COURT*

CITY (or TOWN) OF [Name] NOTICE OF VIOLATION
 OF CITY ORDINANCE (or TOWN BY-LAW), RULE OR REGULATION

DATE OF THIS NOTICE _____

NAME OF OFFENDER _____

ADDRESS OF OFFENDER _____

CITY, STATE, ZIP CODE _____ DATE OF BIRTH OF OFFENDER _____

DRIVER LICENSE NUMBER _____ BYPASS REGISTRATION NUMBER _____

OFFENSE: _____

TIME AND DATE OF VIOLATION _____
 (A.M.) (P.M.) ON _____ 19__

LOCATION OF VIOLATION _____

AT _____

SIGNATURE OF ENFORCING PERSON _____ ENFORCING DEPARTMENT _____

I HEREBY ACKNOWLEDGE RECEIPT OF THE FOREGOING CITATION

X

Unable to obtain signature of offender. Date Mailed _____

THE NONCRIMINAL FINE FOR THIS OFFENSE IS \$ _____.

YOU HAVE THE FOLLOWING ALTERNATIVES IN THIS MATTER:

Either option (1) or option (2) will operate as a final disposition, with no resulting criminal record.

(1) You may choose to pay the above fine, either by appearing in person or through a duly authorized agent, or by mailing a check, money order or postal note WITHIN 21 DAYS OF THE DATE OF THIS NOTICE to:

[City or Town Clerk]
 [Street Address]
 [City or Town, MA Zipcode].

(2) If you desire to contest this matter, you may do so by making a written request for a noncriminal hearing, and enclosing a copy of this citation, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE to:

Clerk-Magistrate
 [Name] District Court
 [Street Address]
 [City or Town, MA Zipcode]
 Attn: 21D Noncriminal Hearings.

(3) If you fail to pay the above fine or to request a hearing within 21 days, or if you fail to appear for the hearing or to pay any fine determined at the hearing to be due, a criminal complaint may be issued against you.

I HEREBY ELECT THE FIRST OPTION above, confess the offense charged, and enclose payment in the amount of \$ _____.

I HEREBY REQUEST A NONCRIMINAL HEARING on this matter.

Signature _____

* approved by the state's District Court Department in January, 1991 for use on and after March 29, 1991 (effective date of C. 470, Acts of 1990)

**List of Potential Bylaws Subject to Noncriminal Enforcement
Pursuant to MGL, Chapter 40, Section 21D**

Dog Bylaws (Already enforced under 21D)		
Section 1: Dog Registration/Licensing	Fine Allowed	\$15.00
	Enforcement Agent	ACO or Town Clerk
	Fine Schedule	Not listed
Section 3: Dog behavior	Fine Allowed	\$25.00
	Enforcement Agent	ACO
	Fine Schedule	Not listed
Section 4: Failing to apply for license transfer	Fine Allowed	\$50.00
	Enforcement Agent	ACO of Police Officer
	Fine Schedule	Each day of violation shall constitute a separate offense
Sidewalks Bylaw	Fine Allowed	\$25.00
	Enforcement Agent	Not listed
	Fine Schedule	\$25.00 per day
Unregistered Motor Vehicles Bylaw	Fine Allowed	\$5.00 per day for each day of violation
	Enforcement Agent	Written notice from Selectboard
	Fine Schedule	Not listed
Winter Parking Ban	Fine Allowed	Vehicle in violation shall be towed at owners expense
	Enforcement Agent	Not listed
	Fine Schedule	Not listed
All Zoning Bylaws	Fine Allowed	\$100.00
	Enforcement Agent	Jim Hawkins, FCCIP
	Fine Schedule	Each day that a violation continues shall constitute a separate offense (\$100.00)



TOWN OF BERNARDSTON, MA.

DOG BYLAWS

Enacted: Article 29, Annual Town Meeting, May 7, 1979.

Amended: Article 30, Annual Town Meeting, June 17, 1996; Article 9, Special Town Meeting, June 21, 2006; Article 39, Annual Town Meeting, April 29, 2009. Article 4, Special Town Meeting, September 23, 2013

Approved by the Attorney General: June 21, 2006. August 20, 2009. November 29, 2013.

Posted: December 5, 2013

Section 1:

All persons residing in the Town of Bernardston and keeping or maintaining a dog in said Town shall be obligated to register or license each dog on an annual basis. Proof of current rabies vaccination will be required at registration as required under Massachusetts General Laws Chapter 140, Section 137 and Section 145B, or any amendments thereto. Registration or licensing will be held between February 1st and March 31st of each year. Residents acquiring new dogs six (6) months or over, or new residents who bring dogs six (6) months or over into the Town of Bernardston, will have 30-days from the date of acquiring the dog, or in the case of a new resident, from the date when such person begins residency, in which to comply with this By-law. Violations of the Section may be enforced by a non-criminal disposition pursuant to Massachusetts General Laws Chapter 40, Section 21D. Penalty \$15.00. Enforcing Persons: Dog Officer, Town Clerk.

DOG BYLAW (cont.)

Section 4:

The owner or keeper of any dog permanently moved into the Town of Bernardston from another municipality shall apply to the Town Clerk for transfer of the dog's original license, as set forth in Section 146 of Chapter 140 of the Massachusetts General Laws. In applying for the license transfer, the owner or keeper of the dog shall notify the Town as to whether the dog has ever been determined to be a nuisance by reason of vicious disposition in another city or town and whether said dog has ever been ordered permanently removed or banished from another city or town. Any animal banished from another city or town anywhere shall be banned from Bernardston and shall not be licensed by the Town. Violations of the Section may be enforced by a non-criminal disposition pursuant to Massachusetts General Laws Chapter 40, Section 21D. Penalty \$50.00. Enforcing Persons: Dog Officer or any Police Officer of the Town. Each day of violation shall constitute a separate offense.



TOWN OF BERNARDSTON, MA.

SIDEWALKS BYLAW (*regarding Snow Removal*)

Enacted: Article 27, Annual Town Meeting, May 6, 1991.

Approved by the Attorney General: June 10, 1991

Property owners with sidewalks adjacent to their property shall be required to remove snow and ice from the sidewalks, and sand if necessary, within 24-hours of a snow or ice storm. Violators will be subject to a \$25.00 per day fine.



TOWN OF BERNARDSTON, MA.

UNREGISTERED MOTOR VEHICLES BYLAW

Enacted: Article 21, Annual Town Meeting, March 7, 1966.

Approved by the Attorney General: March 15, 1966

Section 1:

The keeping of more than one unregistered motor vehicle, assembled or disassembled, except by a person licensed under Massachusetts General Laws Chapter 140 Section 59, on any premises shall not be permitted unless said motor vehicles are stored within an enclosed building.

Section 2:

A special permit to keep more than one unregistered motor vehicle on any premises not within and enclosed building, after a duly called public hearing at which all abutters to the premises have received notice, may be granted by the Board of Selectmen, if it finds that such keeping; (1) is in harmony with the general purposes and intent of this by-law; (2) will not adversely affect the neighborhood; and (3) will not be a nuisance.

UNREGISTERED MOTOR VEHICLES BYLAW (cont.)

Section 3:

All such special permits granted shall limit the number of unregistered motor vehicles to be kept on the premises by the permit holder, shall not run with the land, and shall be limited to a reasonable length of time.

Section 4:

This by-law shall not apply to motor vehicles which are designed and used for farming purposes or to contractors' equipment, not to landowners or tenants who store motor vehicles out of sight of abutters and public ways.

Section 5:

Whoever violates any provisions of this by-law shall be liable to a penalty of \$5.00 per day for each day of violation, commencing ten days (10) following date of receipt of written notice from the Board of Selectmen.



TOWN OF BERNARDSTON, MA.

WINTER PARKING BAN BYLAW

Enacted: Article 5, Special Town Meeting, September 23, 2013.

Approved by the Attorney General: November 25, 2013

The Board of Selectmen is authorized to order a No Parking Ban on the streets of the Town, when it is necessary in order to facilitate the winter treatment of roads including but not limited to snow plowing, sanding, ice removal or to improve the movement of traffic in an emergency. Vehicles in violation of this bylaw shall be towed at the owner's expense.

at the time of the application or prior to the application by scheduling a meeting with the Planning Board. The applicant must provide sufficient information about the project to allow the Planning Board to make a determination.

4.9. Temporary Moratorium on Medical Marijuana Treatment Centers/Registered Marijuana Dispensaries (added September 23, 2013, removed September 30, 2014)

4.9 Temporary Moratorium on Recreational Marijuana Establishments (added October 25, 2017, removed December 31, 2018)

ARTICLE V. ADMINISTRATION.

5.1. Administration. (Amended May 21, 2014)

- A) Permits. This By-Law shall be administered by the Building Inspector. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use without certification by the Building Inspector that such action is in compliance with then-applicable zoning, and that all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as such certification.
- B) Enforcement. The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits and variances issued thereunder, including notification of non-compliance and request for legal action through the Selectmen to Town Counsel.
- C) Penalties. The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be One Hundred dollars (\$100.00) for each offense. Each day that each violation continues shall constitute a separate offense.

5.2. Board of Appeals.

- A) Establishment. There is hereby established a Board of Appeals which shall consist of five members and three associate members, who shall be appointed and

Other business unknown at time of posting

- 1. COA would like to advertise their custodial position**
- 2. COA would like to give an offer letter to the volunteer that has been filling in for Helena.**
- 3. Jim Palmeri and the Town server, infrastructure stance.**

Subject: **Special Selectboard Meeting - Wednesday, Jan 17th @ 5:00pm**
From: Karen Kelly <bos@townofbernardston.org>
To: Stan Garland <uped@comcast.net>, Brian Keir <brkeir@msn.com>, Ken Bordewieck <ken.bordewieck@comcast.net>
Date: 2024-01-13 10:19



-
- Handout.pdf(~565 KB)
 - 2024_01_17_SB_Notes.pdf(~105 KB)
-

Gentlemen,

Attached is the format and packet handout for the Noncriminal Disposition for Bylaw Enforcement meeting on Wednesday.

Below is the list of individuals who will be in attendance:

Jim Hawkins
Randy Crochier
Kyle Dragon ✓
William Hill ✓
Barbara Killian
Jim Palmeri ✓
Christina Slocum-Wysk ✓

Let me know if you have any questions.

--

Karen A. Kelly
Town Administrator
Town of Bernardston
38 Church St., PO Box 504
Bernardston, MA 01337
Phone: 413-648-5401

Subject **Interim Hire**
From Director <coa@townofbernardston.org>
To Bernardston Selectboard <bos@townofbernardston.org>
Date 2024-01-17 09:46



- Telega Offer Letter.docx(~185 KB)

Here is the offer letter I was going to give to our volunteer that has been filling in for Helena. Let me know your thoughts. I want to start paying her right away and I will need the coverage next week while I am away.

Jennifer Reynolds
Bernardston Senior Center and COA, Director
PO Box 504
Bernardston, MA 01337
coa@townofbernardston.org
Direct line : 413.648.5413 Mobile: 413.364.6133

Bernardston Powers Institute Senior Center & COA
20 Church Street, PO Box 504
Bernardston, MA 01337



1/17/2024

Michaelene Telega
119 Long Plain Road
Leverett, Ma 01054

Dear Michaelene,

The Bernardston Council on Aging is pleased to offer you the position of Program Assistant/ Administrative Assistant of the Bernardston Senior Center with the offer of interim employment for 14 hours per week, or as needed, at an hourly rate of \$19.84 per hour effective Wednesday January 17th 2024. This appointment is conditional on an affirmative vote of appointment by the Board of Selectmen at their next regular meeting which will be Wednesday, January 24th, 2024.

This town position is not benefited and is partially grant funded. Therefore, it is subject to the availability of said grant funding. The work schedule will be set one month in advance and must meet the program needs at the center. Any additional hours worked must be with the approval of the Director who will supervise your schedule and work activities. Time sheets should be recorded each workday, signed and turned in bi-weekly by your supervisor by 3pm Thursday. If you are unable to attend work because of illness or other reasons, please be sure to notify your supervisor at (413) 364-6133.

If you have questions, please let me know. Please acknowledge acceptance of this offer of employment by signing below and returning a signed copy of this letter to the Council on Aging Director's office at your earliest convenience.

We look forward to working with you.

Sincerely,

Jennifer Reynolds, COA Director

I agree to the terms of employment outlined above: _____
(employee)