

Chapter 84

ANIMALS

[HISTORY: Adopted by the Town Meeting of the Town of Lee as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Dog Control

[Adopted 9-30-1999 STM by Art. 10¹]

§ 84-1. Statement of purpose.

This bylaw is intended to guide those persons owning or keeping dogs in their role as responsible pet owners so as not to adversely affect the residents of Lee.

§ 84-2. Reference to Massachusetts General Laws.

Any reference to a "section" in this bylaw shall mean Chapter 140 of the Massachusetts General Laws, unless otherwise stated. The provisions of MGL c. 140, §§ 136A through 174D, inclusive, as may be amended from time to time and except as modified herein, are incorporated into this bylaw relating to the regulation of dogs.

§ 84-3. Definitions.

Unless otherwise set out in this bylaw, any term defined in Section 136A shall have the same meaning in this bylaw, and shall be expressly incorporated herein.

ANIMAL CONTROL OFFICER — The person or firm appointed to enforce the provisions of this bylaw.

KENNEL — One pack or collection of four or more dogs on a single premises, maintained for breeding, boarding, sale, training, hunting or other purposes for a fee, and including any shop where dogs are sold.

LICENSE PERIOD — From April 1 of each year to March 31 of the following year.

OWNER — Any person or persons, individual, partnership, company, firm, association or corporation owning, keeping or harboring a dog within the Town.

§ 84-4. Effective implementation of bylaw.

This bylaw shall go into effect on April 1, 2000, or earlier if so approved by the State Attorney General. Until said date, all current statutes and bylaws shall remain in effect.

¹. Editor's Note: This bylaw also provided for the repeal of former Ch. 84, Animals, adopted 5-26-1971 STM by Art. 10 as Ch. 3 of the 1971 Code, as amended.

§ 84-5. Animal Control Officer.

- A. The Town Administrator shall annually appoint an Animal Control Officer under the provisions of Sections 151 and 151A to carry out the provisions of this bylaw, and perform such other duties and responsibilities as may, from time to time, be determined.
- B. The Animal Control Officer shall seek out, catch and confine any dogs within the Town that are found on public property, or on private property where said dog is trespassing and the owner or person in control of such property wants the dog removed, if said dog is in violation of any section of this bylaw.
- C. It shall be the duty of the Animal Control Officer to keep accurate and detailed records of the impoundment and disposition of all dogs held in custody; a monthly telephone log of all calls regarding dogs; all bite cases reported and the investigation of same, and to submit quarterly reports to the Board of Health, with copies to the Town Administrator and the Town Clerk.

§ 84-6. Deposit of funds.

All monies collected as fines, fees, charges, penalties and other like monies imposed under this bylaw shall be deposited in the General Fund.

§ 84-7. Vaccination requirement.

- A. Whoever is the owner of a dog six months of age or older shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine approved by the Department of Public Health, and shall cause such dog to be revaccinated at intervals recommended by the vaccine's manufacturer. Said owner shall produce a veterinarian's certificate that such dog has been so vaccinated setting forth the date of such vaccination and the duration of immunity; or a notarized letter from a veterinarian that a certification was issued.
- B. Unvaccinated dogs acquired or brought into the Town shall be vaccinated within 30 days after acquisition or entry into the Town or upon reaching the age of six months, whichever comes later.
- C. Unvaccinated dogs shall be vaccinated in accordance with rules and regulations adopted and promulgated by the Department of Public Health.

§ 84-8. Licensing requirements.

- A. Every dog six months old or older kept in the Town of Lee shall be duly registered, numbered, described and licensed. Every person who becomes owner or keeper of such a dog shall, within 30 days of its becoming six months old or 30 days of becoming its owner or keeper, whichever shall last occur, shall obtain a license for said animal. The initial license shall run from the date of issuance until the next March 31, whereupon annual renewals shall be for the period from April 1 to March 31 of the following year.
- B. The registering, numbering, describing and licensing of a dog shall be done by the Town Clerk on a form prescribed and supplied by the Town Clerk, and shall be subject to the

conditions expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing livestock, fowl or wildlife.

- C. The owner of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable materials, to which shall be securely attached a tag on a form prescribed by and distributed by the Town Clerk when a license is issued. Such tag shall state "Town of Lee," the year of issue and tag number. The Town Clerk shall maintain a record of the identifying numbers.
- D. If any such tag is lost, the owner shall secure a substitute tag issued by the Town Clerk.
- E. The Town Clerk shall not grant any license until and unless a current rabies vaccination certificate for the animal to be licensed has been presented.
- F. A transfer license from another location in Massachusetts shall be granted upon application, provided that adequate proof is presented to the Town Clerk at the time of application. Such application shall occur within 30 days of establishing residency within Lee.

§ 84-9. Kennel licenses.

- A. Any person maintaining a kennel as defined herein, upon application, shall be issued a kennel license. Prior to the issuance of a kennel license, the Animal Control Officer or Animal Inspector may inspect the proposed facilities to insure they comply with any rules and regulation of the Board of Health as they may relate to kennels.
- B. The Town Clerk shall, upon application and without charge, issue a kennel license to any domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse and for the relief of suffering among animals.
- C. The Town Clerk shall, upon application, issue a kennel license in lieu of individual licenses to an owner of four or more dogs on a premises not maintained for commercial purposes.
- D. The Animal Control Officer may at any time inspect any kennel located in the Town of Lee (Section 137C).
- E. Petitions or complaints against any such kennel shall be filed with the Board of Selectmen and investigated by the Town Administrator who, within seven days after the filing of such petition or complaint, shall give notice to all parties of interest of a public hearing to be held before the Board of Selectmen within 21 days after the date of such notice. After such public hearing, the Board may make an order either revoking or suspending such kennel license or otherwise regulating such kennel, or dismissing said petition. Within 10 days after receipt of such order, the holder of such license may bring a petition in the District Court as outlined in Section 137C. Any person maintaining a kennel after the license has been revoked, or while such license is suspended, shall be punished as set forth in the penalty provision of this bylaw.
- F. Kennel owners/operators shall be subject to § 84-10 (Failure to license) of this bylaw.

§ 84-10. Failure to license.

- A. In addition to the requirement that a dog shall be duly licensed as required by law, the owner of a dog not licensed on or before April 10 of each year shall be fined in accordance with § 84-21 of this bylaw.
- B. Payment of the fine under this section is made to the Town Clerk at the time of licensing and deposited into the General Fund. After April 10 of each year, a license may not be issued unless the fine is paid, unless so waived after a hearing before the Town Clerk.
- C. Any owner of a dog who fails to license a dog for a previous year shall pay a fine to the Town Clerk at the time of licensing for the new year. Said fine shall be as stated in § 84-21 of this bylaw.
- D. No refunds shall be granted for owners obtaining duplicate licenses within any licensing period, nor in the event that the dog becomes deceased or moves from the owner of record or from Lee.

§ 84-11. Liability for dogs.

The owner of a dog which has done damage to livestock or fowl shall be liable in tort to the Town for all damages so done and in which the Town has been requested to pay provided by MGL Chapter 140 or by this bylaw. Such action may be brought by the Board of Selectmen or any officer of the Town designated by the Board to do so.

§ 84-12. Noncriminal disposition of violations (Section 173A).

- A. Violations of any provision of this bylaw, or of any duly adopted and filed rules and regulations of the Board of Health for animal control, may be processed pursuant to MGL c. 40, § 21D. Fines for violations shall be assessed according to the schedule listed in § 84-17A hereunder.
- B. If the owner of a dog fails to respond to a citation within 21 days, the Animal Control Officer shall forward a copy of the citation to the District Court where it shall be handled under the provisions of MGL c. 40, § 21D.
- C. Enforcement of this bylaw under the noncriminal disposition process shall be carried out by the Animal Control Officer, members of the Board of Health when so designated by the Board, any person having police powers, or other person so designated by the Town Administrator shall have enforcement powers under this paragraph.
- D. Each day or part thereof of violation of any provision of this bylaw or such rules and regulations, whether such violation is continuous or intermittent, shall constitute a separate and succeeding offense.

§ 84-13. Criminal disposition.

The commission of any offense punishable under this section shall be punishable by a fine not less than \$50 nor more than \$100.

§ 84-14. Dog waste disposal.

- A. If any dog shall defecate upon any property or area, as hereinafter defined, then the owner, keeper and person then walking or otherwise in charge of said dog shall immediately remove or cause to be removed from said property or area all feces so deposited by said dog. Unless said feces are removed, the owner, keeper and the person then walking or otherwise in charge of said dog (or if said owner, keeper or person shall be a minor, then the parent or guardian) shall each be deemed to have committed a punishable offense.
- B. As used in this section, the term "property or area" shall mean any public property or the common area of any privately owned property or property occupied by any person or persons who are not members of the family of the owner or keeper of or the person then walking or otherwise in charge of the dog.
- C. The provisions of this section shall not apply to a guide dog, hearing dog or service dog accompanying any person with a disability.

§ 84-15. Disturbing the peace and endangering safety.

Whoever shall own or keep any dog which, by biting, barking, howling or any other manner, commits a nuisance or disturbs the peace and quiet of any neighborhood or endangers the safety of any person after having been warned by a police officer or an Animal Control Officer shall be punishable by a fine not exceeding \$25.

§ 84-16. Complaint of nuisance.

If any person shall make a complaint in writing to the Animal Control Officer (ACO) that any dog owned or harbored within the Town is a nuisance by reason of vicious disposition or excessive barking or other disturbance, the ACO shall investigate such complaint, which may include an examination under oath of the complainant, and submit a written report to the Board of Selectmen of his/her findings and recommendations, together with the written complaint. Upon receipt of such report and examination of the complainant under oath, the Board of Selectmen may make such order concerning the restraint, muzzling or disposal of such dog as may be deemed necessary. The ACO, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed 14 days to enable the Board of Selectmen to issue its order following receipt of the report of the ACO. If the Board of Selectmen fails to act during the period of the interim order, upon expiration of the period the order is automatically vacated.

§ 84-17. Dogs running at large; violations and penalties; exception.

- A. No person within the confines of the Town shall at any time permit a dog owned or kept by such keeper to run at large beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash. The Animal Control Officer may impound any dog found in violation of this section and hold the same, subject to the provisions of all governing statutes. In addition to the penalties imposed under the general laws, any owner or keeper who violates this section after having been warned by a police officer or an Animal Control Officer shall be punishable by a fine not exceeding \$25. This section is subject to the provisions of MGL c. 140, § 173A.
- B. This section shall not apply to dogs legally engaged in the act of hunting game or engaged

in training to hunt game. The owner or keeper shall, however, keep all such dogs under his or her reasonable control at all time. This exception shall only be in effect for such dogs so engaged while on public land where hunting with dogs is permitted or on private land with permission of the landowner.

§ 84-18. Restraint or muzzling of dogs.

- A. The Animal Control Officer (ACO) may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed 14 days, for any dog for any of the following reasons:
- (1) If found at-large or unmuzzled, as the case may be, while an order for the restraint of such dog is in effect;
 - (2) For having bitten any person;
 - (3) If found in a school, school yard or public recreational area;
 - (4) For having killed or maimed or otherwise damaged any other domesticated animal, including livestock and fowl;
 - (5) For chasing any vehicle upon a public way or ways open to public travel in the Town; or
 - (6) For any violation of § 84-15, 84-16 or 84-17 supra.
- B. Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the ACO shall submit in writing to the Board of Selectmen (copy to Town Administrator) a report of his/her action and the reason therefor. Upon receipt of such report, the Board may make such order concerning the restraining, muzzling or disposal of said dog as may be deemed necessary. If the Board fails to act upon report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order automatically is vacated.

§ 84-19. Appeals.

The owner or keeper of any dog that has been ordered to be restrained, muzzled or disposed of under this bylaw may, within 10 days after such an order is issued, bring petition in the District Court requesting that such order be reviewed by the Court and the Court shall review such action, hear witnesses and reaffirm or reverse the order of the Board of Selectmen. The decision of the Court shall be final and conclusive on both parties.

§ 84-20. Severability.

- A. If any part, section or provision of the bylaw is found to be invalid, the remaining parts, section or provisions of this bylaw shall not be affected thereby.
- B. In the event that a conflict arises between MGL and this bylaw, the terms shall be interpreted liberally in favor of this bylaw.

§ 84-21. License and kennel fees; penalties and/or fines.

- A. License/kennel fees shall be established by the Board of Selectmen pursuant to MGL c. 40, § 22F. No fee shall be charged for a license for a dog specially trained to lead or serve a blind or deaf person, provided that the Division of the Blind or the Division of the Deaf, as the case may be, certifies that such dog is so trained and actually in the service of a blind or deaf person.
- B. The fee for a license for dogs, provided for in MGL c. 140, § 139, shall be increased by \$5 on all licenses issued on and after the 10th day of April in each year, and said additional fee shall be accounted for by the Town Clerk separately from the fees provided for under MGL c. 140, § 139.
- C. Each day of all said violations shall constitute a separate offense.