

CHAPTER 193, ACTS OF 2012  
AN ACT FURTHER REGULATING ANIMAL CONTROL  
-- Changes Relevant to Municipalities --

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*New Municipal Provisions: G.L. c. 140, §§ 136A-174E  
Effective 10.31.12*

This document is intended to summarize recent changes to state animal-control laws. Some parts of the new law do not apply to municipalities and so are not included here, or are listed only briefly. Many of these changes will require amendments to the Town Bylaws, which will be proposed to Town Meeting in the Spring of 2013. Some provisions are new in the state law but are already in use in Arlington under local policy and regulation. Some parts of the state law will apply differently in Arlington due to operation of the Town Manager Act. To simplify the wide-ranging nature of these changes, I have implemented a color-coding system to direct municipal-government readers to the sections most applicable in their areas. This does not mean that departments not specifically listed will not have some role in implementation of these changes. Please keep in mind that this document represents a first effort at summarizing the new legal provisions and proposed bylaw changes may look significantly different.

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Town Clerk

Board of Selectmen

Animal Control Officer

Police Chief

Board of Health

Treasurer

Town Meeting

Registrars

**Local Dog Licensing (§§ 137, 139, 141, 145, 146)**

- all dogs over 6 months must be licensed by the Town Clerk, unless dogs kept under valid kennel license or housed in research institution
- proof of rabies vaccine (or certification of exemption from § 145B) required
- conditions:
  - dog restrained from killing, chasing, or harassing livestock or fowl
  - owner may add on license form up to 10 words physically describing dog
  - license tag must be affixed to dog
  - replacement tag may be obtained from Clerk

- symptoms of rabies (provided by Department of Public Health) to be printed on paper license
- license fee to be set in Town Bylaws -- no longer set by Town Clerk
- license fee must be lower for spayed/neutered dogs than for intact dogs
  - Town Clerk must be provided with proof of spay/neuter
  - proof = certificate or bill from veterinarian who performed procedure or signed statement from examining veterinarian
- no fee for licensing service dogs
- local option law: no license fee for owners age 70 and over
- no refund of license fee
  - for mistake, once paid over to Town
  - if dog dies, is lost, is euthanized, is removed from Town, or is spayed/neutered
- Clerk may issue transfer license for dog moving to another town and may set fee
- penalty for violation of dog licensing provisions not less than \$50

**Local Kennel Licensing (§§ 137A, 141)** (NEW) ■ ■ ■

5 Types of Kennels

- “commercial boarding or training kennel”
  - includes any facility in which animals are provided with boarding, holding, day care, overnight care, or training
  - excludes pet shop, animal shelter or control facility, or grooming-only facility
- “commercial breeder kennel”
  - includes establishment in business of breeding animals for sale to wholesalers, pet shops, or brokers
  - excludes “personal kennel”
- “domestic charitable corporation kennel”
  - such as Animal Rescue League, MSPCA
- “personal kennel”
  - 5 or more dogs, 3 months or older: license required
  - fewer than 4 dogs: license optional (in lieu of individually licensing each dog)<sup>1</sup>
  - may include breeding of personally owned animals only

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<sup>1</sup> As written, the new law does not address the owner with exactly four dogs. I advise treating this situation the same as fewer than four dogs: licensing as a personal kennel is optional but not mandatory.

- may include fostering
- private sales only, not to wholesalers, brokers, or pet shops
- “veterinary kennel”
  - boarding of animals at veterinary hospital or clinic
  - does not include animals housed solely for purposes of veterinary care

#### Kennel Licensing Requirements

- Inspection by Animal Control Officer (ACO) before initial licensure
- Tags issued in same number as dogs in kennel (all with same license #)
- License fee to be determined by Town Clerk
  - dogs younger than six months not counted in total number of dogs for purposes of setting license fee
  - no license fee for kennel maintained by domestic charitable organization dedicated to animal protection (e.g., MSPCA)
- Kennel to keep on file and available for inspection names, addresses of dog owners
- Term of license to be determined by Town Clerk
- penalty for violation of kennel licensing provisions not less than \$50

#### Kennel Operation/Citizen Complaints (§ 137C)

- Kennel subject to inspection by ACO at any time
  - is kennel being kept in “a sanitary and humane manner”?
  - are proper records being kept?
- ACO may revoke kennel license if these standards not met
- Citizen petition
  - 25 citizens stating they are “are aggrieved and annoyed to an unreasonable extent” by barking or other conditions that make the kennel a nuisance
  - Board of Selectmen to hold public hearing
    - > notice given within 7 days of receipt of petition
    - > hearing held within 14 days of receipt of petition
    - > BOS may call for investigation
  - BOS may suspend or revoke kennel license, impose conditions, or dismiss petition
  - \$250 fine for continuing to operate kennel after suspension or revocation

- appeal to District Court within 10 days

**Free Anti-Rabic Vaccine Provided by Town** - requirement deleted (§ 145A) ■

**Rabies Vaccination (§ 145B)** ■

- All dogs, cats, ferrets must be vaccinated against rabies
  - 6 months and older; and
  - within 30 days of arrival in Commonwealth
- Unless Board of Health grants exemption because:
  - veterinarian certifies that inoculation temporarily medically inadvisable
  - animal in transit
  - animal in Commonwealth temporarily for display
- Boarding facilities may not accept unvaccinated animals
- Requirement does not apply to animals in research facilities
- Violation punishable by fine of not more than \$100

**Funds (§§ 147, 149)** ■ ■

- Clerk may retain 75 cents of each license fee, must pay remainder over to treasury
  - must certify funds
  - must keep records of licenses issued
- Money to buy license blanks and record books comes from treasury
- Violations of above provisions by clerk or treasurer punishable by fine of \$50-500 or imprisonment from 1 month to 1 year, or both
- Treasurer to keep accurate and separate account of money received and expended in connection with animal licensing

**True List (§ 150)** (NEW) ■ ■

- True list compiled by Registrars under G.L. c. 51, § 4, to include list of all dogs owned by inhabitants of Town
- Failure to report dogs for inclusion on true list punishable by fine of not less than \$20

## Annual Designation Animal Control Officer, Warrant (§§ 151, 151A, 152, 153, 169, 174A)



- Board of Selectmen to annually designate Animal Control Officer (ACO)
  - may be police officer or constable
- Submit name of ACO to Commissioner of Agricultural Resources
- If no appointment made, Commissioner may make one for Town
- Alternative to appointing ACO = contract with domestic charitable corporation
- ACO not to be licensed animal dealer registered with USDA, shall not turn over animals taken into custody to dealers or research facilities (fine of up to \$1000)
- BOS to issue annual warrant directing ACO to:
  - seek out all dogs not licensed, collared/harnessed, or tagged
  - prosecute complaints against owners of these dogs, if known
  - if owner unknown, ACO to hold dog 7 days [*change from 10 days in old law*]
    - > may set daily rate payable by owner or Town
    - > may make disease-free dogs available for adoption after 7 days
      - adoption fee of at least \$3
    - > may euthanize others
      - (i) only if trained as provided by law
      - (ii) only in accordance with American Veterinary Medical Association guidelines (administration of barbiturates)
      - (iii) by gunshot in case of emergency
    - > before adopting out or euthanizing dog, ACO must:
      - (i) check animal for tattoo or microchip; and
      - (ii) check description of animal against Clerk's records
  - attend to all other complaints regarding animals
  - form of warrant provided in § 153
- ACO records
  - every animal apprehended
    - > date and location of apprehension
    - > description of animal
    - > place of detainment
    - > owner information, if known

- > if applicable, information about euthanization and disposal of remains
  - provide records to Town Clerk every 30 days
  - Clerk to maintain for 2 years
- ACO reports to BOS
  - Jan 1, Apr 1, Oct 1 and at expiration of term
  - numbers of animals captured, confined, adopted, or disposed of
  - names of owners
  - complaints filed
- ACO's failure to discharge duties punishable by \$100 fine

**Training for ACO (§§ 151, 151C)** ■

- Must complete training course by 10/31/2014 or within 12 months of hire
- Course provided by Department of Agricultural Resources periodically
- Funded by state voluntary tax check-off program
- Private training course approved by Commissioner of Agricultural Resources may be reimbursable
- Must have completed course of instruction under licensed veterinarian in humane euthanasia techniques before euthanizing an animal
- Training requirements subject to availability of funds

**Dangerous and Nuisance Dogs (§§ 157, 157A, 158, 159)** ■ ■ ■

- “Hearing Authority” for these complaints = Board of Selectmen, Police Chief or designee, or ACO (may be designated in bylaws)
- Any person may file written complaint about “nuisance dog” or “dangerous dog”
- Definitions:
  - “nuisance dog”
    - > is a source of annoyance to a sick person by excessive barking/other disturbance;
    - > excessive barking, damage, or interference would be disruptive to a reasonable person; or
    - > attacked/threatened person, livestock, or domestic animal, but attack/threat was not grossly disproportionate to the circumstances
  - “dangerous dog”

- > attacked person or domestic animal without justification, causing injury or death; or
  - > behavior would place reasonable person in fear of unjustified imminent threat of injury or death to person or domestic animal
- dog is not “dangerous” solely by reason of
  - > barking and growling;
  - > breed; or
  - > reaction to person or another dog that is not grossly disproportionate in the following circumstances:
    - (i) dog protecting itself, its puppies, or another domestic animal from assault or attack;
    - (ii) victim of dog attack/threat was committing a crime against person or property of dog owner;
    - (iii) victim of dog attack/threat was teasing, tormenting, assaulting, battering, injuring or otherwise provoking dog; or
    - (iv) victim of dog attack/threat breached dog’s enclosure
  - > if victim under age 7, presumed not to be engaged in above activities
- Hearing Authority shall investigate complaint, including
  - examination of complainant under oath at public hearing
- Following hearing/other investigation, Hearing Authority shall:
  - dismiss complaint; or
  - deem the dog a nuisance dog; or
    - > and may order owner to remediate nuisance
  - deem the dog a dangerous dog
    - > and may order owner to
      - (i) humanely restrain dog (not chained or tethered);
      - (ii) confine dog;
      - (iii) humanely muzzle and restrain dog off owner’s property;
      - (iv) require owner to obtain or try to obtain \$100K insurance;
      - (v) provide photograph, other identifying information;
      - (vi) tattoo or microchip dog for identification purposes;
      - (vii) surgically alter dog, unless veterinarian opines otherwise; or
      - (viii) humanely euthanize dog
    - > dangerous dog may not be banished from jurisdiction (**NEW**)
  - dogs may not be regulated solely on the basis of breed (**NEW**)
  - Hearing Authority order valid throughout Commonwealth
- Appeal of Hearing Authority order
  - within 10 days to District Court
  - clerk-magistrate may hold evidentiary hearing
  - *de novo* appeal to judge with evidentiary proceeding
  - local order to be affirmed unless made without proper cause or in bad faith

- Pending appeal
  - Town may petition Court for order requiring dog to be impounded at facility
  - Court may order impoundment, confinement, or restraint
- If Court affirms order of euthanasia:
  - owner shall pay all costs
  - unpaid costs may be billed, made a lien on property, or added to vehicle excise
- If Court overturns order of euthanasia, Town shall pay all reasonable costs of impoundment pending appeal
- Violation of Hearing Authority order
  - dog may be seized, impounded by ACO or law enforcement
  - notice to owner, if possible
  - owner may petition within 7 days for return of dog
  - owner to surrender license, tags
  - owner may not license dog in Commonwealth for 5 years
  - violations to be reported to Town Clerk
  - violations of local or court orders punishable by fines of \$500-\$1,000 and/or imprisonment for 60-90 days
  - ACO or law enforcement may capture dog living in violation of order
  - ACO or law enforcement may euthanize post-order dog if threat to public safety or if living in a wild state
- Future limitations on dogs that have been deemed dangerous
  - may not be in custody of child under age of 17
  - owner may not transfer without informing recipient of dangerousness finding
  - owner liable for 3x damages if dog worries, wounds, or kills livestock, fowl

**Emergency Veterinary Care (§ 151B)** 

- Licensed veterinarian providing emergency care or euthanization to animal injured on public way to be paid up to \$250 by owner or Town
- Emergency veterinary care may be provided until owner identified or for up to 24 hours, whichever is sooner
- ACO to accept remains of animal

**Dogs Worrying, Maiming, or Killing Livestock or Fowl (§§ 160, 161, 163, 164, 165, 171)**



- After written notice to owner, BOS may order euthanization of dog known to have killed, worried livestock or fowl



- Unless owner posts \$200 bond and commits to restrain dog for next 12 months
- BOS or appointed panel may appraise damage done to livestock or fowl and Treasurer pays amounts to injured party
- If Town must pay injured party, BOS may order dog responsible for damage to be restrained or euthanized or may recover damages from owner
- Failure to comply punishable by \$25 fine and ACO may euthanize dog if not restrained

### **Dogs Running at Large (§§ 167, 168)**

- BOS may order all dogs restrained from running at large
- Order posted in two public places and advertised once in local newspaper
- Dogs found running at large in violation of order may be
  - euthanized
  - held by ACO for 7 days and, on payment of \$40 fine, returned to owner
  - ordered muzzled or restrained; failure to comply within 12 hours punishable by fine of at least \$25

### **Tethering, Confining Outdoors (§ 174E)**

- Limits on tethering dogs to stationary objects on owner's property
  - no longer than 24 hours
  - only dogs 6 mos. old or older may be tethered
  - dog may not be able to leave property
  - tether must be designed for dogs
    - > no logging chains
    - > chains must not weigh more than 1/8 dog's weight
- Allowable methods for confining dog outside
  - pen
    - > adequate for exercise
      - (i) at least 100 square feet
      - (ii) commercial kennels for temporary boarding may be smaller
    - > chain link or material certified as similar by Building Inspector
    - > enclosed on 4 sides
    - > height adequate to successfully confine dog
  - fence
    - > physical or electronic
    - > fully fenced yard
    - > dog must be unable to leave
  - trolley system/cable run
    - > only 1 dog attached to each cable run
    - > tether to cable attached to properly fitting collar or harness

- 2 adult fingers must fit between collar and dog's throat
  - > no choke or pinch collars
  - > tether must include at least 1 swivel to minimize tangling
  - > cable run and tether each at least 10' long
  - > cable run mounted between 4 and 7' off ground
  - > cable/tether system must be configured so
    - (i) dog has continuous access to water and shelter
    - (ii) dog is confined to owner's property
    - (iii) no danger of dog falling over edge or object and strangling
    - (iv) no danger of dog becoming tangled with objects, other animals
- Any method of outside confinement must include
  - continuous access to clean water
  - continuous access to shelter
    - > enclosed on at least 3 sides
    - > roof and solid floor
    - > flexible entrance/exit
    - > point of entrance sturdy enough to keep out elements
    - > clean bedding
    - > small enough to allow dog to keep warm
    - > large enough to allow dog to sit, stand, and turn comfortably
    - > structurally sound and in good repair
    - > drainage to avoid standing water, ice, waste
  - dog may not be confined or tethered outside longer than 24 consecutive hours
- Exceptions:
  - dogs engaged in herding or shepherding cattle or livestock
  - other agricultural activities
  - where outdoor restraint necessary to dog's safety
- Illegal activities:
  - confinement of dog in dirty or dangerous conditions
  - harassing, hitting tethered or confined dog
  - subjecting dog to danger, including attacks by other animals
- Violations of this section punishable by
  - 1<sup>st</sup> offense: written warning or fine up to \$50
  - 2<sup>nd</sup> offense: fine of up to \$100
  - 3<sup>rd</sup> or subsequent offense: fine of up to \$300 and impoundment of dog in local shelter (at owner expense) pending compliance or loss of ownership of dog

**Bylaws (§§ 173, 173A)** ■

- Town may adopt bylaws to implement these sections
- Bylaw violations may be enforced through District Court complaint

- 1<sup>st</sup> offense in calendar year: \$0 fine
  - 2<sup>nd</sup> offense in calendar year: \$50 fine
  - 3<sup>rd</sup> offense in calendar year: \$60 fine
  - 4<sup>th</sup> offense in calendar year: \$100 fine
- Bylaws may provide for alternative enforcement (non-criminal disposition) and different fine schedule

**Abuse-Prevention Orders (G.L. c. 209A, § 11)** ■

- May include order for possession of pet