

*Town of Wayland, MA  
Thursday, May 7, 2015*

## Chapter 91. ANIMALS

### Article I. Regulation of Dogs

#### § 91-2. Vaccination, licensing and fees.

A. Three or fewer dogs.

- (1) License and vaccination requirements. All dogs six months and older, while residing in the Town of Wayland, must have a license. To obtain or renew the license, each dog owner must annually present proof of a current rabies vaccination. When a veterinarian determines that vaccination is inadvisable, the owner may present a veterinarian's certificate exempting an old or sick dog from vaccination for a stated period of time.
- (2) New dogs. Within 30 days of acquiring a dog six months of age or older, each dog owner in Wayland must present proof of that dog's current rabies vaccination and obtain a license and dog tag from the Town Clerk.
- (3) New puppies. Within six months of a puppy being born, each dog owner in Wayland must present proof of that puppy's current rabies vaccination and obtain a license and dog tag from the Town Clerk.
- (4) New residents. A new resident who owns a dog six months of age or older must license it within 30 days after moving into Wayland. The Town Clerk will issue each dog a transfer license, upon the owner's surrender of a current license from another US jurisdiction and proof of current rabies vaccination. The transfer license is valid until the next regular licensing period.
- (5) Lost tags/replacement tags. Dog owners must replace a lost tag within three business days of the loss, by obtaining a replacement tag from the Town Clerk.
- (6) Tag exemptions for dog events and medical reasons.
  - (a) A dog while actually participating in an official dog sporting or dog fancy event (if the event sponsors do not allow participants to wear tags) is exempt from the requirement that its license tag be affixed to its collar, provided that its keeper has the tag at the event and available for inspection by the DCO.
  - (b) When a veterinarian determines that a dog cannot wear a collar for medical reasons, the dog is exempt until it recovers from the requirement that its license tag be affixed to its collar, provided that its keeper has the tag in his or her possession and available for inspection by the DCO.
- (7) Annual renewal. Dog owners must renew each dog license annually. The annual licensing period runs

from January 1 through December 31.

- (8) License due date/late fee. The application form for obtaining, renewing or transferring a license shall be distributed to each household no later than December 1 each year. Dog owners must return forms and fees to the Clerk by January 15 (or the first business day thereafter, if the 15 falls on Saturday, Sunday, or legal holiday). Any license renewed after this date is overdue, and the owner must pay a late fee in addition to the license renewal fee. The overdue license fee and the late fee may be added to the owner's tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the dog owner, pursuant to Massachusetts General Laws Chapter 40, § 58.
- (9) Distribution of article and rabies symptoms list. At the first licensing period after this article becomes effective, the Town Clerk shall send a copy of the article to each household in Wayland. Thereafter, the Clerk shall give each new applicant or transfer applicant a copy of the article and shall have copies available at the Clerk's Office. The Clerk shall distribute a list of the symptoms of rabies with each dog license issued, as required under Massachusetts General Laws, Chapter 140, § 145.
- (10) License fees. The fees for licensing each dog are:  
[Amended 11-12-2008 STM by Art. 16]
- (a) Annual license fee for each neutered or spayed dog over six months old: \$15.
  - (b) Annual license fee for each unaltered dog over six months old: \$20.
  - (c) License fee for any dog younger than six months: none.
  - (d) Fee to replace lost dog tag: \$5.
  - (e) Fee for transfer license: \$5.
  - (f) Late fee: \$25.
- After a public hearing, notice of which is posted for at least two weeks in a conspicuous place in Town Building and published at least once, not less than two weeks prior to the time specified for the hearing, in a newspaper of general circulation within the Town, the Board of Health may change the foregoing license fees pursuant to Massachusetts General Laws Chapter 40, Section 22F. Any such changes shall take effect upon the filing of notice thereof in the Office of the Town Clerk.

B. Four or more dogs.

- (1) License and vaccination requirements. Anyone who owns or boards four or more dogs within the Town of Wayland must apply for and obtain a kennel license from the Town Clerk. (This requirement shall not apply to medical boarding by any licensed veterinarian practicing in the Town of Wayland.) To obtain or renew the license, the kennel licensee must present proof of current rabies vaccinations for each dog in the kennel older than six months. When it is off the kennel property, each dog in the kennel must wear a kennel tag, issued by the Town Clerk, affixed to its collar or harness.
- (2) New dogs and new puppies. The kennel licensee must report to the Town Clerk each new dog in the kennel within 30 days of its acquisition, show proof of current vaccination, and obtain a kennel tag for that dog. The kennel licensee must show proof of current vaccination and obtain a tag for each puppy when it reaches six months old.
- (3) Application process. Every applicant for a new kennel license must first obtain a special permit from the Zoning Board of Appeals, pursuant to Wayland Town Bylaws Chapter **198**, Zoning, § **198-203.1**. The

applicant may then submit an application to the Town Clerk on a form prescribed by the Clerk.

- (4) Inspection process. Before the Town Clerk can issue the kennel license, the Dog Control Officer must inspect the proposed kennel, file a report on the inspection, and favorably recommend that the kennel meets all the following requirements:
  - (a) The location of the kennel is appropriate for housing multiple dogs.
  - (b) The location of the kennel on the property will have no significant adverse effect on the peace and quiet or sanitary conditions of the neighborhood.
  - (c) The area provided for housing, feeding, and exercising dogs is no closer than 20 feet to any lot line.
  - (d) The area provided for housing, feeding, and exercising dogs is no closer than 50 feet to any existing dwelling on an abutting lot.
  - (e) The kennel will be operating in a safe, sanitary, and humane condition.
  - (f) Records of the numbers and identities of the dogs are properly kept.
  - (g) The operation of the kennel will be consistent with the health and safety of the dogs and of the neighbors.
- (5) Periodic inspections. Before a kennel license is renewed, and at any time the Board of Selectmen or the Dog Control Officer believe it necessary, the DCO may inspect any kennel. If the DCO determines that it is not being maintained in a safe, sanitary, and humane condition, or if the kennel records on the numbers and identities of the dogs are not properly kept, the DCO will report the violations to the Dog Control Appeals Board for a hearing on whether to recommend to the Board of Selectmen that the Board of Selectmen impose fines or revoke the kennel license.
- (6) Petitions to revoke kennel licenses. Any group of 25 residents over the age of 18 may file a revocation petition with the Town Clerk, who will forward it promptly to the Dog Control Appeals Board, when they are aggrieved or annoyed to an unreasonable extent by an existing kennel, due to conditions, including (but not limited to) excessive barking or unsanitary conditions at the kennel.
- (7) Kennel review hearings. Within seven business days after receiving the DCO's report from the DCO or the residents' petition, the Dog Control Appeals Board will notify all interested parties of a public hearing to be held within 14 days after the notice date.
  - (a) Within seven business days after the public hearing, the Dog Control Appeals Board shall recommend to the Board of Selectmen that it either dismiss the petition, revoke the kennel license, suspend the kennel license, or otherwise regulate the kennel.
  - (b) Any person maintaining a kennel after the kennel license has been denied, revoked, or suspended will be subject to the penalties in § 91-7 of this article.
- (8) Annual renewal. Each kennel licensee must renew the license annually, at the Town Clerk's Office. The annual licensing period runs from January 1 to December 31.
- (9) License due date. Kennel license renewal forms will be sent to each licensed kennel, no later than December 1 each year. Kennel licensees must return forms and fees to the Town Clerk by January 15 (or the first business day thereafter, if the 15th falls on Saturday, Sunday, or legal holiday). Failure to pay on time will result in a late fee, due in addition to the license fee. The overdue license fee and the

late fee may be added to the licensee's tax bill or may be recovered through the imposition of a municipal charges lien on any property standing in the name of the kennel licensee, pursuant to Massachusetts General Laws, Chapter 40, § 58.

(10) Fees. The fees for licensing each kennel are:

[Amended 11-12-2008STM by by Art. 16]

- (a) Annual kennel license fee for four dogs: \$75.
- (b) Annual kennel license fee for 5-10 dogs: \$100.
- (c) Annual kennel license fee for 11 or more dogs: \$125.
- (d) Fee to replace lost dog tag: \$5.
- (e) Late fee: \$25.

After a public hearing, notice of which is posted for at least two weeks in a conspicuous place in Town Building and published at least once, not less than two weeks prior to the time specified for the hearing, in a newspaper of general circulation within the Town, the Board of Health may change the foregoing license fees pursuant to Massachusetts General Laws Chapter 40, Section 22F. Any such changes shall take effect upon the filing of notice thereof in the Office of the Town Clerk.

(11) Incorporation. The following provisions of Massachusetts General Laws Chapter 140 are expressly incorporated herein: § 137B, Sale or other delivery of unlicensed dog by kennel licensee; § 137D, Licensee convicted of violation of statutes relating to offenses against animals; and § 138A, Importation of dogs and cats for commercial resale, etc.

## § 91-3. Dog Control Officer.

- A. Appointment. The Board of Selectmen shall annually appoint a Dog Control Officer (DCO) under the provisions of Massachusetts General Laws Chapter 140, §§ 151 and 151A to carry out the provisions of this article and to perform such other duties and responsibilities as the Board may determine. The Selectmen shall determine hours and conditions of work for the DCO. Compensation for persons appointed under this article shall be consistent with other bylaws dealing with salaries for appointed officials. No DCO shall be a licensed or unlicensed animal dealer, registered or unregistered with the United States Department of Agriculture. No DCO, either privately or in the course of carrying out official assignments as an agent for the town, shall give, sell, or turn over any animal, whether alive or dead, which comes into the DCO's custody, to any business or institution operating as a research facility or animal dealer, whether it is licensed or unlicensed, registered or unregistered. Whoever violates the provision of this subsection shall be subject to prosecution as provided in Massachusetts General Laws Chapter 140, § 151.
- B. Location and coverage. The DCO shall be housed within the Public Safety Building under the daily supervision of the Chief of Police and shall wear an appropriate uniform while performing official duties. The DCO shall make suitable arrangements for adequate coverage of his or her assigned duties whenever the DCO is temporarily unavailable. This coverage may take the form of a Wayland police officer temporarily filling in; an answering machine for receiving messages; a pager or cellular telephone; an agreement for cross-coverage with dog control officers from adjoining towns, or a combination of any of the arrangements above.  
[Amended 5-12-2004 ATM by Art. 30]

C. Duties. The DCO's duties shall include the following:

- (1) Bylaw enforcement. The DCO shall enforce the provisions of this article, using the following enforcement actions: issuing findings; assessing fines; making written warnings; performing inspections; confining; issuing orders of temporary restraint; restraining; muzzling; appearing before the Dog Control Appeals Board; making recommendations to the Board of Selectmen concerning vicious dogs, orders of permanent restraint, banishment, or destruction; and other powers that the Board of Selectmen may set from time to time to accomplish the article's purposes.
- (2) Explanation of bylaw violations. Whenever the DCO issues a finding, assesses a fine, makes a written warning, issues an order of temporary restraint, or confines, restrains, or muzzles a dog, the DCO shall meet with the dog's keeper, provide a copy of this article (Chapter **91**, Article I), explain the violation, and suggest corrective behaviors.
- (3) Unlicensed dogs. The DCO shall notify all owners of dogs within the Town of Wayland that have not been licensed by the license due date and shall seek out, catch, and confine any dogs within the Town that remain unlicensed after a reasonable grace period.
- (4) Dogs running at large. The DCO shall seek out, catch, and confine any dog within the Town found running at large on public property, or on private property where the property owner or person in control of the property wants the dog removed.
- (5) Temporary restraint orders. The DCO shall issue an order of temporary restraint to the keeper of any dog that is a nuisance or that is awaiting a decision under § **91-6** as to whether it is vicious. An order of temporary restraint is an order that the dog must be confined to its keeper's property when not on a 6-foot or shorter leash; muzzling will be at the DCO's discretion. It shall be in force for no more than 30 days unless the DCO renews it in writing for subsequent thirty-day periods. The DCO shall rescind or stop renewing the order when, in the DCO's judgment, restraint is no longer required. The dog's keeper can petition the Dog Control Appeals Board under § **91-4B** to rescind the order of temporary restraint.
  - (a) Nuisance dog. A dog is a nuisance if it repeatedly violates any subsection of § **91-5**, particularly if it continues to chase motor vehicles, pedal vehicles, or animals carrying or drawing a person, or continues to damage property after its keeper has been fined for the dog running at large.
  - (b) Awaiting a decision on a vicious dog hearing. The DCO must order a dog restrained and (when off the keeper's property) muzzled pending the outcome of a vicious dog hearing under § **91-6**.
- (6) Confinement. The DCO shall make arrangements for the temporary housing of any dog who is to be confined under the provisions of this article. The housing may be at local veterinary clinics, or at dog kennels within the Town or neighboring towns, or within dog crates located in a suitable location in the Public Safety Building.
- (7) Complaint resolution. The DCO shall investigate all complaints arising within the Town pertaining to violations of this article and try to mediate disputes between Town residents pertaining to the behavior of a dog maintained or located within the Town. If the mediation fails, the DCO will decide on a solution and inform the dog owner and any resident that brought a complaint or problem to the DCO's attention. Any party aggrieved by or disagreeing with the DCO's decision may appeal that decision to the Dog Control Appeals Board; the DCO must attend the meetings of that Board or of any subsequent appeals hearings held by the Board of Selectmen on the matter.
- (8) Emergency licensing. In emergency situations, the DCO can issue a license when the Office of the Town Clerk is closed. Any fees and fines collected under such circumstances shall be turned over to

the Town Clerk at the earliest opportunity.

- (9) Recordkeeping. The DCO shall keep accurate, detailed records of the confinement and disposition of all dogs held in custody and of all bite cases reported, and the results of investigations of the same. The DCO shall maintain a telephone log of all calls regarding dogs and submit a monthly report summarizing the log to the Board of Selectmen.

## § 91-4. Dog Control Appeals Board.

- A. Composition of the Appeals Board. The Dog Control Appeals Board is comprised of three Wayland residents, none of whom can be employees of the Town, appointed to three-year overlapping terms by the Board of Selectmen. The Appeals Board will annually select a member to serve as the chair. The Board of Selectmen will also appoint an associate member, who cannot be an employee of the Town, to a three-year term. The associate member shall attend Appeals Board hearings but may vote only when a regular member is unavailable due to absence or conflicts of interest. Two of the four members must be dog owners.
- B. Right to appeal. When the Dog Control Officer has investigated a complaint regarding a dog's behavior and has issued a finding or an order of temporary restraint with which either the dog's keeper or the complainant disagrees, then either party may appeal by sending a written request to the Town Clerk within 10 business days after issuance of the DCO's decision. Following the Clerk's receipt of a written appeal, the Appeals Board shall hold a public hearing on the appeal within 10 business days, at which the dog owner, the complainant, and the DCO must appear.
- C. Findings and further appeals. The Appeals Board shall vote at the public hearing on whether to uphold, reverse, or modify the DCO's decision and shall mail its ruling to the dog owner, complainant, and DCO within three business days after the public hearing. Should the dog owner or complainant disagree with the Appeals Board's ruling, then either party may appeal to the Board of Selectmen within 10 business days. The Board of Selectmen shall issue its ruling within 30 days thereafter.
- D. Hearings on kennel petitions or vicious dogs. The Appeals Board shall hold public hearings and make recommendations to the Board of Selectmen on any petition filed under § 91-2B(6) and any vicious dog declaration under § 91-6B.

## § 91-5. Conduct of dogs.

- A. Endangering safety. No dog keeper shall allow the dog to bite, menace, or threaten, all without provocation, so as to endanger the safety of any person. This section is not meant to preclude a dog from acting as a watchdog on its keeper's property.
- B. Disturbing the peace. No dog keeper shall allow the dog to disturb the peace of any neighborhood by making excessive noise without provocation. Noise is excessive if it is uninterrupted barking, yelping, whining, or howling for a period of time exceeding 15 minutes. This section is not meant to preclude a dog from acting as a watchdog on its keeper's property.
- C. Damaging property. No dog keeper shall allow the dog to damage public or private property or realty.
- D. Running at large. When not on the private property of its keeper, or on private property with the express permission of that property's owner, a dog must be on a leash or under effective voice control. To be under effective voice control, the dog must be within the keeper's sight and the keeper must be carrying a leash

and dog must refrain from illegal activities.

- (1) Voice control (in place of leash control) allowed. Unless the spaces are listed in any subsection below, a dog may be under effective voice control while on Town owned open spaces.
  - (2) Public gatherings and municipal buildings: leash control only. A dog may be in any municipal building and at any public gathering not otherwise specified in this article only if it is on a six-foot or shorter leash, and the dog must refrain from illegal activities.
  - (3) Cemeteries: dogs not allowed except under specified circumstances. Dogs are not allowed in any Town owned cemetery, except that a dog may attend the funeral of a member of its keeper's family and may accompany family members to visit the grave site of a deceased family member. Under these circumstances, the dog must be kept on a six-foot or shorter leash. The dog may not urinate or defecate on grave sites or gravestones. Persons allowing or bringing dogs into Town-owned cemeteries other than as service dogs, or to attend the funeral of a member of its keeper's family or accompanying family members to visit a grave site shall be subject to a fine not to exceed \$100. [Amended 4-3-2014 ATM by Art. 26]
  - (4) Numbered highways: leash control only. A dog must be on a six-foot or shorter leash when it is on the pavement or within 20 feet of the edge of any numbered highway in Wayland.
  - (5) School grounds: dogs not allowed during school/leash control only at other times. Unless the school principal gives permission in advance, no dog may be on school grounds from 30 minutes before classes begin until 30 minutes after classes end. At all other times, the dog may be on school grounds only if it is on a six-foot or shorter leash. A dog is not violating this prohibition if it remains within a vehicle.
  - (6) Town beaches: dogs not allowed. A dog may not be on any beach during the posted swimming season.
  - (7) Exception for assistance dogs. Section **91-5D** does not apply to any properly trained assistance dog while performing its duties.
- E. Chasing. No dog keeper shall allow the dog to chase a person, motor-powered vehicle, human-powered vehicle, or animal drawing or carrying a person.
- F. Dog litter. Every dog keeper is responsible for expeditiously removing any dog feces the dog deposits anywhere except on its keeper's private property, on other private property with the property owner's permission, or on undeveloped land. The keeper must remove the feces from any trail on undeveloped land and from anywhere on posted undeveloped land. This provision does not apply to any assistance dog while it is performing its duties.

## § 91-6. Vicious dogs.

- A. Declaring a dog vicious. Any dog that, without provocation, bites a human being or kills or maims a domestic animal may be declared vicious by the Board of Selectmen. An exception may be made for a puppy that draws blood or for a dog that attacks or bites an unaccompanied domestic animal on the dog keeper's property.
- B. Procedure for declaring a vicious dog. Upon the written complaint of the DCO, any other public safety agent, or any individual, the Dog Control Appeals Board must hold a public hearing, after which it must recommend to the Board of Selectmen whether the Board of Selectmen should declare a dog vicious and,

if so declared, what remedy is appropriate. The Board of Selectmen may take additional testimony from the dog's keeper, the DCO, and any other interested parties at a further public hearing.

- C. Exceptions. A dog shall not be declared vicious if the Board of Selectmen determines any of the following:
- (1) The person's skin was not broken.
  - (2) The person who was bitten was willfully trespassing, committing a crime, or attempting to commit a crime on the premises occupied by the dog's keeper.
  - (3) The dog was being teased, tormented, abused, or assaulted by the injured person or animal prior to attacking or biting.
  - (4) The dog was protecting or defending a human being in its immediate vicinity from attack or assault.
- D. Remedies. Upon its finding that the dog is vicious, the Board must order one of the following remedies: permanent restraint; banishment; or destruction in accordance with MSPCA guidelines.
- (1) Permanent restraint order is an order that the dog must at all times while on its keeper's property be kept within the keeper's house or an enclosure determined by the DCO to be adequate; whenever the dog leaves its keeper's property, it must be muzzled and restrained on a lead no longer than six feet or confined in an escape-proof enclosure.
  - (2) Banishment is an order that a vicious dog may no longer reside or visit in the Town of Wayland. (A vicious dog that is confined to a vehicle while passing through Wayland is not "visiting" and therefore is not in violation of the order of banishment.)
  - (3) Destruction is an order that the dog be destroyed in accordance with Massachusetts General Laws, Chapter 140, and Massachusetts Society for the Prevention of Cruelty of Animals guidelines.

## § 91-7. Penalties.

- A. Fines. Any dog keeper who maintains a kennel after the kennel license has been denied, revoked, or suspended, or who fails to obtain a kennel license; and any dog keeper who fails to comply with § 91-5, Conduct of dogs, shall be subject to the following penalties:
- (1) First violation of a subsection: written warning.
  - (2) Second violation of the same subsection: \$20.
  - (3) Third violation of the same subsection: \$50.
  - (4) Fourth and all subsequent violations of the same subsection: \$100.
- B. Reimbursement of costs. If the Dog Control Officer confines a dog, the dog's keeper must reimburse the Town of Wayland for any expenses incurred in boarding that dog. If the dog has not been licensed, the keeper must obtain a license and pay any applicable late fee before the dog can be released.
- C. Penalties for violating restraint orders.
- (1) Each violation of an order of temporary restraint: \$100.
  - (2) First violation of an order of permanent restraint: \$500.

- (3) Second violation of an order of permanent restraint: banishment.

## § 91-8. Miscellaneous provisions.

- A. Use of monies. All funds collected under this article shall be turned over to the Town Treasurer and deposited in the town's General Fund. The Dog Fund created under the previous Dog Control By-Law, § 91-8.6, is hereby abolished and the funds therein shall be deposited in the town's General Fund.
- B. Noncriminal disposition of violations. The DCO may, as an alternative to initiating criminal proceedings, initiate and pursue proceedings for the noncriminal disposition of any violation of this article, in accordance with the provisions of Massachusetts General Laws, Chapter 40, § 21D, to the extent of the specific penalty provided therefor.
- C. Incorporation of state law. The provisions of Massachusetts General Laws Chapter 140, Sections 136A through 156 and 158 through 174D, inclusive, as may be amended from time to time and except as modified herein, are hereby incorporated into this article.
- D. Severability. The invalidity of one or more sections, subsections, paragraphs, sentences, clauses, or provisions of this article shall not invalidate or impair any other part of this article nor invalidate the article as a whole.