

Article 36 Draft Language

Revised 11/6/25

**Amend Chapter 11, Section 7 by striking all text and inserting
“See Chapter 34”**

Insert new Chapter 34 Animal Control By-Law as follows:

Section 71 - Animal Control By-Law

(Fees removed from the by-law and placed under jurisdiction of the Select Board at 11/20/19 STM)

Section 71.1 - Purpose

The purpose of this By-Law is to achieve the objectives of the animal control enabling legislation, as amended, contained in Chapter 140, Sections 137-174E, of the Massachusetts General Laws, which includes the regulation of domesticated animals within the borders of the Town of Mendon, Massachusetts, the licensing of dogs, and the establishment of fines for violation of this By-Law.

Section 71.2 Applicability

This By-Law shall apply to all dogs owned by or kept by residents of the Town of Mendon: all dogs harbored or kept in the Town of Mendon, and all dogs physically within the Town of Mendon, whether on public or private property and regardless of whether ownership can be determined. This By-Law also shall apply to all residents of the Town of Mendon who bring or harbor one or more dogs within the Town of Mendon.

Section 28 – Definitions

- 2.1. **Animal Control Officer.** An appointed officer authorized to enforce sections 136A to 174E, inclusive.
- 2.2. **At Large.** A dog off the premises of its owner or keeper and not under the control of a person capable of preventing the dog from being a threat to public safety, biting other domestic animals or being a public nuisance.
- 2.3. **Attack.** Aggressive physical contact initiated by an animal.
- 2.4. **Commercial boarding or training kennel.** An establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that “commercial boarding or training kennel” shall not include an animal shelter or animal control facility, a pet shop licensed under Massachusetts General Laws Chapter 129, Section 39A, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.
- 2.5. **Dangerous dog.** A dog that either: (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.
- 2.6. **Hearing authority.** The Select Board of the Town of Mendon.
- 2.7. **Keeper.** A person, business, corporation, entity or society, other than the owner, having possession of a dog.
- 2.8. **Kennel.** A pack or collection of dogs on a single premise, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel. **[“Kennel” shall include any establishment, including a private residence, used for boarding, holding, day care, overnight stays, or training of animals that are not]**

the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal, as further defined by M.G.L. c.140, §136A and regulations of the Department of Agricultural Resources.]

- 2.9. Licensing authority. ~~The clerk of any municipality~~. The Town Clerk, for the purposes of license issuance and fee collection, and the Select Board, for the purposes of determining license conditions, investigation, suspension, and revocation, in accordance with M.G.L. c. 140.
- 2.10. Livestock or fowl. A fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the department of fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, the department in proper houses or suitable enclosed yards; provided, however, that "livestock or fowl" shall not include a dog, cat or other pet.
- 2.11. Nuisance dog. A dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.
- 2.12. Personal kennel. a pack or collection of more than four (4) dogs, three (3) months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the Department of Agricultural Resources, may be sold, traded, bartered or distributed if the transfer is not for profit.
- 2.13. Licensee. The person to whom a kennel license is issued under this by-law and M.G.L. c.140, §137A.

Section 9-3 - Licensing

- 3.1. All dogs shall be licensed, except as otherwise provided in this By-Law. The owner or keeper of a dog over the age of six (6) months shall obtain a license for the dog pursuant to Chapter 140, Section 137 of the Massachusetts General Laws. Any owner or keeper of a dog over six (6) months of age shall, by ~~April 1st~~ ~~March 31st~~ of each year, cause the dog to be registered, numbered, described and licensed with the Town Clerk in accordance with Massachusetts General Laws, Chapter 140, Section 139 as amended.
- 3.2. The annual fee for every dog license except as otherwise provided by law shall be set by the Select Board. A certified copy of such certificate of spaying or neutering ~~provided to the~~ ~~on file~~ ~~in the office of any city or~~ ~~town~~ ~~eClerk~~ ~~within the Commonwealth~~ may be accepted as evidence that such operation has been performed. If the Town Clerk is satisfied that the certificate of the veterinarian cannot be obtained, he/she may accept in lieu thereof a statement signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that he/she has examined such dog and that it appears to have been, and in his/her opinion, has been spayed or neutered and thereby deprived of the power of propagation.
- 3.3. A licensing authority shall not grant a license for a dog unless the owner of the dog provides the

licensing authority with a veterinarian's certification that the dog has been vaccinated for rabies, certification that such dog is exempt from the rabies vaccination requirement under Massachusetts General Laws Chapter 140, Section 145B, or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.

3.4. The license shall be granted upon condition that the dog shall be controlled and restrained from killing, chasing or harassing livestock or fowl.

3.5. No license fee shall be charged for a license for a service animal as defined by the Americans with Disabilities Act. No fee shall be charged for a license for a dog owned by a person aged seventy (70) years or over.

3.6. No dog license fee or part thereof shall be refunded because of the subsequent death, loss, spaying or removal from the ~~Commonwealth~~Town of Mendon or other disposal of the dog.

3.7. Should any owner or keeper of a dog fail to license his/her dog before the close of business on March 31st, the owner shall pay a late fee consistent with the current fee schedule as set by the Select Board. The owner of any dog impounded because of failure to license according to this ByLaw, may claim such dog upon the reimbursement to the Animal Control Officer of the expense incurred for maintaining such dog according to the following fee schedule:

- a. Payment of any Kennel charges incurred for the period of the dog's impoundment.
- b. Twenty-five (\$25) for initial handling and pick-up of the dog. Prior to its release, the owner of said dog shall obtain a license from the Town Clerk.

3.8. The owner or keeper of a licensed dog shall keep affixed around the dog's neck or body, a collar or harness of leather or other suitable material, to which a tag shall be securely attached. The tag shall have inscribed upon it the dog's license number, the name of the city or town issuing the license and the year of issue. If the tag becomes lost, the owner or keeper of the dog shall immediately secure a substitute tag from the licensing authority at a cost to be determined by the city or town ~~and the fee for the substitute shall, if received by a city or town clerk, be retained by the clerk unless otherwise provided by law.~~

3.9. Every person maintaining a kennel shall obtain a kennel license in accordance with M.G.L. Chapter 140, Section 137A. ~~No kennel license shall be issued or renewed until the kennel has passed inspection by the Animal Control Officer or other authorized inspector. Annual inspections are required for all licensed kennels. Refusal to allow inspection shall result in denial, suspension, or revocation of the license.~~

3.10. The fee for every kennel license shall be consistent with the current fee schedule set by the Select Board. ~~An owner or keeper of a Personal Kennel may elect to secure a kennel license in lieu of licensing each individual dog.~~ A kennel license shall not be issued in lieu of individual dog licenses. Every dog six (6) months of age or older kept at a licensed kennel, unless owned by the kennel license holder, must have its own individual municipal dog license issued by the Town Clerk in accordance with M.G.L. c. 140, § 137.

3.11. In the case of an applicant for initial licensure *or license renewal*, a licensing authority shall ~~not issue deny~~ a kennel license until a kennel has passed inspection by the Animal Control Officer. The licensing authority shall specify on the license the type of kennel and the maximum number of animals that may be maintained by the licensee. Such number shall be determined by the licensing authority and the Animal Control Officer following the required inspection, in accordance with all state law and regulations. All kennel licenses shall be subject to annual inspection.

3.12. Whoever violates M.G.L. Chapter 140, section 137, ~~137A~~, 137 B or 138 shall be assessed a penalty of not less than fifty dollars (\$50.00). ~~Violations of M.G.L. c. 140, § 137A are subject to the specific penalties set forth in Section 14 of this By-Law.~~

- 3.13. Any funds collected pursuant to the provisions of this by-law, shall be accounted for and paid over to the Town Treasurer at such time and in such manner as may be designated by the Town Treasurer.
- 3.14. **Injury Reporting and Investigation:** Commercial boarding or training kennels, including those located at a private residence, shall report to the licensing authority (Select Board/Town Clerk) all injuries to animals or people that occur on the premises of the kennel. The licensing authority shall investigate all reports of injury received pursuant to this section. All licensed kennels shall comply with all rules and regulations promulgated by the Massachusetts Department of Agricultural Resources (MDAR) pursuant to M.G.L. c. 140, § 174G.
- 3.15. **State Reporting:** Annually, not later than **June 1**, the Town Clerk shall send to the Massachusetts Department of Agricultural Resources (MDAR) a list of all kennels and their addresses licensed by the Town of Mendon pursuant to M.G.L. c. 140, § 137A.

Section 10-4 - Public Nuisance

- 4.1. No person shall own or keep in the Town any dog which by biting, excessive barking, howling, or being at large or in any other manner becomes a public nuisance. Any unspayed female dog in season shall be deemed a public nuisance when not confined indoors by the owner thereof, or housed in a veterinarian hospital or registered clinic. No person owning or keeping a dog shall permit such dog to be at large, loose or unattended in any street or public place or allow it upon the premises of anyone other than the owner or keeper of such dog without the permission of the owner or occupant of such premises.

Section 11-5 - Complaint of Nuisance

- 5.1. If any person shall make a complaint in writing to the Animal Control Officer that any dog owned or harbored within the Town is a nuisance dog or is dangerous dog, the Animal Control Officer shall investigate such complaint and submit written report to the Select Board, acting as the hearing authority, of his findings and recommendations, together with the written complaint.
- 5.2. The Animal Control Officer, after investigation, may issue an interim order that such dog be restrained or muzzled for a period not to exceed fourteen (14) days to allow the Select Board to issue their order following receipt of the report of the Animal Control Officer.
- 5.3. Any dog may be restrained or muzzled pursuant to an interim order of the Animal Control Officer for any of the following reasons:
 - a. For having bitten any person.
 - b. If found at large while an order for restraint of such dog is in effect.
 - c. If found in a school, schoolyard or public recreation area.
 - d. For having killed or maimed or otherwise damaged any other domesticated animal.
 - e. For chasing any vehicle upon a public way or way open to public travel in the Town.
 - f. For any violation of this section relating to dogs. Upon restraining or muzzling, or issuing any order to restrain or muzzle, the Animal Control Officer shall submit in writing to the Select Board a report of his action and the reasons therefore. If the Select Board fails to act during the period of the interim order, upon expiration of the period, the interim order shall be automatically vacated.
- 5.4. Such investigation shall include notice to the owner and a hearing with an examination under oath of the complainant to determine whether the dog is a nuisance or is a dangerous dog. Based on the credible evidence and testimony presented at the public hearing, the Select Board shall, if the dog is complained of as a nuisance dog, either:

1. Dismiss the compliant; or
2. Deem such dog a nuisance dog.

Or, if the dog is complained of as being a dangerous dog, either:

1. Dismiss the complaint;
2. Deem the dog is a nuisance dog; or
3. Deem such dog a dangerous dog.

If the Select Board deem a dog as a nuisance dog or a dangerous dog, the Select Board may order remedial action in accordance with Massachusetts General Laws Chapter 140, Section 157.

Section 125

In accordance with the requirements of M.G.L. Section 174E, no person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than twenty-four (24) consecutive hours.

Section 13-6 Penalty

Any owner or keeper of a dog who shall fail to comply with any order of the Animal Control Officer or Select Board issued pursuant to this chapter shall be punished by a fine of fifty dollars (\$50.00), with a right to appeal to the District Court pursuant to M.G.L. Chapter 140, Section 157.

Section 14-7 Penalty-Violations of Article

7.1. Whoever violates any provision of this By-Law may be penalized by a noncriminal disposition as provided in M.G.L. Chapter 40, Section 21D. For the purposes of this By-Law, the Animal Control Officer and all Mendon Police Officers, shall be designated enforcing persons. Each day on which any violation of this By-Law occurs shall be deemed to be a separate offense subject to the following penalties:

First Offense.....\$10.00

Second Offense.....\$25.00

Each Subsequent Offense.....\$50.00

The issuance of a penalty or non-criminal disposition shall not preclude the Town from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this By-Law.

7.2. **M.G.L. Kennel Licensing and Operation Penalties (M.G.L. c. 140, § 137A):** Notwithstanding the noncriminal disposition schedule in Section 14.1, the following mandatory penalties shall apply to violations of M.G.L. c. 140, § 137A (Kennel Licensing): **A person who violates the requirement to obtain a kennel license shall be assessed a fine by the licensing authority of \$500 for a first offense and a fine of not more than \$1,000 for a second or subsequent offense.** A person maintaining a kennel after the license to maintain a kennel has been revoked or suspended shall be assessed a fine by the licensing authority of **not more than \$250 for a first offense, by a fine of not less than \$500 for a second offense, and by a fine of not more than \$1,500 for a third or subsequent offense.**

Section 15 Mandated State Nuisance Kennel Procedure

In accordance with M.G.L. c. 140, § 137C, Upon the filing of a petition by 25 citizens of the town stating that they are aggrieved or annoyed to an extent that constitutes a nuisance by a dog maintained in a kennel, the Select Board shall follow the investigation, public hearing, and remedial order timeline and process as mandated by M.G.L. c. 140, § 137C.

Section 156 8 Severability

Should any portion, section or provision of this By-Law be found invalid for any reason, that finding shall not affect the validity and force of any other section, portion or provision of this By-Law.

Amended 5/5/1978; AG Approved ?; Effective 10/27/1978

Amended 5/8/1981; AG Approved 9/10/1981; Effective 9/15/1981

Amended 5/11/1984; AG Approved 9/14/1984; Effective 9/15/1984

Amended 5/9/1986; AG Approved 6/26/1986; Effective 6/27/1986

Amended 9/6/1990; AG no action; effective 12/6/1990

Amended 5/5/1995; AG Approved 5/31/1995; Effective 7/10/1995

Amended 5/8/1998; AG Approved 8/27/1998; Effective 9/3/1998

Amended 5/11/2001; AG Approved 8/27/2001; Effective 8/28/2001

Amended 5/9/2003; AG Approved 8/6/2003; Effective 9/1/2003

Amended 5/2/2014; AG approved 6/20/2014; Effective 6/20/2014

Fees removed from the bylaw and placed under jurisdiction of Select Board 11/20/2019

END OF SECTION 7—ANIMAL CONTROL BYLAW