

Section 9-35 Dog Control General Provisions

This ordinance is adopted pursuant to the provisions of Chapter 140, Sections 147A and 173 of the General Laws for the purpose of regulating dogs. The provisions of Chapter 140, Sections 136A through 174D, inclusive, except as modified herein, are incorporated into this ordinance by reference.

Section 9-35-1 Definitions

Adoption: The delivery of a dog to any person eighteen years of age or older for the purpose of harboring as a pet.

At Large: Any dog shall be deemed to be at large when it is off the property of its owner and not under the control of a competent person.

Dog: Any animal of the canine species.

Animal Control Officer: The person or persons appointed by the Mayor annually on February first to perform the duties prescribed for the position by this ordinance and by the applicable provisions of Chapter 140 of the General Laws.

Animal Shelter: The premises designated by the City as its animal shelter the purposes of which shall include the impounding of dogs under the authority of this ordinance or state law for care, confinement, return to owner, adoption or euthanasia.

Keeper: Any person, corporation or society, other than the owner, harboring or having in his possession any dog.

Commercial Kennel: A pack or collection of dogs on a single premises maintained for sale, commercial breeding, boarding, grooming, training, hunting, or for any other commercial purposes, and including any shop where dogs are for sale.

Private Kennel: A pack or collection of more than three dogs, three months old or over, owned or kept on a single premises and maintained exclusively as domestic pets and not maintained for sale, commercial breeding, boarding, grooming, training, hunting or for any other commercial purposes.

Owner: Any person, partnership, or corporation owning, keeping or harboring one or more dogs. A dog shall be deemed to be harbored if it is fed or sheltered for seven (7) consecutive days or more.

9-35.2 Duties of Animal Control Officer (Amended 10/6/98)

The Animal Control Officer, under the direct supervision of the Park and Forestry Superintendent and under the general control of the Mayor shall perform the following duties:

a. Enforce the provisions of this ordinance and the applicable provisions of Chapter 140 of the General Laws governing the regulation of dogs.

b. Investigate complaints regarding dogs and damage to livestock allegedly caused by dogs.

c. Apprehend dogs who are at large or who are a public nuisance and keep them until the owner is found or until the dogs are otherwise disposed of under the provisions here in.

d. Maintain and supervise the operation of the City's animal shelter, including the keeping of the records required for such operation.

e. Inspect or cause to be inspected any kennel and, if in his judgment, the same is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, recommend to the Superintendent of Park and Forestry the revocation or suspension of the kennel license.

f. Enforce all provisions of the sections of this ordinance.

9-35.3 Animal Control Records

a. The Animal Control Officer shall make and keep records or forms which fully and correctly disclose the following information concerning each dog (and/or animal) in his custody:

1. Date and location of apprehension.
2. Description of dog.
3. Name and address of owner (if tagged).
4. Name and address of new owner with date of sale or transfer.
5. If destroyed, method and date and name of person who destroyed.

b. Copy of such information shall be forwarded to the City Clerk who will keep the information on file for 5 years and that this be retroactive to 1999.

c. The Animal Control Officer shall, monthly, submit to the Mayor the number of dogs caught, confined, euthanized or adopted and the names of persons against whom complaints have been made and all persons who failed to comply since the previous report.

9-36 Licensing of Dogs

9-36.1 Any person owning, keeping or having custody of any dog six (6) months of age or older shall cause it to be licensed annually during the licensing period. The term licensing shall include the

registration, numbering, and description of the dog and shall be in the office of the City Clerk. The licensing period shall begin April first of each year and terminate thereafter on the thirty-first day of March, both dates inclusive. The owner of any dog may add descriptive words, not over ten (10) in number, upon the license form to further describe the dog. The licensing period shall begin April first of each year and terminate thereafter on the thirty-first day of March, both dates inclusive. Whoever violates the provisions of this section by failing to license his or her dog shall be liable for a fine of One Hundred (\$100.00) dollars

9-36.2 Dogs brought or shipped into the Commonwealth for commercial resale shall, as is required by Chapter 140, Section 158A of the General laws, be inoculated against distemper not more than thirty (30) nor less than seven (7) days before entry and shall be accompanied by an official health certificate signed by an accredited veterinarian and a copy sent to the Commissioner of Agriculture. If such certificate is unavailable in the state of origin, then a similar examination and certificate shall be made within fourteen (14) days of the arrival of the dog in the City of Attleboro.

9-36.3 The City Clerk shall not grant a license for any dog unless the owner provides a veterinarian's certification that the dog has been vaccinated for rabies in accordance with Chapter 140, Section 145B of the General Laws, or a certificate of exemption. A certificate from a veterinarian will be required for a spayed female or neutered male being licensed for the first time. If a certificate cannot be obtained, a notarized statement by a registered veterinarian, describing the dog and stating that he has examined the dog and that it appears to have been, and in his opinion has been, spayed or neutered, will be accepted.

9-36.4 Upon acceptance of the license application and fee, a tag shall be issued, stamped with an identification number, year of issuance and name of City of Attleboro. All applications issued must have a description of the symptoms of rabies supplied by the

Department of Public health as required by Chapter 140, Section 145 of the General Laws. If a current tag is lost, a substitute tag can be obtained by the City Clerk for a fee of Five (\$5.00) dollars

9-36.5 The owner or keeper of a licensed dog shall cause it to wear around its neck or body, a collar of leather or other suitable material with the tag attached. Failure to wear the collar and tag will result in a warning for first offense and ten dollar fine for a second or subsequent offense. No person may use any license or tag for any dog other than the dog for which it was issued.

9-36.6 No license or fee will be required for those individuals who board and care for dogs for less than 30 days from the Attleboro Animal Shelter in preparation of those dogs being adopted by other individuals.

9-36.7 License fees shall not be required for certified seeing-eye dogs, hearing dogs, governmental police dogs, or other certified dogs that are trained to assist the physically handicapped.

9-36.8. No license fee, or part thereof, shall be refunded because of the subsequent death, loss, spaying/neutering or removal from the City or other disposal of the dog.

9-37 Licensing of Kennels (Amended 6/23/98)

9-37.1 Every person maintaining a Commercial kennel or Private Kennel shall have a kennel license issued by the City Clerk. The licensing period shall begin April first of each year and terminate thereafter on the thirty-first day of March, both dates inclusive. Any owner or keeper of less than four dogs three months old or over who does not maintain a kennel may elect to secure a kennel license in lieu of licensing such dogs under Section 9-36 hereof and during such time as he does not license such dogs thereunder shall have a kennel license and shall be subject to this section and other

sections and statutes pertaining to kennels to the same extent as though he were maintaining a kennel. The Dog Officer or the Animal Inspector may inspect such kennel prior to the issuance of the license. Failure to obtain a kennel license shall be punishable by a fine of Two Hundred Fifty (\$250.00) dollars.

9-37.2 Kennel licenses may be revoked or suspended or otherwise regulated for cause by the Mayor in accordance with the provisions of Massachusetts General Laws Chapter 140, Section 137C.

9.37-3 The Animal Control Officer or the Animal Inspector appointed under the Massachusetts General Laws Chapter 129, Section 15 may inspect or cause to be inspected any kennel within the City. If unsanitary or inhumane conditions are found, or if records are not properly kept as required by law, the Animal Control Officer or his designee shall recommend to the Superintendent of Parks and Forestry the revocation or suspensions of the kennel license.

9-37.4 The owner of a kennel shall submit to the City Clerk a certification that all adult dogs on the premises have been properly inoculated.

9-37.5 The holder of a Private kennel license shall cause each dog kept therein to wear, while it is at large, a collar or harness of leather, or other suitable material, to which shall be securely attached a tag upon which shall appear the number of such kennel license, the name of the City of Attleboro and the year of issue.

9-37.6 Upon the transfer of a dog from a Commercial kennel to an owner, the owner may use a certificate and tag from the kennel in lieu of a license for a period of two (2) weeks. The certificate shall contain the kennel number, date of purchase and description of the dog. Upon the licensing of the dog, the City Clerk will sign and return the certificate to the commercial kennel.

9-37.7 If the license of any kennel is suspended or revoked, no

fee can be recovered. Anyone maintaining a kennel after the license is revoked or during a suspension period shall be fined not more than one hundred (\$100.00) dollars.

9-37.8 Any person found guilty of cruelty to animals shall forfeit his kennel license and will be ineligible for another kennel license until two (2) years from the date of being found guilty. No fee can be recovered.

9-37.9 Kennel license fees shall not be required for domestic charitable corporations that are incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse and for the relief of suffering among animals.

9-37.10 Abatement of Nuisance at Kennel: Upon the petition of ten (10) citizens filed with the Superintendent of Park and Forestry stating that they are aggrieved or annoyed, to an unreasonable extent, by one or more dogs at a kennel because of the excessive barking or vicious disposition of said dogs or other conditions connected with such kennel constituting a public nuisance, the Mayor, within seven (7) days after receiving the filing of such petition, shall give notice to all parties interested of a public hearing to be held within fourteen (14) days after the date of such notice. Within seven (7) days after such public hearing, the Superintendent of Park and Forestry shall make an order either revoking or suspending such kennel license or otherwise regulating such kennel, or by dismissing the petition. Written notice of any such order shall be mailed forthwith to the City Clerk and to the holder of such license within ten (10) days after such order, the holder of such license may bring a petition in the Attleboro District Court asking for a review of the order by the Court. The Court shall review the order and shall affirm it unless it shall appear that the order was made without proper cause or in bad faith, in which case the order shall be reversed. The decision of the Court shall be final and binding upon the parties.

9-38 Vicious Dogs

9-38.1 The definition of a "vicious dog" as used in this Ordinance, shall be:

a. Any dog that has bitten or attacked any person or other animal or has attempted to bite or attack any person, or

b. Any dog with a known propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of domestic animals.

c. Any dog which, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack, or

d. Any dog owned or harbored primarily or in the past for the purpose of dog fighting or any dog trained for dog fighting, or

e. Any dog when unmuzzled, unleashed, or unattended, by its owner, keeper or custodian which behaves in a manner that (in the opinion and investigation of the Animal Control Officer and/or any police officer) a reasonable person would believe poses a serious and unjustified imminent threat of physical injury or death to a person or companion animal.

9-38.2 Duties of Animal Control Officer when dog is deemed vicious.

If the Animal Control Officer deems a dog to be a vicious dog, the Animal Control Officer may take any of the following actions, and any expenses associated with any such action shall be paid by the owner or keeper of the dog:

a. Shall seize and impound the dog until the Animal Control Officer makes a further order with respect to such dog.

b. Make an order for the restraint or disposal of the dog in accordance with M.G.L. c. 140, § 157 including an order to euthanize the dog.

c. Fine owner of a dog which has, without provocation, killed, attacked or inflicted personal injury upon a human being or domestic animal and which has dog has been declared vicious by the Animal Control officer shall be fined \$300.

c. Make an order the dog to be spayed or neutered. The dog will be exempt from such an order if a veterinarian certifies in a written statement that the animal is unfit for alterations because of medical conditions.

d. Make an order behavior training by a dog trainer, or proof of enrollment in next available class. Upon completion of said training or class, a certificate or letter of completion is placed on file with the City Clerk.

e. Make an order rabies vaccination as required by Chapter 140 Section 145B of the General Laws, if the animal is not up to date on its annual vaccinations, as certified by a licensed veterinarian.

f. If the owner or keeper of the dog resides, lives or is a tenant in a place where the dog will be staying or placed in a place or property where he is not the owner of the property, send a letter to the last known address of the property owner notifying that there is a dangerous or potentially dangerous dog staying on his property.

g. Make an order the dog owner to keep the dog restrained at all times in conformity with an adequate security plan by which the vicious dog shall be kept or the nuisance caused by the dog shall be abated. Such security plan shall be specially described in writing to the owner by the Animal Control Officer. Said plan for security shall not be construed to eliminate the owner's responsibility to comply with all other conditions as to restraint until it is

completed.

h. The owner may opt to surrender the dog instead of performing said above mentioned orders. Upon any such surrender, the owner shall bear all the costs of impoundment and disposal of the dog through euthanasia in compliance with Massachusetts General Laws Chapter 140, Section 157, and any other fines that may apply.

9-38.3 Exceptions: Notwithstanding anything herein to the contrary No dog shall be considered a vicious dog::

a. If a dog has bitten or attacked a person who was committing criminal trespass or other tort upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime.

b. If another animal or if a child was teasing, tormenting, abusing or assaulting the dog.

c. A domestic animal, while the dog was working as a hunting dog, herding dog or predator control dog on the property of or under the control of its owner, and the injury was to a species or type of domestic animal appropriate to the work of the dog.

d. If the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or an assault.

e. If in performing its duties as a military, correctional or police-owned dogs shall be considered vicious if the dog attacks or injures to a person or domestic animal.

f. If the dog was reacting to pain or injury, or was protecting itself, its kennel or its offspring.

9-38.4 Barking or Disturbing Dogs

- a. Barking or Disturbing Dogs. If any two persons (neighbors) shall make a complaint in writing to the Animal Control Officer that any dog is a nuisance by reason of excessive barking or other disturbance or that any such dog by such barking or other disturbance is a source of annoyance to any sick person residing in the vicinity, the Animal Control Office shall investigate or cause to be investigated such complaint including an examination under oath of the complainant, and may make such order concerning the restraint of the dog as may be deemed necessary. A first offense will receive a warning and a fine of \$50. for subsequent offenses. In the event of repeated incidents of such nuisance, the Animal Control Officer may order the dog removed from the premises on a permanent basis.
- b. Quiet Times. All dogs are to be kept quiet between the Hours of 11:00 P.M. and 7:00 A.M.

9-38.5 Appeals: Within ten days after an order of the Animal Control Officer with respect to a vicious or nuisance dog, the owner or keeper of such dog may bring a petition in the Attleboro District Court, addressed to the justice of the Court, praying that the order may be reviewed by the Court, or magistrate thereof, and after such notice to the officer or officers involved as the magistrate deems necessary, the magistrate shall review such action, hear the witnesses and affirm such order unless it shall appear that it was made without proper cause or in bad faith, in which case such order shall be reversed. Any party shall have the right to request a de novo hearing on the petition before a justice of the Court. The decision of the Court shall be final and conclusive upon the parties.

9-38.6 Miscellaneous:

- a. Nothing in this chapter shall limit or abrogate any claim

or cause of action any person may have under common law or statute relating to injuries or damages resulting from a dog.

b. The provisions of this chapter shall be in addition to such common law and statutory remedies

c. Nothing in this chapter shall limit or abrogate any common law defenses, rights, privileges, or justifications available under applicable law to any owner or keeper of a dog.

d No person, owner, or keeper having control or custody of a dog shall direct, encourage, cause, allow or otherwise aid or assist any dog to threaten, charge at, intimidate, bite, harass, menace or attack any person. Any person who violates this provision shall be fined \$300.

e. Any person owning or harboring a dog who fails to comply with the Ordinances of the City or Attleboro or an order of the Animal Control Officer made pursuant to the Ordinances shall be punished by a fine of \$300.

9-39 Defecation of Dogs

9.39.1 The owner or keeper of a dog shall pick and properly dispose of such dog's excrement on any public place or private property not owned or controlled by such owner or keeper. Any owner or keeper of a dog in violation of this section shall be fined fifty dollars (\$50.00), said penalty to be assessed in accordance with the provisions for the noncriminal disposition of violations in General Laws Chapter 40, Section 21D, as amended.

9-40 Leashing of Dogs (Amended 6/15/99)

9-40.1 No owner or keeper of a dog shall cause or permit such dog, whether licensed or unlicensed, to run-at-large or be a public

nuisance within the City of Attleboro. No owner or keeper of a dog shall, except as otherwise provided herein, take or permit such dog to be taken from his premises unless the dog is restrained and controlled by means of a leash or acceptable travel container which is made of suitable material and is not more than six feet (6') in length. A dog may be taken from his owner's or keeper's premises without being restrained by such a leash, provided the dog is accompanied and restrained by a competent person to whose commands the dog is obedient.

a. Any working dog, such as a police dog, farm dog, hunting dog, or watchdog, shall be allowed to perform its necessary duties with the proper restraint and control as may be required by its master or person in whose charge the dog is so assigned.

b. Owners or keepers found to be in violation of this section, shall be liable to a fine of fifty dollars (\$50.00) for the first violation, one hundred dollars (\$100.00) for the second violation, one hundred fifty dollars (\$150.00) for the third and each violation thereafter, said penalties to be assessed in accordance with the provisions for the noncriminal disposition of violations in General Laws Chapter 40, Section 21D, as amended. The City's leash law as described in this section will be enforceable daily for a twenty-four (24) hour period of time.

9-41 Impoundment of Dogs

9-41.1 Any dog found running-at-large shall be taken up by the Dog Officer and impounded in the City's animal shelter and shall be there confined in a humane manner until the owner claims the animal, it is adopted by a new owner, or as a last resort, is disposed of as determined by the Animal Control officer. The Animal shelter will retain the dog for a period of not less than 10 days before deciding to offer the dog for adoption, or euthanizing the dog as provided in this ordinance. After 10 days, any such dog may be humanely euthanized or placed in the custody of some person at the discretion

of the Animal Control Officer, except as hereafter provided in the case of certain dogs;

a. Immediately upon impounding dogs, the Animal Officer shall make a reasonable effort to notify the owners of such dogs so impounded and shall inform such owners, by registered or certified mail, of the conditions whereby they may regain custody of such dogs.

b. No dogs shall be turned over or sold to any hospital, institution or organization of any kind for experimental purposes.

9-41.2 The owner of an impounded dog shall be entitled to resume possession of any impounded dog once it is licensed. A fee will be assessed to the owner for the boarding of the dog at the shelter at the rate of twenty-five dollars (\$25.00) per day. The owner shall also be required to pay the costs incurred by the City for the services of a veterinarian to render emergency care or treatment to a dog impounded in the City's shelter.

9-41.3 The Animal Control Officer shall not sell, give away, or place for adoption any dog that has not been spayed or neutered, unless a deposit of fifty dollars (\$50.00) for spaying or neutering the dog has been tendered to the shelter. The shelter may make appropriate arrangements for the spaying or neutering of the dog by a licensed veterinarian, or may return the deposit to the person purchasing, receiving or adopting the dog upon presentation of a written statement or receipt from a veterinarian or clinic that the dog has been spayed or neutered by a licensed veterinarian. Procedures for the adoption of a dog shall be established by the Animal Control Officer.

a. Any dog six (6) months of age or older at the time it is sold, given away or adopted, shall be so spayed or neutered within sixty (60) days, or the deposit shall be deemed unclaimed.

b. Any dog under six (6) months of age at the time it is sold, given away, or adopted shall be so spayed or neutered within sixty

60) days after reaching six (6) months of age, or the deposit shall be deemed unclaimed.

c. Any deposit not claimed under this section shall be used only for the following purposes:

- i. a public education program to prevent overpopulation of dogs;
- ii. a program to spay or neuter dogs;
- iii. a follow up program to assure that animals sold or given away by the shelter are spayed or neutered;
- iv. costs incurred under this section.

9-41.4 The Animal Control Officer shall not sell, give away, or place for adoption any dog unless the new owner has obtained a license for the dog in accordance with this Ordinance.

9-41.5 The animal shelter may enter into a cooperative agreement with another shelter and with a veterinarian in carrying out the provisions of this section.

9-42 Fines and Penalties

9-42.1 For the purposes of enforcing the provisions of this ordinance, notice of violation (appearance tickets) may be issued by any police officer and the Animal Control officer and/or his designee.

9-42.2 All fines and penalties provided in the preceding sections relating to dogs shall be assessed in accordance with the provisions for the noncriminal disposition of violations in General Laws, Chapter 40, Section 21D, as amended.

9-43 Breakdown of Fees

<u>Type of Fee</u>	<u>Amount of Fee</u>
Neutered Male	\$ 10.00
Spayed Female	\$ 10.00
Male	\$20.00
Female	\$20.00
Kennel - not more than 4 dogs	\$50.00
Kennel - more than 4, but not more than 10 dogs	\$75.00
Kennel - more than 10 dogs	\$125.00
Pet Shop	\$75.00
Grooming Shop	\$75.00
Replacement of Lost Tag	\$ 5.00

One (\$1) dollar of every fee collected pursuant to this section shall be retained by the City Clerk as part of his or her compensation.

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