



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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July 31, 2014

Barbara Hancock, Town Clerk
Town of Deerfield
8 Conway Street
Deerfield, MA 01373

**RE: Deerfield Annual Town Meeting of April 28, 2014 - Case # 7214
Warrant Article # 29 (General)**

Dear Ms. Hancock:

Article 29 - We approve Article 29 from the April 28, 2014 Deerfield Annual Town Meeting.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MARTHA COAKLEY
ATTORNEY GENERAL

Nicole B. Caprioli

By: Nicole B. Caprioli
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RECEIVED

AUG 6 - 2014

TOWN OF DEERFIELD

Date: 8/6/2014

On the date above written, I have posted copies of the bylaw amendments (Article 29, Chapter 60 Animals) passed at the April 28, 2014 Annual Town Meeting and approved by the Attorney General of Massachusetts on July 31, 2014, at the following public places in the town: Town Offices, Tilton Library, South Deerfield Post Office, Old Deerfield Post Office, and Savages Market.

Barbara Hancock - Town Clerk

Article 29

Voted that the Town replace Chapter 60, Animals, Article Two-Dogs sections 60-4 through 60-8 with a new Chapter 60, Article 60, Article Two-Dogs, sections 60-4 through 60-12 in order to be more consistent with the new Massachusetts Animal Control Law M.G.L. c. 140 sections 136A - 174E, as attached:

Posted 8/6 - 8/21/2014

Original

ARTICLE 29

Voted that the Town replace Chapter 60, Animals, Article Two – Dogs, §§60-4 – 60-8 with a new Chapter 60, Article Two – Dogs, §§60-4 – 60-12 in order that it be consistent with the new Massachusetts Animal Control Law M.G.L. c.140 §§ 136A - 174E, as follows:

§60-4 Hearing Authority; Animal Control Officer

- A. The Board of Selectmen shall act as Hearing Authority on all matters pertaining to the enforcement of this Bylaw.
- B. The Board of Selectmen shall appoint annually an Animal Control Officer under the provisions of M. G. L. c. 140 § 151 and § 151A to carry out the provisions of this Bylaw, and perform such other duties and responsibilities as the Board may determine.

§60-5. License requirements; fees.

- A. All dogs kept, harbored, or maintained by their owner or keepers in the Town of Deerfield shall be licensed and registered if over six months of age. Dog licenses shall be issued by the Town Clerk upon the payment of a license fee of \$5.00 for a spayed or neutered dog or upon the payment of a license fee of \$10.00 for an intact dog. The owner or keeper shall state at the time application is made for such license and upon printed forms provided for such purpose his or her name and address, and the name, breed, color and sex of each dog owned or kept by the applicant. For a spayed or neutered dog, a veterinarian's certificate shall be provided to the Town Clerk upon application for a license as proof that the dog is spayed or neutered; provided, however, that the Town Clerk, in his or her discretion, may accept such alternative forms of proof as are specified in M.G.L. c. 140, §139, if a veterinarian's certificate cannot be obtained.
- B. No dog license shall be issued unless the Town Clerk is presented with a veterinarian's certification that the dog has been vaccinated against rabies in accordance with M.G. L. c. 140, § 145B. The Town Clerk may grant an exemption from this §60-5(B) upon proof of certain enumerated conditions provided in said M.G.L. c. 140, § 145B.
- C. Notwithstanding the foregoing, a license shall be issued for any dog transferred from another municipality within the Commonwealth upon presentation to the Town Clerk of the original license and tag of such dog and payment of the license fee required by this Bylaw.
- D. Upon the payment of the license fee, the Clerk shall issue to the applicant a license certificate and tag for each dog so licensed. The tag shall have stamped thereon the name of the Town, the year for which it was issued and the number corresponding with the number on the certificate. Every owner or keeper shall be required to provide each dog with a collar to which the license tag shall be affixed, and shall see that the collar and tag are constantly worn. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of death of the dog or the owner's leaving the Town before the expiration of the license period.
- E. The licensing period shall be from March 15 to April 30 of each calendar year.
- F. Whosoever fails to license their dog(s) in violation of this §60-5 shall be punished by a fine of \$50.00.
- G. Notwithstanding the provisions of this By-Law, all other provisions of M.G.L. Chapter 140, §§ 136A through 174E not inconsistent with this By-Law shall be applicable.
- H. The fees collected shall be deposited into the general fund.

§60-6 Running at Large

A. No person who owns, keeps, or controls a dog within the Town of Deerfield shall permit such dog to be at large in the Town of Deerfield at any time, elsewhere than on the premises of the owner except; (1) it be on the premises of another person with the knowledge and assent of such person, or (2) it be in a dog park established by the Town for the specific purpose to allow dogs to run; and otherwise the dog shall be controlled and restrained by a leash of appropriate length. Whoever violates the provisions of this section shall pay a fine in accordance with the following schedule:

- (1) First offense within calendar year: \$15.
- (2) Second or subsequent offense within calendar year: \$30.

§60-7 Seizure and Confinement of Dogs Running At Large

A. If any dog is at large in the Town of Deerfield in violation of §60-6 of this By-Law, the Animal Control Officer, or his duly appointed assistants, may seek out, catch and confine any such dog. The Dog Officer shall confine any such dog until claimed by the owner. If by license or other means the owner of the dog can be identified, the Animal Control Officer may return the dog to the owner and issue a citation in accordance with §60-6. During any period of confinement the dog shall be confined in a place suitable for such detention as provided in M.G. L. c. 140, §151A. Nothing herein shall be construed to authorize the Animal Control Officer, or his assistants, to enter upon private property to seek out or catch any dog, except with the consent of the owner of such private property.

B. No dog confined under the provisions of §60-7(A) shall be released to its owner until said dog is licensed and all kennel fees and penalties are paid.

C. If the dog has not been claimed by the owner within 10 days following the commencement of such confinement, the Animal Control Officer may dispose of any such dog in a manner consistent with the provisions in M.G. L. c. 140, §151A.

§60-8 Disturbing the Peace

A. No person who owns, keeps, or controls a dog within the Town of Deerfield shall permit the following on the part of the dog:

- (1) Excessive barking, howling, or any other behavior on the part of the dog which disturbs the peace or quiet of any neighborhood.
- (2) Worrying, maiming, or otherwise injuring another's fowl, livestock, or domestic animals;
- (3) Chasing vehicles, persons, or bicycles on any way open to public travel.

B. Whoever violates any provision of this Bylaw shall pay a fine in accordance with the following schedule:

- (1) First offense within calendar year: \$15.
- (2) Second or subsequent offense within calendar year: \$30.

§60-9 Waste Removal

A. Each person who owns, keeps, or controls a dog within the Town of Deerfield shall remove and dispose of any feces left by such dog on any sidewalk, street, park, or other public area, or on any private property which is not owned or occupied by such person.

B. No person who owns, keeps, or controls a dog within the Town shall permit such dog to be on any sidewalk, street, park, or other public area unless such dog is accompanied by a person equipped with the means to pick up and contain feces, unexposed to such person and the general public.

C. Dog feces may only be disposed of at a place suitable and regularly reserved for the disposal of human feces, or otherwise designated as appropriate by the Board of Health.

D. The provisions of this §60-9(A-C), inclusive, shall not apply to a dog accompanying any handicapped person, who, by reason of a handicap, is physically unable to comply with these requirements.

E. Whoever violates any provision of this Bylaw shall pay a fine in accordance with the following schedule:

- (1) First offense within calendar year: \$15.
- (2) Second or subsequent offense within calendar year: \$30.

§60-10 Complaint of Nuisance

A. If any person shall make a complaint in writing to the Board of Selectmen that any dog owned or harbored within the Town is a nuisance by reason of vicious disposition or excessive barking or other disturbance, the Board of Selectmen shall investigate or cause an investigation by the Animal Control Officer of such complaint, which may include an examination under oath of the complainant. If such investigation is carried out by the Animal Control Officer, such Officer shall submit a written report to the Board (with a copy to the Town Administrator) of his/her findings and recommendations, together with the written complaint. Upon completion of its investigation or receipt of such report, examination of the complainant under oath and public hearing, the Board shall make a determination of whether such dog is a nuisance or a dangerous dog. If the Board determines that such dog is a nuisance, it may order that the owner or keeper of the dog take remedial action to ameliorate the cause of the nuisance behavior. If the Board determines that such dog is a dangerous dog, it shall order one or more of the punishments and/or controls as more fully set forth in G.L. c. 140 §157.

B. The owner or keeper of any dog subject to an order of the Board of Selectmen shall have the right to appeal such order in accordance with M.G.L. c. 140, § 157.

C. Failure to comply with an order issued under this §60-10 shall result in a fine of not more than \$300.00 for each offense. Each day of said violation shall constitute a separate offense.

§60-11 Restraining

A. The Animal Control Officer may restrain or muzzle, or issue an interim order to restrain or muzzle, for a period not to exceed fourteen 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 at-large 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 §§60-6, 60-8, 60-10 above.

B. Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Animal Control Officer shall submit in writing to the Board (with a copy to the Town Administrator) a report of his/her action and the reason therefore. Upon receipt of such report the Board may take action in accordance with §60-10. 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.

§60-12 Liability for damage to person or property.

A. The owner or keeper or, if the owner or keeper be a minor, the parent or guardian of such minor, of a dog who shall cause damage to either the body or property of any person shall be liable for such damage, unless such damage shall have been occasioned to the body or property of a person who at the time such damage was sustained was committing trespassing or was teasing, tormenting or abusing such dog.

B. If a minor is under seven years at the time the damage was done, it shall be presumed that such minor was not committing trespass or teasing, tormenting or abusing such dog, and the burden of proof thereof shall be upon the defendant in such action.

Motion Carried, so declared the Moderator