

In 2011 the State adopted a new set of animal control laws, which updated and centralized the laws. There are other sections of the law which also apply.

Chapter 140: Section 136A. Definitions applicable to Secs. 137 to 174E

Section 136A. The following words as used in sections 137 to 174E, inclusive, shall have the following meanings unless the context requires otherwise:

"Adoption": the delivery of a cat or dog to a person 18 years of age or older for the purpose of taking care of the dog or cat as a pet.

"Animal control officer": an appointed officer authorized to enforce sections 136A to 174E, inclusive.

"Attack": aggressive physical contact initiated by an animal.

"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 section 39A of chapter 129, 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.

"Commercial breeder kennel": an establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

"Commissioner": the commissioner of agricultural resources.

"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.

"Department": the department of agricultural resources.

"Domestic animal": an animal designated as domestic by regulations promulgated by the department of fish and game.

"Domestic charitable corporation kennel": a facility operated, owned or maintained by a domestic charitable corporation registered with the department or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purposes while providing veterinary treatment and care.

"Euthanize": to take the life of an animal by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

"Hearing authority": the selectmen of a town, mayor of a city, the officer in charge of the animal commission, the chief or commissioner of a police department, the chief or commissioner's designee or the person charged with the responsibility of handling dog complaints in a town or city.

"Keeper": a person, business, corporation, entity or society, other than the owner, having possession of a dog.

"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.

"License period": the period of time for which a municipal licensing authority prescribes the validity of a dog license, including the date of issuance of the license through the date on which the license expires, inclusive.

"Licensing authority": the police commissioner of the city of Boston and the clerk of any other municipality.

"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.

"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.

"Personal kennel": a pack or collection of more than 4 dogs, 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, may be sold, traded, bartered or distributed if the transfer is not for profit.

"Research institution": an institution operated by the United States, the commonwealth or a political subdivision thereof, a school or college of medicine, public health, dentistry, pharmacy, veterinary medicine or agriculture, a medical diagnostic laboratory, a biomedical corporation, or biological laboratory or a hospital or other educational or scientific establishment within the commonwealth above the rank of secondary school which, in connection with any of the activities thereof, investigates or provides instruction relative to the structure or function of living organisms or to the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

"Shelter": a public animal control facility or other facility which is operated by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

"Veterinary kennel": a veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that "veterinary kennel" shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

Chapter 140: Section 137. Registration and licensing of dogs

Section 137. (a) The owner or keeper of a dog over the age of 6 months shall obtain a license for the dog. The registering, numbering, describing and licensing of a dog shall be conducted in the office of the licensing authority in the city or town in which the dog is kept.

(b) 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 in accordance with section 145B, certification that such dog is exempt from the vaccination requirement under said section 145B or a notarized letter from a veterinarian that either of these certifications was issued relative to such dog.

(c) The license shall be granted upon condition that the dog shall be controlled and restrained from killing, chasing or harassing livestock or fowl. The owner of a dog may add descriptive words, not over 10 in number, upon the license form to indicate the color, breed, weight or special markings of the licensed dog. 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. This section shall not apply to a person to whom a valid kennel license has been issued.

(d) This section shall not apply to a dog or cat housed in a research institution.

Chapter 140: Section 137A. Kennel licenses

Section 137A. (a) A person maintaining a kennel shall obtain a kennel license. An owner or keeper of less than 4 dogs, 3 months old or older, who does not maintain a kennel may elect to secure a kennel license in lieu of licensing the dogs under section 137 and shall be subject to this section, sections 137B and 137C and so much of section 141 as it relates to violations of this section to the same extent as though the owner or keeper were maintaining a kennel. In the case of an applicant for initial licensure and in the case of an applicant for license renewal, a licensing authority shall not issue a kennel license until a kennel has passed inspection by an animal control officer.

(b) A kennel license shall be in lieu of any other license for a dog kept at a kennel during any portion of the period for which the kennel license is valid. A kennel licensee shall cause each dog kept in its kennel to wear, while it is at large, 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 number of the kennel license, the name of the city or town issuing the license and the year of issue. Tags shall be furnished to the owner or keeper by the licensing authority in quantities not less than the number of dogs kept in the kennel. The issuing city or town shall determine the period of time for which a kennel license shall be valid, including the date of issuance of the license through the date on which the license expires, inclusive, and shall further determine the fee for the issuance and renewal of the license. To determine the amount of the license fee for a kennel, a dog under the age of 6 months shall not be counted in the number of dogs kept in a kennel. The name and address of the owner of each dog kept in a kennel, if other than the person maintaining the kennel, shall be kept at the kennel and available for inspection by an animal control officer, natural resource officer, deputy natural resource officer, fish and game warden or police officer.

(c) The licensing authority shall issue a kennel license without charge to a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse or for the relief of suffering.

Chapter 140: Section 137B. Sale or other delivery of unlicensed dog by kennel licensee

Section 137B. Every holder of a kennel license, on delivering an unlicensed dog to a purchaser or to any other person, shall attach to such dog a collar or harness which shall carry a tag marked with the name and address of such kennel licensee, and a number, which number shall be properly recorded on the records of such licensee, and shall also furnish to the person to whom the dog is delivered a certificate bearing the same number and a description of the dog. Such certificate shall bear the date of purchase, exchange or gift and, with the tag, shall, for a period of two weeks following such date, be a legal substitute for a license. The purchaser or other recipient of a dog shall, within two weeks of the purchase or receipt of such dog, either return the same to the licensee from whom it was received, together with the collar or harness, tag and certificate, or return to such licensee said tag, and a certificate signed by the clerk of the town or city where the dog is to be kept and certifying that the dog has been licensed in the name of such purchaser or recipient or of some other person. If any such purchaser or recipient fails to comply with the preceding sentence, such licensee shall notify the clerk of the town or city in which he is licensed of the purchase, exchange or gift of such dog and shall furnish to such clerk the date thereof, and the name and address of the purchaser or recipient.

Chapter 140: Section 137C. Inspection of kennels; revocation, suspension and reinstatement of license; nuisance

Section 137C. The mayor of a city, the selectmen of a town, the police commissioner in the city of Boston, a chief of police or an animal control officer may at any time inspect a kennel or cause the inspection of a kennel. If, in the judgment of such person or body, the kennel is not being maintained in a sanitary and humane manner or if records are not properly kept as required by law, such person or body shall, by order, revoke or suspend the license for the kennel. Upon the petition of 25 citizens, filed with the mayor of a city, the selectmen of a town or the police commissioner in the city of Boston setting forth a statement that such citizens are aggrieved or annoyed to an unreasonable extent by a dog maintained in such city or town due to excessive barking or other conditions connected with a kennel constituting a nuisance, the mayor, selectmen or police commissioner, as the case may be, shall, within 7 days after the filing of the petition, give notice to all parties in interest of a public hearing to be held within 14 days after the date of such notice. The mayor, selectmen or police commissioner shall, within 7 days after the public hearing, investigate or cause to be investigated the subject matter of the petition and shall, by order, either suspend or revoke the kennel license, otherwise regulate the kennel or dismiss the petition. Written notice of an order revoking or suspending the license, regulating the kennel or dismissing the petition shall be mailed immediately to the officer issuing the license and to the holder of the license. Within 10 days after the order, the holder of the license may bring a petition in the district court within the judicial district in which the kennel is maintained, addressed to the justice of the court, praying that the order be reviewed by the court. After notice to all parties as the court may consider necessary, the court shall review the action, hear the witnesses and affirm the order unless it shall appear that it 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 conclusive upon the parties. A person maintaining a kennel after the license to maintain a kennel has been so revoked, or while such a license is suspended, shall be punished by a fine of not more than \$250.

Section 137D. Unless otherwise specifically provided by law, every license and tag issued under the provisions of sections one hundred and thirty-seven and one hundred and thirty-seven A, or under any ordinance or by-law relative to the licensing of dogs made under the authority of this chapter, held by any person found guilty of, or penalized in any manner for, a violation of any provision of sections seventy-seven, 801/2, eighty A, ninety-four or ninety-five of chapter two hundred and seventy-two, shall be void, and shall immediately be surrendered to the authority issuing such license and tag. *(This is the statute concerning Cruelty to Animals)*

The clerk of the court in whose jurisdiction such finding has been made shall notify the licensing authority in the city or town where the guilty person resides.

No person shall be given a license and tag under authority of section one hundred and thirty-seven and one hundred and thirty-seven A **during a period of 5 years from the date of his being found guilty or penalized as aforesaid,** and any such license and tag so issued shall be void and shall be surrendered on demand of any authority granting such license and tag. No fee received for a license and tag made void under this section shall be refunded to the holder thereof.

Chapter 140: Section 138. Change of owner or keeper of licensed dog; dog brought into commonwealth

Section 138. A person who during any license period becomes the owner or keeper of a dog which is duly licensed in the town or city where it is to be kept shall forthwith give notice in writing to the clerk of such town or city, or if kept in Boston to the police commissioner, that he has become such owner or keeper and said clerk or police commissioner, as the case may be, shall change the record of such license to show the name and address of the new owner or keeper. Any person bringing or causing to be brought from another state or country any dog licensed under the laws thereof which is 6 months old or over or will be 6 months old before the expiration of thirty days therefrom shall, on or before the expiration of thirty days following the arrival of such dog within the commonwealth, cause such dog to be registered, numbered, described and licensed for the remainder of the then current license period.

Section 138A. All dogs or cats brought or shipped into the commonwealth for commercial resale shall be inoculated against distemper not more than thirty nor less than seven days before entry and shall be accompanied by an official health certificate issued 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 certification shall be made within fourteen days of the arrival of the animal in the commonwealth.

An official health certificate shall mean a legible certificate or form issued by an accredited veterinarian and approved by the chief livestock official of the state or county of origin containing the names and addresses of the consignor and consignee, or in the case of examination after entry into the commonwealth the name of the consignee. The certificate or form shall also show age, sex, breed and description of each dog or cat and that the dogs are free from visual evidence of communicable disease such as kennel cough, Infectious Tracheobronchitis, canine distemper, external and intestinal parasites, including coccidiosis, and that cats are free from external parasites, including ear mites, and intestinal parasites, distemper, feline panleukopenia, and feline respiratory infections and feline distemper.

Dogs or cats purchased within the commonwealth for resale by commercial establishments or pet shops shall be accompanied by a health certificate issued by an accredited veterinarian. The certificate shall show age, sex, breed, and description of each dog or cat and that the dogs are free from visual evidence of communicable diseases such as kennel cough, Infectious Tracheobronchitis, canine distemper, external and internal parasites, including coccidiosis, and that cats are free from external parasites, including ear mites, intestinal parasites, and feline respiratory infections and feline distemper.

No commercial establishment, pet shop, firm or corporation shall import into the commonwealth for sale or resale in the commonwealth any cat or dog less than eight weeks of age.

All dogs or cats imported for resale shall be held in isolation by the importer for a period of two days prior to offering for sale.

All dogs or cats sold in the state by a commercial establishment, pet shop, firm or corporation shall be accompanied by a health record indicating dates and types of vaccine administered.

No commercial establishment, pet shop, firm, corporation or person shall sell a dog or cat that has been surgically devocalized, as defined in section 801/2 of chapter 272, unless written notice that such a procedure has been conducted on the animal is provided to any prospective purchaser before the purchaser enters into an agreement to purchase said

animal. In addition to the penalties set forth in this section, a failure to provide such notice shall render any purchase agreement void and a violation of this paragraph shall constitute an unfair or deceptive act or practice in the conduct of a trade or commerce under chapter 93A.

Whoever is convicted of a violation of any of these sections may be punished by a fine of not less than fifty nor more than one hundred dollars for each such offense. In addition thereto or in lieu thereof, the commissioner of agriculture may, after notice and hearing, revoke or suspend a pet shop, kennel, and boarding kennel license providing any person, firm or corporation maintaining such pet shop, kennel and boarding kennel violates any of these regulations.

Any person, firm or corporation aggrieved by an order under this section may, by petition, appeal within thirty days to the superior court where said person resides, or where the firm or corporation is located. Such person shall, in substance, state the findings by the commissioner and the grounds of appeal and said court shall consider said proceedings de novo and the parties thereto shall have right of exception and appeal.

Nothing in this act shall be construed to prohibit the temporary importation of dogs for racing or field trials or the temporary importation of dogs or cats for show purposes, nor shall it prohibit the importation of dogs and cats as pets by individual owners.

Chapter 140: Section 139. Fees; certificate or statement that dog has been spayed; service dogs defined by Americans with Disabilities Act; dogs owned by persons aged 70 or over; refunds

Section 139. (a) The fee for a license shall, except as otherwise provided, be determined by a city or town; provided, however, that no fee shall be increased without a majority vote of the city or town council or the voters present at a town meeting.

(b) The license fee for a spayed or neutered dog shall be less than the license fee for an intact dog. Upon application for a license, a city or town clerk shall require a certificate from the veterinarian who spayed or neutered the dog as proof that the dog is spayed or neutered; provided, however, that if the city or town clerk is satisfied that the certificate of the veterinarian who spayed or neutered the dog cannot be obtained, the clerk may instead accept a receipt of a bill from the veterinarian who performed such procedure or a statement signed under the penalties of perjury by a veterinarian registered and practicing in the commonwealth describing the dog and stating that the veterinarian has examined the dog, which appears to have been spayed or neutered and incapable of propagation.

(c) No fee shall be charged for a license issued under this section for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder. **No fee shall be charged for a license for a dog owned by a person aged 70 years or over in a city or town that accepts this provision.** No license fee or portion thereof shall be refunded because of the subsequent death, loss, spaying or removal from the commonwealth or other disposal of the dog, nor shall a license fee or portion thereof paid by mistake be paid or recovered after it has been paid over to a city or town under section 147.

Section 139A.

No shelter shall sell or give away any dog or cat that has not been spayed or neutered, unless a written agreement is entered into and a deposit of not less than \$40 for spaying or neutering such dog or cat has been tendered to the shelter. The shelter may make appropriate arrangements for the spaying or neutering of such dog or cat by a licensed veterinarian, or may return the deposit to the person purchasing or receiving the dog or cat upon presentation of a written statement or receipt from a veterinarian or clinic that the dog or cat has been spayed or neutered by a licensed veterinarian.

Any dog or cat six months of age or older at the time it is sold or given away by the shelter shall be so spayed or neutered within sixty days, or the deposit shall be deemed unclaimed. Any dog or cat under six months of age at the time it is sold or given away by the shelter shall be so spayed or neutered within sixty days after reaching six months of age, or the deposit shall be deemed unclaimed.

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

A shelter may enter into a cooperative agreement with another shelter and with a veterinarian in carrying out the provisions of this section.

The commissioner may set fines for violations of this section and may further establish regulations to ensure compliance with this section. Additionally, an animal control officer, an officer licensed under section 57 of chapter 22C, a police officer or the owner, director or a duly authorized agent of an animal shelter from which an animal was obtained may bring a petition in the district court within the judicial district in which the dog or cat is owned or kept for an action of forfeiture and relinquishment of ownership. Legal fees or court costs incurred in the enforcement of this section shall be the responsibility of the owner of the animal.

Chapter 140: Section 141. Violation of statutes

Section 141. Whoever violates section 137, 137A, 137B or 138 shall be assessed a penalty of not less than \$50, which shall be paid to the city or town wherein the violation occurred.

Section 141A. Sections one hundred and thirty-seven to one hundred and forty-one, inclusive, shall not apply to any institution licensed under the provisions of chapter forty-nine A.

Section 141B. Sections one hundred and thirty-seven to one hundred and forty-one, inclusive, shall not apply to any pet shop the owner of which is licensed under the provisions of section thirty-nine A of chapter one hundred and twenty-nine.

Chapter 140: Section 145. Symptoms of rabies printed on license; description supplied by department of public health

Section 145. Every license issued to the owner of a dog shall have a description of the symptoms of rabies printed thereon. Such description shall be supplied by the department of public health.

Chapter 140: Section 145A. Anti-rabic vaccine and treatment; rates of compensation

Section 145A. The board of health of a city or town shall, upon application, furnish free of charge to any uninsured resident thereof who has been exposed to rabies, or may have been so exposed, anti-rabic vaccine and anti-rabic treatment, in accordance with rules and regulations which the department of public health is hereby authorized to make. Except in Boston, such person shall have the right to select his own physician, who shall be paid by the city or town at a rate established as hereinafter provided, and the fact that a physician is a member of a board of health shall not disqualify him from being so selected and from being paid by the city or town for his services. Boards of health shall establish rates of compensation for such treatment.

Chapter 140: Section 145B. Vaccination against rabies; certificate; tag; proof of vaccination; exemption; penalty

[Text of section as amended by 2012, 193, Sec. 17 effective October 31, 2012. For text effective until October 31, 2012, see above.]

Section 145B. (a) Each owner or keeper of a dog, cat or ferret that is 6 months of age or older shall cause such dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions and shall cause such dog, cat or ferret to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dogs, cats or ferrets acquired or moved into the commonwealth shall be vaccinated within 30 days after the acquisition or arrival of such animal into the commonwealth or upon reaching the age of 6 months, whichever last occurs. It shall be the duty of each veterinarian, at the time of vaccinating a dog, cat or ferret, to complete a certificate of rabies vaccination which shall include, but not be limited to, the following information: the owner's name and address; a description of the animal, including breed, sex, age, name and distinctive markings; the date of vaccination; the rabies vaccination tag number; the type of rabies vaccine used; the route of vaccination; the expiration date of the vaccine; and the vaccine lot number.

(b) The veterinarian shall issue a tag with each certificate of vaccination. The tag shall be secured by the owner or keeper of the dog, cat or ferret to a collar or harness made of suitable material to be worn by the dog, cat or ferret; provided, however, that the owner of a cat or ferret may choose not to affix the tag, but shall have the tag available for inspection by authorized persons. In the event that a tag is lost, the owner or keeper of the animal shall, upon presentation of the original vaccination certificate, be issued a new tag.

(c) In order for a dog, cat or ferret to be accepted at an animal hospital, veterinarian's office or boarding facility, an owner or keeper of such animal shall show proof of current vaccination against rabies; provided, however, that if an animal has not been so vaccinated or such owner or keeper fails to show proof of vaccination, the animal shall be vaccinated against rabies prior to being discharged if the animal's medical condition permits.

(d) A licensing authority may grant an exemption from this section for a dog, cat or ferret that:

(i) the local board of health has declared exempt from the rabies vaccination requirement upon presentation of a veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, such inoculation is considered inadvisable for a specified period of time for such reasons; (ii) is in transit; or (iii) was brought into the commonwealth temporarily for the sole purpose of display in a show or for exhibition.

(e) This section shall not apply to a dog, cat or ferret housed in a research institution.

(f) Whoever violates this section shall be punished by a fine of not more than \$100.

Chapter 140: Section 146. License valid throughout state; removal of dog into another town or city

Section 146. A license duly recorded shall be valid throughout the commonwealth, except that, in the case of the permanent removal of a dog into another town within the commonwealth, the owner or keeper thereof shall, within thirty days after such removal, present the original license and tag of such dog to the clerk of the town or city to which such dog has been removed and the clerk shall take up the same and issue to such owner or keeper a transfer license and a tag for such dog upon payment of an amount to be determined by the city or town which shall be retained by the clerk unless otherwise provided by law. The provisions of section one hundred and thirty-seven relative to the form and furnishing of licenses and tags shall apply to licenses and tags issued under this section.

Chapter 140: Section 147. Issuance of licenses; disposition of fees; action on official bond

Section 147. The police commissioner of the city of Boston and the clerks of other cities and towns shall issue dog licenses and tags, receive the money therefor and pay such funds into the treasuries of their respective cities and towns on the first Monday of each month or more often, at their discretion. The clerks of cities and towns, except the city of Boston, may retain for their own use \$.75 cents for each license issued, unless otherwise provided by law, and shall certify under penalties of perjury the amounts of money thus received and paid over to them. The police commissioner

of the city of Boston and each city or town clerk shall make a record of the name of the owner or keeper of each dog licensed and the name, registered number and description of each dog licensed. Such records shall be open to public inspection during the usual office hours of the city or town clerk. All blanks for the licenses and tags and the record books shall be paid for out of the city or town treasury. The police commissioner of the city of Boston and any city or town clerk or city or town treasurer violating this section shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than 1 month nor more than 1 year in a jail or house of correction, or both such fine and imprisonment. If a city or town clerk neglects or fails to pay the money into the city or town treasury as required by this section, the city or town may recover the amount thereof for the benefit of the city or town, with all damages sustained through such neglect or failure, and interest thereon, in an action on the official bond required, in the case of a city clerk, by section 13A of chapter 41 and, in the case of a town clerk, by section 13 of said chapter 41. All payments required under this section shall be subject to section 52 of said chapter 41.

Chapter 140: Section 149. Accounts of treasurers

Section 149. Each city or town treasurer shall keep an accurate and separate account of all money received and expended by the treasurer under this chapter relating to animals.

Chapter 140: Section 150. Lists of dogs; refusal to answer person listing dogs; false answers

Section 150. Persons authorized or directed by section 4 of chapter 51 or by a special law, to make lists of residents 3 years of age or older shall make a list of all dogs owned by the inhabitants at the time of making such lists and shall annually return the same, in duplicate, to the city or town clerk or to the police commissioner in the city of Boston. An owner or keeper of a dog who refuses to answer or answers falsely to a person directed or authorized to make such a list shall be punished by a fine of not less than \$20 which shall be paid to the city or town.

Chapter 140: Section 151. Animal control officers; reimbursement of cities and towns for services; contracts with corporation to perform duties of officers; turning over or sale of animals; penalty

Section 151. (a) The mayor of each city and the board of selectmen of each town shall annually designate an animal control officer, who may be a police officer or constable. The mayor or board of selectmen shall immediately submit to the commissioner the names, addresses and dates of hire of such animal control officers. Except as provided in this section, if a city or town shall fail to make such appointment, the commissioner shall appoint an animal control officer for that city or town. An animal control officer who fails to comply with the terms of such officer's warrant shall immediately be removed from office by the mayor or board of selectmen and notice of the removal shall immediately be given to the commissioner. Animal control officers shall have completed, under the supervision of a veterinarian registered under section 55 or 56C of chapter 112, a course of instruction in humane techniques for the execution of animals before euthanizing an animal. Before euthanizing or giving or turning over to another a dog or cat in the officer's possession, an animal control officer shall first examine the animal for the presence of a microchip or tattoo, check the description of the animal against descriptions within the city or town relative to the species of animal licensed or registered in the municipality in order to verify the identity of the animal and to provide notice to the owner of the animal before the animal is euthanized, given away or turned over to another. Bills for such services shall be approved by the mayor of the city or the board of selectmen of the town in which the dogs or cats are kept or euthanized and shall be paid by that city or town. An animal control officer appointed under this section shall also attend to all complaints or other matters pertaining to animals, as prescribed by the officer's respective city or town, in addition to the duties imposed upon the officer by the officer's warrant, and shall be paid for such services by the town or city treasurer upon bills approved by the mayor or board of selectmen. The mayor of a city or the board of selectmen of a town may, instead of appointing an animal control officer, enter into a contract with a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse to perform the duties required of an animal control officer. In that case, the payments to the corporation under the terms of the contract shall be in full for all services rendered by it in that capacity.

(b) An animal control officer shall not be a licensed animal dealer registered with the United States Department of Agriculture. An animal control officer shall not give, sell or turn over any animal which may come into the officer's custody to a business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture either privately or in the course of carrying out the officer's official assignments as an agent for the officer's municipality. A municipality shall not give, sell or turn over an animal which may come into its custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture. Whoever violates this subsection shall be punished by a fine of not more than \$1,000.

Chapter 140: Section 151A. Issuance of warrant to officers; duties; confinement of dogs; allowance for care; records

Section 151A. (a) The mayor or board of selectmen, as the case may be, shall annually issue a warrant to the animal control officer directing the officer to seek out, catch and confine all dogs within the city or town which are not licensed, collared or harnessed, or tagged, as required by this chapter, and to enter and prosecute a complaint for failure to comply with this chapter against the owners or keepers of such dogs, if known, and to euthanize or cause to be euthanized only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia, or by gunshot in case of emergency, each such dog not licensed, collared or harnessed, or tagged after being detained by or for the officer for a period of 7 days; provided, however, that after 7 days, the animal control officer may make available for adoption any dog found free of disease for a sum of not less than \$3 to be determined by the city or town and shall keep an account of all moneys received by the officer for the adoption and shall immediately pay over the moneys to the treasurer who shall forward it to the city or town. Before delivery of a dog so adopted, the animal control officer shall require the purchaser to show identification and to procure a license and tag for the dog from the clerk of the city or town wherein the dog is to be kept. Dogs detained under this section shall be confined in a place suitable for the detention and care of dogs and kept in a sanitary condition, or they may be placed in the care of the holder of a kennel license or of a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse. The commissioner from time to time shall cause such places wherein animals are detained under this section to be inspected and shall make necessary orders in relation thereto. An animal control officer having custody of a detained dog or cat shall be allowed a sum determined by the city or town per day for the care of the dog or cat, payable by the owner or keeper, if known, otherwise by the city or town.

(b) Each animal control officer shall make, keep and maintain systems of records or forms which fully and correctly disclose the following information concerning each animal in the officer's custody: (1) the date and location of apprehension; (2) a description of the animal; (3) the place of detainment; (4) if tagged, the name and address of the owner of the animal; (5) the name and address of a new owner, if any, including the date of sale or transfer of the animal; (6) if the animal is euthanized, the method and date of such euthanization and the name of the person who euthanized the animal; and (7) the date, location and description of an animal euthanized by gunshot in case of emergency, the disposition of the animal remains and a description of the situation requiring the gunshot.

Each animal control officer shall forward a copy of the record to the town or city clerk within 30 days. Copies of the record shall be kept for 2 years in the office of the city or town clerk wherein such animal control officer is employed.

Chapter 140: Section 151B. Emergency treatment of dogs or cats injured on ways; payment to veterinarians

Section 151B. A veterinarian registered under section 55 or 56A of chapter 112 who renders emergency care or treatment to, or who euthanizes, a dog or cat that is injured on any way shall receive payment from the owner of such dog or cat, if known, or, if not known, from the city or town in which the injury occurred in an amount not to exceed \$250 for such care, treatment or euthanization; provided, however, such emergency care, treatment or euthanization shall be rendered for the purpose of maintaining life, stabilizing the animal or alleviating suffering until the owner or keeper of the dog or cat is identified or for 24 hours, whichever is sooner. A veterinarian who renders such emergency

care or treatment to a dog or cat or euthanizes a dog or cat shall notify the municipal animal control officer and the animal control officer shall assume control of the dog or cat or the remains of the dog or cat.

Section 151C. The commissioner shall, from time to time and subject to the availability of funds from the Homeless Animal Prevention and Care Fund in section 35WW of chapter 10, provide for a training course for animal control officers. For a training course established under this section, there shall be a preference for persons who have been in the employ of a city or town as an animal control officer for 12 months or less. A training course that is offered by a private entity including, but not limited to, the Animal Control Officers Association of Massachusetts, shall not be eligible for reimbursement from the Homeless Animal Prevention and Care Fund unless such course has been approved by the commissioner.

Chapter 140: Section 152. Returns by officers

Section 152. Each police officer, constable or animal control officer to whom such warrant is issued shall make returns, on or before October first, on or before January first, and on or before April first, in each year, and at the expiration of his term of office, to the mayor or chairman of the board of selectmen issuing the same, and shall state in said returns the number of dogs and cats which he has caught, confined or killed, or made available for adoption, the names of the owners or keepers thereof and whether all unlicensed dogs in his town have been caught, confined or killed, or adopted, and the names of persons against whom complaints have been made under the provisions of this chapter relating to animals, and whether complaints have been entered against all of the persons who have failed to comply therewith since the previous report.

Section 153. In the several cities and towns of the several counties, such warrant may be in the following form:--

COMMONWEALTH OF MASSACHUSETTS

(Seal)

, ss.

To , constable of the city (or town) of

In the name of the commonwealth of Massachusetts, you are hereby required to proceed forthwith to seek out, catch and confine all dogs within said city (or town) not duly licensed, collared or harnessed, and tagged, according to the provisions of chapter one hundred and forty of the General Laws, and you are further required to make and enter complaint against the owner or keeper of every such dog, and to kill or cause to be killed only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia, except by gunshot in case of emergency each dog which after being detained for a period of 7 days, shall not then have been duly licensed, collared or harnessed, and tagged, except that any dog not found to be diseased may be made available for adoption for not less than \$3, and you shall keep an account of any such adoption and forthwith pay over the money to the town treasurer. Before delivery of any dog so adopted you shall require the purchaser to show identification and to register and procure a license and tag for such dog from the town clerk of the town where the dog is to be kept, in accordance with the provisions of section one hundred and thirty-seven of said chapter one hundred and forty of the General Laws.

Hereof fail not, and make due return of this warrant with your doings therein, on or before the first day of October next, on or before the first day of January next, and on or before the first of April next, and at the expiration of your term of office, stating the number of dogs caught, confined and/or killed, or adopted, and the name of the owners or keepers thereof, and whether all unlicensed dogs and cats in said city (or town) have been caught, confined and/or killed, or adopted, and the names of persons against whom complaints have been made under the provisions of said chapter one

hundred and forty, and whether complaints have been made and entered against all the persons who have failed to comply with the provisions of said chapter one hundred and forty.

Given under my hand and seal at _____ aforesaid the _____ day of _____ in the year 2000 and _____

Mayor of (or Chairman of the Selectmen of)

Section 155. If any dog shall do any damage to either the body or property of any person, the owner or keeper, or if the owner or keeper be a minor, the parent or guardian of such minor, 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 a trespass or other tort, or was teasing, tormenting or abusing such dog. If a minor, on whose behalf an action under this section is brought, is under seven years of age at the time the damage was done, it shall be presumed that such minor was not committing a trespass or other tort, or teasing, tormenting or abusing such dog, and the burden of proof thereof shall be upon the defendant in such action.

Section 155A. If an action is brought against a law enforcement officer because of damage caused by a dog which said officer was caring for or maintaining in connection with his official duties, the commonwealth or the political subdivision employing said officer shall indemnify him for expenses or damages incurred in the settlement or defense of such action; provided that in the case of an officer employed by the commonwealth the settlement or defense of such case shall have been made by the attorney general, and that in the case of an officer employed by a city or town such settlement or defense shall have been made by the city solicitor or town counsel or by an attorney legally employed for the purpose by a city or town.

Chapter 140: Section 156. Killing dogs under certain conditions; wounded dogs

Section 156. Any person may kill a dog which suddenly assaults him while he is peaceably standing, walking or riding outside the enclosure of its owner or keeper; and any person may kill a dog found out of the enclosure of its owner or keeper and not under his immediate care in the act of worrying, wounding or killing persons, live stock or fowls, and if any person shall kill or attempt to kill a dog so found, and in the act of worrying, wounding or killing persons, live stock or fowls, he shall not be held liable for cruelty to the dog unless it shall be shown that he intended to be cruel to the dog, or that he acted with a wanton and reckless disregard for the suffering of the dog. A person killing or wounding a dog under the conditions set out in this section shall promptly report to the owner, animal control officer or police officer such killing or wounding. Prompt killing of a wounded dog, or a prompt report to the owner or to *a dog officer (should be Animal Control Officer)* of the wounding of the dog, shall be considered evidence of sufficient regard for the suffering of the dog.

Chapter 140: Section 157. Nuisance or dangerous dogs; orders for remedial action; appeal; violation of order

Section 157. (a) Any person may file a complaint in writing to the hearing authority that a dog owned or kept in the city or town is a nuisance dog or a dangerous dog; provided, however, that no dog shall be deemed dangerous: (i) solely based upon growling or barking or solely growling and barking; (ii) based upon the breed of the dog; or (iii) if the dog was reacting to another animal or to a person and the dog's reaction was not grossly disproportionate to any of the following circumstances:

- (1) the dog was protecting or defending itself, its offspring, another domestic animal or a person from attack or assault;
- (2) the person who was attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog;

(3) the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog; or

(4) at the time of the attack or threat, the person or animal that was attacked or threatened by the dog had breached an enclosure or structure in which the dog was kept apart from the public and such person or animal was not authorized by the owner of the premises to be within such enclosure including, but not limited to, a gated, fenced-in area if the gate was closed, whether locked or unlocked; provided, however, that if a person is under the age of 7, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing.

The hearing authority shall investigate or cause the investigation of the complaint, including an examination under oath of the complainant at a public hearing in the municipality to determine whether the dog is a nuisance dog or a dangerous dog. Based on credible evidence and testimony presented at the public hearing, the hearing authority shall: (i) if the dog is complained of as a nuisance dog, either dismiss the complaint or deem the dog a nuisance dog; or (ii) if the dog is complained of as a dangerous dog: (A) dismiss the complaint; (B) deem the dog a nuisance dog; or (C) deem the dog a dangerous dog.

(b) If the hearing authority deems a dog a nuisance dog, the hearing authority may further order that the owner or keeper of the dog take remedial action to ameliorate the cause of the nuisance behavior.

(c) If the hearing authority deems a dog a dangerous dog, the hearing authority shall order 1 or more of the following:

(i) that the dog be humanely restrained; provided, however, that no order shall provide that a dog deemed dangerous be chained, tethered or otherwise tied to an inanimate object including, but not limited to, a tree, post or building;

(ii) that the dog be confined to the premises of the keeper of the dog; provided, however, that "confined" shall mean securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run area upon the premises of the owner or keeper; provided further, that such pen or dog run shall have a secure roof and, if such enclosure has no floor secured to the sides thereof, the sides shall be embedded into the ground for not less than 2 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper shelter from the elements shall be provided to protect the dog;

(iii) that when removed from the premises of the owner or the premises of the person keeping the dog, the dog shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length;

(iv) that the owner or keeper of the dog provide proof of insurance in an amount not less than \$100,000 insuring the owner or keeper against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts, whether intentional or unintentional, of the dog or proof that reasonable efforts were made to obtain such insurance if a policy has not been issued; provided, however, that if a policy of insurance has been issued, the owner or keeper shall produce such policy upon request of the hearing authority or a justice of the district court; and provided further, that if a policy has not been issued the owner or keeper shall produce proof of efforts to obtain such insurance;

(v) that the owner or keeper of the dog provide to the licensing authority or animal control officer or other entity identified in the order, information by which a dog may be identified, throughout its lifetime including, but not limited to, photographs, videos, veterinary examination, tattooing or microchip implantations or a combination of any such methods of identification;

(vi) that unless an owner or keeper of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the owner or keeper of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact; or

(vii) that the dog be humanely euthanized.

No order shall be issued directing that a dog deemed dangerous shall be removed from the town or city in which the owner of the dog resides. No city or town shall regulate dogs in a manner that is specific to breed.

(d) Within 10 days after an order issued under subsections (a) to (c), inclusive, the owner or keeper of a dog may bring a petition in the district court within the judicial district in which the order relative to the dog was issued or where the dog is owned or kept, addressed to the justice of the court, praying that the order be reviewed by the court or a magistrate of the court. After notice to all parties, the magistrate shall, under section 62C of chapter 221, review the order of the hearing authority, hear the witnesses and affirm the order unless it shall appear that it was made without proper cause or in bad faith, in which case the order shall be reversed. A party shall have the right to request a de novo hearing on the complaint before a justice of the court.

(e)(1) Pending an appeal by an owner or keeper under subsection (d), a hearing authority may file a petition in the district court to request an order of impoundment at a facility the municipality uses to shelter animals for a dog complained of as being a dangerous dog. A municipality shall not incur liability for failure to request impoundment of a dog under this subsection.

(2) A justice of a district court, upon probable cause to believe that a dog is a dangerous dog or that a dog is being kept in violation of this section or in violation of an order issued under this section by a hearing authority or a court, may issue an order: (i) of restraint; (ii) of confinement of the dog as considered necessary for the safety of other animals and the public; provided, however, that if an order of confinement is issued, the person to whom the order is issued shall confine the dog in accordance with clause (ii) of subsection (c); or (iii) of impoundment in a humane place of detention that the municipality uses to shelter animals; or (iv) any other action as the court deems necessary to protect other animals and the public from the dog.

(f) A justice of the district court shall hear, de novo, an appeal filed under subsection (d). Based upon credible evidence and testimony presented at trial, the court shall, whether the dog was initially complained of as a nuisance dog or as a dangerous dog: (i) dismiss the complaint; (ii) deem the dog a nuisance dog; or (iii) deem the dog a dangerous dog. The decision of the court shall be final and conclusive upon the parties.

(g) If a court affirms an order of euthanasia, the owner or keeper of the dog shall reimburse the city or town for all reasonable costs incurred for the housing and care of such dog during its impoundment and throughout the appeals process, if any. Unpaid costs shall be recovered by the municipality in which the owner or keeper of the dog resides on behalf of the hearing authority by any of the following methods: (i) a lien on any property owned by the owner or keeper of the dog; (ii) an additional, earmarked charge to appear on the vehicle excise of the owner or keeper of the dog; or (iii) a direct bill sent to the owner or keeper of the dog.

All funds recovered by a municipality under this subsection shall be transferred to the organization or entity charged with the responsibility of handling dog complaints and impoundment. If the organization or entity falls under the management or direction of the municipality, costs recovered shall be distributed at the discretion of the municipality.

If the court overturns an order of euthanasia, the city or town shall pay all reasonable costs incurred for the housing and care of the dog during any period of impoundment.

(h) If an owner or keeper of a dog is found in violation of an order issued under this section, the dog shall be subject to seizure and impoundment by a law enforcement or animal control officer. If the keeper of the dog is in violation, all reasonable effort shall be made by the seizing authority to notify the owner of the dog of such seizure. Upon receipt of such notice, the owner may file a petition with the hearing authority, within 7 days, for the return of the dog to the owner. The owner or keeper shall be ordered to immediately surrender to the licensing authority the license and tags in

the person's possession, if any, and the owner or keeper shall be prohibited from licensing a dog within the commonwealth for 5 years. A hearing authority that determines that a dog is dangerous or a nuisance or that a dog owner or keeper has violated an order issued under this section shall report such violations to the issuing licensing authority within 30 days.

(i) Orders issued by a hearing authority shall be valid throughout the commonwealth unless overturned under subsection (d) or (f).

Section 157A. (a) An owner or keeper of a dog who fails to comply with an order of a hearing authority or district court shall be punished, for a first offense, by a fine of not more than \$500 or imprisonment for not more than 60 days in a jail or house of correction, or both, and for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment for not more than 90 days in a jail or house of correction.

(b) No person over the age of 17 who has actual knowledge that a dog has been deemed dangerous under section 157 shall permit a child under the age of 17 to own, possess or have the care or custody of such dog.

(c) No person shall transfer ownership or possession of a dog which such person knows, or reasonably should have known, has been deemed dangerous under section 157 or offer such dangerous dog for sale or breed without informing the recipient of the dog of the finding of dangerousness.

Chapter 140: Section 158. Euthanizing unrestrained dogs or dogs in wild state

Section 158. A police officer, constable or animal control officer may capture, detain or, in the case of a threat to public safety, euthanize a dog in a humane manner if found to be in violation of an order of a hearing authority or a district court and may euthanize a dog, in a humane manner, if it is living in a wild state.

Chapter 140: Section 159. Treble damages for injuries caused by dogs ordered to be restrained

Section 159. If a hearing authority or a district court has deemed a dog to be a dangerous dog and such dog wounds a person or worries, wounds or kills any livestock or fowl, the owner or keeper of the dog shall be liable in tort to the person injured by the dog for 3 times the amount of damages sustained by such person.

Chapter 140: Section 160. Euthanizing dogs that have worried or killed stock or fowl; bond

Section 160. The mayor of a city, the selectmen of a town, or their agents who are authorized in writing, to act in such mayor or selectmen's stead may, after written notice to the owner or keeper of a dog, enter upon the premises of the owner or keeper known to such persons to have worried or killed livestock or fowl and then and there euthanize such dog in a humane manner unless such owner or keeper whose premises are entered for that purpose shall give a bond in the sum of \$200, with sufficient sureties, conditioned that the dog shall be restrained for 12 months next ensuing. If the owner or keeper of the dog declares an intention to give such a bond, the selectmen, chief of police, or the agent of the selectmen or chief, as the case may be, shall allow the owner or keeper 7 days, exclusive of Sundays and holidays, in which to procure and prepare such bond and to present it, or to file it with the clerk of the town or city in which the owner or keeper resides.

Chapter 140: Section 161. Damages caused by dogs and paid by city or town; compensation for appraisers

Section 161. Whoever suffers loss by the worrying, maiming or killing of such person's livestock or fowl by a dog outside the premises of the owner or keeper of the dog, may, if the damage is done in a city, inform the animal control officer and may, if the damage is done in a town, inform the chair of the board of selectmen of the town or, if the

chairman is absent or ill, any of the selectmen. The officer, chair or selectman shall proceed to the premises where the damage was done to determine whether the damage was inflicted by a dog and, if so determined, appraise the amount of damage if it does not exceed \$100. If in the opinion of the officer, chair or selectman, the amount of damage exceeds \$100, the damage shall be appraised, on oath, by 3 persons, 1 of whom shall be the officer, chair or selectman, 1 of whom shall be appointed by the person alleged to be damaged and 1 shall be appointed by the other 2. Within 10 days thereafter, the appraisers shall consider and include in their appraisal the labor and time necessarily to be expended to find and collect the livestock or fowl injured or separated and the value of those lost or otherwise damaged by the dog. The officer, chair or selectman shall return a certificate of the damages found to the treasurer of the city or town in which the damage was done within 10 days after the appraisal is completed. The treasurer shall immediately submit the appraisal to the city or town clerk who, within 30 days, shall examine all bills for damages. The city or town clerk may summons the appraisers or, upon the request of an interested party, shall summons the appraisers and all parties interested and make such investigation as the clerk shall deem proper. The city or town clerk shall issue an order upon the treasurer of the city or town for such amounts, if any, determined to be just and shall notify all interested parties of the decision. The treasurer shall pay all orders drawn upon the treasurer in full, for the above purpose and payments made shall be charged to the city or town.

Section 161A. No owner of live stock or fowls shall be reimbursed for damages inflicted by his own dog or dogs, nor shall he be reimbursed for any damage by any dog if, at the time such damage was inflicted, he was himself the owner or keeper of an unlicensed dog of the age of three months or older. No reimbursement shall be made on account of damages by a dog to deer, elk, cottontail rabbits, northern hares, pheasants, quail, partridge and other live stock or fowls determined by the department of fisheries, wildlife and environmental law enforcement to be wild unless they are kept by, or under permit from, said department, nor unless they shall be kept in proper houses or in suitable enclosed yards. No reimbursement shall be made for damage by a dog to dogs, cats and other pets. Awards shall in no case exceed the fair cash market value of such live stock or fowls.

Chapter 140: Section 163. Notice to euthanize dog that has caused damage

Section 163. If the mayor, aldermen or board of selectmen determines, after notice to parties interested and a hearing, the identity of the owner or keeper of a dog which is found to have worried, maimed or killed livestock or fowl, thereby causing damages for which the owner of the livestock or fowl may become entitled to compensation from the city or town under section 161, the mayor, aldermen or selectmen shall serve upon the owner or keeper of such dog a notice directing the owner or keeper, within 24 hours, to euthanize the dog in a humane manner or restrain the dog.

Chapter 140: Section 164. Failure to euthanize, confine or restrain dog after notice

Section 164. A person who owns or keeps a dog and who has received such notice under section 163 and does not, within 24 hours, euthanize the dog or thereafter keep it on the owner's or keeper's premises or under the immediate restraint and control of some person, shall be punished by a fine of not less than \$25 and a police officer, constable or animal control officer may euthanize the dog in a humane manner if it is found outside the enclosure of its owner or keeper and not under the owner or keeper's immediate care.

Chapter 140: Section 165. Investigation of damages caused by dogs; settlement; action against owner or keeper; payments over to city or town treasurer

Section 165. A city or town may investigate any case of damage done by a dog of which the chair of the board of selectmen, mayor or animal control officer shall have been informed as provided in section 161. If the chair, mayor or animal control officer believes that the evidence is sufficient to sustain an action against the owner or keeper of the dog and believes that such owner or keeper is able to satisfy any judgment recovered in an action, the chair, mayor or animal control officer shall bring the action unless the owner or keeper pays the amount in settlement of the damage as the chair, mayor or officer deems reasonable before the action is brought. The action may be brought in the name of the

chair, mayor or animal control officer prosecuting the action and the chair, mayor or animal control officer shall have the same powers and authority as animal control officers appointed under section 151 and acting under sections 136A to 174E, inclusive. All damages received or recovered under this section shall be paid over to the city or town treasurer.

Section 166. The owner of live stock or fowls which have been worried, maimed or killed by dogs shall have his election to proceed under section one hundred and sixty-one or sections one hundred and fifty-seven to the hundred and fifty-nine, inclusive; but, having signified his election by proceeding in either mode, he shall not have the other remedy.

Chapter 140: Section 167. Ordering dogs to be restrained; euthanizing unrestrained dogs

Section 167. The mayor, aldermen or board of selectmen may order that all dogs shall be restrained from running at large during such times as shall be prescribed by the order. Once passed, a certified copy of the order shall be posted in at least 2 public places in the city or town or, if a daily newspaper is published in the city or town, by publishing a copy once in that newspaper. Following publication, the mayor, aldermen or board of selectmen may issue a warrant to a police officer or constable in a city or town, who shall, not sooner than 24 hours after the publication of the notice, euthanize all dogs in a humane manner that are found running at large contrary to the order. Notwithstanding the foregoing, a police officer or constable may, in the officer's or constable's discretion, hold any such dog for not more than 7 days. If the owner of the dog claims it and pays to the officer or constable a penalty of \$40 for each day that the dog has been held, the dog shall be returned to its owner. The amount shall be paid over to the city or town.

Chapter 140: Section 168. Service of order to muzzle or restrain dogs; penalty

Section 168. The aldermen, board of selectmen or mayor may cause service of such order to be made upon the owner or keeper of the dog by causing a certified copy thereof to be delivered to him; and if he refuses or neglects for twelve hours thereafter to muzzle or restrain such dog as so required, he shall be punished by a fine of not less than \$25.

Chapter 140: Section 169. Penalty on officer; report of refusal or neglect of officer to perform duties

Section 169. A city or town officer who refuses or willfully neglects to perform the duties imposed upon the officer by this chapter relating to dogs shall be punished by a fine of not less than \$100, which shall be paid to the city or town. Whoever is aggrieved by such refusal or neglect may report the same forthwith to the district attorney of his district.

Chapter 140: Section 171. Liability to city or town of owner or keeper of dog

Section 171. The owner or keeper of a dog which has done damage to livestock or fowl shall be liable in tort to the city or town for all damages so done which the mayor, aldermen or board of selectmen have ordered to be paid as provided in this chapter.

Chapter 140: Section 173. Ordinances and by-laws relating to animals

Section 173. A city or town may make additional ordinances or by-laws relative to the licensing and control of animals not inconsistent with sections 136A to 174E, inclusive.

Section 173A. Whenever a complaint is sought in a district court for a violation of an ordinance or by-law, made under the provisions of section one hundred and seventy-three, the clerk shall send a written notice to the person complained against stating that such a complaint has been sought and will issue unless such person appears before such clerk and confesses the offense either personally or through an agent duly authorized in writing, or by mailing to such clerk, with the notice the fine provided herein. For the first offense committed by a person within a calendar year, the clerk shall dismiss the charge without the payment of a fine. For a second offense in the city or town within a calendar year, the

payment of a fine of \$50 shall operate as a final disposition of the case. For a third offense in the city or town within a calendar year, payment of a fine of \$60 shall operate as a final disposition of the case. For a fourth or subsequent offense in the city or town within a calendar year, payment of a fine of \$100 shall operate as a final disposition of the case. Payment shall be made only by postal note, money order or check. Notwithstanding the foregoing procedure and schedule of fines, but subject to all other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines.

Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If a person notified to appear, as hereinbefore provided, fails to appear or pay the fine within twenty-one days of the sending of the notice, or having appeared, does not desire to avail himself of the procedure established by this section, the clerk shall issue the complaint and the procedure established for criminal cases shall be followed.

If any person fails to appear in accordance with the summons issued upon such complaint, the clerk of the court shall send such person, by registered mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within twenty-one days from the sending of such notice, a warrant for his arrest will be issued.

Section 174. All fines and penalties provided in the preceding sections relating to dogs may be recovered before a district court in the county where the offence was committed.

Chapter 140: Section 174A. Euthanizing of dogs or cats by barbiturates

Section 174A. A dog or cat whose killing is authorized under this chapter shall be euthanized only by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia or as otherwise allowed in section 151A.

Chapter 140: Section 174B. Restraint of dogs in public highway rest areas; penalty

Section 174B. Whoever is the owner or keeper of a dog shall restrain said dog by a chain or leash when in an officially designated public highway rest area. Whoever violates the provisions of this section shall be punished by a fine of not more than \$100.

Section 174D. (a) No research institution shall employ dogs or cats in scientific investigation, experiment or instruction or for the testing of drugs or medicines without having first been issued a license therefor under this section by the commissioner of public health. A research institution desiring to obtain a license shall make application to the commissioner of public health. On receipt of such application the commissioner of public health shall make or cause to be made such investigation as he may deem necessary to determine whether the public interest would be served by the issue of such license. The commissioner of public health shall issue such license unless, after notice and hearing, he finds that the research institution, by reason of its standards, facilities, practices or activities, is not a fit and proper institution to receive such license, and that the issue thereof is not in the public interest. Each research institution licensed under this chapter shall before such license issues pay to the commissioner of public health a license fee of fifty dollars. Each license shall expire on June thirtieth next following the date of issue. The commissioner of public health shall annually renew each license upon the application of the licensee unless, after notice and hearing, he finds that by reason of the standards, facilities, practices or activities of the licensee such renewal is not in the public interest. The commissioner of public health may, after notice and hearing, cancel, suspend or revoke any license if he finds that by reason of the standards, facilities, practices or activities of the licensee the continuation of such license is not in the public interest.

Whoever knowingly violates any of the provisions of this section shall be liable for a civil penalty of not more than one hundred dollars for each offense. The superior court department of the trial court shall have authority to enjoin any violation of this section or to take such other actions as equity or justice may require.

(b) The commissioner of public health may make such rules and regulations, not inconsistent with this section, necessary to carry out its purposes, and may alter, rescind or add to any rules or regulations previously made. The commissioner of public health or an agent designated by him may, in connection with the granting, continuance or renewal of a license, visit and inspect the animal research and care facilities of any licensee or of any research institution which has applied for a license. The Massachusetts Society for the Prevention of Cruelty to Animals and the Animal Rescue League of Boston may be designated as agents of the commissioner of public health. For purposes of this paragraph the term "animal" shall refer to the dog and cat specifically and all other sentient creatures except humans.

Section 174E. (a) 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 24 consecutive hours. A tethering employed shall not allow the dog to leave the owner's, guardian's or keeper's property. The tether shall be designed for dogs and no logging chains or other lines or devices not designed for tethering dogs shall be used. No chain or tether shall weigh more than 1/8 of the dog's body weight. Nothing in this section shall be construed to prohibit a person from walking a dog on a hand-held leash. No dog under the age of 6 months shall be tethered outside for any length of time.

(b) A person owning or keeping a dog may confine such dog outside, subject to the restrictions in this section, through the use of any of the following methods:

(1) inside a pen or secure enclosure, if the following conditions are met:

(i) the pen or secure enclosure shall have adequate space for exercise with a dimension of at least 100 square feet; provided, however, that commercial dog kennels with pens intended for the temporary boarding of dogs shall be exempt from this requirement;

(ii) the pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all 4 sides enclosed; and

(iii) the minimum height of the fence shall be adequate to successfully confine the dog;

(2) a fully fenced, electronically fenced or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard; or

(3) a trolley system or a tether attached to a pulley in a cable run, if the following conditions are met:

(i) only 1 dog shall be tethered to each cable run;

(ii) the tether shall be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which 2 adult fingers may fit; provided, however, that a choke collar and a pinch collar shall not be used to tether a dog to a cable run;

(iii) there shall be a swivel on at least 1 end of the tether to minimize tangling of the tether;

(iv) the tether and cable run must each be at least 10 feet in length. The cable must be mounted at least 4 feet but not more than 7 feet above ground level; and

(v) the length of the tether from the cable run to the dog's collar or harness shall allow continuous access to clean water and appropriate shelter at all times as described in subsection (c); provided, however, that a trolley system or tether shall be of appropriate configuration to confine the dog to the owner's, guardian's or keeper's property, to prevent the trolley system or tether from extending over an object to an edge that could result in injury to or strangulation of the dog and to prevent the trolley system or tether from becoming tangled with other object or animals.

(c) A person owning or keeping a dog confined outside in accordance with subsection (b) shall provide the dog with access to clean water and appropriate dog shelter. The dog shelter shall allow the dog to remain dry and protected from the elements and shall be fully enclosed on at least 3 sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and shall be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage shall be provided so that water, ice or waste is not standing in or around the shelter.

(d) No person owning or keeping a dog shall leave a dog chained or tethered outside for longer than 24 consecutive hours.

(e) Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or engaged in conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(f) No person owning or keeping a dog shall subject the dog to cruel conditions or inhumane chaining or the tethering at any time. For the purposes of this subsection, "cruel conditions and inhumane chaining or tethering" shall include, but not be limited to, the following conditions:

(1) filthy and dirty confinement conditions including, but not limited to, exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill a dog upon contact or other circumstances that could cause harm to a dog's physical or emotional health;

(2) taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog; and

(3) subjecting a dog to dangerous conditions, including attacks by other animals.

(g) A person who violates this section shall, for a first offense, be issued a written warning or punished by a fine of not more than \$50, for a second offense, be punished by a fine of not more than \$100 and for a third or subsequent offense, be punished by a fine of not more than \$300, and be subject to impoundment of the dog in a local shelter at the owner's or guardian's expense pending compliance with this section, or loss of ownership of the dog.