

Chapter 3

ANIMALS AND FOWL*

- Art. I. In General, §§ 3-1—3-21**
Art. II. Dogs, §§ 3-22—3-28

ARTICLE I. IN GENERAL

Sec. 3-1. Department created; director of animal control.

The department of animal control is hereby established to be under the charge of the director of animal control, who shall be an executive officer of the city, and the provisions of law for the appointment and removal of heads of departments shall be applicable to this office. The director of animal control may also serve as a dog officer of the city upon his designation as such by the mayor pursuant to the provisions of chapter 140, section 151 of the General Laws. (Rev. Ords. 1973, § 3-1)

Sec. 3-2. Powers and duties of department.

The department of animal control shall supervise the dog officer or dog officers in the performance of their duties under the General Laws as well as under sections 3-25 to 3-28; shall have the power and duty, concurrently with or in aid of the police department, to investigate apparent or reported violations, make complaints, or take any other lawful action appropriate to the enforcement of the provisions of this chapter or of chapter 272, sections 77 to 81 inclusive, 85A, 86A to 86D inclusive and 87 of the General Laws; and shall have care and custody of all city property, real or personal, including the city pound, if any, provided for any of the foregoing purposes. (Rev. Ords. 1973, § 3-2)

Sec. 3-3. Running at large or grazing in street.

No person owning or having the care of any animal, except cats, shall permit or suffer the same to go at large. (Rev. Ords. 1973, § 3-3)

State law references—Authority to prohibit grazing in streets, G.L. c. 85, § 10; stray beasts generally, G.L. c. 134

Sec. 3-4. Grazing animals in parks, etc.

No owner or keeper of a horse or other grazing animal shall suffer the same to go at large or feed upon any park or public grounds. (Rev. Ords. 1973, § 3-4)

Cross reference—Conduct in parks and public grounds generally, § 21-3 et seq.

Sec. 3-5. Damaging flowers, etc., in parks, etc.

No person shall allow any animal belonging to him, or in his charge, to stand or walk upon any flower bed in any park or other public grounds. (Rev. Ords. 1973, § 3-5)

Cross reference—Conduct in parks and public grounds generally, § 21-3 et seq.

Sec. 3-6. Horses in parks or other public grounds.

***Cross references**—Health and human services, Ch. 12; riding of horses prohibited on part of former street railway reservation, § 19-79

No person, unless by permission of the commissioner of public works shall ride, lead or drive a horse in or upon parks or other public grounds, except upon the driveways thereon. No person, unless by permission of the parks and recreation commission, shall ride, lead or drive a horse in or upon the playgrounds. (Rev. Ords. 1973, § 3-6)

Cross reference—Conduct in parks and public grounds generally, § 21-3

Secs. 3-7—3-21. Reserved.

ARTICLE II. DOGS

Sec. 3-22. Vaccination, Rabies, Certification.

(a) Whoever is the owner or keeper of a dog in the city six months of age or older shall cause such dog to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions and shall cause such dog to be re-vaccinated at intervals recommended by the manufacturer. Such vaccination shall be in accordance with chapter 140, section 145B of the General Laws, all relevant regulations of the Commonwealth, and any amendments to the same.

(b) Unvaccinated dogs acquired or moved into the city shall be vaccinated within ninety days after the acquisition or arrival into the city or upon reaching the age of six months, whichever last occurs.

(c) The owner or keeper of such dog shall have available for inspection by authorized persons a tag issued by the veterinarian as evidence of rabies vaccination or such other evidence of rabies vaccination as may be specified by applicable state statute and or regulation(s). Said tag may be secured by the owner or keeper of such dog to the collar or harness made of suitable material to be worn by the dog. (Ord. No.V-62, 2-5-96)

Sec. 3-23. License fees; Vaccination Certification and Exemptions; Exemption of fee of Seeing Eye dogs; refund of fees.

(a) The fee for the license for every male and female dog, except as otherwise provided by law, shall be fifteen dollars (\$15.00) except that the license fee for each dog for which written proof as set forth herein can be shown to the City Clerk to be a neutered male dog or spayed female dog shall be ten dollars (\$10.00). The fee for the issuance of a duplicate dog license shall be two dollars (\$2.00).

The City Clerk shall accept either a certificate of a registered veterinarian that such operation was performed or a certified copy of such a veterinarian's certificate from the office of any City or Town Clerk within the Commonwealth as proof that a dog has been neutered or spayed and has thereby been deprived of the power of propagation. If the City Clerk is satisfied that the certificate of the veterinarian who spayed the dog cannot be obtained, a statement may be accepted in lieu thereof signed under the penalties of perjury by a veterinarian registered and practicing in the Commonwealth describing the dog and stating that such dog has been examined and that it appears to have been spayed or neutered and thereby deprived of the power of propagation.

(b) No license shall be granted for any dog unless the owner or keeper thereof provides either a veterinarian's certification that such dog has been vaccinated and sets forth the date of such vaccination and the duration of immunity or provides a notarized letter from a veterinarian that a certification was issued or provides a metal rabies tag bearing an expiration date indicating that such certification is still in effect, or has been certified exempt, as hereinafter provided.

A vaccination exemption may be granted for any dog which has not yet attained the age of six months, any dog which the commissioner of health and human services of the City of Newton, for a specified period of time, declared exempt upon presentation of a veterinarian's certificate stating that because of infirmity, other physical

condition or regimen or therapy, that inoculation is thereby deemed inadvisable, or any dog in transit, or dog brought into the Commonwealth of Massachusetts temporarily, for the sole purpose of showing in dog shows or exhibitions.

(c) No fee shall be charged for a license for a dog specially trained to lead or serve a blind person; provided, that the Division of the Blind certifies that such dog is so trained and actually in the service of a blind person.

(d) No license fee or part thereof shall be refunded because of the subsequent death, loss, neutering, spaying or removal from the Commonwealth or other disposal of the dog, nor shall any license fee or part thereof paid be recovered after it has been paid over to the City Treasurer. (Rev. Ords. 1973, § 3-18; Ord. No. S-51, 3-19-84; Ord. No. S-56, 4-18-84; Ord. No. S-337, 11-7-88; Ord. No. T-168, 9-3-91; Ord. No. X-175, 05-26-05)

Cross references—Receipt of money from dog fund, § 2-139; licenses and fees generally, Ch. 17

State law references—Authority to regulate dogs, G.L. c. 140, § 173; Establishment of dog licensing fees, G.L. c. 140, § 147A; dog licenses generally, G.L. c. 140, § 137 et seq.

Sec. 3-24. Disturbing the peace by barking, etc.

No person shall own or keep in the city any dog which, by barking, biting, howling or in any other manner, disturbs the quiet of any person. (Rev. Ords. 1973, § 3-19)

State law reference—Barking dogs, G.L. c. 140, § 157

Sec. 3-25. Complaint of nuisance; investigation by dog officer.

If any person shall make a complaint in writing to the dog officer of the city that any dog owned or harbored within his jurisdiction is a nuisance by reason of a vicious disposition or excessive barking or other disturbance, the dog officer shall investigate such complaint, which may include an examination on oath of the complainant, and may order such dog to be confined or muzzled. (Rev. Ords. 1973, § 3-20)

Sec. 3-26. Restraint of dogs.

(a) Prohibitions:

- (1) No person owning or harboring a dog shall suffer or allow it to run at large in any of the streets or public places in the city. No person owning or harboring a dog shall allow it upon the premises of anyone other than the owner or keeper of such dog without the permission of the owner or occupant of the premises. No dog shall be permitted in any street or public place within the city unless it is effectively restrained by a chain or leash not exceeding ten (10) feet in length.
- (2) Tot Lots: No person owning or harboring a dog shall suffer or allow a dog, leashed or unleashed, to enter a tot lot as hereinafter defined. For the purposes of this section, the term “tot lot” shall mean an outdoor play area located on land owned or controlled by the city intended for use by young children, the boundaries of which may be designated by a fence and/or sand, ground cover, grass or otherwise, and which may contain play equipment. Without limiting the foregoing, tot lot shall include currently designated tot lots which are listed below. Tot lots are fenced unless otherwise noted.

Albemarle Park

*Angier School (approximately 155' x 30')

*Burr Park (approximately 95' x 75')

Burr School

Carleton Street area

Cabot Park. East Side Parkway

*Crescent Street Playground (approximately 90' x 70')

- Davis School Playground
- Emerson Playground
- Franklin School
- Hawthorn Park
- ** Lower Falls Community Center (approximately 80' x 80')
- *Memorial-Spaulding School (approximately 90' x 90')
- ** Newton Centre Playground, (approximately 115' x 105')
- Newton Highlands Playground
- Winchester Street (Centre and Needham Streets)
- Newton North High School
- Newton South High School
- *Richardson Playground, Allen Avenue (approximately 150' x 62')
- River Street Playground
- Sterns Playground
- Upper Falls Playground
- *Ware's Cove (approximately 200' x 60')
- West Newton Common, Elm and Webster Streets
- *Williams School (approximately 50' x 60')

* Tot lots which are not surrounded by a fence. Area measurements of non-fenced sites are in excess of ground cover.

** Tot lots which are partially surrounded by a fence.

(b) Penalties: Any owner or keeper of a dog who shall fail to comply with the foregoing provisions of subparagraph (a) shall be punished by a fine of fifty dollars (\$50.00) for each offense.

(c) It shall be the duty of the department of animal control to apprehend any dog found running at large in any street or public place within the city, or any dog, leashed or unleashed, found within a tot lot, or any dog found in violation of any of the provisions of this article, and to impound such dog in the place provided therefor. The department, upon receiving any such dog, shall make a complete registry, entering the breed, color, and sex of such dog and whether licensed. If licensed, he shall enter the name and address of the owner and the number of the license tag. The owner, if known, shall be notified as soon as possible that the dog has been impounded. The owner of any dog so impounded may reclaim such dog upon payment of the license fee, if unpaid, and of all costs and charges incurred by the city for impounding and maintenance of such dog as provided by law.(Rev. Ords. 1973, § 3-21; Ord. No. 626, 2-19-74; Ord. No. 77, 7-7-75; Ord. No. 271, 4-18-78; Ord. No. S-50, 3-19-84; Ord. V-72, 3-4-96)

Sec. 3-27. Muzzling or confinement of dogs.

(a) The dog officer may order a dog to be muzzled or confined to its owner's premises, whichever in his judgment may be required, for any of the following reasons:

- (1) If found at large or unmuzzled, as the case may be, while an order of the dog officer for the confinement or muzzling of such dog is in effect;
- (2) If found in a school, school yard or public recreational area;
- (3) For having bitten any person;
- (4) For having killed or maimed or otherwise damaged any other domesticated animal;

(5) For chasing any vehicle upon any public way or way open to public travel in the city;

(6) For any violation of section 3-24 or 3-26.

(b) The owner or keeper of any dog that has been ordered to be confined or muzzled or has been confined under this article may, within seven (7) days after such order or confinement, file a request in writing with the dog officer that the confining order be vacated, or that the dog be released, and after investigation by the dog officer such officer may vacate such order or release such dog. If such order is not vacated or the dog is not released, as the case may be, the owner or keeper of such dog, within ten (10) days after such order or confinement, may bring a petition in the District Court of Newton addressed to the justice of such court, praying that the order or confinement may be reviewed by the court, and after such notice to the officer or officers involved as the court may deem necessary, it shall review such action, hear the witnesses and affirm such order or confinement, unless it shall appear that it was made without proper cause or in bad faith, in which case such order shall be reversed or the dog shall be ordered released. The decision of the court shall be final and conclusive upon the parties. (Rev. Ords. 1973, § 3-22)

Sec. 3-28. Penalty.

Any owner or keeper of a dog who shall fail to comply with the provisions of this article or any order of the dog officer issued pursuant to this article shall be punished by a fine not to exceed fifty dollars (\$50.00) for each offense. (Rev. Ords. 1973, § 3-23; Ord. No. 626, 2-19-74; Ord. No. T-168, 9-3-91; Ord. No. Z-61, 12-07-09)

Sec. 3-29. Removal and disposal of canine wastes.

It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, gutter, street, park or other public area or on any private property neither owned nor occupied by said person. No person who owns, possesses, or controls such dog shall appear with such dog on any sidewalk, gutter, street, park or other public area or on any private property neither owned nor occupied by said person without the means of removal of any feces left by such dog. For the purposes of this section the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces in a manner that such feces shall be unexposed to said person or the public. Disposal shall be accomplished by transporting such feces to a place suitable and regularly reserved for the disposal of human feces, specifically reserved for the disposal of canine feces, or as otherwise designated as appropriate by the commissioner of health and human services. (Ord. No. S-139, 11-18-85; Ord. No. X-175, 05-26-05; Ord. No. Z-61, 12-07-09)

Sec. 3-30 Dogs Off-Leash Pilot Program

(a) Notwithstanding the provisions of Sec. 3-26(a) *Restraint of Dogs*, in areas officially designated as “Designated Off –Leash Area” by a municipal agency with care, custody and control of public land, a dog may be permitted off-leash under the following minimum conditions, and subject to any other rules and regulations or time restrictions established from time to time by such agency.

(1) The dog shall at all times be accompanied by and under the control of a person, who shall ensure that the animal does not disturb the surrounding area by excessive barking, and shall ensure that it does not disturb or threaten other dogs or persons using the designated off-leash area or surrounding area; the dog shall be leashed when entering and exiting the designated off-leash area.

(2) Any dog left unattended is subject to impoundment by the Newton police;

(3) The person in charge of a dog inside a designated off-leash area shall, in accordance with Section 3-29, immediately remove and as soon as practicable properly dispose of any fecal waste deposited by that dog.

- (4) The dog shall wear a collar with identification at all times, be licensed and vaccinated, healthy and parasite free. Dogs must be at least four months old to be allowed off-leash.
- (5) The number of dogs per person in a designated off-leash area is limited to three. The person in charge of a dog or dogs must at all times carry a leash for each dog under that person's supervision.
- (6) The dog owner and/or person in charge of a dog are responsible to ensure that the dog's activity conforms to all rules and regulations pertaining to the off-leash area, as well as for any injury or damage to public property caused by the dog.
- (7) No person shall bring a female dog in heat into any designated off-leash area.
- (8) Any dog which is the subject of a complaint, investigation, order or proceeding under Section 3-25 or Section 3-27 of this ordinance, and/or under General Laws Chapter 140, section 157 shall be banned from designated off-leash areas.

(b) Sites for Designated Off-Leash Areas.

- (1) A municipal agency with care, custody and control of public land, may from time to time designate one or more specific areas on such land to be designated off-leash areas. Such custodial agency may from time to time establish rules and regulations for use of each such area, which shall be posted at the site. With respect to this section, such agency shall have sole authority over land subject to its care custody and control, may limit the number of designated areas, and may revoke a designation at any time. Notwithstanding anything to the contrary contained herein or hereafter, the following areas shall not be designated under any circumstances as designated off-leash areas by the agency having care, custody, and control thereof: the little league baseball fields on (i) Lyons Playground; (ii) James E. Murphy Field at the Halloran Sports Complex; (iii) Leo H. Riley Field at Cabot Park; (iv) Jay Gordon Field at Newton Centre Playground; and (v) Richardson Field.

(c) Dogs Off-Leash Advisory Committee.

- (1) To assist a custodial agency in its decisions, there shall be formed a dogs off-leash advisory committee, under the auspices of the department of planning and development. The advisory committee shall consist of one alderman; one representative from the parks and recreation department, nominated by the parks and recreation commission; one representative from the conservation commission, nominated by that commission; an animal control officer of the city of Newton, ex officio; and four citizens of Newton to be appointed by the board of aldermen. To insure an orderly transition, current citizen members of the existing off-leash task force shall be asked to serve as the initial citizen appointees of the dogs off-leash advisory committee for a term not to exceed one year, unless further appointed.
- (2) The advisory committee shall develop and recommend site selection criteria to custodial agencies and shall from time to time recommend to the appropriate custodial agency a site or sites which said agency may consider for designation as official off-leash areas. The advisory committee shall consider only those proposed sites for which a local resident group will sponsor the site; will designate a person to serve as liaison with the city; will agree to mitigate dog-related impact on the site; and will agree to such other terms and conditions as the advisory committee and the custodial agency may deem appropriate for that site. The custodial agency with control over such site shall take such steps as it deems appropriate to notify and to solicit the opinions and suggestions of abutters and other neighborhood residents prior to designation.

- (3) The advisory committee shall recommend to the custodial agency rules, regulations and time restrictions to be established for each off-leash area, and may at any time recommend that the agency revise said rules, regulations or time restrictions for any or all designated off-leash areas.
- (4) The advisory committee shall monitor and evaluate the dogs off-leash program and shall report to the custodial agency on a regular basis, but no less than twice a year. The advisory committee may recommend additional sites for designation, and may recommend that designation for a particular site or sites be revoked.
- (5) The advisory committee shall establish a procedure for receiving and logging comments and complaints pertaining to activities in designated off-leash areas. The log shall be made available to the custodial agency and the board of aldermen on an ongoing basis. The advisory committee shall consider comments and complaints received in order to assist in its evaluation of off-leash areas and in the reports required by Section 3-30(c)(3) and Section 3-30 (e).
- (6) The advisory committee may appoint interested residents to assist, as it may deem appropriate, in its review of off-leash sites and other tasks as assigned by the committee.

(d) *Penalties:* The owner and/or the person in charge of a dog in a designated off-leash area who fails to control said dog or who violates any of the rules, regulations or time restrictions pertaining to the designated off-leash area shall be subject to the penalties set forth in Sec. 3-26 (b).

(e) The provisions of this section will expire September 30, 2010, unless terminated earlier, or unless renewed or revised by the board of aldermen. (Ord. No. Z-11, 12-03-07; Ord. No Z-54, 11-02-09; Ord. No. Z-65, 05-17-10)