

DOG ANIMAL CONTROL BY-LAW BYLAW

(Adopted 5/10/2008; effective 7/14/2008)

These regulations, per MGL Chapter 140, sections 136A to 174E, are intended to guide those persons owning or keeping dogs within the Town of Becket in their role as responsible pet owners **and to provide guidance on other animal control issues**. It must be understood, however, that enforcement of same is necessary to protect the rights and safety of the public. Any owner/keeper seeking relief from any portion of these regulations may file ~~or~~ **an** appeal for same with the Board of Selectmen. **Definitions relating to this bylaw are contained in Section 12.**

SECTION 1. Dog Licenses and tags.

1. The owner or keeper of a dog kept within the Town of Becket, said dog being six months of age or older, shall cause that dog to be licensed annually. The license year shall be from April 1 to the following March 31, inclusive.
2. The Town Clerk shall issue dog licenses and tags. The Town Clerk shall record for each license issued, the name, address and telephone number of the owner or keeper of each dog so licensed, the tag number issued, date of expiration of last rabies vaccination, breed, age, color, or other description of the dog. **Every license issued to the owner of a dog shall have a description of the symptoms of rabies printed thereon.** Each tag shall contain the tag number, the name "BECKET" and the year of issue.
3. The owner or keeper shall cause said dog to wear around its neck or body a collar or harness to which he/she shall securely attach the tag issued. In the event that any tag is lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the Town Clerk, at a cost of \$2.00 each.
4. The fee for each dog licensed shall be \$11.00, unless a certificate of a veterinarian stating that the dog has been spayed or neutered has been presented to the Town Clerk, in which case the fee shall be \$5.00. **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 MGL Chapter 140, section 137 and shall be subject to this section 137A, sections 137B and 137C and so much of section 141 as it relates to violations of MGL Chapter 140, section 137A 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.** Any owner or keeper of four or more dogs, ~~six~~ **three** months of age or **older**, may elect to secure a kennel license as follows:
 - a. 4 dogs - \$21.00
 - b. Up to 10 dogs - \$41.00

- c. Over 10 dogs - \$100.00

No license fee or part thereof shall be refunded because of a subsequent death, loss, spaying or neutering, or removal from the Town of such dog. A late fee of \$5.00 per dog will be charged for late renewals after April 15. A late fee of \$10.00 per dog will be charged for late renewals after June 15. This does not apply for newly acquired dogs or for individuals who have moved into Town less than 30 days prior to licensing. All dogs must be licensed every year. **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.**

A kennel license shall be issued 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.

Any increase in License fees must be approved by majority vote at a Town Meeting.

5. A license shall not be issued for any dog unless the owner or keeper **provides** the Town Clerk with a veterinarian's ~~certificate verifying that the dog is currently vaccinated against rabies or indicating that, because of infirmity, other physical condition or regimen of therapy, said vaccination is deemed inadvisable.~~ **certification that the dog has been vaccinated in accordance with MGL Chapter 140, 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.** Said certification shall be updated annually by the owner. The rabies vaccination expiration date shall be recorded on the license record.
6. **The license shall be granted upon condition that the dog shall be controlled and restrained from killing, chasing or harassing livestock or fowl.**
7. ~~6. No fee shall be charged for a dog specially trained to lead or serve a disabled person, upon presentation of certification of said training.~~ **license for a service animal as defined by the Americans with Disabilities Act or regulations promulgated thereunder.**
8. ~~7. The owner or keeper of any dog shall provide proof of said license upon request of the Animal Control Officers, Police Officers or other authorized officials.~~
9. **Unless otherwise specifically provided by law, every license and tag issued under MGL Chapter 140, sections 137 and 137A, held by any person found guilty of, or penalized in any manner for, a violation of any provision of MGL Chapter 272, sections 77, 801/2, 80A, 94 or 95, shall be void, and shall immediately be surrendered to the authority issuing such license and tag. No person shall be given a license and tag 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.

10. ~~8.~~ The penalty for violation of this section, in addition to any other penalties provided by law, shall be \$50.00. The penalty for failure to license said dog within 30 days of notification of violation of this section shall be \$75.00.

SECTION 2. Leashing and restraint of dogs.

1. No owner or keeper of a dog shall permit such a dog whether licensed or unlicensed to run at large within the Town of Becket. No person shall permit a dog owned or kept by him beyond the confines of the property of the owner or keeper unless the dog is physically restrained by a leash and under the control of its owner/keeper.
2. No person shall permit a dog owned or kept by him to run freely outside the confines of the property of the owner or keeper unless leashed or as to restrain the dog in such manner that the dog will not go beyond the property of the owner or keeper by fencing or appropriate barriers.
3. Per MGL Chapter 140, section 174E, (a) No person owning or keeping a dog shall chain or tether a dog for longer than 5 hours in a 24-hour period and outside from 10:00 p.m. to 6:00 a.m., unless the tethering is for not more than 15 minutes and the dog is not left unattended by the owner, guardian or keeper. 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) A person shall not leave a dog outside when a weather advisory, warning or watch is issued by a local, state or federal authority or when outside environmental conditions including, but not limited to, extreme heat, cold, wind, rain, snow or hail pose an adverse risk to the health or safety of the dog based on the dog's breed, age or physical condition, unless the tethering is for not more than 15 minutes.

(e) An exception to a restriction on outdoor confinement under this section that is reasonably necessary for the safety of a dog shall be made for a dog that is: (i) present in a camping or recreational area pursuant to the policy of the camping or recreational area; or (ii) actively engaged in conduct that is 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.

(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 \$200 and for a third or subsequent offense, be punished by a fine of not more than \$500, and be subject to impoundment of the dog in a local shelter at the owner's, keeper's or guardian's expense pending compliance with this section, or loss of ownership of the dog.

(h) A special police officer appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals may enforce this section following the same procedures relating to notice and court procedure in MGL Chapter 40, section 21D for the non-criminal disposition of a violation, if the Animal Control Officer contacted by this agency in response to a violation of this section is unresponsive or unavailable.

4. ~~3.~~ No person shall permit a dog owned or kept by him to be unaccompanied by a person of adequate age and discretion to properly control its actions.
5. ~~4.~~ Any dog found to be at large in violation of ~~this section~~ **Section 2** may be caught and confined by an officer authorized to do so, or returned to the owner or keeper of record forthwith. The Animal Control Officer, or authorized agent, shall attempt to notify the owner/keeper of record of a confined dog. The owner/keeper of said dog shall have a period of time, not to exceed 10 days, within which to recover said dog. Return of the dog to the owner/keeper of record shall be

dependent upon admission of ownership or the keeping of said dog, and assumption of responsibility by the owner or keeper. If said dog is unlicensed, a current license shall be obtained and all impound fees paid prior to release of the dog. In addition to fees charged for boarding, medical or other care costs, there shall be an impound fee paid to the Town of Becket of \$20.00 for licensed dogs and \$30.00 for dogs unlicensed at time of impound.

6. ~~5.~~ This section shall not be construed to limit or prohibit the use of hunting dogs during the hunting season, the conducting of field trials for hunting dogs or the training or use of police K-9 units.
7. ~~6.~~ The penalty for violations of this section shall be \$25.00 for each offense.

**SECTION 3. ~~Nuisances committed by dogs; removal by owner; exception.~~
Cleaning Up After Dogs.**

No person owning or having the care, custody or control of any dog shall permit such dog to soil or defile or commit any nuisance upon any sidewalk, street, thoroughfare, beach or wetland, in or upon any public property, or in or upon the property of persons other than the owner or persons having the care, custody or control of such dog, unless said person picks up any such waste and disposes of same in a sanitary manner. This section shall not apply to physically disabled persons in sole custody or control of said dog. The penalty for violation of ~~the~~ this section shall be \$15.00 per offense.

SECTION 4. ~~Disturbing the Peace and Endangering Safety~~

~~Whoever shall own or keep any dog which, by biting, barking, howling or any other manner, commits a nuisance or disturbs the peace and quiet of any neighborhood or endangers the safety of any person after having been warned by a Police Officer or an Animal Control Officer shall be punishable by a fine not exceeding \$25.00~~

SECTION ~~5~~ 4. Property damage; appraisal; reimbursement.

1. Whoever suffers loss by the worrying, killing or maiming of his livestock or fowl by dogs shall inform the Animal Control Officer who shall forthwith proceed to the scene to view the damage, who shall determine if the damage was done in fact by dogs and, if so, appraise the amount of damage if it does not exceed \$50.00. The provisions of General Laws Chapter 140, sections 161 and 161A shall apply to whoever suffers loss in a manner described in said section 161.
2. ~~If in the opinion of the Animal Control Officer the damage exceeds \$50.00, the damage shall be appraised on oath by three persons, one of whom shall be the Animal Control Officer, one shall be appointed by "the person alleged to have suffered the loss and the third appointed by the other two.~~
3. ~~Said appraisers shall consider and include in such damages the number and kind of animals damaged, the extent of the damage and the approximate weight of the killed animals. The appraisers will also note in their report whether or not any animals were sent for medical treatment in an effort~~

~~to save them, the number and kind of such animals. Such report shall be filed with the Board of Selectmen within 10 days of said appraisal. The Board of Selectmen may require the appraisers to provide any additional information that they deem appropriate. The appraisal will be reviewed and submitted for payment as deemed appropriate. Reimbursement may be denied or limited in accordance with Chapter 140, § 161A, MGL Chapter 140, section 161A. of the Massachusetts General Law.~~

SECTION 6 5. Liability of dog owner.

1. The owner or keeper of a dog which has done damage to livestock or fowl shall be liable for such damage, and the Board of Selectmen may order the owner or keeper to pay such damages after an investigation by the Animal Control Officer of the facts of the matter and appraisal conducted as outlined in Section 5 **4. A nuisance finding must be made after investigation before any fines or remedial action may be taken.**
2. In the event that the owner or keeper of such dog known to have done damage to livestock or fowl refuses to pay upon the order of the Board of Selectmen, the Animal Control Officer shall enter or cause to be entered a complaint in District Court for the enforcement of the order.

SECTION 7. 6. Vaccination against rabies.

1. The owner or keeper of a dog six months of age or older, housed or sheltered in the Town of Becket, shall cause such animal to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Massachusetts Department of Public Health. Such owner or keeper shall procure a veterinarian's certification that such animal has been so vaccinated and setting forth the date of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certification was issued, or a metal rabies tag bearing an expiration date indicating that such certification is still in effect.
2. Vaccinated animals shall be revaccinated periodically in accordance with rules and regulations adopted and promulgated by the Massachusetts Department of Public Health **per 105 CMR 330.0000.**
3. The owner or keeper of a dog shall present certification of rabies vaccination upon demand of the Animal Control Officers, police officers or other authorized officials of the Town.
4. The penalty for violation of this section shall be \$50.00 for each offense. The penalty for failure to vaccinate said animal within 30 days of notification of a violation of this section shall be \$75.00.

SECTION 8. 7. Quarantine of dogs suspected of having contagious disease.

1. The Board of Selectmen, or ~~his~~ **its** authorized agent, may order any dog which said person has reason to believe is affected with a contagious disease, to be quarantined or isolated for at least 10 days upon the premises of the owner or of the person in whose charge it is found, or in such other place as the Board of Selectman or agent may designate.

2. A dog which has been quarantined or isolated by order of the Board of Selectmen or his agent shall, during the continuance of such quarantine or isolation, be deemed to be affected with a contagious disease. The owner or keeper shall be responsible for any fees incurred for any off-premises quarantine. Whoever knowingly breaks or authorizes or causes to be broken a quarantine so imposed; or whoever contrary to such order of quarantine or isolation knowingly removes a dog or authorizes or causes it to be removed from a building, place or enclosure where it is quarantined or isolated; or whoever contrary to an order or notice of quarantine knowingly places or causes or authorizes to be placed any other animals within a building, place or enclosure where a dog is quarantined or in contact therewith; or knowingly causes or authorizes to be concealed, sold, removed or transported a dog, knowing or having reasonable cause to believe that it is affected with a contagious disease; or whoever knowingly authorizes or permits such dog to go at large within the Town of Becket shall be punished by a fine of \$200.00. Any such dog found at large by the Animal Control Officer, or other authorized agent of the Town, shall be captured and confined at the expense of said owner or keeper. This section shall not apply to authorized Town officials in the performance of their duties.

SECTION 9. 8. ~~Complaint investigation; order to restrain or remove.~~ Nuisance or dangerous dogs; orders for remedial action; appeal; violation of order

~~If any person shall make a complaint in writing to the Board of Selectmen that a dog owned or kept in the Town of Becket is a nuisance by reason of vicious disposition or excessive barking or other disturbance, the Board of Selectmen shall cause to be investigated such complaint, including an examination on oath of the complainant, and may make such order concerning the restraint or disposal of such dog as may be deemed necessary. Within 10 days after such order the owner or keeper of such dog may petition for relief of said order in accordance with the provisions of Massachusetts General Law, Chapter 140, § 157. Any person owning or keeping a dog subject to any order of the Board of Selectmen, who shall fail to comply with said order of the Board of Selectmen, shall be punished by a fine of \$100.00 for each offense. The owner/keeper of any dog subject to an order of the Board of Selectmen shall be responsible for any and all costs of carrying out said order.~~

Any person may file a complaint in writing to the hearing authority that a dog owned or kept in the 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.

(a) 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 in which the owner of the dog resides. The town shall not 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 MGL Chapter 221, section 62C, 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 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 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 (Town Clerk) 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).

Per MGL Chapter 140, 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.

SECTION 10. 9. Violations and penalties.

Unless otherwise stated, violation of any provision of these regulations shall be punished by a fine not to exceed \$300.00. The provisions of these regulations may be enforced by the Animal Control Officer utilizing the procedures contained in ~~Massachusetts General Law~~ MGL Chapter 40, § section 21D, as a non-criminal disposition of the violation. ~~The fine for violations pursued utilizing the provisions of Chapter 40, § 21D, shall be \$50.00 unless otherwise specified within the regulation.~~

SECTION 11. 10. Animal Control Officer

Subject to the approval of the Board of Selectmen, the Town Administrator shall annually appoint an Animal Control Officer under the provisions of MGL Chapter 140, section 151. The Animal Control Officer shall have the authority to issue citations, penalties and enforce this Bylaw per MGL Chapter 140, section 151A.

The Board of Selectmen, shall annually issue a warrant to the Animal Control Officer directing the officer to seek out, catch and confine all dogs within the town which are not licensed, collared or harnessed, or tagged, as required by this bylaw, and to enter and prosecute a complaint for failure to comply against the owners or keepers of such dogs, if known, and to euthanize or cause to be euthanized each such dog not licensed, collared or harnessed, or tagged after being detained by or for the officer for a period of 10 days and otherwise in accordance with MGL Chapter 140, section 151A(b). The Animal Control Officer shall, after a dog has been checked for tattoo and microchip and found to be free of disease by a licensed veterinarian, make the dog available for adoption.

It shall be the duty of the Animal Control Officer, per MGL Chapter 140, section 151A(b), to keep, or cause to be kept, accurate and detailed records or forms which fully and correctly disclose the impoundment and disposition of all animals held in custody and such record shall be forwarded to the Town Clerk within 30 days. The Animal Control Officer shall submit monthly reports to the Board of Selectmen including all calls regarding dogs and all bite cases reported and the investigation of same.

It shall be the duty of the Animal Control Officer to investigate complaints concerning any dogs which are alleged to be in violation of Town Bylaws and/or Massachusetts General Law and to apprehend any dog determined by hearing to be a nuisance or dangerous dog and to impound such dog in a suitable place or to order the owner thereof to restrain such dog.

SECTION 42. 11. Warrant to Animal Control Officer

The provisions of MGL Chapter 140, section 152 and MGL Chapter 140, section 153 are incorporated herein.

SECTION 43. 12. Definitions

The following words as used in MGL Chapter 140, 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 MGL Chapter 140, 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 MGL Chapter 129, section 39A, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

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 the Town of Becket.

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 the 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 Becket Town Clerk.

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.