

## Chapter 128: ANIMALS AND FOWL

[HISTORY: Adopted by the City Council of the City of Northampton as Ch. 5 of the 1977 Code. Amendments noted where applicable.]

### GENERAL REFERENCES

General penalty — See Ch. 1, § 1-17.

Enforcement — See Ch. 40.

Fees — See Ch. 174.

Horse-drawn carriages for hire — See Ch. 316, Art. III.

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## ARTICLE I General Animal Regulations

### § 128-1. Wild animals.

- A. No person shall lead or drive or otherwise cause to travel, pass or be conveyed, any dangerous wild animal upon or along any highway, street, court, alley, park, or other public way or ground within the City limits, unless the same is properly secured in some covered vehicle or cage, and is in charge of a person competent to control said wild animal in case of accident.
- B. Any such animal found upon any way or ground designated in the preceding subsection and not confined as therein described shall be immediately seized by any Constable or police officer of the City having knowledge thereof, and if necessary, may be killed by such officer.

### § 128-2. Keeping fowl, swine, or goats.

No person shall keep any live fowl, swine or goats, except in accordance with the rules and regulations of the Board of Health.

### § 128-3. Maintenance of premises where animals kept.

No person shall keep or allow to be kept in any building, or on any premises of which he may be the owner or occupant, any cow, horse or any other animal unless such premises or building is kept clean and wholesome, and in accordance with such rules as may be prescribed by the Board of Health.

### § 128-4. Animals at large or grazing on streets prohibited.

No person shall permit any horse, cow, swine, goat or other grazing animal to go at large, or to graze, or to remain standing without being securely tied, on any street.

### § 128-5. Tying animals to trees, shrubs, fences or other fixtures prohibited. [Amended 8-17-2000 *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).* ]

No person shall tie a horse, dog or any other animal to any streetlight, utility pole, post, sign, parking meter, tree, vine or shrub, fence or any other fixture on or adjacent to any public sidewalk, public way, public park or other public place, when tying said animal poses a public safety or public health problem, or endangers the welfare of the animal. The penalty for violation of this section shall be as provided in Chapter 40, Enforcement, for each offense.

### § 128-6. Care and control of domesticated animals. [Added 8-17-2000]

- A. Every owner/keeper of a domesticated animal shall provide his or her animal with sufficient potable water and wholesome food, proper shelter and protection from the weather, including extremes of heat and cold, veterinary care sufficient to prevent suffering and the spread of disease and shall provide humane care and treatment for the animal.
- B. No owner or keeper shall abandon any animal. For the purpose of this section, "abandonment" shall be defined as the willful desertion of an animal or the failure to claim an impounded animal.
- C. The penalties for violation of this section shall be as set forth in Chapter 40, Enforcement.  
*Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

**§ 128-7. Confinement of female dogs in estrus.** *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).* **[Added 8-17-2000]**

- A. Every female dog in estrus (heat) shall be confined in a building or secured enclosure in such a manner that the female dog cannot come into accidental contact with any other dog. The penalty for the violation of this section shall be as set forth in Chapter 40, Enforcement, for each offense.
- B. The owner of any male dog, who trespasses onto the property where a female dog in estrus is properly confined, shall be subject to a fine as set forth in Chapter 40, Enforcement, for each offense in addition to the leash law violation fine. *Editor's Note: See § 128-9 of this chapter.*

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## **ARTICLE II Dogs and Cats**

**§ 128-8. Annual licensing; late charge. [Amended 12-21-1989; 8-17-2000; 6-19-2003]**

- A. The owner or keeper of any dog six months old or older owned or kept within the City shall, within 30 days of residence, cause such dog to be licensed and to wear a valid license tag and a valid rabies tag affixed to a collar or harness in accordance with the laws of the commonwealth. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- B. No license shall be issued to a person who has not attained the age of 18 years.
- C. Fees.
  - (1) The fee for licensing of said dog shall be as set forth in Chapter 174, Fees, for the following: *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
    - (a) Neutered male dogs and spayed female dogs; documentation from a veterinarian of the neutering or spaying must be provided at the time of licensing.
    - (b) Unneutered male dogs and unspayed female dogs.
    - (c) Duplicate (replacement) tags.
    - (d) Transfer licenses (from other Massachusetts city or town).
  - (2) However, no fee shall be charged for licensing of certain specially trained dogs as set forth in MGL c. 140, § 139.
- D. Beginning May 1 and on first of each succeeding month, weekends and holidays excluded, the owner or keeper of any dog six months old or older owned or kept within the City, who has not obtained the required license shall be assessed an administrative late charge by the City Clerk as set forth in Chapter 174, Fees, for each and every month that the dog remains unlicensed. All such fees must be paid before a license can be issued for any subsequent year. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

**§ 128-9. Running at large; restraint of dogs. [Amended 8-17-2000]**

- A. No person owning or keeping a dog within the City shall allow such dog to roam at large upon the land of another, except if it is on the premises of another person with his or her permission, nor shall they allow such dog to roam at large on any portion of a public highway or any public property, nor shall an owner or keeper restrain a dog on his/her own property so as to permit said dog to extend onto public or private property or to create a danger to the public safety.
- B. The owner or keeper of a dog in the City which is not on the premises of the owner/keeper or upon the premises of another with the permission of said person shall restrain said dog with a chain or leash of sufficient material and strength as necessary to restrain the dog and shall be held by a person capable of controlling the movements of the dog. The chain or leash shall be of a length which prohibits the dog from being a nuisance to persons nearby or causing damage to public or personal property.
- C. No owner/keeper of a dog shall allow it on public school property during school hours without the permission of the school principal, unless it is in a vehicle and kept in such a way as to prevent contact with passersby.
- D. The owner or keeper of a dog may use such dog for sporting purposes during the hunting seasons provided for by the fish and game laws of the commonwealth.
- E. This section shall in no way limit or preclude the use of certain specially trained dogs as set forth in MGL c. 140, § 139.

**§ 128-10. Redemption of impounded dogs. [Amended 6-18-1987; 8-17-2000; 6-19-2003]**

- A. Any person wishing to retrieve a dog confined under a warrant issued pursuant to § 128-9 shall provide upon request:
  - (1) Positive identification, such as a driver's license or equivalent identification.
  - (2) Proof of ownership of said animal.
- B. Such person wishing to retrieve a dog shall first pay to the City the fees for the following as set forth in Chapter 174, Fees: *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
  - (1) Pickup fee.
  - (2) Administrative fee.
  - (3) Identification fee, which shall be assessed for any dog impounded that does not have affixed to its collar or harness a current city/town dog license tag and valid rabies tag.
  - (4) Care and keeping.
- C. All payments shall be made to the City Clerk or the Animal Control Officer who shall issue a receipt. All such payments collected by the Animal Control Officer shall be turned over to the City Clerk.

**§ 128-11. Hearing officer for dog complaints. [Amended 6-19-2003]**

The Mayor shall designate an individual or body to serve as the hearing officer for dog complaints. The hearing officer shall be empowered to conduct hearings under oath, subpoena witnesses, and issue orders relative to complaints of nuisance dogs owned or kept in the City under the provisions of MGL c. 140, § 157, and complaints of improperly maintained or nuisance dog kennels under § 128-18 of this chapter.

**§ 128-12. Permitting dogs to cross certain property prohibited in May through August.**

*Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

Whoever having charge or custody of a dog willfully suffers or permits it to enter or remain or pass over any orchard, garden, mowing land or other improved or enclosed land of another during the months of May, June, July or August, after being forbidden so to do in writing or by notice posted thereon by the owner or occupant thereof, or by an authorized agent of such owner or occupant, shall be punished by a fine as provided in Chapter 40, Enforcement.

**§ 128-13. Responsibility for and removal of canine waste. [Added 10-2-1980]**

- A. 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, street or other public area. It shall further 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 private property neither owned nor occupied by said person.
- B. No person who owns, possesses or controls such dog shall appear with such dog on any sidewalk, street or other public area without the means of removal of any feces left by such dog. Furthermore, no person who owns, possesses or controls such dog shall appear on any private property neither owned nor occupied by said person without the means of removal of any feces left by said dog.
- C. For the purposes of this regulation, the means of removal shall be any tool, implement, container or other device carried for the purpose of picking up and containing such feces, 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 by the Northampton Board of Health.
- D. Any person found in violation of this section by an Animal Control Officer or a Police Officer shall cause a complaint to issue in the court of jurisdiction. The penalty for violation of this section shall be as set forth in Chapter 40, Enforcement, for each offense. **[Amended 8-17-2000** Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I). ]
- E. This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

**§ 128-14. Requirement for rabies vaccination of dogs and cats. [Added 6-18-1992; amended 6-19-2003]**

- A. Whoever in the City of Northampton is the owner or keeper of a dog or cat six months of age or older shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions, and shall cause such dog or cat to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dogs and cats acquired or moved into the City from outside the commonwealth shall be vaccinated within 90 days after the acquisition or arrival into the commonwealth or upon reaching the age of six months, whichever last occurs.
- B. The rabies vaccination tag, issued by the vaccinating veterinarian, shall be secured by the owner or keeper of such dog or cat to a collar or harness made of suitable material to be worn by the dog or cat; provided, however, that the owner of a cat may choose not to affix a tag to his cat, but shall have the tag available for inspection by authorized persons. In the event that a tag is lost, the owner or keeper shall obtain a replacement tag from the vaccinating veterinarian.
- C. Failure to immunize a dog or cat and/or maintain records of the same shall be subject to a fine as set forth in Chapter 40, Enforcement. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**§ 128-15. Animal Control Officer; poundkeeper and provider. [Added 6-19-2003]**

The Mayor shall appoint an Animal Control Officer for the City for a term of up to three years. The qualifications of the Animal Control Officer shall be established by the Mayor.

- A. The Animal Control Officer shall be responsible for enforcement of the state statutes pertaining to dogs as found under Chapter 140 of the Massachusetts General Laws, those City ordinances pertaining to the licensing and regulation of dogs and other animals, as well as warrants issued by the City under the provisions of § 153 of Chapter 140. The Animal Control Officer shall investigate 1) complaints of nuisance dogs under the provisions of § 157 of Chapter 140; 2) claims of damage by dogs to livestock or fowls under § 128-17 of this chapter, and 3) complaints of improperly maintained or nuisance kennels under § 128-18 of this chapter. Additionally, the Animal Control Officer shall investigate other complaints of violations of statutes and/or City ordinances relating to animal control, and where appropriate bring criminal or noncriminal action. For the purpose of enforcing these statutes and City ordinances, the Animal Control Officer shall be designated a special police officer, subject to annual appointment.
- B. The Animal Control Officer shall also serve as the dog poundkeeper and provider. The Animal Control Officer shall collect and turn over to the City Clerk any fees collected for the redemption and the care and keeping of dogs impounded.
- C. The Animal Control Officer may sell for a designated fee any unclaimed and undiseased dog, which has been confined, unless the dog is turned over to another recognized animal shelter or rescue group. The Animal Control Officer shall keep a record of all such sales and all fees collected shall be turned over to the City Clerk.
- D. No Animal Control Officer shall be a licensed animal dealer registered with the United States Department of Agriculture, and no Animal Control Officer, either privately or in the course of carrying out his/her official assignments as an agent for the City of Northampton, shall give, sell, or turn over any animal which may come into his/her custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture.
- E. Before disposing of any dog in his/her possession, the Animal Control Officer shall check its description against descriptions issued on dogs licensed within the City. The Animal Control Officer, prior to euthanizing animals, shall have completed under the supervision of a veterinarian registered under the provisions of MGL c. 112, § 55 or 56C, a course of instruction in humane techniques for the euthanization of animals.
- F. Additionally, the Animal Control Officer shall perform all other duties prescribed by statute, City ordinance or those established by job description and/or contract.

**§ 128-16. Reimbursement for damages to livestock or fowls. [Added 6-19-2003]**

- A. Whoever suffers damage to his/her livestock or fowls caused by an unidentified dog or dogs may request reimbursement for such damages from the City. The City's Animal Control Officer shall investigate the circumstances of the damage and make a determination whether it was caused by dogs, not owned or kept by the owner of the damaged livestock/fowls. If there is reason to believe that the damage inflicted was caused by unidentified dogs, the Animal Control Officer shall notify the livestock/fowls owner that he/she may make a claim for the reimbursement for costs of the damage to the City's Claims Committee. The Animal Control Officer shall also submit a report to the Claims Committee detailing his/her investigation and determination of cause, relative to such damage.
- B. In order to make a claim, the livestock/fowls owner shall submit to Claims Committee an application for reimbursement along with written estimates of the value of the damage from three bona fide livestock/fowls dealers. If the Committee determines that there is just cause to

believe that an unidentified dog or dogs caused the damage, and that the amount of the claim is reasonable, said Committee shall recommend to the City Council that damages be paid. The Committee shall have the right to negotiate with the livestock/fowls owner as to the amount of the damage award. However, no payment for damage shall exceed the fair cash market value of such livestock or fowls.

- C. Owners of livestock shall not be entitled to reimbursement for the following:
- (1) If at the time the damage was inflicted, the livestock/fowls owner/keeper was him/herself the owner or keeper of an unlicensed dog, six months old or older.
  - (2) For damage to wild animals or wild fowls, unless they were kept under a permit from the Department of Fisheries and Wildlife and kept in proper houses or suitable enclosed yards.
  - (3) For damage to dogs, cats or other pets.

**§ 128-17. Veterinarians' fees for emergency treatment of dogs and cats injured on ways. [Added 6-19-2003]**

Any veterinarian registered under the provisions of § 55 or 56A of Chapter 112 who renders emergency care or treatment to, or disposes of, a dog or cat that is injured on any way within the City of Northampton shall receive payment from the owner of such dog or cat, if known or subsequently identified. If the owner is unknown, the veterinarian may submit an invoice to the Police Department for payment of an amount not to exceed \$50 for such care, treatment or disposal; provided, however, that such emergency care, treatment or disposal shall be for the purpose of maintaining life, stabilizing the animal or alleviating suffering for a period of up to 24 hours. Any veterinarian, who renders such emergency care or treatment to, or disposes of, such dog or cat shall notify the City's Animal Control Officer. Upon notification, the Animal Control Officer shall assume control of such dog or cat. The Animal Control Officer shall endeavor to identify the owner of the injured dog or cat. If the owner is identified, the Animal Control Officer shall provide same to the treating veterinarian. If the owner remains unknown, the Animal Control Officer shall verify that there is reason to believe that the injury occurred on a way within the City and provide the Chief of Police or his/her designee with a written report of the matter. Upon receipt of such verification, the Chief of Police or his/her designee shall approve payment of the invoiced amount, not to exceed \$50 for the veterinarian's services.

**§ 128-18. Inspection of kennels; suspension or revocation of license; procedure for declaring a kennel a nuisance. [Added 6-19-2003]**

- A. The Animal Control Officer, any police officer or an agent of the Board of Health may at any time inspect any kennel within the City. If, in that officer's or agent's judgement, the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, said officer or agent shall make a complaint in writing to the hearing officer for dog complaints. Upon receipt of such complaint, the hearing officer shall, after giving notice to all parties of interest, conduct a hearing, and upon finding just cause shall suspend or revoke the kennel license. Upon proof of the correction of the deficiency, the hearing officer may reinstate a license that has been suspended.
- B. Upon the receipt of a petition from 25 or more residents, residing within proximity of a kennel, alleging that they are aggrieved, or annoyed to an unreasonable extent, by one or more dogs at a kennel maintained in the City, because of the excessive barking or vicious disposition of said dogs or conditions connected with such kennel constituting a public nuisance, the hearing officer shall, within seven days of the filing of such petition, give notice to all parties in interest of a hearing to be held within 14 days after the date of such notice. Within seven days after conducting the public hearing, the hearing officer shall, upon a determination of just cause, issue an order either revoking or suspending the kennel license or otherwise regulating the

kennel. If just cause is not found, the hearing officer shall dismiss the petition. Written notice of any order of suspension or revocation shall be mailed forthwith to the license holder and a copy provided to the City Clerk. Within 10 days of the issuance of an order the license holder may petition the Northampton District Court for review of such order. After notice to the officer or officers involved as it may deem necessary, the court shall review the action, hear witnesses and affirm the order unless it appears that it was made without proper cause or in bad faith, in such case the order shall be reversed. The Court's decision shall be final and conclusive on all parties. Any person, maintaining a kennel after the license has been revoked or while the license is suspended, shall be punished by a fine as set forth in Chapter 40, Enforcement. For the purpose of this section, each day that a kennel remains in operation after revocation or suspension of its license shall be considered a separate offense. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

**§ 128-19. Annual kennel dog licenses. [Added 6-19-2003]**

- A. Every person maintaining a kennel shall have a kennel license. For the purpose of this section, a kennel shall be defined as an owner of more than one dog, over six months old, which are kept for the primary purpose of breeding or sporting use. Such license shall be in lieu of any other license for any dog while kept at such kennel during the term of the kennel license. No kennel license shall be issued to a person who has not attained the age of 18 years. A kennel license shall not be required when all dogs owned and kept are individually licensed under the provisions of § 128-8. Kennel licenses shall be issued by the City Clerk.
  - (1) The holder of a kennel license shall cause each dog kept therein to wear a collar or harness of leather or other suitable material, to which shall be securely attached a numbered tag issued by the City Clerk.
  - (2) All dogs kept at a kennel shall be vaccinated against rabies in accordance with the requirements of MGL c. 140, § 145B, as well as § 128-14 of this chapter. Each dog shall have attached its collar or harness a rabies vaccination tag issued by a veterinarian. The holder of a kennel license shall keep on file at the kennel the rabies certificate for each dog kept there. The rabies license shall be subject to inspection by the Animal Control Officer, agent of the Board of Health or any police officer. At least once annually, the Animal Control Officer shall inspect the rabies certificates of all the dogs kept by each kennel license holder. Failure to have a current rabies certificate on file for each dog kept by a kennel license holder shall be grounds for the revocation of the kennel license.
- B. The kennel licensing fee schedule shall be as set forth in Chapter 174, Fees. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- C. Beginning May 1 and on first of each succeeding month, weekends and holidays excluded, the keeper of any kennel within the City, who has not obtained the required license, shall be assessed an administrative late charge by the City Clerk as set forth in Chapter 174, Fees, for each and every month that the kennel remains unlicensed. All such fees must be paid before a license can be issued for any subsequent year. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- D. Holders of a kennel licenses shall maintain records of every dog kept at his/her kennel. These records shall include the name, sex and description of each dog kept. All such records shall be available for inspection by any Animal Control Officer, police officer, agent of the Board of Health or environmental police officer.
- E. Before any kennel license shall issue, the applicant shall establish to the satisfaction of the Building Commissioner that he/she is in compliance with any and all zoning or business licensing requirements pertaining the operation and maintenance of a kennel facility.