DOG CONTROL BYLAW

(HISTORY: Adopted April 10, 1989 ATM Article 35; Approved by Attorney General 6-1989. Amendments May 11, 1992 ATM Article 10 (Section 3 Enforcement); Approved by the Attorney General June 15, 1992); May 11, 1998 ATM Article 24 (Repealed in its Entirety and Substituted with Amended Version); Approved by the Attorney General August 19, 1998. Amended 5/11/2015; Approved by the Attorney General September 8, 2015 excluding §2.4 requiring a vote of Town Meeting to approve fees. Section 3 amended ATM May 13, 2019; Approved by the Attorney General September 9, 2019)

Statement of Purpose: This by law is intended to guide those persons owning or keeping dogs in their role as responsible pet owners so as not to adversely affect the residents of the Town of Dunstable, and to provide for the due and proper disposition of the proceeds of fees and fines arising from the keeping and licensing of dogs.

§ 1. Regulation of Dogs

1.1 Definitions as used in this Section - the following words and terms have the following meanings:

- A. Animal Control Officer: an appointed officer authorized to enforce Massachusetts General Laws Chapter 140 sections 136A and 174E.
- B. Attack: aggressive physical contact initiated by an animal.
- C. 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.
- D Domestic animal: an animal designated as domestic by regulations promulgated by the department of fish and game.
- E. 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.
- F. Hearing authority: the Board of Selectmen.
- G. Keeper: a person, business, corporation, entity or society, other than the owner, having possession of a dog.

1.2 No person shall permit a dog owned or kept by him/her to be beyond the confines of the property of the owner or keeper unless the dog is under the control of such owner, keeper or his/her agent or is firmly held on a leash. Any dog kept within the confines of the town must be duly licensed and tagged as required by Massachusetts General Laws, Chapter 140, Sections 137-147 including amendments as enacted and approved by the Commonwealth. As used in this Section, the term 'control' shall include, but shall not be limited to oral or visual commands to which the dog is obedient. Nothing in this section shall be construed to limit the authority of the Selectmen to impose a more restrictive standard of restraint in connection with a particular matter properly before them under any applicable law, bylaw or regulation.

1.3 Violation of this control provision of the bylaw shall be punishable by a fine of ten dollars ($10.00) for the first offense, fifteen ($15.00) for the second, twenty ($20.00) for the third, and twenty-five dollars ($25.00) for the fourth or subsequent offenses. Nothing in this Section shall be deemed to limit the authority of the enforcing authority to issue a warning in any instance.

1.4 The enforcing authority hereunder shall be either the Dunstable Police Department, including any Police Officer in said Department, or the Animal Control Officer.

1.5 The provisions of Massachusetts General Law Chapter 140, Sections 136A through 174E inclusive, as may be amended from time to time and insofar as applicable, including the definitions therein, are hereby incorporated by reference into this bylaw relating to the regulation of dogs, insofar as they may explain, clarify or supplement the provisions hereof.

§ 2. Licenses

2.1 Definitions as used in this Section - the following words and terms have the following meanings:

A. License period – the period of time for which any duly issued dog license is valid, including the date of issuance of the license through the date on which the license expires, inclusive.
B. Licensing authority – The Town Clerk

2.2 The owner or keeper of a dog within the town shall cause the dog to be initially licensed when it attains the age of six months and annually thereafter. Proof of a currently valid rabies vaccination shall be required prior to the issuance of any license.

2.3 The annual licensing date shall be January 1st of any year.

2.4 The Town Clerk shall, pursuant to Massachusetts General Laws Chapter 40, Section 22F, from time to time fix reasonable fees to be charged for the issuance of licenses for dogs. (NOTE ATTORNEY GENERAL COMMENTS ABOVE)

2.5 The Town Clerk shall, pursuant to Massachusetts General Laws Chapter 40, Section 22F, from time to time fix reasonable fees to be charged for the issuance of licenses for kennels.

2.6 The Town Clerk shall be responsible for the issuance of all licenses related to this bylaw.

A. Any person or entity who fails to register and license his/her/its dog each year by April 1 in the Town of Dunstable, Middlesex County, and pay the fees and charges under any and all applicable ordinances, bylaws or regulations adopted/observed by the Town of Dunstable will be required to pay to the Town a late fee, in the amount of ten dollars ($10.00). Any such person, etc, acquiring a dog, six months of age or older, after the last day of March in any year shall cause the dog to be registered and licensed within Thirty (30) days from the date of acquisition which shall be presumed to be the date on the rabies certificate. Failure to register and license the dog shall subject such person to a late fee of $10.00, which shall be payable to the Town of Dunstable.

B. Failure to license and register a dog before May 1st annually shall result in a Fifty dollar ($50.00) fine, pursuant to Massachusetts General Laws 140:141 which shall be in addition to the late fee provided in Section 2.6 A above, and which shall be payable to the Town of Dunstable. Failure to vaccinate against rabies by a licensed veterinarian shall result in a One Hundred dollar ($100.00) fine pursuant to Massachusetts General Laws 140:145B. On or after May 1st annually, those owners in violation of the licensing requirement of this bylaw will receive a notice of the aforesaid fine. Those that do not pay the fines within twenty-one (21) days of such notice shall be subject to citation under the "Dunstable Non-Criminal Disposition Bylaw".

2.7 All fees or fines collected under this bylaw shall be paid into the general fund, subject to the provisions of the Massachusetts General Laws, as amended.

2.8 Any part, section or provision of this bylaw found to be invalid shall be severable and the remaining portions of this bylaw shall not be affected thereby. No provision or interpretation of a provision of this bylaw is intended to be in conflict with any provision of the Massachusetts General Laws, pertaining to dogs.

2.9 This bylaw shall go into effect on the date of posting the Town Bulletin following the approval of the Attorney General.

§ 3. Kennels **[Amended May 13, 2019 Article 27]**

3.1 Definitions as used in this Section - the following words and terms have the following meanings:

A. 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 as defined in Massachusetts General Laws Chapter 140, Section 136A.

B. Personal kennel: a pack or collection of 5 or more 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.

C. 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.

D. 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 B. The Town Clerk shall determine the amount of the non-refundable fee for a Kennel License for each License Period. The Town Clerk may charge an increased fee for applications for Kennel License renewals received after March 15 for that License Period. C. The location and operation of any Kennel shall be appropriate for housing the number of dogs allowable under the terms of its Kennel License and may not be detrimental to the health and safety of dogs or persons. D. All Kennels shall be operated in a safe, sanitary, and humane condition, as provided in Massachusetts General Laws Chapter 140, Section 137C.

E. No Kennel that provides overnight boarding of dogs may keep more than 25 dogs on the premises at any time. Dogs that are on the premises for medical or surgical treatment or observation shall not be counted in this number.

F. No Kennel may contract with security dog firms or other businesses to board protection or security dogs, or dogs in training to be protection or security dogs on the premises. A security dog kept on the premises for the Kennel's own security purposes is permitted.

G. Kennel operations, including the exercising of dogs, shall be in an indoor enclosed area, except that individual dogs may be exercised one at a time in a prescribed outdoor area.

H. Every Kennel shall at all times keep and maintain accurate records of the number and identities of all dogs kept on the premises, and the identities of persons who have purchased dogs from the Kennel.

I. Except as otherwise provided in this Paragraph, any violation of this Section shall result in a fine of $50 per such violation and, for violations continuing 30 days past licensing deadlines, an additional fine of $100 per such violation. A person maintaining a Kennel after the Kennel License therefor has been revoked, or while such Kennel License is suspended, shall be punished by a fine of not more than $250. Violations shall be administered in accordance with the provisions of Massachusetts General Laws Chapter 140, Section 173A.

J. Fees **[Amended May 13, 2019]**

Fees for kennels shall be as follows:

Personal kennel: 5 – 9 dogs $75.00 10+ $100.00

Commercial boarding or training kennel by Special Permit: $100.00

Commercial breeder kennel by Special Permit: $100.00

Domestic charitable corporation kennel by Special Permit: $100.00

Veterinary kennel as defined in Massachusetts General Laws Chapter 140, Section 136A. by Special Permit: $100.00

3.2 Licenses; Fees; Requirements; Violations.

A. No person shall operate a Kennel within the Town without first obtaining a Kennel License from the Town Clerk in accordance with the provisions of this Section.

B. The Town Clerk shall determine the amount of the non-refundable fee for a Kennel License for each License Period. The Town Clerk may charge an

increased fee for applications for Kennel License renewals received after March 15 for that License Period.

C. The location and operation of any Kennel shall be appropriate for housing the number of dogs allowable under the terms of its Kennel License and may not be detrimental to the health and safety of dogs or persons.

D. All Kennels shall be operated in a safe, sanitary, and humane condition, as provided in Massachusetts General Laws Chapter 140, Section 137C.

A. No Kennel that provides overnight boarding of dogs may keep more than 25 dogs on the premises at any time. Dogs that are on the premises for medical or surgical treatment or observation shall not be counted in this number.

B. No Kennel may contract with security dog firms or other businesses to board protection or security dogs, or dogs in training to be protection or security dogs on the premises. A security dog kept on the premises for the Kennel's own security purposes is permitted.

C. Kennel operations, including the exercising of dogs, shall be in an indoor enclosed area, except that individual dogs may be exercised one at a time in a prescribed outdoor area.

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3.3 Application Process; License Issuance; Renewals.

A. Any person or entity seeking a Kennel License or renewal or reinstatement thereof shall complete and submit to the Town Clerk a Kennel License application, in a form prescribed by the Town Clerk.

B. Upon receipt of a completed application, the Town Clerk shall so notify the Animal Control Officer who shall forthwith conduct an inspection of the applicant's Kennel as provided in Section 3.4. The Town Clerk shall also give notice of the application to direct abutters to the proposed Kennel location and provide such abutters 14 days to submit written comments on the

application.

C. The Town Clerk shall review the completed application, all comments received within 14 days of the notice to abutter given pursuant to Paragraph (2), and the Kennel Inspector's report. The Town Clerk shall determine whether the proposed Kennel is in compliance with the requirements of this Section and Massachusetts General Laws Chapter 140, Sections 137C and 137D and, if so, shall issue a Kennel License to the applicant. If the Town Clerk finds that the proposed Kennel is not in compliance with such requirements, the Town Clerk shall deny the application and state the reasons for such denial.

D. Any application for renewal of a Kennel License shall be submitted to the Town Clerk on or before December 15 for the next License Period.

E. Nothing in this Dog Control Bylaw shall be construed to authorize the operation of a dog kennel in Dunstable *per se,* or to supersede the authority of the Zoning Board of Appeals to authorize such uses under Section 6.2(d) of the Dunstable Zoning Bylaw, as it may be from time to time amended.

3.4 Inspections. The Animal Control Officer, the Police Chief, the Board of Selectmen, may at any time inspect a Kennel or cause the inspection of a Kennel to ascertain whether the Kennel complies with the requirements of this Section and applicable state statutes.

3.5 Suspension or Revocation of Kennel License; Reinspections.

A. If the Town Clerk denies a Kennel License application or renewal application, the applicant or Kennel License holder may request a reinspection of the proposed Kennel after reasonably demonstrating to the Kennel Inspector that the proposed Kennel has been brought into compliance with the requirements of this bylaw and applicable state statutes. The Kennel Inspector shall thereafter, as soon as is practicable, reinspect the proposed Kennel and make a report to the Town Clerk, who shall, within a reasonable time, review the application in accordance with Section 3. The Town Clerk may set fees for reinspections performed pursuant to this Paragraph.

B. If the Animal Control Officer, Police Chief, Board of Selectmen, inspects or causes to be inspected a Kennel and, in the judgement of the person or entity that performed the inspection, the Kennel operator is not maintaining in compliance with this Section and applicable state statutes, the Selectmen, Police Chief or the Town's Animal Control Officer may, by order, revoke or suspend the Kennel License, in accordance with Massachusetts General Laws Chapter 140, Section 137C and in the event none of said persons or boards so acts, the Board of Selectmen shall revoke or suspend the Kennel.

C. If a Kennel License is suspended, the Kennel License holder may apply for reinstatement by requesting a reinspection of the Kennel after reasonably demonstrating to the Kennel Inspector that the Kennel has been brought into compliance with this Section and applicable state statutes, and that the License Holder has satisfied the terms of the suspension order. The Kennel Inspector shall thereafter, as soon as is practicable, reinspect the Kennel and make a report to the Town Clerk who shall, within a reasonable time, review the application in accordance with Section 3.3. The Town Clerk may set fees for reinspections performed pursuant to this Paragraph.

D. If a Kennel License is revoked, the Kennel License holder may apply for a new Kennel License in accordance with Section 3.3. The Town Clerk may set fees for reinspections performed pursuant to this Paragraph.

Adopted at the 2004 ATM: ARTICLE 11. Motion made and seconded that the Town accept that part of the General Laws, Chapter 140, Section 139, that states as follows: "No fee shall be charged for a license for a dog owned by a person aged 70 years or over in any city or town that accepts this provision;" reserving, however, the present schedule of fees for the licensing of dogs that charges ten dollars for male and female dogs, excepting neutered or spayed animals, for which the fee is six dollars; and subject in all events to the authority to fix fees conferred under General Laws, Chapter 40, Section 22F, which was accepted by vote of the Town under Article 34 of the Annual Town Meeting of May 8, 2000.