

# Chapter 3

## Animals and Fowl

**State law reference** - Strays, generally, G.L. c. 134.

**Cross reference** - Rules and regulations of the Board of Health with respect to animals and fowl, Secs. 20-7 to 20-12.

### Article I. In General

#### Section

3-1 to 3-4 Reserved for future legislation.

### Article II. Dogs

- 3-5. License and Fee.
- 3-6. Keeping of barking, or howling dog.
- 3-7. Leash required; penalty.
- 3-8. Impoundment and disposal generally.
- 3-9. Notice to owner and police of confinement; place of confinement.
- 3-10. Redemption; disposition of monies paid to dog officer.
- 3-11. Feces - Duty to dispose.

### Article III Sale of Dogs and Cats

- 3-12.1 Definitions
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- 3-14 Enforcement and Penalties

### Article I. In General

**Sec. 3-1. to 3-4. Reserved for future legislation.**

**Article II. Dogs**

**State law reference** - Authority to regulate dogs, G.L. c. 140, sec. 173. Vicious and barking dogs, G.L. c. 140, sec. 157.

**Sec. 3-5. License and Fee.**

The fee for every dog license shall, be fixed by the Town Clerk in accordance with the provisions of Chapter 40, Section 22F of the General Laws and shall be reasonable.

No fee shall be charged for a license for a dog specially trained to lead or serve a blind person; provided, that the Massachusetts commission for the blind certifies that such a dog is so trained and actually in the service of a blind person. No fee shall be charged for a license for a dog professionally trained in the hearing dog business to serve a deaf person; provided, that the director of the office of deafness certifies that such dog is so trained and actually in the service of the deaf person. No license fee or part thereof shall be refunded because of the subsequent death, loss, spaying, or removal from the commonwealth or other disposal of the dog, nor shall any license fee or part thereof paid by mistake be paid or recovered back after it has been paid over to the county under section one hundred and forty-seven. Other than as provided in this bylaw, the licensing provisions and requirements of the Massachusetts General Laws, including those contained in Chapter 140 of the General Laws, remain applicable. (10-27-03, Art. 15)

**Sec. 3-6. Keeping of barking, or howling dog.**

(a) Prohibited: No person shall own or keep in the town any dog which by excessive barking or howling or by biting disturbs the quiet of any person.

(b) Penalties: In addition to the general penalties provided pursuant to Section 1-4 of this Stoneham Town Code, the non-criminal disposition penalties that shall apply to a violation of this bylaw shall be as follows:

- First offense within a twelve month period.....Warning
- Second offense within a twelve month period..... \$50.00
- Third and subsequent offense(s) within a twelve month period..... \$75.00
- Each day a violation continues shall be a separate offense.

In addition to police officers of the Town of Stoneham, the Animal Control Officer shall have authority to enforce this bylaw by non-criminal disposition.

And further to amend Section 1-4A of the Stoneham Town Code so as to list the non-criminal disposition penalty listed in this Section 3-6(b) in said Section 1-4A.

Or do anything in relation thereto.

**Sec. 3-7. Leash required; penalty.**

Every dog owned or kept in the Town shall, at all times while within the town, be effectively restrained by some person by means of a leash, except when such dog is on the premises of the owner or keeper or another person with the consent of such person. (4-13-81, Art. 37)

The owner or keeper of any such dog that is not restrained shall be punishable by a fine of twenty-five dollars (\$25.00) for the first offense, fifty dollars (\$50.00) for the second offense, and seventy-five dollars (\$75.00) for each succeeding offense. (3-19-73, Art. 26; 4-12-76, Art 25; 10-26-81, Art. 16) (10-18-07, Art. 6)

**Sec. 3-8. Impoundment and disposal generally.**

It shall be the duty of the dog officer to apprehend any dog not restrained as required by Section 3-7 and to confine or cause to be confined such dog as provided in this article. Any unlicensed dog so apprehended shall be confined and otherwise dealt with by the dog officer as required by law. Any dog so apprehended which is licensed and owned or kept in this town shall be confined until the earlier of its being reclaimed by such owner or keeper as provided herein, or until the tenth day following the day on which such dog is apprehended. If such licensed dog is not reclaimed as provided herein, within such ten-day period, the dog officer shall take one of the alternative courses of action which Section 151A of Chapter 140 of the General Laws, or any act in replacement thereof or amendment thereto, requires to be taken with respect to unlicensed dogs not licensed, collared or harnessed and tagged within the ten-day period provided therein. (3-19-73, Art. 26.)

**Sec. 3-9. Notice to owner and police of confinement; place of confinement.**

(a) Promptly following the apprehension and confinement by the dog officer of any such dog, licensed, such officer shall mail to the licensed owner thereof a notice of such apprehension and confinement, which notice shall include a statement of the last date on which said dog may be reclaimed as provided therein. The dog officer shall also promptly inform the town police department of such apprehension and confinement and of the description of such dog.

(b) Licensed dogs confined by the dog officer pursuant to this article shall be confined in a place suitable for the detention and care of dogs and kept in a sanitary condition; or they may be placed in the care of the holder of a kennel license or of a charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse. (3-19-73, Art. 26.)

**Sec. 3-10. Redemption; disposition of monies paid to dog officer.**

(a) The owner or keeper of any licensed dog confined as provided for in this article may reclaim such dog upon payment of the costs and charges incurred by the town for such apprehension and confinement and care of such dog, such charges to be seventy-five dollars (\$75.00) for the apprehension of such dog, plus care charges for such dog of twenty dollars (\$20.00) for each full or partial day of confinement in a pound owned or leased by, or under the control of the town or the dog officer. If the dog is confined in a place other than a pound owned or leased by or under the control of the town or the dog officer, the care charges to be paid hereunder shall be the actual charges incurred by the town or the dog officer for such confinement. No licensed dog confined as provided in this article may be reclaimed until the owner or keeper thereof shall have paid all such costs to the dog officer.

(b) The dog officer shall pay over to the town treasurer all sums paid to him, such sums to be applied to the cost of enforcing this Article. (3-19-73, Art. 26.)

**Sec. 3-11. Feces—Duty to dispose.**

(a) *Duty to dispose:* 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 in the Town. 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 and for which permission has not been granted by a lawfully authorized person for the disposal of such feces on said private property.

(b) *Method of Disposal:* Disposal shall be accomplished by transporting and disposing of such feces to and at a place suitable and lawful for the disposal of canine feces or as otherwise designated as appropriate by the Board of Health.

(c) *Enforcement:* Violation of this section shall be punishable by a fine pursuant to Section 1.4 of these Bylaws.

(d) *Penalties:* The non-criminal disposition penalty that shall apply to a violation of Section 3-11 shall be as follow:

First Offense (over a 24-month period)

\$ Warning

First Offense (over a 24-month period)	\$ Warning
Second Offense (over a 24-month period)	50.00
Third and subsequent offense(s) (over a 24-month period)	150.00

And further to amend Section 1-4A of the Stoneham Town Code so as to list the non-criminal disposition penalty listed in this Section 3-11(s) in said Section 1-4A. (10-18-07, Art. 6)

### Article III Sale of Dogs and Cats

#### Sec. 3-12. Definitions.

For purposes of this Section:

*Animal care facility* means an animal control facility or animal shelter maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations and, if required, is registered with the Department of Agricultural Resources of the Commonwealth of Massachusetts, and which does not obtain dogs or cats from a breeder or broker for payment or compensation.

*Animal Rescue Organization* means a not-for-profit organization whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes, which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code and, if required, is registered with the Department of Agricultural Resources of the Commonwealth of Massachusetts, and which does not obtain dogs or cats from a breeder or broker for payment or compensation

*Breeder* means a person or organization who/which maintains dogs and/or cats for the purposes of breeding and selling their offspring.

*Broker* means a person or organization who/which transfers dogs and/or cats at wholesale for resale by another.

*Pet Shop* means a retail establishment where dogs and/or cats are, whether most or a part of the business, sold, exchanged, bartered or offered for sale as pet animals to the general public

at retail or wholesale. Pet shops shall not include animal shelters or animal rescue organizations.

**Section 3-13. Prohibition and Restrictions.** No pet shop may display, sell, exchange, barter, auction, give away, broker or otherwise transfer a dog or cat, except for a dog or cat: obtained from displayed in cooperation with an animal care facility or animal rescue organization.

**Section 3-14. Enforcement and Penalties.** In addition to any other enforcement or penalty allowed under state law or Town bylaw, including, but not limited to, that provided pursuant to Section 1-4 of these Bylaws, violation of this bylaw may be forced by non-criminal disposition, by the animal control officer or by any police officer in the manner provided by General Laws, Chapter 40, Section 21D and Section 1-4A of these Bylaws. The specific non-criminal disposition penalties which shall apply to a violation of this bylaw shall be as follows:

First offense within a twenty-four month period - Warning

Second offense within a twenty-four month period - \$200

Third and subsequent offense within a twenty-four month period - \$300.00

Each day a violation continues shall be a separate violation/offense subject to another fine. The enforcement of this bylaw by non-criminal disposition as described herein shall be added to the list of bylaws so designated and enforced in Section 1-4A of these Bylaws. (5-1-17, Art. 25)

### **Severability**

If any provision of this bylaw is for any reason held to be legally invalid by a court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of any other part of this bylaw. Or do anything in relation thereto.