

PROPOSED AMENDMENTS (12/13/06)

Methuen Dog Ordinance

Section 23-28A. Dangerous and Vicious Dogs Regulation

A. In addition to the remedies provided in the above entitled sections, and, specifically that relating to Section 23-27, the Chief of Police, or his designee, upon a complaint in writing, may determine that a dog is a "dangerous dog" or "vicious dog" within the meaning of this section and, as a result thereof, require compliance by the owner of such dangerous or vicious dog of the provisions herein listed. In the instance where the Chief of Police, or his designee, shall determine that a dog is dangerous within the meaning of the ordinance, he/she shall, within a period of forty-eight (48) hours, serve written notice to the Methuen City Council listing the name and address of the animal, including its owner, and providing the reasoning for the determination, consistent with the ordinance.

(a) Definition. A "dangerous dog" or "vicious dog", as used in this section, shall mean:

- (1) Any dog that has bitten or attacked any person or *has* attempted to bite or attack any person. A dog shall be deemed to be attempting to attack, if it is restrained by a leash, fence or other means, and it is clear from the dog's excited actions that only the presence of the leash, fence, or other means of restraint is preventing the dog from making an immediate attack; or
- (2) Any dog with a propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of domestic animals; or any dog which attacks a human being or domestic animal on two or more occasions without provocation and without justification; or
- (3) Any dog whether leashed or not, which, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or
- (4) Any dog owned or harbored primarily or in the part for the purpose of dog fighting or any dog trained for dog fighting; or
- (5) Any dog owned or harbored on property known for drug trafficking or gang activity and shows an aggressive temperament; or
- (6) The determination that a dog is dangerous or vicious under this section shall be in the discretion of the Chief of Police and/or the Animal Control Officer and the Chief of Police and/or Animal Control Officer shall notify the owner(s), direct abutters of the owner (s) and owners of land directly opposite on any public or private street or way of any such determination.

(b) Exceptions where dog shall not be considered dangerous or vicious:

1. A human being who, at the time the injury was sustained, was committing criminal trespass or other tort upon premises occupied by the owner of the dog, or tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime.
2. A domestic animal, which, at the time the injury was sustained, was tormenting, abusing or assaulting the dog.
3. A domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of its owner, and the injury was to a species or type of domestic animal appropriate to the work of the dog.
4. The dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault.
5. The actions of the dog under consideration occurred under official duties as a military, correctional, or law enforcement dog.
6. In the discretion of the Chief of Police, or his designed, Animal Control Officer, the dog acted in reaction to pain or injury; or was protecting itself, its kennel or its offspring.

B Duties of Owner when dog is determined to be dangerous.

(a) *Outdoor Confinement:* While on the owner's property, a dangerous or vicious dog must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, and designed to prevent the animal from escaping. Such pen or structure must be at least ten (10) feet from the property line, must have a minimum dimension of five (5) feet by ten (10) feet, and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be imbedded into the ground no less than two (2) feet. The enclosure must also provide protection from the elements for the dog. **Animal Control Officer shall verify compliance with this section by an on-site inspection and, if necessary, shall require Owner to further secure structure**

The Owner or keeper shall display signs on his/her premises facing out from all sides of the premises warning that there is a dangerous or vicious dog on the property. This sign should be visible and capable of being read from a public highway or thoroughfare or within 20 feet of its placement. In addition, the owner shall conspicuously display a sign with a symbol warning children who cannot read of the presence of a dangerous dog.

A dangerous dog may be off the owner's premises if it is muzzled and restrained by an approved lead not exceeding four (4) feet in length and is under the control of an adult, able-bodied person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

(b) Indoor confinement. No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(c) Insurance. The owner or custodian of any vicious dog shall maintain a policy of insurance in an amount not less than \$100,000 per incident insuring such person against any claim, loss damage, or injury to humans being resulting from the acts of such dog. Such person shall produce evidence of the required insurance, which may include a rider or binder, upon the request of the Chief of Police, or his designed, an Animal Control Officer. This section shall not apply to dogs kept by law enforcement agencies.

***(d) Licensing Surcharge.* The annual licensing fee for a dangerous dog shall include a \$50.00 surcharge in addition to the regular licensing fee. The surcharge required by this provision shall be enforced by the Animal Control Officer**

(e) An owner may transport a dangerous or vicious dog within the City limits for medical or veterinary care provided said animal is properly restrained by being both muzzled and leashed, with the leash not to exceed a length of four (4) feet.

C. Duties of Municipal Agents when dog is deemed dangerous.

(a) When a dog *is* deemed to be dangerous or vicious, the Chief of Police, his/her designee, or Animal Control Officer shall order, **with written verification from the Owner**, any or all of the following;

1. Spay or neutering, if the animal is not already altered. The animal will be exempt from such an order if a veterinarian certifies in a written statement that the animal *is* unfit for alterations because of medical condition(s).
2. Microchip identification, the mode of which shall be designated by the Animal Control Officer, if the animal is not already micro chipped
3. Behavior training from an approved trainer as determined by the Animal Control Officer and/or the Chief of Police or his designee; the cost of said training shall be borne by the owner.
4. Rabies vaccination, as required by Chapter 140 § 145B of the General Laws, if the animal is not up to date on its annual vaccinations, as certified by a licensed veterinarian.

(b) The owner of any dangerous or vicious dog, if said animal is found on property not owned or controlled by its owner, or not restrained in a secure area per Section B (a), **shall be subject to a fine of fifty dollars (\$100.00)** for the first offense and a fine of one hundred dollars (\$100.00), for second ~~and subsequent offenses~~, **a mandatory hearing shall be held by the Chief of Police or his designee to determine whether and** said animal shall be

forever banned within the limits of the City of Methuen. Upon re-location of the animal the owner thereof shall notify the Animal Control Officer of the new location. Said Officer shall then forward all documentation maintained by the City of Methuen, regarding the animal to his/her official counterpart at the new location

- (c) Owners of dangerous or vicious dogs found within the City of Methuen and not properly registered shall be subject to a fine of fifty dollars (\$50.00), and said animal shall be forever banned from within the limits of the City **unless the Owner within ten (10) days of said finding registers said dog.**
- (d) Each day there exists a violation of any of the provisions of this ordinance the same shall constitute and be punishable as a separate offense.
- (e) Any dog for which the Chief of Police, or his designed, Animal Control Officer of the City or county has verified report of having attacked or bitten any person shall be considered a dangerous or vicious dog. A copy of any such report shall be forwarded to the City Clerk for filing and such dog shall not be re-registered in the City unless the owner is in full compliance with this ordinance.
- (f) Compliance with the requirements of this section shall not be a defense to an order of disposal of a vicious dog pursuant to Massachusetts General Laws Chapter 140, Section 157.
- (g) All notice and hearing procedures will be carried out in conformance with Massachusetts General Laws, Chapter 140, Section 157.
- (h) Owners of all potentially dangerous dogs or dogs previously designated as potentially dangerous who re-locate or move to the City of Methuen from another community shall notify the Animal Control Officer and Advisory Committee of a description of such dog and said designation. Failure to so notify may result in fine as provided in Section C(c)
- (i) Owners of all potentially dangerous dogs or dogs previously designated as potentially dangerous who relocate or move from the City of Methuen to another community shall notify the Animal Control Officer and Advisory Committee of the City of Methuen and the Animal Control Officer of that community to which the owners are moving, or person have like duties, of a description of such dog and said designation.

Section 23-28B.

Potentially dangerous dogs.

(a) *Definition.* A "potentially dangerous dog" as used in this section, shall mean:

1. Any dog that acts in a highly aggressive manner, when unprovoked, within a fenced yard or enclosure and appears to the Animal Control Officer to be able to jump over or escape. Vocalization or barking, without more, shall not cause a dog to be deemed of a highly aggressive manner.
2. Any dog owned by a person cited more than once, in a 12-month period, for allowing said dog to run at large in any public streets or places in the City or upon the premises of anyone other than the owner or keeper without said owner's or occupant's permission.
3. The determination that a dog *is* potentially dangerous under this section shall be in the discretion of the Animal Control Officer and/or the Chief of Police, or his designee, shall notify the owner of any such determination.

(c) *Duties of Animal Control when dog is deemed potentially dangerous.* When a dog is deemed to be potentially dangerous, the Animal Control Officer may order, with **written verification from the Owner**, any or all of the following:

1. A dog may be spayed or neutered, if the animal is not already altered. The animal will be exempt from such an order if a veterinarian certifies in a written statement that the animal is unfit for alterations because of medical conditions.
2. Microchip identification, if the animal is not already micro chipped or other acceptable permitting as approved by the City.
3. Behavior training from an approved trainer, as determined by the Animal Control Officer and/or the Chief of Police or his designee. The costs of said training shall be borne by the Owner: and
4. Rabies vaccination as required by Chapter 140 § 145B of the General Laws, if the animal is not up to date on its annual vaccinations, as certified by a licensed veterinarian.
5. The owner provides adequate security to the premises where the potentially dangerous dog is kept, as specifically described in writing to the owner by the Animal Control Officer. Said owner must comply within 60 days of receiving description.
6. After two (2) years of compliance the dog will not be considered potentially dangerous.

(c) *Persons responsible.* No person under the age of 18 shall own, handle, control or be responsible for a potentially dangerous dog.

- (d) *Signs.* All owners, keepers, or harborers of potentially dangerous dogs shall display in prominent place on their premises a sign easily readable by the public, using the words "Beware of Dog". In addition, a similar sign *is* required to be posted on the kennel or pen of such dog.
- (e) *Licensing surcharge.* The annual licensing fee for a potentially dangerous dog shall include a \$25 surcharge in addition to the regular licensing fee. The Animal Control Officer shall enforce the surcharge required by this provision.
- (f) *Penalties.* After 30 days of being notified that a dog is potentially dangerous, any owner found not in compliance with any of the provisions of this section, except for section b (5) for which violations found after 60 days of said notification, shall be subject to a \$100 fine for any first offense; \$200 for any second offense; and \$300 for any offense thereafter. Each day that the owner is not in compliance shall constitute a separate offense. Failure to so comply after due notice may result in application by the City for hearing before the clerk of the District Court and/or any other enforcement measures as further provided in Massachusetts General Laws, Chapter 40, § 21D and Chapter 17 of the Methuen Municipal Code.

Section 23-28C Advisory Committee

- A. There is established in the City of Methuen a committee to be known as the dog advisory committee hereinafter the "advisory committee".
- B. The advisory committee shall be composed of six (6) members; a police officer, an animal control officer, a representative of the Massachusetts Society for the Prevention of Cruelty to Animals, a resident dog owner, a resident dog non-owner and a member of a certified kennel club or Mass. Federation of Dog Clubs or responsible dog owners all who shall be residents of the City.
- C. The members of such advisory committee shall elect (1) member as chairperson and such other officers as they deem necessary.
- D. The advisory committee shall have the right and duty to:
 - 1. Meet monthly or a minimum on a quarterly basis as the chairperson or majority of the committee deems necessary;
 - 2. Study, review and issue written reports on issues dealing with dogs or other animals in the City.
 - 3. Make recommendations to the mayor and City Council for then improvement of ordinances of the City as they relate to dogs and other animals in the City.