

EXHIBIT A

Chapter 96: Dogs and other animals

§96-1 Authority

The Town may create ordinances relating to animals pursuant to M.G.L.A. c.140 §173

§96-2 Definitions

As used in this chapter, the following interpretations shall be placed on the words and phrases hereinafter mentioned:

Adequate Shelter - a structure that is large enough for the animal to stand naturally, turn around and lay down inside of the structure which must have three sides with a roof to prevent the animal from being exposed to the elements of weather. During cold weather, a moveable flap shall be placed over the entrance to a dog shelter to preserve the dog's body heat.

At Large - any dog, farm animal, livestock or fowl which is off the owner's or keeper's property and not under the control of the owner or keeper.

Attack – aggressive physical contact initiated by an animal

Companion Animal – any dog or cat, or animal kept for the purposes of being a “pet”. Companion animal shall not include farm animal, livestock or fowl.

Dangerous Dog – a dog that either: without justification, attacks a person or domestic animal causing physical injury or death. Behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to one or more persons, domestic or owned animals.

Farm Animal - any poultry, ungulate, species of cattle, sheep, swine, goats, llamas, equine, or other fur-bearing animals which are raised for commercial or subsistence purposes.

Keeper – any person, business, corporation, entity or society, other than the owner, harboring or having in such person's possession and dog, cat, farm animal, livestock or fowl

Kennel, Commercial—means any premises maintained for any of (or combination of) the following:

1. the overnight boarding or training of any number of dogs
2. any pet store that sells dogs or cats

Kennel, Residential—any premises where an owner or keeper maintains as companion animals or pets, or for breeding, four or more, but not more than nine dogs six months of age or older.

Livestock or Fowl – and fowl or other animal, including farm animals, kept or propagated by the owner for food or as a means of livelihood and deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds or quadrupeds determined by the Department of Fisheries and Wildlife and Environmental Law Enforcement to be wild and kept by, or under permit from said department in proper houses or suitable enclosed yards. Such term shall not include dogs, cats and other pets.

Owner—any person possessing, harboring, keeping, having an interest in, or having control or custody of an animal. If a person under the age of 18 owns the animal, that person’s custodial parent(s) or legal guardian(s) shall be responsible for complying with all requirements of this article.

Severe Injury—any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or corrective or cosmetic surgery.

§96-3 Licensing of dogs

Any person who, at the commencement of a license period (April 1 through March 31) is or who, during any license period, becomes the owner or keeper of a dog six months old or older, shall cause the dog to be licensed within 30 days. The animal control officer shall issue dog licenses and tags on a form prescribed and furnished by the town.

The license record shall include the name, address, phone number, of the owner or keeper of the dog, and the name, license number, breed, color, age, sex and the rabies expiration date of each dog and indicate whether the dog has been spayed or neutered. The license tag shall include the license number, the name of the town and the year of issue.

The owner or keeper shall cause each dog to wear around its neck or body a collar or harness to which he shall securely attach the license tags. In the event that any tag is lost, defaced, or destroyed, a substitute tag shall be obtained by the owner or keeper from the animal control officer at the cost of \$5.00. Such monies shall be transmitted to the town treasurer in the same manner as license fees. The animal control officer shall not issue a license for any dog unless the owner or keeper provides the animal control officer with a veterinarian’s certificate verifying that the dog is currently vaccinated against rabies.

The animal control officer shall not grant such licenses for any unvaccinated dog unless the owner thereof provides either a veterinarian’s certificate that such dog has been certified exempt from rabies vaccination, or a notarized letter from a veterinarian that a certificate was issued.

§96-4 Licensing fee

The following is a list of licensing fees for dogs to be licensed in the Town:

Male Dog...\$25.00
Female Dog...25.00
Spayed Female Dog...10.00
Neutered Male Dog...10.00

Exceptions—

If the owner or keeper of any dog has a written statement from a veterinarian indicating that because of age, infirmity or other physical condition spaying or neutering is deemed inadvisable and presents said written statement to the animal control officer, the licensing fee shall be 10.00.

No fee shall be charged for a license for a dog specifically trained to lead or serve a blind, deaf, or handicapped person upon presentation to the animal control officer for a certificate of such training.

Overdue Licenses—No license may be issued for any dog unless all prior overdue licenses (i.e. licenses from prior years which were required but not obtained) have been paid for.

Any owner or keeper of a dog who moves into the town and has a valid dog license for his/her dog from another town or town in the commonwealth shall, within 30 days, obtain a dog license for a fee of \$5.00 upon producing evidence of the previous license.

The animal control officer shall collect a late fee of \$10.00 for every dog license issued after the 30 day period, as defined in section 96-3.

Any person, who violates the provisions of 96-3 or 96-4, shall receive a written warning, issued by the animal control officer or police officer, for the first offense, and for each subsequent offense shall be liable for payment of a fine of \$50.00, which shall be paid to the town treasurer.

§96-5 Vaccination of dogs and cats against Rabies

The owner or keeper of a dog, cat or ferret in the town six months of age or older shall cause such dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions and shall cause such dog, cat or ferret to be vaccinated at intervals recommended by the manufacturer. . Unvaccinated dogs and cats acquired or moved into the commonwealth shall be vaccinated within 30 days after the acquisition or arrival into the town or upon reaching the age of six months, whichever last occurs. Such owner or keeper shall procure a veterinarian's certificate that such animal has been so vaccinated, setting forth the day of such vaccination and the duration of immunity, or a notarized letter from a veterinarian that a certificate was issued.

The veterinarian shall issue a tag with each certificate of vaccination. The tag 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, the owner of a cat or ferret may choose not to affix a tag to

his cat or ferret, but shall have the tag and certificate available for inspection upon demand by animal control officers, police officers or other such authorized officials of the town.

Vaccinated animals, dog, cat or ferret, shall be revaccinated periodically in accordance with the rules and regulations adopted by and promulgated by the Massachusetts Department of Public Health.

Any person who violates the provision of section 96-5 shall receive a written warning, issued by the animal control officer or police officer, for the first offense, and for each subsequent offense shall be liable for payment of a fine of \$50.00, which shall be paid to the town treasurer.

§96-6 Limit on number of companion animals

No person shall keep more than three dogs over the age of six months at any residence without complying with the requirements of the Town of Agawam Zoning Ordinance, and obtaining a kennel license.

Additional restrictions on the number of companion animals may be imposed by the animal control officer if after an investigation of a dwelling or property it is revealed the living conditions are not healthy and these conditions are the result of an overcrowding of animals in said dwelling or property.

Any person who violates the provisions of this section shall receive a written warning, issued by the animal control officer or police officer, for the first offense, and for each additional subsequent offense shall be liable for payment of a fine of \$50.00 for each day in violation of this section, which shall be paid to the town treasurer. A reasonable amount of time will be allowed for the proper placement of animals into alternate care before fines are imposed. The animal control officer may assist persons in need with placement of animals if necessary.

§96-7 Kennel Licenses

Any person or business maintained for a residential kennel or commercial kennel as defined in this article shall obtain the appropriate kennel license from the Building Inspector. The Building Inspector shall not issue any kennel license for any use not in compliance with the zoning ordinance. The Building Inspector shall not issue a residential kennel license unless the owner or keeper provides the town clerk with a veterinarian's certificate verifying that each dog six months of age or older is currently vaccinated against rabies.

Issuance of a residential or commercial kennel license, and continued use of said license, shall be contingent upon inspection and approval by the animal control officer to ensure that basic standards of cleanliness and proper care and confinement of said dogs exist on the premises.

Such license shall be in a form prescribed by the Building Inspector. Such license shall be in lieu of any other license for any dog while kept at such kennel during any portion of the period for which the kennel license is issued. The holder of a license for a kennel 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 tag upon which shall appear the number of such kennel license, the year of issue and the inscription "AGAWAM."

The fee for each license for a kennel shall be \$200.00 for a residential kennel license and \$400.00 for a commercial kennel license.

The name and address of the owner of each dog kept in any kennel, if other than the person maintaining the kennel, and a veterinarian's certificate verifying that each dog six months of age or older is currently vaccinated against rabies, shall be kept on file thereat and available for inspection by the animal control officer or any authorized person.

The Building Inspector shall, upon application, issue without charge a kennel license to any domestic charitable corporation, incorporated exclusively for the purpose of protecting animals from cruelty, neglect, or abuse, and the relief of suffering among animals. A veterinary hospital shall not be considered a kennel unless it contains an area for the selling, breeding, or boarding of dogs for other than medical purposes, in which case it shall apply for a kennel license.

The license period for a kennel license shall be from January 1 to December 31.

Any person who violates the provisions of this section shall receive a written warning by the animal control officer or police officer, for the first offense, and for each subsequent offense shall be liable for payment of a fine of \$50.00 for each day in violation of this section, which shall be paid to the town treasurer.

§96-8 Kennel Inspection and Regulation

The animal control officer, board of health, zoning enforcement officer and/or any agent authorized by the town may, at any time during normal business hours, may inspect or cause to be inspected any kennel or property holding a kennel license, residential or commercial.

If, in their judgment, the animal control officer, board of health, zoning enforcement officer or any agent authorized by the town, after inspection determines the kennel is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, the mayor (or his/her designee) may, by order, revoke or suspend, and in case of suspension, may reinstate such license issued under this article.

Upon written complaint from the animal control officer or a resident of the Town of Agawam, filed with the chief of police, setting forth that they are aggrieved, annoyed to an unreasonable extent, by one or more dogs at a kennel because of the excessive barking or vicious disposition of said dogs or other conditions connected with such kennel constituting a public nuisance, the chief of police (or his designee) within seven days after the filing of such petition, shall give notice to all parties in interest of a public hearing, conducted by the chief of police or his/her designee, to be held within 14 days after the date of such notice.

Within seven days after such public hearing said chief of police (or his designee) shall make an order either revoking or suspending such kennel license or otherwise regulating said kennel, or dismissing said petition.

The holder of such license aggrieved by any decision rendered by the chief of police (or his designee) may appeal such decision in accordance with M.G.L.A. c. 140 §137C.

Any person maintaining a kennel after the license has been so revoked. Or while such license is so suspended, may be punished by a fine of \$50.00, for each day in violation of said revocation or suspension, which shall be paid to the town treasurer.

§96-9 Barking dogs

No person owning or keeping or otherwise responsible for a dog shall allow or permit said dog to annoy another person's reasonable right to peace or privacy by making loud and continuous noise, where such noise is plainly audible at a distance of 150 feet from the building, premises, vehicle or conveyance housing said dog, and such noise is continuous in excess of ten minutes. The fact that such noise is plainly audible at such distance and continuous in excess of ten minutes shall be prima facie evidence of a violation, as long as the barking is not the result of willful instigation from a third party.

Any person who violates this provision shall receive a written warning, issued by the animal control officer or police officer, for the first offense, and shall be liable for payment for the following fines: \$50.00 for the second offense, \$75.00 for the third offense, and \$100 for the fourth offense and each subsequent offense. Said fine shall be paid to the town treasurer.

§96-10 Payments to veterinarians for emergency treatment of dogs or cats injured on ways.

A veterinarian registered under M.G.L.A. c.112 §§55 or 56A who renders emergency care or treatment to, or who euthanizes, a dog or cat that is injured on any way shall receive payment from the owner of such dog or cat, if known, or, if not known, from the city or town in which the injury occurred in an amount not to exceed \$250 for such care, treatment or euthanization; provided, however, such emergency care, treatment or euthanization shall be rendered for the purpose of maintaining life, stabilizing the animal or alleviating suffering until the owner or keeper of the dog or cat is identified or for 24 hours, whichever is sooner. A veterinarian who renders such emergency care or treatment to a dog or cat or euthanizes a dog or cat shall notify the municipal animal control officer and the animal control officer shall assume control of the dog or cat or the remains of the dog or cat.

§96-11 Dogs at large prohibited; leashing required; fine.

Any person owning, keeping or being responsible for a dog shall not allow nor permit said dog to run at large on any of the streets or public places in the town or upon any private property, unless the owner or lawful occupant of such property grants permission therefore.

No dog shall be allowed or permitted in any public place or street within the town unless it is effectively restrained and controlled by a chain or other form of leash, not to exceed a length of six feet, that is sufficient to hold the dog, or unless it is within and confined to a motor vehicle.

In any prosecution hereunder, the presence of such dog at large upon premises other than the premises of the owner or keeper of such dog shall be prima facie evidence that such knowledge and permission was not granted.

The owner or keeper of a dog who has violated any of the provisions of this section shall be punished by a written warning, issued by the animal control officer or police officer, for the first offense, a fine of \$75.00 for the second offense, a fine of \$100.00 for the third offense and \$200.00 for the fourth and each subsequent offense, to be paid to the town treasurer.

§96-11A Other animals at large

Any person owning, keeping or being responsible for any farm animal, livestock or fowl shall not permit said animal to go at large or depasture on any of the streets or public places in town or upon any private property, unless the owner or lawful occupant of such property grants permission therefore.

The owner or keeper of a farm animal, livestock or fowl who has violated any of the provisions of this section shall be punished by a written warning, issued by the animal control officer or police officer, for the first offense, a fine of \$75.00 for the second offense, a fine of \$100.00 for the third offense and \$200.00 for the fourth and each subsequent offense, to be paid to the town treasurer.

§96-12 Enforcement of unleashed /at large dog

It shall be the duty of the animal control officer or police officer, to apprehend any dog found running at large and to impound such dog in the animal shelter or other boarding facility.

The animal control officer or impounding officer shall keep a register and make a complete record of each impounding.

The record shall contain the following information: breed, color, and sex of each dog, whether or not the dog is licensed, the license number, if any; the name and address of the owner, if known; the date and place of apprehension; and the location where the dog is being kept.

The owner of an impounded dog, when known, shall be notified verbally or in writing of such impoundment or, if the owner is unknown, written notice shall be posted with the animal control office and public access television channel.

Notice shall contain a description of the dog, date and place of apprehension and where the dog is being kept.

The owner, or keeper or responsible person may reclaim the dog so impounded upon payment of the license fee, if unpaid, and proof of rabies vaccination in the form of a rabies vaccination certificate from a

certified veterinarian, and the payment of impoundment and boarding fees and the cost relevant to such impoundment.

§96-13 Fee from reclamation of impounded dog; failure to claim impounded dog

An owner or keeper of a dog reclaiming an impounded dog shall pay to the animal control officer for deposit with the town treasurer an administrative fee of \$125.00. In the event that the owner or keeper of the dog being reclaimed provides proof of rabies vaccination sufficient for the animal control officer to determine that the rabies vaccination for the animal being reclaimed is current, the animal control officer shall reduce the reclamation fee to \$50.00. The reclamation fee is an administrative fee in addition to any fine due of the owner or keeper of the animal for violation of the animal control ordinances of the town.

Any dog whose owner or keeper fails to claim said dog within seven days from the day of impounding shall be subject to the provisions set forth in M.G.L.A. c. 140, §151A.

§96-14 Removal of dog or cat waste from public property of property of others.

No person owning or having the care, custody, or control of any dog or cat shall permit said dog or cat to soil or defile or commit any nuisance upon any sidewalk, street, thoroughfare, wetland, in or upon 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 or cat, unless said person picks up any such waste and disposes of it in a sanitary manner.

Any person found in violation of §96-14 by the animal control officer or police officer shall be liable for payment of a fine of \$25.00 for each offense, which shall be paid to the town treasurer.

§96-15 Inhumane Treatment

Any person owning, keeping, in control of or otherwise responsible for a companion animal, farm animal, livestock or fowl, who, in the opinion of the animal control officer or police officer, is treating the aforementioned animals in an inhumane manner (such treatment may include, but not be limited to: prolonged chaining or tethering of animals (see below); extended outdoor confinement, lack of access to food, water or shelter; exposure to hazardous conditions, habitually at large) shall be subject to a written warning and/or a fine, issued by the animal control officer or police officer, of \$150.00 for the first offense and \$300.00 for each subsequent offense, paid to the town treasurer.

If any of the aforementioned persons violates this section more than three times, the animal control officer or police officer may, after a hearing conducted by the chief of police or his/her designee, with not less than ten day's notice to owner or keeper, confiscate the subject animals or order the person to permanently surrender the animal or animals for placement. If placement is not obtainable, the animal or animals may be ordered euthanized.

Where, in the opinion of the animal control officer or police officer, said aforementioned treatment of said animals places the animals at imminent risk, the animal control officer or police officer may immediately remove and impound the animal for its own protection.

§96-15A Tethering/Outdoor Confinement of Dogs

A person owning or keeping a dog may confine such dog outside, subject to the restrictions in M.G.L.A. c. 140, §174E and in compliance with the following:

No person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 5 consecutive hours during a 24 hour period.

No dog shall be penned, kenneled, or kept in any other outdoor enclosure for more than 12 consecutive hours in a 24 hour period.

No dog shall be kept outside in any manner between 11PM and 6AM. This section shall not prevent an owner/keeper from walking a dog on leash at any time.

No dog shall be kept outside in cases of extreme weather, when a heat/cold advisory is in effect or during any time in which extreme weather advisory has been issued by the town or state, including but not limited to floods, hurricanes, tornadoes and tropical storms, unless the tethering is for not more than fifteen minutes.

§96-16 Dangerous and potentially dangerous dogs

- a. ***Procedure for determining a potentially dangerous or dangerous dog or cat.*** Based upon receipt of a written complaint by a citizen requesting a determination that a dog is potentially dangerous or dangerous, or on the initiative of an animal control officer or police officer based on information received, the chief of police, or the chief of police's designee may make an investigation and determination that a dog is potentially dangerous or dangerous. The investigation and determination shall be in accordance with the provisions of this article and shall be consistent with the procedures delineated in M.G.L.A. c. 140, § 157.

b. ***Determination of potential danger or danger*** When a dog is determined to be potentially dangerous or dangerous, the chief of police, or the chief of police's designee, may order any or all of the following:

- (1) Spaying or neutering;
- (2) Microchip identification, tattooing or other means of permanent identification;
- (3) Behavior training and behavioral assessment
- (4) Any other order concerning the keeping, restraint, removal from the town, humane euthanasia, or disposal; of such dog as may be deemed necessary, in accordance with M.G.L.A. c. 140, § 157.

Such orders may include:

- a. ***Requirements at home for dogs that have been determined to be potentially dangerous or dangerous.*** While on the owner's or keeper's property, a dog that has been determined to be potentially dangerous or dangerous may be ordered securely confined indoors or in a security-

enclosed and locked pen or structure of a type meeting standards established by the animal control officer, suitable to prevent the entry of young children and designed to prevent the dog from escaping. Such pen or structure must have a minimum dimension of 12 feet by 12 feet by six feet high, with a solid floor to prevent the dog from digging out and a top to prevent the dog from climbing out. If the pen has no solid floor secured to the sides, the sides must be embedded into the ground no less than two feet to prevent the dog from digging out. The enclosure must provide the dog with adequate shelter from the elements of nature. The owner shall conspicuously display a sign with a symbol warning children who cannot read of the presence of a dangerous dog.

b. ***Requirements outside of the home for dogs that have been determined to be potentially dangerous or dangerous.*** While off the owner's or keeper's premises, a dog that has been determined to be potentially dangerous or dangerous must be restrained by a lead approved by the animal control officer not exceeding six feet in length and must be under the direct physical control of a responsible, able-bodied adult. No dog designated as a potentially dangerous or dangerous dog shall be permitted at public festivals, carnivals, parades or similar events. The dog may be required while in public to wear a muzzle designed to prevent the dog from biting. The muzzle must prevent injury to the dog and must not interfere with the dog's vision or respiration. The owner or keeper of a dog that has been determined to be potentially dangerous or dangerous must immediately notify the animal control officer if the dog (a) is loose or unconfined, (b) bites a person or attacks another animal, (c) is sold, given away or dies, (d) has been moved to another address, and the location of the new address.

c. ***Exemptions.*** No dog shall be deemed dangerous: based solely upon growling or barking or upon the breed of dog. If such dog was reacting to another animal or to a person and such dog's reaction was not grossly disproportionate to any of the following circumstances: such dog was protecting or defending itself, its offspring, another domestic animal or a person from attack or assault; 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 such dog; the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking such dog; at the time of such attack or threat, the person or animal that was attacked or threatened by such 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 seven, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing.

The provisions of this article shall not apply to dogs owned by law enforcement agencies or law enforcement officers in the performance of police work.

(d) ***Penalties.*** Any person owning or harboring such dog that has been deemed potentially dangerous or dangerous who fails to comply with an order of the chief of police, or his/her agents, in accordance with this section, shall be punishable by a fine of \$150.00 for the first offense and \$300.00 for a subsequent offense, paid to the town treasurer.

If said animal is found on property not owned or controlled by its owner or keeper, or is found to be not restrained in a secure area, or is found to be in violation of any order issued by the chief of police, said dog may be subject to further restriction, including an order of removal from the town or humane euthanasia, in accordance with the laws of the commonwealth.

Each day there exists a violation of any of the provisions of this article shall constitute and be punishable as a separate offense.

A dog that has been determined to be potentially dangerous or dangerous shall not be considered legally licensed, pursuant to M.G.L.A. c. 140, §§ 137 and 147 unless the owner or keeper is in full compliance with this article.

All dangerous dogs confined outdoors in a secure pen shall adhere to the provisions named under tethering and outdoor confinement of dogs.

§96-17. Motor vehicles; striking, injuring or killing dogs or cats.

The operator of a motor vehicle that strikes and injures or kills a dog or cat on the byways of the town shall forthwith report such an accident to the owner or keeper of said dog or cat or to a police officer or animal control officer. A violation of this section shall be punished by a fine of \$75.00 to be paid to the town treasurer.

§96-18. Enforcement.

These provisions may be enforced through and pursuant to the noncriminal disposition procedure set forth in chapter [section] 1-9.1 of these ordinances.

§96-19. Severability.

These rules and regulations are adopted with the intent that each of them shall have force and effect separately and independently of each other, except insofar as by express reference or necessary implication any rule or part of any rule is made dependent upon another rule or part thereof.