

HOUSE No. 4986

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act to the regulation of dogs in the City of Boston..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. As used in this act, the following words shall have the following meanings
2 unless the context clearly requires otherwise:

3 “Dog law”, any provision of the Boston Municipal Code or General Laws relating to the
4 regulation of dogs, a violation of which is punishable by a municipal fine, including, but not
5 limited to, chapters 16-1.9 through 16.1.9F and 16.1.10A of the city of Boston Municipal Code
6 and General Laws governing dogs found in sections 137 through 174D of chapter 140 that do not
7 conflict with provisions of the Boston Municipal Code regulating dogs.

8 “Dog Officer”, the dog officer of the city of Boston as identified in chapter 14-5 and
9 chapter 16-1.9C of the city of Boston Municipal Code or his designee.

10 “Hearing officer”, a person appointed by the mayor of Boston or his designee to conduct
11 hearings of alleged code violations pursuant to this chapter.

12 SECTION 2. In addition to the types of municipal fines covered by the adoption of the
13 provisions of chapter 40U of the General Laws, the city of Boston may adopt the provisions of
14 chapter 40U of the General Laws for the payment of municipal fines for violations of dog laws.

15 SECTION 3. The city of Boston may maintain or adopt procedures for the payment of
16 municipal fines for violations of dog laws separate from those procedures described in said
17 chapter 40U.

18 SECTION 4. The city of Boston, pursuant to chapter 140 section 147A, a local-option
19 statute accepted by the city in 1996, may pass ordinances related to the regulation of dogs,
20 subject to exceptions enumerated in chapter 140 section 147A, and notwithstanding contrary
21 provisions in sections 137 through 174D of chapter 140 of the General Laws, which are laws
22 related to the regulation of dogs.

23 SECTION 5. The mayor of Boston or his designee shall appoint a hearing officer. The
24 officer shall hear appeals of violation notices issued within the city.

25 SECTION 6. The city of Boston may implement a system for the administrative
26 disposition of noncriminal violations pursuant to section 21D of chapter 40.

27 SECTION 7. Where a notice of violation is issued for a code violation, the alleged
28 violator, within 21 days, shall return the notice of violation by mail, personally or by an
29 authorized person, to the hearing officer and shall either: (1) pay in full the scheduled fine by
30 check, postal note, money order or other legal tender; or (2) request a hearing before the hearing
31 officer. Each violation issued shall contain a statement explaining the procedure to adjudicate the
32 violation by mail. Any amounts paid shall be payable to the city.

33 If a fine remains unpaid for 21 days and no hearing has been requested, a letter shall be
34 sent to the violator's known address, or to the address of the owner of the dog as it may appear
35 on the collar of such dog or as it may appear on the application for a license for such dog in the
36 records of the police commissioner, with a processing fee of not more than \$10, notifying him
37 that the fine shall be paid within 30 days after receipt of that notice.

38 Thereafter, any fine and additional penalties and interest that may be attached and which
39 remain unpaid shall become an additional assessment on the violator's real property tax bill.
40 Such amount and cost relative thereto may also be a lien upon such real estate as provided in
41 section 42B of chapter 40. The city's determination of whether to place a lien on the property
42 may involve the number of and the dollar amount of the violations on the property. The property
43 owner of record shall be notified by certified mail of the lien on the property. No lien shall be
44 removed without notice from the tax collector that all such matters have been disposed of in
45 accordance with law. Additional charges equal to the amount required to file the lien and the
46 amount required to release the lien shall be assessed against the owner of record for the purpose
47 of ensuring that all costs associated with filing and release are recovered. In the instance the
48 violator pays no taxes on real estate to the city, the fine and additional penalties and interest that
49 may be attached and which remain unpaid shall become an additional assessment to the
50 violator's motor vehicle excise tax.

51 SECTION 8. Any person notified to appear before the hearing officer, as provided herein
52 may, without waiving the right to a hearing provided by this chapter and without waiving judicial
53 review as provided in section 14 of chapter 30A, challenge the validity of the violation notice
54 and receive a review and disposition of the violation from the hearing officer by mail. The
55 alleged violator may, upon receipt of the notice to appear, send a signed statement of objections

56 to the violation notice as well as signed statements from witnesses, police officers, government
57 officials and other relevant parties. Photographs, diagrams, maps and other documents may also
58 be sent with the statements. Any statements or materials sent to the hearing officer for review
59 shall have attached the person's name and complete address as well as the ticket number and the
60 date of the violation. The hearing officer shall, within 21 days after receipt of such material,
61 review the material and dismiss or uphold the violation and notify the alleged violator by mail of
62 the disposition of the hearing. If the outcome of the hearing is against the alleged violator, the
63 hearing officer shall explain the reasons for the outcome on the notice. Such review and
64 disposition conducted by mail shall be informal, the rules of evidence shall not apply and the
65 decision of the hearing officer shall be final, subject to any hearing provisions provided by this
66 chapter or to judicial review as provided in said section 14 of said chapter 30A.

67 SECTION 9. Notwithstanding section 21D of chapter 40, a person who desires to contest
68 a violation of any dog law alleged in a notice to appear, pursuant to violations issued by the city
69 in accordance with said section 21D of said chapter 40, shall request in writing a hearing before a
70 hearing officer. The notice to appear shall be in the format specified in said section 21D of said
71 chapter 40, except that the third copy of the notice shall be submitted to the hearing officer
72 unless the ticket was produced by an automated ticketing device.

73 If the alleged violator requests a hearing before the hearing officer in a timely manner,
74 the hearing officer shall schedule a hearing not later than 45 days after receiving the hearing
75 request. The hearing officer shall duly notify the alleged violator of the date, time and location of
76 the hearing. Hearings shall be held on at least 2 evenings each month. When a hearing notice is
77 sent, the alleged violator shall be given an opportunity to request a rescheduled hearing date.

78 The hearing officer shall receive annual training in the conduct of administrative
79 hearings. The hearing and disposition shall be informal and shall follow the rules set forth in
80 chapter 30A. Rules for judicial proceedings shall not apply. In conducting the hearing, the
81 hearing officer shall determine whether the violation occurred and whether it was committed by
82 the person notified to appear.

83 SECTION 10. A person aggrieved by a decision of the hearing officer may appeal to the
84 district court or other court of competent jurisdiction pursuant to section 21D of chapter 40, on a
85 form provided by the city, and shall be entitled to a de novo hearing before a clerk magistrate of
86 the court. The court shall consider such appeals under a civil standard. The aggrieved person
87 shall file the appeal within 10 days after receiving notice of the decision from the hearing officer
88 who conducted the hearing.

89 SECTION 11. Any person who has received a notice of violation issued in accordance
90 with this chapter who, within the prescribed time, fails to pay the same or fails to request a
91 hearing before the hearing officer or who fails to appear at the time and place of the hearing,
92 shall be deemed responsible for the violation as stated in the notice of violation. Such finding of
93 responsibility shall be considered prima facie evidence of the violation in a civil proceeding
94 regarding that violation and shall be admissible as evidence in a subsequent criminal proceeding.
95 If a person fails to appear at the scheduled hearing without good cause, the appeal shall be
96 dismissed and the violator shall waive any further right of appeal.

97 SECTION 12. All fines, penalties or assessments collected pursuant to this chapter shall
98 be deposited in and disbursed from a revolving fund in accordance with Boston Municipal Code
99 chapter 16-1.9D to the extent permitted by the General Laws cited therein.

100 SECTION 13. The dog officer and Boston police department of the city of Boston shall
101 have the authority to promulgate rules and regulations necessary to implement and enforce this
102 chapter.

103 SECTION 14. If any of the above sections are determined to be not constitutional under
104 the law, the remainder of the provisions shall remain valid.

105 SECTION 15. This act shall take effect upon its passage.