

Chapter 8 ANIMALS¹

The purpose of these updates is to further protect the health and well-being of our wildlife and our domesticated animals, and minimize the disruption of our wildlife's natural feeding patterns.

ARTICLE I. IN GENERAL

Sec. 8-1. Appointment of inspector of animals.

An inspector of animals for the city shall be appointed in the manner as provided in M.G.L.A. c. 129, § 15. The animal control officer shall be a member of the police department under the supervision of the chief of police.

(Code 1973, § 5-1; Ord. of 6-29-2006, § I)

Secs. 8-2—8-30. Reserved.

ARTICLE II. DOMESTICATED ANIMALS /DOGS

DIVISION 1. GENERALLY

NEW SECTION Proposed by Councilor's Merk/Varela

Authority and purpose

This chapter is adopted pursuant to the authority of M.G.L. c. 140, §§ 136A to 137A, inclusive, and any other relevant statutes and regulations promulgated pursuant thereto. The purpose of this chapter is to establish regulations for the keeping of dogs in the City of Salem. The definitions of all words and terms used herein shall be as set forth in M.G.L. c.140, §§ 136A to 137A.

¹ State law reference(s)—Animals generally, M.G.L.A. c. 129; dogs generally, M.G.L.A. c. 140, § 136A et seq.

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Sec. 8-31. License.

- (a) Whoever owns or keeps a dog that is six months old or over in the city shall obtain a license therefor from the city clerk.
- (b) The city clerk shall not grant such license for any dog unless the owner thereof provides the clerk with either a veterinarian's certification that such dog has been vaccinated in accordance with section 8-39 or a notarized letter from a veterinarian that a certificate was issued.
- (c) The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which shall be securely attached a tag in a form prescribed by the city clerk and upon which shall appear the license number for the current year.
- (d) Whoever violates this section shall be subject to a fine of \$25.00.
- (e) Any person failing to pay the fine stated in subsection (d) of this section within the 21 days provided will be subject to a surcharge of \$25.00 in addition to the fine due.

(Code 1973, § 5-2; Ord. of 6-1-99, § I; Ord. of 5-25-2006, § I(1))

Sec. 8-32. Issuance of chapter on first issuance of license.

Every dog owner shall receive, upon first issuance of a dog license, a copy of this chapter.

(Ord. of 10-9-1997, § 1(5-2.1))

Sec. 8-33. Term of license.

Dog licenses issued pursuant to this division shall expire on April 1 next after issuance.

(Code 1973, § 5-3)

State law reference(s)—Registration and licensing, M.G.L.A. c. 140, § 137.

Sec. 8-34. License fee.

~~(a) The fee for a dog license shall be as follows:-~~

- ~~(1) Male/female \$15.00 annually~~
- ~~(2) Neutered male/spayed female
(proof of neuter /spay required) \$10.00 annually~~

~~(b) The fee for kennel licenses shall be as follows:-~~

- ~~(1) Four dogs or less 35.00~~
- ~~(2) Ten dogs or less 50.00~~

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~~(3) More than ten dogs 75.00~~

~~(4) Transfer license 5.00~~

~~(c) Any person failing to pay the license fee by July 1 in the year in which it is due shall be subject to a separate \$15.00 late fee. And any dog not licensed for the previous year will need to pay for the previous years' license as well as the late fine of \$15.00.~~

~~(Code 1973, § 5-4; Ord. of 2-8-1996, § 1; Ord. of 5-25-2006, § 1(2); Ord. of 11-20-2008, § 1; Ord. of 1-9-2014, § 1)~~

NEW SECTION Proposed by Councilor's Merkl/Varela

Sec. 8-34. License fee.

(a) The fee for a dog license shall be as follows:

- (1) Male/female \$50.00 annually
- (2) Neutered male/spayed female
(proof of neuter /spay required) \$25.00 annually

(b) The fee for kennel licenses shall be as follows:

- (1) Four dogs or less 40.00
- (2) Ten dogs or less 60.00
- (3) More than ten dogs 100.00
- (4) Transfer license 5.00

(c) Any person failing to pay the license fee by July 1 in the year in which it is due shall be subject to a separate \$15.00 late fee. And any dog not licensed for the previous year will need to pay for the previous years' license as well as the late fine of \$15.00.

(d). There shall be no licensing fee for "service dogs" as defined by the Americans with Disabilities Act or regulations promulgated thereunder.

(e). Proof of spaying or neutering shall be shown at the time of licensing.

(f). Five dollars for every spayed or neutered dog licensed, fifteen dollars for every intact (unspayed or unneutered) dog licensed, and all late fees collected after "?" shall be deposited into a revolving account for the purpose of maintaining the Salem Dog Park(s).

(Code 1973, § 5-4; Ord. of 2-8-1996, § 1; Ord. of 5-25-2006, § 1(2); Ord. of 11-20-2008, § 1; Ord. of 1-9-2014, § 1)

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Sec. 8-35. Restraint required.

- (a) No person owning, harboring or having custody and control of a dog shall permit such dog to be at large in the city at any time elsewhere than on the premises of the owner, except if such dog is on the premises of another person with the knowledge and assent of such person. Further, any person owning, harboring or having custody and control of a dog in the city, when such dog is not on the premises of the owner or upon the premises of another person with the knowledge and assent of such person, shall control and restrain such dog by a leash of appropriate length.
- (b) The animal control officer or assistant animal control officer may take into custody any licensed dog found at large within the city in violation of subsection (a) of this section. The animal control officer or assistant animal control officer shall then impound the dog at any licensed kennel within the city and notify the owner of the location where the dog may be claimed. The owner shall pay the boarding fee which may have accrued before the kennel shall be obligated to release the dog. If the owner does not claim the dog within three days of receipt of notice, the animal control officer shall cause a second notice to be sent to the owner by registered mail. If the owner does not claim the dog within three days of receipt of the second notice, the animal control officer shall proceed against the owner for willful abandonment, pursuant to M.G.L.A. c. 272, § 84.
- (c) Any person who violates this section shall be subject to a fine of \$25.00 for a first offense and \$50.00 for any subsequent offenses relating to the same dog. Any dog that has been the subject of four or more violations of this section shall be deemed a nuisance within the provisions of M.G.L.A. c. 140, § 157, and shall be reported as such by the animal control officer to the chief of police for appropriate action under that law. Notwithstanding, any violation whereby a dog is at large on a public beach, park, mall or market area shall be subject to a fine of \$25.00 for a first offense and \$50.00 for each additional offense relating to the same dog.
- (d) Any person failing to pay the fines stated in subsection (c) of this section within the 21 days provided will be subject to a surcharge of \$25.00 in addition to the fine due.

(Code 1973, § 5-5; Ord. of 6-1-99, § I; Ord. of 5-25-2006, § I(3)—(5))

Sec. 8-36. Disposal of waste.

- (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 their dog on any sidewalk, street, park, public area or any private property of another. A copy of this section shall be given to every dog owner when licensing their dog.
- (b) *Duty to possess means of removal.* No person who owns, possesses or controls such dog shall appear with such dog on any sidewalk, street, park, public area or private property of another without the means of removal of any feces left by such dog.
- (c) *Method of removal and disposal.* For the purpose of this section, the means of removal shall be any tool, implement or other device carried for the purpose of picking up and containing such feces unexposed to such person or the public. Disposal shall be accomplished by transporting such feces to a place suitable and regularly reserved for the disposal of human feces or specifically reserved for the disposal of canine feces, and so disposing of such feces.
- (d) *Fines for violation.* Fines for violations of this section shall be \$50.00 for each offense.
- (e) *Exemption.* This section shall not apply to a guide dog accompanying any handicapped person.
- (f) Any person failing to pay the above fines within the 21 days provided will be subject to a \$25.00 surcharge in addition to the fine due.

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(Code 1973, § 5-5.1; Ord. of 6-1-99, § III; Ord. of 5-25-2006, § I(6); Ord. of 5-13-2021 , § I)

Beth: Is this chapter relevant YTD ? This section states that it is the purpose of securing real and personal property. But Cites which is open to public access. Shouldn't Sections 8-35 and Sec.8-69? - Councillor Varela

Sec. 8-37. Ownership and use of security and guard dogs.

- (a) Any dog used primarily for the purpose of securing and protecting real or personal property, which is open to public access at any time, shall comply with all the following:
- (1) Such dog shall be registered with the city clerk in accordance with M.G.L.A. c. 140, §§ 137, 137A.
 - (2) Such dog shall be kept within a closed-in area at all times when such property is open to public access or during business hours. Such closed-in area will consist of a fence at least six feet high with a fence covering and a locked gate and/or within a locked room if in a business establishment.
 - (3) All areas secured or protected by a security or guard dog shall be posted in such a thorough manner as to give adequate notice to the public (beware of guard dog, etc.).
- (b) No person or business shall harbor a security dog or guard dog unless they have obtained a security dog kennel permit as follows:

Beth: there is no kennel permit for security dogs in Sec. 8-34 License fee. -Councillor Varela

- (1) Such permit will be issued by the city clerk at no fee upon written certification by the animal control officer that such business or person has complied with all the guidelines of this section. The permit may be revoked by the police marshal upon evidence of violation of this section.
 - (2) The city clerk shall provide the fire chief and police marshal with a copy of the security dog kennel permit.
 - (3) The security dog kennel permit shall specify the location at which the dog is licensed to be located, and no transfer or relocation of the duly licensed guard/security dog shall be permitted without the approval of the animal control officer.
 - (4) Such permit shall be valid for an indefinite period of time.
 - (5) Any business or private resident harboring a security dog shall, upon the request of the dog officer or any police officer, allow the dog officer or any police officer to enter and inspect the kennel area where such dog is licensed to be harbored.
- (c) Failure to comply with this section will result in a fine of \$50.00 for each day of such violation.
- (Code 1973, § 5-6; Ord. of 6-1-99, § V; Ord. of 5-13-2021 , § I)

NEW SECTION Proposed by Councilor's Merkl/Varela

Sec. 8-38. REGULATION OF NONDOMESTICATED ANIMALS

8.38.010 - no domesticated—Defined.

For the purposes of this chapter, the words "nondomesticated animal" include any animal which in its original or natural state could be considered wild, however tame it may presently be, or by its nature is an animal which is not ordinarily kept or considered as a household pet. The term shall exclude, for the purposes of this chapter, all dogs, house cats, canaries, parrots, parakeets and the like, tropical fish of the non carnivorous family, hamsters, white mice and white rats.

8.38.020 no domesticated—Keeping and transporting.

- A. No person shall keep on his property, or the property of others, any nondomesticated animal without first having obtained a license issued by the Salem Board of Health, which board shall have the right of inspection, at all reasonable times, of the premises where such nondomesticated animals are kept and shall establish from time to time reasonable regulations relative to the care, maintenance and control of such animals. Any person violating the provisions of this section shall be fined fifty dollars for the first offense and one hundred dollars for each offense thereafter.
- B. No person shall transport within the city any nondomesticated animal without first having obtained a license from the Salem Board of Health for such transport except for emergency care needs of an injured animal. The Board of Health shall establish from time to time reasonable regulations relative to the transportation of such nondomesticated animals.

8.38.030 Non domesticated animals displayed for public entertainment or amusement.

- A. No living animals shall be displayed for public entertainment or amusement on property owned by the City of Salem, on city-owned property under lease, or on private property, except exhibits/events deemed educational by the Massachusetts Society for the Prevention of Cruelty to Animals.
- B. No captive animal shall be forced to live out of its natural environment, separated from its own species and displayed to the public in any exploitive manner.

Sec. 8-39. Vaccination against rabies; revaccination; penalty.

Whoever is the owner or keeper of a dog or cat six months of age or older shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions and shall cause such dog or cat to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dogs and cats acquired or moved into the city shall be vaccinated within 90 days after the acquisition or arrival into the city or upon reaching the age of six months, whichever last occurs. It shall be the duty of each veterinarian, at the time of vaccinating any dog or cat, to complete a certificate of rabies vaccination which shall include, but not be limited to the following information: the owner's name and address; a description of the animal, including breed, sex, age, name and distinctive

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markings; the date of vaccination; the rabies vaccination tag number; the type of rabies vaccine used; the route of vaccination; the expiration date of the vaccine; and the vaccine lot number.

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, that the owner of a cat may choose not to affix a tag to the cat, but shall have the tag available for inspection by authorized persons. In the event that a tag is lost, the owner or keeper of the animal shall, upon presentation of the original vaccination certificate, be issued a new tag.

In order for a dog or cat to be accepted at an animal hospital, veterinarian's office or boarding facility an owner or keeper of such animal shall show proof of current vaccination against rabies; provided however, that if a dog or cat has not been so vaccinated or such owner or keeper fails to show such proof the animal shall be vaccinated against rabies prior to being discharged if the animal's medical condition permits.

The provisions of this section shall not apply to dogs or cats housed in a research institution.

Whoever violates the provisions of this section shall be subject to a fine of \$50.00.

Any person failing to pay the above fine within the 21 days provided will be subject to a \$25.00 surcharge in addition to the fine due.

(Code 1973, § 5-7; Ord. of 10-9-1997, § 1; Ord. of 6-1-99, § IV; Ord. of 5-25-2006, § I(7))

NEW SECTION Proposed by Councilor's Merkl/Varela

Sec. 8-40. FEEDING OF WILD ANIMALS, WILDLIFE, AND BIRDS^[1]

8.40.010 Feeding of wild animals and/or wildlife is prohibited on city owned land.

- A. No person shall feed, bait, or in any manner provide access to food to any wild animal or birds within City of Salem on city owned land.
- B. No person shall leave or store any refuse, garbage, food product, pet food, forage product or supplement in a manner that would constitute an attractant to any wild animal or wildlife on city owned land.
- C. No person shall fail to take remedial action to avoid contact or conflict with wild animals, which may include the securing or removal of outdoor trash, cooking grills, or any other food source or product.

8.40.020 Feeding of wild animals and/or wildlife on private property.

- A. The feeding of songbirds and other backyard birds shall be permitted on private property subject to the following conditions:

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1. Birds shall only be fed from bird feeders. Bird feeders shall be installed at least five feet above the ground with catch basins.
- B. The feeding of wildlife is strongly discouraged due to the detrimental effect it has on their health and the disruption and conflict it causes to their natural feeding patterns.
- C. Feeding that creates an unreasonable disturbance that affects the safety of surrounding property owners by attracting excessive rodents and other wildlife and renders other persons insecure in the use of their property is not permitted.

8.40.030 - Enforcement.

Inspectional services and/or animal control shall enforce the provisions of this chapter.

8.40.040 - Penalties.

Any person violating any provision of this chapter shall be liable to a fine not less than twenty-five dollars or more than one hundred dollars for each offense.

Secs. 8-41—8-65. Reserved.

DIVISION 2. DANGEROUS DOGS

Sec. 8-66. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous dog means any dog that:

- (1) When unprovoked:
 - a. Inflicts bites on a human or domestic animal either in public or on private property, so long as such human or domestic animal is legally upon such public or private property; or
 - b. Chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
- (2) Has a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of humans or domestic animals.

(Ord. of 10-9-1997, § 1(5-8))

Cross reference(s)—Definitions generally, § 1-2.

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Sec. 8-67. Declaration.

- (a) It shall be the duty of the animal control officer to declare a dog to be dangerous. A written complaint is not required in order for the animal control officer to make the declaration. City law enforcement officers, inspectors or medical technicians shall report to the animal control officer any potentially dangerous dogs and any witnessed inappropriate behavior or incidents. A determination of the animal control officer shall be final and binding, subject to an appeal provided herein. Any dog owner may appeal the animal control officer's determination by filing a written appeal to the chief of police or the chief of police's designee within three business days following the owner's receipt of the animal control officer's determination notice. An owner's appeal must contain a certification of a licensed veterinarian stating that the dog, in the veterinarian's opinion, is not a dangerous dog as defined in section 8-66. The chief of police or the chief of police's designee shall hold a hearing within ten days of the filing of an appeal and shall issue a decision within seven days following the hearing.
- (b) No dog shall be declared dangerous if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog; was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog; or was committing or attempting to commit a crime. Children under seven years of age at the time injury was sustained will be presumed to have not committed any of the actions stated in this subsection.

(Ord. of 10-9-1997, § 1(5-8); Ord. of 5-25-2006, § II(1); Ord. of 5-13-2021 , § I)

Sec. 8-68. Confinement.

All dangerous dogs 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 dog from escaping. Such pen or structure shall have secure sides and a secure top and shall also provide protection from the elements for the dog.

(Ord. of 10-9-1997, § 1(5-8))

Sec. 8-69. Restraint on public ways.

No dangerous dog shall be permitted upon any public way unless restrained by an appropriate dog leash no longer than four feet in length.

(Ord. of 10-9-1997, § 1(5-8))

Sec. 8-70. Number limited.

- (a) There shall be no more than one dangerous dog per dwelling unit allowed in the city.
- (b) No person shall be permitted to own, harbor or otherwise control or have custody of more than one dangerous dog, excepting a licensed kennel.

(Ord. of 10-9-1997, § 1(5-8))

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Sec. 8-71. Possession by minor.

It is prohibited for a minor to either own, harbor or to otherwise have control or custody of a dangerous dog.
(Ord. of 10-9-1997, § 1(5-8))

Sec. 8-72. Collar.

Every dangerous dog is required to wear a bright orange collar, at least two inches in width.
(Ord. of 10-9-1997, § 1(5-8))

Sec. 8-73. Signs.

- (a) Any person who either own or harbors a dangerous dog must conspicuously display a sign approved by the animal control officer with a warning symbol that informs children of the presence of such dangerous dogs and a sign easily readable by the public using the words "dangerous dog."
 - (b) Signs are to be posted at each entrance to the house and on gates that are part of a fence enclosing the property as well as on the pen.
- (Ord. of 10-9-1997, § 1(5-8))

Sec. 8-74. Muzzling.

~~Every dangerous dog must be muzzled when not securely confined indoors or in a pen. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any person or animal.~~

NEW SECTION Proposed by Councilor's Merkl/Varela

Sec. 8-74. Confinement or muzzling.

The chief of police or his designee may order a dog confined to the premises where it resides or to other premises or to be muzzled when off said premises if he finds, after a hearing that the dog has:

- A. Bitten, physically injured or assaulted any person, without legally recognized justification or provocation.
- B. Bitten or physically injured any domestic animal, without legally recognized justification or provocation.
- C. Chased any motorist, bicyclist or pedestrian on any public way, street, or sidewalk or in any public place on at least two occasions.

Said order may be in addition to or in lieu of any fine authorized by **Section. 8-77 "?"**

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Nothing in this section shall preclude the chief of police from utilizing the procedure contained in M.G.L. c. 140, § 57, as amended by Chapter 193 of the Legislative Acts of 2012, to determine that a dog is a nuisance dog or a dangerous dog and from employing one or another of the remedies specified in that statute.

(Ord. of 10-9-1997, § 1(5-8))

Sec. 8-75. Breeding, selling or trading.

No person shall be permitted to breed dangerous dogs or sell or trade them within the city unless the sale or trade is for the purpose of removing them from the city limits.

(Ord. of 10-9-1997, § 1(5-8))

Sec. 8-76. Inflicting injury or damage.

Any injury or damage inflicted by a dangerous dog on a human or domestic animal shall result in immediate confiscation, and a hearing shall be conducted as soon as possible in accordance with M.G.L.A. c. 140, § 157. The dog may be destroyed pursuant to M.G.L.A. c. 140, § 158, if the dog is again found outside the enclosure of its owner or keeper and not under the owner of keeper's immediate care unless the owner can remove the dog from the city within ten days.

(Ord. of 10-9-1997, § 1(5-8); Ord. of 5-13-2021, § I)

~~Sec. 8-77. Penalty for violation.~~

~~Whoever violates any provision of this section shall be subject to a fine of \$25.00 for a first offense and \$50.00 for any subsequent offense relating to the same dog. Any dog which has been the subject of four violations of this section shall be deemed a nuisance within the provisions of M.G.L.A. c. 140, § 157, and shall be reported as such by the animal control officer to the chief of police for appropriate action under that law. Notwithstanding, any violations whereby a dog is at large on a public beach, park, mall, market area, school yard or public housing shall be subject to a fine of \$50.00. Any dangerous dog, found in said person's custody or any other person's custody, shall be immediately confiscated.~~

~~(Ord. of 10-9-1997, § 1(5-8); Ord. of 6-1-99, § I; Ord. of 5-25-2006, § II(2))~~

NEW SECTION Proposed by Councilor's Merkl/Varela

Sec. 8-77. Penalties and enforcement.

The owner, keeper and/or person otherwise in control of a dog shall be subject to a fine for each violation of this title as follows:

- A. For a violation of Section 8-78.
 - 1. First offense: one hundred dollars.
 - 2. Second offense: two hundred dollars.

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3. Third and subsequent offense: three hundred dollars.
- B. For all other violations of Section 8-78
1. First offense: fifty dollars.
 2. Second offense: one hundred dollars.
 3. Third and subsequent offense: one hundred fifty dollars.
- C. For a violation of Section 8-36.
1. First offense in any calendar year: twenty-five dollars.
 2. Second offense in any calendar year: fifty dollars.
 3. Third and subsequent offense in any calendar year: seventy-five dollars.
- In the case of a continuing offense, each day shall constitute a separate violation.

Sec.8-78. - Prohibited behavior.

The owner, keeper, or person otherwise in control of a dog shall not cause or permit a dog:

- A. To be unrestrained as required by Section 8-35;
- B. To be without current license and rabies vaccination tags when off the owner's property.
- C. To bite, physically injure, assault or threaten any person, without legally-recognized justification or provocation.
- D. To bite or physically injure any domestic animal, without legally recognized justification or provocation.
- E. To chase any motorist, bicyclist, or pedestrian on any public way, street, or sidewalk or in any public place.
- F. To be off the property where the dog resides, if subject to a confinement order.
- G. To be off the property where the dog resides, unmuzzled, if subject to a muzzle order.
- H. To disturb the peace and quiet enjoyment of any residential neighborhood by continuous or repeated barking, yelping, howling, or whining, without legal justification.

NEW SECTION Proposed by Councilor's Merkl/Varela

Sec 8 -79. Non-waiver of statutory remedies.

The provisions of this title are intended to be in addition to and not in lieu of those contained in M.G.L. c.140, §§ 136A, et seq., as amended by Chapter 193 of Legislative Acts of 2012; nothing contained in this title shall deprive the city from employing the remedies provided in those sections, including but not limited to disposition of a dog found to be a dangerous dog or nuisance dog, as provided in § 157 of c. 140, as amended.

To the maximum extent possible, the provisions of this title shall be deemed to be consistent with and/or supplemental to those contained in M.G.L. c. 140, as provided in §§ 173 and 173A, as amended.

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