

ARTICLE XVII**REGULATION OF DOGS****STATEMENT OF PURPOSE**

This bylaw is intended to guide those persons owning or keeping dogs in their role as responsible pet owners so as not to adversely affect the residents of the Town of Tyngsborough.

REFERENCE TO MASSACHUSETTS GENERAL LAWS

Any reference to a "section" in this bylaw shall mean M. G. L. c. 140, s 136A through 174D inclusive, as may be amended from time to time and except as modified herein, are incorporated into this bylaw relating to the regulation of dogs.

DEFINITIONS

Unless otherwise set out in this bylaw, any term defined in M. G. L. c. 140 s. 136A shall have the same meaning in this bylaw, and shall be expressly incorporated herein.

OWNER: Any person or persons, firm, association or corporation owning keeping or harboring a dog within the Town.

PERSON: An individual, partnership, association, company or corporation.

AT LARGE: On or off the premises of the owner, and not under the control of the owner or authorized person either by leash, cord, chain or other means.

ANIMAL SHELTER: Any premises designated for the purpose of impounding and caring for animals held under authority of this bylaw.

LICENSE PERIOD: From January 1 of each year to December 31 of the same year.

KENNEL: One (1) pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting or other purposes, and including any shop where dogs are on sale, and also including every pack or collection of four (4) or more dogs, six (6) months old or older, owned or kept by a person on a single premise, regardless of the purpose for which they are maintained.

RESTRAINT: A dog shall be deemed to be under restraint if it is on the premises of the owner accompanied by a person who shall have the dog under control; or is in a suitably enclosed area; or if outside the premises of the owner, is accompanied by a person who shall have the dog under control by holding it firmly on a leash no greater than six (6) feet in length.

EFFECTIVE IMPLEMENTATION DATE OF THIS BYLAW

This bylaw shall go into effect on the date of posting the Town Bulletin following the approval of the Attorney General.

DOG CONTROL OFFICER

The Board of Selectmen shall annually appoint a dog control officer under the provisions of M. G. L. c. 140 s. 151 and s.151A to carry out the provisions of this bylaw, and perform such other duties and responsibilities as the Board may determine. The Board shall determine hours and conditions of work for the dog control officer.

The dog control officer shall seek out and notify all owners of all dogs within the Town that have not been licensed within the required time under the provisions of this bylaw; shall seek out, catch and confine any dogs within the Town that are found on public property, or on private property where said dog is trespassing and the owner or person in control of such property wants the dog removed, if said dog is in violation of any section of this bylaw.

No person shall interfere with, hinder, molest or abuse a dog control officer in the exercise of such responsibilities. The provisions of M. G. L. c. 140 s. 151 and s. 151A regarding killing and/or transfer of any dogs shall apply and are expressly incorporated in this bylaw.

No dog control officer shall be a licensed animal dealer registered with the United States Department of Agriculture, and no dog control officer, either privately or in the course of carrying out official assignments as an agent for this Town, or shall any other agent of the Town, give, sell, or turn over any animal which may come into custody to any business or institution licensed or registered as a research facility or animal dealer with the United States Department of Agriculture. Whoever violates the provisions of this paragraph shall be punished as provided in M. G. L. c. 140 s. 151. It shall be the duty of the dog control officer to keep, or cause to be kept, accurate and detailed records of the impoundment and disposition of all dogs held in custody; a monthly telephone log of all calls regarding dogs; all bite cases reported and the investigation of same, and to submit monthly reports to the Board of Selectmen.

HEARING OFFICER

The Board of Selectmen shall act as hearing officer on all matters pertaining to the enforcement of this bylaw and the settling of any disputes between dog owner, the Town and its residents.

VACCINATION REQUIREMENT

Whoever is the owner of a dog six months of age or older shall cause such dog to be vaccinated against rabies by a licensed veterinarian using a vaccine approved by the Department of Public Health. Such owner shall produce a veterinarian's certificate that such dog has been so vaccinated setting forth the date of such vaccination and the duration of immunity; a metal rabies tag bearing an expiration date indicating that such certification is still in effect; or a notarized letter from a veterinarian that a certification was issued.

Unvaccinated dogs acquired or brought into the Town shall be vaccinated within thirty days after acquisition or entry into the Town or upon reaching the age of six months, whichever comes later.

Unvaccinated dogs shall be re-vaccinated in accordance with rules and regulations adopted and promulgated by the Department of Public Health.

REGISTRATION, LICENSES AND FEES

Any owner of a dog which is six (6) months of age or older and is located in the Town of Tyngsborough shall obtain a license for that dog commencing on January 1 of each year, as required by M. G. L. c. 140.

The fee for every license shall be:

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| Neutered male dogs and spayed female dogs | \$ 7.00 |
| Unneutered male dogs and unspayed female dogs | \$11.00 |

The registering, numbering, describing and licensing of a dog shall be done by the Town Clerk on a form prescribed and supplied by the Town Clerk, and shall be subjected to the condition

expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing livestock, fowls or wildlife.

The owner of a licensed dog shall cause it to wear around its neck or body a harness of leather or other suitable material, to which shall be securely attached a tag on a form prescribed by and issued by the Town Clerk when a license is issued. Such tag shall state the following information: (a) Town of Tyngsborough; (b) year of issue and (c) tag number. The Town Clerk shall maintain a record of the identifying numbers.

If any such tag shall be lost, the owner of such dog shall forthwith secure a substitute tag from the Town Clerk. The fee for the duplicate tag shall be: Duplicate Tag: \$1.00

The Town Clerk shall not grant such license for any dog unless the owner thereof provides the Town Clerk with either a veterinarian's certification that such dog has been vaccinated in accordance with the provisions of M. G. L. s.145B or has been certified exempt from such provision as outlined in M. G. L. c. 140 s.137 or s.137A, or a kennel license has been issued in accordance with Kennel Registration, Licenses and Fees.

All fees collected for licenses and fines under this bylaw shall be paid into the dog pound fund and be under the supervision of the Board of Selectmen.

KENNEL REGISTRATION, LICENSES, AND FEES

Any person maintaining a kennel shall have a kennel license. The fee for kennel licenses shall be:

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| Four (4) dogs | \$ 25.00 |
| Five (5) to ten (10) dogs | 50.00 |
| Eleven (11) dogs or more | 100.00 |

Any person who meets all requirements of the Town of Tyngsborough Zoning Bylaw and M. G. L. c. 140 s. 137A, may apply for a kennel license from the Town Clerk on a form prescribed and supplied by the Town Clerk and for a fee as set out in this bylaw.

The provisions of M. G. L. c. 140 s.138 and s138A shall be expressly incorporated herewith and shall henceforth apply under this bylaw.

The dog control officer may at any time inspect or cause to be inspected any kennel and if, in her or his judgment the same is not being maintained in a sanitary and humane manner, or if records are not properly kept as required by law, shall file with the Board of Selectmen a petition setting forth the facts, and the Board shall upon this petition, or upon a petition of twenty-five citizens, setting forth that they are aggrieved, or annoyed to an unreasonable extent, by one or more dogs at a kennel maintained in Town, because of excessive barking or vicious disposition of said dog or other conditions connected with such kennel constituting a public nuisance, said Board, within seven days after the filing of such petition, shall give notice to all parties in interest of a public hearing to be held within fourteen days after the date of such notice. Within ten days after such public hearing said Board shall make an order either revoking or suspending such kennel license or otherwise regulating said kennel, or dismissing said petition. Within ten days after such order the holder of such license may bring a petition in the district court as outlined in M. G. L. c. 140 s.137C. Any person maintaining a kennel after the license therefore has been so revoked, or while such license is so suspended, shall be punished as set forth in the penalty provision of this bylaw. The Board may in the case of any suspension, reinstate such license.

KENNEL REGULATIONS

The Town Clerk shall issue no kennel permit pursuant to the provisions of M. G. L. c. 140 s.137A, unless:

He or she has received a written report from the dog control officer certifying as follows:

That the premises where the applicant's kennel is located has been inspected.

That the premises proposed are appropriate for use as a kennel in compliance with the zoning bylaws of the Town of Tyngsborough.

That such use will have no significant adverse effect on the peace and quiet of the neighborhood or on the sanitary conditions there.

FAILURE TO LICENSE

In addition to the requirement that a dog shall be duly licensed as required by law, upon the complaint of the dog control officer, the penalty for the owner of a dog not licensed on or before March 1 in any year shall be:

Failure to license dog (in addition to license fee): \$25.00

All fees collected under this section shall be paid into the dog pound fund under the supervision of the Board of Selectmen.

LEASH LAW

No owner or keeper of any dog shall permit such dog to run at large at any time between the hours of 7:00 A.M. and 9:00 P.M. licensed or unlicensed. The provisions of this section shall not be intended to apply to dogs participating in any dog show, or to "seeing-eye" dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place, nor to any dogs properly trained and under the control of and aiding the deaf, nor to any dogs, being trained or actually being used for hunting purposes. Nothing contained in the foregoing paragraph shall prevent the Board of Selectmen from passing any orders authorized by M. G. L. c. 140 s. 137 at such times as they shall deem necessary to safeguard the public.

NUISANCE ABATEMENT

The keeping or harboring of any dog, whether licensed or not, which by habitual, consistent and persistent howling, yelping, barking, or other noise disturbs or annoys any persons residing in the neighborhood is unlawful and is hereby declared to be a public nuisance and each day shall constitute a separate offense. Dogs shall be kept in such a manner that no nuisance is produced regarding sanitary conditions, housing, food, shelter, water, or other factors which may cause a nuisance. Upon determination by the dog control officer, based on evidence, that a dog is causing a nuisance, the owner of such dog shall be punished as set forth in the penalty section of this bylaw.

Every female dog in heat shall be confined in a building or secured enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding. The owner of any unspayed and unleashed female dog found by the dog control officer roaming in season (heat) off the premises of the owner shall be punished in the penalty section of this bylaw.

When the owner of a male dog is notified by the dog control officer that his or her dog is a nuisance to residents while attracted to the residence of a female dog in heat, the owner of the male dog shall be requested to keep the male dog restrained.

The definition of nuisance dogs includes but is not limited to dogs whose owners repeatedly allow them to:

- Bark Excessively
- Roam free or unrestrained during the hours of 7 A.M. to 9 P.M.
- Damage property
- Molest passersby
- Chase persons walking, jogging, or riding bicycles
- Chase vehicles; and/or
- Disturb the peace in any way at any time.

QUARANTINE OF DOG THAT BITES

The dog owner shall immediately, and within twenty-four (24) hours, notify the dog control officer and agent for the Board of Health, if the dog bites a person. For biting a person, the dog must be quarantined subject to Massachusetts General Laws c.129, s.21. Any and all violations of a quarantine order will be subject to general penalties under Massachusetts General Laws c.129, s. 30.

VICIOUS DOGS

Vicious dogs are defined as dogs who unprovoked have attacked or bitten a human being or animal, or has a known propensity, tendency or disposition to attack unprovoked, to cause injury or to endanger the safety of human beings or animals.

No dog shall be declared vicious if injury or damage sustained by a person who was willfully trespassing or committing or attempting to commit a crime or committing other tort upon the premises occupied by the owner of a dog. Also exempted are dogs who were teased, tormented, abused or assaulted by the injured person or animal prior to attacking or biting. No dog shall be declared vicious if the dog was protecting or defending a human being in its immediate vicinity from attack or assault.

Potentially vicious dogs are defined as dogs who, when unprovoked, in a vicious or terrorizing manner approach any person or animal in an apparent attitude of attack in any public place within the Town.

Dogs who have violated any of the above conditions can be declared to be a nuisance, vicious or potentially vicious by the Board of Selectmen upon written complaint of a citizen, the dog control officer, Police Department or other public safety agent.

DISPOSITION OF DOGS

Any dog confined by the dog control officer, unless picked up by the owner, shall be kept for at least ten (10) days.

A storage fee for the boarding of impounded dogs shall be levied at a rate of \$5.00 per day.

Any dog confined by the dog control officer shall not be released to the owner until the owner produces evidence of a current dog license and pays all fines and storage fees.

LIABILITY FOR DOGS

The owner of a dog which has done damage to livestock or fowls shall be liable in tort to the Town for all damages so done in which the Town has been requested to pay as provided by Massachusetts General Laws, chapter 140 or by this bylaw. Such action may be brought by the Board of Selectmen or by the dog control officer.

VIOLATIONS

A violation of any section of this bylaw shall be punishable by a warning for the first offense.

Any person authorized to enforce provisions of this bylaw shall issue a citation to the owner of any dog violating the provisions of this bylaw. Any such citation shall include, in addition to the violation charge, the name and address of the owner of the dog, the date and time and location of the alleged offense, and, if not a warning, the amount of the penalty due. Said citation shall be on a form prescribed by and furnished by the dog control officer.

PENALTIES AND/OR FINES

The following penalties, except where otherwise indicated herein, shall be in effect for violations of this bylaw after a warning has been issued.

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| (A) First offense in calendar year | \$ 25.00 |
| Second offense in calendar year | \$ 50.00 |
| Third and each subsequent in calendar year | \$100.00 |

SEVERABILITY CLAUSE

If any part, section or provision of the bylaw is found to be invalid, the remainder of this bylaw shall not be affected thereby. No provision or interpretation of a provision of this bylaw is

intended to be either in conflict with or an attempt to change any statutory provision in Massachusetts General Laws, Chapter 140, pertaining to dogs.