

General Bylaw Chapter 17

Town of Tyringham Dog Control Bylaw

17.1 Purpose

The purpose of this bylaw is protection of people, animals, and property from injury, disease, and damage by dogs, including dog-related nuisances.

17.2 Definitions

Animal Control Officer (ACO): The person or persons appointed by the Select Board to enforce this article. The ACO must meet the requirements of certification by Massachusetts General Laws [MGL] Ch. 193 s. 51 of the Acts of 2012.

Owner: Any person who licenses a dog or keeps a dog for 30 days or longer. For the purposes of this article, the parent or guardian of a minor who owns or keeps a dog shall be considered the dog's owner or keeper.

Keeper: Any person, other than the owner, harboring or having in their possession any dog (MGL c. 140, § 136A).

Residence: Within the boundaries of the land where the owner sleeps.

Service Dog: A dog individually trained to do work in service of a person with a disability.

17.3 Restraint & Control of Dogs

All dog owners and keepers are required to keep their dogs restrained/leashed when off their residence at all times. Dogs are considered to be unrestrained if they are in the custody of a minor. A first-offense violation shall be subject to a penalty of \$25. A second-offense violation shall be subject to a penalty of \$50. A third or subsequent violation shall be subject to a penalty of \$100. A dog may for the purpose of sporting events and farm work be exempt from the restraining order while actually performing its work. Sporting events include but are not limited to hunting, field trials, and scent work.

17.4 Dog Fouling & Waste Removal

Any owner/keeper of any dog who shall be found by an ACO to have defecated on private property other than that of its owner/keeper or on a public way or on public lands without removal of fecal material shall be subject to the following penalties: A first-offense violation shall be subject to a penalty of \$25. A second-offense violation shall be subject to a penalty of \$50. A third or subsequent violation shall be subject to a penalty of \$100.

17.5 Nuisance & Aggressive Behavior

Any owner/keeper of any dog who shall be found by the ACO to exhibit nuisance or aggressive behavior off their residence shall be subject to the following penalties: A first-offense violation

shall be subject to a penalty of \$50. A second-offense violation shall be subject to a penalty of \$100. A third or subsequent violation shall be subject to a penalty of \$300.

Nuisance and aggressive behaviors include but are not limited to: 1. To chase a pedestrian, bicycle or any other vehicle. 2. Worrying livestock: to worry, tease, threaten, or injure another's livestock, fowl or pet. 3. Biting or threatening to bite another person or animal.

In accordance with Mass Gen Law Ch 140 Sec 157, no dog shall be deemed dangerous: (i) solely based upon growling or barking or solely growling and barking; (ii) based upon the breed of the dog; or (iii) if the dog was reacting to another animal or to a person and the dog's reaction was not grossly disproportionate to any of the following circumstances:

(1) the dog was protecting or defending itself, its offspring, another domestic animal or a person from attack or assault;

(2) 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 the dog;

(3) the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog; or

(4) at the time of the attack or threat, the person or animal that was attacked or threatened by the 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 7, it shall be a rebuttable presumption that such person was not committing a crime, provoking the dog or trespassing.

In accordance with Mass Gen Law Ch 140 Sec 155, if any dog shall do any damage to either the body or property of any person, the owner or keeper, or if the owner or keeper be a minor, the parent or guardian of such minor, shall be liable for such damage, unless such damage shall have been occasioned to the body or property of a person who, at the time such damage was sustained, was committing a trespass or other tort, or was teasing, tormenting or abusing such dog. If a minor, on whose behalf an action under this section is brought, is under seven years of age at the time the damage was done, it shall be presumed that such minor was not committing a trespass or other tort, or teasing, tormenting or abusing such dog, and the burden of proof thereof shall be upon the defendant in such action.

17.6 Penalties & Non-Criminal Disposition/Disclaimer Clause

All penalties set forth herein before shall be paid to the Town Clerk within twenty-one (21) days of notice of the offense. These bylaws shall be enforced by the Select Board through the Dog Officer or Police Officer of the Town of Tyringham and shall be administered by MGL Chapter 40, Section 21D, on a non-criminal disposition. Nothing contained within these bylaws shall limit or restrict any enforcement officer to seek criminal disposition of any violation of state or federal law.