

Chapter 16 Canine Control Bylaw

SECTION 1: PURPOSE

The purpose of this bylaw is control of dogs to prevent injury to property, persons and animals.

SECTION 2: DEFINITIONS

Massachusetts General Laws, Chapter 140, Section 136A shall be referenced to define terms used on this bylaw.

SECTION 3: ADMINISTRATION

- a. The Board of Selectmen shall annually appoint an Animal Control Officer who shall be responsible for the enforcement of this bylaw and the General Laws relating to the regulation of animals.
- b. For purposes of this bylaw and Massachusetts General Laws, Chapter 140, section 157, the Board of Selectmen shall be the Hearing Authority.

SECTION 4: CONTROL OF ANIMALS

Any person owning, keeping, or harboring a dog within the town is responsible for removing and properly disposing of any feces left by the dog whether on public or private property. Animal Control and your fellow residents appreciate you doing your part to keep our Town clean and enjoyable for all.

No person owning, harboring or having the custody or control of a dog shall permit such dog to enter or remain upon the following property at the time indicated:

- a) **BEACHES.** No dog shall be allowed upon any public beach in Upton at any hour of the day, from May 15 through September 30.
- b) **CEMETERY GROUNDS.** No dog shall be allowed upon any cemetery grounds in Upton at any hour of the day, at all times of the year.
- c) **OTHER TOWN FACILITIES.** All dogs shall be kept on a leash, while on Town's Athletic Fields, Town Parks, Town Common, Town Hall, **Public Schools**, and Risteen Building.

Provided, however, that subsections a) through c) shall not apply to: service animals as defined by the Americans with Disabilities Act or regulations promulgated thereunder; dogs belonging to a law enforcement agency or formally trained as search and rescue animals, provided that such

dogs are acting in the line of duty; or, with permission of the land owner for the purpose of training dogs or hunting

SECTION 5A: ROAMING AT LARGE

a. No owner or keeper of any dog shall cause or permit such dog, whether licensed or unlicensed, to run at large within the Town of Upton, or permit such dog to wander unrestrained on public or private property other than the premises of the owner or keeper or the premises of another person with knowledge and permission of such other person. A dog is under restraint within the meaning of this bylaw if it is controlled by a leash or at heel beside a competent person and obedient to the commands of that person or within a vehicle being driven or parked.

b. Unrestrained or unlicensed dogs may be caught and confined by the Animal Control Officer or any police officer of the Town of Upton. A dog so confined may be held for not more than seven days. If the owner or keeper of the dog claims it and pays the sum of \$40 for each day that the dog has been held, the dog shall be returned to its owner or keeper. Any dog not claimed by the owner or keeper within said seven day period may be subject to euthanization or adoption as set forth in Massachusetts General Laws, Chapter 140, sections 151A and 167, as may be amended from time-to-time.

SECTION 5B: NUISANCE AND DANGEROUS DOGS

a. The Animal Control Officer shall investigate all complaints made to the Animal Control Officer, the Town of Upton Police Department, the Board of Selectmen, or the Town Manager, that any dog owned or kept within the Town of Upton is a Nuisance Dog or Dangerous Dog, as those terms are defined in Massachusetts General Laws, Chapter 140, Section 136A and 157, as may be amended from time-to-time.

b. The Animal Control Officer shall require that said complaints be in writing and is hereby empowered to make whatever inquiry is deemed necessary to determine the accuracy of said complaint and may make such orders as he or she deems necessary to ensure the protection of public safety and/or to eliminate said nuisance, as provided in Massachusetts General Laws, Chapter 140, section 157, as may be amended from time-to-time.

c. Any person aggrieved by an order of the Animal Control Officer may request a hearing before the Board of Selectmen. Said request shall be in writing and received by the Board of Selectmen within five (5) business days of issuance of the Animal Control Officer's order. A copy of the hearing request shall also be delivered to the Animal Control Officer. If no such request is filed within the time specified herein, the order of the Animal Control Officer shall be final.

d. Upon receipt of a timely request, the Board of Selectmen shall convene a public

hearing, which shall include an examination of the complainant under oath, to determine whether the dog is a Nuisance Dog or Dangerous Dog. Based on the credible evidence and testimony presented at said public hearing, the Board of Selectmen may affirm the Animal Control Officer's order, reverse and nullify the Animal Control Officer's order, or issue any such order as it deems necessary to ensure the protection of public safety and/or eliminate a nuisance, as provided in Massachusetts General Laws, Chapter 140, section 157, as may be amended from time-to-time. The determination of the Board of Selectmen after a hearing shall be final.

e. Nothing in this By-law is intended to limit or restrict the authority of the Board of Selectmen to act in accordance with Massachusetts General Laws, Chapter 140, section 157.

SECTION 6: DOG TAGS

All dogs shall wear a collar or similar device with the current dog tags (license) attached.

SECTION 7: LICENSING

a. All dogs 6 months or over must be licensed and tagged. The registering, numbering, and licensing of dogs, if kept in the Town of Upton shall be conducted in the office of the Town Clerk.

b. The annual License Period shall run from January 1st to December 31st of each calendar year.

c. The annual fees to be charged by the Town of Upton for the issuance of licenses for dogs shall be:

- Males and Females: \$20
- Neutered Males and Spayed Females: \$10
(A certificate of neutering or spaying is required)
- Dog Owners over the age of 70: no fee
- Service Animals as defined by the American with Disabilities Act or regulations promulgated thereunder: No fee.
- Dangerous Dog Relicensing fee: \$30
- Personal Kennels (subject to inspections):

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| Four dogs or less | \$45 |
| Five to ten dogs | \$90 |
| More than ten dogs | \$180 |
- Commercial Kennels (subject to inspections): \$250

Further, the town will charge a *late fee of Ten Dollars (\$10.00)* to be paid by owners or keepers of record each year who license said dog or dogs on or after March 31st.

All money received from issuance of dog licenses by the Town of Upton, or recovered as fines or penalties by said Town under provisions of Chapter 140 relating to dogs, shall be paid into the General Fund of the Town.

SECTION 8: LICENSING OF DANGEROUS DOGS

a. The Animal Control Officer shall notify the Town Clerk of all dogs that have been designated as Dangerous Dogs in accordance with Section 5B of this Bylaw and/or Massachusetts General Laws, Chapter 140, section 157.

b. The Owner or keeper of any dog(s) designated as Dangerous Dogs in accordance with Section 5B of this Bylaw and/or Massachusetts General Laws, Chapter 140, section 157, which have not been ordered euthanized, shall relicense said dog(s) as “Dangerous” within thirty days of such determination. A unique licensing number shall be assigned to a Dangerous Dog by the Town Clerk. That number shall be noted on the town licensing files. The owner or keeper of such Dangerous dog shall pay a relicense fee in accordance with Section 7 of this By- law.

c. The owner or keeper of a Dangerous Dog shall notify within 12 hours the Animal Control Officer if said dog is unconfined, has attacked, a domestic anima or another dog or has attacked a human, or has died or has been sold or given away; the owner or keeper shall also provide the Animal Control Officer with the name, address and telephone number of the new owner of the Dangerous dog.

SECTION 9: ENFORCEMENT AND PENALTIES

1. Allowing Dog to Roam at Large

a. In addition to the remedy of impoundment as set forth therein, Section 5A of this Bylaw may be enforced by the Animal Control Officer or any police officer of the Town through any means available in law or equity, including but not limited to criminal indictment in accordance with G.L. c.40, §21, and noncriminal disposition in accordance with G.L. c. 40, §21D, and the Town Bylaws, “Non- Criminal Disposition.” When enforced in accordance with G.L. c.40, §21, the maximum penalty shall be \$300.00 and each day a violation exists shall constitute a separate violation.

b. When enforced through non-criminal disposition, the penalties shall be as follows:

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| First Offense: | Warning |
| Second Offense: | \$50 Fine Third |
| and subsequent Offense: | \$100 Fine |

c. For purposes of enforcement through non-criminal disposition, any violation of the provisions of this by-law occurring more than 12 months after a first offense shall constitute a new and separate violation.

2. ***Violation of Order to Restrain Nuisance or Dangerous Dog***

a. In addition to the remedies set forth therein, Section 5B of this Bylaw may be enforced by the Animal Control Officer or any police officer of the Town through any means available in law or equity, including but not limited to criminal indictment in accordance with G.L. c.140, §157A as may be amended from time- to-time, and noncriminal disposition in accordance with G.L. c. 40, §21D, and the Town Bylaws, “Non-Criminal Disposition.” When enforced in accordance with G.L. c.140, §157A, an owner or keeper of a dog who fails to comply with an order of the selectmen or district court shall be punished, for a first offense, by a fine of not more than \$500 or imprisonment for not more than 60 days in a jail or house of correction, or both, and for a second or subsequent offense by a fine of not more than \$1,000 or imprisonment for not more than 90 days in a jail or house of correction.

b. When enforced through non-criminal disposition, the penalties shall be as follows:

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| First Offense: | \$50 Fine |
| Second Offense: | \$100 Fine |
| Third and subsequent Offense: | \$200 Fine |

For purposes of enforcement through non-criminal disposition, any violation of the provisions of this by-law occurring more than 12 months after a first offense shall constitute a new and separate violation. The Animal Control Officer or any Town of Upton police officer shall seize and impound any vicious dog found outside of its enclosure in violation of this Bylaw or any order issued by the Animal Control Officer, the Board of Selectmen or the Court.

3. ***Other***

The Upton Board of Selectmen may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Selectmen shall not preclude enforcement through any other lawful means.

SECTION 10: SEVERABILITY

The invalidity of any section, provision, paragraph, sentence, or clause of this bylaw shall not invalidate any other section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.