



TOWN OF KITTERY
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REPORT TO TOWN COUNCIL

Meeting Date: April 12, 2021
From: Animal Control Working Group
Subject: Title 6 - Animal Control Phase 2
Council Sponsor: Vice Chair Judy Spiller

EXECUTIVE SUMMARY

Meeting over a four month period, the Council-appointed Animal Control Working Group (five citizens, the Town Manager, the Police Chief, the Animal Control Officer, and a Town Councilor), and after reviewing current dog-related regulations, those of surrounding communities, and comments received by Council about dogs over the past spring and summer, recommends that specific leash-only hours be designated at Fort Foster and Seapoint from the day after Labor Day until the day before Memorial Day, excluding weekends in May and September when the Park is open for visitors, and year round at Rogers Park (Table 1). Further, it suggests Council formally designate the Pier East Beach (Mother's Beach) as no dogs allowed when Fort Foster is open as a park, and that it strike Title 12.4.8, which restricts Seapoint/Crescent to Kittery-resident dogs only in the summer.

BACKGROUND

Responding to controversy over how to address dog issues at Town parks (Fort Foster, Rogers, and Seapoint/Crescent Beaches), the Town Council in December appointed a five-member citizen committee, including a Parks Commission representative, to develop recommendations. Participants were selected by Council Chair Thomson and Town Manager Amaral, based on their applications, which stated a desire for dog-friendly policy that also accommodated those wanting protection from unwanted dog contact while at Town parks. The Working Group, assisted by Town Manager Amaral, Councilor Spiller, Police Chief Richter, and Animal Control Officer Byrnes meet regularly from December to March.

The Committee determined that any policy involving dogs had to balance the interests of dog owners with those wishing to use the parks without interference from dogs. It also agreed that policy needed to insure the safety of park users; be enforceable; and be easily communicated. It recognized that any policy would be a compromise. The Working Group reviewed current park use and access regulations (Titles 6 and 12); dog regulations from surrounding communities (Table 2); the numerous comments from Kittery residents about dog access; and the range of park users and uses.

Kittery dog ordinances – Title 6: <https://www.ecode360.com/KI3028-DIV-07>; Title 12: <https://www.ecode360.com/KI3028-DIV-13>

SURROUNDING COMMUNITIES

Our review (Table 2) showed that most Seacoast communities place some restriction on dog access. During summer months, the popular recreation areas either prohibit dogs; require dogs on leash; or only allow dog access, on- or off leash, during early morning and late afternoon.

Resident comments on the dog issue - Comments indicated that most dog-human-interactions were positive, but some indicated that negative interactions (charging, jumping, disrupting) while not meriting a formal complaint, nonetheless detracted from park enjoyment. Some stated that they no longer walked at the parks, fearing being knocked over by a dog. A special case were complaints from those, while walking their dogs on leash, were approached by off-leash dogs, triggering an aggressive response by the off- or on-leash dog or both.

PARK USERS AND USES

Our list of users included families with young children, school trips, older adults some with mobility issues, bird and other nature observers, and, of course, those with dogs were frequent visitors.

Options - We considered the following:

- Maintain the status quo - Keeping the current regulations did not address the experience and the safety of some users
- Ban dogs entirely - Likely unenforceable and unfair to the responsible dog owners
- Create a dog park - An acceptable location would have to be identified; dogs parks are noisy and additional Town staff would be required for the needed regular maintenance. Behavior issues are sometimes a problem.
- Restrict access to certain areas, for example off leash at Crescent Beach or Fort Foster's Dive beach - Would require additional Town staff to enforce
- Balance hours when dogs could run free with those when dogs were restricted – Our preferred option.

RECOMMENDATION

We concluded that no policy would make everyone happy, and any change in policy required communication with users and enforcement. First, we recommended that the current “summer hours” for Fort Foster and Seapoint/Crescent remain in place with minor changes in timing. Second, we recommended that for the rest of the year at Fort Foster and Seapoint/Crescent, on-leash only hours - again with enforcement - be implemented from 10 am to 3 pm. This change would allow time for those not wishing dogs to interfere with their park use, while also allowing time for dog owners to exercise and train their dogs. We also recommended that the on-leash only hours at Rogers Park be year-round from 10 am to 3 pm. Finally, we recommended that when Fort Foster is open, the Pier Beach South be designated as “no dogs”. Finally, we found the restriction at Seapoint/Crescent during the summer that limited access only to dogs those belonging to Kittery residents as confusing and unenforceable and so suggested that it be removed from Title 12.4.8.

The committee had additional recommendations with respect to improved signage, communicating dog rules to residents when registering their dogs; the need for dog owners and others either through a formal volunteer group and individually to remind dog owners about dog waste rules and controlling their dogs. The committee had lengthy discussions about what exactly voice control meant and how it could be enforced and the appropriate dog leash length – both without conclusion. And, of course, the committee discussed parking problems (currently under discussion by the Parks Commission) and animal waste. Both topics were not in the Committee's charge.

Table 1. Proposed Dogs Regulations – Fort Foster, Rogers Park, Seapoint/Crescent Beach
Criteria

- Balance access/use (fairness)
- Enforceable
- Easy to communicate

	On Leash	Off Leash	No Dogs
Fort Foster - winter	10 am – 3 pm	Before 10 am; after 3 pm	
Fort Foster -summer	10 am – park closed	Before 10 am; after park closed	No dogs – Pier Beach*
Fort Foster – gate staffed after Labor Day and before Memorial Day	10 am – park closed	Before 10 am; after park closed	No dogs – Pier Beach*
Rogers Park	10 am – 3 pm	Before 10- am; after 3 pm	
Seapoint/Crescent – summer		Before 10- am; after 5 pm	10 am – 5 pm
Seapoint/Crescent – winter	10 am – 3 pm	Before 10- am; after 3 pm	

* - see attached illustration

Table 2. Summary of Area Dog Regulations
York, ME

The following restrictions apply to domestic animals on Cape Neddick Beach, Short Sands Beach, Long Sands Beach and Harbor Beach.

- No domestic animals shall be present on these beaches between the hours of 8 a.m. and 6 p.m. from May 20th through September 20th.
- Dogs on these beaches will be required to be on a leash between May 20th and September 29th between the hours of 6 p.m. and sunrise.
- Between May 20th and September 20th dogs will be allowed to unleashed between sunrise and 8 a.m. as long as the dog is under the voice control of its owner or responsible party

Eliot, ME

Section 61-10 No dog shall be present on a beach or park unless on a leash held by an owner or responsible party who is capable of controlling the dog.

Ogunquit, ME

Title VII Animal Control, Chapter 2. 206

- Dogs are not permitted on the Ogunquit Beach area from April 1st to September 8th.
- Dogs are not permitted on the Marginal Way from April 1st to September 30th
- Dogs are permitted on the Ogunquit Beach Area from September 9th to March 31st.
- Dogs are permitted on the Marginal Way from October 1st to March 31st

- Dogs must be on a leash.
- Dogs are not permitted in the Ogunquit River Estuary at any time.

Running at Large 202

The owner of any pet or other animal shall not permit that pet or animal to run at large, except when used for hunting or on private property with the consent of the property owner. Dogs or other animals shall not be allowed to run at large on any public property or rights-of-way in Town.

Ogunquit dog park

Wells, ME

All dogs that go on the beach from April 1st to September 15th must be on a leash and in control of a responsible person per Town Ordinance 86-1.

From June 16th to September 15th no dogs are allowed on the beach between the hours of 8 a.m. and 6 p.m. per Town Ordinance 86-1. Dogs may go on the beach before 8 a.m. or after 6 p.m. but must always be on a leash.

Dover, NH

City parks - prohibited

Community trail – dogs leashed

Dog park - Longhill Dog Park

Leash law in city

Durham, NH

49-1. Leash Requirement.

Except as provided in section 49-2, all dogs in the Town of Durham shall be restrained by a leash not exceeding eight (8) feet in fixed length or a retractable leash with stop control.

Wagon Hill Farm - Dogs must be on leash at all times except from Dawn to 10:00 a.m. daily

NH State Beaches: Wallis Sands, Jenness, Hampton, North Beach

State Beach	Pets Not Allowed	Pets Allowed
Wallis Sands	May 1 – Sept. 30	Oct. 1 – April 30
Jenness	May 1 – Sept. 30	Oct. 1 – April 30
Hampton	May 1 – Sept. 30	Oct. 1 – April 30
North Beach	May 1 – Sept. 30	Oct. 1 – April 30
North Hampton	Year-round	
Odiorne State park	Year-round	

Animals must be on a standard or retractable leash not greater than 6 feet in length.

New Castle, NH

Dogs must be leashed when in all town parks or on other town property with the exception of the town owned park located on Wentworth Road (former USCG land) commonly known as “Town land” during the hours of 8 pm and 8 am daily.

Portsmouth, NH

Fenced dog park – South Mill Pond

Dogs off leash: South Mill Pond along shore/Haven Park/Langdon Park; Goodwin Park; Great Bog; Park area – between railroad tracks off Borthwick Avenue; Ward Park

No Dogs: Prescott Park - no dogs; Pierce Island – no dogs until sewer plant completed

Rye, NH

Dogs are not permitted on Town beaches before 7:00 p.m. or after 9:00 a.m. from the Saturday before Memorial Day to the first Saturday after Labor Day. At other times of the year these hourly restrictions do not apply. The only exception will be the area between Wallis Sands State Park and Odiorne State Park, where dogs and people are allowed between the hours of 6:00 am and 12 midnight. Dogs must be under voice control or leashed.

Chapter 6.1 Animal Control – Phase 2

ADD Fort Foster, Seapoint and Crescent Beaches to §6.1.4 with restrictions as follows:

§ 6.1.4 **Control of pets on public property.**

- A. No pet is allowed to be at large, as defined above, on any public property, or on private property without the consent of the property owner. This section does not prohibit the owner from using a dog for hunting, where hunting is permitted, provided the dog is under the voice control of its owner.
- B. No dog is allowed to have contact with any person, or animal under control of a person, other than the owner or responsible party unless such person has communicated to the owner or responsible party, by word or gesture, their consent to be approached by the dog.
- C. Owners must immediately collect and properly dispose of or secure feces left by their pet(s) on any improved portion of public ways or sidewalks, and in public parks. Owners or responsible parties must maintain possession of their pet's feces while on public property.
- D. No person may be a responsible party for more than 3 dogs at any time while in a Town park.
- E. Dogs must be on a leash at all times when on public ways or sidewalks.
- F. John Paul Jones Park
 1. Dogs are prohibited at all times.
- G. All Playing Fields in Kittery
 1. Dogs are prohibited at all times.

H. Seapoint and Crescent Beaches

1. Dogs are prohibited 10AM to 5PM from Memorial Day to Labor Day each year.
2. Dogs must be on leash 10AM to 3PM from the day after Labor Day to the day before Memorial Day each year.

I. Fort Foster

1. Dogs are prohibited on Pier Beach East, as designated by signs, on weekends in May and September, and every day from Memorial Day to Labor Day each year.
2. Dogs must be on leash 10AM to park closing on weekends in May and September, and every day from Memorial Day to Labor Day each year.
3. Dogs must be on leash 10AM to 3PM from the day after Labor Day to the day before Memorial Day each year.

J. Rogers Park

1. Dogs must be on leash 10AM to 3PM year-round.

AMEND Seapoint and Crescent Beaches as follows:

§ 12.4.8 **Animals.**

- A. ~~Control of dogs is governed by Chapter 6.1 of the Code. No domestic animal is allowed within Seapoint or Crescent Beaches, except that dogs, while under the control of their owner or keeper, are allowed on Crescent and Seapoint Beaches at times other than between the hours of 10:00 a.m. to 5:00 p.m. from June 15 through September 10 of each year. This limitation does not apply to guide or seeing eye dogs when used as such. At no time may the owner or keeper of any dog allow that dog to run at large on Crescent or Seapoint Beaches or enter upon any publicly owned salt marsh~~

37 immediately adjacent to Seapoint or Crescent Beach. From May 15 to September 30, inclusive, only
38 dogs licensed to Town residents are allowed on Seapoint and Crescent Beaches.

39 ~~B. — A pooper scooper rule is in effect for dogs. Owners and keepers must properly dispose of animal~~
40 ~~waste either by placing it in supplied receptacle(s) or, if one is not supplied, by taking it with them~~
41 ~~when leaving the beaches.~~

AMEND Fort Foster as follows:

§ 12.5.1 **Animals.**

43 A. Control of dogs is governed by Chapter 6.1 of the Code. ~~With the exception of dogs, no domestic~~
44 ~~animals are allowed in Fort Foster Park, and dogs are subject to the following conditions:~~

45 ~~A. — Dogs must be leashed at all times during park hours (10:00 a.m. to 8:00 p.m.) on weekends in May~~
46 ~~and September and every day from Memorial Day to Labor Day, inclusive. A maximum leash of eight feet~~
47 ~~is allowed.~~

48 ~~B. — While under control of the owner or keeper, dogs are also allowed in the park during the following~~
49 ~~days and times:~~

50 ~~(1) — During weekdays, prior to Memorial Day in May;~~

51 ~~(2) — Before park opening (sunrise to 10:00 a.m.) between Memorial Day and Labor Day;~~

52 ~~(3) — During weekdays, after Labor Day in September; and~~

53 ~~(4) — Between sunrise and sunset from October 1 to April 30, inclusive.~~

54 ~~C. — A "pooper scooper" rule is in effect for dogs. Owners or keepers must take their dogs' solid waste~~
55 ~~with them when leaving the park.~~

KITTERY TOWN CODE
TITLE 6
ANIMAL CONTROL – PHASE 2

AN ORDINANCE relating to the municipality's authority for Town governance to give due and proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A, Municipalities and Counties.

WHEREAS, the Kittery Town Council is authorized to enact this Ordinance, as specified in Sections 1.01 and 2.07(3) of the Town Charter; 30-A MRS §3001, pursuant to its powers that authorize the town, under certain circumstances, to provide for the public health, welfare, morals, and safety, and does not intend for this Ordinance to conflict with any existing state or federal laws; and

WHEREAS, the Town of Kittery seeks to improve the control of animals for the protection of residents and the use and enjoyment of public property, by addressing animals at-large, animal feces on public property, and nuisance or menacing animals; and

NOW THEREFORE, IN ACCORDANCE WITH TITLES 30-A MRS §3001 AND TOWN CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENTS TO TITLE 6 OF THE TOWN CODE, AS PRESENTED.

INTRODUCED and read in a public session of the Town Council on the ____ day of _____, 20____, by: _____ {NAME} Motion to approve by Councilor _____ {NAME}, as seconded by Councilor _____ {NAME} and passed by a vote of _____.

THIS ORDINANCE IS DULY AND PROPERLY ORDAINED by the Town Council of Kittery, Maine on the ____ day of _____, 20____, {NAME}, _____, Chairperson

Attest: {NAME}, _____ Town Clerk