



TOWN OF KITTERY

**200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806**

KITTERY TOWN COUNCIL WORKSHOP

TITLE 6 – ANIMAL CONTROL

August 17, 2020

5:00PM

Due to the Declaration of a State of Emergency for the State of Maine and Town of Kittery, this meeting will be held remotely in accordance with LD 2167. The meeting will be broadcast on Channel 22, Facebook, and live broadcast from the Town's website.



TOWN OF KITTERY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: February 10, 2020
UPDATED: March 9, 2020, June 8, 2020, August 17, 2020
From: Kendra Amaral, Town Manager
Subject: Title 6 – Animal Control
Councilor Sponsor: Chairperson Judy Spiller

The Town Council requested proposed revisions to Title 6 that reflect and respond to the discussion at the Council/Parks Commission workshop in December.

The revisions build upon the amendment proposal presented by Councilor Denault in July 2019. That version contained a number of improvements to address voice control, impounding, and consolidating animal regulations into one Title. Additional amendments reflect the input of our new Animal Control Officer Robert Byrnes and Police Chief Richter.

The community has been discussing dogs at town parks for years. The challenge continues to lie in balancing the various wants and needs at our parks. The Parks Commission has studied the matter in depth, conducted surveys, and participated in multiple workshops with the Council. There is no one answer that will satisfy all those interested in this matter.

There will always be a challenge of resource allocation for the enforcement of ordinances like these, where the offending party has to be witnessed by an Officer in the act of violating the ordinance. We have one full-time animal control officer. Therefore, it must be acknowledged that the proposed ordinance revisions will improve the tools available to the Animal Control Officer in enforcement, but they will not automatically eliminate all dog waste, unwanted dog contact at our parks, and other animal related complaints.

The attached proposal includes some options that may be too restrictive, particularly for the beaches and Fort Foster. This is intentional and done to facilitate the effort to move the debate forward.

Below is a description of some of the major amendments proposed. Adjustments to the proposed amendments have been made to reflect Councilor feedback. Further adjustments were made to address the yet unresolved feral cat issue, highlighted in yellow.

Dog Waste

Closes the loophole on the bagged waste being left along the entrance roads and areas of Fort Foster, Seapoint, and other popular parks. ACO Byrnes identified that the current language does not expressly prohibit this practice.

Control of Dogs at Public Parks

Limits the number of dogs one person is responsible for at a time, and the number of dogs one person can have off leash and under voice control at a time, while on public property. It is expected these limitations should help reduce the number of incidents of unwanted dog contact and uncollected dog waste at our parks.

Prohibition/Restrictions of dogs at various parks

Multiple options are given for the Council to consider regarding dog access at popular parks. They range in impact/restrictiveness and are proposed to facilitate discussion.

The proposal includes requiring dogs to be leashed at all times at Rogers Park which is the site of our outdoor preschool program. The proposal expressly prohibits dogs on all playing fields in Kittery.

The options proposed have been reorganized and reworded to simplify and make clearer what the options are. The staff recommend having consistent regulations for Fort Foster and Seapoint and Crescent beaches to avoid confusion. It is possible dog usage at Fort Foster will increase during the shoulder period between Sep and Oct 15, when Fort Foster has less restrictive regulations for dogs.

The current version represents edits agreed to at the Council Workshop on March 9, 2020.

Welfare

ACO Byrnes has noted that state statute already grants him authority to address animal welfare relative to prolonged tethering and animals exposed to prolonged weather conditions. However, two Councilors expressed interest in having the ordinance cover animal welfare/cruelty. Attached are the relevant state laws. Welfare is included and ties to state statute which allows for exceptions.

Fines

Focuses on a single rate for the fine rather than a graduated approach for all violation except disturbing the peace. The ACO would also like codified that he can issue a No Trespass order to address repeat offenders.

Other Titles

Refers animal control back to Title 6 for Fort Foster, Seapoint and Crescent Beaches, and Town Farm. Rogers Park already refers directly back to Title 6.1. The proposed also corrects the Title of Town Farm to Town Farm Forest (unrelated to animal control).

PROPOSED SOLUTION/RECOMMENDATION

Hold a public hearing on the amendments and determine which amendments proposed are acceptable to the community for approval.

ATTACHMENTS

- Proposed Title 6 – Animal Control

**Title 6
Animal Control**

AMEND Title 6 as follows:

Title 6.1 ~~Dogs~~Animal Control

§ 6.1.0-1 **Conflict with other laws.**

~~If in conflict with any section of this chapter, the provisions of Chapter 12.4 (Seapoint/Crescent Beaches) or Chapter 12.5 (Fort Foster) will apply.~~ In the event of any conflict in the provisions of this article with the provisions of any present or future statute relating thereto, the most restrictive or that imposing the higher standards governs.

§ 6.1.1-2 **Definitions.**

For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section.

ANIMAL CONTROL OFFICER Includes municipal police officer.

AT LARGE Off the premises of the owner, unless:

- A. Controlled by a leash, ~~cord or chain of not more than eight feet in length;~~
- B. Within a vehicle or under restraint in an open vehicle being driven or parked on a public way; or
- C. Under the control of a person whose personal presence, voice, and attention would control the conduct of the ~~dog~~animal.

LEASH A cord or chain not more than 10 feet in length.

OWNER Any person keeping or harboring a dog or other animal.

PET Any animal domesticated to serve as a companion, excluding service dogs.

RESPONSIBLE PARTY Any person who has possession, custody, or control of an animal.

VOICE CONTROL An animal under control of the responsible party by voice command such that the animal returns immediately to the responsible party upon calling, and remains by their side and in sight.

§ 6.1.2-3 **~~Applicability to visiting nonresidents~~License required.**

~~No dog may be kept within the Town unless licensed by its owners in accordance with applicable state statutes. The licensing provisions of this chapter do not apply to any dog belonging to a nonresident visiting within the Town without the intention of becoming a resident, but the owner of such dog must comply with the remaining provisions of this chapter.~~

Proof of current dog license must be provided to the animal control officer upon request.

§6.1.4. Control of pets on public property.

A. No pet is allowed to be at large 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

31 hunting is permitted, provided the dog is under the voice control of its owner.

32 B. No dog is allowed to ~~approach within ten (10) feet or~~ have contact with of any person other than the
33 owner or responsible party unless such person has communicated to the owner or responsible party,
34 by word or gesture, their consent to be approached by the dog.

35 C. Owners must immediately collect and properly dispose of or secure feces left by their dog(s) on any
36 improved portion of public ways or sidewalks, and in public parks. Owners or responsible parties
37 must maintain possession of their dog's feces while on public property.

38 D. No ~~person~~ responsible party may have more than 1 dog under voice control at large on public
39 property, at any time.

40 E. No person may be a responsible party for more than 3 dogs at any time while in a Town park.

41 F. Dogs must be on a leash at all times when on public ways or sidewalks.

42 **G. Fort Foster**

43 1. Dogs are prohibited, between the hours of 10AM and 5PM on all days when the park is open.

44 2. Dogs must be on a leash between the hours of 5PM and midnight on all days when the park is open.

45 **H. Seapoint and Crescent Beaches**

46 1. Dogs are prohibited, between the hours of 10AM and 5PM, between Memorial Day and Labor Day
47 inclusive.

48 2. Dogs must be on a leash between May 1 and September 30, inclusive.

49 **I. Rogers Park**

50 1. Dogs must be on a leash at all times.

51 **J. John Paul Jones Park**

52 1. Dogs are prohibited at all times.

53 **K. All Playing Fields in Kittery**

54 1. Dogs are prohibited at all times.

55 **§ 6.1.5 Menacing activity.**

56 The owner of the animal not confined on private property or not in a vehicle may not permit that animal
57 to menace or bite any person.

58 **§ 6.1.3-6 Right of entry to inspect ~~license, dog.~~**

59 For the purpose of discharging the duties imposed by this chapter and to enforce the provisions of this
60 chapter, ~~any~~ the animal control officer is empowered, with the consent of the owner or occupant thereof,
61 to enter upon any premises on which an ~~dog~~ animal is kept or harbored, and to demand the exhibition by
62 the owner ~~of the dog and~~ of the license ~~of such~~ if the animal is a dog.

63 § 6.1.4-7 **Hindering officers, improperly releasing dogs prohibited.**

64 No person may interfere with, hinder or molest ~~any~~the animal control officer in the performance of the
65 officer's duty or seek to release any ~~dog~~pet in the custody of ~~an~~the animal control authority, except as
66 provided in this chapter.

67 § 6.1.5-8 **Record to be kept by animal control officer; contents.**

68 It is the duty of ~~an~~the animal control officer to keep, or cause to be kept, an accurate and detailed record
69 of the licensing, impoundment and disposition of all ~~dogs~~animals coming into the officer's custody.

70 ~~§ 6.1.6 License required-~~

71 ~~No dog may be kept within the limits of the Town unless such dog has been licensed by its owner in~~
72 ~~accordance with the statutes of the state.~~

73 § 6.1.7-9 **Impoundment authorized.**

74 Unlicensed dogs, wherever found, or dogs and other pets found running at large ~~will~~may be taken by ~~an~~
75 the animal control officer and impounded in an animal shelter. Such animal may be confined for a period
76 of not fewer than 10 days unless earlier reclaimed under the provisions of § 6.1.911.

77 § 6.1.8-10 **Impoundment fees.**

78 Any ~~dog~~pet impounded in accordance with this chapter may be reclaimed upon payment of the total fees
79 for board. This fee is paid to the keeper of the animal.

80 § 6.1.9-11 **Disposition of impounded ~~dog~~pet, notification of impoundment.**

81 A. A ~~dog~~pet owner may reclaim an impounded ~~dog~~pet upon compliance with ~~§ 6.1.6 and~~licensing as
82 applicable, upon payment of assessed fines and the boarding fees set forth in § 6.1.810. Any ~~dog~~
83 pet impounded under the provisions of this chapter and not claimed by the owner within the ten-day
84 period is considered abandoned by the owner and the property of the animal shelter. The ~~dog~~animal
85 may be given, after consultation with the Humane Society and/or the Animal Refuge League, to the
86 Humane Society or the Animal Refuge League, any no kill shelter, or to any person deemed to be
87 responsible and a suitable owner, who will agree to comply with the provisions of this chapter or
88 humanely destroy the animal.

89 B. Where the ownership of an impounded ~~dog~~pet is known, or can be reasonably ascertained by ~~an~~the
90 animal control officer, such officer shall, if possible, notify the owner within three days of such
91 impoundment, but failure to give such notice does not impose any liability upon the Town for the
92 destruction or transfer to another of any ~~dog~~pet so impounded and not reclaimed within the
93 required period.

94 C. Where the ownership of an impounded pet cannot be reasonably ascertained, the animal control
95 officer shall post in the Town Hall, on the Town website, and at the Kittery Community Center, for
96 seven (7) days, a notice giving a description of the pet, where it was impounded, and how it may be
97 recovered.

98 § 6.1.10-12 **Disposition of dog biting person.**

99 Whenever any dog bites a person, the owner of such dog must immediately notify ~~an~~the animal control
100 officer, who may order the dog held on the owner's premises or have it impounded for a period of ~~two~~2

101 weeks. The dog must be examined immediately after it has bitten any person and again at the end of the
102 two-week period. If at the end of the ~~two~~² weeks a veterinarian is convinced that the dog is then free
103 from rabies, the dog is released from quarantine or from the pound, as the case may be. If the dog dies
104 within the period, ~~its head must be sent to~~ the State Department of Health must be notified to perform a
105 ~~for~~ rabies examination.

106 § 6.1.~~11~~¹³ **Disturbing the peace.**

107 No owner or responsible party may keep or maintain a pet which creates a nuisance by continued or
108 repeated barking, howling, yelping, or making of other loud or unusual noises for a half hour or
109 intermittently for two hours, and can be heard at or beyond the boundary of the property on which the
110 pet is located. ~~No person owning any dog may suffer or permit such dog to disturb the peace and quiet of~~
111 ~~the neighborhood by continuous barking, by making other loud or unusual noises, or by running through~~
112 ~~or across cultivated gardens or fields.~~

113 ~~§ 6.1.12 Running at large prohibited.~~

114 ~~No dog is permitted to run at large within the limits of the Town; however, this section does not prohibit~~
115 ~~the owner of a dog from using such dog for hunting, provided the dog is under the control of its owner.~~

116 ~~§ 6.1.13 Animal waste.~~

117 ~~It is a violation of this chapter for any owner of a dog to fail to remove and properly dispose of feces left~~
118 ~~by his or her dog(s) on any improved portion of public ways or sidewalks.~~

119 § 6.1.14 Proper shelter, protection from the weather and humanely clean conditions.

120 A. Dogs may not be tethered for periods of time exceeding 24 hours, unless otherwise permitted by state
121 law.

122 B. Dogs may not be tethered outside without proper shelter in temperatures **032 degrees** Fahrenheit or
123 lower, **or 95 degrees** Fahrenheit or greater, for more than 30 minutes, unless otherwise permitted by state
124 law.

125

126 § 6.1.14 Feral Cats

127 No person may feed or shelter a feral cat or feral cat colony.

128 A person found providing food or shelter for a feral cat will be deemed the responsible party of that cat
129 and/or that cat's colony. The responsible party for feral cats and cat colonies will be required to trap and
130 spay or neuter the cat(s).

131 § 6.1.~~14~~¹⁵ **Violations and penalties.**

132 Any violation of this chapter will be assessed a penalty ~~under Title 1, Chapter 1.3~~ of \$50.00, except
133 violations of §16.1.13 Disturbing the Peace will be assessed a penalty of \$50.00 for the first offense,
134 \$100.00 for the second offense, and \$200.00 for each offense thereafter.

135 Repeat offenders and/or those who fail to pay fines in accordance with this Title may be issued a NO
136 TRESPASS order for town parks.

137 **AMEND Title 12.4.8 Animals at Seapoint and Crescent Beaches as follows:**

138 § 12.4.8 **Animals.**

- 139 A. With the exception of dogs, no domestic animals are allowed on Seapoint and Crescent Beaches.
140 Dogs are subject to Town Code 6.1 Animal Control. ~~No domestic animal is allowed within~~
141 ~~Seapoint or Crescent Beaches, except that dogs, while under the control of their owner or keeper,~~
142 ~~are allowed on Crescent and Seapoint Beaches at times other than between the hours of 10:00 a.m.~~
143 ~~to 5:00 p.m. from June 15 through September 10 of each year. This limitation does not apply to~~
144 ~~guide or seeing eye dogs when used as such. At no time may the owner or keeper of any dog allow~~
145 ~~that dog to run at large on Crescent or Seapoint Beaches or enter upon any publicly owned salt~~
146 ~~marsh immediately adjacent to Seapoint or Crescent Beach. From May 15 to September 30,~~
147 ~~inclusive, only dogs licensed to Town residents are allowed on Seapoint and Crescent Beaches.~~
- 148 B. ~~A pooper scooper rule is in effect for dogs. Owners and keepers must properly dispose of animal~~
149 ~~waste either by placing it in supplied receptacle(s) or, if one is not supplied, by taking it with them~~
150 ~~when leaving the beaches.~~

151 **AMEND Title 12.5.1 Animals at Fort Foster as follows:**

152 § 12.5.1 **Animals.**

153 With the exception of dogs, no domestic animals are allowed in Fort Foster Park, and dogs are subject to
154 Town Code 6.1 Animal Control.~~the following conditions:~~

- 155 A. ~~Dogs must be leashed at all times during park hours (10:00 a.m. to 8:00 p.m.) on weekends in May~~
156 ~~and September and every day from Memorial Day to Labor Day, inclusive. A maximum leash of~~
157 ~~eight feet is allowed.~~
- 158 B. ~~While under control of the owner or keeper, dogs are also allowed in the park during the following~~
159 ~~days and times:~~
- 160 (1) ~~During weekdays, prior to Memorial Day in May;~~
161 (2) ~~Before park opening (sunrise to 10:00 a.m.) between Memorial Day and Labor Day;~~
162 (3) ~~During weekdays, after Labor Day in September; and~~
163 (4) ~~Between sunrise and sunset from October 1 to April 30, inclusive.~~
- 164 C. ~~A "pooper scooper" rule is in effect for dogs. Owners or keepers must take their dogs' solid waste~~
165 ~~with them when leaving the park.~~

166 **AMEND Title 12.7 Section 3.C Dogs and correct name of the site to "Town Farm Forest"**
167 **throughout:**

168 **Title 12.7 Town Farm Forest**

169 § 12.7.1 **Title.**

170 The ordinance codified in this chapter is called the "Town Farm Forest Ordinance."

- 171 B. "Town Farm Forest" means the site of the former Town farm at 77 Haley Road (see Kittery Tax
172 Map No. 48, Lot No. 7] and includes all land bounded within the following: on the north and west
173 by the land now or formerly of David E. and Ann E. Blake, Harold L. Durgin Trust, Hilda M.

174 Wilson and Brenda E. Lawrence and Lynda W. Clark and Jefferson L. Wilson; on the south and
175 east by land now or formerly of Eugene and Hildred C. Lewis and the estate of Marion F. Lewis;
176 excepting the Central Maine Power Company power line easement going through the property.

177 § 12.7.3 **Restrictions.**

178 A. No person may remove, injure or otherwise damage or deface any thing, plant material, sign,
179 marker, bench or structure within the Town Farm Forest. Use of metal detectors or similar devices
180 is prohibited. "Paint-ball" activities and materials are prohibited.

181 C. ~~Control of dogs is governed by Chapter 6.1. Dogs must be on a leash at all times unless under the~~
182 ~~control of the owner or keeper. This limitation does not apply to service dogs when used as~~
183 ~~such~~ Dogs are subject to Town Code 6.1 Animal Control.

184 D. No person may start or allow to burn any fire within the bounds of the Town Farm Forest.

185 F. No person may engage in indecent conduct within the Town Farm Forest. As used in this section,
186 "public indecency" is defined as put forth in Title 17-A, § 854 of the Maine Criminal Code.^[1]

187 G. No person may drink or consume any alcoholic, spirituous, vinous, fermented or other alcoholic
188 beverage, or combination of liquors and mix liquors within the bounds of the Town Farm Forest.

189 § 12.7.5 **Enforcement.**

190 This chapter is enforced by the Police Department. The Conservation Commission is responsible for the
191 management of the Town Farm ~~forest~~ Forest in accordance with the Town Farm ~~forest~~ Forest
192 management plan duly adopted by the Town Council.