

. . . to see if the Town will vote to amend the Middleton General Bylaws, Chapter 107: Animals by adding the words shown in **bold underline** and deleting the words in ~~**bold strikethrough**~~ below.

Article II: Nuisance and Dangerous Dogs

§ 107-5. Definitions

As used in this article, the following terms shall have the meanings indicated:

DANGEROUS DOG

A dog that either:

a. without justification, attacks a person or domestic animal causing physical injury or death; or

b. behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

KEEPER

A person, business, corporation, entity, or society, other than the owner, having possession of a dog.

NUISANCE DOG

A dog that:

a. by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or

b. by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or

c. has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

§ 107-6

No dog shall be deemed dangerous:

a. solely based upon growling, barking, or both;

b. based upon the breed of the dog; or

c. if, at the time of the incident in question, the dog was reacting to another animal or person in a manner not grossly disproportionate to any of the following circumstances:

- i. the dog was protecting or defending itself, its offspring, another domestic animal, or a person from attack or assault;
- ii. the person attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog;
- iii. the person attacked or threatened was engaged in teasing, tormenting, battering, assaulting, injuring, or otherwise provoking the dog; or
- iv. at the time of the attack or threat, the person or animal attacked or threatened had breached an enclosure or structure, including but not limited to a gated and fenced-in area, in which the dog was kept apart from the public, without being authorized to do so by the owner of the premises.

A child under age 7 shall be rebuttably presumed not to have been committing a crime, provoking the dog, or trespassing at the time of the attack or threat.

§ 107-7: Nuisance or Dangerous Dog Declaration

A. Complaint. Any person may file a written complaint with the Board of Selectmen that a dog kept in the Town is a nuisance dog or a dangerous dog.

B. Disposition. The Board of Selectmen shall investigate or cause to be investigated the complaint, including an examination under oath of the complainant at a public hearing. Based on credible evidence and testimony presented at the public hearing, the Board of Selectmen shall take the following action:

- a. If the dog is complained of as a nuisance dog, the Board of Selectmen shall either
 - i. deem the dog a nuisance dog; or
 - ii. dismiss the complaint.
- b. If the dog is complained of as a dangerous dog, the Board of Selectmen shall either
 - i. deem the dog a dangerous dog;
 - ii. deem the dog a nuisance dog; or
 - iii. dismiss the complaint.

C. Remedies.

- a. If the Board of Selectmen declares that a dog is a nuisance dog, it may order the owner or keeper of the dog to take remedial action to ameliorate the cause of the nuisance behavior.
- b. If the Board of Selectmen declares that a dog is a dangerous dog, it may order one or more of the following remedies:
 - i. that the dog be humanely restrained; but no order shall require that a dog be chained, tethered, or otherwise tied to an inanimate object including, but not not limited to, a tree, post, or building;

- ii. that the dog be confined to the premises of the owner or keeper, meaning securely confined indoors or confined outdoors in a securely enclosed pen or dog run area that has a secure roof, has either a floor secured to all sides or is embedded into the ground for at least two feet, and provides the dog with proper shelter from the elements;
- iii. that when the dog is removed from the premises of the owner or keeper, the dog be securely and humanely muzzled and restrained with a chain or other tethering device with a maximum length of three (3) feet and a minimum tensile strength of three hundred (300) pounds;
- iv. that the owner or keeper of the dog provide to the Board of Selectmen either:
 - a. proof of insurance of at least \$100,000 insuring the owner or keeper against any claim, loss, damage, or injury to persons, domestic animals, or property resulting from the intentional or unintentional acts of the dog; or
 - b. proof that reasonable efforts were made to obtain such insurance;
- v. that the owner or keeper of the dog provide to the Board of Selectmen or Animal Control Officer or other entity as directed identifying information for the dog including, but not limited to, photographs, videos, veterinary records, tattooing, microchip implantations, or a combination of these;
- vi. that the dog be altered so as not to be reproductively intact, unless the owner or keeper provides evidence of a veterinary opinion that the dog is medically unfit for such alteration; or
- vii. that the dog be humanely euthanized.

D. Appeals. Within ten (10) days of the issuance of any order under this section, the owner or keeper of the dog declared a nuisance dog or a dangerous dog may bring a petition for judicial review in the district court for the judicial district in which the order was issued or where the dog is owned or kept.

E. Restrictions After Declaration of Dangerousness.

- a. No dog that has been deemed dangerous shall be ordered removed from the Town.
- b. No person over the age of 17 who has actual knowledge that a dog has been deemed dangerous under this Bylaw shall permit a child under the age of 17 to own, possess, or have care or custody of that dog.
- c. No person shall transfer ownership or possession of a dog which such person knows, or reasonably should have known, has been deemed dangerous under this Bylaw or offer such dangerous dog for sale or breeding without informing the recipient of the dog of the finding of dangerousness.

F. Signs.

- a. Any owner or keeper of a dog that has been deemed dangerous must conspicuously display a sign approved by the Animal Control Officer with a warning symbol that informs children of the presence of such dog and a sign easily readable by the public using the words "dangerous dog."
- b. Signs are to be posted at each entrance to the house and on gates that are part of a fence enclosing the premises as well as on any pen.

G. Violations and Penalties.

- a. Seizure/Impoundment. If an owner or a keeper of a dog is found in violation of an order issued under this Bylaw, the dog shall be subject to seizure and impoundment by the Animal Control Officer or a law enforcement officer. If it is the keeper who is in violation, all reasonable efforts shall be made to notify the owner of such seizure and impoundment and the owner may, within 7 days, petition the Board of Selectmen for return of the dog.
- b. Capture/euthanasia. A dog found to be in violation of a Board of Selectmen order or district court order issued under this Bylaw or in accordance with Section 157 of Chapter 140 of the General Laws may be captured or detained by a police officer, the Animal Control Officer, or a constable. In the case of a threat to public safety or if the dog is living in a wild state, the police officer, Animal Control Officer, or constable may euthanize it humanely.
- c. Fines/Imprisonment. A dog owner or keeper who fails to comply with an order of the Board of Selectmen or the district court issued under the Bylaws or in accordance with Section 157 of Chapter 140 of the General Laws shall be punished by a fine of not more than \$500 or imprisonment in a jail or house of correction for not more than 60 days, or both for a first offense or by a fine of not more than \$1,000 or imprisonment in a jail or house of correction for not more than 90 days, or both for a second or subsequent offense.
- d. Future Licensure. Any owner or keeper who fails to comply with an order of the Board of Selectmen or the district court issued under this section shall be prohibited from licensing a dog within the Commonwealth for 5 years.