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CHAPTER 7
DOGS

Article I. Dog Control. [Adopted eff. 7/23/69, pursuant to R.S. 1964, T. 7, Sec. 3451 ff.; amended eff. 6/13/73; amended eff. 2/8/90; amended eff. 2/08/2018]

Sec. 7-1-1. Purpose. The purpose of this ordinance is to control dogs throughout the Town of Cape Elizabeth in the interest of the health, safety and general welfare of its residents.

Sec. 7-1-2. Definitions. As used in this ordinance, unless the context otherwise indicates.

[Put definitions in alphabetical order, remove (letter) notation]

- (a) "Dog" shall ~~apply to both male and female dogs.~~ mean a member of the genus and species known as canis familiaris, or any canine, regardless of generation, resulting from the interbreeding of a member of canis familiaris with a wolf hybrid.
- (b) "Owner" shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog. When a dog is in the custody of a "Responsible Party," all the provisions of an "Owner" shall apply.
- (c) "At large" shall mean off the premises of the owner and not ~~being~~ under the control of any person whose personal presence and attention would reasonably control the conduct of the animal. ~~by means of that person's proximity to the dog, and their ability to manipulate and command the animal.~~
- (d) "Dangerous dog" shall mean a dog or wolf hybrid that causes the death of or inflicts serious bodily injury on an individual or a domesticated animal who is not trespassing on the dog's premises at the time of the injury or death; a dog that causes a reasonable and prudent person who is not on the dog owner's premises and is acting in a reasonable and nonaggressive manner to fear imminent serious bodily injury by assaulting or threatening to assault that individual or individual's domesticated animal; or a dog that inflicts bodily injury on an individual or a domesticated animal who is not trespassing on the dog owner's premises at the time of the injury and has previously been determined by a court of competent jurisdiction to be a nuisance dog. For the purpose of this definition, "owner's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner. Dangerous dog does not include:
 - 1. A dog certified by the State and used for law enforcement use;

1 2. A dog that injures or threatens to assault an individual who is on
2 the dog owner's premises if the dog has no prior history of assault
3 and was provided by the individual immediately prior to the injury
4 or threatened assault; or

5 3. A dog that inflicts serious bodily injury on or causes the death of
6 an individual who is committing a crime against an individual or
7 property owned by the dog owner.

8 (e) "Leash" shall mean a hand held device, 30 feet or less in length, used to
9 restrain a dog.

10 (f) "Nuisance dog" shall mean a dog that causes bodily injury, other than
11 serious bodily injury, to an individual or a domesticated animal who is not
12 trespassing on the dog owner's premises at the time of the injury; a dog
13 that causes a reasonable and prudent person who is not on the dog owner's
14 premises and is acting in a reasonable and nonaggressive manner to fear
15 bodily injury, other than serious bodily injury, by assaulting or threatening
16 to assault that individual or individual's domesticated animal; or a dog that
17 causes damage to property or crops not owned by the dog owner while the
18 dog is not on the owner's premises. For the purposes of this definition, dog
19 owner's premises means the residence or residences, including buildings
20 and land and motor vehicles, belonging to the owner of the dog. Nuisance
21 dog does not include:

22 1. A dog certified by the State and used for law enforcement use;

23 2. A dog that injures or threatens to assault an individual who is on
24 the dog owner's premises if the dog has no prior history of assault
25 and was provoked by the individual immediately prior to the injury
26 or threatened assault; or

27 3. A dog that inflicts bodily injury on an individual who is
28 committing a crime against an individual or property owned by the
29 dog owner.

30 (g) "Sight and Voice control" shall mean that the dog returns immediately to
31 and remains by the side of the responsible party in response to the
32 responsible party's verbal command. "Sight control" shall mean that a dog
33 is always within sight of the Responsible Party and the dog is capable of
34 complying with Voice Control. A violation of this Ordinance occurs upon
35 a failure to comply with the definition of either Voice Control or Sight
36 Control. If a dog approaches or remains within 10 feet of any person other
37 than the responsible party, that dog is not under voice control and a
38 violation of this Ordinance occurs unless such person (or in the case of a
39 minor child, an adult present with the child) has communicated to the

1 responsible party by spoken word or gesture that such person consents to
2 the presence of the dog.

3 (h) “Responsible party” shall mean any person who has possession or
4 custody of a dog. If a dog is present in violation of the restrictions of this
5 ordinance, the owner of the dog and the responsible party are jointly and
6 severally liable for the violation.

7
8 **Sec. 7-1-3. License.** Any person who violates any section of the dog licensing
9 requirements commits a civil violation for which a forfeiture may be adjudged.

10
11 (a) License and Tag Requirements. License, record and tag requirements shall
12 be as prescribed and required by Maine Statutes Annotated, and all rules
13 and regulations duly promulgated thereunder. Each owner or keeper of a
14 dog at the age of 6 months or over shall, on or before January 1, annually,
15 or at such time as such dog becomes 6 months old, obtain a license from
16 the town clerk's office in accordance with 7 M.R.S.A. Chapter 721. An
17 owner or keeper of a dog declared as a wolf hybrid is also subject as
18 required by the laws of the State of Maine.

19
20 (b) Failure to Display Tags. It shall be unlawful for any dog owner or keeper
21 to fail to have affixed to the dog's collar, the license identification and
22 rabies tag. Said tags must be displayed securely attached to a collar of
23 leather, metal or materials of comparable strength. on a collar constructed
24 of a durable material and sized so as to ensure the tag's attachment. The
25 collar shall be worn at all times by the dog for which the license and rabies
26 tags were issued, except that a dog is not required to wear a tag when on
27 premises of the owner or off the premises of the owner while hunting, in
28 training, or in an exhibition.

29
30 **Sec. 7-1-4. Barking and Howling.** No person shall own, keep or harbor any dog which
31 by loud, frequent, and habitual barking, howling or yelping, shall disturb the peace of any
32 person or persons.

33
34 **Sec. 7-1-5. Dangerous Dog or Nuisance Dogs.** A dangerous dog is hereby defined to be
35 a dog which by its conduct shall cause reasonable fear of bodily injury to any person. The
36 owner of any dangerous dog shall keep same confined in a secure enclosure or on a chain
37 or leash controlled by the owner or his agent at all times. Procedures resulting in the
38 disposal or method of restraint of an animal who has assaulted a person shall be as
39 prescribed and required by Maine Statutes Annotated, Title 7 and succeeding
40 amendments. The keeping of a dangerous or nuisance dog shall be regulated by Title 7
41 M.R.S.A Sec. 3952-A and succeeding amendments.

1 **Sec. 7-1-6. Dogs At Large Failure to Restrain.** It shall be unlawful for any dog, licensed
2 or unlicensed, to be at large, except when used for hunting. The owner of any dog found
3 at large is subject to the penalties provided in Title 7 M.R.S.A. Chapter 719. owner or
4 keeper to fail to restrain such an animal either by enclosed run, leash, tether, radio collar,
5 choke collar or voice command so that the animal attacks, harasses or menaces any
6 pedestrian, jogger, cyclist or passerby on any property other than that which is in the care
7 and control of the dog owner.

8
9 **Sec. 7-1-7 Management of Dogs to be Restrained on Municipal Property.**

10
11 (a) Dogs on municipal property shall be controlled based on the Property
12 Management Category Designation.

13
14 1. Category 1: No dogs allowed. No dogs shall be allowed on any
15 municipal property assigned as Category 1 for the purpose of dog
16 control.

17
18 2. Category 2: Dogs allowed on leash only. Dogs that are restrained by
19 leash held by a responsible party, defined herein, are allowed on any
20 municipal property assigned Category 2.

21
22 3. Category 3: Dogs allowed on voice or leash control. Dogs that are under
23 the control of a responsible party by either voice or leash control are
24 allowed on any municipal property assigned Category 3.

25
26 (b) Property Management Category Designation shall be by property location
27 and may include 1 or more categories designated by location, time of day,
28 month, event or other measurement. Property managers are designated as
29 follows:

30
31 1. Athletic Fields located on the school campus: Superintendent of
32 Schools

33
34 2. Municipal town open space (excluding Fort Williams Park):
35 Conservation Committee

36
37 3. All other municipal property: Town Council

38
39 (c) Property Management Category Designation shall be assigned by the
40 Town Council, and in the case of subsection b(1) and b(2) above, may be
41 changed by the designated property manager to promote sound property
42 management after proposed changes have been posted on the town website
43 for 30 days. The Town Council retains the authority, but not the
44 obligation, to change a Property Management Category Designation.
45 Notification of Property Management Category Designation shall be
46 provided to the Cape Elizabeth Police Chief.

1
2 ~~(a) — Any dog within the boundaries of a groomed and/or regularly maintained~~
3 ~~municipal property including, but not limited to, Fort Williams Park,~~
4 ~~public roads, municipal sidewalks and athletic fields, will be walked on a~~
5 ~~leash or tether at all times. The person accompanying the dog in these~~
6 ~~situations is required to collect any feces dropped by the animal and~~
7 ~~dispose of same in an area where it will not likely be encountered by any~~
8 ~~persons. The Cape Elizabeth Poor Farm, Lions' Field excluding the Little~~
9 ~~League field, and a portion of Fort Williams Park Southerly of Humphreys~~
10 ~~Road (as defined in paragraph (b) are not considered to be groomed and/or~~
11 ~~regularly maintained for purposes of this ordinance.~~

12
13 (b) The Unleashed Dog Area in Fort Williams Park (encompassing the
14 MultiPurpose Field) is defined as an area abutting the Southerly edge of
15 the Central Parking Lot and extending westerly along the Southerly side of
16 the Heavy Equipment Storage Building, continuing Westerly directly
17 behind the long garages at the rear of the Officers Row buildings to
18 Harrison Road; continuing on (and including) Merriman Road along the
19 northerly border of Delano Park to the water's edge; then extending
20 northerly along the shoreline turning westerly across "The Green" to the
21 southern end of Battery Blair; turning northerly then westerly back to the
22 Southerly edge of the Central Parking Lot (as referenced on the Unleashed
23 Dog Area Map dated (insert date)). Unleashed dogs are prohibited on the
24 Multi-Purpose Athletic Field from April 1st to November 1st.

25
26 [Propose this be deleted and added to the Property Management Category
27 Designation List]

28
29 (d) [Discuss adding an interim Municipal Property Limited Privileges List]
30 Limited Privileges List. When the Cape Elizabeth Police
31 Department has determined that a dog has been at large on municipal
32 property in violation of the Property Management Category Designation,
33 or the dog has not been under voice and sight control, the dog owner shall
34 be added to the Limited Privileges List. Notwithstanding Category 3
35 above, Dog owners on the Limited Privileges List may only allow a dog
36 on municipal property that is on a leash.

37
38 **Sec. 7-1-8. Impoundment.** The Cape Elizabeth Police Department may impound any
39 dog in violation of this ordinance or otherwise in possession of the Cape Elizabeth Police
40 Department. Unlicensed dog, whether or not at large, and dogs found running at large,
41 whether or not licensed, shall with or without complaint be taken up and impounded by a
42 police officer or dog control officer. An impounded dog may be temporarily housed in the
43 Cape Elizabeth Police Department for a period not to exceed 24 hours and then, if
44 necessary in an animala shelter designated by the Town as the Town Animal Shelter and
45 there confined in a humane manner for a period of not more than fourteen (14) days.
46

1 **Sec. 7-1-9. Disposition of Impounded Dogs.**

- 2
- 3 (a) Any owner may regain possession of an impounded dog upon compliance
- 4 with ~~the provisions of Section 7-1-3 (a) of this ordinance, and upon~~
- 5 ~~payment of the impoundment and boarding fees set forth herein.~~ Any dog
- 6 impounded under the provisions of this ordinance and not reclaimed by
- 7 the owner within said fourteen (14) days, shall be considered to be
- 8 abandoned by the owner, ~~and the property of the Town Animal Shelter~~
- 9 ~~and may, after consultation with the Humane Society and/or the Animal~~
- 10 ~~Refuge League, be humanely destroyed or given to the Humane Society~~
- 11 ~~and/or the Animal Refuge League, or any person deemed to be responsible~~
- 12 ~~and a suitable owner.~~
- 13
- 14 (b) Where the ownership of any such dog is known, or can be reasonably
- 15 ascertained by a police officer or dog control officer, such officer shall, if
- 16 possible, notify the owner within three (3) days of such impoundment, but
- 17 failure to give such notice shall in no way impose any liability upon the
- 18 Town for the destruction or transfer to another of any dog so impounded
- 19 and not reclaimed within said period of fourteen (14) days.
- 20

21 **Sec. 7-1-10. Fees and Boarding Charges.** Any dog impounded hereunder may be

22 reclaimed upon payment to the Town, through the Cape Elizabeth Police Department of

23 an impoundment fee ~~as established in the Town Fee Schedule of \$5.00 for each dog,~~

24 ~~except upon the second impoundment of the same dog the fee shall be \$20.00, and upon~~

25 ~~the third and all subsequent impoundments of the same dog the fee shall be \$40.00; and~~

26 ~~upon presentation to the Animal Shelter, currently designated by the Town to receive~~

27 ~~impounded dogs, of evidence of such payment to the Town and upon payment to that~~

28 ~~animal shelter of a further board fee in accordance with the current fee schedule of the~~

29 ~~animal shelter.~~

30

31 **Sec. 7-1-11. Interference Forbidden.** No person shall interfere with, hinder or molest

32 any police officer or dog control officer in the performance of any duty of such officer, or

33 seek release of any dog in the custody of a police officer or dog control officer, except as

34 herein provided.

35

36 **Sec. 7-1-12. Records.** It shall be the duty of a police officer or dog control officer to

37 keep, or cause to be kept, an accurate and detailed record of the licensing, impoundment

38 and disposition of all dogs coming into his custody.

39

40 **Sec. 7-1-13. Enforcement.** The Cape Elizabeth dog control officer and the Cape

41 Elizabeth Police Department are hereby directed and empowered to enforce the

42 provisions of this ordinance.

43

44 **Sec. 7-1-14. Penalties.** Whoever keeps a dog contrary to the provisions of ~~Sections 7-1-~~

45 ~~3, 4, 5, 6, 7, or 11 of~~ this ordinance shall be punished by a fine of not more than One

46 Hundred Dollars (\$100.00) to be recovered by complaint for the use of the Town of Cape

1 Elizabeth before the 9th District Court of Maine, Division of Southern Cumberland. In
2 addition, said Court may make such further order regarding the destruction, restraint or
3 other disposition of the offending dog as the Court deems appropriate. (Revised eff .
4 2/8/2018)

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