

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, amended eff. 10/9/2019]

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.

"At large" shall have the same meaning as 7 M.R.S. § 3907, Subsection 6.

"Dangerous dog" shall have the same meaning as 7 M.R.S. § 3907, Subsection 12-D.

"Dog" shall have the same meaning as 7 M.R.S. § 3907, Subsection 12-C.

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

"Nuisance dog" shall have the same meaning as 7 M.R.S. § 3907, Subsection 20-A.

"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.

"Responsible party" shall mean any person who has possession or custody of a dog. If a dog is present in violation of the restrictions of this ordinance, the owner of the dog and the responsible party are jointly and severally liable for the violation.

"Sight and Voice control" shall mean that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party's verbal command.

"Sight control" shall mean that a dog is always within sight of the Responsible Party and the dog is capable of complying with Voice Control. A violation of this Ordinance occurs upon a failure to comply with the definition of either Voice Control or Sight Control. If a dog approaches and remains within 10 feet of any person other than the responsible party or if a dog bites a person or animal, that dog is not under voice control and a violation of this Ordinance occurs unless such person has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog.

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

- (a) License and Tag Requirements. Each owner or keeper of a dog at the age of 6 months or over shall, on or before January 1, annually, or at such time as such dog

becomes 6 months old, obtain a license from the town clerk's office in accordance with 7 M.R.S.A. Chapter 721. An owner or keeper of a dog declared as a wolf hybrid is also subject as required by the laws of the State of Maine.

- (b) Failure to Display Tags. It shall be unlawful for any dog owner or keeper to fail to have affixed to the dog's collar, the license identification and rabies tag. Said tags must be securely attached to a collar of leather, metal or materials of comparable strength. The collar shall be worn at all times by the dog for which the license and rabies tags were issued, except that a dog is not required to wear a tag when on premises of the owner or off the premises of the owner while hunting, in training, or in an exhibition.

Sec. 7-1-4. Barking and Howling. No person shall own, keep or harbor any dog which by loud, frequent, and habitual barking, howling or yelping, shall disturb the peace of any person or persons. Agricultural working dogs, when engaged in protecting or herding livestock or in warning owners of danger to livestock, are exempt.

Sec. 7-1-5. Dangerous Dog or Nuisance Dog. The keeping of a dangerous or nuisance dog shall be regulated by Title 7 M.R.S.A Sec. 3952-A and succeeding amendments.

If there is an incident where a dog may have engaged in dangerous or nuisance behavior, the incident shall immediately be reported to the Cape Elizabeth Police Department. The owner of the dog shall remain on scene to provide contact information to the Police Department.

Sec. 7-1-6. Dogs At Large. It shall be unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner of any dog found at large is subject to the penalties provided in Title 7 M.R.S.A. Chapter 719.

Sec. 7-1-7 Management of Dogs on Municipal Property.

- (a) General conduct on municipal property. At all times, dogs on municipal property shall be controlled to the extent necessary to preserve access and safety for all members of the public. The owner must carry a leash for each dog in their possession or custody on municipal property. The owner shall not be in possession or custody of more than three (3) dogs off-leash. When in possession or custody of more than three (3) dogs, all dogs must be on leash.
- (b) Management Category. Dogs on municipal property shall be controlled based on the Property Management Category Designation.
 - 1. Category 1: No dogs allowed. No dogs shall be allowed on any municipal property assigned as Category 1 for the purpose of dog control.

2. Category 2: Dogs allowed on leash only. Dogs that are restrained by leash held by the owner are allowed on any municipal property assigned Category 2.
 3. Category 3: Dogs allowed on voice or leash control. Dogs that are under the control of the owner by either voice or leash control are allowed on any municipal property assigned Category 3.
- (c) Property Manager. Property Management Category Designation shall be by property location and may include one or more categories designated by location, time of day, month, event or other measurement. Property managers are designated as follows:
1. School campus: Superintendent of Schools
 2. Municipal town open space (excluding Fort Williams Park and athletic fields located on town open space): Conservation Committee
 3. All other municipal property: Town Council
- (d) Designation change. Property Management Category Designation shall be assigned by the Town Council and may be changed by the designated property manager to promote sound property management. A category change may be made after it is included as an agenda item and an opportunity for public comment is provided at the applicable meeting.

<u>Property Manager</u>	<u>Meeting</u>
School Superintendent	School Board meeting
Conservation Committee	Conservation Committee meeting
Town Council	Town Council meeting

A decision to change a property management category designation shall be posted on the town website for 30 days. Within the 30 day period, notification of a category designation change and a summary of why the change was made shall be provided to the Town Council. The Town Council retains the authority, but not the obligation, to change a Property Management Category Designation. Notification of Property Management Category Designation shall be provided to the Cape Elizabeth Police Chief.

- (e) Limited Privileges List. Failure to control a dog on municipal property shall result in an owner's loss of privileges to have a dog in their custody or possession off-leash on municipal property as follows:
1. First violation. When the Cape Elizabeth Police Department has determined that an owner has not maintained control of a dog in accordance with Sec. 7-

1-7, the Police Department shall notify the owner in writing. The notification shall require the property owner to meet with the Police Department within five (5) business days from the date of the written notification, or such other time as is agreed upon by the Police Department, to identify ways in which the owner shall maintain control of their dog. The owner will agree to take all necessary measures, which measures shall be memorialized in a written agreement at the conclusion of the meeting. Failure of the owner to enter into such an agreement at the conclusion of the meeting will be deemed a second violation.

2. Second violation. When the Cape Elizabeth Police Department has determined that an owner has not maintained control of a dog in accordance with Sec. 7-1-7 for the second time in a five (5) year period, the Police Department shall notify the owner in writing that off-leash privileges for any dog in the owner's possession or custody shall be suspended for thirty (30) days. The owner shall also pay a fine of \$100.00 dollars.
3. Third violation. When the Cape Elizabeth Police Department has determined that an owner has not maintained control of a dog in accordance with Sec. 7-1-7 for the third time in a five (5) year period, the Police Department shall notify the owner in writing that off-leash privileges for any dog in the owner's possession or custody shall be suspended for five (5) years from the date of the first violation. The owner shall also pay a fine of \$500.00 dollars.
4. Subsequent violations. For each additional violation, the Police Department shall notify the owner in writing that off-leash privileges for any dog in the owner's possession or custody shall be suspended for an additional five (5) years from the date of the first violation. The owner shall pay a fine of \$500.00 dollars.
5. Appeals. An owner may appeal a failure to control a dog determination to the District Court.

Sec. 7-1-8. Removal of Dog Waste. An owner must remove and dispose of any feces left by the owner's dog on any sidewalk, street, beach, public property or private property (other than the property of dog owner or a person who has consented to the presence of the dog on the person's property) and deposit such feces into an appropriate litter receptacle.

Sec. 7-1-9. Impoundment. The Cape Elizabeth Police Department may impound any dog in accordance with 7 M.R.S.A. Sec. 3913. An impounded dog may be temporarily housed in the Cape Elizabeth Police Department for a period not to exceed 24 hours and then, if necessary in an animal shelter designated by the Town and there confined in a humane manner for a period of not more than fourteen (14) days.

Sec. 7-1-10. Disposition of Impounded Dogs.

- (a) An owner may regain possession of an impounded dog upon compliance with the provisions of this ordinance. A dog impounded under the provisions of this ordinance and not reclaimed by the owner within said fourteen (14) days, shall be considered to be abandoned by the owner.
- (b) Where the ownership of any such dog is known, or can be reasonably ascertained by a police officer or dog control officer, such officer shall, if possible, notify the owner within three (3) days of such impoundment, but failure to give such notice shall in no way impose any liability upon the Town for the destruction or transfer to another of any dog so impounded and not reclaimed within said period of fourteen (14) days.

Sec. 7-1-11. Fees and Boarding Charges. Any dog impounded hereunder may be reclaimed upon payment to the Town, through the Cape Elizabeth Police Department, of an impoundment fee as established in the Town Fee Schedule.

Sec. 7-1-12. Interference Forbidden. No person shall interfere with, hinder or molest any police officer or dog control officer in the performance of any duty of such officer, or seek release of any dog in the custody of a police officer or dog control officer, except as herein provided.

Sec. 7-1-13. Records. It shall be the duty of a police officer or dog control officer to keep, or cause to be kept, an accurate and detailed record of the licensing, impoundment and disposition of all dogs coming into his custody.

Sec. 7-1-14. Enforcement. The Cape Elizabeth dog control officer and the Cape Elizabeth Police Department are hereby directed and empowered to enforce the provisions of this ordinance.

Sec. 7-1-15. Penalties. Whoever keeps a dog contrary to the provisions of this ordinance shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) to be recovered by complaint for the use of the Town of Cape Elizabeth before the 9th District Court of Maine, Division of Southern Cumberland. In addition, said Court may make such further order regarding the destruction, restraint or other disposition of the offending dog as the Court deems appropriate. (Revised eff. 2/8/2018, 10/9/2019)

Property Management Category Designation eff 10-9-2019

MUNICIPAL OPEN SPACE	Management Group ¹	Pg No	Size (in acres)	Property Manager ²	Dog Ordinance Property Management Category Designation
Northeast Area					
Dyer Woods	2/4	35	5.4	CC	3
Cliff House Beach Park	3	39	0.3	CC	1: May 1- October 1, 9:00 am 06:00 pm 2: May 1- October 1: 6:01pm - sunrise 3: May 1- October 1, 6:00 a.m. to 8:59am, October 2 - April 30
Fort Williams Park					
Fort Williams Unleashed dog area - area abutting the Southerly edge of the Central Parking Lot and extending westerly along the Southerly side of the Heavy Equipment Storage Building, continuing Westerly directly behind the long garages at the rear of the Officers Row buildings to Harrison Road; continuing on (and including) Merriman Road along the northerly border of Delano Park to the water's edge; then extending northerly along the shoreline turning westerly across "The Green" to the southern end of Battery Blair; turning northerly then westerly back to the Southerly edge of the Central Parking Lot *	5	45	97.2	TC	3
Fort Williams - multipurpose field playing surface*				TC	1
Fort Williams - baseball and softball fields playing surface*					1
Fort Williams - remainder of park				TC	2
Plaisted Park - ball field playing surface*				TC	1
Plaisted Park - remainder of park*	5	46	3.5	TC	3
Stonegate Area					
Stonegate Trails	5	50	86.6	CC	3
Robinson Woods II Public Access Esmt	5	48		CC	3
Loveitt Woods	5	44	18.0	CC	3
Interior Area					
Cottage Brook	4	56	12.6	CC	3
Lions Field*	5	59	25.0	TC	3
Lions Field playing surface*				TC	1
Columbus Lot	3	55	1.0	CC	3
Great Pond Area					
Broad Cove Trails	4	76	20.6	CC	3
Great Pond Condos Easement	4	79	9.5	CC	3
Great Pond Sprague Easements	4	82	6.6	CC	3
Great Pond Fenway Connector	4	80	0.1	CC	3
Great Pond Golden Ridge Ped Esmt	4	77	0.4	CC	3
Great Pond Jordan Pedestrian Esmt	4	81	0.5	CC	3
Two Lights Pond Pedestrian Esmt	4	85	1.7	CC	3
Two Lights Pillsbury Pedestrian Esmt	4	87	0.1	CC	3
Two Lights St. Bart's Easement	4	88	1.7	CC	3
Two Lights Sullivan Pedestrian Esmt	4	86	0.2	CC	3
Whaleback Trails	4	89	5.2	CC	3
Gull Crest Area (excluding athletic field)					
Gull Crest*	5	93	177.0	CC	3
Gull Crest athletic field playing surface*					1
Gull Crest Fowler Rd Conn Ped Esmt	4	91	0.2	CC	3
School Campus (see map) during the school day and from 1/2 hour before to 1/2 hour after athletic (including practices) and community events that have fixed start and end times*	5	97	64.8	SS	2
School campus (see map) outside of the school day and more than 1/2 hour before or more than 1/2 hour after athletic (including practices) and community events that have fixed start and end times*				SS	3
Hannaford field playing surface*					1
School campus athletic fields playing surface*					1
Land outside school campus (U21-12)	5	97	64.8	CC	3
Marsh Area					
Cross Hill Trails	4	102	105.0	CC	3
Eastman Meadows	4	104	10.0	CC	3
Leighton Farms Trails	4	107	6.8	CC	3
Spurwink Marsh DOI Easement	4	109	16.5	CC	3

Town Farm	5	110	150.0	CC	3
Winnick Woods	5	112	71.0	CC	3
Northeast Area					
Abaco Lot	3	32	0.4	CC	3
Abaco Pedestrian Easement	3	33	0.2	CC	3
Baker Lot	3	34	0.2	CC	3
Dyer Woods Pedestrian Easements	3	36	0.0	CC	3
Holan Lots	1	37	3.1	CC	3
Ivie Rd lot	1	38	0.1	CC	3
Stonybrook Lot	3	40	0.2	CC	3
Stonegate Area					
Arlington Lane Easement	1	42	3.0	CC	3
Cranbrook Easement	1	43	6.8	CC	3
Shore Road Pond	1	49	1.1	CC	3
Coastal Area					
Alewive Brook Lot	3	69	0.3	CC	3
Alewive Cove Lot (no road access)	1	70	0.5	CC	2
Davis Woods	2	72	7.3	CC	3
Eastfield Lot	1	71	0.4	CC	3
Trout Brook Area					
Ferne Peddy Lots	1	65	3.7	CC	2
Queen Acres/State Ave	3	66	0.7	CC	3
Rice Lot	2	67	0.2	CC	3
Interior Area					
Bothel Pedestrian Easement	2	52	1.4	CC	3
Canterbury Easement	1	53	0.8	CC	3
Canterbury Tank House Lot	1	54	0.03	CC	1
Hobstone Pedestrian Easement	4	57	0.04	CC	3
McAuley Lot	3	60	0.5	CC	3
Patricia Lot	1	61	0.5	CC	3
Tarbox Triangle	3	62	0.2	CC	3
Wildwood Easement	2	63	7.5	CC	3
Great Pond Area					
Broad Cove Lot	1	75	8.3	CC	3
McKenney Point Lot	3	83	0.1	CC	3
Gull Crest Area					
Fowler Rd Corner lot	3	92	0.2	CC	3
Hannaford Lot	1	94	0.8	CC	3
Longfellow Lot	3	95	0.2	CC	3
Scott Dyer Rd Connector Easement	4	98	0.8	CC	3
Marsh Area					
Autumn Tides Lot	3	101	0.5	CC	3
Eastman Meadows Ped/Pkg Easements	4	105	0.6	CC	3
Park Circle	3	108	1.1	CC	3
Riverside Cemetery				TC	2
Municipal Property not listed above					
Public roads					2
Public sidewalks					2
Municipal parking lot and within 10' thereof					2
Other municipal property				TC	3

¹ Reference to the Management of Greenbelt and Open Space Plan

² Property Manager: CC - Conservation Committee, TC-Town Council, SS-School Superintendent

Category 1: No dogs (none)

Category 2: Dogs on leash only

Category 3: Dogs on leash or voice control

*Athletic fields may be assigned a different management category than the adjacent municipal land. See Sec. 7-1-7(c).