

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

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 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.

Deleted: apply to both male and female dogs.

(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 under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.

Deleted: being

(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:

Deleted: by means of that person's proximity to the dog, and their ability to manipulate and command the animal.

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

2. A dog that injures or threatens to assault an individual who is on the dog owner's premises if the dog has no prior history of assault

1 and was provided by the individual immediately prior to the injury
2 or threatened assault; or

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

Formatted: Indent: Left: 1"

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

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

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

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

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

Formatted: Indent: Left: 1"

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

Formatted: Normal (Web)

Formatted: Font: Not Bold

(h) "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.

Formatted: Font: Not Bold

Formatted: Font: Not Bold

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.

Deleted: License, record and tag requirements shall be as prescribed and required by Maine Statutes Annotated, and all rules and regulations duly promulgated thereunder.

(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.

Deleted: displayed

Deleted: on a collar constructed of a durable material and sized so as to ensure the tag's attachment.

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.

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.

Deleted: s

Deleted: A dangerous dog is hereby defined to be a dog which by its conduct shall cause reasonable fear of bodily injury to any person. The owner of any dangerous dog shall keep same confined in a secure enclosure or on a chain or leash controlled by the owner or his agent at all times. Procedures resulting in the disposal or method of restraint of an animal who has assaulted a person shall be as prescribed and required by Maine Statutes Annotated, Title 7 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.

Formatted: Font: Not Bold

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.

Deleted: ¶

Deleted:

Deleted: Failure to Restrain

Sec. 7-1-8. Management of Dogs 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. Any dog in or within ten feet (10') of a municipal parking lot must be restrained on a leash.

Deleted: owner or keeper to fail to restrain such an animal either by enclosed run, leash, tether, radio collar, choke collar or voice command so that the animal attacks, harasses or menaces any pedestrian, jogger, cyclist or passerby on any property other than that which is in the care and control of the dog owner.

Deleted: 7

Deleted: to be Restrained

Formatted: Font: Not Bold

Formatted: Indent: Left: 0", First line: 0"

Formatted: Font: Bold

1 (a) Dogs on municipal property shall be controlled based on the Property
2 Management Category Designation.

Formatted: Indent: Left: 0.5", Hanging: 0.5"

3
4 1. Category 1: No dogs allowed. No dogs shall be allowed on any
5 municipal property assigned as Category 1 for the purpose of dog
6 control.

Formatted: Underline

Formatted: Indent: Left: 1", Hanging: 0.19",
Don't adjust space between Latin and Asian

7
8 2. Category 2: Dogs allowed on leash only. Dogs that are restrained by
9 leash held by a responsible party, defined herein, are allowed on any
10 municipal property assigned Category 2.

Formatted: Indent: Left: 1", Hanging: 0.19"

Formatted: Indent: Left: 1", Hanging: 0.19",
Don't adjust space between Latin and Asian
text

11
12 3. Category 3: Dogs allowed on voice or leash control. Dogs that are under
13 the control of a responsible party by either voice or leash control are
14 allowed on any municipal property assigned Category 3.

Formatted: Indent: Left: 1", Hanging: 0.19"

15
16 (b) Property Manager. Property Management Category Designation shall be
17 by property location and may include 1 or more categories designated by
18 location, time of day, month, event or other measurement. Property
19 managers are designated as follows:

20
21 1. Athletic Fields located on the school campus: Superintendent of
22 Schools

23
24 2. Municipal town open space (excluding Fort Williams Park):
25 Conservation Committee

26
27 3. All other municipal property: Town Council

28
29 (c) Designation change. Property Management Category Designation shall be
30 assigned by the Town Council, and in the case of subsection b(1) and b(2)
31 above, may be changed by the designated property manager to promote
32 sound property management after proposed changes have been posted on
33 the town website for 30 days. The Town Council retains the authority, but
34 not the obligation, to change a Property Management Category
35 Designation. Notification of Property Management Category Designation
36 shall be provided to the Cape Elizabeth Police Chief.

Formatted: Indent: Left: 0.5", Hanging:
0.5", Don't adjust space between Latin and

37
38
39
40 (d) The Unleashed Dog Area in Fort Williams Park (encompassing the
41 MultiPurpose Field) is defined as an area abutting the Southerly edge of
42 the Central Parking Lot and extending westerly along the Southerly side of
43 the Heavy Equipment Storage Building, continuing Westerly directly
44 behind the long garages at the rear of the Officers Row buildings to
45 Harrison Road; continuing on (and including) Merriman Road along the
46 northerly border of Delano Park to the water's edge; then extending

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

Deleted: b

1 northerly along the shoreline turning westerly across “The Green” to the
2 southern end of Battery Blair; turning northerly then westerly back to the
3 Southerly edge of the Central Parking Lot (as referenced on the Unleashed
4 Dog Area Map dated (insert date)). Unleashed dogs are prohibited on the
5 Multi-Purpose Athletic Field from April 1st to November 1st.

7 (e) Limited Privileges List. When the Cape Elizabeth Police
8 Department has determined that a dog has not been under control in accordance with
9 Sec. 7-1-8(a) above, the Owner shall be added to the Limited Privileges List. Dog
10 owners on the Limited Privileges List may only allow a dog on a Category 3 municipal
11 property if the dog is on a leash.

Formatted: Underline

Formatted: Font: Not Bold

12 **Sec. 7-1-8. Removal of Dog Waste.** An owner must remove and dispose of any feces
13 left by the owner's dog on any sidewalk, street, beach, public property or private property
14 (other than the property of dog owner or a person who has consented to the presence of
15 the dog on the person's property) and deposit such feces into an appropriate litter
16 receptacle. When the dog is at a location where removal of dog waste is required, the
17 owner must be in possession of a plastic bag or similar utensil not part of the human body
18 for collecting and removing dog feces. Dog feces placed in plastic bags may not be left
19 where removal of dog waste is required. Removal of dog waste shall not be required of
20 any owner who, by reason of physical handicap, is unable to comply with this
21 requirement.

Deleted: ¶

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Formatted: Font: Not Bold

23 **Sec. 7-1-9. Impoundment.** The Cape Elizabeth Police Department may impound any
24 dog in violation of this ordinance, or otherwise in possession of the Cape Elizabeth Police
25 Department. An impounded dog may be temporarily housed in the Cape Elizabeth Police
26 Department for a period not to exceed 24 hours and then, if necessary in an animal shelter
27 designated by the Town and there confined in a humane manner for a period of not more
28 than fourteen (14) days.

Deleted: 8

Deleted: Unlicensed dog, whether or not at large, and dogs found running at large, whether or not licensed, shall with or without complaint be taken up and impounded by a police officer or dog control officer

Deleted: a

Deleted: as the Town Animal Shelter

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

Deleted: 9

Deleted: of Section 7-1-3 (a)

32 (a) Any owner may regain possession of an impounded dog upon compliance
33 with the provisions of this ordinance. Any dog impounded under the
34 provisions of this ordinance and not reclaimed by the owner within said
35 fourteen (14) days, shall be considered to be abandoned by the owner.

Deleted: and upon payment of the impoundment and boarding fees set forth herein.

37 (b) Where the ownership of any such dog is known, or can be reasonably
38 ascertained by a police officer or dog control officer, such officer shall, if
39 possible, notify the owner within three (3) days of such impoundment, but
40 failure to give such notice shall in no way impose any liability upon the
41 Town for the destruction or transfer to another of any dog so impounded
42 and not reclaimed within said period of fourteen (14) days.

Deleted: and the property of the Town Animal Shelter and may, after consultation with the Humane Society and/or the Animal Refuge League, be humanely destroyed or given to the Humane Society and/or the Animal Refuge League, or any person deemed to be responsible and a suitable owner.

Deleted: 0

Deleted: of \$5.00 for each dog, except upon the second impoundment of the same dog the fee shall be \$20.00, and upon the third and all subsequent impoundments of the same dog the fee shall be \$40.00; and upon presentation to the Animal Shelter, currently designated by the Town to receive impounded dogs, of evidence of such payment to the Town and upon payment to that animal shelter of a further board fee in accordance with the current fee schedule of the animal shelter. ¶

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

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

Deleted: 1

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

Deleted: 2

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

Deleted: 3

14 | **Sec. 7-1-15, Penalties.** Whoever keeps a dog contrary to the provisions of this ordinance
15 shall be punished by a fine of not more than One Hundred Dollars (\$100.00) to be
16 recovered by complaint for the use of the Town of Cape Elizabeth before the 9th District
17 Court of Maine, Division of Southern Cumberland. In addition, said Court may make
18 such further order regarding the destruction, restraint or other disposition of the offending
19 dog as the Court deems appropriate. (Revised eff . 2/8/2018)

Deleted: 4

Deleted: Sections 7- 1-3, 4, 5, 6, 7, or 11 of