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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 provoked 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 or if a dog bites a person or animal, that dog is
38 not under voice control and a violation of this Ordinance occurs unless

1 such person has communicated to the responsible party by spoken word or
2 gesture that such person consents to 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 **Sec. 7-1-3. License.** Any person who violates any section of the dog licensing
8 requirements commits a civil violation for which a forfeiture may be adjudged.
9

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

18
19 (b) Failure to Display Tags. It shall be unlawful for any dog owner or keeper
20 to fail to have affixed to the dog's collar, the license identification and
21 rabies tag. Said tags must be displayed securely attached to a collar of
22 leather, metal or materials of comparable strength, on a collar constructed
23 of a durable material and sized so as to ensure the tag's attachment. The
24 collar shall be worn at all times by the dog for which the license and rabies
25 tags were issued, except that a dog is not required to wear a tag when on
26 premises of the owner or off the premises of the owner while hunting, in
27 training, or in an exhibition.
28

29 **Sec. 7-1-4. Barking and Howling.** No person shall own, keep or harbor any dog which
30 by loud, frequent, and habitual barking, howling or yelping, shall disturb the peace of any
31 person or persons. Agricultural working dogs, when engaged in protecting or herding
32 livestock or in warning owners of danger to livestock, are exempt.
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.
42

43 If there is an incident where a dog may have engaged in dangerous or nuisance behavior,
44 the incident shall immediately be reported to the Cape Elizabeth Police Department. The

1 owner of the dog shall remain on scene to provide contact information to the Police
2 Department.

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

11
12 **Sec. 7-1-~~87~~ Management of Dogs to be Restrained on Municipal Property.**

13
14 (a) General conduct on municipal property. At all times, dogs on municipal
15 property shall be controlled to the extent necessary to preserve access and
16 safety for all members of the public. The owner must carry a leash for
17 each dog in their possession or custody on municipal property. The owner
18 shall not be in possession or custody of more than three (3) dogs off-leash.
19 When in possession or custody of more than three (3) dogs, all dogs must
20 be on leash.

21
22 (b) Management Category: Dogs on municipal property shall be controlled
23 based on the Property Management Category Designation.

24
25 1. Category 1: No dogs allowed. No dogs shall be allowed on any
26 municipal property assigned as Category 1 for the purpose of dog
27 control.

28
29 2. Category 2: Dogs allowed on leash only. Dogs that are restrained by
30 leash held by the owner are allowed on any municipal property
31 assigned Category 2. Public roads, municipal sidewalks, within the
32 lined portion of athletic fields during the playing season and in or
33 within ten feet (10') of a municipal parking lot are designated Category
34 2.

35
36 3. Category 3: Dogs allowed on voice or leash control. Dogs that are under
37 the control of the owner by either voice or leash control are allowed on
38 any municipal property assigned Category 3.

39
40 (c) Property Manager. Property Management Category Designation shall be
41 by property location and may include one or more categories designated
42 by location, time of day, month, event or other measurement. Property
43 managers are designated as follows:

44
45 1. School campus: Superintendent of Schools
46

1 2. Municipal town open space (excluding Fort Williams Park and athletic
2 fields located on town open space): Conservation Committee

3
4 3. All other municipal property: Town Council

5
6 (d) Designation change. Property Management Category Designation shall be
7 assigned by the Town Council and may be changed by the designated
8 property manager to promote sound property management. A category
9 change may be made after it is included as an agenda item and an
10 opportunity for public comment is provided at the applicable meeting.

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

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

26
27 ~~(a) — Any dog within the boundaries of a groomed and/or regularly maintained~~
28 ~~municipal property including, but not limited to, Fort Williams Park,~~
29 ~~public roads, municipal sidewalks and athletic fields, will be walked on a~~
30 ~~leash or tether at all times. The person accompanying the dog in these~~
31 ~~situations is required to collect any feces dropped by the animal and~~
32 ~~dispose of same in an area where it will not likely be encountered by any~~
33 ~~persons. The Cape Elizabeth Poor Farm, Lions' Field excluding the Little~~
34 ~~League field, and a portion of Fort Williams Park Southerly of Humphreys~~
35 ~~Road (as defined in paragraph (b) are not considered to be groomed and/or~~
36 ~~regularly maintained for purposes of this ordinance.~~

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

1 ~~Southerly edge of the Central Parking Lot (as referenced on the Unleashed~~
2 ~~Dog Area Map dated (insert date)). Unleashed dogs are prohibited on the~~
3 ~~Multi Purpose Athletic Field from April 1st to November 1st.~~

4
5 (e) Limited Privileges List. Failure to control a dog on municipal property
6 shall result in an owner's loss of privileges to have a dog in their custody
7 or possession off-leash on municipal property as follows:
8

9 i. First violation. When the Cape Elizabeth Police
10 Department has determined that an owner has not maintained
11 control of a dog in accordance with Sec. 7-1-8, the Police
12 Department shall notify the owner in writing. The notification shall
13 require the property owner to meet with the Police Department
14 within five (5) business days from the date of the written
15 notification, or such other time as is agreed upon by the Police
16 Department, to identify ways in which the owner shall maintain
17 control of their dog. The owner will agree to take all necessary
18 measures, which measures shall be memorialized in a written
19 agreement at the conclusion of the meeting. Failure of the owner to
20 enter into such an agreement at the conclusion of the meeting will
21 be deemed a second violation.
22

23 ii. Second violation. When the Cape Elizabeth Police Department has
24 determined that an owner has not maintained control of a dog in
25 accordance with Sec. 7-1-8 for the second time in a five (5) year
26 period, the Police Department shall notify the owner in writing that
27 off-leash privileges for any dog in the owner's possession or
28 custody shall be suspended for thirty (30) days. The owner shall
29 also pay a fine of \$100.00 dollars.
30

31 iii. Third violation. When the Cape Elizabeth Police Department has
32 determined that an owner has not maintained control of a dog in
33 accordance with Sec. 7-1-8 for the third time in a five (5) year
34 period, the Police Department shall notify the owner in writing that
35 off-leash privileges for any dog in the owner's possession or
36 custody shall be suspended for five (5) years from the date of the
37 first violation. The owner shall also pay a fine of \$500.00 dollars.
38

39 iv. Subsequent violations. For each additional violation, the Police
40 Department shall notify the owner in writing that off-leash
41 privileges for any dog in the owner's possession or custody shall be
42 suspended for an additional five (5) years from the date of the first
43 violation. The owner shall pay a fine of \$500.00 dollars.
44

45 v. Appeals. An owner may appeal a failure to control a dog
46 determination to the District Court.

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

7
8 **Sec. 7-1-98. Impoundment.** ~~The Cape Elizabeth Police Department may impound any~~
9 ~~dog in violation of 7 M.R.S.A. Sec. 3913. Unlicensed dog, whether or not at large, and~~
10 ~~dogs found running at large, whether or not licensed, shall with or without complaint be~~
11 ~~taken up and impounded by a police officer or dog control officer. An impounded dog~~
12 ~~may be temporarily housed in the Cape Elizabeth Police Department for a period not to~~
13 ~~exceed 24 hours and then, if necessary in an animal shelter designated by the Town as~~
14 ~~the Town Animal Shelter and there confined in a humane manner for a period of not~~
15 more than fourteen (14) days.

16
17 **Sec. 7-1-109. Disposition of Impounded Dogs.**

18
19 (a) Any owner may regain possession of an impounded dog upon compliance
20 with ~~the provisions of Section 7-1-3 (a) of this ordinance, and upon~~
21 ~~payment of the impoundment and boarding fees set forth herein. Any dog~~
22 ~~impounded under the provisions of this ordinance and not reclaimed by~~
23 ~~the owner within said fourteen (14) days, shall be considered to be~~
24 ~~abandoned by the owner, and the property of the Town Animal Shelter~~
25 ~~and may, after consultation with the Humane Society and/or the Animal~~
26 ~~Refuge League, be humanely destroyed or given to the Humane Society~~
27 ~~and/or the Animal Refuge League, or any person deemed to be responsible~~
28 ~~and a suitable owner.~~

29
30 (b) Where the ownership of any such dog is known, or can be reasonably
31 ascertained by a police officer or dog control officer, such officer shall, if
32 possible, notify the owner within three (3) days of such impoundment, but
33 failure to give such notice shall in no way impose any liability upon the
34 Town for the destruction or transfer to another of any dog so impounded
35 and not reclaimed within said period of fourteen (14) days.

36
37 **Sec. 7-1-110. Fees and Boarding Charges.** Any dog impounded hereunder may be
38 reclaimed upon payment to the Town, through the Cape Elizabeth Police Department of
39 an impoundment fee ~~as established in the Town Fee Schedule, of \$5.00 for each dog,~~
40 ~~except upon the second impoundment of the same dog the fee shall be \$20.00, and upon~~
41 ~~the third and all subsequent impoundments of the same dog the fee shall be \$40.00; and~~
42 ~~upon presentation to the Animal Shelter, currently designated by the Town to receive~~
43 ~~impounded dogs, of evidence of such payment to the Town and upon payment to that~~
44 ~~animal shelter of a further board fee in accordance with the current fee schedule of the~~
45 ~~animal shelter.~~

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Sec. 7-1-121. 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. 7-1-132. 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. 7-1-143. 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. 7-1-154. Penalties. Whoever keeps a dog contrary to the provisions of ~~Sections 7-1-3, 4, 5, 6, 7, or 11~~ this ordinance shall be punished by a fine of not more than ~~Five One~~ Five One Hundred Dollars ~~(\$100.00) (\$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)