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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 have the same meaning as 7 M.R.S. § 3907, Subsection 12-C 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 have the same meaning as 7 M.R.S. § 3907, Subsection 6. mean off the premises of the owner and not being under the control of any person by means of that person's proximity to the dog, and their ability to manipulate and command the animal.

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

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

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

(g) "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 or 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

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

12
13 Alternate: Delete Sec. 7-1-6 and rely on 7 M.R.S. 3911

14
15 **Sec. 7-1-7 Management of Dogs to be Restrained on Municipal Property.**

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

24
25 (b) Management Category: Dogs on municipal property shall be controlled
26 based on the Property Management Category Designation.

27
28 1. Category 1: No dogs allowed. No dogs shall be allowed on any
29 municipal property assigned as Category 1 for the purpose of dog
30 control.

31
32 2. Category 2: Dogs allowed on leash only. Dogs that are restrained by
33 leash held by the owner are allowed on any municipal property
34 assigned Category 2. Public roads, municipal sidewalks, and in or
35 within ten feet (10') of a municipal parking lot are designated Category
36 2.

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

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

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.
6

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

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

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

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

39
40 4. Subsequent violations. For each additional violation, the Police
41 Department shall notify the owner in writing that off-leash privileges
42 for any dog in the owner's possession or custody shall be suspended
43 for an additional five (5) years from the date of the first violation. The
44 owner shall pay a fine of \$500.00 dollars.
45

1 5. Appeals. An owner may appeal a failure to control a dog determination
2 to the District Court.

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

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

18
19 **Sec. 7-1-109. Disposition of Impounded Dogs.**

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

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

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

1 ~~animal shelter of a further board fee in accordance with the current fee schedule of the~~
2 ~~animal shelter.~~

3
4
5 **Sec. 7-1-~~121~~.** **Interference Forbidden.** No person shall interfere with, hinder or molest
6 any police officer or dog control officer in the performance of any duty of such officer, or
7 seek release of any dog in the custody of a police officer or dog control officer, except as
8 herein provided.

9
10 **Sec. 7-1-~~132~~.** **Records.** It shall be the duty of a police officer or dog control officer to
11 keep, or cause to be kept, an accurate and detailed record of the licensing, impoundment
12 and disposition of all dogs coming into his custody.

13
14 **Sec. 7-1-~~143~~.** **Enforcement.** The Cape Elizabeth dog control officer and the Cape
15 Elizabeth Police Department are hereby directed and empowered to enforce the
16 provisions of this ordinance.

17
18 **Sec. 7-1-~~154~~.** **Penalties.** Whoever keeps a dog contrary to the provisions of ~~Sections 7-1-~~
19 ~~3, 4, 5, 6, 7, or 11~~ this ordinance shall be punished by a fine of not more than ~~Five One~~
20 ~~Hundred Dollars (\$100.00)~~ (\$500.00) to be recovered by complaint for the use of the
21 Town of Cape Elizabeth before the 9th District Court of Maine, Division of Southern
22 Cumberland. In addition, said Court may make such further order regarding the
23 destruction, restraint or other disposition of the offending dog as the Court deems
24 appropriate. (Revised eff. 2/8/2018)