

DOMESTIC ANIMAL CONTROL ORDINANCE

SECTION 1. PURPOSE & ADMINISTRATION.

- A. This ordinance is adopted in the exercise of municipal home rule powers under the Maine Constitution and 30-A M.R.S.A. Section 3001.
- B. The purpose of this Ordinance is to
 - 1. Provide for the health, safety, and security of the citizens of Washington, Maine;
 - 2. Provide for the humane treatment of domestic animals; and
 - 3. Hold owners responsible for the conduct of their domestic animals.
- C. Dangerous dogs, dogs and domestic animals running at large, and habitual barking dogs are hereby declared to be a public nuisance.
- D. The Town of Washington Animal Control Officer shall enforce this Ordinance. Any officer as designated by the Select Board, Maine Game Wardens, or other State Official charged with animal control duties may enforce this Ordinance in the absence of the ACO.

SECTION 2. DEFINITIONS.

In general, all words and terms used in this Ordinance shall have their customary dictionary meanings.

More specifically, certain words and terms are described below.

- A. "Town" means the Town of Washington, Maine.
- B. "Animal Control Officer" and "ACO" mean the municipal official appointed by the Select Board of the Town whose duties are as follows:
 - 1. Enforcing the Maine Animal Welfare Laws, 7 M.R.S.A. §§ 3911, 3912, 3921, 3924, 3943, 3948, 3950, 3950-A, 3966 through 3970, and any other State laws imposing duties upon ACOs;
 - 2. Responding to reports of animals suspected of having rabies in accordance with 22 M.R.S.A. §§ 1313 and 1313-A and performing other duties relating to rabies imposed on ACOs by State law;
 - 3. Performing other duties to control animals as required by the municipal job description or by legislative action.
- C. "Attack," "attacks," and "attacking" mean an unprovoked actual biting or an action of imminent physical harm to a person, a domestic pet, or farm animal.
- D. "Dog" includes both male and female canines.
- E. "Owner" means any person or persons, firm, association, corporation, or other legal entity amenable to civil process, owning, keeping, or harboring, or in possession of, or having control of a domestic animal, and includes the parent or parents, or guardian, of a minor who owns, keeps, harbors, or is in possession of a domestic animal.
- F. "Dangerous dog" means the following, regardless of whether the dog is on or off the premises of its owner at the relevant time:
 - 1. A dog that attacks a person, regardless of whether it causes physical harm to the person, provided at the time of the attack the person is not trespassing with criminal intent on the owner's premises.
 - 2. A dog that attacks a domestic pet or farm animal and causes harm to the domestic pet or farm animal.
- G. "Running at large" means off the premises of and not under the control of the animal's owner.
- H. "Domestic animals" shall include, but not be limited to, dogs, cats, cattle, horses, pigs, sheep, goats, and chickens and other fowl being kept for domestic purposes. For the purposes of this Ordinance, this term does not include birds of prey or any animal normally considered as wild, but held in captivity for any purpose.

- I. "Abandoned" means the condition under which an animal is not properly fed, groomed or housed in accordance with the Maine Animal Welfare Laws.
- J. "Public nuisance" means a use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance, or inconvenience.
- K. "Compliance order" means an enforcement order issued by the Town ACO, or by any officer as designated by the Washington Board of Selectmen which shall demand that the owner or keeper obtain a license from the Washington Town Clerk for such dog within seven (7) days from the day of issuance,
- L. "Under restraint" means physically capable of controlling the animal by a leash, cord, chain, or by voice command control to which the animal is obedient.
- M. "Abused" means to treat an animal in any manner that violates any section or subsection of Title 7, M.R.S.A., Chapter 739, "Cruelty to Animals".
- N. "Working dog" means a dog employed to perform any job including, but not limited to, guarding property, pulling sleds, performing water rescues, herding livestock, protecting livestock or warning owners of danger to livestock. A dog employed exclusively for the purpose of assisting in hunting game shall not be considered to be a working dog for the purposes of this ordinance.

SECTION 3A. IDENTIFICATION, PROOF OF VACCINATION AND DOG LICENSING.

- A. All dogs older than six months shall be licensed in accordance with 7 M.S.R.A. Section 3922, et. seq.
- B. It shall be unlawful for any owner, or keeper of any dog or dogs six (6) months or older to keep or maintain a dog unless the owner has a current certificate of rabies vaccination.
- C. Failure to timely exhibit to the Clerk, or produce on demand of the ACO or other officer authorized to enforce the provisions of this Ordinance, proof of vaccination, shall be prima facie evidence that said dog has not been vaccinated.
- D. The owner or keeper of any dogs aged six (6) months or older, except dogs kept under a kennel license together with a Washington Land Use Ordinance Conditional Use Permit, if such permit is applicable, shall, on or before January first annually, or at such other time as such dog or dogs become six (6) months old, or within 10 days after said dog or dogs are brought into the Town, cause such dog or dogs to be licensed in accordance with 7 M.R.S.A. § 3923-A, -B, -C, and -D.
- E. A current tag showing the year such license is issued, and bearing such other data as may be required shall be given with each license issued. The owner or keeper of a dog required to be licensed must ensure this tag is worn at all times by the dog for which the license was issued, when out of doors or off the premises of the owner or keeper, as provided for in 7 M.R.S.A. §3943.
- F. The owner or keeper of any dog not duly licensed may be issued a compliance order paying to the said clerk, in addition to the license fee, a compliance fee of \$4.00 or as provided for in 7 M.R.S.A. § 3943 and, in addition may be summonsed to court as provided for in 7 M.R.S.A. § 3943, for keeping an unlicensed dog.

SECTION 3B. LICENSING WORKING DOGS

- A. In addition to the requirements of SECTION 3 any dog older than six months that is used as a working dog must be licensed by its owner or keeper as a working dog in accordance with this ordinance. Any federal, state, county or local law enforcement agency keeping or using dogs for law enforcement purposes shall be exempt from this requirement.
- B. Each owner or keeper of a working do shall obtain a working dog license from the Clerk:
 1. On or before January 1st of each year for a dog previously licensed as a working dog;
 2. Within 10 days of a working dog becoming six months of age;
 3. Within 10 days of a dog aged 6 months or more being placed in employment.
 4. The Clerk may not issue a working dog license until all the requirements of SECTION 3 are met.

The working dog license shall be attached to the license issued under SECTION 3 and shall state the specific job is to perform, the location where the dog will be kept and the specific location or locations where the dog will be working. The license must be issued in triplicate and the original must be given to the applicant and the remaining 2 copies must be retained by the Clerk. A tag identifying the dog as a working dog shall be issued with the license.

- C. In addition to the fee required by SECTION 3 the annual fee for a working dog license shall be ten dollars (\$10.00) but dogs used for the following purposes shall be exempt from this fee:
1. A trained guide dog owned or kept by a visually impaired person or such a dog awaiting training;
 2. A trained hearing dog owned or kept by a hearing-impaired person or such a dog awaiting training;
 3. A trained service dog owned or kept by a physically impaired person or such a dog awaiting training; and
 4. A trained search and rescue dog recognized by the Department of Inland Fisheries and Wildlife or by the statewide association of search and rescue that cooperates with the Department of Inland Fisheries and Wildlife in developing standards for search and rescue or such a dog awaiting training.

An owner or keeper required to license a working dog and applying for a license for that dog after January 31st shall pay to the Clerk a late fee of \$25 in addition to the annual working dog license fee. The Clerk or dog recorder shall deposit all late fees collected under this subsection into the Town's animal welfare account.

- D. The animal control officer must inspect annually the location where the working dog will be kept and, if applicable, the specific location or locations where the working dog will be working. The annual inspection shall occur prior to the Town issuing a working dog license. In addition to the annual inspection required under this subsection, an animal control officer, at any reasonable time, escorted by the working dog owner or the working dog owner's agent, may inspect the working dog, the location where the working dog will be kept, and, if applicable, the specific location or locations where the working dog will be working. Inspections shall be conducted using the sanitation and health rules for dog kennels established by the Maine Department of Agriculture, Food and Rural Resources as guidelines. The animal control officers shall determine that the living conditions of the working dog, including, shelter, food and veterinary care, are adequate. The animal control officer shall also determine that the working dog is being employed humanely and in accordance with the standard practices of the industry in which the dog is working.

SECTION 4. SICK OR INJURED DOMESTIC ANIMALS.

Any person finding a running at large, stray, sick, injured or abused domestic animal within the Town in an emergency situation should first contact the ACO, who shall take responsibility for the animal. If the ACO is unavailable, this person shall contact the Select Board or other public official or otherwise provide for the animal as specified by 7 M.R.S.A., §3913 (1).

SECTION 5. RUNNING AT LARGE AND ANIMAL TRESPASS.

- A. No owner of a domestic animal shall cause or permit that animal to run at large within the town.
- B. An animal shall be deemed under restraint within the meaning of this Ordinance if it is controlled by a leash, cord, chain, or otherwise under control of a person and obedient to that person's voice command.
- C. An owner accompanying a dog on municipal property shall collect feces or vomitus deposited by the dog and dispose of it in a lawful sanitary manner.
- D. Owners and users of seeing-eye dogs are exempt from this section.
- E. Nothing in this section shall require the leashing or restraint of any dog, other than a dangerous dog, while on the owner's premises.
- F. Any domestic animal found to be running at large, found to be sick or injured, or apparently abandoned may be seized and impounded by the town's ACO or any other public official. That animal's owner or keeper shall be liable for all related costs, in addition to any fees or fines that may be assessed. Costs of impoundment and fees may be recovered by the ACO or the Select Board in a civil action.
- G. Trespass and Stray Livestock: Under 7 M.R.S.A. § 4041. **Animal Trespass.** 1. Definitions. 1-A. Trespass. An owner or keeper of an animal may not allow that animal to enter onto or remain on the property of another or unattended on any local, county or state road or highway after the owner or keeper has been informed by a law enforcement officer, authorized employee of the department or animal control officer that an animal was found on that property or on that local, county or state road or highway. 2. Removal. The owner or keeper of an animal is responsible, at the owner or keeper's expense, for removing any animal for trespassing. An animal control officer, authorized employee of the department or law enforcement officer may, at the owner's or keeper's expense, remove and control an animal found trespassing if: A. The owner or keeper fails to remove the animal after having been notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or B. The animal is an immediate danger to itself, persons or another's property. 3. Civil violation. A person commits a civil violation if an animal owned or kept by that person is found trespassing and: A. That person fails to remove the animal within 12 hours, or immediately if public safety or private or public property is threatened, after having been notified

by an animal control officer that the animal was trespassing; or B. That person owns an animal or animals that have been found trespassing on 5 or more days within a 30-day period, or 3 or more days within a 7-day period.

Under 7 M.R.S.A. § 4042 **Stray Livestock: 1. Ownership of livestock unknown.** If the ownership of any livestock cannot be established, the livestock must be handled as a stray and an animal control officer shall seize, impound or restrain the livestock and: A. Deliver the livestock to an animal shelter, farm or holding facility that is capable of safely containing the number, type and size of livestock; or B. Arrange for the safe confinement of the livestock at a location designated by the municipality in which the livestock is found. **2. Municipal procedure for livestock.** A municipality shall retain custody of stray livestock under subsection 1 for a period of 10 days. The municipality is responsible to ensuring the proper care of the livestock while confined, including providing proper sustenance, shelter and necessary medical care. If ownership of the stray livestock is not claimed by any person, after 10 days, the municipality or an animal shelter designated by the municipality, and the municipality or designated animal shelter may sell, adopt, give away or humanely euthanize the stray livestock. A municipality may reimburse a farm, holding facility or animal shelter for the care and housing of stray livestock pursuant to this section at the same rates as in section 3919-C.

SECTION 6. ATTACKS BY DANGEROUS DOGS.

- A. An owner who is given written notice by the town's ACO, or any other officer that their dog has bitten or is reasonably believed to have in any way seriously injured any person, domestic pet, or farm animal shall not, without further written authorization by an officer or official, sell, give, or otherwise convey the ownership or possession of that dog, or permit that dog to be moved beyond the boundaries of the town, except to or under the care of a licensed veterinarian, the ACO, or a law enforcement officer.
- B. An owner receiving written notice shall immediately place the dog under confinement for a period of at least 10 days and shall promptly obey all rabies detection and control directions of an ACO, a licensed veterinarian, law enforcement officer, or other state official concerning that dog.
- C. An owner receiving written notice shall comply with all applicable regulations of the Maine Commissioner of Agriculture and the Maine Commissioner of Human Services and their authorized agents in matters of rabies detection and control.
- D. Dangerous dogs shall be handled in accordance with 7 M.R.S.A. §3952 and remain designated as dangerous until the court orders otherwise.

SECTION 7. SPECIAL RESTRAINT OF DANGEROUS DOGS.

- A. An owner of a dog that has been determined to be a dangerous dog shall ensure that the dog is restricted at all times to the premises of the owner, except when being transported by a secure motor vehicle to a veterinarian or to some other premises of the owner or to take the dog out of Town with the knowledge and written consent of the ACO or other official authorized by the Selectmen, or to the custody of an animal control officer or law enforcement officer.
- B. The owner of a dangerous dog shall ensure that the dog, when out of doors on the owner's premises, is either contained within a secure enclosure or is fastened with a secured latch to a well-maintained reinforced restraint.
 - 1. The length of any secure restraint must keep the dog more than three (3) feet away from any mail receptacle, entrance or exit to a house or other building, end or edge of a driveway, walkway, stoop or stairs leading to an entrance, edge of a lawn, property boundary or public sidewalk, or home fill pipe or utility meter.

SECTION 8. BARKING DOGS.

- A. No owner or keeper of a dog within the legal limits of the Town shall keep or maintain a dog which continuously or repeatedly barks, howls, makes other loud or unusual noises, or in any other manner unreasonably disturbs the peace of any person.
- B. Any person who keeps or maintains a dog which continuously or repeatedly barks, howls, or makes other loud or unusual noises, that are either
 - a. sustained for one (1) hour or
 - b. intermittently for three (3) continuous hours or more for four consecutive days and which can be heard unreasonably disturbing the peace of any neighbors within 500 feet of the boundary of the property on which the dog is located is in violation of this Ordinance.
- C. (Amended in 2007) Working dogs in the course of their employment, if that employment requires barking, and dogs used for hunting game, while the latter are engaged in hunting, are exempt from this section.

SECTION 9. PROCEDURE ON VIOLATION

A. INVESTIGATION.

1. The ACO shall quickly and fully investigate all known or suspected violations of this Ordinance received from any citizen and keep a written record.
2. On a first complaint, the ACO, in his or her judgment, may issue a verbal warning. All subsequent warnings must be in writing.
3. The ACO will report complaints and findings to the Select Board.
4. The ACO is required to maintain a public file, located in the Town Office, of all complaints and findings.
5. Nothing in this Ordinance is intended to bar or limit the right of the individuals to make written complaints concerning dangerous dogs pursuant to State Law, or bar or limit any law enforcement officer from proceeding to act upon such a written complaint in accordance with the State Law.

B. PROSECUTION.

1. The ACO, on complaint of any person or on his or her own initiative, may initiate prosecution for violation of this Ordinance by filing a complaint with the Knox County Division of the Maine District Court and serve a summons and a copy of the complaint to the owner.
2. Alternatively, the municipal officers may engage and appoint counsel to prosecute the alleged violations.

C. COMPLAINT FOR DOMESTIC ANIMALS PRESENTING IMMEDIATE THREAT OR NUISANCE TO PUBLIC.

1. After filing a complaint in District Court and before hearing, the animal shall be subject to muzzling, restraint, or confinement upon its owner's premises upon order of the animal control or law enforcement officer who filed the complaint, if that officer believes that the animal poses a threat or nuisance to the public.
2. The officer may prescribe the degree of restraint or confinement.
3. Failure to comply shall constitute a distinct violation of this Ordinance.
4. Upon failure to comply, and after notice to the owner, the officer may apply to the District Court for an order of authorization to take possession of an animal that poses an immediate threat or nuisance to the public and turn it over to the care of a suitable person or organization, at the owner's expense. The Court in its final order shall include an order to the owner to pay this expense in a stated amount.

D. ORDER OF THE COURT.

1. If, upon hearing, the court determines that the ordinance has been violated, the court may impose an appropriate penalty.
2. If the court determines that a dog is a dangerous dog, the court may order the owner to muzzle the dog, and to restrain it, and confine it to the owner's premises. If an animal is determined to be a public nuisance, the court may order it confined to, or removed from, its owner's premises.
3. If the court finds that the dog has killed, maimed, or inflicted more than de minimis bodily injury upon a person, or upon a domestic pet or farm animal, or the court determines that the dog has a history of attacks then the court may order the dog to be euthanized. Such euthanasia shall be at the owner's expense. For state law outlining additional penalties for damage to livestock or pets by animals, see 7, M.R.S.A. § 3962-A.

E. FAILURE TO ABIDE BY A COURT ORDER.

1. An owner's failure to comply with an order issued pursuant to this Section constitutes a violation of this Ordinance. This may be punishable by a new summons or as contempt, following issuance of a show cause order on affidavit of a law enforcement officer.
2. If an order of euthanasia is not complied with by the time set by the court, the court may, upon application by the ACO or other person, and upon notice to the owner, issue a warrant to the ACO to destroy the dog and make return of the warrant to the court within 14 days from the date of the warrant.
3. The owner shall pay all costs of any supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog. A failure to pay such costs by the time stated in the order of the court constitutes a distinct violation of this Ordinance. This may also be punished on proceedings for contempt after issuance of a show cause order.

SECTION 10. PENALTIES

- A. For a first violation of this Ordinance, the owner shall be ordered to pay a penalty of not less than fifty dollars (\$50.00) nor more than two-hundred dollars (\$200.00) plus any associated court ordered fees or costs.
- B. All penalties awarded shall accrue to the Town.
- C. An owner found to have violated this Ordinance shall pay all fees and surcharges assessed or required by a court order and shall pay court costs.

- D. The penalties provided under this Ordinance shall be in addition to any penalties provided by state or federal law. For state law outlining additional penalties, see 7, M.R.S.A. § 3962-A.

SECTION 11. LEGAL PROVISIONS

- A. Effective Date: This ordinance shall take effect upon passage at any municipal town meeting.
- B. Interpretation: Interpretation of this Ordinance shall be according to the purpose of the Ordinance and the Town Comprehensive Plan.
- C. Conflict with Other Ordinances: Whenever the regulations of this Ordinance conflict with those of another Ordinance, the stricter shall apply.
- D. Severability: Should any portion of this Ordinance be found invalid for any reason by a court of competent jurisdiction, then all portions not found invalid shall remain unaffected and continue in full force.
- E. Amendment:
 - 1. Amendments to this Ordinance shall be considered following citizen petition or motion of the Select Board.
 - 2. Unless it is presented at an open Town Meeting, no regulation or amendment of this Ordinance shall be adopted until after the Select Board of the Town have held a public hearing thereon at least ten days before it is submitted to the legislative body for consideration. At least ten days prior to the hearing, the Select Board shall have notices posted in the places in which Town Meeting Warrants are posted.
- F. Repeal: This ordinance shall supersede the *Town of Washington Dog Control Ordinance*, adopted March 30, 2007, which is hereby repealed from and after the effective date of adoption of this Ordinance.