

# **CITY OF EASTPORT ANIMAL CONTROL ORDINANCE**

## **SECTION I: 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 Eastport, Maine;
  2. Provide for the humane treatment of domestic animals; and
  3. Hold owners responsible for the conduct of their dogs.
- C. Dangerous dogs, dogs running at large and habitual barking dogs are hereby declared to be a public nuisance.
- D. The City of Eastport Animal Control Officer shall enforce this ordinance. Any officer as designated by the Council, Maine Game Wardens, or other State Official charged with animal control duties may enforce this Ordinance in the absence of the ACO.

## **SECTION II: DEFINITIONS.**

1. In general, all words and terms used in this Ordinance shall have their customary dictionary meanings.
  2. More specifically, certain words and terms are described below.
- A. City means the City of Eastport.
- B. "Animal Control Officer" and "ACO" mean the municipal official appointed by the Council of the City of Eastport. 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 domestic 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 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 dog and includes the parent or parents or guardian of a minor who owns, keeps, harbors or is in possession of a dog.
- 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 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 dog's owner.
- H. "Domestic animals" shall include, but not be limited to dogs, cats, cows, horses, pigs, sheep, goats and chickens and other fowl being kept for domestic purposes.
- 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. "Compliance order" means an enforcement order issued by the City ACO, or another officer as designated by the Council which shall demand that the owner or keeper obtain a license from the City of Eastport for such dog within seven (7) days from the day of issuance.
- K. "Under restraint" means physically capable of controlling the dog by a leash, cord, chain or by voice command control to which the dog is obedient.
- L. "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".
- M. "Kennel" is defined by 7 M.R.S.A. Chapter 721 § 3923-C

**SECTION III. IDENTIFICATION, PROOF OF VACCINATION AND LICENSING.**

- A. All dogs older than six (6) months shall be licensed in accordance with 7 M.R.S.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 kennel

license shall on or before January first annually, or at such other time as such dog or dogs become six (6) months old, or within ten (10) days after such dog or dogs are brought into the City, cause such dog or dogs to be licensed in accordance with 7M.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 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 IV. SICK OR INJURED DOGS.**

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

#### **SECTION V. RUNNING AT LARGE.**

- A. No owner of a dog shall cause or permit that dog to run at large within the City.
- B. A dog 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.

#### **SECTION VI. DUTY TO DISPOSE OF DOG WASTE.**

No person shall fail to immediately remove and lawfully dispose of any feces left in any street, sidewalk, esplanade, park or any other public, or City owned property by a dog owned or controlled by such person or under his/her control.

It is a violation of this Ordinance for a person to allow a canine under his/her control to defecate on any on any private property not owned by the owner of the canine or without the permission of the property. Private property includes all private dwellings and business property.

#### **EXEMPTION**

A reasonable effort should be made by a person not to allow a canine in his/her control to defecate on property not owned by that person owning/controlling the canine. If the owner/person controlling the canine makes a reasonable attempt to remove the feces of that canine in a timely manner they may not

be held in violation of this Ordinance.

This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

## **SECTION VII. REGULATION OF DOGS**

- A. No owner or keeper of a dog within the legal limits of the City shall keep or maintain a dog which continuously or repeatedly barks, howls, makes other loud or unusual noises sustained for one (1) hour or in any other manner unreasonably disturbs the peace of any person.
- B. Professionally trained, certified guard dogs performing their assigned duties are exempt from this section.
- 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 kennel license shall on or before January 1<sup>st</sup> annually, or at such time as such dog or dogs become six (6) months old, or within ten (10) days after such dog or dogs are brought into the City 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 7M.R.S.A. § 3943.
- F. The owner or keeper of any dog not duly licensed may be issued a compliance order paying to said Clerk, in addition to the license fee, a compliance fee of \$4.00 or as provided for in 7 M.R.S.A. § 3942, for keeping an unlicensed dog.

## **SECTION X. ATTACKS BY DANGEROUS DOGS.**

- A. An owner who is given written notice by the City'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 City, 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 ten (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 XI. 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 the City with the knowledge and written consent of the ACO or other official authorized by the City Council, 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 lawn, property boundary or public sidewalk, or home fill pipe or utility meter.

## **SECTION VIII. KENNELS.**

A kennel is defined by 7 M.R.S.A., Chapter 721 § 3923-C. In order for a kennel license to be issued, the following standards must be met:

### **A. Application:**

- (1) an applicant for a kennel license must complete the City's kennel license application;
- (2) if required to have a State license, the applicant must possess a current, valid State license;
- (3) if required, approval must meet the current City zoning ordinance; and
- (4) all fees, including the kennel license fees, must be paid.

### **B. Inspection:**

An inspection shall be conducted in accordance with Section V and all applicable criteria must be met by the applicant.

### **C. Number of licenses limited.**

There shall be no more than four (4) kennel licenses issued for any one parcel or business.

### **D. Approval.**

Should all of the above conditions be met, the City Clerk shall issue the applicant a kennel license

for the kennel under consideration.

## **SECTION IX. INSPECTIONS.**

- A. The Animal Control Office (ACO) or other authorized representative of the City may inspect a kennel, or a property for which a kennel license application has been received, at any reasonable hour.
- B. The applicant or kennel owner, or an agent of the same, is required to accompany the City representative.
- C. At the discretion of the City, the applicant or kennel owner or agent must allow other state and City officials, including but not limited to Eastport police officers or state animal welfare agents to accompany the ACO or other authorized representative of the City during inspection.
- D. The inspection shall cover all areas on the property where dogs are kept or allowed to go.
- E. Inspection criteria that the property must meet shall include the following:
  - (1) All criteria required by the State Animal Welfare Department when inspecting kennels.
  - (2) Animals shall be kept in areas which maintain adequate sanitation, including but not limited to periodic cleaning and sanitizing enclosures and housing facilities to remove excreta and other waste materials.
  - (3) Animals shall be housed in enclosures with adequate space for the animals to make normal postural and social adjustments with adequate freedom of movement to maintain physical condition. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress or abnormal behavior patterns.
  - (4) Housing for animals shall be structurally sound and shall be maintained in good repair to protect animals from injury and restrict entrance of other animals or the escape of the animals contained therein.
  - (5) Animals shall be afforded proper veterinary care. A sick, diseased or injured animal shall be provided with a proper program of care by a veterinarian or humanely euthanized.
  - (6) Animals shall be provided with an adequate supply of fresh, clean, potable, liquid water provided in a sanitary manner and wholesome food suitable for species and age as often as the feeding habits of such animals require to maintain an adequate level of nutrition. If kept outdoors, said water shall be provided at all times.
  - (7) If kept outdoors, animals shall be provided with proper shelter. All shelters must have four (4) sides and a roof and be large enough for the animal to enter, turn around and lie down. Shelter shall be provided for each individual animal. Shelter for females

with offspring shall be large enough for the female to nurse the puppies without harming them.

(8) A kennel must have adequate staff to exercise, feed and otherwise care for the animals. One full-time employee or the equivalent shall generally be considered adequate staff for caring for twenty (20) dogs.

(9) All animals shall be treated in a humane manner.

F. The inspection shall be conducted in accordance with any sanitation and health rules established by the state for compliance with laws and rules.

G. Upon completion of inspection, the applicant must sign the inspection form.

H. The applicant and City Clerk shall each receive a copy of the completed inspection.

## **SECTION VII. LICENSE DENIAL, SUSPENSION AND REVOCATION**

A. A kennel license application may be denied, or a kennel license or licenses may be suspended or revoked for the following reasons:

(1) Failure to allow an inspection.

(2) Failure to meet one or more of the inspection criteria.

(3) Failure to comply with any provision of this chapter or of a kennel license.

(4) Withholding or falsification of any information required for a kennel license.

(5) Conviction of three (3) or more violations under this chapter of Title 7, Chapter 721 or 723, of the Maine Revised Statutes within any twelve-month period.

(6) Conviction of any violation of Title 7, Chapter 739, or Title 17, Chapter 42, of the Maine Revised Statutes within the past 10 years.

(7) Suspension of state license or quarantine by the state.

B. If a kennel license is denied or revoked, no new permit application will be accepted from the same applicant, license holder or location, nor shall that applicant or license holder be allowed to operate a kennel or a kennel be allowed to operate at that location, for a period of one year after such denial or revocation.

C. Upon denial, suspension or revocation of a kennel license, notice of the denial, suspension or evocation shall be provided to the applicant or license holder within 10 business days of the determination to deny, suspend or revoke the license. The notice of denial, suspension or

revocation shall be sent by certified mail, return receipt requested, addressed to the applicant or license holder.

- D. Upon receipt of a notice of suspension, the license holder may not sell any animals or cause any animals to be transported from the property in question without written permission from the Animal Control Officer (ACO) or other authorized representative of the City. A suspension may be until a date certain, or may be until the property has been brought into compliance with this chapter.

## **SECTION XII . OTHER DOMESTIC ANIMALS.**

- A. It shall be unlawful to keep or have any goats, cattle, horses or chickens anywhere in the City within one hundred fifty (150) feet of any residence other than the residence of the person so keeping or having such animals.
- B. It shall be unlawful to permit any cattle, horses, swine, sheep, goats or poultry to run at large in the City; any such animal running at large in the City shall be impounded in the manner provided in this Ordinance.
- C. Running at large.  
No person having the care of any goats, sheep, cattle, swine, horses or other live stock shall allow such animals to go at large on any public way or other public place in the City of Eastport.
- D. It shall be unlawful to harbor or keep any animals which disturb the peace by loud noises nor other disturbances at any time of the day or night.

## **SECTION XIII . PUBLIC HEALTH.**

- A. Fowl, goats, sheep, cattle, horses or swine shall not be kept in the cellar, attic or basement of any occupied dwelling or residential structure in the City of Eastport, regardless of location, whenever the City Health Officer finds that keeping of such animals at the premises concerned threatens public health any order issued by the Eastport Health Officer under this section shall be served on the owner or occupant of such premises or on the keeper of such animals and shall allow 48 hours after service of the order for removal of the animals concerned.
- B. No person shall dispense, feed or otherwise make available to any species of wildlife either on such person's property or on the property of another or of the City, any type of food in a manner that:
- (1) Creates an unclean, unsafe or unsanitary condition;
  - (2) Creates an unreasonable disturbance;
  - (3) Otherwise deleteriously affects the quiet enjoyment of others of any private or public property.



## **SECTION XIV. ENFORCEMENT.**

The provisions of this Ordinance may be enforced by the ACO, Chief of Police, or any Police Officer of the City of Eastport.

### **PENALTIES FOR VIOLATION**

Violation of this Ordinance shall be punished by a minimum penalty of one hundred dollars (\$100.00) for a first offense.

A second offense of this Ordinance shall be punished by a minimum penalty of two hundred fifty dollars (\$250.00).

The minimum penalty for a third offense and subsequent offenses under this Ordinance shall be five hundred dollars (\$500.00).

All fines will be for the use and benefit of the City of Eastport.

## **SECTION XV. IMPOUNDMENT.**

In addition to fines otherwise provided, the City Health Officer, Chief Enforcement Officer, or ACO may impound any animal kept in violation of of this Ordinance . All costs of the impoundment shall be charged to the owner or keeper of such animals. Animals impounded under this section may be sold to recover the City's cost.

## **SECTION XVI: PROCEDURES 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 is required to maintain a public file of all complaints and findings.
4. 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 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 Washington County Division of the Maine District Court and serve a summons and a copy of the complaint to the owner.
2. Alternately, the municipal may engage and appoint counsel to prosecute thew alleged

violations.

**C. COMPLAINT FOR DOGS PRESENTING IMMEDIATE THREAT TO THE PUBLIC.**

1. After filing a complaint in District Court and before hearing, the dog shall be subject to muzzling, restraint or confinement upon its owner's premises upon order of the ACO or law enforcement officer who filed the complaint, if that officer believes that the dog poses a threat to the public.
2. The ACO or law enforcement 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 a dog that poses an immediate threat 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.
5. If any dangerous, fierce or vicious dog cannot be safely taken up and impounded, such dog may be slain by any police officer or duly authorized animal control officer. In all cases where any dog which has bitten a person or caused an abrasion of the skin of any person is slain by any police officer, whether by order of the court or otherwise, and a period of less than fifteen (15) days has elapsed since the day on which the dog bit any person or caused an abrasion of the skin of any person, it shall be the duty of the police officer slaying such dog to forthwith deliver the carcass and brain to the Chief of Police, who shall forward the brain intact to the Director of Public Health and Wellness.

**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.
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.

**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 fourteen (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 XVII. LEGAL PROVISIONS.**

- A. **Effective Date:** This Ordinance shall take effect upon passage by a majority vote of City Council after public hearings.
- B. **Interpretation:** of this Ordinance shall be according to the purpose of the Ordinance.
- 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. **Repeal:** This Ordinance shall supercede the City of Eastport Animal Control Ordinance dated January 25, 1978.

**Revised / Amended:**

Date Approved 10/12/2016  
and Adopted

Effective Date 10/13/2016

Attested By.   
Ella Kowal, City Clerk