

ANIMAL CONTROL ORDINANCE FOR THE TOWN OF ELIOT

NOW, THEREFORE, the inhabitants of the Town of Eliot hereby ordained by the Town Of Eliot, Maine at Town Meeting that the following be enacted:

Section 1: That the Municipal Code of Ordinances, Town of Eliot, Maine is hereby amended by Adding a Chapter to be numbered 61 which chapter shall be titled Animal Control.

Section 2: That the Municipal Code of Ordinances, Town of Eliot, Maine is hereby amended by adding to Chapter 61 Animal Control an Article to be numbered I and to be titled "Animal Control Ordinance for the Town of Eliot", which reads as follows:

ANIMAL CONTROL ORDINANCE FOR THE TOWN OF ELIOT

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ANIMAL CONTROL ORDINANCE

Section 61- 1 PURPOSE

The purpose of this ordinance is to require all animals in the Town of Eliot be kept under the control of their owner or keeper at all times so that they will not injure persons or other animals, damage property or create a public health threat.

The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody, or possession of that animal.

Section 61- 2 DEFINITIONS

1. **ABANDONED ANIMAL:** an animal that has been deserted by its owner or keeper.
2. **ABUSE:** to treat an animal wrongfully or harmfully that results in injurious or improper treatment.
3. **ANIMAL:** any living, sentient creature not a human being.
4. **ANIMAL CONTROL:** control of dogs, cats and domesticated or undomesticated animals.
5. **ANIMAL CONTROL OFFICER (ACO):** any person appointed by the Town of Eliot to enforce animal control laws.
6. **ANIMAL SHELTER:** a facility that includes a physical structure, or part of a physical structure, that provides temporary or permanent shelter to stray, abandoned, abused, or owner surrendered animals.
7. **AT-LARGE:** animal is off the premises of the owner unless it is:
 - a. on a leash, cord, or chain of not more than 15 feet, held by a responsible party who is capable of controlling the animal.
 - b. within a vehicle, or under restraint in an open vehicle being driven or parked on a public way.
 - c. actively engaged in a legal hunting activity
 - d. a law enforcement animal.
 - e. a service animal.
 - f. engaged in a supervised exhibition or competition.
 - g. on private property with that property owner's permission to be unleashed while within voice control.

- 8 BEACH: any beach area within the Town of Eliot which is used by the general public.
 - 9 PARK: any park or public facility managed by the Eliot Community Service Department.
Specifically:
 - Dixon Road Recreation Area
 - Dixon Road Ice Rink & Skate Park
 - Eliot Boat Basin
 - Frost Tufts Park
 - William Murray-Rowe Park
 - Hammond Park
 - 10 CONTROL: the power or ability to direct the proper and safe activity of an animal.
 - 11 DOG: any of large or varied groups of domesticated animals of the canine family.
 - 12 DOMESTIC ANIMALS: animals that normally and customarily share human habitat and are normally dependent on humans for shelter, and/or food, such as but not limited to dogs, cats, cattle, horses, swine, fowl, sheep, and goats.
 - 13 LEASH: a hand-held device (lead, chain, or cord) which can be used to restrain a dog. In cases where a leash is required by law, by ordinance, or by the order of a law enforcement officer, the owner or responsible party will be required to use a leash of 15 feet or less.
 - 14 OWNER: any person or persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.
 - 15 PUBLIC NUISANCE: the causing of unreasonable noise, litter, or property damage, the chasing of automobiles, motorcycles, bicycles, or other vehicles.
 - 16 RESPONSIBLE PARTY: as used in this ordinance, the term “responsible party” means any person who has possession or custody of an animal. If an animal is present on a beach or in a park in violation of the restrictions of this ordinance, the owner of the animal and the responsible party are jointly and severally liable for the violation.
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- 17 SERVICE ANIMAL: an animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.
- 18 STRAY: an animal which is off of the owner's premises and not under the control of a responsible party.
- 19 THERAPY ANIMAL: an animal trained to provide affection and comfort to people in hospitals, retirement homes, nursing homes, schools, people with learning difficulties, and stressful situations, such as disaster areas.
- 20 VOICE CONTROL: as used in this ordinance, the term "voice control" means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party's verbal command. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and a violation of this Ordinance occurs unless such person has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog. In the case that such a person approached by the dog is a minor child, an adult must be present with the child to consent to the presence of the dog.

Section 61- 3 ANIMAL CONTROL OFFICER

A qualified person shall be employed by the police department who shall be known as and perform the duties of Animal Control Officer (ACO). The ACO shall be principally responsible for the enforcement of all laws related to dogs, cats, and other domesticated animals. When public safety is threatened the ACO will handle undomesticated (wild) animal complaints or refer to the appropriate outside agency for assistance.

Section 61- 4 CONTROL OF DOGS

When off the premises of the owner, a dog shall be on a leash, held by a responsible party who is capable of controlling the dog except as follows:

1. Dog is engaged in a legal hunting activity.
2. Dog is a law enforcement dog.
3. Dog is a service animal.
 - Service animals are required to be leashed or harnessed except when performing work or tasks where such tethering would interfere with the dog's ability to perform.
4. Dog is on private property with that property owner's permission to be unleashed while within voice control.
5. Dog is part of a supervised exhibition or competition.

Section 61- 5 IMPOUNDMENT OR RETURN OF AT LARGE DOGS

All dogs found at large in violation to Title 7, M.R.S.A., Section 3911 may be impounded at an animal shelter or returned to the owner, at the discretion of the ACO. If the ACO returns the dog to its owner, the owner shall pay a \$25.00 (twenty-five dollars) return fee to the Town of Eliot before the dog is returned. This payment must be made to the ACO, who shall issue a receipt therefore. All fees will be deposited in the Town of Eliot's Municipal Animal Welfare account required by Title 7, M.R.S.A. 3945.

Section 61- 6 DISPOSITION OF IMPOUNDED ANIMAL

An owner is entitled to resume possession of any impounded animal provided that all provisions of this ordinance have been met (specifically sections 13 and 14), and that all impoundment fees due under the provisions of this ordinance have been paid. Any animal not claimed after the owner has been notified may be classified as an abandoned animal, and the animal's owner may be subjected to all civil penalties authorized by this ordinance. If said animal is not claimed by its owner or keeper at the expiration of ten days from the date of impoundment, then the person in charge of said animal shelter may give away, sell, or otherwise humanely dispose of said animal.

Section 61- 7 IMPOUNDMENT FEE

An owner may reclaim an impounded animal by first paying the Town of Eliot a fee of \$50.00 (fifty dollars) for the 1st offense and \$100.00 (one hundred dollars) for each subsequent offense for each animal impounded. This fee shall be paid at the Eliot Police Department or to the ACO. Fees must be paid and a receipt from the Police Department must be presented to the animal shelter before the release of an animal. All fees will be deposited in the Town of Eliot Municipal Animal Welfare Account required by Title 7, M.R.S.A. 3945.

Section 61- 8 ANIMAL NOISE

Owning, possessing or harboring any domestic animal that frequently or for the continued duration makes loud and unreasonable sounds that creates a disturbance on other properties shall be prohibited. For purposes of this ordinance, a dog that barks, bays, howls, cries or makes any other noise continuously and /or incessantly for a period of 10 (ten) minutes or barks intermittently for ½ (one half) hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property is considered a public nuisance. However, this shall not include a dog if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated, or for any other legitimate cause which teased or provoked the dog.

Section 61- 9 CONTROL OF ANIMAL WASTE

An owner or responsible party must remove and dispose of any feces left by his/her animal on any sidewalk, street, beach, public property or private property (other than the property of the owner of the animal or of the person who has consented to the presence of the animal on his or her property) and deposit such feces into an appropriate litter receptacle. An owner or responsible party whose animal is present on any property from which the animal's feces must to be removed pursuant to this section must have in his or her possession a plastic bag or similar container, for collecting and removing the feces. This regulation shall not apply to any person who, by reason of physical handicap, is unable to comply with the requirement.

Section 61- 10 PUBLIC PARKS AND BEACHES-RESTRICTIONS

No dogs shall be present on a beach or in a park unless on a leash held by an owner or responsible party who is capable of controlling the dog. An owner or responsible party with multiple dogs must have adequate leashes for the number of dogs under his or her control.

Section 61- 11 DANGEROUS DOGS

Any person who is assaulted by a dog, or any person witnessing an assault against a person or domestic animal by a dog, or a person with knowledge of an assault against a minor by a dog may make a written complaint to the ACO that the dog is a dangerous dog within thirty days of the assault. The ACO may issue a civil violation citation for keeping a dangerous dog pursuant to 7 M.R.S.A. subsection 3952. After issuing the citation and before a court hearing, if the dog poses an immediate or continuing threat to the public, the ACO shall order the owner of the dog to muzzle, restrain, or confine the dog to the owner's premises, or to detain the dog at the owner's expense at a place determined by the ACO. If the owner fails to comply with such order, the ACO may apply to the District Court, Superior Court, or a Justice of the Peace pursuant to 7 M.R.S.A. subsection 3952 for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public.

Section 61- 12 ANIMAL TRESPASS

An owner of an animal may not allow that animal to enter onto the property of another after the owner has been warned by the ACO or law enforcement officer that the animal was found on the property of another.

The owner of the animal is responsible, at the owner's expense, for removing such animal found trespassing. The ACO, may, at the owner's expense, remove and control the animal if:

- the owner fails to remove the animal after having been notified by the ACO that the animal was trespassing, or the animal is an immediate danger to itself, to persons, or to another's property.

Any animal so removed shall be subject to the provisions of Sections 61-5, 61-6, and 61-7, of this ordinance in the same manner as an at-large dog.

Section 61- 13 LICENSE REQUIRED

The Town Clerk shall provide with each new license issued for a dog, a tag indicating the year the license is issued and such other information as may be required under 7 M.R.S.A. subsection 3922-B. The tag remains with the dog for the remainder of the calendar year as long as the dog is kept in the town of Eliot. At each license renewal, the Town Clerk shall provide a new tag indicating the year the license is issued and such other information as may be required under 7 M.R.S.A. subsection 3922-B. The owner shall make sure that the tag is securely attached to the collar of leather, metal or material of comparable strength, and that the collar is worn at all times by the dog for which the license was issued except when hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of license within twenty-four hours upon request of the ACO. If a tag is lost, the owner shall obtain a new license tag. The Town Clerk shall issue another license tag upon presentation of the original license and payment of one dollar. The Clerk shall retain the one dollar for a recording fee.

Section 61- 14 RABIES TAGS

Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal, or material of comparable strength that must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of license and proof of rabies immunization within twenty-four hours upon request of the ACO.

Section 61- 15 VIOLATIONS AND PENALTIES

Any person who violates any section of this ordinance shall be subject to a civil penalty of not less than \$100.00 and not more than \$500.00, plus costs for each offense, except that the following specific violations of this Ordinance shall subject the violator to the following penalties for specific violations:

A. Interfering with an Animal Control Officer

1. First offense not more than \$100
2. Second offense or more not to exceed \$500

B. Public Nuisance

1. First offense not more than \$25
2. Second offense within two years not more than \$100
3. Third offense within two years \$250

C. At-Large Animal

1. First offense not more than \$50
2. Second offense within two years not more than \$100
3. Third offense within two years not more than 250

D. Dangerous Dog

1. The owner shall assume all the cost of expenses incurred by Section 8.

B. Animal Waste

1. First offense not more than \$25
2. Second offense not more than \$50
3. Third and subsequent offenses not more than \$100

Such penalties are separate and distinct from license fees, or return and impoundment fees.

All civil penalties collected pursuant to this ordinance shall be recovered and deposited in the Town of Eliot Municipal Animal Welfare Account required by 7 M.R.S.A. 3945.

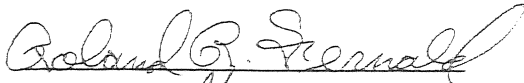
Section 61- 16 REPEAL OF CONFLICTING ORDINANCES

All existing ordinances of the Town of Eliot are hereby repealed insofar as they may be inconsistent with the provision of this Ordinance.

Section 61- 17 SEVERABILITY CLAUSE

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

We, the undersigned, being the Municipal Officers of the Town of Eliot, Maine, hereby certify the foregoing Ordinance "Animal Control Ordinance for the Town of Eliot" dated November 8, 2011 as being the Ordinance to be voted on at the November 8, 2011 Town Meeting.



Roland R. Fernald, Chairman



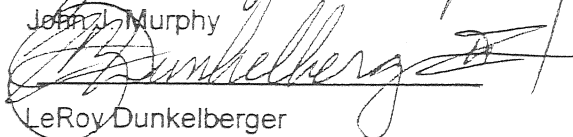
Michael Moynahan



Roberta Place



John G. Murphy



LeRoy Dunkelberger

Eliot Board of Selectmen

SIGNED : 9/15/2011

DATED : 11/8/11