

Dog Control Ordinance

SECTION 1

PURPOSE AND 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 Cutler, Maine;
2. Provide for the humane treatment of dogs; 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 Town of Cutler Animal Control Officer shall enforce this Ordinance. Any officer as designated by the Selectmen, 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 Cutler, Maine.

B. "Animal Control Officer" and "ACO" mean the municipal official appointed by the Selectmen 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 ACO's;
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 ACO's 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 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 which has bitten or chased a person who was not a trespasser on the owner's premises at the time of the incident; or a dog which causes a reasonable person acting in a peaceable manner outside the owner's premises, to be put in apprehension of eminent bodily harm.
2. A dog who has damaged the property of any person.
3. 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. 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 Cutler Board of Selectmen which shall demand that the owner or keeper obtain a license from the Cutler Town Clerk for such dog within seven (7) days from the day of issuance,

L. "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.

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".

SECTION 3

IDENTIFICATION, PROOF OF VACCINATION AND 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 Cutler 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 4

SICK OR INJURED DOGS

Any person finding a running at large, stray, sick, injured or abused dog within the Town 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 Selectmen or other public official or otherwise provide for the dog as specified by Title 7, M.R.S.A., §3913 (1).

SECTION 5

RUNNING AT LARGE

- A. No owner of a dog shall cause or permit that dog to run at large within the town, except with used for hunting purposes.
- 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.
- 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. Owners and users of seeing-eye dogs are exempt from this section.
- D. Nothing in this section shall require the leashing or restraint of any dog, other than a dangerous dog, while on the owner's premises.
- E. Any dog 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 Selectmen in a civil action.

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, yelps or makes other loud or unusual noises, that are either:

a. sustained for one (1) hour or more

b. intermittently for three (3) continuous hours of at least twenty (20) minutes in duration 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. Professionally trained, working dogs (including certified guard dogs and sheep dogs) are exempt from this section.

D. Upon written complaint by the person being disturbed, signed and delivered to, any constable, duly qualified law enforcement, animal control officer or person acting in that capacity of the Town of Cutler may investigate and may give written notice to the owner or keeper of such dog that such annoyance or disturbance must cease. The warning shall be made part of the complaint. Thereafter, upon continuance of such annoyance or disturbance, such owner shall be in violation of this ordinance.

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 Board of Selectmen.
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 Washington 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 DOGS PRESENTING IMMEDIATE THREAT TO 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 law enforcement officer who filed the complaint, if that officer believes that the dog poses a threat 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 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.

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 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. Upon a second and any subsequent violation of this Ordinance, the penalty shall increase by a minimum of fifty dollars (\$50.00) above the penalty for the immediately preceding violation. All fines so assessed and attorney fees shall be recovered for the use of the Town of Cutler through District Court.

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.

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.

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 Selectmen.

2. Unless it is presented at an open Town Meeting, no regulation or amendment of this Ordinance shall be adopted until after the Selectmen 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 Board of Selectmen shall have notices posted in the places in which Town Meeting Warrants are posted.