

NOTICE OF PUBLIC HEARING
MUNICIPAL OFFICERS OF THE TOWN OF
OLD ORCHARD BEACH

The Municipal Officers of the Town of Old Orchard Beach, Maine hereby give Public Notice that there will be a Public Hearing held at the Town Hall, Council Chambers, on December 15, 2009, at 7:00 p.m. to consider the following:

Be it hereby ordained, by the Town Council of the Town of Old Orchard Beach, Maine, in Town Council assembled, that Chapter 14, Animals, is hereby amended by deleting the strikethrough language and adding the underscored language in sections 14-2 through 14-4, 14-7 and 14-8, of the Town of Old Orchard Beach Code of Ordinances.

Chapter 14 ANIMALS*

***Cross references:** Environment, ch. 26; horses and horse-drawn vehicles, § 42-202.

State law references: Animal welfare act, 7 M.R.S.A. § 3401 et seq.; municipal duties, 7 M.R.S.A. § 3942 et seq.; dangerous dogs, 7 M.R.S.A. § 3951 et seq.

Sec. 14-1. Definitions.

Sec. 14-2. Complaints and Enforcement.

Sec. 14-3. Impoundment fees.

Sec. 14-4. Presence on Staples Field.

Sec. 14-5. Dog in heat.

Sec. 14-6. Dogs on beach, public streets and sidewalks.

Sec. 14-7. Removal of dog feces.

Sec. 14-8. Barking or howling dogs.

Sec. 14-9. Use of force.

Sec. 14-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

At large means off the premises of the owner and not under control of the owner or a member of his immediate family or representative either by leash, cord, chain or otherwise.

Dog means a member of the genus and species known as *canis familiaris* or any canine, regardless of generation, resulting from the interbreeding of a member of *canis familiaris* with a wolf hybrid as define in M.R.S.A Title 7, Subsection 3907.

Kennel means one pack or collection of dogs kept in a single premises for breeding, hunting, show, training, field trials and exhibition purposes; or maintaining as a business for the buying and selling of dogs or for any form of boarding or care of dogs.

Lethal means any piece of equipment or level of force that when applied is commonly known to cause death or serious injury.

Less than lethal means any piece of equipment or level of force that when properly applied is commonly known not cause serious injury or death. It must however be recognized that in certain special instances an unknown factor such as a medical condition may cause adverse results in the application of this equipment or force.

Owner means any person owning, keeping or harboring a dog or a person having custody and control of a dog.

(Ord. of 7-20-1993, § 1; Ord. of 8-2-2005(1))

Cross references: Definitions generally, § 1-2.

Sec. 14-2. Complaints and Enforcement.

All complaints under this chapter will be made to the police department. The police department shall be responsible for the enforcement of this article.

(Ord. of 12-21-1993, § 5)

Sec. 14-3. Impoundment fees.

Any animal impounded under this chapter may be reclaimed upon payment by the owner of the following fees:

(1) Impoundment fees in the amount of \$5.00 per day not to exceed \$35.00 for each dog shall be charged for each impounded animal, in addition to appropriate fines and board as established by state statute. All medical expenses incurred by an impounded animal must be reimbursed to the Town. All fees and fines must be paid prior to the animal's release.

(2) A fine of ~~\$10.00~~ \$15.00 shall be paid to the town for the first offense of ~~a dog running loose~~ an animal at large; a fine of ~~\$25.00~~ \$30.00 shall be paid to the town for the second offense of ~~a dog running loose~~ an animal at large. ~~On the third and subsequent offenses, an owner may be taken to court for a dog running loose.~~

(Ord. of 5-4-1983, § 7)

Sec. 14-4. Presence on Staples Field.

No animal shall be allowed on or adjacent to the Staples Field area, including the area known as the practice field. ~~This section will be applicable during the months of April through August, inclusive, of each year.~~

(Ord. of 7-20-1993)

Sec. 14-5. Dog in heat.

(a) The owner of any dog in heat shall keep the dog confined or on a leash at all times and shall not permit such dog to be at large within the town.

(b) It is unlawful for any owner or custodian of a dog to permit such dog to run at large in violation of this section which violation is hereby declared to be a public nuisance. Such dog running at large shall be impounded.

(Ord. of 7-20-1993, § 4)

Sec. 14-6. Dogs on beach, public streets and sidewalks.

(a) Notwithstanding any other section of this chapter, it shall be unlawful for the owner of any dog or other animal other than a horse (which is regulated under chapter 42 of this Code) to permit such dog or other animal, during the period from Memorial Day to Labor Day of each year, between the hours of 10:00 a.m. and 5:00 p.m., inclusive, to enter upon and remain within the public beach in the town, which public beach consists of all that land lying easterly of the line dividing the beach from the upland creating a public park along the beach, as defined by town officials on April 23 and May 28, 1935, and recorded in the county registry of deeds in book 863, page 159 and page 422, from Goose Fare Brook northeasterly to the Scarborough Town line.

(b) It shall be unlawful for the owner of any dog or other animal to permit such dog or other animal within the following described area: Within the public way from the top of

Old Orchard Street to the beach, which includes the area known as the square, during the period from Memorial Day to Labor Day from the hours of 10:00 a.m. to 3:00 a.m.

(c) The town manager is authorized and directed to erect or cause to be erected signs at the end of each right-of-way to the beach notifying the public of this section.

(Ord. of 9-1-1977, § 21; Ord. of 12-21-1993; Ord. of 6-1-1999; Ord. of 8-2-2005(1))

Cross references: Streets, sidewalks and other public places, ch. 50.

Sec. 14-7. Removal of dog feces.

(a) It shall be unlawful for any person who owns, possesses or controls a dog to fail to remove and dispose of any feces left by his/her dog on the public beach, streets or sidewalks or any property owned by the town.

(b) Any person who owns, possesses or controls a dog shall have on their person some piece of equipment to include but not be limited to a plastic bag or a "pooper scooper" when utilizing the public beach, streets, or sidewalks, or any property owned by the town with their dog.

(c) For the purposes of this section, disposal shall be accomplished by transporting such feces to an appropriate waste receptacle.

(d) This section shall not apply to working police dogs while on duty or to a dog accompanying any handicapped person who, because of his handicap, is physically unable to comply with the requirements of this section.

(e) A fine of \$100.00 shall be paid to the town for the offense of failure to remove dog feces.

(Ord. of 12-21-1993; Ord. of 4-19-1994; Ord. of 7-15-1997; Ord. of 6-1-1999; Ord. of 8-2-2005(1))

Sec. 14-8. Barking or howling dogs.

No person shall own, keep or harbor any dog which, by loud, frequent or habitual barking, howling or yelping, shall disturb the peace of any person. A fine of \$25.00 shall be paid to the town for the first offense of keeping a barking dog; a fine of \$50.00 shall be paid to the town for the second and subsequent offenses of keeping a barking dog.

(Ord. of 7-20-1993, § 9)

Sec. 14-9. Use of force.

The use of any lethal or less than lethal equipment, or force to include but not be limited to chemical spray's commonly referred to as mace, a tranquilizer gun, pole injector, or bite stick, shall be approved by the chief of police or his duly authorized representative. This approval may be in the form of a written standing order, or a verbal or written order applied to a specific situation.

Any person being authorized to use such equipment shall complete a training course approved by the chief of police. This section may not be interpreted in such a way as to limit the ability of a person to use reasonable force in self defense, or the defense of another.

(Ord. of 8-2-2005(1))

Per Order of the Municipal Officers this 1st day of December, 2009.

A True Copy

Attest:

s/Kim M. McLaughlin

Kim M. McLaughlin, Town Clerk