

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 October 19th, 2021 at 6:30 p.m. to consider the following:

Shall the Town Council of the Town of Old Orchard Beach amend the Code of Ordinances, Chapter 14, Animals, Section 14-1 Definitions, by adding the definitions of Leash and Voice and Sight Control, Section 14-6 Animals on beach, public streets and sidewalks, by adding leash and voice and sight control requirements, and removing the restriction of dogs prohibited on Old Orchard Street and the Square by deleting the crossed through language and adopting the underscored language as follows:

Chapter 14 ANIMALS¹

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 voice and sight control. ~~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.

Kenel 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.

Leash means a hand held device, 30 feet or less in length, which can be used to restrain a dog if the dog fails to respond to voice commands or if the owner or responsible party is ordered by the Animal Control Officer and a law enforcement officer to leash the dog and at all times when this Ordinance requires dogs to be leashed. A leash of a length no longer than 12 feet shall be used at all time on the beach from May 15th to Labor Day, unless otherwise stated herein. A failure to comply with this definition shall constitute a violation of this ordinance.

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.

Voice and Sight 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, and always within sight of the Responsible party and the dog is capable of complying with Voice Control. A violation of this Ordinance occurs upon a failure to comply with the definition of either Voice Control or Sight Control. 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 (or in the case of a minor child, an adult present with the child) has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog.

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

Cross reference(s)—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; Ord. of 1-5-2010(2))

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 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 \$15.00 shall be paid to the town for the first offense of an animal at large; a fine of \$30.00 shall be paid to the town for the second offense of an animal at large.

(Ord. of 5-4-1983, § 7; Ord. of 1-5-2010(2))

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.

(Ord. of 7-20-1993; Ord. of 1-5-2010(2))

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. Animals on beach, public streets and sidewalks.

The following restrictions apply to dogs entering upon and remaining 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.

a. From May 15th to Labor Day (i) no dogs on the Beach from 9:00 a.m. to 5:00 p.m.; and (ii) dogs on leash from 5:00 p.m. to dusk.

b. If directed by the Animal Control Officer or a law enforcement officer a Responsible Party may be required to leash their dog.

c. Whenever a portion of a beach has been roped off, fenced off or otherwise demarcated or posted as a protected area in order to protect the nesting site of a piping plover or of any other endangered species protected under federal law, no dog shall approach within 200 feet of such protected area.

d. At all times not otherwise addressed above, dogs shall be under Voice and Sight Control.

~~(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, (moved description of beach to first paragraph).~~

~~(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)~~ (e) 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.

~~(d)~~(f) The owner, operator or driver of horses or horse-drawn carriages operating in the town shall be required to attach a containment device to the rear of each and every horse so operated, to be maintained and emptied so that manure is completely contained therein, cannot and does not fall to any gutter, street, driveway, alley, curb or sidewalk in the town, is not exposed and is carried away for proper disposal. This section does not apply to a horse on the beach, or in transit over Walnut Street between the Milliken Street Parking Lot and the beach, if the rider or owner possesses a horse/beach license pursuant to section 42-202 of the Code.

~~(g)~~ A fine of \$500 shall be paid to the Town for any violation of Section 14-6.

(Ord. of 9-1-1977, § 21; Ord. of 12-21-1993; Ord. of 6-1-1999; Ord. of 8-2-2005(1); Ord. of 10-20-09(1))

Cross reference(s)—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); Ord. of 1-5-2010(2))

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; Ord. of 1-5-2010(2))

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 7th day of September, 2021.

A True Copy

Attest:

s/Kim McLaughlin

Kim M. McLaughlin, Town Clerk