

# APPENDIX B

## TOWN OF CLINTON DOG ORDINANCE

# TOWN OF CLINTON

## DOG CONTROL ORDINANCE

ADOPTED NOVEMBER 7, 2000

REVISED JUNE 8, 2004

### SECTION 1. PURPOSE:

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, and as expressly authorized under 7 M.R.S.A. SECTION 3950. The purpose of the ordinance is to regulate dogs in the Town of Clinton, and to specifically comply with the provisions of 7 M.R.S.A. Chapters 725 and 727 by controlling dangerous dogs, dogs running at large, barking dogs, and dogs that pose a threat to the health, safety, comfort, convenience, and general welfare of the residents of the Town. It is the intent of this ordinance, without unreasonably restricting owners and their dogs in their normal activities, to hold owners responsible for the unlawful conduct of their dogs.

### SECTION 2. DEFINITIONS:

As used in this ordinance, unless the text clearly otherwise indicates, the following words and phrases have the following meanings:

- A. "Attack," "Attacks," and "Attacking" mean an unprovoked actual biting or an assault by a dog that occurs without provocation by a showing of the teeth, growling or barking, or any combination of these acts, from which a person reasonably receives an impression of impending or imminent physical harm by the dog to himself or herself, to others, or to a domestic pet or farm animal.
- B. "Dog" has the meaning provided under 7 M.R.S.A. Section 3907 (12-C) and includes dogs of either gender.
- C. "Owner" means any person or persons, firm, association, corporation, or other legal entity, owning, keeping, harboring, in possession of or having the control of a dog, and includes the parents(s) or guardian(s) of a minor who owns, keeps, harbors, is in possession of or has control of a dog.

- D. "Dangerous Dog" means the following, regardless of the location of the dog 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 the 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.
  - (3) A dog that causes serious injury or death to an animal other than a domestic pet or farm animal.
- E. "Running at Large" means a dog being off the premises of the dog's owner and not under the control of an owner of the dog who is physically capable of controlling and restraining the dog by a leash, cord, chain, or "at heel" command, or otherwise restraining the dog by voice or other command control to which the dog is obedient.

### SECTION 3. DANGEROUS DOGS

- A. Notice to Owner. An owner who is given notice (which need not be in writing) by the Town's Animal Control Officer, any law enforcement officer, or any state official that the owner's dog has bitten or is reasonably believed to have bitten any person, or has or is reasonably believed to have in any way injured any person so as to cause an abrasion of the skin to that person, shall not without further written authorization by an officer or official, sell, give, or otherwise convey the ownership or possession of that dog, or remove, suffer or permit that dog to be moved beyond the boundaries of the Town., except to or under the care of a licensed veterinarian, or of an Animal Control Officer, or a law enforcement officer. An owner receiving such 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 Animal Control Officer, licensed veterinarian, law enforcement officer or state official concerning that dog. An owner receiving such notice shall comply with all applicable regulations of the Maine Commissioner of Agriculture and the Maine Commissioner of Human Services and their authorized officials) employees, and agents in matters of rabies detection and control.

Special Restraint of Dangerous Dogs. An owner of a dog that has been determined by a court to be a dangerous dog shall ensure that the dog is restricted at all times to the premises of that owner, except when being transported by a secure motor vehicle to a veterinarian or to some other premises of that owner, or to the custody of an animal control officer or law enforcement officer. The owner of such a dog will 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 secure latch to a reinforced chain restraint, the length of which is such that the dog may in no event approach any closer than three (3) feet to any mail receptacle or 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 or point on the ground generally below any other wiring or piping. The owner shall ensure that the restraint is maintained and secure at all times the dog is out of doors on the owner's premises and not in a secure, fenced-in enclosure.

#### SECTION 4. DOGS CONSTITUTING A NUISANCE

- A. Barking Dogs. No owner of a dog shall suffer or permit that dog by loud, frequent, or habitual barking, howling, or yelping to disturb the peace of another person. Upon first violation the owner of the dog shall be issued a written warning. Any further incidents shall be deemed a violation of this ordinance and the owner will be issued a civil uniform summons and complaint.
- B. Chasing of Persons or Vehicles. It shall be unlawful for an owner or keeper of a dog to allow such dog to run after or chase persons, bicycles, automobile or other motor vehicles.
- C. Impoundment of Nuisance Dogs. Any dogs constituting an nuisance as set out in either section above, may be impounded by any member of the humane shelter, a law enforcement officer, or the Town's Animal Control Officer if the owner cannot be reasonably located. The owner of the dog shall pay the full cost incurred for the board and shelter of the animal.

## SECTION 5. RUNNING AT LARGE

### A. General Prohibition.

No owner of a dog shall cause or permit that dog to run at large within the Town. A dog, while in or on the way or place other than a public way or other municipal property, shall be deemed to be under restraint within the meaning of this ordinance if it is otherwise controlled by a leash, cord, or chain, or is "at heel" or otherwise under the voice or other command control of a person and obedient to that persons' command. Nothing in this ordinance shall be held to require the leashing or restraint of any dog other than a dangerous dog while on the owners premises.

An owner of a dog shall ensure that the dog, when on any public way and on all municipal property, including but not limited to the Town's parks and public ways, municipal sidewalks and recreational and athletic fields, is on a leash or tether at all times and is accompanied by an owner who is physically or by effective voice or other command able to control and restrain the dog from an attack and who tends the leash or tether at all times while the dog is on municipal property, and who does not permit the dog to run at large on municipal property. An owner accompanying a dog on municipal property other than an owner with visual acuity accompanying a seeing eye dog, so-called, on municipal property, shall collect any feces or vomitus deposited by the dog and dispose of the same in a sanitary, lawful manner.

### B. Special Restrictions Governing Dogs on Municipal Property

An owner of a dog shall ensure that the dog, when on any public way and on all municipal property, including but not limited to the Town's parks and public ways, municipal sidewalks and recreational and athletic fields, is on a leash or tether at all times and is accompanied by an owner who is physically or by effective voice or other command able to control and restrain the dog from an attack and who tends the leash or tether at all times while the dog is on municipal property, and who does not permit the dog to run at large on municipal property. An owner accompanying a dog on municipal property other than an- owner with visual acuity accompanying a seeing eye dog, so-called, on municipal property shall collect any feces or vomitus deposited by the dog and dispose of the same in a sanitary, lawful manner.

### C. Identification.

C. An owner shall ensure that the owner's dog, if three (3) months old or older and out of doors, whether on or off the premises of the owner, unless confined within a secure enclosure or container, wears a collar or harness to which there must be securely attached an identification tag containing information linking the dog to its owner, such as the owner's name, address (if any), telephone number (if any), or vaccination tag number. Alternatively, any owner may provide for identification by having the dog wear such a collar that is at all times clearly and legibly embroidered with the information required by this section, or by having the dog wear such an embroidered collar which, in combination with one or more security tags, shows the required information.

## SECTION 6. PENALTY

For an initial violation of this ordinance by an owner, the owner shall be ordered to pay a civil penalty of not less than fifty dollars (\$50.00) but not more than two hundred and fifty dollars (\$250.00). In determining the amount to be forfeited the court shall consider any evidence in mitigation, extenuation, or aggravation it considers pertinent to the offense, including but not limited to the civility and degree of cooperation exhibited by the owner. [For each succeeding violation, the penalty shall be increased by a minimum of fifty dollars (\$50.00) above the penalty for the immediately preceding violation). All penalties awarded and all sums recovered shall accrue to benefit the Town of Clinton. An owner found to have violated this ordinance shall pay all fees, court costs and the Town's reasonable attorney's fees, if any.

For purposes of illustration of the penalty provision only, if an owner were found in a single court proceeding to have committed four violations, and if the penalty for the initial violation were set at \$100.00, then the penalties for the succeeding violations would be \$150.00, \$200.00, and \$250.00, for a total of \$700.00 in penalties. Similarly, if there occurred thereafter a second enforcement action for a new single violation against the same owner and there was a finding of a violation, then the penalty for the violation would be \$300.00.

## SECTION 7. PROCEDURE ON VIOLATION

Any law enforcement officer authorized by the municipal officers on complaint of any person on his or her own initiative, may initiate prosecution for violation of this ordinance by filing a complaint with the Maine District Court and serving a summons and a copy of

the complaint upon the owner. Any law enforcement officer certified by the Maine Criminal Justice Academy may represent the Town in the District Court in the prosecution of alleged violations of this ordinance. In the alternative, the municipal officers may engage and appoint counsel to prosecute the alleged violations of the ordinance and violations of the state law under 7 M.R.S.A. Part 9.

A. Order of the Court. If upon hearing, the court determines that the ordinance has been violated, the court shall impose an appropriate penalty. If the court determines that a dog is a dangerous dog, the court may order the owner to muzzle the dog, to restrain the dog, and to confine the dog to the owner's premises. However, if the court finds that the dog has killed, maimed, or inflicted more than *de minimus* bodily injury upon a person, or upon a domestic pet or farm animal, or if the court determines that the dog has a history of attacks, then the court may order the dog to be euthanized at the owner's expense.

B. Failure to Abide by a Court Order.

An owner's failure to comply with an order issued pursuant to paragraph A immediately above constitutes a violation of this ordinance and may be punishable upon a new summons or as contempt following issuance of a show cause order on affidavit of a law enforcement officer. If an order of euthanasia is not complied with by the time set by the court, the court may, upon application by any law enforcement officer or other person and" upon notice to the owner, issue a warrant to any law enforcement officer or constable in the municipality where the dog is found to destroy the dog and make return of the warrant to the court within 14 days from the date of the warrant. 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 any time stated in the order of the court for making such a payment constitutes a distinct violation of the ordinance, which may also be punished on proceedings for contempt after issuance of a show cause order.

C. Complaint for Dogs Presenting" Immediate Threat to the Public.

After filing a complaint in District Court and before the 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 to the owner if that officer believes that the dog poses immediate threat to the public. The officer may prescribe the degree and means of restraint or confinement. Failure to comply

shall constitute a distinct violation of the ordinance. 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 the dog that poses 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 such expense in a stated amount.

Nothing in this ordinance is intended to bar or limit the right of individuals to make written complaint concerning dangerous dogs pursuant to state law or bar or limit any authorized law enforcement officer from proceeding to act upon such a written complaint in accordance with state law.

#### SECTION 8. EFFECTIVE DATE

This ordinance shall take effect upon passage.

This ordinance shall supersede all previous dog ordinances, which are hereby repealed from and after the effective date of adoption of this ordinance.

#### SECTION 9. 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 and effect.