

CHAPTER 26. ANIMAL CONTROL

Pursuant to Title 7 M.R.S.A., Part 9, Chapter 725, Section 3950, the City of Brewer, by vote of its City Council, herewith adopts the following Ordinance dealing with the subject matter of animal welfare.

ARTICLE 1. DEFINITIONS.

SECTION 101. DEFINITIONS. As used in this Ordinance, unless the context otherwise indicates.

- (a) "Cat" shall be intended to mean both male and female.
- (b) "Dog" shall be intended to mean both male and female.
- (c) "Owner" shall be intended to mean any person, firm, partnership, association or corporation owning, keeping or harboring a dog or other animal.
- (d) "At Large" shall mean off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.
- (e) "Animal Control Officer" means the person or persons appointed by the City Council in accordance with Title 7, Chapter 717 of the Maine Revised Statutes Annotated (1964) as amended.
- (f) "Keeper" means a person in possession or control of a dog or other animal.
- (g) "Livestock" means, but may not be limited to, horses, mules, donkeys, cattle, goats, sheep or swine.
- (h) "Exotic Animals" means any non-domesticated animal, other than livestock that is native to a foreign country or of foreign origin or character, or was introduced from abroad. This term will specifically include, but not be limited to, animals such as lions, tigers, jackals, dingoes, leopards, elephants, pandas, camels, antelope, anteaters, kangaroos, chimpanzees, gorillas, orangutans, water buffalo, and species of foreign domestic livestock requiring state and federal permits.
- (i) "Wild Animal" means any animal not normally considered domesticated and which is now or historically has been found in the wild, or in the wild state, including but not limited to the following:
 - (1) Reptiles; venomous reptiles; any type of crocodile or alligator; or
 - (2) Fish: piranha; or
 - (3) Birds: condors, eagles, hawks, falcons, owls; or
 - (4) Mammals: ocelots, lions, tigers, jaguars, leopards, cougars, wolves, dingoes, coyotes and coyote mixes,

- jackals, weasels, martens, minks, badgers, skunks, raccoons, pandas, bears, kangaroos, opossums, sloth, anteaters, armadillos, monkeys, chimpanzees, gorillas, orangutans, porcupines, antelope, deer, fox, elephant, lynx, squirrels, chipmunks; or
- (5) Any species of animal illegal to own under federal, state or local law.

ARTICLE 2. DOGS

SECTION 200. LICENSE REQUIRED. Each owner or keeper of a dog at the age of six (6) months or older, except dogs kept under a kennel license shall, on or before January 1st, annually, or at such time as such dog becomes six (6) months old, cause such dog to be licensed in accordance with Title 7, Chapter 721 of the Maine Revised Statutes. Agents of the City empowered by the City to impound Brewer dogs and cats may license dogs owned or kept by Brewer residents who claim such dogs at the animal shelter or dogs that are given to Brewer residents. Such agents shall follow the same requirements for licensing as set forth in Title 7, Chapter 721 of the Maine Revised Statutes Annotated (1964), as amended.

SECTION 201. AGENT FOR THE CITY. The City Council shall appoint one or more animal control officers in accordance with Title 7, Chapter 725 of the Maine Revised Statutes Annotated (1964) as amended. Said animal control officers shall hereinafter be referred to as agents of the City and have all of the powers provided under this Ordinance and the laws of the State of Maine. The Police Chief shall prepare the annual budget for the Animal Control Program, approve expenditures under that budget, and maintain records for the program. The Police Department shall serve as the contact department between the Animal Control Officer and other City departments and the public. (#1)

SECTION 202. NUMBER OF DOGS LIMITED. It shall be unlawful for any person, partnership, corporation or other legal entity to keep or harbor within the City more than four (4) dogs over six (6) months old on the first day of April in or about the premises, house, barn or other building, or in or about all buildings on any one premises occupied by any one family, and the keeping or harboring of dogs aforesaid is hereby declared to be a nuisance. This limitation shall not apply to licensed kennels nor shall it apply to licensed pet shops, veterinarian office or clinics, or animal emergency clinic.

SECTION 203. CITY CLERK TO KEEP RECORDS. The City Clerk shall keep a record of all dog licenses issued by the City or agents of the City and shall annually provide the Animal Control Officer with a list of the owners or keepers of unlicensed dogs.

SECTION 204. IMPOUNDMENT. The City Animal Control Officer or Officers are herewith authorized to capture and impound any animal upon having probable cause to believe said animal to be in violation of any provision of this Ordinance, Maine law or regulation which authorizes the animal's capture and impoundment, and in so doing, to enter upon any fenced or unfenced lot, tract or parcel of land when deemed necessary for the protection of public health, safety and welfare. As a matter of policy City Animal Control Officers shall not enter private property to capture and/or impound any animal known to belong to the owner of said property without probable cause to believe that said animal poses a threat, public nuisance or danger to property, human beings or other animals.

SECTION 205. IMPOUNDMENT FEES - DOGS AND CATS. Unlicensed dogs or dogs found running at large in the City and stray or abandoned cats may be taken by an agent of the city and impounded on the animal shelter designated by the City and kept for a period not less than six (6) days, and after a reasonable effort to locate the owner of an impounded animal has been made and following the minimum retention period, such animal may be disposed of by such agent in a humane manner prescribed by the State of Maine. Any dog or cat impounded under the authority of this Ordinance at the designated shelter, may be reclaimed by its owner or keeper, or his or her agent, upon the payment of the City's impoundment fees and the animal shelter's board fees for each day or portion thereof, that the dog or cat has been kept at said shelter according to the following schedule:

IMPOUNDMENT FEE SCHEDULE

<u>DAYS IMPOUNDED</u>	<u>IMPOUNDED FEE</u>
1	\$35.00
2	35.00
3	35.00
4	35.00
5	35.00
6	35.00

IMPOUNDMENT FEE - CATS

<u>DAYS IMPOUNDED</u>	<u>IMPOUNDMENT FEE</u>
1	\$10.00
2	10.00
3	10.00
4	10.00
5	10.00
6	10.00

These fees shall be paid at the animal shelter. All such fees, received by the City, together with that portion of dog license fees dedicated to animal control expenses, shall reimburse the City for its expense in impounding dogs, cats, and other animals running at large contrary to this Ordinance.

SECTION 206. BITCH IN HEAT. The owner or keeper of any bitch in heat shall keep the same confined or on a leash at all times and shall not permit such dog to be at large within the City or on any premises other than those of the owner or keeper. Every bitch found running at large in violation hereof is hereby declared to be a public nuisance and shall be impounded and the owner, keeper or person harboring such bitch shall be deemed guilty of a misdemeanor.

SECTION 207. NUISANCE. Any dog kept within the City of Brewer may be declared to be a nuisance upon finding of evidence that the dog is a dangerous animal because such dog has bitten a human being. Upon finding evidence that a human being was bitten by a dog, the Animal Control Officer or a Brewer police officer may proceed with an action against the owner or keeper in accordance with this Ordinance.

Further, any dog kept within the City of Brewer may be declared to be a nuisance upon the finding by the Animal Control Officer or a Brewer Police Officer that the owner or occupant of a property within one thousand feet (1000') radius of the property owned or occupied by the owner of the dog has been annoyed by the noise of a dog which the owner or keeper has failed to restrain from being noisome. Upon finding such evidence, the Animal Control Officer or police officer shall give the owner or keeper of the dog a written warning the first time he or she receives a complaint from the owner or occupant of property within the said one thousand feet (1000') radius. If the owner or keeper of the dog fails to comply with this section after receiving the written warning, the Animal Control Officer or police officer may proceed with an action against the owner or keeper of the dog for violating this Ordinance.

A dog owner or keeper shall not be penalized for more than one (1) violation of this section during any consecutive twenty-four (24) hour time period; however, no further written warning need to be given after the first written warning is given.

SECTION 208. DUTY TO DISPOSE OF FECES. It shall be a violation of this Chapter for any person who owns or keeps a dog to fail to immediately remove and dispose of any feces left by his or her dog on any street, sidewalk, publicly owned property or private property of another. It shall be a violation of this Ordinance for any person who owns or keeps a dog to appear with such dog on any City street, sidewalk or publicly owned property without the means of removal of canine feces that may be left by such dog. For the purpose of this section, the means of removal shall be any tool, implement, or other device carried for the purpose of picking up and containing such feces. Disposal shall be accomplished by transporting such feces to a toilet designed for the disposal of human feces, or by placing the feces in a sealed plastic bag and depositing it in a dumpster or container that is used to collect trash for appropriate disposal. (#2)

SECTION 209. DISPOSITION OF DOGS WHICH HAVE BITTEN PERSONS. It shall be unlawful for the owner or persons keeping or harboring any dog when notified that such dog has bitten any person or has so injured any person as to cause abrasion of the skin, to sell or give away such dog or to permit or allow such dog to be taken beyond the limits of the City, except under the care of a licensed veterinarian.

ARTICLE 3 LIVESTOCK

SECTION 301. KEEPING OF LIVESTOCK GENERALLY. It shall be unlawful for any person, partnership, corporation or other legal entity to keep or permit the keeping of livestock on premises owned by or under the control of him, her, them or it except in compliance with the following regulations:

- (a) Livestock shall only be kept on lots or tracts of land where permitted under the City's Land Use Code, Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer;
- (b) The riding or showing of horses or other livestock in conjunction with City authorized parades, carnivals or circuses, or school or civic sponsored programs or events which are in compliance with all City, state and federal laws, rules and regulations shall be permitted; It shall be the responsibility of the person in charge of any horses or other livestock to dispose of manure or other excrement left by such horses or livestock on any City street or sidewalk, school lot, park or public grounds.
- (c) Livestock under the care of licensed veterinarians shall be permitted.

SECTION 302. IMPOUNDING OF LIVESTOCK. The provisions of Section 206 of this Ordinance relative to impounding animals in general, shall specifically apply to the impounding of livestock.

SECTION 303. ADEQUATE FENCES AND BARRIERS. It shall be unlawful for any person, partnership, corporation or other legal entity to keep on his, her, their or its premises any livestock without providing adequate fences or barriers that will prevent such livestock from escaping and/or damaging neighboring flowers, trees, shrubbery and/or other property located on adjacent property.

ARTICLE 4. OTHER ANIMALS

SECTION 401. KEEPING OF FOWL, RABBITS AND GUINEA PIGS. Fowl, rabbits and guinea pigs must be kept indoors, or if outdoors, in a secure pen or enclosure. The keeping of fowl shall only be permitted on lots or tracts of land where permitted under the City's Land Use Code, Chapter 24 of the Charter, Codes and Ordinances of the City of Brewer; Litter and droppings from these animals must be collected and disposed of in accordance with the provisions of Section 210 of this Ordinance. The provisions of this section shall not apply to ducks or other waterfowl inhabiting natural or manmade water - courses or bodies of water.

SECTION 402. KEEPING OF BEES. No person, partnership, corporation or other legal entity shall keep honeybees within the City of Brewer unless licensed by the Maine Department of Agriculture as provided under Maine Law (Title 7, M.R.S.A., Section 2701). Any person, partnership, corporation or other legal entity licensed to keep honeybees by the Maine Department of Agriculture, shall submit proof of such licensing to any Brewer Animal Control Officer or any Brewer Police officer upon demand.

ARTICLE 5. WILD OR EXOTIC ANIMALS

SECTION 501. KEEPING OF WILD OR EXOTIC ANIMALS PROHIBITED. Any species of wild or exotic animal, not normally considered domesticated, that poses a potentially dangerous threat to public health, safety or welfare, or is protected by international, federal, or state regulations, or any other wild animal, including birds of prey capable of or inclined to do serious bodily harm to humans or other animals or fowl, shall not be kept within the corporate limits of the City.

SECTION 502. EXCEPTION. This article shall not apply to the keeping of wild or exotic animals if the owner or possessor:

- (a) Is a governmental agency or entity; or
- (b) Holds a circus, carnival or zoo license from the State of Maine; or
- (c) Is a licensed individual, or a member of a non-profit animal rehabilitation organization holding a permit from the Maine Department of Wildlife and Inland Fisheries and Game; or
- (d) Is an accredited research or educational institution.

ARTICLE 6 PROHIBITED ACTS

SECTION 601. ANIMALS IN FOOD PREPARATION AREAS. No person, partnership, corporation, or other legal entity shall cause or permit any dog, cat or other animal to be brought into or remain within any room or enclosure within any commercial establishment where food and/or drink is being prepared or stored. This provision shall not apply to Seeing Eye dogs or K-9 dogs under lease and command of a Brewer Police Officer.

SECTION 602. RUNNING AT LARGE. It shall be unlawful for the owner or keeper of any dog, licensed or unlicensed, to permit such dog to run at large, except as permitted under Title 7, Chapter 719 of the Maine Revised Statutes Annotated (1964), as amended. No person having the care of any goats, sheep, cattle, swine, horses or other livestock shall allow such animals to go at large on any highway, street, land, alley, park, square or other public place in the City of Brewer.

SECTION 603. A person commits an offense if a person parks or leaves an animal in any type of vehicle and does not provide for adequate ventilation or allows the animal to protrude its head out of the vehicle and consequently attack or attempt to attack a passerby. The Animal Control Officer, or any Brewer Police Officer, shall have, for the purposes of this section, the authority to order the removal of a vehicle or to remove the animal from any vehicle by any means possible if, in the opinion of the Animal Control Officer or Police Officer, it appears that the animal is in distress or the animal poses a threat or public nuisance to the general public.

SECTION 604. PARKS, CEMETERIES AND PLAYGROUNDS. Domestic animals will not be permitted in City parks, cemeteries and on City playgrounds, except in accordance with the rules and regulations established by the Director of Parks and Recreation.

ARTICLE 7. RABIES

SECTION 701. ANIMAL CONTROL OFFICER'S AUTHORITY. Whenever the Animal Control Officer receives a report of an animal suspected of having rabies, he or she shall be responsible for ensuring that the procedures established by the Maine Commissioner of Health and Welfare for responding to a report of an animal suspected of having rabies are carried out. If the animal is an undomesticated animal, the Animal Control Officer may call upon a game warden for assistance in the case. The procedures established by the Commissioner shall include provisions for the transportation, quarantine, euthanasia and testing of an animal suspected of having rabies and, when the animal has bitten a person, provisions for the notification of the Animal Control Officer.

SECTION 702. QUARANTINE. The Animal Control Officer shall serve notice on the owner or keeper of a any domesticated animal that is suspected of having rabies, bites or otherwise exposes to rabies a person or domestic animal, to quarantine such animal in accordance with the procedures established by the Maine Commissioner of Health and Welfare. When home quarantine procedures, as described in the official notice of quarantine, have been violated, or in the case of a wolf hybrid, when the owner fails to bring the animal to a veterinarian for euthanasia and testing or to turn the animal over to the Animal Control Officer, the Animal Control Officer or a Brewer Police Officer may apply to the District court or Superior Court for authorization to take possession of the animal for placement, at he owner's expense, in a veterinary hospital or clinic, boarding kennel or other suitable location for the remainder of the quarantine period or, in the case of a wolf hybrid, removal for euthanasia.

If an undomesticated animal or wolf hybrid suspected of having rabies, bites or otherwise exposes to rabies, a person or a domestic animal, the Animal Control Officer shall immediately remove the undomesticated animal or wolf hybrid or cause the undomesticated animal or wolf hybrid to be removed and euthanized for testing.

ARTICLE 8. PENALTIES

SECTION 801. PENALTY. The owner of any dog, cat, livestock, exotic animal, wild animal, or bees, upon conviction of violating any provision of the Ordinance, shall be punished by a fine of not more than One Hundred Dollars (\$100.00).

SECTION 802. WAIVER COURT HEARING FOR VIOLATION. Any person accused of keeping a dog cat, livestock, exotic animal, wild animal, or bees in violation of this Ordinance or any part hereof may voluntarily waive his right to appeal and defend before the District Court the charge made against him for violation of this Ordinance by paying to the City of Brewer the sum of Thirty Five Dollars (\$35.00) within ten (10) days of the time such alleged offense was committed.

END OF CHAPTER NOTATIONS

1. Enacted 06/06/2006, Effective 06/11/2006 (2006-C008)
2. Enacted 09/13/2011, Effective 09/18/2011 (2011-C009)