

CHAPTER 4.

ANIMALS

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CHAPTER 4. ANIMALS

ARTICLE 1. DOGS

Section 4.01. Purpose.

The purpose of this Article is to regulate dogs in the City of Bath, to the extent that this subject matter is not otherwise regulated by State Law, and under the specific authority contained in 7 M.R.S.A. § 3950. The further purpose of this Article is to regulate dogs in the City of Bath to the end that dangerous dogs, the grouping of dogs in packs, the unrestricted travel of dogs in heat, property damage, nuisance, and noise shall be eliminated or kept to a minimum for the protection of the health, safety, comfort, convenience, and general welfare of the residents of the City of Bath, without unreasonably restricting owners and dogs in their normal activities.

Section 4.02. Construction.

The provisions which apply to the owners of a dog apply equally to any person having its custody, control or possession. A dog in company with two or more other dogs is deemed to be in a pack.

Section 4.03. Definitions.

(1) Dangerous dog means a dog which has bitten 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 owners premises, to be put in apprehension of eminent bodily harm.

(2) Nuisance means the causing of unreasonable noise, litter, or property damage; the chasing of automobiles, motorcycles, bicycles, or other vehicles; and the entry on school grounds, while school is in session.

(3) Other terms in this Article shall be used in accordance with definitions appearing in 7 M.R.S.A. § 3907.

Section 4.04. Disposition of Unclaimed Dogs.

The Animal Control Officer shall keep all impounded dogs for a 48 hour period at the City Animal Shelter. If, at the end of the 48 hour period, the dog is not reclaimed, the Animal Control Officer shall place the dog with the Brunswick Area Humane Society or another owner, or if those two are not possible, he shall humanely dispose of the dog.

Section 4.05. Disposition of dogs which have bitten persons.

The owner of a dog who knows or has been advised that the dog has bitten a person shall confine the dog or have it confined by itself in a secure enclosure for at least fourteen (14) consecutive days and shall notify the Animal Control Officer immediately of the time, place, and reason for the confinement. During the period of confinement, the owner shall not destroy the dog nor allow it to be destroyed.

Section 4.06. Examination of confined dogs.

The Animal Control Officer shall have a dog which has been confined because of having bitten a person kept under observation for symptoms of rabies. At the end of the 14th day period of confinement, the Animal Control Officer shall determine whether the dog is infected with rabies. In making this determination, he shall employ such expert assistance as may be necessary. If he deems it necessary to keep the animal confined for longer than the 14-day period, he shall order it done. If the dog is found to be rabid, he shall notify the owner and the person bitten, and shall have the dog destroyed immediately, following any procedure recommended by the State Department of Health and Welfare. If the dog is not rabid, the owner shall thereafter muzzle the dog or keep it confined. All expenses incurred by the City in carrying out the procedure provided by this section shall be paid for by the owner of the dog.

Section 4.07. Prohibitions and Penalties.

(a) Running at large without identification. A person who violates this Article by permitting his dog to run at large without identification as required by State Law shall be punished by a fine of not more than Fifty Dollars (\$50.00).

(b) Dog in heat. The owner of any female dog in heat shall keep the same confined or on a leash at all times under the care of the owner, and shall not permit such dog to be at large within the City on any premises other than those of the owner. Every female dog found running at large hereof, is declared to be a public nuisance. The owner of a dog in heat which is found running at large shall be punished by a fine of not more than One Hundred Dollars (\$100.00).

(c) Traveling in packs. The owner of a dog traveling in a pack shall be punished by a fine of not more than Fifty Dollars (\$50.00).

(d) Running at large after causing nuisance. The owner of a dog which is found at large who knows or has been advised that the dog has caused a nuisance and has failed to keep the dog on his premises or under his control or under the control of a person charged with that responsibility shall, for the first offense, be punished by a fine of not more than Fifty Dollars (\$50.00). For the second offense and subsequent offenses, the owner shall be punished by a fine of not more than One Hundred Dollars (\$100.00).

(e) Disturbing the peace. The owner of a dog which disturbs the peace of any person by frequently and habitually barking, howling, or creating other noise shall be punished, on the first offense, by a fine of not more than Twenty-five Dollars (\$25.00). For the second offense, he shall be punished by a fine of not more than Fifty Dollars (\$50.00). For the third and subsequent offenses, he shall be punished by a fine of not more than One Hundred Dollars (\$100.00).

(f) Refusing to reclaim dog. A person who fails or refuses to reclaim his dog and pay the costs required by 7 M.R.S.A. § 3913, within one week after receiving oral or written notice of its impoundment, shall be punished by a fine of not more than Twenty-five Dollars (\$25.00).

(g) Leash requirements. The owners of all dogs within a city park area or designated recreation areas shall at all times control such dog(s) by means of a leash. Failure to do so shall be punished by a fine of not more than Fifty Dollars (\$50.00). This leash requirement shall not apply to the South End Park but other provisions regarding dogs including the requirements of Subsection (h) below, shall remain applicable. (Ord. 6/21/06)

(h) Feces. Any feces deposited by any dog(s) in a City park area (i.e. City park, waterfront park, boat launching facility or designated recreation areas) shall be immediately removed by the person in control of the dog(s) and disposed of in a safe and healthful manner. Failure to do so shall be punished by a fine of not more than Fifty Dollars (\$50.00).

(i) General Penalty. A person who violates any other provisions of this Chapter shall be punished by a fine of not more than One Hundred Dollars (\$100.00). All penalties assessed under this Article shall be to the use and benefit of the City of Bath.

Section 4.08. Fees.

The following fees shall be in effect:

(a) Fee for keeping dog - \$40.00 per day pro-rated for a portion of a day, but not to be less than \$10.00. These fees and any other fees subsequently enacted under this Section, may be subsequently changed or amended by Resolution of Council. (Ord. 4/6/11)

Note: Any fees collected under this Section shall be designated to revenue account 01-2023 for use in accordance with the provisions and requirements of 30-A M.R.S.A. § 3945.

Section 3945 requires certain fees to be separate and used for salaries and costs of animal control, enforcement of licensing law, care of injured and abandoned animals, and support of animal control shelters. The funds also are required to be carried forward from year to year.

ARTICLE 2. MISCELLANEOUS

Section 4.20. Fee for use of Trap.

(a) Fee for use of trap - \$5.00 per seven day period or any portion thereof.

These fees and any other fees subsequently enacted under this Section, may be subsequently changed or amended by Resolution of Council.

Note: Any fees collected under this Section shall be designated to revenue account 01-2023 for use in accordance with the provisions and requirements of 30-A M.R.S.A. § 3945.

Section 3945 requires certain fees to be separate and used for salaries and costs of animal control, enforcement of licensing law, care of injured and abandoned animals, and support of animal control shelters. The funds also are required to be carried forward from year to year.

ARTICLE 3. SMALL-SCALE CHICKEN FLOCKS (Ord. 6-1-2016)

Section 4.301. Purpose.

The purpose of this Article is to provide standards for the keeping of domesticated chickens in urban, residential areas in the City of Bath. It is intended to enable and to regulate the keeping of a small number of chickens on a non-commercial basis by residents while limiting the potential adverse effects on the surrounding neighborhood. The City recognizes that adverse neighborhood impacts may result from the keeping of small-scale chicken flocks as a result of noise, odor, unsanitary animal living conditions, unsanitary waste storage and handling, the attraction of predators, rodents, insects, or parasites, and non-confined animals leaving the owner's property. This Article is intended to create licensing requirements and standards of use that ensure that small-scale chicken flocks do not adversely impact the neighborhood on which the chickens are kept.

Section 4.302. Definitions.

The terms in this Article shall be in accordance with the definitions in the Land Use Code, Article 2, Section 2.02.

Section 4.303. License Required; Fees.

A. License. A license is required for the keeping of any domesticated chickens in enclosed areas within the City of Bath where it is permitted. The license is personal to the permittee and may not be assigned or transferred and does not run with the land. An applicant for a license to keep chickens must be the occupant of the property and must demonstrate compliance with the

criteria, requirements and standards in this Article in order to acquire a permit. Application for a license shall be submitted on a form provided by the City. Where the applicant for a license is not the owner of the property where the use is proposed, then written permission from the owner for a small-scale chicken flock is required.

B. Fees. The fee for the license shall initially be forty dollars (\$40.00). This fee may be revised and adjusted by the Bath City Council by Resolution. In addition, inspections and reviews may incur additional administrative fees.

Section 4.304. Use Limitations and Restrictions.

A. Number. The number of domesticated chickens kept on a lot shall not exceed six (6), regardless of the number of dwelling units on that particular lot. A condominium complex for purposes of the number of chickens shall be considered a single lot and shall be limited to six (6) chickens. Chicks that are acquired to replenish the flock or as pets and which are kept within the dwelling are not counted as part of the flock, until introduced into the flock.

B. Gender. The chickens (*gallus domesticus*) shall be female only. No males or roosters shall be allowed. There shall be no restriction on species.

C. Non-Commercial Use Only. The chickens shall be kept for personal use only. No sale of eggs, breeding, sale of fertilizer, or fertilizer production shall be permitted. The slaughtering of chickens is prohibited.

D. Confinement. The domesticated chickens shall at all times be within the coop and enclosure perimeters and shall not be allowed to run free on the property occupied by the permit holder. No trespassing on adjacent property shall be permitted.

E. No Other Poultry. No ducks, geese, turkeys, pea-fowl, roosters or any other type of poultry are permitted.

Section 4.305. Lot Requirements.

The following requirements are minimum requirements and are not subject to waiver or variance.

A. Lot Size. The minimum lot size for the keeping of domesticated chickens shall be six thousand (6,000) square feet.

B. Setbacks. Coop/henhouse and the enclosure shall meet setback requirements for the zoning district where located but not less than fifteen feet (15') from any lot line.

C. Location. The coop/henhouse and enclosure shall only be located in rear areas. For a corner lot, a rear area is the two areas that are not front areas. In no case may a henhouse/coop or enclosure be placed in a front area (i.e. between the dwelling and the street).

D. Screening. Natural screening or fencing shall be provided so that the henhouse/coop and enclosure are not visible from adjacent properties at any time of the year.

E. Restrictive Zones. Domesticated chickens are not allowed in the Shoreline and Natural Resource Protection Overlay Zones.

F. Building Permit. If the combined size of the enclosure and the henhouse/coop exceeds one hundred (100) square feet, then a building permit from the Codes Enforcement Officer shall be required.

Section 4.306. Housing.

A. General. Chickens must be kept in a secure, henhouse/coop or enclosure at all times during daylight hours and within the henhouse/coop during non-daylight hours. Neither chickens nor structures housing chickens may be located within a residential structure.

B. Coops/Henhouses Construction Standards.

1. The structure shall be enclosed on all sides and have a roof and doors. Access doors must be able to be shut and locked at night. Any openings or vents must be covered with predator and bird proof wire of less than one.5 (1.5) square inch openings.

2. There shall be a minimum of six (6) contiguous square feet of interior floor space per chicken with a minimum of fifteen (15) continuous square feet of interior floor space regardless of the number of chickens.

3. The materials used in constructing the structure shall be uniform for each element of the structure such that walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials.

4. The structure shall be a minimum of four (4) feet in height and no more than seven (7) feet in height as measured from the mean grade level to the top surface of the roof. It shall be easily accessible for cleaning and maintenance.

5. The structure shall be covered and adequately ventilated and must be completely secured from access by predators, including all openings, ventilation holes, doors and gates. The structure shall be properly maintained so as to provide continuing security.

C. Enclosures.

1. The purpose of the enclosure is to provide an area where air and light may permeate but which will securely contain the chickens. It shall be a fully enclosed and protected space for chickens with unfettered access to the flock when in the enclosed outdoor space.

2. The enclosure must consist of sturdy wire fencing buried at least twelve (12) inches below ground level. The use of chicken wire is not permitted. The roof shall be covered with wire, aviary netting, or solid roofing material. The enclosure must be of substantial enough construction to prohibit the escape of the small-scale chicken flock and to exclude predators and to provide adequate shade for the flock.

3. A minimum of ten (10) contiguous square feet of exterior space per chicken shall be required with a minimum of twenty-five (25) contiguous square feet of exterior space regardless of the number of chickens.

4. The enclosure shall be no less than four (4) feet tall and shall have no greater height than seven (7) feet, measured as the vertical distance from the mean grade level to the top surface of the roof of the structure.

Section 4.307. Sanitation and Maintenance Standards.

A. Enclosures. Enclosures must be clean, dry and odor free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of the neighboring lots due to noise, odor, or other adverse impact. The chicken enclosure must provide adequate sun and shade and must be impermeable to rodents, wild birds and predators, including dogs and cats.

B. Henhouses/Coops. The chickens shall be secured within a coop/henhouse during non-daylight hours.

C. Odor. Odors from chickens, chicken manure, or any other chicken related substances shall not be perceptible at the property line.

D. Noise. Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

E. Feed and Water. Chickens must be provided with access to feed and clean water at all times. Such feed and water shall be protected so as to be unavailable to rodents, wild birds, domestic animals and predators.

F. Waste Storage and Removal. Provisions shall be made for the storage and removal of chicken manure and other waste material. All stored materials shall be covered and within a fully enclosed container. No more than three (3) cubic feet of manure may be stored. All other manure shall be removed from the site. The henhouse/coop, enclosure and surrounding area shall be kept free from trash and accumulating droppings. Uneaten feed shall be removed in a timely manner.

G. Vicinity to Water. No manure shall be stored within one hundred (100) feet of a waterbody or water supply.

H. Predators, Rodents, Insects and Parasites. The owner of the chickens and/or property owner shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.

I. Removal. Chickens found to be infested with insects and parasites that may result in unhealthy condition to human habitation shall be removed by the Animal Control Officer, Health Officer, or Codes Enforcement Officer or their designee(s). They may also order removal of chickens upon a determination that chickens otherwise pose a health risk. If a chicken dies, it shall be disposed of properly by the owner in a sanitary manner.

Section 4.308. Administration, Enforcement and Penalties.

A. Administration. The license required in Section 4.302 shall be issued by the Codes Enforcement Officer or designee upon a favorable inspection of the site, to determine that all of the provisions and requirements of this Ordinance have been met.

B. Enforcing Agent(s). Provisions of this Ordinance shall be enforced by the Codes Enforcement Officer, Animal Control Officer and/or Health Inspector or their designee(s).

C. Non-Waiver. The standards set forth in this Article are considered minimal standards and are not subject to waiver.

D. Violation(s) Enforcement. Failure to conform to the provisions of this Article or to obey an Order issued pursuant to the provisions of this Ordinance shall be considered a violation. In addition to any other enforcement action which the City may take, including injunctive relief if determined to be necessary, a violation of any provision or Order issued under this Article shall be enforced pursuant to the provisions of 30-A M.R.S. § 4452. Penalties and costs, including attorney's fees, shall enure to the benefit of the City.

E. Revocation. A license for the keeping of chickens in urban, residential areas may be revoked where it has been determined that there is a risk to the public health or safety or for any violation of or failure to comply with any of the provisions of this Ordinance or any other applicable Ordinance or Law. Revocation may also occur where the violation is determined to be a repeat violation. A repeat violation is a violator of a provision of this Ordinance by a person who has been previously found, through a codes enforcement action, to have violated or who has admitted violating the same provision within a five (5) year period, notwithstanding that the violations may have occurred at different locations.