

## **Chapter 14**

### **ANIMALS\***

\***Editor's note:** Ord. No. 01-7, effective May 31, 2001, amended Ch. 14 in its entirety to read as herein set out. Formerly said chapter pertained to similar subject matter. See the Code Comparative Table. **Cross references:** City clerk to perform animal control functions, § 2-104; disposal of dead animals restricted, § 34-37; application of traffic ordinances to animals, § 70-9.

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### ARTICLE I. IN GENERAL

#### Sec. 14-1. Definitions.

For the purposes of this chapter, the following terms, phrases and words used herein shall be interpreted to read as follows; and any words not herein defined shall be construed in the context used in 7 M.R.S.A. Chapters 717 through 739 or 17 M.R.S.A Chapter 42 and by ordinary interpretation, and not as a word of art:

*Animal* means any living creature classified as a member of the animal kingdom including, but not limited to, birds, fish, mammals and reptiles, but specifically excluding human beings.

*Animal control facility* means any facility owned, approved, and/or contracted by the City of Lewiston for the purposes of housing, impounding, quarantine, medical treatment, or euthanasia of animals.

*Animal control officer (ACO)* means the person or persons, including but not limited to the appointed ACO and the members of the city's police department, designated by the City of Lewiston to act as the representative agent for the city in the impoundment of animals and in the controlling of stray animals which come into the custody of the city.

*At-large* refers to dogs and other domestic animals which are legally in compliance with all local, state and federal laws, rules and regulations, other than a domestic cat, that is on any public right-of-way or publicly owned land unless controlled by a leash of not more than eight feet in length, except as provided for in section 14-37 and 14-38 of this chapter. A domestic cat shall be considered at-large when not located on the premises owned or controlled by its owner and not otherwise under immediate effective control.

*City* means the City of Lewiston.

*Dangerous animal* means any animal which demonstrates behavior and/or possesses the vicious propensity to inflict serious bodily injury or death upon human beings and/or other animals and constitutes a danger to human life or other animals; or any animal which has behaved in such a manner that the owner thereof knows, or reasonably should know, that the animal is possessed of tendencies to commit unprovoked attacks or to injure human beings or other animals; or any animal certified by a doctor of veterinary medicine, after observation thereof, as posing a danger to human beings or animals; or any animal, without provocation, that assaults an individual or animal; or any animal that commits an unprovoked act that causes a person, acting in a reasonable and non-aggressive manner, to reasonably believe that the animal will attack and cause bodily injury to that person or animal.

*Dog* means both male and female canines.

*Domestic animal* means any animal whose physiology has been determined or manipulated through selective breeding, and which does not occur naturally in the wild, and which may be vaccinated against rabies with an approved rabies vaccine, and has an established rabies quarantine observation period.

*Exotic animal* 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,

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orangutans, water buffalo, and species of foreign domestic livestock requiring state and federal permits.

*Fowl* means a bird of any kind, including, but not limited to, chickens, ducks, geese, guineas, pigeons, emus, ostriches, rheas, turkeys and pheasants.

*Guard dog* means a dog trained and used by law enforcement, private security, or in protective functions where the dog is responsive to control by its owner or handler and used only for protective functions.

*Guide dog* means a dog trained to assist a physically challenged person.

*Immediate effective control* means the confinement of an animal to the premises of its owner by a fence of sufficient strength and height to prevent an animal from escaping there from; or contained inside a house or other enclosure; or secured on the premises by a leash of sufficient strength to prevent the animal from escaping from said premises and so arranged that the animal will remain upon said premises when the leash is stretched to full length in any direction. An animal shall also be considered under immediate effective control when used to assist a physically challenged person or when the animal is under the immediate control of a person by means of a cage, leash, or effective restraint to control said animal. The term "effective restraint" as used herein shall include, but not be limited to, training employing audible and/or visual commands, remote control devices, and/or other means to control the animal.

*Kennel* means any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that keeps, boards and/or trains dogs and/or cats or other animals, which may legally be present in such facilities, for profit. Kennels must be established, maintained and operated in compliance with all applicable zoning and land use regulations of the city and all state statues and regulations of the State of Maine. Livestock shall mean, but may not be limited to, any horses, mules, donkeys, cattle, goats, sheep or swine.

*Livestock* shall mean, but may not be limited to, any horses, mules, donkeys, cattle, goats, sheep or swine.

*Owner* means any person, partnership, corporation or association that harbors, shelters, keeps, controls, manages, possesses or has whole or part interest in any animal. The occupant, owner or head of a household of any premises where an animal remains for 24 hours or more shall presumed to be the owner of such animal for the purposes of this chapter.

*Pet* means any animal which may be legally owned in accordance with the provisions of this chapter, normally kept for pleasure rather than utility, excluding livestock, is in the owner's possession and for which it can be reasonably demonstrated that the care of said pet is the responsibility of a given individual or individuals.

*Pet store* means any business or establishment other than a veterinary hospital, whether operated separately or in connection with another business or establishment, that buys and sells dogs, cats, and/or other species of pet for profit. Pet stores or shops must be established, maintained and operated in compliance with all applicable zoning and land use regulations and all other applicable laws or rules of the city and the State of Maine.

*Public auction* means any place or facility where animals are sold to the highest bidder. This definition does not apply to individual sales of animals by private owners or other private owners.

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*Public park or playground* mean any city-owned or operated public park, playground or school ground.

*Public nuisance* means the following:

- (1) An owner's failure to control, restrain or otherwise allow, either by conduct or condition, any animal to:
  - a. Engage in conduct which establishes such an animal as a "dangerous animal"; or
  - b. Be at-large; or
  - c. Cause a disturbance by excessive barking or noise-making near the private residence or business of another or of any government or public facility; or
  - d. Produces maggots, flies, odors, or unclean conditions sufficient to annoy or endanger adjacent property owners, residents or other individuals who may be reasonably exposed by such conditions; or
  - e. Chase vehicles or molest, attack or interfere with other persons and animals on public or private property.
- (2) Any animal normally found in the wild that has entered onto any public or private property and by its presence is a threat to public health and safety or is generally interrupting the tranquility of the location.

*Restraint* means to control an animal by physical means, such as a cage, leash, rope or confinement within an enclosed space or by training or employing audible and/or visual commands, remote control devices, and/or other means to control the animal.

*Stray* means an animal that is improperly restrained and that wanders upon a public place, roadway, street, highway, or the property of another person.

*Vaccination* means the inoculation of an animal with a rabies vaccine or other medicine that is licensed by the United States Department of Agriculture for use in that species, and which is administered by a licensed veterinarian for the purpose of immunizing the animal against rabies or other diseases.

*Veterinary hospital* means any establishment that is maintained and operated by a licensed veterinarian for the diagnosis, treatment or surgery of injuries and diseases to animals.

*Wild animals* mean 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, sloths, anteaters, armadillos, monkeys, chimpanzees, gorillas, orangutans, porcupines, antelope, deer, fox,

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elephant, lynx, squirrels, chipmunks; or

- (5) Any species of animal illegal to own under federal, state or local law.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-2. Penalties.**

Any person violating any provision of this chapter shall pay a fine of no less than the amount set in accordance with the city's policy manual as approved by the city council, unless otherwise specified in this chapter, for each of the first and second violation. The minimum penalty for any subsequent violation of this chapter shall be set in accordance with the city's policy manual as approved by the city council unless otherwise specified in this chapter, for each offense. In no case shall the court assess a fine that is less than those defined in state statute if the city's policy manual minimums are less. Violators of this chapter must pay for all costs associated with any action taken by the ACO involving the impoundment, treatment or humane euthanasia by a licensed veterinarian relating to animals of which they are owners. Where financial hardship is demonstrated, a violator of this chapter may perform community service in lieu of the financial penalty if such a program is available through the city.

(Ord. No. 01-7, 5-31-01; Ord. No. 08-06c, 8-14-08)

### **Sec. 14-3. Enforcement.**

- (a) The ACO shall be responsible for enforcement of this chapter except as may be provided herein. Enforcement may be by the filing of a criminal complaint in District or Superior Court; by civil proceedings to enjoin nuisances; or in any other manner authorized by federal, state or local law, rule or ordinance.
- (b) It shall be unlawful for any person being issued a citation to district court or any civil proceeding to intentionally or knowingly fail to give the ACO their true name and address or to intentionally or knowingly fail to appear in accordance with the terms of a citation or civil process issued by the ACO.
- (c) If the individual who is to receive the citation is not present, the ACO may send the citation to the alleged offender by certified or registered return receipt mail. If said citation should come back unclaimed, the citation shall be sent regular mail. If this regular mailing is returned as unclaimed, the service shall then be deemed as completed.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-4. Exemption.**

This chapter shall not apply to any animal accompanying a physically challenged person who, by reason of his/her handicap, is physically unable to comply with the requirements of this chapter. (Ord. No. 01-7, 5-31-01)

### **Sec. 14-5. Severability clause.**

If any part of this chapter shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this chapter.

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### **Sec. 14-6. Repealed.**

All other applicable ordinances are repealed.

(Ord. No. 01-7, 5-31-01)

## **ARTICLE II. ANIMAL CARE--GENERAL**

### **Sec. 14-7. Care of animals.**

Animals shall be provided humane care, treated and transported in a humane manner and not in violation of any federal, state or local law, rule or ordinance.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-8. Prohibited actions.**

A person commits an offense if:

- (1) A person fails to provide an animal under his or her control and/or ownership with adequate wholesome food and water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering; or
- (2) A person having charge or custody of an animal, places or confines such animal, or allows such animal to be placed or confined in a motor vehicle, trailer, or other enclosure under such conditions, or for such a period of time, as to endanger the health of the animal due to heat, lack of food or water, or such other circumstances as may cause injury or death to the animal; or
- (3) A person treats an animal in an inhumane or cruel manner as defined by 17 M.R.S.A. Chapter 42.
- (4) A person knowingly owns, harbors, trains, sells, or offers for sale any animal which is used for the purpose of fighting; or to be trained, tormented, badgered or baited for the purpose of causing or encouraging said animal to attack human beings or animals when not provoked, except that this section shall not apply to guard dogs or dogs used by local, state or federal law enforcement agencies; or
- (5) A person mutilates any animal, whether such animal is dead or alive. This subsection does not apply to medical or veterinary medical research, medical or veterinary medical autopsies, or biology class use of animals for educational purposes; or
- (6) A person causes an animal to fight another animal or person; or
- (7) A person other than a licensed veterinarian docks an animal's tail, or crops an animal's ears; or castrates an animal; provided, however, this subsection shall not apply to normal livestock operations occurring within the city; or
- (8) A person dyes or colors chicks, ducks, rabbits, reptiles or birds; or
- (9) A person transporting an animal fails to effectively restrain an animal so as to prevent the animal from leaving or being accidentally thrown from a vehicle during normal operation of the vehicle; or fails to effectively restrain an animal so

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as to prevent infliction of bodily harm to passerby. Provided, however, the provisions herein shall not prohibit a person from transporting an effectively confined or tethered dog(s) in the open bed of a pickup truck; or

- (10) A person is in control of a motor vehicle which strikes a domestic animal or livestock within the corporate limits of the city and fails to report the accident to the city police department or the ACO as soon as practical; or
- (11) A person abandons any animal, including the abandonment of an impounded animal at the city contracted or owned animal control facility with the intent to readopt the animal to avoid impoundment fees; or
- (12) An animal damages or destroys public property while in their possession. If the person in possession of the animal at the time the property damage cannot be determined, the owner may be charged under this section if the evidence can reasonably demonstrate the identity of the animal; or
- (13) Permits any public nuisance, as defined in section 14-1, to exist.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-9. Number of dogs limited.**

- (a) It shall be unlawful for any person to keep or harbor within the city more than four dogs over four months old in or about any 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 as aforesaid is hereby declared to be a public nuisance.
- (b) The payment of the license or licenses on dogs required by Maine state law, as amended, shall not be construed to allow the keeping of more than four dogs, as aforesaid, on any one premises.
- (c) The limitations in this section shall not apply to any person, group of persons, or corporations engaged in the commercial business of breeding, buying, selling or boarding of dogs, or operating a veterinary hospital, providing a state kennel license is obtained if applicable.

(Ord. No. 01-7, 5-31-01; Ord. No. 16-03, 05-19-16)

## **ARTICLE III. RABIES CONTROL; QUARANTINE**

### **Sec. 14-10. Rabies inoculation.**

Before the city clerk issues the required licenses for any animal requiring a rabies vaccination as stipulated in state statute, the city clerk shall require the owner to prove immunization against rabies as prescribed by state statute and/or by state rules and regulations.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-11. Animal bites and scratch reports; submission to quarantine.**

- (a) Any person who is bitten or scratched by an animal shall report that fact to the ACO or the police department within 24 hours. If the person bitten or scratched is a minor under

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the age of 17, the parent or legal guardian of such minor, if he/she has knowledge of the incident, shall report that fact to the ACO or the city's police department within 24 hours.

- (b) A person who owns, keeps, harbors or allows an animal to remain on premises under his/her control shall report to the ACO or the police department, within 24 hours, any incident where such animal has bitten or scratched any person.
- (c) If the ACO has determined that there is reasonable evidence of an animal biting or otherwise attacking any person, and such animal has rabies or symptoms thereof, or is suspected by the ACO of having rabies, or has been exposed to rabies, upon demand of the ACO or his/her deputies, it shall be surrendered to him/her and shall be impounded by the ACO at a facility, which in his/her opinion, is properly suited to safely handle the animal for a period of ten days. The ACO may, upon written request of the owner, authorize the owner to confine the animal with a chain appropriate to the animal's size, and in a manner where no person will be bitten by the quarantined animal, for a period of ten days. During such owner confinement, the animal shall be subject to examination by the ACO or his/her deputy at any time.
- (d) Impoundment at any state or city approved facility for rabies quarantine purposes shall be at the expense of the owner of the impounded animal, livestock or wildlife. In the event a harbinger of a quarantined animal cannot be identified and located within a reasonable length of time, the victim, at his/her option (or at the option of the parent or legal guardian in the case of a minor under the age of 18 year of age), may elect to have the animal examined by a veterinarian, or to have the tissue submitted for laboratory examination; and the costs so incurred shall be borne by the victim. No animal, livestock or wildlife confined for quarantine purposes under the provisions of this section shall be released to any person until all vaccinations required by state statute have been given.
- (e) If the harbinger of an attacking animal refuses to release for quarantine such animal, then it shall be the duty of the ACO to obtain a seizure warrant from an appropriate judicial official for seizure and quarantine of the animal in question.
- (f) The ACO may order that all impoundment fees for the quarantine be paid by the person bitten or scratched if:
  - (1) The animal has a rabies vaccination certificate; or
  - (2) The animal was on property under the control of animal's owner when the bite or scratch occurred; or
  - (3) The bite or scratch occurred when the animal was acting to defend its owner or his/her property, or after reasonable provocation.
- (g) The ACO shall use his/her discretion to determine what provisions of this chapter or state law shall be most appropriate in all matters having to do with the quarantine of any animal.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-12. Contents of required animal bites and scratch reports.**

When an individual is placed under a duty to report an incident in which an animal has bitten or scratched some person or some animal or to report an animal known or suspected to be

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rabid, that report to the ACO shall include, if the person making the report knows, the following information:

- (1) The location where the bite or scratch occurred.
- (2) The location where the animal which committed the act or which is known or suspected to have rabies or have been exposed to rabies can be located.
- (3) The name and address of any person who was bitten or scratched.
- (4) The name and address of the person who owns, keeps, harbors, or has control over the premises where the animal committing the act normally can be found.
- (5) The names and addresses of the persons who own, keep or harbor any other animal exposed to rabies can be found.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-13. Authorization for city-wide quarantine.**

In the event that the ACO or the state department of health declare that a potential outbreak of rabies is suspected and the danger to the public safety from rabid animals is reasonably imminent, the city director of public health or his/her designee, shall be authorized to issue a quarantine proclamation ordering persons owning, keeping, or harboring any animal to muzzle the same or confine it as herein provided for such time as may be specified in such quarantine proclamation. Upon the publication of such proclamation by the director, any person keeping or harboring any animal shall restrain the animal from running at-large except that such animal under the control of an adult person and on a leash, may do so only if the animal is effectively muzzled. All animals found at-large during the time specified in the proclamation by the director may be destroyed by the ACO or any law enforcement officer if said agents are unable, with reasonable effort, to apprehend such animal for impoundment.

(Ord. No. 01-7, 5-31-01)

## **ARTICLE IV. IMPOUNDMENT, REDEMPTION AND DISPOSITION OF ANIMALS**

### **Sec. 14-14. Impoundment generally.**

- (a) The ACO is hereby authorized to capture and impound any animal upon having probable cause to believe said animal to be in violation of any provision of this chapter or state law which authorizes or requires 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, the ACO 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.
- (b) Additionally, it is the responsibility of the ACO to accept any animal delivered to the ACO or the facility under his/her control (while he/she or other authorized agents of the city are physically present) pursuant to the requirements of this chapter, except those animals that are voluntarily released by their owners. For an animal to be voluntarily released, the owner must sign an owner release form provided by the ACO.

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- (c) It shall be unlawful for any person to interfere with, or attempt to prevent, an ACO or those acting in their capacities as law enforcement agents, from capturing or impounding any animal which may be legally impounded or otherwise interfering with the ACO, his/her designees, or any law enforcement agents while carrying out their lawful duties.
- (d) Prior to the release from impound, the authorized owner must obtain an impound release form from the ACO or an official within the police department. The fee for an impoundment of animal is \$50.00. Animal owners who can demonstrate a financial hardship may request a waiver of the animal impoundment fee; such requests should be directed to the Chief of Police or his designee.

(Ord. No. 01-7, 5-31-01; Ord. No. 10-06, 5-06-10)

### **Sec. 14-15. Duties of the ACO.**

- (a) It is the duty of the ACO to capture and impound, when appropriate, wild or non-domesticated animals in response to citizen complaints of public nuisance or to control feral populations.
- (b) If, by identification tag, the owner of an impounded animal can be identified, the ACO will, as soon as practical, notify the owner either in person or by telephone of said impoundment. If the animal is locally owned within the city and telephone contact cannot be made, the ACO will leave a notice at the owner's last known and verifiable residence indicating that the animal has been impounded.
- (c) All impounded animals shall be kept for not less than eight days, unless the animal is reclaimed earlier by the rightful owner under conditions acceptable to the ACO. However, no impoundment period is required for an animal voluntarily delivered and released into the custody of the ACO by its owner.
- (d) After the expiration of any required impoundment period, the impounded animal shall be released to the animal control facility or veterinary hospital contracted by, or doing business with, the city. At that time, the animal shall be disposed of by adoption from the facility, by offering it to a local animal humane group for adoption, or by humanely destroying the animal. No record shall be kept by the ACO as to the disposition of an individual animal after release is made to the animal control facility/veterinary hospital for the purposes specified in this paragraph.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-16. Disposal of dead animals.**

It shall be the responsibility of the owner to remove and properly dispose of a deceased animal within 24 hours of the animal's death. Proper disposal constitutes bringing such animal to a licensed veterinarian for cremation or proper burial at a pet cemetery.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-17. Disposal of dead animals found on public property.**

It shall be the responsibility of any person to notify the department of public works of the location of the deceased animal so proper removal and disposal may occur.

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(Ord. No. 01-7, 5-31-01)

### ARTICLE V. DANGEROUS ANIMALS

#### **Sec. 14-18. Permit required.**

No person shall knowingly sell, own, offer for sale, breed, possess, keep, buy or attempt to buy, or train a dangerous animal within the city unless the owner has received the proper permits and/or authorizations pursuant to this chapter.

(Ord. No. 01-7, 5-31-01)

#### **Sec. 14-19. Complaints regarding dangerous animals.**

- (a) Upon receipt of a written sworn notarized affidavit by any person, charging that a particular animal is dangerous, the city director of public health shall conduct an administrative hearing within ten days of the receipt of such affidavit, to determine whether such animal is, in fact, dangerous. Unless the matter is resolved by mutual agreement of all parties involved prior to the hearing, said animal shall be impounded until a final disposition is reached. Any written sworn notarized affidavit shall contain at least the following information:
- (1) Name, address and telephone number of the complainant and witnesses; and
  - (2) Date, time and location of the incident(s); and
  - (3) A complete description, to the best of the complainant's ability, of the animal including breed, color, sex, size, etc.; and
  - (4) Name, address and telephone number of the animal's owner and/or the premises where the animal is kept, if known; and
  - (5) A statement that the animal bit or attacked; and
  - (6) Any other facts that the complainant believes to be relevant to the incident.
- (b) The following will apply regarding the administrative hearing to determine whether an animal shall be declared "dangerous":
- (1) The suspect animal shall be seized by the ACO pursuant to a complaint, impounded and, if necessary, medically examined at the owner's expense if the animal caused injury to a person requiring medical treatment. An animal causing such injury shall be held at an animal control facility chosen by the ACO pending the outcome of such hearing and determination as to whether an animal is, in fact, classifiable as dangerous. Such hearing to determine if an animal is dangerous shall be conducted by the city director of public health within ten days after receipt of the complaint or seizure of the animal by the ACO.
  - (2) Notice of such hearing shall be provided by the ACO to the owner of the animal by certified return receipt mail. The complainant in the matter shall also be notified by certified return receipt mail. At such hearing, all parties shall be given the opportunity to present evidence on the issue of whether or not such animal is to be declared dangerous.

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- (c) Upon conclusion of a dangerous animal hearing, the city director of public health may find that the animal is not dangerous. In such cases, the animal shall be returned to the owner, provided the animal has been properly vaccinated and registered and all applicable fees are paid.
- (d) Should the animal be classified as a dangerous animal, the owner shall comply with one of the following requirements:
  - (1) Humane destruction of the dangerous animal; or
  - (2) Provide for the keeping of the animal as detailed in section 14-20 and 14-21 of this chapter.
- (e) No animal shall be declared a dangerous animal if the threat, injury or damages caused by the animal were the result of a willful trespass upon another's property; or the person injured was tormenting, provoking, abusing or assaulting the animal or its owner, or was committing or attempting to commit a crime at the time of the injury.
- (f) Findings of the city director of public health pertaining to dangerous animals may be appealed to the superior court in accordance with the provisions outlined in state law. During the pendency of such appeal, the findings of the city director of public health shall be suspended. However, the animal shall continue to be impounded at the owner's expense at the animal control facility selected by the ACO for observation and to protect the health and safety of the public until a final disposition is reached.
- (g) If an animal that has been declared dangerous causes death or serious bodily injury to a person or to another animal, the city director of public health may order that the animal be destroyed in a manner consistent with state law. All related expenses shall be paid by the owner.
- (h) Where the victim of a dangerous animal, specifically a dog, has incurred medical expenses, veterinary expenses, or any other direct financial loss, the owner of said dangerous dog shall be ordered to pay restitution to the victim in accordance with the criteria set forth in 17-A M.R.S.A. § 1325.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-20. Keeping of dangerous animals.**

The owner of a dangerous animal shall be required to:

- (1) Register the dangerous animal with the ACO; and
- (2) Obtain liability insurance in an amount not less than \$300,000.00 covering bodily injury or death of any person or animal, or for damages to any person's or entity's property, resulting from the keeping of such dangerous animal(s); and
- (3) Restrain the dangerous animal at all times on a leash in the immediate control of the owner or in a secure pen enclosure as prescribed in section 14-21; and
- (4) Provide to the ACO the name and address of the owner, breed, age, sex, color, and any other identifying marks of said animal; the location where the animal is kept if not at the address of the owner; two color photographs of the dangerous animal; and the aforementioned certificate of liability insurance; and

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- (5) Provide proof of the required documents necessary to register the animal, and pay the required registration fee of \$100.00. The ACO shall provide to the owner a registration tag designating the animal as dangerous. The owner must place the tag on the animal's collar and must ensure that the animal wears such tag and collar at all times; and
- (6) Not allow the animal to go outside its pen, cage or enclosure unless the animal is under physical restraint and securely muzzled. No person shall permit a dangerous animal to be kept outside its cage, pen or enclosure on a chain, rope or other type of leash unless the owner is in physical control of the chain, rope or other leach type. Dangerous animals shall not be leashed to inanimate objects such as trees, posts, buildings, etc. Signs giving notice of the dangerous animal shall be prominently displayed so that all persons entering said property are immediately notified a dangerous animal is being kept at the location.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-21. Dangerous animal enclosures.**

The pen, cage or enclosure for a dangerous animal must be constructed from materials of sufficient strength to prevent the animal's escape, and must have secure sides, a secure top attached to the sides, and a secure bottom which is either attached to the sides or constructed so that the sides of the structure are embedded in the ground no less than two feet.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-22. Authority to seize dangerous and wild or exotic animals.**

In the event that any animal is declared to be a dangerous animal and/or where a wild or exotic animal is found in violation of any provision of this chapter or state law, such animal may be seized immediately and impounded by the ACO. Where said animal is found at large and is presenting a clear and present danger of imminent bodily injury and/or death to the ACO, other human beings or animals, the animal may be destroyed and the owner notified if the owner can be reasonably established.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-23. Penalties.**

The financial penalty for a violation of this section is set in accordance with the city's policy manual as approved by the city council. This penalty shall not be waived by the court.

(Ord. No. 01-7, 5-31-01; Ord. No. 08-06c, 8-14-08)

## **ARTICLE VI. RIGHT OF ENTRY**

### **Sec. 14-24. Right of entry.**

- (a) The ACO is hereby authorized to enter upon any fenced or unfenced lot, tract or parcel of land for the purpose of capturing, impounding and/or quarantining any animal upon having probable cause to believe said animal to: Have bitten, injured or otherwise

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attacked a human being or other animal; to have, or have been exposed to rabies or another communicable disease posing a danger to the public health, safety or welfare; or otherwise pose a clear and present danger to human beings or other animals. This authorization is granted due to the emergency created by the potential rabies hazard or danger of injury to persons or other animals, and in recognition of the likelihood that such animals will otherwise escape capture. As a matter of policy, ACO's shall not enter upon private property to capture and/or impound any animal known to belong to the owner of said property without probable cause to believe said animal poses a threat or danger to property, human beings or other animals.

- (b) Furthermore, should the ACO be unable or not permitted to gain entry to a property or premises where a dangerous animal(s) is believed to be present, the ACO or any law enforcement agent may seek an ex parte order from the district court or superior court for authorization to take possession of the dangerous animal.

(Ord. No. 01-7, 5-31-01)

### ARTICLE VII. KEEPING OF NON-DOMESTIC ANIMALS

#### DIVISION 1. WILD OR EXOTIC ANIMALS

##### **Sec. 14-25. Keeping of wild or exotic animals prohibited.**

Any species of wild or exotic animal, not normally considered domesticated, that poses a potentially serious 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.

(Ord. No. 01-7, 5-31-01)

##### **Sec. 14-26. Exemptions to prohibition to keep wild or exotic animals.**

The provisions in section 14-25 above shall not apply to the keeping of wild or exotic animals if the owner or possessor:

- (1) Is a governmental agency or entity; or
- (2) Holds a circus, carnival or zoo license from the State of Maine; or
- (3) 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; or
- (4) Is an accredited research or educational institution.

(Ord. No. 01-7, 5-31-01)

#### DIVISION 2. LIVESTOCK

##### **Sec. 14-27. Keeping of livestock generally.**

It shall be unlawful for any person to keep or permit the keeping of livestock on premises

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owned by him/her or under his/her control, except in compliance with the following regulations:

- (1) Livestock shall only be kept on lots or tracts of land zoned or designated for rural or agricultural purposes by the city.
- (2) Livestock shall not be kept on lots and tracts of land less than one acre in area.
- (3) The provisions of article II Animal care--General herein, relative to animal care in general, shall specifically apply to the keeping of livestock.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-28. Adequate fences and barriers.**

It shall be unlawful for any person to keep on their 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.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-29. Other places livestock prohibited.**

It shall be unlawful for any person to ride or allow any type of livestock upon any public school ground, public park or municipal/school grounds within the city other than public rights-of-way or areas designated for such purposes. Provided, however, the provisions of this section shall not apply to the riding or showing of horses or other livestock in conjunction with city authorized parades, carnivals, special events or other school or civic sponsored programs or events which are in compliance with all city, state and federal law, rules and regulations.

(Ord. No. 01-7, 5-31-01; Ord. No. 16-05, 6-16-16)

### **Sec. 14-30. Impounding of livestock.**

The provisions of section 14-14 herein, relative to impounding of animals in general, shall specifically apply to the impounding of livestock.

(Ord. No. 01-7, 5-31-01)

## DIVISION 3. OTHER ANIMALS

### **Sec. 14-31. 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. Litter and droppings from these animals must be collected and disposed of in accordance with the provisions of section 14-41, disposal of excrement in general, shall specifically apply to the disposal of excrement of fowl, rabbits, and guinea pigs. Provided, however, that the provisions of this section and section 14-41 shall not apply to ducks or other waterfowl inhabiting natural or manmade water courses or bodies of water.

(Ord. No. 01-7, 5-31-01)

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### **Sec. 14-32. Keeping of bees.**

All persons within the property of the city adhere to the statutes of the state as described in 7 M.S.R.A. Chapter 521 through 531, as well as:

- (1) No person shall have no more than two colonies on one-quarter acre or less; or
- (2) No person shall have no more than four colonies on one-quarter to one-half acre; or
- (3) No person shall have no more than six colonies on one-half to one acre; or
- (4) No person shall have no more than eight colonies on a tract of land greater than one acre; and
- (5) All colonies' hives shall be located a minimum of 100 feet from any inhabited dwelling other than that of the person keeping such bees; and
- (6) There is adequate source of water available at all times to the bees on the owner's property.

(Ord. No. 01-7, 5-31-01)

#### DIVISION 4. KEEPING OF FEMALE CHICKENS ON LOTS DEVELOPED WITH SINGLE FAMILY DETACHED DWELLING INCLUDING MOBILE HOMES ON INDIVIDUAL LOTS

### **Sec. 14-33. Purpose**

The purpose of this article is to provide standards for the keeping of domesticated chickens. It is intended to enable residents to keep a small number of female chickens on a noncommercial basis while creating standards and requirements that ensure that domesticated chickens do not adversely impact the neighborhood surrounding the property on which the chickens are kept. The provisions of this section are not to preclude other sections of Chapter 14 as applicable.

(Ord. No. 16-7, 10-6-16)

### **Sec. 14-34. Number and type of chickens allowed.**

- (a) The maximum number of chickens allowed is six (6) per lot developed with a single family dwelling.
- (b) Only female chickens are allowed. There is no restriction on chicken species.
- (c) Chickens must be purchased from an approved source such as the National Poultry Improvement Plan (i.e. hatcheries that participate in the National Poultry Improvement Plan).
- (d) This provision shall not apply to allowed agricultural uses.

(Ord. No. 16-7, 10-6-16)

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### **Sec. 14-35. Noncommercial use only.**

Chickens shall be kept as pets and for personal use only; no person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes. The slaughtering of chickens is prohibited.

(Ord. No. 16-7, 10-6-16)

### **Sec. 14-36. Enclosures.**

- (a) Chickens must be kept in a fenced area or enclosure at all times. Enclosures must be clean, dry, and odor free, kept in a neat and sanitary condition, in a manner that will not disturb the use of neighboring lots due to noise, odor or other adverse impact. The free ranging of chickens is not allowed.
- (b) Chickens shall be secured within a henhouse during non-daylight hours.
  - (1) Henhouses are not allowed to be attached or located in any part of a dwelling unit. The henhouse shall be enclosed on all sides and shall have a roof and doors. The henhouse must be well maintained.
- (c) Chickens shall be kept only in the rear or side yard behind the principle structure of the lot and must be kept on the property of the owner. Chicken henhouses, fenced areas, and enclosures shall not be closer than twenty (20) feet to any property line.

(Ord. No. 16-7, 10-6-16)

### **Sec. 14-37. Odor and noise impacts.**

The keeping of chickens authorized under this section shall not create a nuisance and shall be conducted in a manner that does not disturb the use of adjacent properties. Odors from chickens, chicken manure, or other chicken related substances shall not be perceptible at the property boundaries. Perceptible noise from chickens shall not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

(Ord. No. 16-7, 10-6-16)

### **Sec. 14-38. Predators, rodents, insects, and parasites.**

The property owner and/or chicken owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed by the City, through the animal control officer, or any other designee, and the cost of the same shall be borne by the property owner and/or chicken owner.

(Ord. No. 16-7, 10-6-16)

### **Sec. 14-39. Permit requirements.**

The keeping of chickens authorized under this section shall require the issuance of a use

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permit as per Appendix A, Article V, Section 5 of the Zoning and Land Use Code. The issuance of a use permit will include any permitting required for enclosures referenced in Sec. 14-36. Enclosures.

(Ord. No. 16-7, 10-6-16)

### **Sec. 14-40. Separability.**

In the event that any section, subsection or portion of this article shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this article.

(Ord. No. 16-7, 10-6-16)

## **ARTICLE VIII. PROHIBITIONS**

### **Sec. 14-41. Placement and baiting of animal traps.**

It shall be unlawful for any person to place, set or bait any trap for the purpose of catching, wounding or killing of any animal, fowl or reptile without permission or assistance of the local, state or federally designated ACO. This section, however, does not preclude the use of commercially sold rat and mouse traps, nor does this section precluded the use of "Have a Heart" traps for the relocation of animals, fowl or reptiles.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-42. Prohibition of animal poisoning.**

It shall be unlawful to place any substance or article which has in any manner been treated with any poisonous substance in any place accessible to human beings, birds, dogs, cats or other animals with the intent to harm or kill animals. This section, however, does not preclude the use of commercially sold rodent poisons when applied in accordance with the manufacturer's directions for such use.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-43. Noise prohibition.**

The provision of subsection 14-48(1) herein, relative to public nuisance in general, shall specifically be applied to noise prohibition.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-44. Odors and unclean condition prohibitions.**

It shall be unlawful for any owner to allow an animal to produce odors or unclean conditions sufficient to create a public nuisance.

(Ord. No. 01-7, 5-31-01)

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### **Sec. 14-45. Animals at-large prohibition.**

- (a) It shall be unlawful for any owner to allow an animal to chase vehicles or molest, attack or interfere with other animals or persons on public property, or be at-large as defined in section 14-1 of this chapter.
- (b) It shall be unlawful for an animal to be left unrestrained in a parked motor vehicle so as to allow the animal to project its head from the vehicle.

(Ord. No. 01-7, 5-31-01)

## **ARTICLE IX. PUBLIC LANDS, PARKS AND PLAYGROUNDS: CONTROL OR PROHIBITION OF DOMESTIC ANIMALS**

### **DIVISION 1. LEASH REQUIREMENTS**

### **Sec. 14-46. Sixteen-foot leash requirements and exceptions.**

Only domestic animals are authorized on all city-owned public ways, sidewalks, and all publicly owned property within the city. Any such animal shall be on a leash or other tether, in the control of an individual, of not more than 16 feet in length with the following exceptions:

- (1) Any domestic animal in the aforementioned public areas must be on a leash or other tether of not more than eight feet in length when signs are posted stating "Maximum Eight-Foot Leash is Required" by the city to accommodate mass gatherings or public events. The authority to post such areas shall lie with the city council.
- (2) All domestic animals may only be present during the specified hours between 6:00 a.m. to 8:30 a.m. and 6:00 p.m. and 8:30 p.m. at the following public facilities:
  - a. Montello Track (outside track far left-hand side of the track field closest to the woods and farthest away from the playground).
  - b. Sunny Side Park (field area).
- (3) The City Administrator or his/her designee may authorize exceptions to this Section for city approved events. Such exceptions must specify the conditions under which the animal(s) shall be on the supervised; the time of day and specific dates that they will be authorized to be on the property; and any other conditions that may be applicable to the event and to the city property involved.

(Ord. No. 01-7, 5-31-01; Ord. No. 08-09, 1-1-09; Ord. No. 16-05, 6-16-16; Ord. No. 19-09, 10-31-19)

### **DIVISION 2. CITY PROPERTY**

### **Sec. 14-47. Parks, cemeteries, playgrounds and athletic fields.**

The City Administrator or his/her designee may authorize exceptions to this Section for city approved events. Such exceptions must specify the conditions under which the animal(s) shall be on the supervised; the time of day and specific dates that they will be authorized to be on the property; and any other conditions that may be applicable to the event and to the city property involved.

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- (a) Domestic animals will not be permitted in the following parks and athletic fields for the period commencing one-half hour prior to and for the duration of any city or school department scheduled or sanctioned activity or event: Randall Road Softball Complex and Simard-Payne Police Memorial Park.
- (b) Domestic animals may be authorized in all city-owned cemeteries and must be on a leash or other tether, under the control of an individual, of not more than 16 feet in length provided, however, that such animals shall be allowed only on the roadways and walkways of the cemeteries and not on the cemetery lots.
- (c) All domestic animals shall not be permitted in the following public parks and playground areas: Lionel Potvin Park, Jude's Place at Marcotte Park playground area, Kennedy Park playground area, Knox Street Playground, Mark W. Paradis Park, Pettingill School Park playground area and basketball court, River Valley basketball courts and Sunnyside Park playground area.
- (d) All domestic animals shall not be permitted in the following athletic fields: Franklin Pasture Athletic Complex, Lewiston Athletic Park, Montello multi-use field and Simard-Payne Police Memorial Park multi-use field.

(Ord. No. 01-7, 5-31-01; Ord. No. 08-09, 1-1-09; Ord. No. 13-02b, 3-21-13; Ord. No. 15-06, 7-2-15; Ord. No. 16-05, 6-16-16; Ord. No. 19-09, 10-31-19)

## ARTICLE X. NUISANCES

### **Sec. 14-48. Public nuisances.**

It shall be unlawful to harbor or keep any animal or bird, which causes annoyance to the peace of any person, either by:

- (1) Excessively barking, howling or making other sounds common to its species; or
- (2) Failing to keep any female dog in heat confined at all times. Every bitch in violation of this section shall be impounded and the owner, keeper or person harboring such bitch, shall be deemed guilty of an offense; or
- (3) Knowingly have any animal, requiring a license or some other form of registration by the state, run at-large.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-49. Disposal of excrement.**

All manure and other excrement shall be disposed of in such a manner so as to prevent it from becoming a public nuisance or health hazard. With regard to dogs on public or private property, other than the owner's, the owner shall be responsible for the immediate removal of excrement.

(Ord. No. 01-7, 5-31-01)

### **Sec. 14-50. Trucks, trailers and other vehicles.**

A person commits an offense if a person parks or leaves standing any truck, trailer, or

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other vehicle that has been used for the hauling of livestock, animals, fish or fowl in a residentially zoned area of the city, whereas notified by the city's enforcement agents that such vehicle is creating a public nuisance.

(Ord. No. 01-7, 5-31-01)

### ARTICLE XI. DAMAGE TO PROPERTY

#### Sec. 14-51. Complaint and recovery.

- (a) *Compliant.* Whenever any damage is inflicted on any person and/or property by a dog, the victim and/or owner may make a complaint to the ACO or city police department within the next business day following discovery of the damage.
- (b) *Recovery.* If after reviewing the evidence, the ACO and/or police department are satisfied that a dog committed the damage, they shall estimate values of the injured person or damaged property. The investigation agents will then determine if the dog can be reasonably identified and if so, the owner of said dog will be liable for all related expenses caused by said dog.

(Ord. No. 01-7, 5-31-01)

### ARTICLE XII. ANIMAL SAFETY

#### Sec. 14-52. Authority of the ACO.

A person commits an offense if a person parks or leaves any animal in a 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 ACO 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 ACO, it appears that the animal is in distress or the animal poses a threat or public nuisance to the general public.

(Ord. No. 01-7, 5-31-01)