

CITY OF PORTSMOUTH, NEW HAMPSHIRE

DOG ORDINANCES

CHAPTER 6 – ARTICLE VII

- Section 6.701: DEFINITION OF TERMS**
- Section 6.702: APPOINTMENT OF ANIMAL CONTROL OFFICER AND ASSISTANTS**
- Section 6.703: QUALIFICATIONS FOR ANIMAL CONTROL OFFICER**
- Section 6.704: LICENSE, REGISTRATION AND VACCINATION REQUIRED**
- Section 6.704 – A: PUBLIC NUISANCE ACTIVITY**
- Section 6.705: CONFINEMENT OF CERTAIN DOGS**
- Section 6.706: CUSTODY AND IMPOUNDMENT**
- Section 6.707: PROCEDURES FOR CUSTODY AND IMPOUNDMENT**
- Section 6.708: FAILURE TO CLAIM IMPOUNDED ANIMAL**
- Section 6.709: METHOD OF IMPOUNDING**
- Section 6.710: DETERMINATION OF VICIOUS DOG**
- Section 6.711: INTERFERENCE WITH OFFICERS**
- Section 6.712: RESTRAINT OF DOGS**
- Section 6.713: ABANDONMENT OF ANIMALS**
- Section 6.714: PENALTIES**
- Section 6.715: SEPARABILITY OF PROVISIONS**
- Section 6.716: CONFLICT WITH STATE STATUTES**

ARTICLE VII: DOG ORDINANCE

Section 6.701: DEFINITION OF TERMS

- A. "Animal Control Officer" shall be intended to mean that person or persons designated or appointed by the City Manager to enforce the terms of this ordinance, including assistants.
- B. "At Large" shall be intended to mean off the premises or property of the owner/keeper while not under the control of the owner/keeper, control shall be exercised by means of a leash, cord or chain. This requirement may be waived at any given time at the discretion of the Animal Control Officer in which case control shall be exercised by personal presence and such attention as will reasonably control the conduct of the dog. At no time, without the property owner's permission, shall any dog be permitted on the private property of another person. The leash requirement shall not apply to any dog being shown at a dog show, or while used in hunting or attending obedience or training class. (Amended 5/18/98)
- C. "Dog" shall be intended to mean both male and female, neutered or spayed and including puppies, so called.
- D. "Enclosure" shall be intended to mean a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children. The enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom so as to prevent the escape of the dog. (Adopted 9/21/87)
- E. "Owner" shall be intended to mean any person or persons, corporations, businesses, firms, or associations keeping, harboring, owning, feeding or allowing to remain on the property or premises, or acting as caretaker or custodian of a dog for another person. Whenever the term "owner" is used throughout this ordinance, it shall refer to owner or keeper. (Amended 5/18/98)
- F. "Torture, Cruelty, Neglect" shall be intended to mean any act or deed or the omission of any act or deed so that any animal, wild or domestic or tamed, shall be tormented, suffer, caused pain or die from lack of shelter, food, care or neglected to the extent that suffering, pain, or death is caused.
- G. "Trespasser" shall be intended to mean anyone who enters or remains on the private property of another who has not been authorized to do so by the owner or occupier of the property and shall not be intended to include mailmen, utility personnel, or any delivery person on the premises at the request of the owner or occupier of the property where a dog is kept, or any person invited on the premises by the owner or occupier.
(Adopted 9/21/87)
- H. "Vicious Dog" is any dog, which bites or attacks any human being or other domestic animal. An animal shall not be deemed vicious if it bites, attacks, or threatens a trespasser on the property of its owner or harms or threatens anyone who has tormented or abused it or if it demonstrates such aggressive behavior when provoked.
(Amended 5/18/98)
- I. "Public nuisance dog" is any dog which barks for a sustained period of time of more than one half hour or during the night hours so as to disturb the peace and quiet of one or more residents of the neighborhood or area, or if the dog digs, scratches or excretes or causes waste or garbage to be scattered on property other than that of the owner, or is any female dog in season and permitted to run at large or be off the premises of the owner when not on a leash controlled by the owner, or if the dog runs after, or

chases bicycles or people or motor vehicles, motorcycles, or other vehicles being driven, pulled, or pushed on the streets, highways or public ways or if the dog has a known predisposition to demonstrate aggressive, threatening behavior towards human and domestic animal life where the owner is unable to control such behavior. (Adopted 5/18/98)

Section 6.702: APPOINTMENT OF ANIMAL CONTROL OFFICER AND ASSISTANTS

The Police Commission may appoint from time to time and for such terms as expedient an Animal Control Officer and such assistants as may be necessary and required, whose duty it shall be to enforce, as practical, the RSA's of New Hampshire pertaining to animals, and the provisions of this Ordinance. (Amended 10/19/87)

Section 6.703: QUALIFICATIONS FOR ANIMAL CONTROL OFFICER

Minimum qualifications for the Animal Control Officer shall be a demonstrated ability to deal with the public in a satisfactory manner and have an ability to handle animals and care for them in a recognized humane method. It shall be a requirement that the Animal Control Officer be a special police officer and shall be assigned within the Police Department under the authority of the Police Commission. (Amended 10/19/87)

Section 6.704: LICENSE, REGISTRATION AND VACCINATION REQUIRED

All dogs kept, harbored or maintained within the City of Portsmouth shall be licensed, registered and rabies vaccinated as required in the RSA's of New Hampshire.

Upon a conviction of any offense under this ordinance, which alleges that a person has had one or more convictions under this ordinance with five (5) years preceding the date of the subsequent offense, the person shall be subject to the following penalties:

- \$50 for a first offense.
- \$75 for a second offense.
- \$100 for a third and each subsequent offense.

Any fine to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under this ordinance. (Amended 12/15/97)

Section 6.704 – A: PUBLIC NUISANCE ACTIVITY

It shall be unlawful to permit any dog to engage in public nuisance behavior as that term is defined in Section 6.701 (I). (Adopted 5/18/98)

Section 6.705: CONFINEMENT OF CERTAIN DOGS

- A. It shall be unlawful to permit any female dog in season (heat) to run at large or be off the premises of the owner during such period and such dog shall be confined within a building or enclosure in such manner that she will not be in contact (except for intentional breeding purposes) with another dog. (Amended 5/18/98)
- B. Any dog found to be vicious under this ordinance shall be kept at all times in a locked enclosure on private property or entirely within the dwelling of the owner or keeper. Vicious dogs shall not be permitted upon the public streets, sidewalks or any other public property except when muzzled and restrained by a chain having a minimum tensile strength of three hundred pounds and not exceeding

three feet in length. Vicious dogs so restrained shall be accompanied by an able-bodied person at all times while off the owner/keeper's premises. (Amended 5/18/98)

- C. Once a dog has been declared vicious it shall not be kept on any private property until an enclosure shall have been installed. After the installation of the enclosure, it shall be inspected and approved by the Animal Control Officer prior to the dog being kept on the property. (Amended 5/18/98)
- D. Any person keeping a vicious dog shall display a sign on the premises where the dog is kept warning that there is a vicious dog on the premises. The sign shall be visible and capable of being read from the public highway. (Adopted 9/21/87)
- E. Upon a conviction of any offense under this ordinance, which alleges that a person has had one or more convictions under this ordinance within five (5) years preceding the date of this subsequent offense, the person shall be subject to the following penalties:

\$50 for a first offense.

\$75 for a second offense.

\$100 for a third and each subsequent offense.

Any fine to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under this ordinance. (Subsection E Adopted 12/15/97)

Section 6.706: CUSTODY AND IMPOUNDMENT

The Animal Control Officer, his assistants, or any police officers may take into custody and impound:

- A. Any dog off the premises of the owner or keeper "running at large".
- B. Any dog at any time off or on the premises of the owner or keeper not licensed and rabies vaccinated as required by the RSA's of New Hampshire.
- C. Any female dog which is a public nuisance as defined in this Ordinance. (Amended 5/18/98)
- D. Any dog at any time on or off the premises of the owner or keeper if the owner or keeper fails to cooperate and/or assist the Animal Control Officer or police officer in the case of a dog bite or investigation of a dog bite.
- E. If, after preliminary investigation, the Animal Control Officer determines that a dog bit a human, then the Animal Control Officer or any police officer may issue a written order for the owner or keeper to deliver up said animal or to remove the animal from the premises to a veterinary kennel, impounding area, boarding facility or other agreed upon place of confinement or restraint. Such restraint or confinement shall continue until the Animal Control Officer, the Chief of Police or his representative releases the animal from custody. The decision to confine or restrain the animal may be changed, modified or overruled by the Judge of a District or Municipal Court. The owner shall be liable for the expense of confinement or boarding. (Amended 5/18/98)
- F. In cases where a written complaint of a vicious dog is made pursuant to Section 6.710(A), the Animal Control Officer may take the dog into custody and impound the dog pending the determination of the hearing and, where appropriate, a satisfactory inspection under Section 6.705(C). If the dog is

determined to be vicious, the expense of confinement or boarding shall be paid for by the owner or keeper. If it is determined not to be vicious, the expense shall be borne by the City. (Amended 5/18/98)

- G. In cases where the owner of a dog is convicted on two or more occasions of have a public nuisance dog, and where the cause of such public nuisance is running after or chasing bicycles, people, and/or motor vehicles, the Animal Control Officer may impound the dog pending a Court determination of the public nuisance violation. (Amended 5/18/98)
- H. If the owner fails to comply with training requirements of Section 6.714 or if the owner is charged with a second offense of Section 6.705(B), then custody is to be retained pending the resolution of the Court hearing. Expenses are to be borne by the owner. If the owner or keeper fails, refuses or neglects to deliver up said animal as ordered, or to comply with the order to restrain or confine said animal, he shall be subject to a fine of \$100 for each day that the owner or keeper has failed to surrender the dog. (Adopted 5/18/98)
- I. If a dog has been deemed vicious and is later found at large, pursuant to the definition of Section 6.701(B) the Animal Control Officer may impound the animal. If impounded, then the animal shall not be released until disposition of the case in Court. The cost of the impoundment shall be borne by the owner. (Adopted 5/18/98)
- J. In cases where a written complaint of a public nuisance dog is made to the Animal Control Officer, and the basis of the complaint is that the animal is demonstrating aggressive and threatening behavior, then the Animal Control Officer may take the dog into custody and impound the dog pending the determination of the hearing.
The expense of confinement or boarding shall be paid for by the owner or keeper only if the Court convicts on the charge, otherwise, the expenses shall be borne by the City. (Adopted 5/18/98)
- K. In any case under this section where custody of the dog is retained by the City and the dog is impounded, then the City, in addition to any other penalty imposed, reserves the rite to use all available remedies to acquire custody of the dog pending disposition of the case. (Adopted 5/18/98)

Section 6.707: PROCEDURES FOR CUSTODY AND IMPOUNDMENT

- A. If any dog seized as provided in this Ordinance wears a collar or harness to which is attached a registration tag or the owner of the dog is otherwise ascertainable, the Animal Control Officer shall serve on said owner forthwith a notice in writing stating that the dog has been seized and impounded and will be liable to be disposed of or destroyed if not claimed within four days from the time of impounding and/or service of such notice. Such notice may be served by mailing to, delivering in hand or leaving at the last known place of abode of said owner as determined by the registration tag or other available information. (Amended 9/21/87)
- B. When any dog seized in accordance with the Ordinance has been detained for four days, the notice given to the owner in the manner prescribed, and if the owner has not claimed such dog and paid all expenses including maintenance and has not produced a current dog license or exhibited evidence of a current dog license, then the Animal Control Officer may cause the dog to be destroyed in the least painful and most humane manner possible when the provisions of Section 6.707(C) and (D) are impractical. (Amended 5/18/98)

- C. However, the Animal Control Officer is authorized to keep or cause to be kept in the City Shelter any dog which in his opinion may be amenable to new ownership and see that such dog is placed in a new home. In order to expedite this alternative, the Dog Officer shall keep a list of such dogs by number, description and other references. A list of prospective owners and those desiring to place dogs of their own in new homes shall also be kept. The said lists may be made public by posting the same at City Hall.
(Amended 5/18/98)
- D. Those persons desiring to procure city-owned dogs in this manner may do so on application to the Animal Control Officer, and may pay an acquisition fee for title to the dog. Fees to be determined in accordance with Chapter 1, Article XVI or similar wording. Board and care afforded such dog may be considered by the City in the determination of the acquisition fee. (Amended 3/18/2002).
- E. A dog determined to be vicious pursuant to Section 6.710 shall not be released from impoundment until an approved enclosure shall have been provided. If the owner or keeper fails to claim the dog within ten (10) days, the Animal Control Officer may make arrangements to destroy the dog in the least painful and most humane manner possible. (Adopted 9/21/87)

Section 6.708: FAILURE TO CLAIM IMPOUNDED ANIMAL

- A. It shall be unlawful for any person who owns or keeps an animal, and has been notified as required by City Ordinance that said animal has been impounded to refuse or neglect to claim said animal from the holding facility, or authorize in writing to the holding facility the disposition of said animal within 96 hours from time and date of notice of impoundment except as provided for alleged vicious dogs in Part B of this Section or except with regard to public nuisance dogs as referenced in Section 6.706(G).
(Amended 5/18/98)
- B. It shall be unlawful for any person who has been notified as required by City Ordinance to attend a vicious dog determination hearing to fail to attend such hearing provided alternate disposition of the dog has not been authorized in writing by the owner/keeper in accordance with this Ordinance. Failure to appear at the hearing shall be presumed that the animal is abandoned. (Adopted 9/21/87)
- C. Such refusal or neglect to claim said animal, or to comply with Part B of this Section upon conviction, shall make the owner or keeper guilty of a violation, and the owner or keeper may be punished by a fine of \$100.00, plus expenses to the City of Portsmouth for disposition of said animal and all rights of ownership may be. (Amended 5/18/98)
- D. Upon a conviction of any offense under this ordinance, which alleges that a person has had one or more convictions under this ordinance within five (5) years preceding the date of the subsequent offense, the person shall be subject to the following penalties:
 - \$50 for a first offense.
 - \$75 for a second offense.
 - \$100 for a third and each subsequent offense.

Any fine to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under this ordinance.
(Subsection D adopted 12/15/97)

Section 6.709: METHOD OF IMPOUNDING

The Police Commission, with the assistance and cooperation of the Animal Control Officer may select a suitable place of confinement for impounded animals and those held under suspicion of rabies and after biting. It shall lie within the power of this Ordinance and to be implemented by annual budget allocation funds for this purpose and authority to negotiate the leasing of facilities for shelter purposes. A listing in the City of Portsmouth telephone directory may be made under the heading "City of Portsmouth Animal Officer", which phone may have a connection at the shelter and at the residence of the Animal Control Officer. (Amended 10/19/87)

Section 6.710: DETERMINATION OF VICIOUS DOG

- A. Upon a written complaint of a vicious dog, signed under oath by a private citizen, or in the event either the Animal Control Officer or a law enforcement officer has probable cause to believe that a dog is vicious, the Animal Control Officer may convene a public hearing for the purpose of determining whether or not a dog is vicious. (Amended 5/18/98)
- B. The hearing shall be held no less than five nor more than ten days after service upon the owner or keeper via certified mail or service in hand by a law enforcement officer. (Adopted 9/21/87)
- C. The hearing shall be held before a three-member panel including the Chief of Police, a veterinarian who shall be paid for his or her time, and a resident of Portsmouth appointed by the Mayor. When deemed necessary by the Chief of Police, the City Attorney or an Assistant City attorney shall attend the hearing. At the determination hearing, the owner or keeper may present evidence as well as the complainant and Animal Control Officer. The hearing shall be informal and open to the public. (Amended 5/18/98)
- D. Within five days of the hearing, the panel shall inform the owner or keeper of its determination. Thereafter, any dog determined to be vicious shall only be kept in accordance with the provisions of Section 6.705 of this Ordinance. (Adopted 9/21/87)
- E. If the owner or keeper of a dog that has been determined to be vicious wishes to appeal that determination he/she may do so within three days of the panel's decision. This appeal shall be made to the Judge of the District Court and his/her decision shall be final. (Adopted 9/21/87)

Section 6.711: INTERFERENCE WITH OFFICERS

Any person or persons who hinders, interferes with, molests, obstructs or uses abusive or profane language against the Animal Control Officer or his assistants when such persons are in the performance of any duty under the terms of this Ordinance shall be subject to a fine of not more than \$100.00.

Upon a conviction of any offense under this ordinance which alleges that a person haws had one or more convictions under this ordinance within five (5) years preceding the date of the subsequent offense, the person shall be subject to the following penalties:

\$50 for a first offense.; \$75 for a second offense.; \$100 for a third and each subsequent offense.

Any fine to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under this ordinance. (Amended 12/15/97)

Section 6.712: RESTRAINT OF DOGS

Dogs while confined to the premises of the owner shall be kept so confined in a humane and safe manner so that said dogs shall have the maximum freedom and shall in no way permit undue hardship or neglect to the animal and shall provide the animals with water and adequate shelter from the weather. Any infraction or report found to be true, when duly filed shall subject the owner to the maximum penalty of this Ordinance.

Section 6.713: ABANDONMENT OF ANIMALS

Any owner of a dog, cat, domestic animal or fowl who abandons such animal or who leaves it to die in a street, road, public place or upon the property of another or on any waterway, or who leaves such animal if it becomes disabled or dead and who has knowledge of such fact shall be guilty of a misdemeanor.

It shall be unlawful for any person who, while operating a motor vehicle on any public way in the City, strikes and injures or kills any dog, cat or domestic animal, to continue without stopping such vehicle at the scene as soon as possible, to render aid and assistance to such animal. If by reason of absence or removal from the place of accident, the owner is unable to receive such information required hereunder such information shall be given to any uniformed police officer arriving at the scene of the accident or immediately to a policeman at the nearest police station.

Upon a conviction of any offense under this ordinance, which alleges that a person has had one or more convictions under this ordinance within five (5) years preceding the date of the subsequent offense, the person shall be subject to the following penalties:

\$50 for a first offense.; \$75 for a second offense.; \$100 for a third and each subsequent offense.

Any fine to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under this ordinance.
(Amended 12/15/97)

Section 6.714: PENALTIES

Any owner found in violation of Section 6.706(A) and convicted shall be fined as follows: The imposition of fines for second offenses or subsequent offenses shall be determined based on the existence of prior convictions under the same ordinance during the preceding five (5) years.

First Offense	\$ 40.00
Second Offense	70.00
Third and Subsequent Offenses	100.00

Any owner found in violation of Section 6.704(A) and convicted, shall be fined as follows: The imposition of fines for second offenses or subsequent offenses shall be determined based on the existence of prior convictions under the same ordinance during the preceding five (5) years.

First Offense	\$ 40.00
Second Offense	70.00
Third and Subsequent Offenses	100.00

Any owner found in violation of the Section 6.705(B) and convicted shall be fined as following: The imposition of fines for second offenses or subsequent offenses shall be determined based on the existence of prior convictions under the same ordinance during the preceding five (5) years.

First Offense	\$250.00
Subsequent Offense	350.00

In addition to the above referenced fines for violations for Section 6.705(B), the following shall be imposed:

First Offense	Obedience Training for the owner and the dogs, such training to be comprehensive and approved by the Animal Control Officer shall be completed by a time certain. Failure to complete the training in a timely fashion shall result in an additional \$250 fine to be imposed, and the removal into custody and impoundment of the dog. The cost of the training will be borne by the owner. The cost of the impoundment (if necessary) shall be borne by the owner.
Second Offense	Shall result in the disposition of custody by the Court; this disposition shall include but not be limited to the possibility of destruction.

Any fine or fees to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under these ordinances. In addition to any fines or fees imposed pursuant to any section of this ordinance, the owner shall also be responsible for paying any outstanding impoundment fees as detailed in this ordinance.

Any owner or keeper found in violation of the other Section of this Dog Ordinance shall be punishable by a fine of not more than \$100.00.

(Section 6.714 Amended in its entirety 5/18/98)

Section 6.715: SEPARABILITY OF PROVISIONS

It is the intention of the City Council that each separate provision of this Ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provisions of this Ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

Section 6.716: CONFLICT WITH STATE STATUTES

It is the intention of the City Council to include in this Ordinance not only those State Statutes specifically referred to by title or number, but embrace also all those others made a part of the law and they are hereby included under this Section by reference.