

Chapter 5 ANIMALS AND FOWL*

*Cross reference(s)--Unleashed animals prohibited in cemeteries, § 7-135; feeding of animals so as to control rodents and vermin, § 22-15; storing of feed for animals so as to control rodents and vermin, § 22-16.

Art. I. In General, §§ 5-1--5-15

Art. II. Dogs, §§ 5-15.1--5-75

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Div. 2. Impoundment, §§ 5-31--5-70

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Art. III. Feeding of Wildlife Prohibited, §§ 5-110--5-111

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§§5-500--5-505

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ARTICLE I. IN GENERAL

Sec. 5-1. Reserved.

Sec. 5-2. Reserved.

Sec. 5-3. Reserved.

Sec. 5-4. Reserved.

Sec. 5-5. Reserved.

Sec. 5-6. Reserved.

Sec. 5-7. Reserved.

Sec. 5-8. Reserved.

Sec. 5-9. Reserved.

Sec. 5-10. Reserved.

Sec. 5-11. Reserved.

Sec. 5-12. Reserved.

Sec. 5-13. Reserved.

Sec. 5-14. Reserved.

Sec. 5-15. Reserved.

ARTICLE II. DOGS*

*State law reference(s)--Dogs, 7 M.R.S.A. § 3401 et seq.

DIVISION 1. GENERALLY

Sec. 5-15.1. Definitions.

The following words when used in this article shall have the meaning given herein:

At large shall mean and include any of the following:

- (a) On the public street or publicly owned property unless controlled by a leash of not more than eight (8) feet in length, except as provided below;
- (b) In a motor vehicle parked and not restrained from projecting its head from the vehicle;
- (c) Within the following city-owned parks unless on a leash or other tether of not more than twenty-five (25) feet in length: Bayside Park; Baxter Pines; Deering Oaks; Dougherty Field; Eastern Promenade, except as provided in subsection (e)(5) below; Longfellow Park; Payson Park; Quaker Park; Stroudwater Park; Western Promenade; unless such park is posted with signs stating that "Maximum Eight-Foot Canine Leash is Required" by the parks authority to accommodate mass gatherings or public events;
- (d) Except as provided in subsection (e)(5) below for the wooded portion of Evergreen Cemetery, and subsection (h) below for the Western Cemetery, within all city-owned cemeteries unless on a leash or other tether of not more than twenty-five (25) feet in length; provided, however, dogs shall be allowed on the roadways and walkways of the cemeteries only and not on the cemetery lots;
- (e) Within the following city-owned property unless (1) on a leash or other tether of not more than twenty-five (25) feet in length; or (2) the owner is physically present within fifty (50) feet of the dog and at all times has a leash and has the dog under voice control. Voice control shall mean that the dog returns

immediately to and remains by the side of the owner in response to the owner's verbal command. At no time shall one owner have more than three (3) dogs under voice control:

1. Baxter Woods, pursuant to the following schedule and additional requirements regarding leash length:
 - From August 1 to March 31: Dogs are permitted under voice control at the following times: From 5 a.m. to 9 a.m. and from 3 p.m. to 10 p.m. From 9 a.m. to 3 p.m. all dogs must be on an eight (8) foot leash.
 - From April 1 to July 31, all dogs must be on an eight (8) foot leash at all times.
 - Additionally, dogs must be on an 8-foot leash at all times on the Northern Carriage Path and in all areas of Baxter Woods north of the Northern Carriage Path;
2. Capisic Pond Park;
3. The portion of Evergreen Cemetery to the north and west of Northern Avenue, in the wooded area only;
4. East End Beach, from the day after Labor Day through the day before Memorial Day;
5. Eastern Promenade park within (1) the area bounded by the following: Cutter Street to the lower sidewalk to the exit side of the Fort Allen roadway and back to Cutter Street; and (2) the mid-slope nature path. Said areas of Eastern Promenade park to be open to dogs under voice control from Memorial Day through Labor Day from 5:00 a.m. to 9:00 a.m. and 5:00 p.m. to 10:00 p.m. of each day, and from Labor Day through Memorial Day from 5:00 a.m. to 10:00 p.m. of each day;
6. Hall School Woods;
7. At North Street/Washington Avenue across from East End Community School;

8. Letson Purchase;
 9. Ocean Avenue Dog Park;
 10. Woods located behind Portland Arts and Technical High School;
 11. Pine Grove Park;
 12. Riverton Park;
 13. University Park;
 14. Valley Street Park;
 15. Presumpscot River Preserve;
 16. Canco Woods; and
 17. Any city owned island park areas and open space; unless such property is posted by the parks authority with signs stating that "Maximum Eight-Foot Canine Leash is Required" to accommodate mass gatherings or public events; and
- (f) On the East End Beach beginning on Memorial Day through Labor Day of each year between the hours of 9:00 a.m. and 5:00 p.m., whether leashed or not;
- (g) Within any playfields, school yards and playgrounds whether leashed or not;
- (h) Within the Western or Eastern Cemeteries whether leashed or not;
- (i) All areas referred to in subsections (c), (d), (e), (f) and (g) above are more particularly defined on maps on file in the office of the Department of Public Works.

Dangerous dog shall mean:

- (a) any dog, that, without provocation, or, upon being incited by its owner or any other person in control of the dog, assaults an individual or domesticated animal, or public or private property; or

- (b) any dog that, by attacking or threatening to attack an individual or an individual's domesticated animal, causes a reasonably prudent person, acting in a reasonable and non-aggressive manner, to fear bodily harm.

Owner shall mean and include any person owning, keeping, possessing, or harboring a dog.

Public street shall mean and include any street, whether accepted or unaccepted, and include sidewalks, turnarounds, and other portions thereof.

Publicly owned property shall mean and include all property owned by the city, including without limitation any park or cemetery of the city, and all property owned by any other public or governmental entity unless such entity has established different regulations.

(Ord. No. 31-83, § 1, 11-7-83; Ord. No. 356-83, 12-19-83; Ord. No. 176-96, § 1, 3-4-96; Ord. No. 224-97, § 1, 3-17-97; Ord. No. 60-98, 8-3-98; Ord. No. 75-99, 10-4-99; Ord. No. 143-01, 1-3-01; Substitute Ord. No. 185, 2-21-01; Ord. 108-15/16, 11-16-2015; Ord. No. 45-20/21, 10-5-2020)

Editor's Note: Original should read under (b) dangerous dog "on public or private property"

Sec. 5-16. License required.

No dog shall be kept within the limits of the city unless such dog shall have been licensed and such license displayed by its owner in accordance with the statutes of the state. The provisions of this section shall not apply to any dog belonging to an out-of-state resident visiting within the city without the intention of becoming a resident, but the owner of such a dog shall comply with the remaining provisions of this article.

(Code 1968, § 421.1; Ord. No. 31-83, § 2, 11-7-83)

State law reference(s)--Licenses for dogs, 7 M.R.S.A. § 3451 et seq.

Sec. 5-17. Running at large prohibited.

(a) No dog shall be permitted to be at large within the city. Anyone whose dog, while at large and without provocation, assaults any person, animal or property shall be subject to a penalty of double the otherwise applicable penalty unless the dog owner is cited under Sec. 5-21 in which case that section shall control the applicable fine.

(b) The minimum penalty for violations of this section shall be as follows:

1st violation: \$75.00
2nd violation: \$100.00
3rd violation: \$150.00
4th or more violations: \$500.00

These penalties shall be calculated and assessed on an owner regardless of whether the dog running-at-large is the same dog in each violation.

(Code 1968, § 421.2; Ord. No. 31-83, § 3, 11-7-83; Ord. No. 68-87, § 1, 8-17-87; Ord. No. 176-96, § 2, 3-4-96; Ord. No. 75-99, 10-04-99; Ord. No. 143-01, 01-03-01)

Cross reference(s)--Streets, sidewalks and other public places, Ch. 25.

Sec. 5-18. Disturbing the peace.

No person shall own, possess, or harbor any dog which by loud, frequent, or habitual barking, howling, or yelping, disturbs the peace of any person. Any person who shall violate the provisions of this section shall, upon the first occasion thereof, be given a warning and shall, upon conviction of any subsequent violations within a period of six (6) months from such warning, be subject to a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00).

(Code 1968, § 421.9; Ord. No. 279-77, § 1, 7-6-77; Ord. No. 31-83, § 4, 11-7-83)

Cross reference(s)--Offenses against the public peace, § 17-16 et seq.

Sec. 5-19. Interference with animal control officer prohibited.

No person shall interfere with, hinder or molest any animal control officer or other person authorized to enforce such laws in the performance of any duty of such officers, or seek to release any dog in the custody of an animal control officer, except as provided in this article.

(Code 1968, § 421.6; Ord. No. 176-96, § 3, 3-4-96)

Sec. 5-20. Records to be kept.

It shall be the duty of an animal control officer to keep, or cause to be kept, an accurate and detailed record of the licensing, impoundment and disposition of all dogs coming into his or her custody and of the name of the owner.

(Code 1968, § 421.7; Ord. No. 176-96, § 4, 3-4-96; Ord. No 143-01, 1-3-01)

Sec. 5-21. Dangerous Dog.

(a) It shall be a violation of this Ordinance to own, keep, possess or harbor a dangerous dog;

(b) The minimum financial penalty for a violation of this section is five hundred dollars (\$500.00) for the first offense, seven hundred and fifty dollars (\$750.00) for the second offense, and one thousand dollars (\$1,000.00) for the third offense. This penalty shall not be waived nor shall any portion of it be suspended by the court. These penalties shall be calculated and assessed on an owner regardless of whether the dangerous dog is the same dog in each violation.

(c) In addition to the financial penalty imposed by subsection (b), after hearing a court of competent jurisdiction shall order:

1. that the dangerous dog be muzzled, restrained, confined to the premises of its owner in a secure enclosure or any other reasonable measure to be imposed to protect the safety, health and welfare of the City's inhabitants; or
2. that the dog be euthanized if it has injured a person or domesticated animal or if it has a history of a prior assault. The cost of seizure and euthanasia of the dog shall be assessed to the owner of the dangerous dog.

(d) Owner to pay restitution. Where the victim of a dangerous 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.

(e) Dogs presenting immediate threat to public. After issuing a summons and before hearing, if the dog poses an immediate or continuing threat to the public, a sheriff, local law enforcement officer or animal control officer shall order the owner or keeper of the dog to muzzle, restrain or confine the dog to the owner's premises or to have the dog confined at the owner's expense at a place determined by the sheriff, local law enforcement officer or animal control officer. If the owner or keeper fails to comply, the sheriff, local law enforcement officer or animal control officer may apply to District Court, Superior Court or a justice of the peace for an ex parte order

for authorization to take possession of the dog that poses an immediate or continuing threat to the public and turn the dog over to the applicant or other suitable person.

(f) Ex parte. An order may be entered ex parte upon findings by the court or justice of the peace when:

- (1) The dog has inflicted a serious bodily injury as defined in title 17-A, section 2, subsection 23; or
- (2) There is a reasonable likelihood that the dog is dangerous or vicious and:
 - a. Its owner has failed to muzzle, restrain or confine the dog; and
 - b. That failure poses an immediate threat of harm to the public.

(g) Modify order. An order may be modified by the court.

- (1) Upon two (2) days' notice or a shorter period the court may prescribe, the owner whose animal has been possessed pursuant to an ex parte order may appear in the District Court or Superior Court and move the dissolution or modification of the ex parte order.
- (2) The Court shall hear and determine the motion as expeditiously as possible.
- (3) The owner shall submit an affidavit setting forth specific facts to substantiate the modification or dissolution of the order. The applicant has the burden of presenting evidence to substantiate the original findings.

(h) Recovery of Costs/Liens. The owner of the dog shall be assessed any costs incurred by the City under this section. The City or any person taking possession of a dog as provided in this section has a lien on that dog in accordance with Title 17, section 1021, subsection 6. In addition, costs assessed by the City shall be enforceable by lien for the benefit of the City pursuant to Section 1-16 of this code in addition to any penalties provided in this section.

(i) Treble damages. If a dog whose owner or keeper refuses

or neglects to comply with the order, wounds any person by a sudden assault or wounds or kills any domestic animal, the owner or keeper shall pay the person injured treble damages and costs to be recovered by a civil action.

(Ord. No. 75-99, 10-04-99; Ord. No. 143-01, 1-3-01)

Sec. 5-22. Enforcement

The provisions of this division may be enforced by any designated representative of the Chief of Police or by the canine control officer.

(Ord. No. 75-99, 10-04-99)

Sec. 5-23. Reserved.

Sec. 5-24. Reserved.

Sec. 5-25. Reserved.

Sec. 5-26. Reserved.

Sec. 5-27. Reserved.

Sec. 5-28. Reserved.

Sec. 5-29. Reserved.

Sec. 5-30. Reserved.

DIVISION 2. IMPOUNDMENT

Sec. 5-31. Causes; confinement period.

Unlicensed dogs, whether or not at large, and dogs found running at large, whether or not licensed, shall be taken and impounded by an animal control officer in a shelter designated by the city as the city animal shelter and there confined for a period of not more than six days.

(Code 1968, § 421.3; Ord. No. 328-75, § 1, 5-19-75; Ord. No. 255-90, 2-21-90; Ord. No. 176-96, § 5, 3-4-96; Substitute Ord. No. 44-00, 7-31-00)

Sec. 5-32. Notice to owner if possible.

Where the ownership of any dog impounded under section 5-31 is known or can be reasonably ascertained by an animal control officer, such officer shall, if possible, notify the owner within three (3) days of such impoundment, but failure to give such notice shall in no way impose any liability upon the city for the destruction or transfer to another of any dog so impounded and not reclaimed within a period of six (6) days.

(Code 1968, § 421.4; Ord. No. 328-75, § 1, 5-19-75; Ord. No. 255-90, 2-21-90; Ord. No. 176-96, § 6, 3-4-96; Substitute Ord. No. 44-00, 7-31-00)

Sec. 5-33. Redemption by owner.

Any owner may regain possession of an impounded dog upon presentation of a valid certificate of vaccination against rabies, a license for the current year and the receipt evidencing payment of the municipal impoundment and accrued shelter boarding fees.

(Code 1968, § 421.4; Ord. No. 255-90, 2-21-90; Substitute Ord. No. 44-00, 7-31-00)

Sec. 5-34. Disposition of unclaimed dogs.

Any dog impounded under the provisions of this division and not reclaimed by the owner within the six (6) days shall be considered to be abandoned by the owner and the property of the city and may, after consultation with the designated shelter, be humanely destroyed or given to the designated shelter or any person deemed to be responsible and a suitable owner who will agree to comply with the provisions of this article.

(Code 1968, § 421.4; Ord. No. 255-90, 2-21-90; Substitute Ord. No. 44-00, 7-31-00)

Sec. 5-35. Fees.

(a) Any dog impounded under this division may be reclaimed upon payment of the municipal impoundment charge and the accrued boarding charges at the rate established pursuant to Title 7, M.R.S.A., Part 9. In addition, any unlicensed dog shall be given a temporary license by the shelter upon proof of rabies vaccination, and notice of such temporary license shall be provided to the city clerk by the shelter.

(b) The municipal impoundment charge is hereby established as fifty-five dollars (\$55.00) per dog for the first impoundment, seventy-five dollars (\$75.00) per dog for the second impoundment, and ninety dollars (\$90.00) per dog for each impoundment thereafter. The designated shelter or the city shall collect such charge prior to release of the dog to any person. If the shelter collects the fee, the shelter shall forward it to the city or credit the City's account in a manner and on a schedule approved by the City's Finance Director. If the designated shelter waives all or a portion of its own fees and charges, the shelter may waive the municipal impoundment fee to the same extent but not to a greater extent.

(Code 1968, §§ 421.5, 421.8; Ord. No. 160-75, 2-19-75; Ord. No. 329-75, § 1, 5-19-75; Ord. No. 258-76, §§ 1, 2, 5-17-76; Ord. No. 122-79, § 1, 2-22-79; Ord. No. 550-86, 5-12-86; Ord. No. 255-90, 2-21-90; Substitute Ord. No. 44-

00, 7-31-00; Ord. No. 268-08/09, 5-18-09; Ord. 256-21/22, 7-1-2022)

Sec. 5-36. Reserved.
Sec. 5-37. Reserved.
Sec. 5-38. Reserved.
Sec. 5-39. Reserved.
Sec. 5-40. Reserved.
Sec. 5-41. Reserved.
Sec. 5-42. Reserved.
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Sec. 5-68. Reserved.
Sec. 5-69. Reserved.
Sec. 5-70. Reserved.

DIVISION 3. CANINE WASTE

Sec. 5-71. Duty to dispose.

It shall be a violation of this division for any person who owns, possesses or controls a dog to fail to remove and dispose

of any feces left by his/her dog on any sidewalk, street or publicly owned property.
(Ord. No. 468-83, 6-8-83)

Sec. 5-72. Reserved.

Editor's note--Ord. No. 236-83, adopted Oct. 17, 1983, repealed § 5-72. Said former section, relative to duty of dog owners to possess means of removing canine waste, derived from Ord. No. 468-83, adopted June 8, 1983.

Sec. 5-73. Enforcement.

The provisions of this division may be enforced by any designated representative of the director of parks and recreation or, the chief of police, or by the canine control officer.
(Ord. No. 468-83, 6-8-83; Ord No. 75-99, 10-04-99)

Sec. 5-74. Penalties for violation.

Violation of this division shall be punished by a minimum penalty of two hundred and fifty dollars (\$250.00) for each violation. The minimum penalty for a third offense under this section shall be five hundred dollars (\$500.00). Where financial hardship is demonstrated, a violator of this division may perform community service in lieu of the financial penalty, if such a program is available through the city. Such community service shall consist of removing canine waste within the city at a rate of 25 hours per offense and 50 hours for the third (or more) offense.
(Ord. No. 468-83, 6-8-83; Ord. No. 176-96, § 7, 3-4-96; Ord. No. 75-99, 10-04-99)

Sec. 5-75. Exemption.

This regulation shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this division.
(Ord. No. 468-83, 6-8-83)

Sec. 5-76. Reserved.

Sec. 5-77. Reserved.

Sec. 5-78. Reserved.

Sec. 5-79. Reserved.

Sec. 5-80. Reserved.
Sec. 5-81. Reserved.
Sec. 5-82. Reserved.
Sec. 5-83. Reserved.
Sec. 5-84. Reserved.
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Sec. 5-105. Reserved.
Sec. 5-106. Reserved.
Sec. 5-107. Reserved.
Sec. 5-108. Reserved.
Sec. 5-109. Reserved.

ARTICLE III. FEEDING OF WILDLIFE PROHIBITED

Sec. 5-110. Prohibition against feeding wildlife on specified public property.

(a) Within the Portland Downtown District, as established and defined by order of the City Council, Order #306, (3/16/1992), amended by Council Order #185 (2/22/95), no person shall intentionally dispense any type of food, substance or seeds to feed any species of wildlife upon the public ways or upon property owned or controlled by the city.

(b) "Wildlife" as used in this Article means any undomesticated or untamed bird or animal without a known or identifiable owner and includes, but is not limited to, wildlife such as pigeons and squirrels. The definition does not include dogs or deer.

(c) This section shall not apply within the boundaries of Lincoln Park.
(Ord. No. 12-02/03, 8-5-02)

Sec. 5-111. Warning required before prosecution.

Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer shall issue one verbal or written warning to an individual and if the individual ceases the activity, then no citation shall issue. Once an individual has been given one warning, the requirement in this subparagraph has been met and no subsequent warnings are required.
(Ord. No. 12-02/03, 8-5-02)

ARTICLE IV. KEEPING OF DOMESTICATED CHICKENS

Sec. 5-400. 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 non-commercial 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.

(Ord. No. 152-08/09, 2-18-09)

Sec. 5-401. Reserved.

(Ord. No. 152-08/09, 2-18-09; Ord. 244-14/15, 6-24-2015; Ord. 18-17/18, 8-21-2017, Chicken permit repealed.)

Sec. 5-402. Number and type of chickens allowed.

(a) The maximum number of chickens allowed is six (6) per lot regardless of how many dwelling units are on the lot.

(b) Only female chickens are allowed. There is no restriction on chicken species.

(Ord. No. 152-08/09, 2-18-09)

Sec. 5-403. Non-commercial 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. 152-08/09, 2-18-09)

Sec. 5-404. Enclosures.

- (a) Chickens must be kept in an enclosure or fenced area (chicken pen) at all times during daylight hours. 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 neighboring lots due to noise, odor or other adverse impact. The chicken pen must provide adequate sun and shade and must be impermeable to rodents, wild birds, and predators, including dogs and cats. It shall be constructed with sturdy wire fencing buried at least 12" in the ground. The pen must be covered with wire,

aviary netting, or solid roofing. The use of chicken wire is not permitted.

- (b) Chickens shall be secured within a henhouse during non-daylight hours.
 - (1) Any henhouse shall be at least ten (10') feet from any residential structure or any other structure on any adjacent lots. The henhouse shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird-proof wire of less than one (1) inch openings. The use of scrap, waste board, sheet metal, or similar materials is prohibited. The henhouse must be well-maintained.
 - (2) Henhouses shall only be located in rear yards, and shall meet zoning setbacks applicable to detached accessory structures. For a corner lot or other property where no rear yard exists, a side yard may be used as long as the setbacks for structures generally applicable in the zoning district are met. In no case may a henhouse be placed in the front yard. Henhouses are not allowed to be located in any part of a home.

(Ord. No. 152-08/09, 2-18-09; Ord. No. 42-11/12, 10/3/11)

Sec. 5-405. Odor and noise impacts.

(a) Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.

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

(Ord. No. 152-08/09, 2-18-09)

Sec. 406. Lighting.

Only motion-activated lighting may be used to light the exterior of the henhouse.

(Ord. No. 152-08/09, 2-18-09)

Sec. 407. 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 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. 152-08/09, 2-18-09)

Sec. 408. Feed and water.

Chickens must be provided with access to feed and clean water at all times; such feed and water shall be unavailable to rodents, wild birds and predators.
(Ord. No. 152-08/09, 2-18-09)

Sec. 409. Waste storage and removal.

Provision must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed container. No more than one, twenty gallon container of manure shall be stored on any one property housing chickens. All other manure shall be removed. In addition, the henhouse, chicken pen and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.
(Ord. No. 152-08/09, 2-18-09)

Sec. 410. Fees for reinspections.

Following the city's issuance of a notice of violation of the requirements hereunder and an order to correct violations, the city will reinspect at the expense of seventy five dollars (\$75.00) to the property owner and/or chicken owner to determine whether the violations have been fixed in compliance with this article. Failure to correct the violation shall result in a penalty imposed pursuant to sec. 4-411 below in addition to the reinspection fee. If the violations have not been fixed in compliance with this chapter, the violator shall be assessed a reinspection fee of one hundred and fifty dollars (\$150.00) for each subsequent reinspection. Failure to pay the assessment for reinspection shall create a lien on the property of the violator and the assessment and lien shall be collected and enforced pursuant to section 1-16.
(Ord. No. 152-08/09, 2-18-09)

Sec. 411. Penalty.

In addition to any other enforcement action which the city may take, violation of any provision of this article shall be a civil violation and a fine of one-hundred dollars (\$100.00) may be imposed. Each day that a violation continues will be treated as a separate offense. This penalty is in addition to any expense for reinspection of the property.
(Ord. No. 152-08/09, 2-18-09)

Sec. 412. Revocation of permit.

A permit to keep chickens may be revoked where there is a risk to public health or safety or for any violation of or failure to comply with any of the provisions of any other applicable ordinance or law.
(Ord. No. 152-08/09, 2-18-09)

Sec. 413. Removal of chickens.

In addition to the penalty stated in §4-411, any violation of the provisions of this article shall be grounds for an order from the city to remove the chickens and the chicken-related structures.

The health inspector, health officer, or animal control officer may order the removal of the chickens upon a determination that the chickens pose a health risk.

If a chicken dies, it must be disposed of promptly in a sanitary manner.
(Ord. No. 152-08/09, 2-18-09)

Sec. 414. 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. 152-08/09, 2-18-09)

Sec. 5-415. to 5-499 Reserved.

ARTICLE V. RESTRICTIONS ON THE SALE OF DOGS AND CATS

Sec. 5-500. Definitions.

The following words when used in this article shall have the following meanings:

Animal care facility shall mean an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission or practice is, in whole or significant part, protecting the welfare of animals and placing animals in permanent homes or with animal rescue organizations.

Animal rescue organization shall mean any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue of animals and the placement of those animals in permanent homes, and which does not obtain dogs or cats from a breeder or broker for payment or compensation.

Breeder shall mean a person who maintains dogs or cats for the purpose of breeding and selling their offspring.

Broker shall mean a person who transfers dogs or cats at wholesale for resale by another.

Cat shall mean a member of the *Felis catus* family.

Dog shall mean a member of the *Canis familiaris* family, or resultant hybrid.

Offer for sale shall mean to sell, offer for sale or adoption, barter, auction, give away or otherwise dispose of a dog or cat.

Pet shop shall mean any place, business, establishment or vehicle required to be licensed under 7 M.R.S. § 3933. Such definition shall not include an animal care facility or animal rescue organization, as defined.
(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-501. Prohibition on Pet Shop Sales.

(a) A pet shop shall offer for sale only those dogs and cats that:

(i) Are older than eight (8) weeks; and

(ii) Have been obtained from or are displayed in cooperation with:

(1) An animal care facility; or

(2) An animal rescue organization; and

(b) A pet shop shall not offer for sale a dog or cat that is younger than eight (8) weeks old;

(c) Each pet shop shall maintain records sufficient to document the source of each dog or cat the pet shop acquires, for at least one (1) year following the date of acquisition. Such records shall be made available, immediately upon request, to any designated representative of the City including, but not limited to, the Chief of Police or his or her designee, any animal control officer, any designated representative of the Animal Welfare Program or any state humane agent as defined in 17 M.R.S. §1011.

(d) Each pet shop offering dogs or cats for sale shall post, in a conspicuous location on the cage or enclosure of each animal, a sign listing the name of the animal care facility or animal rescue organization from which each dog or cat in the cage or enclosure was acquired.

(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-502. Prohibition on Sales in Public Places.

(a) It shall be unlawful for any person to sell, exchange, trade, barter, lease or display any dog or cat on any roadside, public right-of-way, parkway, median, park, other recreation area, flea market or other outdoor market, or commercial or retail parking lot regardless of whether such access is authorized.

(b) This section shall not apply to the following:

(i) The display or adoption of dogs or cats by an animal care facility or an animal rescue organization; or

(ii) The display of dogs or cats as part of a state or county fair exhibition, 4-H program, or other similar exhibitions or educational programs.

(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-503. Enforcement.

The provisions of this Article may be enforced by the City Manager or his or her designee.

(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-504. Penalties for Violation.

(a) A violation of this Article shall be punished by a minimum penalty of two hundred and fifty dollars (\$250.00) Each instance of a dog or cat offered for sale and displayed or obtained in violation of this Article is considered a separate violation under this provision.

(b) This Article may also be enforced pursuant to Portland City Code Chapter 1, §§1-1 to 1-15.

(Ord. No. 40-16/17, 9-7-2016)

Sec. 5-505. Severability.

In the event that any section, subsection or portion of this article, or the application of such section, subsection or portion of this article to any person or circumstance, 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, or the applicability of such section, subsection or portion of this article to other persons or circumstances.

(Ord. No. 40-16/17, 9-7-2016)

ARTICLE VI. Prohibition on Display of Wild and Exotic Animals.

Sec. 5-506. Definitions.

The following words and phrases have the following meanings:

Director means the City Manager or his or her designee, which is the party responsible for enforcement of this Article.

Display means any exhibition, fair, act, circus, ride, or similar undertaking in which wild and/or exotic animals are required to perform tricks, give rides, or participate as accompaniments for the entertainment, amusement, or benefit of a live audience, whether or not a fee is charged.

Mobile or traveling housing facility means a transporting vehicle such as a truck, trailer or railway car, used to transport or house wild and/or exotic animals while traveling for exhibition or other performance of those wild and exotic animals.

Traveling animal act means any display of wild and/or exotic animals where such animals are transported to, from, or between locations for the purpose of such display, in a mobile or traveling housing facility.

Wild and/or exotic animal means any live animal from any of the following scientific classifications:

- a) Artiodactyla (including hippopotamuses, giraffes, camels, and llamas, but excepting cattle, swine, sheep, and goats);
- b) Crocodilia (including alligators and crocodiles);
- c) Elephantidae (elephants);
- d) Felidae (including tigers, lions, jaguars, leopards, cheetahs, and cougars, or any hybrid thereof, but excluding domestic cats);
- e) Marsupialia (including kangaroos);
- f) Non-human primates (including apes, monkeys, and lemurs);
- g) Perissodactyla (including rhinoceroses, tapirs, and zebras);
- h) Pinnipedia (including seals, sea lions, and walruses);
- i) Ursidae (bears);or
- j) Elasmobranchii (including nurse sharks and lemon sharks).

This definition does not include or apply to horses.
(Ord. No. 30-17/18, 9-18-2017)

Sec. 5-507. Prohibited Acts.

(a) It shall be a violation of this Article for any person, business, entity, corporation, limited liability company or other similar organization to allow for the participation of a wild and/or exotic animal in a traveling animal act in the City of Portland;

(b) The penalty for violations of this Article shall be \$500.00 per offense. Each and every wild and/or exotic animal exhibited and each day exhibition occurs shall constitute a separate offense; and

(c) This Article may also be enforced pursuant to Chapter 1, section 1-15 of the Portland City Code.
(Ord. No. 30-17/18, 9-18-2017)

Sec. 5-508. Administration and Enforcement.

The Director shall be responsible for the administration and enforcement of the provisions of this Article.
(Ord. No. 30-17/18, 9-18-2017)

Sec. 5-509. Effective Date.

This Article shall be effective on October 18, 2017.
(Ord. No. 30-17/18, 9-18-2017)