

**WATERFOWL CONTROL ORDINANCE
OF THE TOWN OF NEWPORT**

Title:

This ordinance shall be known and may be cited as the "Waterfowl Control Ordinance" of the Town of Newport.

Section 1. Statement of Fact:

The large number of fowl attracted by feeding and baiting in and around public and private swimming areas, parks and boat launching areas of Sebasticook Lake increases the presence of harmful bacteria which present a threat to public health. Fecal matter from waterfowl contributes to the phosphate loading of Lake Sebasticook thereby resulting in lessened water quality.

Section 2. Purpose:

The purpose of this ordinance is to control the feeding and baiting of migratory and non-migratory waterfowl (hereinafter referred to as "fowl") and those fowl classified as gulls in order to protect the public health and the water quality of Sebasticook Lake by reducing the amount of fecal matter from these fowl deposited in the water on the adjacent public and private shoreline and waterfront property caused in part by the feeding and baiting of these fowl by the public.

Section 3. Prohibited:

No person, except the Commissioner of the Maine Department of Inland Fisheries and Wildlife or his/her designee or The Director of the U.S. Fish and Wildlife Service or his/her designee in the conduct of waterfowl management practices, shall feed or bait, any migratory or non-migratory waterfowl or fowl in or over the water within the Shoreland Protection area in the Town of Newport as identified in Shoreland Zoning Ordinance of the Town of Newport. This ordinance is not intended to prohibit the raising of domestic waterfowl as allowed by any other ordinance(s). Except that domestic waterfowl must be securely contained or penned in an enclosure in an area so as to prevent fecal matter from the waterfowl entering Lake Sebasticook.

Section 4. Definitions:

The following definitions shall apply unless the context clearly indicates another meaning:

- A. Waterfowl and Fowl shall mean any waterfowl of the family Anatidae (ducks and geese) and/or the family Laridae (gulls) either migratory, non-migratory or resident fowl.

- B. Feeding and Baiting shall mean the placing, exposing, depositing, distributing or scattering, directly or indirectly, of shelled corn, shucked or unshucked corn, wheat or other grains, bread, salt or any other feed or nutritive substances, in any manner or form, so as to lure, attract, or entice fowl to, on or over any such areas where such feed items and or materials have been placed, exposed, deposited, distributed or scattered.

Section 5. Enforcement:

This ordinance may be enforced by any Animal Control Officer, Code Enforcement Officer, Health Officer or his/her designee or Police Officer of the Town of Newport. \

Section 6. Penalty:

Whoever violates any provision of this ordinance shall be fined not less than \$25.00 to be recovered, on complaint, to the use of the Town of Newport. If the Town is the prevailing party in any action brought to enforce this ordinance, the Town must be awarded reasonable attorney's fees, expert witness fees, and costs. Civil process may be waived upon complaint by payment to The Town of Newport of the \$25.00 fine within 7 days of date of complaint.

Section 7. Severability:

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Signed November 27th 1996 by the Selectman

"Attest, a true copy of an ordinance entitled Waterfowl Control Ordinance of the Town of Newport, as certified by the municipal officers of the Town of Newport, Maine, and adopted by the Town meeting on the 4th day of December 1996".

Date: 08/30/2012

Signature: Paula A. Scott, cmc
Municipal Clerk

**ORDINANCE RELATING TO ANIMALS
AND FOWL IN THE TOWN OF NEWPORT**

A. General

1. Definitions

As used in and for the purposes of this ordinance the following words and phrases shall have the meaning assigned to them herein.

"Owner" shall mean any person who keeps, has temporary or permanent custody, posses, harbors, exercises control over, or has a property right in the animal, livestock, or fowl provided that veterinary hospital, commercial kennels, and pet shops and their employees shall not be considered to be owners to the extent hereinafter provided.

"Public Nuisance Animal" shall mean any animal which unreasonably (1) annoys humans (2) endangers the life and health of other animals or persons (3) gives offense to human senses or which substantially interferes with the rights of the citizens other than its owner to enjoyment of life and property. The term public nuisance animal shall mean and include, but not limited to any animal which:

1. Is repeatedly found at large or;
2. Damages the property of anyone not its owner or;
3. Molests pedestrians or;
4. Chases vehicles or;
5. Excessively makes disturbing noises including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors and others in close proximity to the premises where the animal is kept or harbored or;
6. Causes unsanitary conditions in enclosures or surroundings where animal is kept, or;
7. Attacks other domestic animals

"Public Nuisance Conditions" shall mean an unsanitary, dangerous, or offensive condition occurring in any facility including, but not limited to, any commercial kennel, cattery, hog pen, riding stable, farm, pet shop, or petting zoo, causing by the size, number or type of animals maintained, kept or harbored on any premises due to the inadequacy of the facility or establishment which maintains, keeps or harbors any animal under conditions which constitute cruelty to such animals, or where the animal maintained, kept or harbored is a public nuisance animal.

B. ANIMAL CONTROL PROGRAM

1. Authorization

a. The Town Manager is authorized to establish animal control program, designate a person to perform the duties of administrator of animal control and appoint one or more persons to be animal control warden(s). The program shall include the enforcement of the

provisions of this ordinance and the operation of any town animal control facility. This program shall operate in conduction with and support animal control programs from other jurisdictions.

2. Powers of Animal Control Wardens

Animal Control Wardens are authorized and empowered to enforce the provisions of the ordinance as follows:

- (1) By impounding animals found to be at large, injured or diseased;
- (2) By issuing citations to persons in violation of this ordinance declared to be an infraction;
- (3) By notifying the Newport Police Department and for working in conduction with for any violation of any provisions of this ordinance
- (4) By enforcing cruelty prevention's provisions of this ordinance by rescuing and mpounding mistreated animals;
- (5) By administrating emergency veterinary assistance or first aid to injured animal which come into the custody of the Town without the consent of the owner of such animals. For this purpose, neither the individual animal control warden administrating such emergency assistance, or first aid, or the Town or any of its employees or agents shall be liable for acts committed or omitted in the course of rendering such emergency assistance or first aid.

3. Powers of Police Officers

Police Officers shall be empowered and authorized to perform all the duties of animal control warden(s) as set forth in this ordinance as well as all State Law provisions regarding Animal Welfare.

4. Records

Accurate and detailed records of all licenses issued, impoundment's, care, feeding and veterinary treatment rendered, disposition of animals and animal control undertaken shall be kept and maintained in accordance to Maine Revised Statutes Annotated, Title 7 Part 9.

C. Animal Control Regulations

1. Manner of keeping animals prohibition of nuisances

- (1) No person shall keep or maintain any animal in the Town in such a manner as to disturb the peace, comfort and health of any person residing in the Town or permit the animal to be a public nuisance or to cause or permit the animal to become a public nuisance.
- (2) No owner of any animal or owner of any animal holding facility shall fail to abate a nuisance caused by an animal owned by the person or under the person's control, nor shall any person fail to abate a public nuisance condition found to exist upon the premises owned or controlled by the person after having been notified by an animal control warden or other law enforcement officer.

2. Excessive Noise Prohibited

(1) No person who owns, keeps, or has in his possession any animal of any kind whatsoever shall permit such animal to disturb the quiet of any person or neighborhood permitting an animal to disturb the quiet of any person or neighborhood or failure to keep any animal from chasing, frequent, or long continued noise to the disturbance of comfort or repose of any person or neighborhood, is declared to be a public nuisance and detrimental to the public health and welfare.

(2) Any person disturbed by a noisy animal shall notify the animal control agent. After this notification is made the animal control agent shall notify the owner or keeper of said animal of the complaint and if this person fails to abate said nuisance after being duly warned shall be in violation of this ordinance.

3. Defecation Removal of Excrement

No person owning keeping, or having custody of a dog shall allow or permit excrement of such dog to remain on private property without the consent of the owner, or occupant thereof, or upon public property. Any person having custody or control of an animal which leaves excrement upon such property shall cause the excrement to be removed immediately.

4. Injuring or Poisoning of Animals

(1) Any person who accidentally or otherwise strikes an animal with any motor vehicle and injures or kills the animal, shall immediately notify the animal control agent, or police department of the location of said incident.

5. Liability for Injury to or Destruction of an Animal at Large

(1) The Town, its employees and agents shall not be held liable for acts committed or omitted as the result of subduing or taking custody of an animal found running at large, or as the result of subduing, taking custody of, or destroying any animal that is the act of pursuing, attacking, or wounding a human or another animal.

6. Disposal of Animal Carcasses

(1) The owner or custodian of an animal may not deposit, nor leave such animal upon its death on a public property or the property of another person. All such dead animals shall be promptly disposed of by cremation, burial, or other sanitary means.

(2) Newport Public Works Department shall collect all dead animals found on Town owned property or streets, whereas the owner/keeper of such animal can not be located. They shall then dispose of any carcasses found.

7. Relation to County and State Animal Regulations

It is the intent of the Selectmen, as empowered by the Town Meeting, that the animal control regulations of this ordinance shall supplement and exceed the animal control regulations of the county and the state where no higher restriction is in effect insofar as these regulation conflict with, or refer to the animal control regulations the county or of

the state or regular matters not regulated by the county or state, these regulations will apply within the Town of Newport.

8. Fine for Infraction Violations

The fine for violation of this ordinance shall be as follows:

1. Fifty (50) dollars for each initial offense;
2. One hundred (100) dollars for a second violation of the same regulation occurring within six months of the previous offense;
3. One hundred and fifty (150) dollars for each subsequent violation of the same offense occurring within six months of the previous offense after two or more violations have occurred.

D. REPEAL

The licensing and control of the dog Ordinance, dated November 19, 1974, is hereby repealed. This ordinance being passed by the Town of Newport and adopted by the Selectmen.

Special Town Meeting June 1, 1992