

**Policy Committee Meeting
March 18, 2019**

Committee Chair, Councilor Marc Lessard called the meeting to order at 6:39 p.m.

Roll Call: Councilors Marc Lessard, Laura Seaver and Norman Belanger; Committee Members Renee O’Neil and Nathan Bean

Staff Members Present:
Police Chief, Roger Beaupre
Public Works Director, Jeff Demers
Animal Control Officer, Garth Russell
City Clerk, Carmen Morris

The Committee, and all who were present, recited the Pledge of Allegiance.

There were no adjustments to the agenda.

Acceptance of Minutes: **February 11, 2019**

Motion by Councilor Belanger, seconded by Member O’Neil to accept the minutes as written.
Vote: Unanimous.

Discussion/Review:

**A. Ch. 10, Animals/Article I - In General and Article II – Dogs/Various Ordinance
Amendments**

Motion by Councilor Seaver, seconded by Councilor Belanger to recommend the proposed ordinance amendments.

ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, **Chapter 10, ANIMALS, ARTICLE I, IN GENERAL and ARTICLE II, DOGS**, by adding or ~~deleting~~ to read as follows:

**ARTICLE I
IN GENERAL**

Sec. 10-1 Permitting grazing animals to run at large.

No owner or person having the care of any sheep, swine, horse, mule, ox, cow, **fowl** or other grazing animal shall permit or suffer such animal to go or remain at large on any street, wharf, lane, alley, common, square or other public place within this City.

Sec. 10-2 Rabid animals.

(a) The City’s Health Officer shall direct the disposition of any animal found to be infected with rabies.

(b) ~~During the period of a rabies quarantine,~~ Every animal bitten by an animal ~~adjudged~~ **suspected** to be rabid shall be destroyed forthwith or, at the owner's expense and option, be

treated for rabies infection by a licensed veterinarian, ~~or~~ **and** held ~~30 days~~ under quarantine by the owner ~~in the same manner as other animals are quarantined~~ **for the length and manner set forth in the “Maine Rabies Management Guidelines”.**

(c) The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the Health Officer.

(d) No person shall fail or refuse to surrender any animal for quarantine or destruction as required in this section when demand is made therefor by the Health Officer.

Sec. 10-3 Impoundment.

(a) A police officer or person performing duties as animal control officer shall have the authority to impound animals found in violation of this chapter.

(b) An animal impounded under the provisions of this chapter may be reclaimed by the owner upon payment of the impoundment fee set forth in Subsection (c) of this section.

(c) An animal impounded under the provisions of this chapter may be reclaimed as provided in Subsection (b) upon payment by the owner of the following fees to the City:

(1) ~~First impoundment for each animal:~~ \$15.

(2) ~~Second~~ **First** impoundment for each animal: \$30.

(3) ~~Third~~ **Second** and subsequent impoundments for each animal: \$50.

Animals that are properly licensed will have the impound fee reduced by half. It is the owner’s responsibility to show proof that the dog is licensed at the time of payment.

(d) The City may transfer title of all animals held by it at its animal shelter after the legal detention period of six days has expired, and the animal has not been claimed by its owner.

(e) An animal impounded under the provisions of this chapter and not reclaimed by its owner within ~~six~~ **eight** days may be humanely destroyed. After six days impoundment, such animal may be placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this chapter.

ARTICLE II DOGS

Sec. 10-26 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AT-LARGE – Off the premises of the owner, and not under the control of the owner or a member of his immediate family either by leash, cord, chain or otherwise.

DANGEROUS DOG – A dog which shall cause reasonable fear or bodily injury to any person by attacking or threatening to attack such person.

DOG – Both male and female canines

KENNEL – One pack or collection of dogs kept under the ownership in a single premises for breeding, hunting, show, training, field trials and exhibition purposes.

OWNER – Any person owning, keeping or harboring a dog.

Sec. 10-27 Number of dogs & Cats limited.

~~(a) It shall be unlawful for a person to keep or harbor within the City more than three dogs **or cats** over four six months old on January 1 in or about the 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 **and cats** as aforesaid is hereby declared to be a nuisance.~~

~~(b) The payment of a license or licenses on dogs shall not be construed to allow the keeping of more than three dogs, as aforesaid, on any one premises.~~

~~(c) The limitation provided for in this section shall not apply to licensed kennels.~~

Sec. 10-28 License, record and tag requirements.

Dog license, record and tag requirements shall be as prescribed and required by 7 M.R.S.A. § 3942 et seq.

Sec. 10-29 Impoundment authorized; disposal of unclaimed dogs.

An unlicensed dog, or a dog whose owner is unknown, which is found to be running at large shall be taken up and impounded at the animal shelter designated by the City and confined therein in a humane manner for a period of not less than eight days, and may thereafter be disposed of in a humane manner if it remains unclaimed by its owner.

Sec. 10-30 Reclaiming after impoundment.

The owner is entitled to resume possession of any impounded dog upon compliance with the licensing provisions set forth in the state statutes and upon payment of impoundment fees as set forth in Sections 10-3(c) and 10-31.

Sec. 10-31 Impoundment, boarding fees.

~~In addition to the impoundment fees imposed under the provisions of Section 10-3(c), a boarding fee of \$12 per day for each dog shall be paid by the owner prior to the release of a dog.~~

Sec. 10-32 10-31 Notifying owner as alternative to impoundment.

When dogs are found to be running at large and their ownership is known, such dogs need not be impounded, but the City through its duly authorized agents may, at its discretion, cite the owners of such dogs for violating the provisions of this article.

Sec. 10-33 Disposition of vicious dogs, dogs that are bitten.

~~(a) It shall be unlawful for the owner or person keeping or harboring any dog, when notified that such dog has bitten any person or has so injured any person as to cause abrasion of the skin, to sell or give away such dog or to permit or allow such dog to be taken beyond the limits of the City, except under the care of a licensed veterinarian.~~

~~(b) It shall be the duty of the owner or keeper of a dog, upon receiving notice as provided in Subsection~~

~~(a) of this section, to immediately place such dog under confinement for a period of at least 10 days.~~

~~(c) Any dog which has been bitten by another dog having or suspected of having rabies shall be immediately impounded for observation as provided in this section.~~

~~(d) It shall be unlawful for the owner or person keeping or harboring any dog when notified that such dog has bitten any person or has so injured any person as to cause abrasion of the skin to destroy such animal without permission of the Health Officer.~~

Sec. 10-34 10-32 Authority to proclaim rabies quarantine.

~~(a) Upon positive diagnosis of rabies in any animal within the City, the Mayor shall proclaim and invoke a citywide quarantine for a period of 30 days up to 6 months, and upon the invoking of such quarantine, no animal shall be taken into the streets, or be permitted to be on the streets, during such period of quarantine.~~

~~(b) If there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended by the Mayor for an additional six months from the time of the last positive report.~~

Sec. 10-35 10-33 Running at large on public ways prohibited; restraint required.

Dogs on a public way or place shall be under restraint. For a dog to be "under restraint" as required in this section, it must be controlled by a leash, which shall not be more than eight feet in length, on or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper, or in specially designated "off leash" areas.

Off-leash areas: All dogs must be within 50 feet of owner or keeper and be under voice control. "Voice control" is defined as being able to immediately call the dog back with one call.

Off-leash areas within the City include:

(1) Rotary Park: The river bank along the boat launch side of the park. This shall be defined as the area bordered by and including the boat launch, up the river bank to where the access road and the river split. The "river bank," for this purpose, is defined as up to but not including the dirt road in the park. Dogs may not use any part of the Rotary Park beach between the hours of 9:00 a.m. and 8:00 p.m. from May 25 to September 15 of each year.

(2) Clifford Park: Dogs may be off leash and under voice command on designated trails in the wooded section of the park. This section is defined as the wooded area of the public park and 100 yards from all trail heads and parking areas.

(3) City beaches: ~~Unleashed dogs under voice command are allowed on the City's public beaches all day from September 16 to March 14. This subsection does not apply to the beach at Rotary Park.~~ See Chapter 46, Section 46-13(d).

(4) A person who violates this section commits a civil violation for which a forfeiture of not less than \$50 nor more than \$250 may be adjudged for the first violation and not less than \$100 and not more than \$500 for any subsequent violation.

Sec. 10-36 10-34 Leashing dogs on private property not required.

Nothing contained in this article is intended to require the leashing of any dog while on private premises.

Sec. 10-37 Female dogs in heat.

~~(a) The owner of any female dog in heat shall keep such dog confined or on a leash at all times and shall not permit such dog to be at large within the City or on any premises other than those of the owner.~~

~~(b) Every female dog found running at large in violation of this section is hereby declared to be a public nuisance and shall be impounded. The owner, keeper or person harboring such female dog in heat running at large shall be in violation of this section.~~

Sec. 10-38 Dangerous dogs declared nuisance; owner's responsibility.

~~(a) A dangerous dog is hereby declared to be a nuisance.~~

~~(b) The owner of any dangerous dog shall keep such dog confined in a secure enclosure or on a chain or leash controlled by the owner at all times and shall not permit such dog to be at large within the City.~~

Sec. 10-39 10-35 Disposal of canine feces.

(a) Owner's responsibility. It is a violation of this section for a person who owns, possesses, or controls a dog to fail to remove and properly dispose of any feces left by the dog on any sidewalk, street, publicly owned property or privately owned property unless authorized by the owner.

(b) Duty to possess means of removal.

(1) It is a violation of this section for a person who owns, possesses or controls a dog to appear with such dog on any sidewalk, street or publicly owned property without having the means of removal of canine feces left by such dog.

(2) For the purpose of this section, the means of removal shall include, but not limited to: any tool, implement, bag, or other device or container for picking up and containing such feces. Disposal may be accomplished by depositing such feces in a suitable container.

(c) Exemption. This section shall not apply to a dog accompanying any disabled person who, by reason of the disability, is physically unable to comply with the requirements of this section.

(d) Enforcement. The provisions of this section is enforceable by any designated representative of the City's Health Officer or of the Chief of Police.

(e) Penalties for violation. Violation of this section is punishable by a civil forfeiture not to exceed \$50 for each occurrence.

Sec. 10-36 Barking dog: see Chapter 34, Section 34-57 (1)

Sec. 10-37 Prohibited areas

Dogs, leashed or not, are prohibited from school yards, playgrounds and athletic fields.

Animal Control Officer, Garth Russell presented this item, explaining that this particular ordinance has not been amended since 1975, there are numerous revisions/updates that are needed to bring the ordinance into compliance with State Law; especially in the sections dealing with rabies management.

After some discussion among the Committee Members, the following amendments were made:

Motion by Councilor Seaver, seconded by Councilor Belanger to amend the ordinance by eliminating Section 10-32 in its entirety.

Vote: Unanimous.

Motion by Councilor Belanger, seconded by Councilor Seaver to amend the ordinance by eliminating Section 10-27 in its entirety.

Vote: 4/1; Councilor Lessard opposed. Motion carries.

Motion by Councilor Belanger, seconded by Councilor Seaver to amend the ordinance, Section 10-26-Definitions, by removing "Dangerous Dog."

Vote: Unanimous.

Vote to recommend the ordinance, as amended: Unanimous.

B. Ch. 46, Parks and Recreation/Sec. 46-13 – Park operating policy/Add Use for Horses

Motion by Councilor Seaver, seconded by Councilor Belanger to recommend the proposed ordinance amendment.

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, **Chapter 46, PARKS AND RECREATION, Sec. 46-13-Park operating policy**, by adding or ~~deleting~~ to read as follows:

Sec. 46-13 Park operating policy.

(a) Hours. All parks, as defined herein, shall be open to the public every day of the year from dawn to dusk. In the event that activities are conducted at either the St. Louis Field or Mechanics Park for which there is an admission fee charged or access is otherwise controlled, no member of the public shall have the right to enter said park areas without authorization and/or payment of such admission fee. The Director shall cause notices of the opening and closing hours to be posted in each individual park for public information and enforcement purposes.

(b) Closed areas. Any section or part of any park may be declared closed to the public by the Director at any time for any interval of time, either temporarily or at regular stated intervals (daily or otherwise).

(c) Entry prohibited. Except with the written permission of the Director, no person shall enter, pass through or remain in any park, or the closed area of any park, except during the hours and times when such park, or portion thereof, is open to the public as provided in this section.

(d) Dogs, horses and horse-drawn vehicles.

(1) Dogs, horses and horse-drawn vehicles are prohibited from entering or remaining in any park or beach areas, except as follows:

a. City beaches: No unleashed dog is allowed on any of the City's public beaches from March 15 to September 15. Dogs are completely prohibited from May 25 to September 15 between the hours of 9:00 a.m. and 5:00 p.m. Unleashed dogs under voice command are allowed on the City's public beaches all day from September 16 to March 14. This subsection does not apply to the beach at Rotary Park.

b. Rotary Park: Horses, horse-drawn vehicles, or dogs may not use any part of the Rotary Park beach between the hours of 9:00 a.m. and 8:00 p.m. from May 25 to September 15 of each year.

c. Horses: horses or horse-drawn vehicles may not use any part of the City's public beaches between the hours of 9:00 a.m. to 5:00 p.m. from May 25th to September 15th.

(2) Nothing herein is intended to prohibit the Recreation Commission from creating and maintaining a dog park, as defined herein under Section [46-1\(b\)](#), and for establishing rules and regulations governing the operation thereof.

The Committee expressed concern about the responsibility of horse owners to pick up after their animals. Mr. Russell is going to look into current laws regarding this issue.

Vote to recommend ordinance amendment: Unanimous.

C. Remove from table: Ch. 58, Solid Waste/Add New Article IV – Single Use Carry-Out Bags

Motion by Councilor Seaver, seconded by Councilor Belanger to remove this item from the table.

Vote: Unanimous.

Motion by Councilor Seaver, seconded by Councilor Belanger to recommend the proposed ordinance amendments.

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, **Chapter 58, SOLID WASTE, Article IV, Section 58-106 et al. – Single Use Carry-Out Bags**, is amended by adding to read as follows:

Note: The entire section is new; however, the underline and ~~strike-out~~ text reflects changes based on Policy Committee comments from February 11, 2019.

Sec. 58-106 Effective date.

This article shall become effective (3-months after adoption OR by a date certain to be specified), provided the City gives notice of commencement in the manner required for publication of ordinances.

Sec. 58-107 Purpose.

It is in the best interest of the citizens and visitors of Biddeford to protect the environment and natural resources of Maine by prohibiting single-use carry out ~~PLASTIC~~ plastic bags and encouraging the use of reusable shopping bags in stores, as defined below.

Sec. 58-108 Findings.

Single-use carryout bags have a negative impact on the environment and wildlife; and

Cause significant interference with the efficient processing of single-sort recycling methods; and

A significant amount of plastic bags will still appear in Biddeford's curbside recycling program as contamination despite the fact that Title 38, Chapter 16, §1605, requires all retailers that use plastic bags to bag products at the point of retail sale to locate within 20-feet of the main entrance a receptacle for collecting any used plastic bags; and

It is important to keep the City of Biddeford as litter-free as possible to enhance the quality of life for Biddeford's residents and visitors; and

A substantial portion of Biddeford is adjacent to the Saco River and Biddeford is a coastal community with a vested interest in protecting the ocean environment from plastic debris; and this Ordinance is authorized under the City's home rule authority pursuant to 30-A §3001 et seq.

Sec. 58-109 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

SINGLE-USE CARRYOUT PLASTIC BAG

A plastic bag other than a Reusable Bag, as defined below, provided at the checkout stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the ~~establishment~~ store. The term Single-Use Carryout Bag includes compostable and biodegradable bags, but does not include ~~reusable bags~~, ~~produce bags~~, ~~product bags~~ required for special handling, single-use paper bags, or paper bags provided by pharmacists to contain prescription drugs.

PRODUCE BAG or PRODUCT BAG

Any bag ~~without handles~~ used exclusively to carry produce, meats, seafood, other food items or ~~merchandise-bulk items~~ within the store to the point of sale inside such store or to prevent such items from coming into direct contact with other purchased items.

REUSABLE BAG

A bag that meets all of the following criteria:

- (a) Designed and manufactured to withstand repeated uses over a period of time;
- (b) Is machine washable or, made from a material that can be cleaned and disinfected regularly;
- (c) Has a minimum rated lifetime of 75 uses; ~~and~~
- (d) Has the capability of carrying a minimum of 18 pounds; and
- (e) If plastic, is at least 4.0 mil thick.

STORE

Any commercial enterprise engaged in the sale of food and or merchandise, including, but not limited to, grocery and convenience stores, markets, pharmacies, restaurants, take-out food, temporary and seasonal businesses, and other merchant retailers. ~~of the following retail~~

establishments located within the City of Biddeford engaged in the sale of perishable or non-perishable goods to the ultimate consumer for direct use or consumption and not for resale:

- (a) ~~a full-line, self-service market located in a permanent building, operating year-round, and which sells at retail a line of staple foodstuffs, meats, produce, household supplies, dairy products or other perishable items.~~
- (b) ~~a drug store, pharmacy, supermarket, grocery store, convenience food store, food mart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods.~~

"Store" does not mean:

- (1) ~~Restaurants; or~~
- (2) ~~Businesses at which food sales are an incidental part of the business. Food sales will be considered to be "incidental" if such sales comprise no more than 2 percent of the business's gross sales in the City of Biddeford as measured by the dollar value of food sales as a percentage of the dollar value of total sales at any single location.~~

Sec. 58-110 Restriction on Single-Use Carryout Bags.

Except as provided in Sec. 58-111 and Sec. 58-112, no store, as defined above, shall provide or sell a Single Single-Use Carryout Bag made of plastic that does not meet all the criteria as a Reusable Bag, as defined above, to a customer at the checkout stand, cash register, point-of-sale point-of-sale or other point of departure for the purpose of transporting food, goods or merchandise out of the establishment.

Sec. 58-111 Exemptions Permitted Bags

- (a) A store may, at its discretion, make available for sale to a customer a Single Use PAPER Carryout Bag and may choose to charge for a PAPER Carryout Bag a uniform charge of five cents (\$.05) per bag. a Reusable Bag or a paper bag either for free or for a fee at the checkout stand, cash register, point-of-sale or other point of departure for the purpose of transporting goods and merchandise out of the store.
- (b) All monies collected by a store through the sale of Reusable Bags or paper bags for Single-Use Carryout PAPER Bags under this Section may be used by the store for any lawful purpose.
- (c) All stores must post signage clearly indicating the per bag charge for Single-Use Carryout PAPER Bags paper bags, if a fee is to be charged.
- (d) Notwithstanding this Section, no store may make available for sale a Single-Use Carryout PAPER Bag paper bag unless the amount of the sale of the Single-Use Carryout PAPER Bag paper bag is separately itemized on the sale receipt if a fee is charged.
- (e) Nothing in this Section shall be construed to prohibit customers from using bags of any type that the customer brings to the Store for their own use or for carrying away from the store food, goods or merchandise that are not placed in a bag provided by the store.
- (f) ~~Carryout bags for take-out meals from a restaurant or food ready to eat carried out from a business that prepares meals on-site for sale to the public are exempt from the definitions of a Single Use Bag.~~

Sec. 58-~~444~~ 112 Exemptions.

- (a) A store shall be exempt from the provisions of this Ordinance, in a situation deemed by the City Manager to be an emergency for the immediate preservation of the public health or safety in consultation with the Emergency Management Director for the City.
- (b) A store is allowed to draw down and deplete existing inventory of single-use plastic bags by <insert date; possibly September 30, 2019>.

Sec. 58-~~442~~ 113 Violations and Enforcement.

The Code Enforcement Officer or his/her designee(s) shall have the primary responsibility for enforcement of this Ordinance. If the Code Enforcement Officer or his/her designee(s) determines that a violation of this Ordinance has occurred, he/she shall issue a written warning notice to the Store that a violation has occurred. Subsequent violations of the Ordinance shall be subject to the penalties set forth below.

Violations of this Ordinance shall be punishable by fines as follows:

- (1) A fine not exceeding \$250 for the first violation in a one-year period;
- (2) A fine not exceeding \$500 for the second and each subsequent violation in a one-year period. Each day that a violation occurs will be considered a subsequent violation.

Public Works Director, Jeff Demers gave a brief overview of the revisions that were made as a result of this Committee's discussion at the February 11th meeting. He also noted that the letter that the Code Enforcement Office sent to all local retailers is also included in this meeting's packet.

Councilor Seaver noted a couple of grammatical and formatting revisions that need to be made. Staff noted those revisions and will take care of them prior to Council consideration of the ordinance.

Councilor Belanger asked Mr. Demers to contact Casella to find out if contamination of municipal recycling has actually gone down in those communities who already prohibit the use of single use plastic carry-out bags in their stores. Member O'Neil also suggested reaching out these same communities to find out how the transition went to phase out single use carry-out plastic bags. Mr. Demers will gather this information and have it for the first reading of this ordinance of the Council.

Member Bean suggested the possibility of mandating a charge for the use of paper bags in an effort to change people's behavior and get them to solely use the reusable cloth bags.

Vote on ordinance: Unanimous.

Councilor Lessard took a moment to thank Staff for all their efforts and guidance in preparing meeting items, agendas and packets.

Motion by Councilor Seaver, seconded by Councilor Belanger to adjourn.

Vote: Unanimous.

Time: 7:13 p.m.

