

**TOWN OF BERLIN  
ORDINANCE COMMITTEE  
May 26, 2020  
Webex Meeting  
6:30 P.M.**

ATTENDANCE:

Members Present: Mayor Mark Kaczynski - Chairman, Councilor Joann Angelico-Stetson (joined at 6:47 p.m.), Councilor Brenden Luddy, Councilor Peter Rosso

Members absent: Councilor Charles Paonessa

Staff Present: Aroscha Jayawickrema – Town Manager  
Kathryn Wall – Town Clerk  
Jeffrey Donofrio – Corporation Counsel (left at 6:40 p.m.)

**1. CALL TO ORDER**

Mayor Kaczynski called the meeting to order at 6:35 p.m.

**2. AUDIENCE OF CITIZENS**

None.

Councilor Luddy moved to discuss Agenda Item 5, New Business out of order in order to accommodate Corporation Counsel Donofrio.

Seconded by Councilor Rosso.

Those voting in favor: Council Luddy, Mayor Kaczynski, Councilor Rosso

Vote being 3-0. (MOTION CARRIED)

(taken out of order)

**5. NEW BUSINESS**

**a. Chapter XVI-48, Taxation and Finance  
Exemption of Property Leased to Charitable, Religious or Nonprofit Organizations**

Town Manager Jayawickrema explained that the YMCA proposes to lease the recently closed Moreland School building. Moreland School did not pay property taxes to the Town of Berlin, as it was a 501(c)(3) organization. Corporation Counsel Donofrio stated that YMCA would like to utilize Connecticut General Statute 12-81 that allows a charitable,

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religious or nonprofit organization that rents or leases a property to be exempt from local property taxes if the municipality adopts the ordinance to make such exemption to that organization. The leased / rented space in question must be used in conducting the religious, nonprofit or charitable business. Corporation Counsel Donofrio reviewed and modified the proposed Ordinance before the Committee for consideration. He also confirmed that if any portion of the prior Moreland School location is leased / rented for use that is not charitable, religious or nonprofit, that portion is subject to customary property tax levy.

Committee members agreed that the matter should be moved forward for consideration by Town Council.

Councilor Luddy moved to approve the proposed exemption Ordinance forward for consideration by Town Council.

Seconded by Councilor Rosso.

Those voting in favor: Council Luddy, Mayor Kaczynski, Councilor Rosso

Vote being 3-0. (MOTION CARRIED)

(Councilor Angelico-Stetson joined at this point. Town Manager Jayawickrema explained the previous discussion and action on Item 5, and she concurred.)

3. **APPROVAL OF PRIOR MINUTES** (taken out of order, see last item.)

4. **OLD BUSINESS**

a. **Chapter 111, Article 1 General.  
Definition Under Restraint.**

Mayor Kaczynski stated that the Committee concluded that dogs need to be on a restraint (with a lead of 6-8 feet) in all public spaces besides where the Town specifically designates as off-leash. The Ordinance Committee has considered several possible locations for off-leash areas, each with its pros and cons. The Ordinance Committee will now consider the 11<sup>th</sup> hole at Pistol Creek (which is across from the clubhouse near the newly paved handicapped parking area) due to its size, accessibility and ample parking at the clubhouse. Committee members and concerned residents may consider the new proposed location and discuss at the next Ordinance Committee meeting. Mayor Kaczynski feels that the proposed off-leash location at Pistol Creek would alleviate the congestion at the cul-de-sac entrance to Bicentennial Park and avoid the Conservation restrictions at the Orchard Road Community Garden entrance to Bicentennial Park.

5. **NEW BUSINESS** (Taken out of order, see above.)

Taken out of order

3. **APPROVAL OF MINUTES** February 27, 2020

Councilor Luddy moved to accept the February 27, 2020 Ordinance Committee meeting minutes.

Seconded by Councilor Rosso.

Those voting in favor: Councilor Angelico-Stetson, Mayor Kaczynski, Councilor Luddy, Councilor Rosso

Vote being 4-0. (MOTION CARRIED)

6. **ADJOURNMENT**

Councilor Luddy moved to adjourn at 7:05 p.m.

Seconded by Councilor Rosso.

Those voting in favor: Councilor Angelico-Stetson, Mayor Kaczynski, Councilor Luddy, Councilor Rosso

Vote being 4-0. (MOTION CARRIED)

Submitted by,

Dana Borges



## CHAPTER III - ANIMALS

### Article 1. - General

#### Sec. 3-1. Purpose and intent of chapter.

The purposes of this chapter are to promote the public health, safety, and general welfare of the citizens of the town by addressing the public nuisance caused by vicious and dangerous animals and to ensure that all animals receive adequate care. This chapter is intended to supplement and not supplant the provisions contained in state statute § 22-339 et seq. regarding domestic animals. The animal control officer shall have the discretion as to whether to proceed pursuant to state or local law.  
(Ord. No. 1-99, § 1, 3-2-1999)

#### Sec. 3-2. 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:

*Adult* means any individual eighteen (18) years of age or older.

*Animal* means any nonhuman animate being which is endowed with the power of voluntary motion, including fish and fowl.

*Animal control officer* means an employee or agent of the town to enforce the licensing, inspection and enforcement requirements contained within this chapter and state statutes.

*Animal nuisance* means any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of, an animal.

*Animal shelter* means any facility operated by the town and shall also include any facility authorized by the animal control officer or his designee to impound, confine, detain, care for or destroy any animal.

*At large* means that an animal is off the premises of the owner and not properly on a leash or lead seven (7) feet in length or less on school or other non-designated public property or on a leash or lead or otherwise of twenty (20) feet in length or less on designated public property as herein defined, which leash or lead is under the immediate control of a person's owner or keeper who is capable of restraining the animal at all times.

*Designated public property* means public property on which animals can be on a leash or lead that is twenty (20) feet in length or less and includes Bicentennial Park, Centurelli Field, Community Playground, Demore, Dinda, Bittner Jr. Pool, Dennehy Field, The Grove, Hatchery Brook Hiking Trails, Heffernan Park, Kensington Orchards, Lamentation Mountain Open Space, Little People's Playground, The Meetinghouse, Miccia Memorial Park, Murray Heights, Papergoods Pond, Percival Park (with Baretta Field, Percival Soccer Field, and Percival Pool).

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Petit Complex, Pistol Creek (with both sides of the street), Potter's Field, Sage Park, Ragged Mountain Hiking Trails, Senior Center, Timberlin Golf Course, Town Hall Complex, Veteran's Park, Volunteer Park, Webster Park, and Worthington Ridge Monument.

*Disposition* means adoption, sale, quarantine, voluntary or involuntary placement or euthanasia humanely administered to the animal.

*Farm* means a tract of land containing two (2) acres or more, used in part or wholly for agricultural purposes for profit, which may include the raising and keeping of domestic or other animals.

*Guard or attack dog* means a dog trained to attack or apprehend on command to protect persons or property.

*Impoundment* means the taking into custody of an animal by an animal control officer, or any authorized representative thereof.

*Muzzle* means a device constructed of strong, soft material designed to fasten over the mouth of an animal to prevent it from biting any person or other animal.

*Owner or keeper* means any person having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or keeping or having property rights to, any animal covered by this chapter.

*Public nuisance* means any animal that endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance" shall include, but not be limited to, any animal that:

- (1) Is repeatedly found running at large;
- (2) Is in any section of any park or open space land where animals are not permitted, or where permitted, is not properly on a leash or lead seven (7) feet in length or less on school or other non-designated public property or on a leash or lead of twenty (20) feet in length or less on designated public property as herein defined, which leash or lead is or otherwise under the immediate control of its owner or keeper who is capable of restraining the animal at all times;
- (3) Damages or defiles any property other than that of the owner, unless the owner or keeper immediately picks up after the animal;
- (4) Barks, whines, howls or makes any noise natural to its species in an excessive or continuous fashion so as to disturb the peace, except where such activity occurs on a farm;
- (5) Is in heat and is not confined or under the owner's or keeper's control so as to prevent attraction or contact with other animals;
- (6) Whether or not on the property of its owner, that without provocation molests, attacks, or otherwise unreasonably interferes with the freedom of movement of persons in a public right-of-way or on private property other than that of the animal's owner;
- (7) Chases motor vehicles in a public right-of-way;
- (8) Is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence and the inadequacy of the facilities and care; or
- (9) Attacks another animal off the property of the owner or keeper of the attacking animal.

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*Under restraint* means that an animal is properly secured by a leash or lead seven (7) feet in length or less on school or other non-designated public property or on a leash or lead of twenty (20) feet in length or less on designated public property as herein defined, which leash or lead is or is otherwise under the immediate control of an individual who is mentally and physically capable of restraining the animal and obedient to that person's commands, or securely enclosed (e.g., appropriate fence) within the real property limits of the owner's premises.

*Vicious or dangerous animal* means an animal that has attacked, bitten, or physically injured human beings without adequate provocation. Any animal that without provocation has bitten or attacked a human being or has behaved so as to impose a threat of imminent bodily harm to a person conducting himself peacefully and lawfully shall be prima facie presumed vicious or dangerous. No animal may be declared vicious if an injury or damage is sustained by a person who, at the time of such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime. No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

(Ord. No. 1-99, § 2, 3-2-1999)

**Cross reference**—Definitions generally, chapter I § 1-2 of this code book.

**State law reference**—Definitions, state statute § 22-327.

### **Sec. 3-3. Nuisance.**

It shall be unlawful for any person to keep any animal on any property located within the town when the keeping of such animal constitutes a public nuisance or menace to public health or safety. (Ord. No. 1-99, § 3, 3-2-1999)

### **Sec. 3-4. Adequacy of facilities and care.**

Every owner shall provide his animals with sufficient good and wholesome food and water, proper shelter and protection from the weather; veterinary care when needed to prevent suffering; humane care and treatment; and maintain them in a secure enclosure.

(Ord. No. 1-99, § 4, 3-2-1999)

### **Sec. 3-5. Administrative sanctions and remedies.**

As part of any order issued in writing and by certified mail, pursuant to this chapter, the animal control officer shall have the authority to order the following administrative sanctions and remedies if there is no compliance after seven (7) days from the date of issue:

- (1) Obedience training for the animal in question;
- (2) Muzzling of a dog or animal while off the property of the owner;
- (3) Confinement of an animal indoors, unless the animal is under the direct control of a responsible adult;
- (4) Confinement of an animal in a secure enclosure;
- (5) Reduction of the number of animals kept at any one location;
- (6) Removal of an animal from the custody of the animal's owner or keeper in cases of neglect or cruelty;
- (7) The sterilization of an animal;

- (8) A ban on maintaining other animals in the town;
  - (9) The euthanizing of an animal; and
  - (10) Any other measure or sanction designed to eliminate a violation, prevent future violations, or protect the health and safety of the public.
- (Ord. No. 1-99, § 11, 3-2-1999)

**Sec. 3-6. Enforcement of chapter provisions.**

The animal control officer or his designees shall be the enforcement officials for this chapter. These officials, along with police officers, shall have the authority to act on behalf of the town in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful actions as required to enforce the provisions of this chapter. The animal control officer shall fully investigate all complaints made pursuant to this chapter and shall take all statements under oath. The owner or keeper of such animal shall be given an opportunity to make a statement under oath. It shall be a violation of this chapter to interfere with any animal control officer or other enforcement official in the performance of his duties.

(Ord. No. 1-99, § 12, 3-2-1999)

**Sec. 3-7. Penalties for violation of chapter.**

- (a) It shall be a violation of this chapter to:
- (1) Fail to comply with any provision of this chapter,
  - (2) Fail to pay any fines, civil penalties or costs imposed by the animal control officer, within (15) days of the imposition of such fines or costs, unless payment thereof is lawfully stayed, or
  - (3) Make any false statements, under oath, with respect to this chapter.
- (b) Any person who fails to comply with a written citation issued by the animal control officer or his designee within seven (7) days shall be deemed guilty of a municipal infraction and shall be subject to a fine as listed in the town fee schedule. If a violation continues after such written notice, each day's violation shall be deemed to be a separate offense.
- (Ord. No. 1-99, § 13, 3-2-1999)

**Sec. 3-8. Appeals procedure.**

Any provision of this chapter may be appealed to the town manager within thirty (30) days of the issuance of the citation. The citation holder can appeal the decision of the town manager to the superior court.

(Ord. No. 1-99, § 14, 3-2-1999)

**Sec. 3-9. Reserved.**

**Article 2. -Dogs**

**Part A. - Generally**

**Sec. 3-10. Restraint generally.**



- (a) It shall be unlawful for the owner or keeper of any dog to fail to keep his dog under restraint or to permit his dog to run at large upon the streets and public ways of the town or upon property other than that of such owner or keeper.
- (b) No owner, keeper or custodian of any animal shall fail to exercise proper care and control of such animal to prevent the animal from becoming a public nuisance.

(Ord. No. 1-99, § 5, 3-2-1999)

**Sec. 3-11. Restraint of guard or attack dogs.**

- (a) Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other enclosure. Any such enclosure shall be completely surrounded by a secured fence or enclosure that is appropriate to confine such dogs and shall be approved by the animal control officer.
- (b) The areas of confinement shall have gates and entrances thereto securely closed and locked, and all fences shall be properly maintained and escape-proof.
- (c) When outside the enclosure on the owner's or keeper's property, all guard or attack dogs shall be under the direct and immediate control of a responsible adult who can fully control the dog at all times.
- (d) When off the property of the owner or keeper, all guard or attack dogs shall be under restraint of a responsible adult at all times.
- (e) The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies while in the course of their official duties.

(Ord. No. 1-99, § 6, 3-2-1999)

**Sec. 3-12. Feces removal.**

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Dog* means any member of the canine species, male or female.

*Keep* means possessing, controlling, exercising or allowing a dog to run at large.

*Owner* means any person possessing, keeping, harboring or having custody of a dog.

- (b) *Required; provision of disposal containers.* It shall be unlawful for any person owning, keeping, walking or in control of any dog to allow or permit such animal to defecate upon any private property owned by another person, condominium common elements, street, sidewalk, gutter or other public area unless such person shall remove all feces so deposited by such dog before leaving the immediate premises; provided, however, that the town shall provide excrement disposal containers in all public parks into which a person may deposit any feces instead of removing such feces from the park premises.
- (c) *Exception.* The provisions of this section shall not apply to any visually impaired person walking in control of a guide dog or by any person who is physically unable to remove such feces.
- (d) *Enforcement of section provisions.* For the purposes of enforcing the provisions of this section, tickets may be issued by any persons authorized to issue tickets for parking violations, the canine control officer of the town or his agent.
- (e) *Appeal.* Any person issued a ticket for violating any of the provisions of this section may appeal the fine as listed in the town fee schedule to the town manager and, if necessary, to

the superior court. The town manager may, following a hearing on any such appeal, upon a showing of good cause, sustain the appeal and dismiss the ticketed violation.  
(Ord. No. 2-93, §§ I—IV, 6-8-1993)

**Secs. 3-13—3-19. Reserved.**

**Part B. - Vicious or Dangerous Dogs**

**Sec. 3-20. Restraint.**

Every animal established to be vicious or dangerous shall be confined by its owner or authorized agent of its owner within a building or secure enclosure as set forth in § 3-11 and, whenever outside the building or secure enclosure, shall be securely muzzled and restrained by a responsible adult with a chain having a minimum tensile strength of three hundred (300) pounds and not more than six (6) feet in length, or caged. Every person harboring an animal established to be vicious or dangerous is charged with an affirmative duty to confine the animal in such a way as defined in § 3-11.  
(Ord. No. 1-99, § 7, 3-2-1999)

**Sec. 3-21. Registration and insurance requirements.**

Every owner of an animal which has been established to be vicious or dangerous shall be subject to the following requirements:

- (1) The owner shall provide the town with written proof that the owner has procured liability insurance in an aggregate amount of not less than one hundred thousand dollars (\$100,000) for damage or injury to persons or property. Policy cancellation shall constitute a violation of this section and subject the owner to the penalties provided in this chapter, unless the owner provides the town with written proof that the vicious or dangerous animal has been sold, given away, died, or otherwise disposed of.
  - (2) The owner or keeper shall display a sign on the premises warning that there is a vicious or dangerous animal or guard or attack dog on the premises. Such sign shall be visible to anyone entering the main entrance to the premises where the animal is domiciled or kept. The sign shall include both an approved vicious animal logo and lettering so as to warn both children and adults.
- (Ord. No. 1-99, § 9, 3-2-1999)

**Secs. 3-22—3-29. Reserved.**

**Article 3. - Impoundment**

**Sec. 3-30. Issuance of citations; hearing procedure.**

- (a) In addition to any other remedies provided in this chapter and under state law, the animal control officer may seize, impound and humanely confine to an animal shelter or hospital, any of the following:
  - (1) Any dog without a valid license or identification tag when required by state law or town ordinance;
  - (2) Any dog at large;

- (3) Any dog or animal constituting a public nuisance or considered to be a vicious or dangerous animal;
- (4) Any dog or animal that is in violation of any quarantine or confinement order of the town's animal control officer;
- (5) Any unattended animal that is ill, injured or otherwise in need of care;
- (6) Any animal that is reasonably believed to have been abused or neglected;
- (7) Any animal that is reasonably suspected of having rabies;
- (8) Any dog or animal which an animal control officer or the police has established is a threat to public health and safety;
- (9) Any dog or animal that an agency or court of competent jurisdiction has ordered impounded or destroyed; or
- (10) Any dog or animal that is considered unattended or abandoned, such as in situations where the owner is deceased or has been arrested, incarcerated, or evicted.

- (b) The animal control officer may petition the superior court for such orders as required to enforce this article.

(Ord. No. 1-99, § 8, 3-2-1999)

**Sec. 3-31. Notice to owner and redemption.**

- (a) Upon impoundment of an animal, the animal control officer shall, within twenty-four (24) hours, attempt to notify the owner by telephone or by certified mail. If the owner is unknown, the animal control officer shall advertise for one (1) day in the lost and found column of a newspaper having a circulation in the town describing the animal, impounding number, and the phone number of the shelter.
- (b) An owner reclaiming an impounded animal shall pay a fee, as determined by the town council and listed in the town fee schedule, for impoundment, plus any advertising costs, plus board for each day the animal is impounded, plus veterinary costs incurred by the town.
- (c) It shall be the duty of the animal control officer to keep all impounded dogs for a period of seven (7) days from the date of notice to the owner by telephone or certified mail, or publication of notice. Any animal not claimed by and released to its owner within seven (7) days after publication or notice shall become the property of the town and shall be placed for adoption in a suitable home or euthanized in a manner prescribed by the local humane society.

(Ord. No. 1-99, § 10, 3-2-1999)

**State law reference**—Redemption of impounded dog, state statute § 22-333.



## CHAPTER XIII - PARKS AND RECREATION AND OPEN SPACES

### Article 1. - General

**Secs. 13-1—13-10. Reserved.**

### Article 2. - Parks and Open Space Lands

#### Part A. - Generally

#### **Sec. 13-11. 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:

*Open space land* means any undeveloped or unimproved piece of property or any portion thereof, owned by the town, that requires little or no active maintenance. The definition of open space land shall include, but not be limited to, land left in its natural, undisturbed state, agricultural land for which development rights have been alienated in perpetuity, land areas for wildlife habitat, passive recreation, groundwater recharge and scenic preservation, and land acquired by the town from subdividers of land pursuant to the town's zoning regulations.

*Park* means any developed or improved piece of real property, or any portion thereof, owned by the town, that is used primarily for active recreational, sporting or ceremonial activity and that requires active maintenance. The definition of a park shall include, but not be limited to, ballfields, golf courses, tennis and basketball courts, pools, playgrounds, schoolyards, civic and military monuments, picnic pavilions, and recreational ponds.

(Ord. No. 07-01, §§ 1.1, 1.2, 7-10-2001)

**Cross reference**—Definitions generally, chapter 1 § 1-2 in this code book.

#### **Sec. 13-12. Classification of property.**

- a) The classification of a piece of property as either a park or open space land shall depend on such property's actual use at the time of the classification and not its intended use.
- b) It is the intent of this article that different portions of the same piece of property may be classified differently pursuant to the definitions stated in this article.
- c) The town council shall differentiate, when necessary, those properties, or portions thereof, that shall be considered parks and those properties, or portions thereof, that shall be considered open space lands, in accordance with this article. The town council shall change the classification of any property, or portion thereof, whose classification no longer complies with such property's actual use.

- d) This article shall not apply to any property owned by the town that is neither a park nor open space land, including, but not limited to, the town hall complex, the physical services complex, and the Mattabesset gun range, all of which shall be under the general jurisdiction of the town council.

(Ord. No. 07-01, §§ 1.3—1.6, 7-10-2001)

**Sec. 13-13. Insurance.**

Groups or organizations, other than town and board of education groups and others receiving waivers recommended by the recreational service department, wishing to utilize park or open space land facilities must provide the town manager with proof of adequate public liability insurance, naming the town as an additional insured, and must further provide an indemnity agreement indemnifying the town against all loss for personal injury or property damage resulting from the use of such facilities.

(Ord. No. 07-01, § 11, 7-10-2001)

**Sec. 13-14. Liability and penalty.**

- a) The town shall not be liable for the loss of property or the damage to property of persons using any parks or open space lands.
- b) Failure to abide by the rules and regulations of this article, or rules established under § 13-21, shall subject the violator to immediate removal from such park or open space land. In addition, any person who shall violate any provision of this article, or who shall aid, assist or encourage the violation thereof, shall be fined as listed in the town fee schedule. The violation of any section of this article shall be considered a separate offense. All fines pursuant to this article shall be enforced and collected by the police department, payable to the town's general fund.
- c) Pursuant to state statute § 52-572, the parents or guardians of any unemancipated minor who willfully or maliciously causes damage to any property or appointments within any park or open space land shall be liable for such damage.

(Ord. No. 07-01, § 16, 7-10-2001)

**Secs. 13-15—13-20. Reserved.**

**Part B. - Rules and Regulations**

**Sec. 13-21. Additional rules and regulations.**

- a) *Parks.* Pursuant to § 8-13-2 of the charter of the town, the park and recreation commission may from time to time establish further rules and regulations for the use of such parks and the facilities therein, which rules shall be consistent with the ordinances of the town and the statutes of the state, and which rules shall have the force of law.
- b) *Open space lands.* Pursuant to § 8-12-2 of the charter of the town, the conservation commission may from time to time establish further rules and regulations for the use of such open space lands, which rules shall be consistent with the ordinances of the town and the statutes of the state, and which rules shall have the force of law.

(Ord. No. 07-01, §§ 17, 18, 7-10-2001)

**Charter reference**—Parks and recreation commission, §§ 8-13-1 –8-13-3.

**Sec. 13-22. Prohibited activities generally.**

The following activities are expressly prohibited in all parks and open space lands:

- 1) To pick flowers or foliage, or to cut, break, dig up, trample or walk upon, or in any way mutilate or injure, any tree, shrub, or other plantings. However, the park and recreation commission or the conservation commission, respectively, may approve specific maintenance for improvement activities that impact vegetation.
- 2) To mutilate, deface, paint or mark any structure or appointments of any character.
- 3) To post on any tree, stone, fence, post, wall, building, monument or other object therein, any bill, advertisement or inscription of any character unless authorized by the park and recreation commission or the conservation commission, respectively.
- 4) To sell articles or goods of any kind unless authorized by the park and recreation commission or the conservation commission, respectively, and the town council.
- 5) To light, kindle or use any fire, except in facilities provided therefor by the town, unless authorized by the park and recreation commission or the conservation commission, respectively.
- 6) To injure or disturb any animal or any bird, bird's nest or eggs. Hunting or trapping within parks or open space lands is expressly prohibited without the approval of the park and recreation commission or the conservation commission, respectively.
- 7) To discharge any fireworks or firearms without the approval of the park and recreation commission or the conservation commission, respectively.
- 8) To discard or leave waste paper, bottles, cans, or any other trash or litter of any kind, except in receptacles provided therefor. To discard household trash in any receptacle is prohibited.
- 9) To dump any material of any type at any location.
- 10) To loiter in restrooms or other shelter facilities.
- 11) To play or practice golf, except at Timberlin Golf Course.
- 12) To use, consume, dispense, sell, drink or have in one's possession beer, wine, liquors or other alcoholic beverages, or illegal drugs. The park and recreation commission or the conservation commission, respectively, and the town council may issue permits for such legal activities to individuals or organizations for designated town facilities. Organizations obtaining permits must also obtain permission from the liquor control commission if selling alcoholic beverages or if including alcohol in the purchase of the admission ticket.
- 13) To enter or leave such park or open space land except by designated approaches, paths, roads or trails.
- 14) To use threatening, abusive, insulting or indecent language or gestures.
- 15) To publicly demonstrate, except by prior permit of the park and recreation commission or conservation commission, respectively, and the town council. If such commissions and the town council are unable to meet prior to such demonstration, the mayor, and in his absence the deputy mayor, shall be authorized to issue such permit.

(Ord. No. 07-01, § 12, 7-10-2001)

**Sec. 13-23. Hours of operation.**

All parks and open space lands shall be open dawn to dusk, seven (7) days a week, except at other times designated by the park and recreation commission or the conservation commission, respectively. All parks and open space lands shall be closed to the public other than during these

hours, and persons found within such parks and open space lands when closed shall be subject to arrest as provided by §13-14(b).  
(Ord. No. 07-01, § 2, 7-10-2001)

**Sec. 13-24. Motor vehicles and bicycles.**

- a) Motor vehicles of every kind, including, but not limited to, automobiles, trucks, motorcycles, bicycles and scooters, may be driven or parked in parks and open space lands, only in areas designated and posted for such purposes, except that town vehicles in service to the town shall have access to other areas.
- b) No commercial or industrial vehicle above the capacity of two (2) tons may be operated or parked in any park or open space land, except in service to the town, unless exception to this regulation is granted by the town manager.
- c) No motor vehicle as defined in § (a) of this section may be operated within any park or open space land at speeds in excess of fifteen (15) miles per hour or in any manner that endangers park occupants.
- d) Off-road motorized vehicles including but not limited to go-carts, minibikes, all-terrain vehicles (ATVs), trail bikes and snowmobiles are prohibited from all parks and open space lands.
- e) The riding of bicycles or skateboards, or the use of roller skates or inline skates, is prohibited on baseball diamonds, tennis and basketball courts, pool areas and picnic areas except those areas designated.

(Ord. No. 07-01, § 3, 7-10-2001)

**Cross reference**—Traffic and vehicles, chapter XVII of this code book.

**Sec. 13-25. Swimming.**

Swimming shall be permitted in parks and open space lands only in those areas designated for that purpose and only at such times as a lifeguard is on duty.

(Ord. No. 07-01, § 4, 7-10-2001)

**Sec. 13-26. Boating.**

Use of boats is prohibited from all parks and open space lands except those areas designated.

(Ord. No. 07-01, § 5, 7-10-2001)

**Sec. 13-27. Fishing.**

Fishing is permitted in parks and open space lands, except in those areas otherwise posted. All permitted fishing shall be subject to the provisions of §§13-14 and 13-23, and subject further to the statutes and regulations of the state pertaining to fishing.

(Ord. No. 07-01, § 6, 7-10-2001)

**Sec. 13-28. Waterfowl.**

No person shall feed waterfowl in any park or open space land.

(Ord. No. 07-01, § 7, 7-10-2001)



**Sec. 13-29. Winter sports.**

Ice skating, sledding, tobogganing, skiing and other winter sports are permitted at parks and open space lands designated for such use and illuminated for such purposes.  
(Ord. No. 07-01, § 8, 7-10-2001)

**Sec. 13-30. Ballfields.**

All ballfields must be reserved in advance of scheduled games. Baseball shall be played only in parks or open space lands designated for such use. Softball may be played in other park areas where adequate and safe space is available. Softball shall not be played on Sage Baseball Field or Percival Baseball Field.  
(Ord. No. 07-01, § 9, 7-10-2001)

**Sec. 13-31. Timberlin Park picnic areas.**

The lower picnic areas at Timberlin Park are open on a first come, first served basis and must be shared with other people or groups when necessary. Reservations for the pavilion picnic area must be made through the town's recreational service department.  
(Ord. No. 07-01, § 10, 7-10-2001)

**Sec. 13-32. Dogs.**

Dogs are not allowed on playing fields, playgrounds, golf courses, tracks or outdoor courts. Dogs are allowed on all other ground areas, provided they are properly on a leash or lead seven (7) feet in length or less on school or other non-designated public property or on a leash or lead of twenty (20) feet in length or less on designated public property as defined in Sec. 3-2, which leash or lead is otherwise under the immediate control of their owner or keeper who is capable of restraining the dog at all times, and their excrement must be picked up, wrapped and disposed of.  
(Ord. No. 07-01, § 13, 7-10-2001)

**Cross reference**—Animals, chapter III of this code book.

**Sec. 13-33. Horses.**

Horses and horseback riding are only allowed on designated trails in parks and open space lands.  
(Ord. No. 07-01, § 14, 7-10-2001)

**Cross reference**—Animals, chapter III of this code book.

**Sec. 13-34. Camping.**

Camping is permitted in designated areas of parks and open space lands with prior approval from the park and recreation commission or the conservation commission, respectively.  
(Ord. No. 07-01, § 15, 7-10-2001)

**Secs. 13-35—13-40. Reserved.**

**Article 3. - Preservation of Timberlin Park**

**Sec. 13-41. Purpose and intent of article.**

- a) The purpose of this article is to preserve and maintain Timberlin Park, as defined in § 13-42, as a forested park for recreational activities other than golf.

- b) It is the intent of this article to ensure that activities including, but not limited to, walking, hiking, jogging, bicycling, playground activities, nature study, picnicking, soapbox derbies, and Fall Foliage Festivals can continue to take place in the area defined as Timberlin Park in § 13-42. Such activities shall be consistent with all existing ordinances.

(Ord. No. 6-00, § 1, ref. of 11-7-2000)

**Sec. 13-42. 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:

*Timberlin Park* means all town-owned land in Timberlin Park not presently used for golf course functions. This includes the town-owned land north of and including the access road that runs east to west from the Chamberlain Highway to the Timberlin Golf Course parking lot; the Sam DiPietro Grove area, including Marjorie Moore Road; the picnic pavilion area; and all undeveloped town-owned land surrounding DiPietro Grove.

(Ord. No. 6-00, § 2, ref. of 11-7-2000)

**Cross reference**—Definitions generally, chapter I § 1-2 in this code book.

**Sec. 13-43. Use for activities other than golf.**

It is established that Timberlin Park shall be preserved and maintained for recreational activities other than golf.

(Ord. No. 6-00, § 3, ref. of 11-7-2000)







