



# TOWN OF BERLIN

## *Office of The Town Manager*

### **ORDINANCE COMMITTEE MEETING** **Thursday, October 14, 2021, at 6:00 p.m.** **Town Council Chamber and Zoom Meeting**

#### **Agenda**

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1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. AUDIENCE OF CITIZENS
4. APPROVAL OF MINUTES
  - a. May 27, 2021
5. OLD BUSINESS
  - a. Amending Chapter III and Chapter XIII to include a Leash Law for the Town
  - b. Discussion on establishing a Leash Free area at Pistol Creek
6. NEW BUSINESS
  - a. Sec. 16-15 - Exemption from personal property taxation of vehicles for the handicapped.
  - b. Town of Berlin Flag Policy
  - c. Using CGS (53a-181a) Creating a Public Disturbance to handle noise complaints.
7. ADJOURNMENT

#### Attachments:

- Minutes of May 27, 2021, meeting
- Proposed amendments to Chapter III and Chapter XIII
- Sec. 16-15 - Exemption from personal property taxation of vehicles for the handicapped
- Town of Berlin "draft" Flag Policy
- CGS (53a-181a) Creating a Public Disturbance

**TOWN OF BERLIN  
ORDINANCE COMMITTEE MEETING  
Thursday, May 27, 2021 at 6:00 p.m.  
Town Council Chamber and Zoom Meeting**

Members Present: Mayor Mark Kaczynski - Chairman, Councilor Joann Angelico-Stetson, Councilor Brenden Luddy, Councilor Charles Paonessa, Councilor Peter Rosso

Staff Present: Arosha Jayawickrema – Town Manager  
Jennifer Coppola – Corporation Counsel

**1. CALL TO ORDER**

Mayor Kaczynski called the meeting to order at 6:01 p.m.

**2. PLEDGE OF ALLEGIANCE**

**3. AUDIENCE OF CITIZENS**

Mary Kathryn Larose, 26 Woodruff Lane – Ms. Larose noted that the Town has many parcels of open space land and she feels the Town officials should cede Bicentennial Park for use by the off-leash dog owners. She stated that Pistol Creek is not an acceptable option as an off-leash area since its current users will not want off-leash dogs there. Ms. Larose stated that adding a parking lot to Bicentennial Park is the simplest solution and she asked that a usage study of the park be conducted.

Betsy Piskorski, 249 Winesap Road – Ms. Piskorski stated that neighborhood residents are concerned about high traffic, loose dogs and strangers coming and going from the neighborhood which is home to many young children. She noted that other parks / entrances to Bicentennial park are not located in neighborhoods and are better suited for public entry and parking.

Joe Kozalka 237 Winesap Road – Mr. Kozalka observed that Bicentennial Park is over 400 acres, and stated that dogs are frequently loose, sometimes in his yard. He added that a person can't know if a dog is friendly or not.

Marcela Wnuk, 119 Schultz Road – Ms. Wnuk noted that hikers, bikers also park on Winesap Road to access Bicentennial Park. She stated there must be ways for dog owners to enjoy the unfenced off-leash area and allow non-dog owners to enjoy the park also. She inquired about the Town funding a study to examine traffic and alternate ways to access the park.

Jerry Bacon, 24 Maple Street – Mr. Bacon stated that coming out of the Pandemic, he feels the Town should not be restricting ways for people and their pets to interact, but rather opening possibilities. He suggested the addition of a 15-mile per hour speed limit on Winesap Road and

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a parking lot and pass-through fence with signage informing users that people are responsible for their dogs. Mr. Bacon is sympathetic to the local residents, but does not want taxpayers to fund an extra dog warden or extra police in the area. He noted that the area of the park near Chamberlain Highway has more ticks and added that he feels a 20' lead for a dog in public spaces is dangerous (as stated in the proposed leash law).

Ludger Bedard, 79 Winesap Road - Mr. Bedard noted that at a previous meeting the possibility of a parking lot was dismissed because there is an aquifer present at that location.

Glenn Warner, 246 Winesap Road – Mr. Warner suggested that the entrance to Bicentennial Park on Norton Road (former Lions Pool location) be used as a public parking area and entrance.

George Millerd, 1231 Orchard Road – Mr. Millerd agreed that Orchard Road would be a great public entrance, but noted that the clearing is often a hay field. Mr. Millerd also noted that up to half of the dog-owner visitors to Bicentennial Park come not for the flat field, but to exercise on the trails. He suggested certain hours for off-leash usage with signs posted to notify users. He also observed that many older people walk with their dogs on the clearing off of Winesap Road, and eliminating that entrance will hurt that part of Berlin's population.

Greg Pelkey, Coe Lane – Mr. Pelkey rides his bike at Bicentennial Park and has experienced dogs approaching him / following him. He noted that in the open field area, dog owners often congregate in a corner and may take up to 3 minutes to reach their pet, who could cause injury by that time. He suggested the possibilities of "resident only" use of the park / entrance to reduce strangers in the Winesap neighborhood and the possibility of dog owners carrying their own liability insurance if they bring their dogs off-leash to a public area.

Karen Pagliaro, 221 Stillmeadow Lane – Ms. Pagliaro is a nurse (and a dog-owner) who has cared for dog bite patients and has been bitten several times. She urged that public safety should be the first consideration. She also stated that the Conservation Commission is responsible for Bicentennial Park and its Chairman feels that the park is for all people, not just dog owners. She suggested that a space outside of "open space" be designated for dogs.

Patty Bedard, 79 Winesap Road – Ms. Bedard noted that she and her leashed dog are unable to use Bicentennial Park due to all of the unleashed dogs. She stated that there are many cars parked at the end of Winesap Road between 4-6 most days and the vast majority of dog owners do not leash their dogs from the car to the field. Ms. Bedard also noted that the dog owners chat and their dogs cannot be under their control if they are distance away.

Phyllis Norton 36 Steepleview Drive – Ms. Norton agreed that a 20' lead is too long for public walking of a dog (a dog can wrap a bystander and knock them over) and wondered if homeowners' liability coverage would cover a dog owner's liability if their dog bites in public. She is in support of a solution to share Bicentennial Park between off-leash dogs and other users.

Chrissy Bacon, 63 Winesap Road – Ms. Bacon noted that most neighborhood residents do not walk their dogs in Bicentennial Park because they have been intimidated by the park visitors. She also stated that high traffic and speeding is a problem in the neighborhood.

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Peter Zarabozo, 158 Ellwood Road – Mr. Zarabozo does not think Pistol Creek is an ideal location for an off-leash area, stating the Town would end up in a similar situation. He is against a parking area on Winesap since either the Orchard Road or Chamberlain Highway entrances might be used by dog owners. Mr. Zarabozo supports sharing the park, stating it shouldn't be dominated by one group or the other.

Rebecca Rowley, Hamden Connecticut – Ms. Rowley stated that she brings her highly trained dog to Bicentennial Park most weekends and appreciates the off-leash setting. She noted that Hamden has less open space, and her dog was attacked at the small off-leash area offered in that town.

Maura Gaffney, Winesap Road – Ms. Gaffney noted that the people who participate in these community discussions are responsible, but the problem is the irresponsible users. She stated that safety has to be the main issue and asked how does the Town hold irresponsible dog owners accountable?

Mayor Kaczynski thanked participants and acknowledged that both sides of the debate have compelling points. He noted that the overall leash law needs to progress quickly to protect the public from dog bites in public areas and throughout neighborhoods. He is hopeful that a compromise can be reached to offer some off-leash space for dogs and suggests that research continue into the current possibilities as well as new options. He did acknowledge that even the best trained animals can be unpredictable and public safety must be everybody's first concern. Mayor Kaczynski thinks that P&Z may have conducted a study for a parking lot at the Winesap entrance to Bicentennial Park in 2008 and if a report exists, it will be made available to the public as part of future meetings. Mayor Kaczynski encouraged ongoing mutual courtesy, respect and involvement in the discussions.

Councilor Angelico-Stetson stated that all residents (including those on Winesap Road) have a right to peace and contentment where they live. She noted that animals can be unpredictable, not everybody's dogs are highly-trained and she has seen catastrophic injury resulting from dog bites. Councilor Angelico-Stetson has taken her own dog to dog parks in Rocky Hill and Cromwell and stated that incidents can happen in designated or non-designated areas. She is in favor of establishing a leash law soon.

Councilor Paonessa stated that the Conservation Commission feels Bicentennial Park should be for people and dogs on a leash, and Town Council does not control the park. He feels the residents deserve a leash law throughout the rest of Town. He also noted that with 400 acres of park, a compromise should be possible.

Councilor Luddy noted that many good points were made and he thinks the leash law is very important for neighborhoods, public areas, sidewalks, etc.

Councilor Rosso visits Bicentennial Park frequently, stating it is mainly calm during the day but chaotic from 4-6 during the afternoon. While he has been a dog owner, Councilor Rosso does not feel that taxpayers should be required to pay to reserve a space for off-leash dogs. He also noted that this conversation has been going on for years.

Mayor Kaczynski noted that a few more edits to the leash ordinance are necessary and suggested that the Ordinance Committee meet in another two weeks to vote and send the leash ordinance to Town Council. He suggested that carveouts be left in for possible off-leash area(s) that could be amended at a future date. He again welcomed and encouraged community involvement and individual investment in the process.

#### **4. APPROVAL OF MINUTES**

##### **a. November 12, 2020**

Councilor Luddy moved to approve the November 12, 2020 meeting minutes.

Seconded by Councilor Paonessa.

Vote being: 5-0. (MOTION CARRIED)

#### **5. OLD BUSINESS**

##### **a. Amending Chapter III and Chapter XIII to include a Leash Law for the Town**

##### **b. Discussion on establishing a Leash Free area at Pistol Creek**

#### **6. ADJOURNMENT**

Councilor Luddy moved to adjourn at 7:34 p.m.

Seconded by Councilor Rosso.

Vote being: 5-0. (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 twentyten (120) feet in length or less on designated public property as herein defined, which leash or lead is under the immediate control of a personits 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 twentyten (120) 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. This definition of "designated public property" shall be held to include all of the aforesaid public properties in their entirety, until such time as the Town Council acts to permit, with those conditions, limitations, and/or restrictions it deems appropriate, an off-leash area(s) or otherwise exempt the applicability of this Chapter to one (1) or more of the identified public properties.

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*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 twentyten (120) 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.

*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 twentyten (120) 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.

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## 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

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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.

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Replace Highlighted section above with the following:

"Dogs are allowed on all other ground areas, provided they are properly: (a) on a leash or lead that is seven (7) feet or less in length, on school or other non-designated public property; or (b) on a leash or lead that is twentyten (120) feet or less in length, on designated public property as defined in Sec. 3-2 of Chapter III. All dogs on leashes or leads as previously described must be under the constant control and restraint by their owner(s) or keeper(s). Further, dog excrement must be picked up, properly contained and disposed of by their owner(s) or keeper(s)."

(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.

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(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)

## **CHAPTER XVI - TAXATION AND FINANCE**

### **Article 1. - General**

**Secs. 16-1—16-10. Reserved.**

### **Article 2. - Ad Valorem Tax<sup>1</sup>**

#### **Part A. - Generally.**

##### **Sec. 16-11. Abatement of property tax; application.**

The town council may abate the property taxes due for any year with respect to any residential dwelling occupied by the owner and for whom such dwelling is the primary place of residence, to the extent that such property taxes exceed ten percent (10%) of the total income from any source, adjusted for self-employed persons to reflect allowance for expenses in determining adjusted gross income for federal income tax purposes, of such owner and any other person for whom such dwelling is the primary place of residence, for the calendar year immediately preceding the beginning of the tax year for which such taxes are due. Application for such abatement shall be made not later than thirty (30) days preceding the tax due date for such tax year, provided that if the amount of such taxes have not been determined on such date, within ten (10) days following determination of the amount of such taxes.  
(Ord. No. 5-78, § I, 10-30-1978)

##### **Sec. 16-12. Abatement agreement; lien.**

The owner shall deliver to the town tax collector, not later than ten (10) days following the tax due date for such taxes abated, an agreement, on a form executed and acknowledged in the form and manner required for the transfer of an interest in real property, to reimburse the town in the amount of the taxes abated, with interest at six percent (6%) per annum. Such agreement shall contain a legal description of the real property with respect to which such abatement is approved and shall be recorded in the town land records. Such agreement shall constitute a lien on such real property which shall remain valid until paid. Such lien shall be due and payable in full upon the sale or transfer of such real property or upon the death of the owner, or if owned by more than one (1) person at the time such lien is created, upon the death of the last of such owners surviving. Such lien shall be released by the town tax collector when the taxes secured have thereby been paid. No lien recorded under the provisions of this article shall take precedence over any mortgage recorded in the land records prior to such certificate of lien.  
(Ord. No. 5-78, § II, 10-30-1978)

**State law reference**—Authority to abate such taxes, state statute § 12-124a.

##### **Sec. 16-13. Bills or claims.**

If a person, including corporations, to whom a bill or claim is due and payable from the town also shall himself be indebted to the town for the payment of taxes, the director of finance or other official having an order in hand for payment of such bill or claim shall withhold the order

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<sup>1</sup> **State law reference**—Levy and collection of taxes, state statute § 12-122 et seq.



for payment, and shall deliver such order to the director of finance who shall present the matter to the next meeting of the town council for appropriate action.  
(Ord. No. 1-79, § I, 2-5-1979)

**Sec. 16-14. Crediting taxpayers; notice.**

The town council shall have the authority to order the director of finance to credit the taxpayer's tax obligation with the amount due from the town and remit the balance to the taxpayer, if any, forthwith, and notification shall be sent to the taxpayer of these credits at the same time.  
(Ord. No. 1-79, § II, 2-5-1979)

**State law reference**—Authority to withhold payments due delinquent taxpayer, state statute § 12-146b

**Sec. 16-15. Exemption from personal property taxation of vehicles for the handicapped.**

- (a) There is established, pursuant to state statute § 12-81c, an exemption from personal property taxation for any motor vehicle which has been specially equipped or modified for the exclusive purpose of transporting handicapped or medically incapacitated persons except when such vehicle is used to transport persons for payment. For purposes of this section, vehicles owned by private nursing homes or similar health organizations are not exempt on the grounds that such organizations are paid for such services.
- (b) A vehicle is deemed to have been specially equipped or modified for transporting handicapped or medically incapacitated persons if the vehicle is registered in the name of a person with a state handicapped parking permit and alterations to the vehicle include one or more of the following: special hand controls, lifts, ramps, special seating or stretchers, significant modifications to accommodate medical equipment such as oxygen or mechanical respirators, and other similar significant alterations.
- (c) A vehicle is deemed to be used exclusively for transporting handicapped or medically incapacitated persons when use of the vehicle is for no other purpose except for transporting handicapped or medically incapacitated persons.
- (d) Persons desiring such exemption shall make application to the town assessor for determination whether an exemption is permitted. Applications must be filed ~~annually~~ not later than thirty (30) days following the October 1 assessment date ~~for the year in which the exemption is claimed~~; provided, however, that persons purchasing a specially equipped motor vehicle between October 2 and September 30 of any assessment year shall make application to the town assessor for such specially equipped motor vehicle exemption within thirty (30) days of the date the supplemental motor vehicle tax bill is due. Failure to file such application in the manner prescribed shall constitute a waiver of the right to an exemption for that assessment year.
- (e) If the town assessor determines that an exemption is not permitted, the applicant may appeal that decision to the town board of assessment appeals by filing a notice of appeal with the town clerk on or before the thirtieth (30<sup>th</sup>) day following the date of notice that the exemption has been denied. The board of assessment appeals shall, within thirty (30) days of receipt of the notice appeal, consider the appeal and render a decision.

**Commented [AJ1]:** The Town Assessor has proposed that we remove the annual requirement so that they don't have to apply each year.

## **FLAG FLYING POLICY TOWN OF BERLIN**

*RESOLVED, by its Town Council, the Town of Berlin adopts the following policy relating to the display of flags on Town owned properties "Policy"). The Policy shall be effective as of \_\_\_\_\_ and remain in effect until modified or terminated by the Town Council.*

No Flag other than the flags of the United States of America, State of Connecticut and Town of Berlin (if and when a Town flag is adopted) may be flown on any properties owned or maintained by the Town of Berlin, with the following exceptions:

- a. For any property owned by the Town of Berlin used as a veteran's memorial, the following flags may be flown at the discretion of the Town of Berlin Veteran's Commission:
  - i. POW/MIA Flag;
  - ii. The Official services flags of the Armed Forces of the United States of America; or
  - iii. An official flag, ensign, or service pennant of any military unit, in recognition of that unit's service to the State of Connecticut or United States of America.
- b. For any Town of Berlin owned property serving as an office, station of substation of the Town of Berlin Police Department and/or Fire Department, the official departmental flag.

In adopting this Policy, the Berlin Town Council declares that flagpoles owned or maintained by the Town of Berlin are not intended to serve as a forum for free expression by the public, but rather as a non-public forum for the display of the flags authorized herein, as government speech.

**Sec. 53a-181a. Creating a public disturbance: Infraction.** (a) A person is guilty of creating a public disturbance when, with intent to cause inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he (1) engages in fighting or in violent, tumultuous or threatening behavior; or (2) annoys or interferes with another person by offensive conduct; or (3) makes unreasonable noise.

(b) Creating a public disturbance is an infraction.