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, and excepting playing fields, playgrounds, golf courses, tracks, outdoor courts, inside fenced-in areas at the pools, and within the initial/first fenced-in area at Scalise Field including the spectator seating area on which dogs are not allowed per Sec. 13-32 of Chapter XIII of the Code, or on a leash or lead of ten (10) feet in length or less on designated public property as herein defined, which leash or lead is under the immediate control of its owner or keeper who is capable of restraining the animal at all times. A dog(s) shall not be considered to be "At large" and is/are permitted to be off-leash when said dog(s) are off-leash in the meadow designated off-leash area of Bieentennial ParkPistol Creek Park; however, such off-leash dog(s) must be under the immediate control of its/their owner or keeper who is capable of restraining the animal(s) at all times. Dogs will be permitted to be off-leash as aforesaid for a six (6) month period of time from February 1, 2022, or such shorter or longer period of time as the Town Council acts to permit, with those conditions, limitations, and/or restrictions it deems appropriate in its discretion.

Designated public property means public property on which animals can be on a leash or lead that is ten (10) feet in length or less and includes the area of Bicentennial Park which is not part of the meadow, Community Playground, Demore, Dinda, Bittner Jr. Memorial Pool, Percival Pool, 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, Pistol Creek Park (with both sides of the street and not including the off-leash area of the Park), Potter's Field, 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 ten (10) feet in length or less on designated public property as herein defined, which leash or lead is under the immediate control of its owner or keeper who is capable of restraining the animal at all times; or if off-leash in the meadow area of Bicentennial Park for a six (6) month period of time from February 1, 2022, or such shorter or longer period of time as the Town Council acts to permit, is not under the immediate control of its owner or keeper who is capable of restraining the animal at all times or is otherwise not in compliance with those conditions, limitations, and/or restrictions the Town Council imposes on such off-leash area in its discretion.
- (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 ten (10) feet in length or less on designated public property as herein defined, which leash or lead is 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; or if off-leash in the designated off-leash area of Pistol Creek Park meadow area of Bicentennial Park for a six (6) month period of time from February 1, 2022, or such shorter or longer period of time as the Town Council acts to permit, is under the immediate control of its owner or keeper who is capable of restraining the animal at all times or is otherwise in compliance with those conditions, limitations, and/or restrictions the Town Council imposes on such off-leash area in its discretion.

Vicious or dangerous animal means an animal that has attached, 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; Definitions amended by Ord. No. 1-2021 12-14-2021)

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.

Dated at Berlin, Connecticut this 15th day of December 2021.

Kathryn J. Wall Town Clerk

Note: Amendment to the Ordinance shall become effective thirty (30) days after publication in local newspaper

Join Zoom Meeting

https://berlinct-gov.zoom.us/j/81394843574?pwd=YmV3STISWDlDbmdLSmpjV09aR2tQdz09

Meeting ID: 813 9484 3574

Passcode: 149585 +1 929 205 6099

ORDINANCE COMMITTEE MEETING Monday, June 20, 2022, at 6:00 p.m. Town Council Chamber and Zoom Meeting Minutes

Members Present:

Mayor Mark Kaczynski – Chairman, Councilor Jack Fazzino, Councilor Brenden Luddy, Councilor Charles Paonessa

Members Absent:

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 6:03 p.m.

- 2. PLEDGE OF ALLEGIANCE
- 3. AUDIENCE OF CITIZENS

None.

- 4. APPROVAL OF MINUTES
 - a. October 14, 2021

Councilor Paonessa moved to approve the October 14, 2021 meeting minutes.

Seconded by Councilor Luddy.

Those voting in favor: Mayor Kaczynski, Councilor Fazzino, Councilor Luddy, Councilor Paonessa.

Vote being: 4-0. (MOTION CARRIED)

5. NEW BUSINESS

a. Discussion of Short-Term Rental Ordinance

Corporation Counsel Coppola gave an overview of short-term rentals and how they have become an issue in many communities. Some of the short term rental properties are being used as 1-day / weekend rentals for things like parties, weddings, a prom house and other

gatherings. The Town of Berlin had one particular incident in town recently that is being reviewed. Safety is always a concern with such events, for example if there are a ton of people on a deck that can cause unsafe conditions. People could even get trampled at large events and there is often underage drinking involved, plus egress issues. People under the age of 21 pay to enter these parties. There are noise issues and cars parked on both sides of the road, making it a safety concern for fire trucks and emergency vehicles to pass through.

Corporation Counsel Coppola referenced the Short-Term Rental Regulation in Connecticut document (SCCOG). The document says the State of Connecticut currently has no legislation in place regulating short term rentals, however a room occupancy tax of 15% should be charged. It is currently up to municipalities to decide how to best regulate (or not regulate) these type of agreements.

Because zoning enforcement does not work on the weekend when most parties occur, the town needs to decide who is going to be responsible for enforcements? Mainly the Police and Fire Department. Should the town allow short term landlord rentals on deed restricted houses? That could impact affordable housing opportunities. Corporation Counsel Coppola also referenced the Town of Simsbury Short Term Rental Ordinance that is already in place. The Town of Simsbury requires a short term rental permit. There is also an acknowledgement / declaration requirement form that requires current contact information from the owners and the application fee is \$200. Parking is also defined in the ordinance.

Councilor Paonessa asked what authority does the town have when there is a giant party at one of these short-term rentals and it involves alcohol, noise and illegal parking? Corporation Counsel Coppola said underage drinking is the main concern in that situation and the Police Department can help along with the State's Attorney's. These issues can be regulated at the onset and these properties are often listed on website apps. A short term rental without a permit can lead to a citation and police enforcement does have the right to tow. Mayor Kaczynski said he will look into why we didn't tow cars from the recent incident. Corporation Counsel Coppola said the State Police can assist the town if needed, but there are layers of difficulty with towing and sometimes there are even buses used to bring people. Drinking is involved too. Councilor Fazzino said the town needs to take a proactive approach and try to limit the activities. Also, there will always be non-law abiding people. We need a noise ordinance as well. Mayor Kaczynski added there is usually a fine for violators. Corporation Counsel Coppola said the maximum fine amount is \$250.

Corporation Counsel Coppola said she will give the commission time to digest the ordinance information provided. Town Manager Jayawickrema said the town will need to determine how big of a problem this is and how many listings are we dealing with. Commissioner Fazzino asked how would someone register their short term rental with the town? Corporation Counsel Coppola said it would be done through the Planning and Zoning Department, or an on-line application process.

The committee agreed to move the dog off-leash area ordinance item to the next meeting agenda.

6. ADJOURNMENT

Councilor Luddy moved to adjourn at 7:20 p.m.

Seconded by Councilor Paonessa.

Those voting in favor: Mayor Kaczynski, Councilor Fazzino, Councilor Luddy, Councilor Paonessa

Vote being: 4-0. (MOTION CARRIED)

Submitted by,

Alina Brown

Truck means any motor vehicle solely registered as a commercial vehicle and has a gross vehicle weight of at least one thousand (1,000) pounds. Public safety, educational, municipal and municipal purpose vehicles are exempt from the provisions of this article.

(Ord. No. 4-88, § 1, 8-22-1988)

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

Sec. 17-111. Prohibited acts.

No person shall operate a truck on any public road where the town has erected a sign in a conspicuous place on such road, which effectively states that trucks are prohibited from operating on such road, unless the truck has a point of origin or destination point on such road or an intersecting road which has no alternative access.

(Ord. No. 4-88, § 2, 8-22-1988)

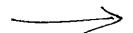
Sec. 17-112. Penalty for violation of article.

Any person violating the terms of this article shall be fined in accordance with the town fee schedule for each offense.

(Ord. No. 4-88, § 3, 8-22-1988)

Secs. 17-113-17-119. Reserved.





Article 5. - Regulating Off-Road Vehicles

Sec. 17-120. Policy.

The state legislature has found and declared that:

- (1) excessive noise is a serious hazard to the health, welfare and quality of life of residents of the state;
- (2) exposure to certain levels of noise can result in physiological, psychological and economic damage;
- (3) a substantial body of science and technology exists by which excessive noise may be abated;
- (4) the primary responsibility for control of noise rests with the state and the political subdivisions thereof; and
- (5) each person has a right to an environment free from noise that may jeopardize his or her health, safety or welfare. The town council adopts these findings and policy statement.

This article is intended to protect, preserve and promote the health, safety, welfare and quality of life of the residents of the town through the regulation of noise, disturbance and inconvenience caused by the use of off-road vehicles as defined herein. (Ord. 5-10, 10-19-2010)

Sec. 17-121. Definitions.

a) "Off-Road Vehicle" (hereinafter "ORV") as used in this article shall include the following: "Snowmobiles" as defined in state statute § 14-379; "All-terrain vehicles" as defined in state statute § 14-379; Motorcycles, motorized dirt bikes, motorized go-carts,

or any other motorized vehicle, registered or unregistered, which is being used for off road recreational purposes.

- b) "Operate" means to control the course of or otherwise use an ORV;
- c) "Operator" means the person who controls the course of and operation of an ORV;
- d) "Owner" means the owner of the ORV;
- e) "dB(A)" means the standard abbreviation for "A weighted sound level in decibels";
- f) "Lot" means a parcel of land which is part of an approved subdivision as a designated lot, the map of which has been recorded with the town clerk or a parcel of land described by metes and bounds, the deed of which has been recorded with the town clerk;
- g) "Immediate family" means a spouse, child, grandchild, parent or grandparent.

(Ord. 5-10, 10-19-2010)

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

Sec. 17-122. Prohibition on town owned property.

It is illegal to operate or possess an ORV on any town owned land, including all parks and open space land.

(Ord. 5-10, 10-19-2010)

Sec. 17-123. Vehicle registration and written land owner permission.

- a) The written permission of the landowner or his duly authorized agent shall be carried by any person operating an ORV and shall be available for inspection whenever such person operates an ORV.
- b) No person operating an ORV shall refuse to produce their vehicle registration (as required under state statute § 14-386) and/or the written permission of the landowner or his agent when requested by an authorized law enforcement officer.
- c) Upon the request by an authorized law enforcement officer and upon the failure to produce required vehicle registration and/or written permission from the landowner (or his agent) upon whose property the vehicle is being operated, the law enforcement officer shall stop the operator from further use of said ORV and shall escort the operator with the vehicle to a location accessible to a commercial towing service. From this location the ORV shall be moved at the vehicle owner's expense to a location designated by the police department. The ORV shall remain at this designated location until the owner of the vehicle claims it by providing valid proof of ownership and by paying all applicable towing and storage charges. In addition to said towing and storage charges, the owner (or parent of the owner if he or she is a minor) shall pay the fines listed in the town fee schedule for failure to produce valid registration and/or written permission to operate on the private property of another.
- d) The provisions of this section requiring written permission of the landowner or his agent do not apply to the operation of an ORV on premises owned or leased by the owner of said vehicle or his or her immediate family.

(Ord. 5-10, 10-19-2010)

Sec. 17-124. Operational restrictions.

a) Proximity to Adjoining Land: No person shall operate an ORV less than twenty five (25) feet from the adjoining property line unless such person owns the abutting property or has

- written permission from the owner of such abutting property (which written permission must be with the operator at all times).
- b) Proximity to Public Road: No person shall operate an ORV within twenty five (25) feet of a public road unless the operator is lawfully entering such road for travel or lawfully crossing such road;
- c) Hours of Operation: The operation of any ORV within two hundred and fifty (250) fect of any residential dwelling is hereby prohibited before 8:00 a.m. and after 8:00 p.m., Monday through Saturday, and before 9:00 a.m. and after 6:00 p.m. on Sunday.

(Ord. 5-10, 10-19-2010)

Sec. 17-125. Noise restrictions.

- a) Noise Restrictions: Municipal officers enforcing this article shall make reference to the regulations of the state department of motor vehicles, § 14-80a-1, et seq. entitled "Maximum Permissible Noise Levels for Vehicles." Measurement of noise levels shall be done in a manner consistent with the standards and procedures set forth in these regulations promulgated by the department of motor vehicles. Noise emissions from an ORV when measured with a sound level measuring microphone located fifty (50) feet from the ORV shall not exceed eighty (80) dB(A) at any time or under any condition of surface grade, vehicle load, acceleration or deceleration, or at any speed or rpm. In addition, noise emissions from an ORV may not exceed ninety-nine (99) dB(A) at a distance of twenty (20) inches at idle.
- b) Mufflers: Each ORV operated by an internal combustion engine shall be provided with muffler(s) designed to prevent excessive, unusual or unnecessary exhaust noise. Each muffler shall be maintained by the vehicle owner or operator in good working order and in constant operation.

No person, including an ORV dealer or repairer, shall install or use upon said vehicle a muffler lacking interior baffle plates or other effective muffling devices, a gutted muffler, a muffler cutout, a straight exhaust, or any other mechanical device which will amplify the noise emitted by such vehicle.

(Ord. 5-10, 10-19-2010)

Sec. 17-126. Exclusions and exceptions.

The following vehicles or activities shall be exempt from this article:

- (a) Farming equipment or farming activity, as defined in state statutes §§ 1-1 and 12-91;
- (b) Vehicles used for mowing, lawn maintenance and other yard work, provided that all equipment complies with other provisions of this article pertaining to mufflers and noise;
- (c) Vehicles used for gardening, provided that all equipment complies with other provisions of this article pertaining to mufflers and noise;
- (d) ORV used by authorized law enforcement officers, fire fighters or emergency medical personnel while on duty and acting within the scope of their employment;
- (e) Vehicles used in the normal course of snow removal from driveways or sidewalks, provided that all equipment complies with other provisions of this article pertaining to mufflers and noise;

(f) Businesses that provide ORVs and a place to ride to the public on commercial property and are authorized to do so by all municipal and state agencies having jurisdiction over the property and activity in question.

(Ord. 5-10, 10-19-2010)

Sec. 17-127. Enforcement.

The police department is charged with enforcing the provisions of this article. With respect to privately owned land no police officer shall initiate an investigation, or attempt to enforce or issue a summons to enforce this article, except upon complaint. The chief of police may develop regulations or procedures consistent with this article for the enforcement thereof, including but not limited to the metering procedures and training of officers. (Ord. 5-10, 10-19-2010)

Sec. 17-128. Fines.

In addition to any offenses enumerated in state statutes §§ 14-379 through 14-390, non-compliance with any section of this article shall constitute a separate offense and shall carry a fine for each violation as set forth in the town fee schedule. (Ord. 5-10, 10-19-2010)

Sec. 17-129. Appeals.

Any person fined pursuant to this article may appeal such fine to the town manager or his/her designee within thirty (30) days of the issuance of said fine, and then, if necessary, to the superior court.

(Ord. 5-10, 10-19-2010)

Sec. 17-130. Relation to nuisance and other laws.

Nothing in this article shall be construed as authorizing or legalizing the creation or maintenance of a nuisance, and compliance with this article is not a bar to a claim of nuisance, or any other private cause of action, by any person. A violation of this article shall not be deemed to create a nuisance per se. The provisions of this article shall not be construed to prevent the enforcement of other ordinances, regulations, or statutes that prescribe other standards for the type of noise or conduct involved.

(Ord. 5-10, 10-19-2010)