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* **Cross References:** Administration, Ch. 2; buildings and building regulations, Ch. 4; health, Ch. 7; keeping livestock and fowl permit required, § 7-21; housing, Ch. 8; mobile homes and manufactured housing and mobile home parks, Ch. 10; solid waste, Ch. 12; streets, sidewalks and other public places, Ch. 13; dogs in public parks, school yards and playgrounds restricted, § 13-1; zoning and land use, Ch. 17.

State Law References: Animals, RSA 466:1 et seq.

ARTICLE I.

IN GENERAL

Sec. 3-1. Animal cruelty.

The police department and the health officer shall be charged with the enforcement of all state laws concerning cruelty and treatment of animals. Any person who shall confine an animal in an unsafe or inhumane manner, inflict injury upon an animal without justification or excuse, abuse, mistreat or neglect to care for a dog shall be found to be in violation of this chapter as per RSA 466:8. The appropriate authority shall enforce protective custody of any animal where probable cause is apparent. All dogs released shall be properly licensed and vaccinated at the expense of the redeemer.
(Ord. of 3-5-90(2))

State Law References: Cruelty to animals, RSA 466:8.

Sec. 3-2. Searches.

The health officer and the police department shall be empowered to conduct routine investigational searches in connection with any reasonable suspicion of incidents of rabies or other such diseases found to pose a threat to public health. They shall likewise jointly be empowered to make searches in connection with the investigation of any probable violations of this chapter and to issue summons.
(Ord. of 3-5-90(2))

Sec. 3-3 Feeding of Wildlife on public property

The purpose of this section is to protect and preserve the purity and sanitation of the parks; to protect public property from defacement; and to protect the public from the creation of health hazards.

No person shall purposely dispense any type of food, substance or seed with the intent of causing any species of wildlife to feed upon the grounds owned by the City of Berlin.
(Ord. of 07/07/03)

Secs. 3-4 Warning required before prosecution

Prior to issuing a citation for a violation of section 3-3. Feeding of wildlife on public property, a police officer or any law enforcement or code enforcement officer shall issue one verbal or written warning to an individual and if the individual ceases the

activity, then no citation shall be issued. Once an individual has been given one warning, the requirement in this subparagraph has been met and no subsequent warnings are required.
(Ord. of 07/07/03)

Secs. 3-4--3-20. Reserved.

ARTICLE II.

DOGS*

* **State Law References:** Dogs, RSA 466:1 et seq.

DIVISION 1.

GENERALLY

Sec. 3-21. 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:

Dog shall be intended to mean any member and gender of the family canidae.

Owner shall be intended to mean any person, group, association, firm, corporation or organization maintaining, keeping, caring for, harboring or owning a dog.
(Ord. of 3-5-90(2)) (Ord. of 04/07/03)

Sec. 3-22. Running at large prohibited.

Notwithstanding any other provisions of this chapter, it shall be unlawful for any dog to run at large, except when accompanied by the owner, and when used for hunting, herding, supervised competition and exhibition or training for such activities. For the purpose of this section, "accompanied" means that the owner must be able to see or hear, or both, or have reasonable knowledge of where the dog is hunting, herding or where the training is being conducted or where the trials are being held. Nothing herein provided shall mean that the dog must be within sight at all times.

In this section, "at large" means off the premises of the owner and not under the control of any person by means of personal presence and attention as will reasonably control the conduct of such dog, unless accompanied by the owner.

Any authorized person may seize, impound or restrain any dog in violation of this section and deliver said dog to a person or shelter authorized to board dogs. Such dogs shall be handled as strays or abandoned dogs.

In addition to impounding a dog found at large or in violation of this section, any local law enforcement officer may issue, in the name of the owner of such dog, a notice to abate for a first offense. The owner may be issued a violation for each additional violation.
(Ord. No. 12, § 12:105, 6-10-78; Ord. of 3-5-90(2)), (Ord. of 04/07/03)

State Law References: Muzzling and restraining of dogs, RSA 466:29 et seq.

Sec. 3-23. Dogs, A Menace, Nuisance or Vicious

1. Under this section a dog is considered to be a nuisance, a menace, or vicious to persons or to property under any or all but not limited to the following conditions:
 - a. If an owner permits any dog under any circumstances, within or without the owner's control to defecate or defile, or trespass on private or public property, damage or destroy any property or thing of value;
 - b. If it barks for sustained periods so as to disturb the peace and quiet of a neighborhood or area;
 - c. If it digs, scratches, excretes, or causes waste or garbage to be scattered on any property, public or private, other than its owners;

- d. If any female in season (heat) is permitted to run at large or be off the premises of the owner during this period except when being exercised on a leash by a responsible adult. At all other times such dog shall be confined within a building or enclosure in such manner that she will not come in contact (except for intentional breeding purposes) with a male dog. A female dog in heat shall not be used for hunting;
- e. If it growls, snaps at, runs after or chases any person or persons;
- f. If it runs after, or chases bicycles, motor vehicles, motorcycles, or any other vehicles being driven, pulled or pushed on the streets, highway, or public ways;
- g. If, whether alone or in a pack with other dogs, it bites, attacks or preys on game animals, domestic animals, fowl or human beings.
- h. A tethered dog cannot be any closer than two (2) feet from any public sidewalk or street when the dog is on private property.

2. Any person who fails, by appropriate action including but not limited to restraining an animal from running at large, or otherwise effectively fails to abate any nuisance found such under the provisions of this section, or who fails to comply with any other provisions of this section after being so ordered, shall have the person's dog taken away into custody by the police of the city and such disposition made of the dog as the court may order.

If a law enforcement officer does not witness the nuisance behavior, the name of the complainant(s) shall be released as public information before any fine under Section 3-27 shall be levied.
(Ord. of 3-5-90(2)) (Ord. of 04/07/03) (Ord of 07/18/2005)

Sec. 3-24. Reserved

(Ord. of 3-5-90(2)) Deleted – (Ord. 04/07/03)

Sec. 3-25. Impoundment.

Any dog found at large within the city may be restrained and impounded by the police department. A dog so impounded may be confined in a suitable animal shelter for a reasonable period of time. An impounded dog not claimed by the owner within seven (7) days after being notified by certified letter, if the owner is known, may be humanely disposed of by the city. If an owner is not known, the seven-day period shall apply before disposal.
(Ord. No. 12, § 12:106, 6-10-78; Ord. of 3-5-90(2))

State Law References: Impoundment, RSA 466:30-b(III).

Sec. 3-26. Notice to owner and redemption.

No later than two (2) days after the impounding of any dog, the owner, if known, shall be notified. The owner shall be entitled to redeem the dog upon payment of a redemption fee of ten dollars (\$10.00) for every day of impoundment together with all other costs associated with impoundment, transportation, care and treatment of the dog. An impounded dog not claimed by the owner within seven (7) days whether the owner is known or not, may be humanely disposed of by the city or released to the New Hampshire Society for the Prevention of Cruelty to Animals or given to a new owner, provided that any such person shall pay the redemption fee, together with all other costs associated with the care and treatment of the dog. All dogs before release shall be duly licensed and vaccinated at the expense of the redeemer. (Ord. No. 12, § 12:106, 6-10-78; Ord. of 3-5-90(2))

State Law References: Disposition of unclaimed animals, RSA 437:18 et seq.

Sec. 3-27. Penalties.

Any person who violates any provision of Sections 3-22 and 3-23 shall be guilty of a violation. Fines shall be assessed as follows:

\$25 for the first offense under Section 3-22 and 3-23 (a) (b) (c) (d); a second offense fine shall be \$50; third and subsequent offenses shall be governed by RSA 651:2,IV(a).

\$50 for the first menace offence under Section 3-23 (e) (f); a second menace offense fine shall be \$100; third and subsequent offenses shall be governed by RSA 651:2,IV(a).

\$100 for the first vicious offense under Section –3-23 (g); a second visiousvicious offense fine shall be a minimum of \$200, the maximum fine shall be governed by RSA 651:2,IV(a).

In the case of a vicious dog as described by Section 3-23 (g) where behavior presents a threat to public safety, immediate district court proceedings may be initiated to have said dog humanely disposed of by its owner or by the City at the owner's expense.

(Ord. of 3-5-90(2)) (Ord. of 04/07/03)

State Law References: Penalty, RSA 466:31a.

Secs. 3-28--3-40. Reserved.

DIVISION 2.

LICENSE*

* **State Law References:** Licensing of dogs, RSA 466:1 et seq.

Sec. 3-41. License Required.

Every owner or keeper of a dog 4 months old or over shall annually, cause it to be registered, numbered, described, and licensed for one year in the office of the city clerk in which the dog is kept, and shall cause it to wear around its neck a collar to which shall be attached a metal tag with the following information thereon: The name of the city, year of issue of license and its registered number.

Upon payment of the license fee, the tag and license shall be furnished to the owner or keeper of the dog.

Proof of vaccination against rabies shall be required at the time of registration.

Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license because of death of the dog or the owner or keeper's leaving the City before expiration of the license period.

Regardless of when the license is obtained, the license shall be effective from May 1 of each year to April 30 of the subsequent year.

(Ord. of 3-5-90(2)) (Ord. of 04/07/03)

Sec. 3-42. Forfeiture.

Whoever is the owner or keeper of a dog and who fails to license or renew the dog license pursuant to Section 3-41 shall forfeit \$25 to the city clerk of the City of Berlin. If the forfeiture is not made to the city clerk within 15 calendar days of the notice of forfeiture, the case may be disposed of in district court as a violation with a fine not to exceed \$50, notwithstanding the provisions of RSA 651:2,IV. A forfeiture shall not relieve the owner or keeper of the requirement of proper licensing of the dog as required by Section 3-41. Any forfeitures collected under this section shall be retained by the city for administrative and enforcement of this section.

(Ord. of 3-5-90(2)) (Ord. of 04/07/03)

Secs. 3-43--3-55. Reserved.

DIVISION 3.

RABIES CONTROL*

* **Cross References:** Health, Ch. 7.

State Law References: Rabies control, RSA 442-A et seq.; vaccination required, RSA 442-A:2, 466:1-a.

Sec. 3-56. Vaccination.

The owner of a dog three (3) months of age and older shall have the dog vaccinated against rabies. Young dogs shall be vaccinated within thirty (30) days after they have reached three (3) months of age. Unvaccinated dogs three (3) months of age or over acquired in or brought into the state must be vaccinated within thirty (30) days after purchase or arrival. Every dog shall be revaccinated at such intervals and with such vaccines as the state shall specify from time to time. In rabies infected areas, dogs recently vaccinated shall be kept under control for at least thirty (30) days.

(Ord. No. 12, § 12:110, 6-10-78; Ord. of 3-5-90(2))

State Law References: Rabies vaccination required, RSA 442-A:2.

Sec. 3-57. Procedure.

If a dog is reasonably believed to have rabies or any other communicable disease which the health administrator of the city determines to pose a danger to public health or if a dog or other animal is believed to have been bitten or otherwise infected by any such animal, such dog or other animal shall be safely and continuously isolated and confined either on its owner's premises or at a veterinary hospital at the owner's expense for not less than two (2) weeks, as the health administrator shall require. If any such animal is found to have rabies or other such communicable disease or if any such animal cannot be safely isolated and confined, the health administrator may order the animal destroyed.

(Ord. No. 12, § 12:109, 6-10-78; Ord. of 3-5-90(2); Ord. of 5-6-96(1))

Sec. 3-58. Impoundment due to rabies.

(a) Upon reasonable suspicion, the health administrator may impound any dog or animal suspected of rabies or other disease. Animals not found to have been infected shall be returned to their owner upon payment of any costs for treatment and care of the animal.

(b) Any dog or other animal which is at large, and which is noticeably infected with rabies or other such communicable disease, if it cannot be safely confined and isolated, may be destroyed by the health administrator or by any police officer, without notice or delay.

(Ord. of 3-5-90(2); Ord. of 5-6-96(1))

State Law References: Impoundment, RSA 442-A:6.

Sec. 3-59. Epidemic.

Whenever the city manager determines that there is a high risk of rabies infections or other disease posing a threat to public health, he may order every person owning or keeping a dog or other animal to confine it to its premises and muzzle or isolate the animal in such a fashion as to prevent it from biting or otherwise injuring any person or other animal. Any dogs or other animals not confined and restrained shall be impounded for a duration of the emergency or until such time as its owner shall provide for its confinement. The owner shall pay the required redemption fees together with all other costs for the treatment and care of the animal. Any animal not redeemed within five (5) days of its impoundment under this provision may be humanely disposed of by the city or released to the New Hampshire Society for the Prevention of Cruelty to Animals or given to a new owner provided that any such person shall pay the redemption fee and other costs for the treatment and care of the animal.

(Ord. of 3-5-90(2); Ord. of 5-6-96(1))

Sec. 3-60. Violation.

(a) It shall be unlawful for any person to keep any animal known to have rabies, to fail to report to the police or health administrator any animal known or reasonably suspect of having rabies or to transport any such animal, live or dead within or beyond the city without the approval of the health administrator or in case of emergencies, the police department.

Failure to comply with any of the provisions of this section or to cooperate with the police or health administrator in the investigation of any suspected incidence of rabies shall be a violation of this chapter.

Penalty shall be governed by RSA 651:2,IV(a)

(Ord. of 3-5-90(2); Ord. of 5-6-96(1)) (Ord 4-7-03)