

Chapter 3 -- ANIMALS AND FOWL
(chapter revised 4/26/16, 11/24/20)

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ARTICLE I. GENERAL PROVISIONS

Sec. 3-1. Authority.

The city council has enacted this ordinance under the authority granted to the city through its Vermont Statutes Annotated, 24 V.S.A. Chapter 59.

Sec. 3-2. Purpose.

The purpose of this ordinance is to protect, preserve and promote the health, safety, and welfare of all citizens of the city through establishment of an enforceable ordinance regarding animals maintained and/or visiting within the city limits. Additionally this ordinance establishes a complaint/reporting process that is equitable to both the parties and the animal owner alike.

Sec. 3-3. Severability.

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

Sec. 3-4. Effective Date of Ordinance.

Amendments to this ordinance shall be effective twenty (20) calendar days after the adoption (by majority vote of the city council) and shall remain in effect until repealed or amended in accordance with the city charter (sec. 107 and 108).

Sec. 3-5. Designation of Effect

This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A., Chapter 59.

ARTICLE II. DEFINITIONS

Sec. 3-6. Definitions.

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For the purposes of this chapter definitions of the terms, phrases, words and their derivations shall be as defined in chapter 1, section 1-2 of the code of ordinances, the City of Barre, Vermont. Otherwise, the following listed words shall have the meanings indicated:

ANIMAL means every living being, not human or plant.

ANIMAL HOSPITAL means an establishment conducted by a licensed veterinarian, for the care, or care and boarding of animals.

ANIMAL YARD means every enclosure, shed or structure used to confine, keep and/or house animals, domestic quadrupeds, or wild animals, and also a kennel.

AT LARGE means off the premises of the owner or keeper, or the premises of another person who has been given permission for the animal to be at-large, or outside of a designated dog park, and not under the control of the owner, a member of their immediate family or the keeper, either by leash, collar, or chain.

CAT means both male and female of the genus felis.

DOG means both male and female of the genus canis. Dog can also mean any animal which is considered to be a wolf-hybrid as defined by state law.

DOG PARK means a location established by the City Council for dogs to exercise and play off-leash in a controlled environment under the supervision of their owners.

DOMESTIC QUADRUPED means animals used for labor, transportation or riding including but not limited to cows, goats, horses, pigs, sheep and rabbits. Domestic Quadrupeds are not dogs or cats.

ENFORCEMENT OFFICER when used herein shall mean any health officer, code enforcement officer, animal control officer, pound keeper or other individual specifically designated by the City Council to enforce the provisions of this chapter.

KEEPER means any person, other than the owner, that has the possession and control of an animal. Persons who are involved in programs such as Trap, Neuter & Return (TNR) shall not be considered keepers.

KENNEL means an enclosure or structure, other than a building used as a human residence, or an animal hospital or pet shop, used to confine two (2) or more dogs or cats.

OWNER means any person or persons, firm, association or corporation owning, keeping or harboring an animal. Persons involved in programs such as Trap, Neuter & Return (TNR) shall not be considered owners.

PET SHOP means an establishment for selling dogs, cats, birds, fish, hamsters or other small animals for profit.

POULTRY means domesticated birds used as a source of food, either eggs or meat, for sport or for their feathers.

POULTRY ENCLOSURE means every enclosure, shed or structure used to confine, keep and/or house poultry.

VICIOUS ANIMAL shall mean any animal which attacks or bites a person or other domestic pet while the animal is off the premises of the owner or keeper, and the person or pet attacked or bitten requires medical attention. Vicious animal complaints shall be investigated pursuant to Sec. 3-43(b).

WILD ANIMAL means an animal which is not, by custom in the state devoted to the service of human beings, excluding birds, fish, guinea pigs, hamsters, small amphibians, turtles and earthworms. An exotic wild animal is a wild animal not indigenous to the state. (Ord. No. 1966-3, Sec. 1.1.01, 6-12-73, Ord. No. 1983-1, 1-13-83, Ord. No. 2010-01, 7-6-10)

ARTICLE III. ADMINISTRATION, APPEALS & ENFORCEMENT

Sec. 3-7. Duties and Powers

- a. The city manager shall appoint the chief inspector who shall hereby be authorized and directed to administer and enforce the provisions of this ordinance. The chief inspector shall have the authority to render interpretations of the ordinance. Such interpretations, policies and procedures shall be in compliance with the intent of this ordinance.
- b. The chief inspector may delegate this authority to any enforcement officer.
- c. The city manager shall make all necessary and appropriate arrangements for the impounding of animals; this may be done by utilizing outside resources that would be contracted by the city for the containment of animals (such as private kennels and animal hospitals) and shall, if necessary, appoint a pound-keeper. (Ord. No. 2010-01, 7-6-10)
- d. As a condition of owning or keeping an animal within city limits the individual agrees that the enforcement officer may with the owner's consent or when otherwise authorized by law enter upon the premises, for the purpose of inspecting the premises to determine compliance with the provisions of this article.

Sec. 3-8. Enforcement Process, Appeals and Penalties

- a. Complaint Initiation
 1. A person must complete the paper or electronic complaint form.
 2. Forms must be signed and dated in order to investigate the complaint.
 - i. Contact information must be provided which shall be kept confidential.
 - ii. Complaint form must be returned to City Hall or the Public Safety Building for review physically or electronically.
 - iii. Handwriting must be legible.
 3. Complaints will be investigated within 5 business days of receipt by the enforcement officer.
 4. Frivolous complaints shall be a violation of this ordinance. A frivolous complaint shall be one in which there is no basis for the complaint outlined within this ordinance and this is known to the complainant at the time of submission of the complaint.
- b. Written Notice of Violation
 1. Where a violation of this ordinance exists, the enforcement officer shall issue written documentation notifying the party responsible of the existence of the violation(s). The written notification shall include the following:
 - i. Summary of violation.
 - ii. Specific Ordinance and or State Statute violated.
 - iii. Actions taken by the enforcement officer. This may include seizure of the animal or animals.

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- iv. Specific actions needed to remedy the violation, which may include any accumulated fines or fees.
 - v. Time frame allowed for remediation.
 - vi. Actions to be taken by enforcement officer if not remediated. This may include seizure of the animal or animals.
 - vii. Appeals process language in this ordinance.
- c. Appeals
1. An individual may appeal the enforcement officer's decision in writing to the chief inspector within 5 business days of receiving the notice of violation. Once received the chief inspector will provide a written determination within 5 business days.
 2. The aggrieved party may further appeal the Animal Control Committee within 5 business days of receiving the chief inspector's determination.
 3. Additional appeals would be made to the Vermont Superior Court Civil Division. Pursuant to 20 V.S.A. 3550(i).
 4. The appeals process will not prevent the enforcement officer from completing the required actions set forth in this ordinance or those required by state statute or the Vermont Health Code.
- d. Penalties
1. An enforcement officer may issue, or direct to have issued, a Municipal Complaint and pursue enforcement before the Judicial Bureau in accordance with the provisions of 24 V.S.A. §1974 and §1977 with penalties as prescribed below:
 - i. A first offense in any twelve month period shall be punishable by a fine of \$150.00. The waiver fee shall be \$100.00.
 - ii. second offense in any twelve month period shall be punishable by a fine of \$250.00. The waiver fee shall be \$200.00.
 - iii. Third and subsequent offenses in any twelve month period shall be punishable by a fine of \$500.00. The waiver fee shall be \$300.00. An enforcement officer may also issue and order to revoke the license or permit to the Chief inspector, which is subject to Sec. 3-9. Appeals. of this chapter.
 2. An enforcement officer may notify the City Attorney of the violation, who can take action in Superior Court seeking injunctive relief with penalties as prescribed by law.
 3. Each day that a violation continues after the initial notice shall constitute a separate offense.

This ordinance does not stop certified law enforcement officers from issuing civil and criminal citations in accordance with state law.

Sec. 3-9. License—Required for dogs.

All dogs and wolf-hybrids shall be licensed in accordance with 20 V.S.A § 3581.

Sec. 3-10. Exhibitions or parades; permit required; fee imposed; investigation thereof.

Exhibitions or parades of animals which are *ferae naturae* (wild) in the eyes of the law may be conducted only upon securing a permit from the city clerk. Forms for all licenses and permits and applications therefore shall be prepared by the city clerk. Before a permit is granted, the police department shall investigate to determine whether such exhibition or parade will be conducted so that there is no risk of harm to any person or property. Once the permit is approved by the police department, it shall be considered for approval by the city clerk. The fee for the permit shall be designated by the city council and upon adoption of the rates the council shall publish in the local newspaper the rate change thirty (30) days prior to the effective date of the rate change. The permit shall expire at the end of the exhibition or parade, or one month after issuance, whichever time is the earlier. (Ord. No. 1966-3, Sec. 2.1.03, 6-12-73, Ord. No. 2005-1, 8/18/05, Ord. No. 2010-01, 7-6-10)

ARTICLE IV. OWNERS/KEEPERS RESPONSIBILITIES

Sec. 3-11. Ownership; termination.

A person who is the owner of an animal shall be deemed to continue to be its owner until they have sold or donated their right, title and interest in such animal to another person, or, in case of an indigenous wild animal, until the animal has escaped and has returned to its natural state. (Ord. No. 1966-3, Sec. 1.1.02, 6-12-73)

Sec. 3-12, Keeper; termination.

A person who is the keeper of an animal shall be deemed to continue to be its keeper until he/she has returned such animal to the custody and control of its owner, and in the case of an indigenous wild animal, until it has been returned to the custody and control of the owner or has escaped and returned to its natural state. (Ord. No. 1966-3, Sec. 1.1.02, 6-12-73)

Sec. 3-13. Animal bites.

It shall be the duty of every person bitten, or parent or guardian to report to the city health officer within twenty-four (24) hours the name, address and telephone number of the owner or keeper of the animal which bit the person and the complete circumstances. (Ord. No. 2010-01, 7-6-10)

Sec. 3-14. Exposure to public prohibited if infected with contagious disease.

An owner or keeper of an animal affected with a contagious or infectious disease shall not expose such animal in a public place whereby the health of other animals is affected, nor harbor an animal under quarantine, pursuant to section 3-22 of this chapter, in or on any part of any premises open to public visitors. (Ord. No. 1966-3, Sec. 3.2.01, 6-12-73, Ord. No. 2010-01, 7-6-10)

Sec. 3-15. Nuisance animals.

No owner, keeper or other person having control shall permit an animal to be a nuisance animal. For the purposes of this section, nuisance animal means any animal or animals which:

- (1) Molests or harasses passersby or passing vehicles, or otherwise creates a public safety hazard;
- (2) Attacks other animals;
- (3) Damages property other than that of its owner;
- (4) Defecates off the premises of the animal's owner, and the owner, or other individual in control of the animal, fails to remove such deposit immediately;
- (5) Barks, whines, howls, cries, or makes a noise commonly made by such animals in an excessive and continuous fashion so as to disturb the peace and quiet of any other person. (Ord. No. 2010-01, 7-6-10)
- (6) Causes persistent odors perceptible at the property boundaries that are not temporary in nature.

Sec. 3-16. Running at large, use of sidewalks and streets, etc.; regulations.

(a) It shall be unlawful to permit any owned animal or indigenous wild animals to run at large in the city except for cats. Any such animal found running at large may be impounded.

(b) It shall be unlawful at any time to permit any domestic quadruped, exotic wild animals or indigenous wild animals to use a sidewalk within the city, or to lead any such animal thereon, or to ride any such animal thereon, except to enter or leave a street or other public highway.

(c) Between sunset and sunrise it shall be unlawful to keep, lead, drive or ride any domestic quadrupeds in the streets or public highways of the city, unless such animal is in a properly lighted vehicle, or is so illuminated as to be visible at a distance of not less than one hundred (100) feet, or is lawfully upon a sidewalk, or crossing a street or public highway by the shortest possible route, or is off the traveled portion of the street or highway.

(d) No domestic quadrupeds, poultry, exotic wild animal or indigenous wild animal shall be permitted in any public park or cemetery in the city without permission of the council. It shall be unlawful to keep or allow to remain any such animal in any such park or cemetery without such permit. (Ord. No. 1966-3, Sec. 3.3.01, 6-12-73)

(e) No animal shall be permitted in any part of a city owned cemetery within a 20 foot radius of a gravestone, monument, or marker without the permission of the Council. (Ord. No. 2010-01, 7-6-10)

(f) Exceptions: Dogs may be off leash in a dog park and in the cow pasture in accordance with the rules set forth by the dog park and cow pasture committees.

Sec. 3-17. Collars on dogs and collars or microchips for cats required; rabies tag to be worn.

All dogs and cats kept and harbored within the city shall wear a collar or harness when off the premises of the owner. All dogs and cats traveling through or visiting within the city shall wear a collar or harness at all times while in public areas. The collar or harness shall have firmly attached thereto the name and address of its owner, its current rabies tag, and a current license tag. If a Radio Frequency Identification (RFID) microchip containing owner information has been implanted it is not necessary for the dog ~~or cat~~ to wear an attached name plate. (Ord. No. 1966-3, Sec. 3.2.01, 6-12-73, Ord. No. 2010-01, 7-6-10)

Sec. 3-18. Animal yards; prohibited in certain areas; waiver; duty of operator.

(a) It shall be unlawful to maintain within the city, any animal yard within thirty (30) feet of any building used for residential purposes by anyone other than the person maintaining the animal yard, members of the household, or an adjoining property owner who has waived the provisions of this section with respect to their residence. Such waiver shall be in writing and filed with the health officer. Provided, however, that this subsection shall not apply to a kennel, pet shop or animal hospital, which is located in the commercial zone or industrial zone of the zoning ordinances of the city, or which, on the effective date of this ordinance, lawfully exists in a residential zone.

(b) It shall be the duty of every person maintaining an animal yard to keep the same clean and sanitary and free from all refuse. Refuse from such yards shall be collected daily and kept in airtight containers until disposed of by burying, removed to a disposal area outside the premises, or applied as a fertilizer or mulch. (Ord. No. 1966-3, Sec. 3.1.01, 6-12-73, Ord. No. 2010-01, 7-6-10)

(c) Animal yards shall not apply to poultry. For requirements on poultry enclosures see Sec. 3-25(d).

Sec. 3-19. Cruelty to animals.

A person that commits the crime of cruelty to animals as outlined in 13 V.S.A., Chapter 8 Sec. 352 shall be considered in violation of this ordinance. (Ord. No. 2010-01, 7-6-10)

Sec. 3-20. Poultry.

(a) Number of poultry allowed: The maximum number of poultry allowed is fifteen (15) and shall be based on providing three (3) square feet of space in the enclosure and four (4) square feet of fenced area per bird, regardless of how many dwelling units are on the lot. A variance may be requested in writing to the officer Health Officer, who will take into consideration any complaints from abutters and may bring any variance for consideration before the animal control committee.

(b) Only female chickens are allowed. Poultry species are limited to chickens, turkeys and quail.

(c) The sale of poultry eggs/the breeding of poultry:

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- 1) Prior to the sale of poultry eggs the owner must register his/her home as a home business occupancy with the city planning and permitting office. Persons that engage in the sale of eggs shall follow all applicable state health and food handling laws.
 - 2) No person shall engage in poultry breeding or fertilizer production for commercial purposes.
- (d) Poultry enclosures shall meet the following requirements:
- 1) Poultry must have access to an enclosure or poultry tractor, or be kept in a fenced area (poultry pen) at all times during daylight hours. Enclosures must be clean, dry and odor-free, kept in a neat and sanitary condition at all times, and in a manner that will not disturb the use and enjoyment of neighboring lots due to noise, odor or other adverse impact.
 - 2) Poultry shall be secured within an enclosure during non-daylight hours. The structure shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird proof wire of less than one (1) inch openings. The use of waste board, or other waste materials is prohibited. The henhouse must be well maintained.
 - 3) All poultry enclosures such as henhouses, shed enclosures, and poultry tractors, shall be a minimum of ten (10) feet from any and all property lines. They must also be a minimum of thirty (30) feet from an occupied dwelling other than the owner's occupied dwelling.
 - a. In the case where the lot is a rental property, the applicant must also obtain signature from the lot owner acknowledging what is being requested.
 - b. In the case of a multiple unit structure (apartments) the poultry enclosure must be a minimum of thirty (30) feet from the entire occupied structure, even if the owner resides in the multiple unit (apartment) structure.
 - 4) Poultry enclosures shall not exceed forty-five (45) square feet in size.
- (e) Odor and noise impacts. Odors from poultry, poultry manure, or other poultry related substances shall not be perceptible at the property boundaries. Perceptible noise from poultry shall not be loud enough at the property boundaries to disturb persons or reasonable sensitivity.
- (f) Predators, rodents, insects, and parasites. The property owner, and/or poultry owner shall take all necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites that may result in unhealthy conditions to human habitation.
- (g) Feed and water. Poultry must be provided with access to feed and clean water at all times; such feeds and water shall be unavailable to rodents, wild birds and predators.
- 1) Ponds /swimming areas provided for poultry shall be prohibited.

(h) Waste storage and removal. Provision must be made for the storage and removal of poultry manure. All stored manure shall be covered by a fully enclosed container or compost bin. No more than one (1) thirty (30) gallon container of manure shall be stored on any one property housing poultry. All other manure shall be removed. Ground composting of poultry manure shall not be allowed (i.e. placing manure on the ground and mixing with hay or wood chips).

(i) If a poultry dies, it must be disposed of promptly in a sanitary manner.

Sec 3-21. Reptiles transported off the owners property.

No person shall remove a reptile from its home or owners property unless the animal is transported in an animal travel container or similar storage container that ensures the animal does not escape and that the reptile shall not endanger the general public.

ARTICLE V. ANIMAL QUARANTINE AND IMPOUND

Sec. 3-22. Quarantine.

(a) Whenever an animal of a species, subject to rabies, bites a person, the city's enforcement officer shall be notified within 24 hours of the bite occurring. If on investigation the enforcement officer finds that the animal did bite a person, the enforcement officer shall order the animal to be quarantined for a period of ten (10) days, unless such animal develops active signs of rabies within that time, in which case the animal shall be killed under direction of the health officer. Quarantine shall be as follows:

- 1) In-home quarantine requirements – the decision to allow the animal to remain quarantined by the owner will be dependent on the following:
 - a) The animal has an active rabies vaccination that has not expired (with confirmation from a qualified veterinarian practice).
 - b) The animal's past history.
 - c) The animal owner's ability to meet quarantine requirements and the cooperation shown by the animal's owner.
- 2) If the enforcement officer feels that the quarantine requirements shall not be complied with, or the animal does not have a valid rabies vaccination, the enforcement officer shall have the animal placed with an approved keeper for the length of the quarantine. All costs associated with placing the animal in quarantine with a third party shall be the responsibility of the animal owner/keeper.

At the end of ten (10) days, the animal shall continue to be quarantined until it has been examined by a veterinarian and certified free from rabies.

(b) Animals ordered to be quarantined under this section shall be confined in an animal hospital, professional kennel, or in a locked enclosure approved by the health officer as being so constructed and maintained that the animal cannot escape. (Ord. No. 1966-3, Sec. 4.2.01, 6-12-73, Ord. No. 2010-01, 7-6-10)

Sec 3-23. Impoundment.

(a) Authority to impound per 20 V.S.A. Section 3806 or court order. The enforcement officer may, in lieu of boarding and when in the public interest and consistent with the public safety, allow an impounded dog to remain confined in the custody of its owner on the owner's recognizance that the animal shall remain confined to the owner's property, follow the terms of impoundment set by the enforcement officer and shall not be in violation of any provision of this chapter. Confinement in lieu of boarding shall continue until such time as the violation or condition authorizing impoundment has been abated.

(b) Impoundment fees. Any owner or keeper of an animal impounded under the provisions of this chapter shall be responsible for all impoundment fees which shall be paid in full before released.

(c) Boarding fee. In addition to the impoundment fee charged herein the owner of the animal shall be responsible for all fees associated with the boarding of the animal while impounded.

(d) All board fees and impound fees shall be paid in full to the appropriate party before releasing the animal is allowed.

(e) Unlicensed animals to be licensed before release. If an impounded animal requiring a license is unlicensed, in addition to the impounding and boarding fees set forth herein, the animal shall not be released without the payment of the license fee required by Sec. 3-9, except that if the impounded animal has not had its proper vaccinations.

(f) Disposition of unredeemed animals. If any impounded animal with a current and effective license established by proof of an animal license tag or other means, is not redeemed within (7) days of its impoundment, it shall be sold or given away. If any impounded animal without a current and effective license established by proof of a license tag, is not redeemed within (5) days of its impoundment, it shall be sold or given away. Any proceeds from the sale of any impounded animal shall first be allocated to taxes, fees and other charges related to the impoundment. Any balance then remaining shall be paid to the owner if any is found. If proceeds from the sale of the unredeemed animal do not cover the costs associated with the impoundment, the balance of sums owed under this chapter may be collected in a civil action brought under this section. The impoundment period may be waived by the pound keeper in case of a severely injured animal whose owner cannot be located or is unwilling to claim the animal.

(g) Interference with impoundment. Any person who interferes with the impounding of an animal under provisions of this article, or who releases, or attempts to release an impounded animal contrary to this article shall be in violation of this chapter.

(h) Notice of impoundment. Within twenty-four (24) hours of the impoundment of any animal under this chapter, the enforcement officer shall make every reasonable attempt to notify the owner of the impounded animal of such impoundment. Such notice shall include either personal contact with the owner or a written notice posted at the dwelling house of the owner. (Ord. No. 2010-01, 7-6-10)

State law references: Notice by impounder, 20 V.S.A. § 3413.

ARTICLE VI. ANIMAL CONTROL COMMITTEE

Sec. 3-24. Animal control committee.

(a) Animal control committee established. For purposes of this section, an animal control committee is established. The animal control committee shall consist of not less than three (3) members to be appointed on an as needed basis by the City Council. The animal control committee shall hold appeals hearings for animal and fowl ordinance violations.

b. Powers of the Animal Control Committee

1. Request to impound or quarantine an animal
2. Require medical care for animals, including but not limited to spaying, neutering, or vaccinations
3. Stipulate a financial responsibility and the terms thereof. This includes but is not limited to legal fees, staffing time, services rendered and collections fees
4. Order to seize an animal to be terminated, given away, or sold.
5. Require education and or training for the animal or keeper/owner
6. Require inspections
7. Request additional information and legal or professional opinions
8. Ban an animal from the city limits

c. Hearings and Convening of the Animal Control Committee

1. Hearing and meetings must be warned 3 days prior.
2. Minutes must be recorded
3. Robert's Rules of Order to be used
4. Meeting Agenda to be provided and should be similar as follows
 - i. Call to order
 - ii. Testimony from enforcement officer; verbal summary and written details and provide a recommendation for action
 - iii. Testimony of aggrieved party
 - iv. Additional testimony from attendants
 - v. Closing statements from the aggrieved party and the enforcement officer
 - vi. Executive session for deliberation
 - vii. Reading of determination and action to be done if any
4. Any action must be provided in writing to the aggrieved party before acted on

ARTICLE VII. EXEMPTIONS.

Sec. 3-25. Exemptions.

- a. A person operating a farm of ten (10) or more acres wholly in the city or in part within the city and contiguous to the part without the city, as to animals kept on such farm, or the use of such farm for keeping animals, shall be exempt from the provisions of this ordinance.
- b. The provisions of this chapter shall not apply to a person while showing or exhibiting an animal in the municipal auditorium, or while transporting an animal for such purposes to and from the auditorium, or to an animal while so shown, exhibited, or transported or in a parade. As to such animals, auditorium regulations shall apply.
- c. The provisions of this chapter shall not apply to a public officer or employee or to a common carrier, while carrying out a duty imposed by law, or while an animal is in transit under control of a common carrier, or while an animal is being transported through the city under control of the person so transporting.
- d. Any dog used to assist law enforcement officers in the City of Barre shall be exempt from the provisions of this ordinance.
- e. The provisions of this chapter shall not apply to indigenous wild animals, except when such animals are owned by a person. (Ord. No. 1966-3, Secs. 1.2.01--1.2.05, 6-12-73, Ord. No. 2010-01, 7-6-10)