

Chapter 10

ANIMALS*

* **State Law References:** Animals generally, 3 Del. C. § 101 et seq.; rabies control in animal and human populations, 3 Del. C. § 8201 et seq.

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Sec. 10-1. Notice to owner and redemption.

Not more than 24 hours after the impounding of any dog, the owner thereof, if known or ascertainable from the state license records, shall be notified if such owner shall be found within the town. If the name of the owner is not know or ascertainable from the records, notice of the impounding of such dog describing the dog and the place and time of impounding shall be posted for public inspection. The owner of any dog impounded may reclaim such dog upon payment of the fine and costs imposed for such violation of this section, and the charge per day for keeping and maintaining said dog.

(Ord. No. 3, § 4, 9-17-1985)

Sec. 10-2. Impounded dogs; infected dogs to be destroyed.

All dogs so impounded shall be kept for a period of six days. If at the expiration of six days from the date of notice to the owner, or posting of notice, such dog shall not have redeemed, it may be destroyed. Any dog which appears to be suffering from rabies or affected with hydrophobia, mange or other infectious disease shall not be released, but may be forthwith destroyed.

(Ord. No. 3, § 4, 9-17-1985)

Sec. 10-3. Female dogs in heat.

Any female dog in heat shall be confined to a building or secure enclosure in such a manner that said female dog cannot come in contact with another dog except for planned breeding.

(Ord. No. 99-1, § 1, 9-1-1990)

Sec. 10-4. Waste.

- (a) It shall be unlawful for any person having possession, custody or control of any dog to permit

such animal to damage, defile, or defecate upon any private property within the town limits not owned or leased by such person, or any public property within the town, including, but not limited to, streets, alleys, curbs, sidewalks, or parks.

(b) If the excrement is removed immediately and disposed of in a sanitary manner by the owner or person in charge of the dog, it will not be considered a violation of this section.

(c) The provisions of this section shall not apply to a guide dog accompanying any blind person or to a dog assisting any other physically challenged person.

(Ord. No. 99-1, § 3, 9-1-1990)

Sec. 10-5. 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:

Animal control agency means a state or county administrative agency or humane society which is authorized by statute or ordinance to enforce any animal control laws or regulations of the state or county.

Animal control officer means a person employed by the state, county, town or animal control agency as an enforcement officer.

At heel means a dog directly behind or next to a competent person and obedient to that person's command.

At large means a dog which is off the property of its owners and not under restraint.

Enclosure means a fence or structure of at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of the vicious dog. Such enclosures shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure.

Farm animal means any domesticated animal normally used in agricultural or related pursuits, including, but not limited to, cattle, oxen, sheep, pigs, goats, horses, mules, donkeys, chickens, geese and other poultry, pigeons, peacocks and guinea hens.

Owner means any person owning, keeping or harboring one or more animals. Any animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

Public nuisance animal means any animal or group of animals which:

- (1) Is repeatedly found at large;
- (2) Damages the property of anyone other than its owner;

- (3) Is vicious;
- (4) Molests passersby or passing vehicles;
- (5) Are found to be in violation of section 22.02.007 of the county code because of noise and/or noise disturbance they create, as those terms are defined by section 22.02.007 of the county code;
- (6) Create an odor which is noxious or offensive, and/or which constitutes a substantial annoyance, inconvenience or injury to the public;
- (7) Interferes with the health, comfort, safety or enjoyment of property, offends the sense of decency of the public as a result of unsanitary conditions in the area where such animals are kept; and/or which creates a danger to the public health as determined by the state division of public health;
- (8) Is a substantial visual annoyance to the public as a result of conditions existing in the area where such animals are kept;
- (9) Commits waste on property within the town other than its owner's property and the waste is not immediately removed.

Restraint means any animal secured by a leash or lead, or at heel, or under the reasonable control of a competent person and obedient to that person's command, or within the real property limits of its owner; or within a vehicle being driven or parked on the streets. Any dog not within the property limits of its owner or within a vehicle being driven or parked on the street which, without provocation, bites a person shall be deemed not under restraint.

Vicious animal means an animal which constitutes a physical threat to human beings or other animals by virtue of attacks of such number and/or severity as to be likely to cause property damage or physical injury. Evidence of a prior instance of an animal biting a human being, without provocations, shall be primary facie evidence that the animal is vicious.

Vicious dog means:

- (1) Any dog which, when unprovoked in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places;
- (2) Any dog with a known propensity, tendency or disposition to attack unprovokedly, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- (3) Any dog which bites, inflicts injury to, assaults or other attacks a human being or domestic animal without provocation on public or private property; or
- (4) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

Notwithstanding this definition of a vicious dog, no dog may be declared vicious if any injury or damage is

sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or teasing, tormenting, abusing, or assaulting the dog or was committing or attempting to commit a crime. No dog may be declared vicious if any injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog. No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

Wild animals means any nondomesticated animal, including, but not limited to, any live monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, boa, python, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state.
(Ord. No. 04-02(1), § 1, 12-1-2004; Ord. No. 04-02(2), § 1, 12-19-2007)

Sec. 10-6. Restraint and control of animals.

- (a) All dogs shall be kept under restraint at all times.
 - (b) No owner shall fail to exercise proper care of control of his animals to prevent them from becoming a public nuisance.
 - (c) Vicious animals are not permitted within the town.
 - (d) Wild animals are not to be kept within the town.
 - (e) Farm animals are not permitted within the town.
- (Ord. No. 04-02(1), § 2(1)--(5), 12-1-2004; Ord. No. 04-02(2), § 2(1)--(5), 12-19-2007)

Sec. 10-7. Penalty.

Any person convicted of a violation of this chapter shall pay a mandatory and nonsuspendable fine of at least the minimum fine for each offense as follows:

- (1) For a violation of this chapter, a fine of not less than \$25.00 or more than \$50.00, nor more than \$200.00 for each subsequent offense.
 - (2) In addition, upon violation, there may be a discretionary review by the animal control agency to determine whether the animal should be destroyed. The animal control agency may consider any evidence material to whether said animal constitutes a treat to human beings or other animals.
- (Ord. No. 04-02(1), § 2(6), 12-1-2004; Ord. No. 04-02(2), § 2(6), 12-19-2007)

Sec. 10-8. Impoundment.

Dogs at large and nuisance animals may be taken by an animal control officer and impounded in an animal shelter. At the discretion of the animal control officer, such dog or animal may be left in the custody of its owner and its owner issued a summons for violation of this chapter. Costs of impoundment shall be paid by the owners.

(Ord. No. 04-02(1), § 3, 12-1-2004; Ord. No. 04-02(2), § 3, 12-19-2007)

Sec. 10-9. Public nuisance animals.

A reasonable attempt shall be made to notify the owner of any animal suspected of constituting a public nuisance. A public nuisance animal shall, upon demand of the animal control officer, be delivered to the animal control agency. It shall be unlawful for the owner of a public nuisance animal to refuse to surrender such animal to a control officer. Such refusal is punishable by a fine of \$50.00. A public nuisance animal which has been impounded by the animal control officer may be redeemed by the owner only upon conditions establishing, to the satisfaction of the animal control agency, that such animal will no longer constitute a public nuisance. (Ord. No. 04-02(1), § 4, 12-1-2004; Ord. No. 04-02(2), § 4, 12-19-2007)

Sec. 10-10. Right of entry of animal control officers.

An animal control officer shall have the right to enter upon any outside premises at all reasonable times for the purposes of discharging his duties, where deemed necessary for the welfare of any animal or public safety. (Ord. No. 04-02(1), § 5, 12-1-2004; Ord. No. 04-02(2), § 5, 12-19-2007)

Sec. 10-11. Enforcement.

In addition to the town, the state Society for the Prevention of Cruelty to Animals (S.P.C.A.) shall have the authority to enforce this chapter in the town regarding the regulation of dogs and other animals. (Ord. No. 04-02(1), § 6, 12-1-2004; Ord. No. 04-02(2), § 6, 12-19-2007)

State Law References: Powers of the Delaware Society for the Prevention of Cruelty to Animals, 3 Del. C. § 7901 et seq.

Sec. 10-12. Dog kennels; definition; licensing.

It shall be unlawful for any person to house and maintain more than three dogs in the corporate limits of the town unless such house is a licensed kennel for which a license is required as provided for in this section. Upon application for a license for the maintenance of a kennel within the corporate limits of the town, the town inspector shall inspect the premises and facilities thereon for which kennel licenses are requested. Upon approval of facilities, determination that maintenance of a kennel will not interfere with the peaceful enjoyment of adjacent properties, and compliance with the uniform development code and all zoning requirements, the applicant shall be issued a license to maintain a kennel within the corporate limits of the town. Said license must be renewed annually and can be revoked as provided for in this section. The town inspector shall make annual inspection of all kennels licensed under this section and a special inspection at any time upon petition signed by not less than five residents of the town. In the event an inspected kennel should be deemed unclean, unfit or a public nuisance, the license holder shall have five days from the day of inspection to remedy such unsatisfactory condition to the satisfaction of the said town inspector or suffer revocation of his license. Violation under this section shall be punishable by a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense and each day of violation shall be deemed a subsequent separate offense. (Ord. No. 04-02(1), § 7, 12-1-2004; Ord. No. 04-02(2), § 7, 12-19-2007)

Sec. 10-13. Registration and licensing of dogs.

- (a) Every person who owns, controls, harbors, possesses or keeps any dog over the age of six

months in the town shall register with the town by April 15 of each calendar year. At the time of registration, the owner must provide a phone number where they can be reached in case the dog gets loose. The owner shall provide to the town proof that such dog has a license from the state for the current calendar year. Additionally, the person registering their dog, shall provide to the town the name, age, breed, color, owner and the owner's phone number of such dog. Any person who fails to register his dog for the current calendar year shall be subject to a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense. Proof of a current rabies inoculation must be provided at the time of registration. Five days must elapse between a first and second offense.

(b) The following is the dog registration form:

DOG REGISTRATION FORM
Name of Owner: _____
Address: _____ _____
Telephone Number: _____
Cell/Work Phone: _____
Dog's Name: _____
Breed of Dog: _____
Dog's Color: _____
Dog's Gender: _____
State ID Number: _____
Date of Last Rabies Shot: _____
Signature of Owner: _____
Date: _____

(Ord. No. 04-02(1), § 8, 12-1-2004; Ord. No. 04-02(2), § 8, 12-19-2007)