

## CITY OF DOVER PROPOSED ORDINANCE #2010-22

### BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF DOVER, IN COUNCIL MET:

That Chapter 18 - Animals - Section 18-1 - Definitions, be amended to read as follows:

#### **Sec. 18-1. 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* includes every living dumb creature, and birds and fowl.

*Animal abandonment* includes completely forsaking or deserting an animal originally under one's custody, without making reasonable arrangements for custody of that animal to be assumed by another person.

*Animal control officer* means a person employed by the city as an enforcement officer, including sworn police officers.

*Animal shelter* and *veterinary facility* mean any premises so designated by the city for the purpose of impounding and caring for strays, animals found running at-large, or animals in violation of this chapter.

*Apiary* means the assembly of one or more colonies of bees at a single location.

*At-large* means an animal off the premises of the owner and not under the control of a human being either by leash, cord, chain or otherwise.

*Beekeeper* means a person who owns or has charge of one or more colonies of bees.

*Beekeeping equipment* means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

*Colony or hive* means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited of bees.

*Cruel* includes every act or omission to act whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

*Custody* includes the responsibility for the welfare of an animal subject to one's care and control, whether he owns it or not.

*Domesticated animal* means any animal that is accustomed to living in or about the habitation of man, including, but not limited to, cats, dogs, cows, horses, swine and fowl.

*Food and drink* includes providing each animal with daily food and water of sufficient quality and quantity to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

*Habitable structure* means any building or structure used, or intended for use, on a day-to-day basis by people for residential properties, or for purposes of conducting a commercial or industrial business, or for purposes of a similar nature.

*Honey bee* means all life stages of the common domestic honey bee, *Apis mellifera* species.

*Nucleus colony* means a small colony created from larger colonies

*Owner* means any person, partnership, association, or corporation owning, keeping or harboring a dog or other animal. Any animal shall be deemed to be harbored if it is fed or sheltered for three or more consecutive days.

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

- (1) *At-large*. Is repeatedly found at-large;
- (2) *Property damage*. Damages the property of anyone other than its owner;
- (3) *Interference with persons, vehicles*. Molests passersby or chases passing vehicles or bicycles;
- (4) *Noise*. Barks, whines or howls in an excessive, continuous or untimely fashion;
- (5) *Odor*. Creates an odor which is noxious or offensive, and/or which constitutes a substantial annoyance, convenience or injury to the public; or
- (6) *General welfare*. 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 creates a danger to the public health as determined by the state division of public health.

*Restraint* means when a dog or other animal is controlled by a leash, cord, chain, or under the control of an owner or other responsible person and obedient to that person's commands, or within a vehicle being driven or parked on the street, or within the property limits of its owner or keeper.

*Shelter* includes providing each animal with adequate shelter from the weather elements as required to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

*Stray* means a domesticated animal for which ownership is not established or for which the owner disclaims future responsibility.

*Super* means an additional story on top of a hive.

*Undeveloped parcel* means any land that is not improved or in the process of being improved with habitable structures.

*Vicious dog or animal* means any dog or animal which constitutes a physical threat to a human being or other animal 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 provocation, shall be prima facie evidence that the dog or animal is vicious. This term is further defined in section 18-9(a).

*Wild animal* means 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.

**BE IT FURTHER ORDAINED** That Chapter 18 - Animals - Section 18-16 - Keeping Bees, be amended to read as follows:

**Sec. 18-16. Keeping bees.**

- (a) Notwithstanding compliance with the various requirements of this article, it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others or interfere with the normal use and enjoyment of any public property or property of others.
- (b) Location of beehives from structures and businesses. Beehives for the housing of bee colonies shall not be located closer than 150 feet from residential structures, hospitals, public eateries, churches, offices or schools.
- (c) Maintenance permitted at educational and farm facilities; exemption. Universities, colleges, museums and farms of two acres or more may maintain hives on their properties in a safe manner, provided that the hives meet a 40-foot setback requirement from buildings on adjacent properties. Universities, colleges, museum facilities and farms of two acres or more are exempt from the 150-foot setback requirement for buildings that are located on their properties.
- (d) Declared nuisance; removal. Any beehive that is declared a nuisance by a majority vote of the city council may be required to be removed or relocated.
- (e) Hive Registration. All honey bee colonies shall be registered with the State of Delaware Department of Agriculture.
- (f) Hive Type. All honey bee colonies shall be kept in removable frames, which shall be kept in sound and usable condition.
- (g) Fencing of flyways. In each instance in which any colony is situated within 25 feet of a public or private property line of the parcel upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of an opaque wall, fence, dense vegetation or combination thereof that is parallel to the property line and extends 10 feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least 6 feet above ground level over the property lines in the vicinity of the apiary. It is a defense against prosecution under this section that the property adjoining the apiary tract in the vicinity of the apiary is undeveloped property for a distance of at least 25 feet from the property line of the apiary tract, unless prohibited by the zoning ordinance.
- (h) Water. Each beekeeper shall ensure that a convenient source of water is available to the bees at all times during the year so that the bees will not congregate at swimming pools, bibcocks, pet watering bowls, bird baths or other water sources where they may cause human, bird or domestic pet contact.

(i) General Maintenance. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

(j) Queens. In any instances in which a colony exhibits unusual aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition toward swarming, it shall be the duty of the beekeeper to promptly re-queen the colony with another queen. Queens shall be selected from stock bred for gentleness and non-swarmling characteristics.

(k) Colony Densities. For every two (2) colonies authorized under this section, there may be maintained upon the same tract one nucleus colony in a hive structure with no supers attached, as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within 30 days after the date acquired. It shall be unlawful to keep more than the following number of colonies on any parcel within the city, based upon size or configuration of the parcel on which the apiary is situated:

- (1) One-quarter acre or less - two (2) colonies
- (2) More than one-quarter acre but less than one-half acre - 4 colonies
- (3) More than one-half acre but less than one acre - 6 colonies
- (4) One acre or larger - 8 colonies
- (5) Regardless of parcel size, where all hives are situated at least 200 feet in any direction from all property lines of the tract on which the apiary is situated, there shall be a limit of ten (10) colonies.
- (6) Regardless of parcel size, so long as all property other than the tract upon which the hives are situated, that is within a radius of at least 200 feet from any hive, remains undeveloped parcels there shall be a limit of ten (10) colonies.

(l) Inspection. The Department of Inspections shall have the right to inspect any apiary.

(m) Violations; penalties. Any person convicted of violating the provisions of this section shall be punished as provided for in Appendix F - Fees and Fines.

**BE IT FURTHER ORDAINED** That Appendix F - Fees and Fines, Chapter 18 - Animals - Section 18-16 - Keeping Bees, be amended to read as follows:

Sec. 18-16	Keeping bees		
	Subsec. (m)	Violations; penalties, for each violation	Not less than \$25.00 or more than \$100.00

**ADOPTED: JULY 26, 2010**

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July 26, 2010 - Final Reading/Adoption  
July 12, 2010 - Introduction/First Reading at Council  
June 30, 2010 - Considered by Safety Advisory and Transportation Committee  
April 28, 2010 - Considered by Safety Advisory and Transportation Committee  
January 27, 2010 - Considered by Safety Advisory and Transportation Committee

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