

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY
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Delaware City, Delaware 19706
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CITY OF DELAWARE CITY
DELAWARE CITY, DELAWARE
Ordinance No. 13-1216-01

**AN ORDINANCE TO ESTABLISH A PROCEDURE TO ENABLE THE TRAPPING,
NEUTERING AND RETURN OF ABANDONED, STRAY, LOST OR FERAL CATS IN
THE CITY**

Chapter 24 – Animal Regulation

WHEREAS, pursuant to Article V, Section 5-02(A) of The City of Delaware City Charter ("Charter"), and pursuant to the "Powers of the City," outlined in Article II, § 2-1 of the Charter, the Mayor and the Council of The City of Delaware City ("City Council") possess the authority to adopt, amend, modify, or repeal The City of Delaware City Code; and

WHEREAS, the Mayor and City Council recognize the need for innovation in addressing the issues presented by abandoned, stray, lost, or feral cats in the community. To that end, it recognizes that Trap-Neuter-Return is an effective and humane method to manage, and over time, reduce the population of community cats; and

WHEREAS, the Mayor and City Council desire to amend Chapter 24, Sections 24-2 and to adopt a new Section 24-41, as part of the City of Delaware City Code as set forth below ("Proposed Code Sections"); and

WHEREAS, pursuant to Article V, Section 5-02(B) of the Charter, the Proposed Code changes were introduced by a member of Council at a regular meeting, duly read in full or in abstract, and prominently posted for seven (7) days in The City of Delaware City.

NOW, THEREFORE, the Mayor and the City Council of The City of Delaware City hereby ordain:

Section 1. Chapter 24, Section 24-2 of the Delaware City Code, upon an affirmative vote of the City Council, is hereby stricken in its entirety and shall be replaced by a new, amended Section 24-2, and shall read as follows (textual changes to the current code sections are set forth in bold):

Section 24-2 Definitions

For the purpose of this Chapter, the following words and phrases shall have the meaning respectively ascribed to them by this Section:

- a. **Animal Control Officer:** The person or persons employed by the Delaware Society for the Prevention of Cruelty to Animals as its enforcement officers, or such other persons as designated by Resolution of the Mayor and Council of the City of Delaware City.
- b. **Animal Shelter:** Any facility operated by a humane society, or municipal agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this Chapter or State law.
- c. **At Heel:** A dog shall be deemed to be at heel when he is directly behind or next to a competent person and obedient to that person's command.
- d. **At Large:** Any dog shall be deemed to be at large when he is off the property of his owner and not under restraint.
- e. **Community Cat:** A cat that is abandoned, stray, lost, or feral. A community cat is not to be classified as a Public Nuisance Animal under subsection (I) below merely for being repeatedly found at large.
- f. **Community Cat Caregiver:** A person who, in accordance with Trap-Neuter-Return, provides care, including, food, shelter or medical care to a Community Cat. A Community Cat Caregiver shall not be considered the owner, harbinger, controller, or keeper of a Community Cat.
- g. **Eartipping:** The removal of the ¼ inch tip of a Community Cat's left ear, performed while the cat is under anesthesia, to identify the Community Cat as being sterilized and lawfully vaccinated for rabies.
- h. **Farm Animal:** Any live cow, bull, sheep, swine, goat, domestic fowl, pony, horse, donkey or other form of livestock.
- i. **Keeping:** One who has the care, custody or management under his direct control of any animal or one who undertakes to possess or harbor an animal.

- j. Licensed: a dog license issued by the State of Delaware and such City dog license as may be required by Mayor and Council.
- k. Owner: Any person, partnership or corporation owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.
- l. Public Nuisance Animal: 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; or (4) molests passersby or passing vehicles.
- m. Restraint: Any animal secured by a leash or lead, under the control of a responsible person and obedient to that person's commands, within the real property limits of its owner, or within a vehicle being driven or parked on the streets.
- n. **Trap-Neuter-Return: The process of humanely trapping, sterilizing, vaccinating for rabies, ear tipping, and returning Community Cats to their original location.**
- o. Vicious Animal: Any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of such number and/or severity as to cause property damage or physical injury. Evidence of two separate instances of an animal biting a human being shall be prima facie evidence that the animal is vicious.
- p. Wild Animal: Any live monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx or any other warm-blooded animal which can normally be found in the wild state.

Section 2. Chapter 24, of the Delaware City Code is hereby amended, upon an affirmative vote of the City Council, to add a new Section 24-41, which shall read as follows:

Sections 24-41 Community Cat Initiative

- a. **Purpose: Delaware City recognizes the need for innovation in addressing the issues presented by Community Cats. To that end, it recognizes that Trap-Neuter-Return is an effective and humane method to manage, and over time, reduce the population of Community Cats.**
- b. **Trap-Neuter-Return shall be permitted, and Community Cat Caregivers, organizations, city staff, the Delaware Society for the Prevention of Cruelty to Animals, and animal control officers, are hereby permitted to carry out Trap-Neuter-Return. Community Cat Caregivers shall be responsible for the costs (if any) associated with Trap-Neuter-Return that they choose or cause to be performed. Community Cat Caregivers shall have immunity from any claim or suit for damages as a result of their actions to follow the Trap-Neuter-Return procedure.**

- c. **An eartipped cat received by local shelters will be returned to the location where trapped after neutering unless further veterinary care is required or a home is found for the cat (unless found to be a Public Nuisance Animal). A trapped, eartipped cat, unless found to be a Public Nuisance Animal, will be released on site unless further veterinary care is required, in which case the cat will be returned once it no longer needs care.**
- d. **Community Cat Caregivers may reclaim impounded Community Cats if eartipped or for Trap-Neuter-Return without proof of ownership.**
- e. **Community Cat Caregivers who perform Trap-Neuter-Return or return eartipped cats shall not be deemed in violation of Section 24-8 or other Sections of this Chapter which may conflict with this Section 24-41.**

Section 3. Inconsistent Ordinances and Resolutions Repealed. All Ordinances or parts of Ordinances and all resolutions or parts of resolutions that may be in conflict herewith are hereby repealed.

Section 4. Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

Section 4. Effective Date. This Ordinance shall become effective immediately upon its adoption by a majority vote of the City Council.

(Signature Page Follows)

ADOPTED BY THE MAYOR AND COUNCIL, this 27th day of January, 2013.

ATTEST:




City Secretary




Mayor

APPROVED AS TO FORM:



Council Member

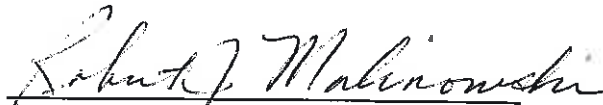


City Solicitor



Council Member

Council Member



Council Member



Council Member

First Reading on 12/6/13

Second Reading, Public Hearing, and Final Passage on 1/27/14