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

That the Dover Code be amended by deleting Chapter 4, Animals and Fowl, in its entirety and inserting in its place the following:

Sec. 4-1. Definitions.

As used in this chapter, unless the context otherwise clearly indicates, the following terms shall mean as indicated below:

Animal: Shall include every living dumb creature and shall include 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: A person employed by the City of Dover as an enforcement officer, including sworn police officers.

Animal Shelter or Veterinary Facility: Any premises so designated by the City of Dover for the purpose of impounding and caring for strays, animals found running at large, or animals in violation of the chapter.

At-Large: An animal off the premises of the owner and not under the control of a human being either by leash, cord, chain or otherwise.

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: 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.

Owner: 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 (3) consecutive days or more.

Public Nuisance Animal: Any domestic animal or group of domestic animals which:

(a) Is repeatedly found at large; or
(b) Damages the property of anyone other than its owner; or
(c) Molests passerby or chases passing vehicles or bicycles; or
(d) Barks, whines or howls in an excessive, continuous or untimely fashion; or
(e) Creates an odor which is noxious or offensive, and/or which constitutes a substantial annoyance, inconvenience or injury to the public; or
(f) 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 Division of Public Health.

Restraint: A dog or other animal is under "restraint" within the meaning of this Ordinance if it is controlled by a leash, cord, chain, or under the control of an owner or other responsible persons 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: A domesticated animal for which ownership is not established or for which owner disclaims future responsibility.

Vicious Dog or Animal: Any 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 animal is vicious.

Wild Animal: 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.

Sec. 4-2. Appointment of Animal Control Officer.

The police chief may appoint persons to act as animal control officer(s).

Sec. 4-3. Keeping of Swine.

It shall be unlawful and a nuisance for any person to keep any swine or to erect any pen, pig-sty or other building or enclosure for the keeping of swine, without a permit in writing therefor from the health inspector. The health inspector shall not issue any permit which shall allow the keeping of swine or the erecting of any structure for keeping swine in an area of the city that has been subdivided.

Sec. 4-4. Running At-Large.

(a) It shall be unlawful for any person to permit any animal to run at-large.

(b) It shall be the duty of every police officer and animal control officer to apprehend any dog found running at-large contrary to the provisions of this section and to impound it. Such person shall make a record of the breed, color and sex of the dog and the number of its license tag, if any. A compilation of the records of all dogs caught and impounded shall be maintained at the police headquarters station. Should any police officer or animal control officer be unable, after using reasonable and diligent efforts, to apprehend such animal, he may destroy it.

(c) Any citizen of the city may take up any animal found running at-large and deliver it to an animal control officer or police officer, or other authorized person, to be impounded.

(d) It shall be the duty of the animal control officer or police officer or other person taking or impounding any animal to notify the owner, if known, within a reasonable time, either personally or by a written notice left at his usual place of abode or, if unknown, by five (5) or more written or printed notices posted in public places within the city.

Sec. 4-4.1. Licenses Required for Dogs.

(a) The owner or lawful possessor of any dog shall obtain a license for his dog pursuant to 7 Del. C. Section 1701 and any owner or possessor who shall fail to comply with the provision of the laws of Delaware shall be punishable as provided in Section 1-10 of the Dover Code.

(b) The provisions of this section shall be applicable to any dog not licensed pursuant to subsection (a).

(c) The provisions of this section may be enforced by any police officer or by any person designated to act as an animal control officer.

Sec. 4-5. Noisy Animals or Fowl.

(a) No person shall keep or maintain any animal or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the city. Such action is declared to be a public nuisance and detrimental to the public health and welfare.

(b) It shall be the duty of every police officer or animal control officer to act upon complaints made by persons concerning animals violating subsection (a). Each police officer and animal control officer investigating same shall give forty-eight (48) hours notice to the persons owning or having control of any animal causing frequent or long continued noise such as to disturb the comfort or repose of persons in the city. The person owning or controlling said animal shall have a period of forty-eight (48) hours from the date of receipt of said notice to abate the

nuisance by disposing of the animal or by controlling the noise emitted by the same. In the event that the person owning or controlling said animal shall fail to do so within said period of time and if the animal continues to cause noise as it has in the past, the person owning or controlling said animal shall be deemed to be maintaining a public nuisance and shall be subject to a fine in the amount prescribed by this Code until such nuisance is abated.

Sec. 4-6. Hitching to Public Trees.

It shall be unlawful and a nuisance for any person to hitch or fasten any animal to any public ornamental or shade tree. Any police officer or other authorized person may impound such animal.

Sec. 4-7. Animal Excrement.

(a) No person having possession, custody or control of any animal shall knowingly or negligently permit any dog or other animal to deposit excrement upon any gutter, street, driveway, alley curb or sidewalk in the city, or upon the floors or stairways of any building or place frequented by the public or used in common by the tenants, or upon the outside wall, walkways, driveways, alleys, curbs or stairways of any building abutting on a public street or park, or upon any private property other than the property of the owner of such animal.

(b) Any person having possession, custody or control of any dog or other animal which deposits excrement in any area other than the private property of the owner of such dog or other animal, as prohibited in Section 4-7(a), shall be required to immediately remove the said excrement from surface and either:

(1) Carry same away for disposal in a toilet; or
(2) Place same in a non-leaking container for deposit in a trash or litter receptacle.

(c) Exceptions. The provisions of this section shall not apply to a guide dog accompanying any blind persons, or to a dog used to assist any other physically handicapped person, or the animals used in any police activities of the city or to horses used by persons for the purposes of transportation on public roadways. Horses on private property other than the owner's must have their droppings removed by the owner.

(d) Enforcement. For the purpose of enforcing the provisions of this section, notice of violation shall be issued by police officers or any other person authorized to enforce ordinances.

(e) If the excrement is properly disposed of by the owner or person in charge of the animal, it will not be considered a violation of Section 4-7(a).

(f) Every owner of, or person responsible for, one or more dogs or cats shall take all reasonable measures to prevent accumulation of animal excreta in the area in which such animals are customarily kept. No such owner shall allow animal excreta to accumulate so as to create obnoxious or offensive odors.

(g) Violations. Any person convicted of violating the provisions of this section shall be sentenced to pay a fine not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) for each violation. For each subsequent offense, the minimum fine shall be fifty dollars ($50.00).

Sec. 4-8. Vicious Dog and Animals.

(a) The following shall constitute a vicious dog or animal:

(1) Any dog or animal 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; or

(2) Any dog or animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(3) Any dog or animal which bites, inflicts injury, assaults, or otherwise 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; or

(5) Any dog not licensed according to state, county, or city law.

(b) Notwithstanding the definitions of a vicious dog or animal, no dog or animal 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 was teasing, tormenting, abusing, or assaulting the dog or animal or was committing or attempting to commit a crime.

(c) No dog or animal 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 or animal. No dog or animal may be declared vicious if the dog or animal was protecting or defending a human being within the immediate vicinity of the dog or animal from an unjustified attack or assault.

(d) Any vicious domestic animal, any wild animal, or any sick or injured animal, other than a dog carrying a current license tag, may be destroyed immediately after impounding. Any other animal shall be held for three (3) days, except that dogs carrying a current license tag shall be held for five (5) days.

(e) Destruction for public safety or humane reasons: When in the judgement of the animal control agency, it is determined that any animal should be destroyed for humane reasons, or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established herein.

Sec. 4-9. Seizure and Impoundment of Dangerous or Vicious Dogs or Animals.

(a) When a person has been bitten by a vicious dog or animal, the person or parent, guardian or person standing in loco parentis of the person, and the person owning the animal or in control or possession of the animal shall notify the Dover Police Department immediately and give the name and address of the person bitten and the owner of the animal along with a description of the animal. All animals that bite a person shall be immediately confined for ten (10) days in a City of Dover approved animal shelter or veterinary facility at the expense of the owner.

(b) Confinement of a dog which has bitten a person may not be required provided the owner or person who controls or possesses such dog can present a veterinarian's certificate of current rabies immunization.

(c) Any dangerous or vicious animal may be impounded by the animal control officer or police officer to protect the public safety. Said impoundment will be a city approved animal shelter or veterinary facility at the owners expense. No dangerous or vicious animal will be returned to the owner unless said animal is confined by the owner within a building or secured enclosure and shall be securely muzzled or caged whenever off the premises of its owner. Every person harboring a vicious animal, vicious dog or a wild animal is charged with an affirmative duty to confine said animal in such a way that the public does not have access to such animal.

Sec. 4-10. Abandoning Domesticated Animals in a Public Place or on Property of Another.

No person shall abandon any dog, cat, or domesticated animal in any public place, including right-of-way of any public highway, road or street, or on the property of another.

Sec. 4-11. Cruelty to Animals.

No person shall:

(a) Override, torture, ill-treat, abandon, willfully inflict inhumane injury or pain not connected with bona fide scientific or medical experimentation to, or cruelly or unnecessarily beat, maim, mutilate, or kill any animal, whether belonging to himself or another.

(b) Deprive any animal of necessary sustenance, food, drink, or shelter.

(c) Willfully set on foot, instigate, engage, or in any way further any act of cruelty to any animal.

(d) Carry or cause to be carried in or upon any vehicle or vessel or otherwise any animal in a cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering.

(e) Cause any of the above or, being the owner of an animal, permit such acts to be done by another.

Sec. 4-12. Public Nuisance Animals.

A reasonable attempt shall be made to notify the owner of any animal suspected of constituting a public nuisance.

Every public nuisance animal shall, upon demand, be delivered to the animal control officer or police officer. It shall be unlawful for the owner of a public nuisance animal to refuse to surrender such animal to the animal control officer or police officer. Such refusal is punishable by a fine of one hundred dollars ($100.00).

A public nuisance animal which has been impounded by the animal control officer or police officer may be redeemed by the owner only upon the conditions established in this chapter. Any animal found unredeemable shall be disposed of in a humane manner. Impoundment of said animal is at the owner's expense.

Sec. 4-13. Impoundment of Dogs At-Large and Nuisance Animals.

Dogs at-large and nuisance animals may be taken by an animal control officer or police officer and impounded in an animal shelter or veterinary facility at the owner's expense. At the discretion of the animal control officer or police officer, such dog or animal may be left in the custody of its owner and said owner issued a summons for violation of this Chapter.

Sec. 4-14. Fines.

Any person convicted of a violation of this Chapter shall pay a mandatory and non-suspendable fine of at least the minimum fine for each offense as follows:

(a) Any person convicted of violating the provisions of Section 4-6 of this Chapter shall be sentenced to pay a fine not less than ten dollars ($10.00) nor more than one hundred dollars ($100.00) for each violation.

(b) Any person convicted of violating the provisions of Sections 4-3, 4-4, 4-4.1, 4-7, and/or 4-12 of this Chapter shall be sentenced to pay a fine of not less than twenty five dollars ($25.00) nor more than one hundred dollars ($100.00) for each violation.

(c) Any person convicted of violating the provisions of Section 4-5 of this Chapter shall be sentenced to pay a fine not less than fifty dollars ($50.00) nor more than one hundred dollars ($100.00) for each violation.

(d) Any person convicted of violating the provisions of Section 4-8, 4-10, and/or 4-11 of this Chapter shall be sentenced to pay a fine of one hundred dollars ($100.00) for each violation.

Sec. 4-15. Destruction of Animals.

Except as prescribed in Section 4-8(e), destruction of animals as defined in this Chapter shall be performed at a designated animal shelter or veterinary facility.

ADOPTED: *