



ORDINANCE NO. 201-21

AN ORDINANCE TO AMEND the Code of the Town of South Bethany, Chapter 30, **Animals**, Article II, entitled "Wild Mammals and Stray Cats", to eliminate the separation of provisions into "Article I" and "Article II," by placing all sections within the single body of Chapter 30; adding requirements for the wearing of identification tags by any pet cat permitted to run at large, adding limitations for the maximum number of cats from any household which are permitted to run at large within the corporate limits of the Town of South Bethany, and clarifying definitions for different types of cats.

BE IT HEREBY ENACTED by the Council of the Town of South Bethany, Sussex County, a majority thereof concurring in Council duly met, that Chapter 30 ("Animals") be amended as follows (additions are **highlighted** and deletions **marked through**):

Article I Pets

§ 30-1. Authority.

This ~~article~~ **Chapter** is authorized by § C-4B of the Town Charter.

§ 30-2. **Licensing; tags to be worn; tags for outdoor cats; limit on number of outdoor cats.**

- A. It shall be unlawful for any person to own or have control of any pet over six months of age located within the corporate limits of the Town of South Bethany unless it has been licensed in pursuance of the laws of the State of Delaware, other states, territory, or District of Columbia in which the owner has legal residence, **and the person has maintained all required vaccinations, including rabies, for the pet.**
- B. It shall be unlawful for any person to own or have control of any pet over six months of age located within the corporate limits of the Town of South Bethany unless the license tag thereof be worn at all times by said pet in the manner provided by the laws of the State of Delaware, other states,

territory, or the District of Columbia in which the owner has legal residence.

C. The owner or lawful possessor of any cat which is a pet (as defined in this Chapter), whose cat is allowed to run at large outdoors, shall procure an identification tag for said animal. The identification tag shall contain the name, address, and telephone number of the owner of the animal. Such tag shall be attached to a collar and secured around the neck of the cat.

D. It shall be unlawful for any household to have more than four (4) cats which are allowed to run at large outdoors.

§ 30-3. Pets on beach; exception.

It shall be unlawful for any person who is the owner or has the control of any such pet to permit the pet to be on the beach located within the corporate limits of the Town of South Bethany at any time from May 15 through October 15 of each year. This subsection does not apply to pets on the property of their owners.

§ 30-4. Dogs Rrunning at large prohibited.

~~A.~~ It shall be unlawful for any ~~such~~ owner to permit a dog to run at large anywhere within the corporate limits of the Town of South Bethany.

~~B. For the purposes of this article, to "run at large" means that the dog is off the owner's property and is not under control on a leash.~~

§ 30-5. Removal of excrement.

The owner **of a pet** shall be responsible for the removal of and shall carry and use a bag or other device to pick up and remove any excrement which their pet shall drop or leave on property other than their own.

~~§ 30-6. Penalties for offenses.~~

~~Any person violating the provisions of this article shall be subject to a penalty of not less than \$25, nor more than \$100, plus court costs. Each day of continued violation shall be considered as a separate offense.~~

Article II
Wild Mammals and Stray Cats

~~§ 30-7. Legislative authority.~~

~~This article is authorized by § C-4B of the Town Charter.~~

§ 30-68. Definitions.

~~**CAT, FERAL – Any cat that has been born to a feral cat or a stray cat. Feral cats are cats unaccustomed to human interaction. Feral cats are distinct from stray cats.**~~

CAT, FERAL – Feral cats are cats unaccustomed to human interaction and include any cat that has been born to a feral cat or a stray cat. Feral cats are distinct from stray cats. Feral cats are usually too fearful to be handled or adopted.

~~**CAT, STRAY – A stray cat is a pet who has been lost or abandoned, is used to contact with people and is tame enough to be adopted. A feral cat is the offspring of stray or other feral cats and is not accustomed to human contact. Feral cats are usually too fearful to be handled or adopted.**~~

~~For purposes of this article, any cat being fed or imported into South Bethany that does not have some means of identifying its owner (i.e., an embedded chip or a tag) will be presumed to be feral or stray.~~

CAT, STRAY – A stray cat is a pet who has been lost or abandoned, who is used to contact with people, and is tame enough to be adopted. For purposes of this Chapter, any cat found or imported into South Bethany that does not have some means of identifying its owner (i.e., an embedded chip or a collar, or a tag) will be presumed to be stray, unless its behavior fits the definition of feral.

FEEDING – To give, place, expose, deposit, distribute or scatter any edible material that will feed, attract, or entice wild mammals, feral cats, or stray cats.

OWNER – The person or persons with whom a pet resides, and/or who are responsible for the regular care and feeding of an animal, including stray cats who are being temporarily kept or maintained for the purpose of adoption or placement.

PET – Any domesticated or tamed animal that is kept as a companion and cared for affectionately. Pets shall include

stray cats who are being temporarily kept or maintained for the purpose of adoption or placement.

RUN AT LARGE – For purposes of this Chapter, to “run at large means that the dog or other pet is off the owner’s property and is not under control on a leash.

WILD MAMMAL – Any warm-blooded vertebrate animal of a class that is distinguished by the possession of hair or fur, and that is not domesticated. This includes any mammal which is not domesticated, including but not limited to bears, coyotes, deer, feral cats, foxes, rodents, groundhogs, opossums, raccoons, skunks, and the like.

§ 30-79. Animals as a public nuisance; prohibitions.

It shall be unlawful for any person:

- A. To own, keep, harbor, possess, or maintain an animal(s) [a person is deemed to keep or harbor an animal(s) if he or she provides food for that animal] in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor, or is dangerous to the public health, welfare or safety, or ~~a failure to maintain a condition of good order and cleanliness~~ which increases the probability of transmission of disease.
- B. To maintain property that is offensive, annoying, or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density, or location of the animals on the property.
- C. **To allow or permit a pet to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers, or vegetables, or defecating upon the property of another.**
- D. **To allow or permit a pet to produce, or cause through their action, loud noise in an excessive, continuous, or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises.**
- E. **It is prohibited to keep a wild mammal within the corporate limits of the Town of South Bethany.**

§ 30-840. Feeding prohibited.

Feeding wild mammals, feral cats, or stray cats anywhere in the Town of South Bethany is prohibited. A person who provides or makes food available will be deemed to violate this prohibition even when the provider claims they did not intend the food to be consumed by wild mammals, feral cats, or stray cats so long as a reasonable person would have known that the food could be consumed at least in part by wild mammals, feral cats, or stray cats. The foregoing feeding prohibition shall not apply to stray cats that are being kept or harbored for the purposes of making them available for adoption and are confined indoors at all times.

§ 30-944. Ban on importation of feral or stray cats.

No person shall import or cause to be imported into the Town of South Bethany any feral or stray cat. The foregoing importation ban shall not apply to stray cats that are being imported for the purpose of making them available for adoption and that will be confined indoors at all times.

§ 30-1042. Trap, neuter and return program.

Nothing in this article shall prohibit the use of a trap, neuter, and return (TNR) program by any person or group of persons to reduce the Town's population of stray or feral cats. Only cats trapped in South Bethany may be returned to South Bethany as part of a TNR program.

§ 30-1143. Violations and penalties.

Any person ~~found to have violated~~ ~~violating~~ any provision of this ~~article Chapter, shall, upon conviction~~ by any court of competent jurisdiction, ~~pay a fine~~ **shall be subject to a civil penalty** of \$100 for the first offense, which ~~fine penalty~~ shall increase by \$100 for each subsequent ~~offense violation~~, not to exceed \$500, **per continuing violation**, plus court costs. Each day of continued violation shall be considered as a separate and subsequent offense.

Effective date: This ordinance shall become effective upon the date of adoption.

ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF SOUTH BETHANY, SUSSEX COUNTY, DELAWARE, ON THE 12 OF MARCH 2021.

SEAL:

Tim Saxton, Mayor

Carol Stevenson, Council Secretary

ATTEST: _____

1st Reading: 2/12/21
2nd Reading: 3/12/21

Sponsored by Councilmember Stevenson
CS:jp:Ordinance 201-21
Second Reading