

SUBSTITUTE NO. 1 TO ORD. 17-026

**AN ORDINANCE TO AMEND CHAPTER 3 OF THE CITY CODE
REGARDING SUPPORT ANIMALS.**

**Rev. 1
#4389**

Sponsor:

**Council
Member
Chukwuocha**

WHEREAS, the City of Wilmington has codified regulations pertaining to the keeping of domestic and wild animals within the City; and

WHEREAS, it is the responsibility of the City to ensure that the residents and visitors of Wilmington have access to the supports and resources they need; and

WHEREAS, the City recognizes and supports the needs of individuals with mental or emotional disabilities, as well as the range of resources that can assist such individuals – including animals that provide emotional support and comfort; and

WHEREAS, the City intends to mirror the protections afforded to individuals with disabilities and prohibit discrimination in housing, as outlined in the Fair Housing Act and Section 504 of the Rehabilitation Act, by providing reasonable accommodations for assistance animals, which include emotional support animals that serve as a resource for those with disabilities to help cope with and alleviate their symptoms.

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 3 of the City Code is hereby amended by amending Section 3-1 by adding the underlined language as follows:

Section 3-1. Definitions.

Support animal means an animal tasked with the role of providing companionship and support to an individual with an emotional or mental disability. While not a traditional pet in every instance, a support animal shall, for the purposes of this Section, be domesticated, and prescribed or recommended by a licensed physician or psychologist in relation to the treatment of a disability.

SECTION 2. Chapter 3 of the City Code is hereby amended by amending Section 3-14 by deleting the stricken language and by adding the underlined language as follows:

Section 3-14. Keeping of wild animals, farm animals; exceptions; penalty.

- (a) No wild animal and no wild fowl may be kept within the city limits, except under such conditions as shall be fixed by the appropriate state agency; provided, however, that wild animals and wild fowl may be kept for exhibition purposes by circuses, zoos and educational institutions in accordance with such regulations as shall be established by the city or the appropriate state agency. Anyone keeping a wild animal pursuant to this section must do so in accordance with all applicable state laws.
- (b) It shall be unlawful for any person to keep, harbor or house, whether as a pet, or for eventual sale or consumption, or for any other purpose, any domestic animals or domestic fowl other than dogs or cats, commonly known as farm animals or fowl, including, but not limited to, chickens, chanticleers, roosters, ducks, geese, pigs, hogs, donkeys, mules, horses, cattle, goats, sheep, oxen, or any other animal or fowl suitable for slaughter or for the production of milk, eggs or fiber within the boundaries of the city, except:
- (1) Any such animals or fowl kept for exhibition purposes by circuses, zoos and educational institutions in accordance with regulations established by the appropriate state agency;
 - (2) Horses of the police department;
 - (3) Fish or crustaceans, or both being raised or produced in tanks inside of buildings that are located in nonresidential zoning districts only and that are otherwise in compliance with applicable provisions of this Code;
 - (4) Livestock held or kept on a temporary basis for a period not to exceed 96 hours at an indoor inspection or resting facility that is related to the export of such livestock from the Port of Wilmington and that is located in a manufacturing zoning district and is otherwise in compliance with applicable provisions of this Code; and
 - (5) As otherwise provided in this chapter, chapter 42, article X (farmers' market).
 - (6) A support animal, as defined in this Section, shall be permitted in housing by an individual residing in or spending time within the City limits, as outlined in the Fair Housing Act and Section 504 of the Rehabilitation Act, provided that:
 - i. The need for such an animal is affirmed by a physician or psychologist licensed in the State of Delaware, and that a signed letter from such licensed professional is provided to the Commissioner of Licenses and Inspections no less frequently than once per year. In the case of an individual visiting the City, such letter, which could be signed by a licensed professional in the individual's home state, shall be produced upon request by the Commissioner of Licenses and Inspections or his or her designee, or an official with any other enforcement entity operating within the City.
 - ii. Such animal receives proper care and treatment, pursuant to regulations set forth in this Code and/or as determined by the

State Office of Animal Welfare, the Delaware Department of Agriculture, or any other applicable State agency or humane law enforcement agency.

- iii. Such animal is properly restrained, and that the animal does not constitute a public nuisance as determined by the Commissioner of Licenses and Inspections.

(c) A conviction of violation of the provisions of this section shall be punishable by a fine of not less than \$250.00 and not more than \$1,000.00 for the first offense, a fine of not less than \$500.00 and not more than \$2,500.00 for the second offense, and a fine of not less than \$1,000.00 which shall not be suspended and not more than \$5,000.00 for the third and subsequent offenses. A corporation may be fined by the court in an amount not exceeding \$5,000.00.

SECTION 3. This Substitute Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

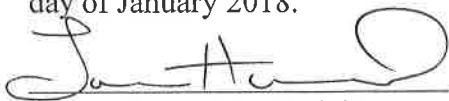
First Reading.....August 24, 2017
Second Reading.... August 24, 2017
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved as to form this 16th
day of January 2018.


Assistant City Solicitor

Approved this _____ day of _____, 2018

Mayor

SYNOPSIS: This Substitute Ordinance amends Chapter 3 of the City Code to add a definition of support animal. This Substitute Ordinance further amends Section 3-14 to allow residents and visitors of Wilmington to utilize otherwise prohibited animals as a support animal if necessary, so long as such animals are domesticated and properly restrained as not to constitute a public nuisance. In addition to ensuring that the City is in full compliance with the Fair Housing Act and Section 504 of the Rehabilitation Act, the intent of this Substitute Ordinance is to ensure that Wilmington residents and visitors have access to the resources they need to cope with an emotional or mental disability.

POLICY STATEMENT: This Substitute Ordinance is designed to provide residents and visitors of the City of Wilmington with access to the resources needed to help alleviate and cope with emotional or mental disabilities through support animals. Research indicates that support animals are effective at reducing emotional and mental health issues, and are becoming a more commonly utilized resource for individuals with various disabilities and conditions. This legislation codifies a definition of support animals and extends a reasonable accommodation for such animals, and mirrors the provisions set forth in the Fair Housing Act and Section 504 of the Rehabilitation Act, which contain accommodations that protect renters and buyers from discrimination. This Substitute Ordinance is grounded in thoroughly conducted research on the topic, and is intended to enhance the quality of life for residents and visitors of the City of Wilmington.