

City of Milford



City Council Committee Meeting Agenda

Committee Meeting

September 8, 2016

*Joseph Ronnie Rogers Council Chambers, Milford City Hall
201 South Walnut Street, Milford, Delaware*

COMMUNITY AFFAIRS COMMITTEE

5:30 p.m.

Call to Order - Chair Lisa Ingram Peel

Request for Code Waiver (Joseph Phillips & Jan Broulik):

City of Milford Code Chapter 79 - Animals
Article III-Prohibited Animals

Zoning Code Amendment/Addition -
One-Family Residential Zone (R-20, R-15, R-10, R-8 and R-7)

Adjourn

This agenda may be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING; NO PAPER DOCUMENTS WILL BE ACCEPTED OR DISTRIBUTED AFTER PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE.

August 1, 2016

**Joseph Phillips & Jan Broulik
2 Causey Avenue
Milford, DE 19963**

**To: Milford City Council Community Affairs Committee
Mayor Bryan Shupe
Town Manager Eric Norenberg**

Greetings from your neighbors at Causey Mansion. We kindly write to ask that you consider granting us a waiver for a rule that restricts residents inside city limits from keeping chickens...or perhaps change the current law to requiring a minimum of three acres (similar to the well drilling law) to do so.

We wish to keep hens (up to 16) on our property as pets and for purposes of egg-gathering for our B&B- all females as no noisy roosters are needed for egg production. Causey Mansion sits on 3.14 acres - which is the entire central part of the Causey Avenue, South Walnut Street, Church Street and Maple Avenue block. Our parklike property is very private and totally unseen from all but a few neighbors.

Backyard chickens are becoming more and more popular in urban areas around the country. Aside from the constant supply of fresh eggs, chickens eat ticks and other insects. They also eat most kitchen scraps and provide high nitrogen fertilizer for gardeners. They are allowed inside many Delaware City Limits including our state capital:

Dover Delaware Chicken Ordinance

Are Chickens Allowed - Yes

Maximum Chickens Allowed - 25

Roosters Allowed - No

Permit Required - No

Coop Restrictions - Yes, property line restrictions apply.

Noise ordinance apply for all animals.

Since the house now known as the Causey Mansion has been around since 1763 and was originally 1506 acres, we thought that providing us with an exception via a sort of post grandfather clause might be considered.

Causey Mansion hosts many outdoor invents for profit and others not for profit, like the Roaring Twenties Lawn Party - with this in mind, you can rest assured that our coop will be neatly designed and maintained. Again, we will have no roosters, eggs will not be for re-sale and no butchering will occur! We hope to have a few Delaware Blue Hens in our flock along with a colorful mixture of other breeds.

We thank you for taking the time to consider this request.


Joseph A. Phillips


Jan K. Broulik

Chapter 79 - ANIMALS

GENERAL REFERENCES

Noise from animals — See Ch. 157.

Footnotes:

ARTICLE I - Definitions

§ 79-1. - Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

ANIMAL — Dog, cat and any species of mammals except human beings.

ANIMAL CONTROL AGENCY — An agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

CAREGIVER — Anyone who puts out food for feral cats.

CAT COLONY — A social group of cats who avoid human contact and breed with each other to create a growing population of homeless cats; cats who group together in an alley, corner of a parking lot or a grassy area.

FERAL CAT — An untamed domestic cat living in the wild; unaltered cats released by owners who no longer care for them; offspring of such an abandoned cat.

HORSE-DRAWN VEHICLE — A carriage, wagon, cart, sled or sleigh or other device drawn by horses which has a passenger carrying capacity.

OWNER — The person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of an animal.

TNR PROGRAM — A humane and nonlethal approach to feral cat population control; a comprehensive management plan where healthy feral cats are sterilized and vaccinated, then returned to their habitat and provided with long-term care.

[Ord. No. 2012-16, § 2, 9-24-2012]

ARTICLE II - Control of Dogs, Cats and Other Animals

§ 79-2. - Running at large; exceptions.

- A. It shall be unlawful for any person or persons to permit any animal owned, kept, maintained or in the custody or control of such person or persons to run at large either upon the public streets, sidewalks, highways, alleys or thoroughfares of the City of Milford or upon private property of any other person or persons without permission of the owner of that property or of the person in possession of that property.
 - (1) Exceptions:
 - (a) Such restriction shall not apply to cats.

- (b) Such restriction shall not apply to dogs owned by the Milford Police Department or other law enforcement agencies and maintained as police K-9 units while under the custody and control of the trainer or handler.

[Ord. No. 2012-16, § 3, 9-24-2012]

§ 79-3. - Dog license required.

- A. The owner or lawful possessor of any dog shall obtain a license for his dog pursuant to the licensing requirements of the county in which the owner or lawful possessor resides. License must be kept current. Any owner or possessor who fails to comply with the provision of the applicable county shall be subject to a fine of not less than \$25 nor more than \$300.
- B. The owner of the dog shall affix or cause to be affixed to said dog the identification tag associated with the license required in Section 9-3A. Said dog shall thereafter, at any and all times, have attached to it said identification tag.

[Ord. No. 2012-16, § 3, 9-24-2012]

§ 79-4. - Leash required; exceptions.

- A. No animal shall be permitted in or upon any public street, sidewalk, alley, park, parkway or other public place in the City or in or upon any property belonging to said City unless said animal is on a leash and is under the complete control of the person owning or, at the time, in possession of said animal.
 - (1) Exceptions:
 - (a) Cats.
 - (b) Feral cats that have been trapped, spayed or neutered and re-released are exempt from Subsection A. Each cat would be ear-tipped, clearly identifying it as a product of the Kent County SPCA Feral Cat TNR Program.
- B. Notwithstanding anything in this article to the contrary, no person shall be compelled to keep any animal in his possession on a leash while in or upon any public street, alley, parkway or other public place in the City if, at the time, said animal is securely confined in an automobile.

[Ord. No. 2012-16, § 3, 9-24-2012]

§ 79-5. - Feral cats.

- A. Individuals who choose to apprehend a feral cat running at large within the City of Milford shall have the feral cat delivered to the Kent County SPCA.
- B. No individual will trap a feral cat off his/her property of record except the Kent County SPCA pursuant to specific authorization from the City of Milford Police Department.
- C. Each feral cat colony will be registered by the caregivers with the City of Milford and Local Animal Control Agency, which will serve as a clearinghouse for information on current caregivers and assistance for persons found in violation of this section. A caregiver who fails to register within the time allowed shall be subject to a fine of not less than \$100 nor more than \$300.
- D. Any person or caregiver determined to be in violation of Subsections E(1) through (4) below shall be in violation and may be allowed a period of time to come into compliance, or provide satisfactory evidence of working to achieve compliance.

- E. Failure to comply in the time given will result in issuing a violation citation. Caregivers of feral cat colonies shall implement proper management and sterilization practices as follows:
- (1) Sterilize (spay/neuter) all adult cats that can be captured.
 - (2) Vaccinate against rabies, as required by law, all cats that can be captured.
 - (3) Make every attempt to remove kittens from the colony before eight weeks of age for domestication and placement.
 - (4) Make every attempt to sterilize all kittens over eight weeks of age and before five months of age.
 - (5) Make every attempt to remove sick or injured cats from the colony for immediate veterinarian care or for humane euthanasia.
 - (6) Assure responsibility and arrangements for feeding the cat colony regularly throughout the year, including weekends, holidays and vacations.
 - (7) Keep feeding areas clean and orderly.
 - (8) Maintain secure and safe winter shelter as required in § 79-6C of this article.
 - (9) A microchip implant and ear-tipping will be mandatory and used on feral cats in order to be identified as a spayed or neutered and vaccinated member of a managed colony.
 - (10) The feral cat caregiver shall be vaccinated for rabies; the expense will be the responsibility of the individual or rescue group.
 - (11) Maintain proof of sterilization, vaccination, medical records, and implant identification for all cats. These records must be provided to the animal control or law enforcement agency upon request.
- F. Animal(s) creating a public nuisance. The designated agency/rescue group will be notified within 48 hours of removal of any feral cats.
- G. In the event the feral cat caregiver fails to comply with this section, the designated agency/rescue group will be notified within forty-eight-hour period before removal of any animal. The designated agency/rescue group will attempt to resolve the situation prior to removal of a cat by an enforcement agency.

§ 79-6. - Outdoor housing facilities; feral housing.

- A. The following categories of cats must not be kept in outdoor facilities, unless the attending veterinarian specifically approves that practice:
- (1) Cats that are not acclimated to the temperatures prevalent in the area or region where they are maintained;
 - (2) Breeds of cats that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short-hair breeds in cold climates); and
 - (3) Sick, infirm, aged or young cats.
- B. When their acclimation status is unknown, cats must not be kept in outdoor facilities when the ambient temperature is less than 50° F.
- C. Shelter from the elements. Outdoor facilities for cats must include one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to allow each animal in the shelter structure to sit, stand, vertically stretch and lie in a normal manner, and to turn about freely. It must be large enough to contain all the animals at one time. Shelters in outdoor structures for cats must contain a roof, four sides, and a floor; building surfaces in contact with animals must be impervious to moisture. Metal boxes/barrels, cars, refrigerators or freezers, and the like must not be used as shelter structures. Shelter structures must:
- (1) Provide the cats with adequate protection and shelter from the cold and heat;

- (2) Provide the cats with protection from the direct rays of the sun and the direct effect of wind, rain, or snow;
- (3) Be provided with a wind break and rain break at the entrance; and
- (4) Contain clean, dry bedding material if the ambient temperature is below 50° F. Additional clean, dry bedding is required when the temperature is 35° F. or lower.

§ 79-7. - Noisy animals.

No person shall keep any animal which causes frequent or long-continued noise so as to disturb the comfort or repose of any person in the vicinity. Any violation of this section, in addition to the penalties set forth in § 79-12, is declared to be a nuisance and as such may be abated.

§ 79-8. - Appointment of Animal Control Official; impoundment procedure.

The Society for the Prevention of Cruelty to Animals of the State of Delaware, Kent County, 32 Shelter Circle, Camden, DE (KC SPCA) has been designated as the animal control agency for the City of Milford. It shall be the duty of the SPCA to apprehend any animal found in violation of the provisions of this article and to impound such animal in a suitable place. A record of the breed, color and sex of the animal and the number of its license, if any, shall be made at the time of impoundment and shall be maintained by the SPCA.

§ 79-9. - Right of entry by Animal Control Official or designee; impoundment.

Upon presentation of proper credentials, an official of the SPCA and/or a City of Milford Code Official or Milford police officer may enter upon the yards of private property in order to enforce the provisions of this article. It shall be the duty of the Animal Control Official or his duly authorized representative to impound all animals over the age of six months that are untagged, as provided for in this article, or that are in or upon any private property without the permission and consent of the owner of such property or that are in or upon any public street, alley, sidewalk, park or other public place unleashed.

§ 79-10. - Redemption of impounded animals; costs.

The owner of any dog apprehended and impounded by the SPCA may reclaim said dog upon the payment of any fine and cost imposed for any violation of this chapter. Further, if the animal is of a character which requires a license under the laws of the State of Delaware and does not bear a license when impounded, proof of proper licensure must be demonstrated to the SPCA prior to redemption by the owner. If proof of proper licensure cannot be demonstrated by its owner, the animal cannot be reclaimed until such time as the owner has procured a proper license.

§ 79-11. - Obstruction of Animal Control Agency/Official.

No person shall willfully oppose, restrict, delay or obstruct the SPCA in the discharge or attempt to discharge or perform any act or duty authorized or prescribed herein.

§ 79-12. - Violations and penalties.

Unless otherwise established herein, the following fines and penalties shall apply to Article II of this chapter: Any person found guilty of violating the provision of this article shall forfeit to the City of Milford a fine of not less than \$25 but not more than \$300, plus the costs of prosecution.

ARTICLE III - Prohibited Animals

§ 79-13. - Keeping or slaughtering of certain animals within City limits.

No person shall keep or slaughter any swine, cow, bull, sheep, goat, goose, duck, hen, rooster, turkey or like animal or other farm animal within the City of Milford unless in conformity with Chapter 230, Zoning, and properly licensed and inspected by the appropriate state agencies.

§ 79-14. - Exception for parade animals.

Animals used in parades where a City of Milford parade permit has been issued are exempt from the provisions of this chapter.

§ 79-15. - Violations and penalties.

Any person found guilty of violating the provision of this article shall forfeit to the City of Milford a fine of not less than \$100 but not more than \$500, plus the costs of prosecution.

ARTICLE IV - Horse-Drawn Vehicles

§ 79-16. - Conditions and restrictions.

The provisions of Article III shall not be applicable to any person who brings into the City a horse for the purpose of providing transportation in horse-drawn vehicles carrying passengers on a fixed route under the following terms and conditions:

- A. Each route shall be approved by the City Manager.
- B. The horse shall not be kept or maintained within the corporate limits of the City when not being used for the purpose of providing transportation.
- C. Horse-drawn vehicles are prohibited from all other streets and areas within the City unless specifically approved by the City Manager for providing point-to-point transportation for special events, including but not limited to weddings, theatrical performances and funerals.
- D. No person shall drive or operate a horse-drawn vehicle on any day or at any time that the Chief of the Milford Police Department or his designee makes a specific determination that it would be inconsistent with other special events or public safety requirements.

Section 1. - One-family residence zones [(R-20, R-15, R-10, R-8 and R-7)].

(R-20, R-15, R-10, R-8, R-7.) (See also article 5, Supplementary Regulations; and article 6, Off-Street Parking, Driveways and Loading Facilities.)

1.1 *Uses permitted.* In a one-family residence R-20, R-15, R-10, R-8 and R-7 zones, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any uses except the following:

1.11 The raising of field and garden crops, vineyards and orchard farming, the maintenance of nurseries, and the seasonal sale of the products thereof, provided no building is erected and signs conform with article 5, section 4.

1.12 One-family detached dwellings, not to exceed one such dwelling per lot.

1.13 Public buildings, structures and uses, including parks and playgrounds, subject to approval of site plans by the planning commission in accordance with article 10, section 2.

1.14 The following uses are permitted, conditional upon the approval of the planning commission in accordance with the procedures and subject to the general conditions set forth in section 10.1 and to any specified requirements set forth below:

- (a) Places of worship, including parish houses; [and] schools, including nursery schools, kindergartens and day care centers in accordance with article 5, Supplementary Regulations, section 14. Day care facilities; philanthropic and eleemosynary institutions; hospitals and sanitariums for general medical care; and funeral homes subject to the following requirements:
 - i. Any school permitted under this paragraph [subsection 1.14(a)] shall be a nonprofit organization within the meaning of the Internal Revenue Act and shall be registered effectively as such thereunder.
 - ii. Any school permitted under this paragraph [subsection 1.14(a)], other than a kindergarten, nursery school, or day care center, shall occupy a lot with an area of not less than two acres, plus one acre for each 100 pupils for which the building is designed.
 - iii. Any kindergarten or nursery school permitted under this paragraph [subsection 1.14(a)] shall be limited to a maximum of 50 children in zones R-8 thru R-20 and a maximum of 100 children in all other zones. At least 100 square feet of outdoor play space per child shall be provided. Outdoor play space shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas, or land unsuited by other usage or natural features for children's active play space. Fencing or other enclosures shall be a minimum height of four feet. The minimum lot area for each ten, or remainder over the multiple of ten, children shall be the same as the minimum lot area requirement for each dwelling unit in the districts in which such uses are to be located.
 - iv. No such building or part thereof shall be erected with less than a 50-foot front yard or nearer than 25 feet from any other street or property line.
 - v. The sum of all areas covered by all principal and accessory buildings shall not exceed 20 percent of the area of the lot.
 - vi. Courts shall conform to the requirements of article 5, section 3 hereof.
- (b) Railroad and public utility rights-of-way and structures necessary to serve areas within the city, subject to such conditions as the planning commission may impose in order to

protect and promote the health and safety and general welfare of the community and the character of the neighborhood in which the proposed structure is to be constructed.

- (c) Country clubs or other annual membership clubs, catering exclusively to members and their guests, and accessory private playgrounds, golf courses, swimming pools, tennis courts and recreation buildings not conducted as business enterprises, provided that the following operations shall be prohibited:
 - i. Outdoor entertainment, live or mechanical;
 - ii. The use of outdoor public address systems for any purpose; and
 - iii. Exterior lighting producing glare at the lot line other than that essential for the safety of the users of the premises.

No building erected under the provisions of this paragraph [subsection 1.14(c)] shall be so erected nearer than 50 feet to any street or property line.

1.15 Accessory uses, limited to the following:

- (a) Professional office or studio of an artist, dentist, musician, teacher, or physician, but not including veterinarians, provided that:
 - i. Such office or studio is incidental to the residential use of the premises and is carried on by a resident thereon with not more than one nonresident assistant; and
 - ii. Such office or studio shall occupy not more than 30 percent of the area of one floor of the main building.
 - iii. Studios where dancing or music instruction is offered to groups in excess of four pupils at one time or where concerts or recitals are held are prohibited.
 - iv. Medical centers, barbershops, beauty parlors, real estate offices, funeral homes or similar uses shall not be considered permitted accessory uses.
- (b) Garden house, tool house, playhouse, greenhouse or pool incidental to the residential use of the premises and not operated for gain.
- (c) Private garage, provided that, in the case of a one-family dwelling, such garage shall have a capacity of not more than three passenger automobiles. One such space may be leased to a person not [a] resident on the premises.
- (d) Keeping domestic animals as pets, provided not more than three (3) dogs over six months old, shall be permitted.
- (e) Keeping of chickens for individual domestic purposes subject to the following restrictions:
 - i. Keeping of chickens shall not be permitted on lots smaller than 10,890 square feet in lot area.
 - ii. No more than five (5) chickens shall be permitted on a residential lot.
 - iii. Chickens shall be registered with the Delaware Department of Agriculture.
 - iv. Chickens shall be penned in a coop that shall be at least four (4) square feet per chicken.
 - v. All chicken coops shall be located in a rear yard and shall be a minimum of 20 feet from side and rear property lines.
 - vi. Any odor associated with the chickens shall not be discernable from property lines.
 - vii. Keeping of roosters shall be prohibited.

viii. Any lot with chickens shall either comply with these requirements by June 1, 2016 or remove the chickens.

(f) Dormitories accessory to schools, provided that such dormitories conform to the bulk regulations of the RG-1 zone. For purposes of computing bulk requirements, each four rooms shall be considered one dwelling unit. Parking shall be calculated as identified in Article 6—Off-Street Parking, Section 3—Required off-street parking spaces, Paragraph 3.1—Schedule of requirements.

(g) Customary home occupations, provided that:

i. No display of products, goods and/or signs shall be visible from the street.

ii. Such home occupation shall be incidental and secondary to the residential use of the premises and shall be conducted in the principal building by the resident or residents that reside therein.

iii. Nonresident assistants or co-workers shall be prohibited.

iv. Such home occupation shall not occupy more than 30 percent of the area of one floor in the principal building.

v. There shall be no exterior effect such as noise, traffic, odor, dust, smoke, gas, fumes, radiation, or electromagnetic interference.

1.16 [1.2] *Site development plan approval.* Site development plan approval in accordance with article 10, section 2 hereof shall be required prior to the issuance of building permits for the erection or enlargement of all structures and related accessory structures. Such approval shall also be required prior to the issuance of certificates of occupancy for a change of use.

1.17 [1.3] *Performance standards.* All uses are subject to performance standards as set forth in article 5, section 8.1.

1.18 [1.4] [*Closed zone.*] Zone R-7 is a closed zone in accordance with article 10, section 5.19.

1.19 [1.5] [*Signs.*] Signs shall meet the regulations found in article 5, section 4, supplementary sign regulations.

(Ord. of 1-8-1979; Ord. of 5-14-1990; Ord. of 12-14-1992(2); Ord. of 7-10-2000; Ord. of 2-12-2001; Ord. No. 2009-12, 9-14-2009; Ord. No. 2011-21, 10-10-2011; [Ord. No. 2016-01, 4-11-2016](#))