

ORDINANCE NO. 345

**AN ORDINANCE AMENDING  
OCEAN VIEW CODE RELATING TO CHAPTER 68 ANIMALS, CHAPTER 77  
BICYCLES, CHAPTER 107 DISORDERLY CONDUCT, CHAPTER 123  
FIREARMS, FIREWORKS AND BONFIRES AND CHAPTER 130 GAMBLING**

**WHEREAS**, pursuant to Section 2.313 of the Ocean View Charter, the Town Council of the Town of Ocean View has all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute. This grant of powers includes the power to adopt ordinances for the protection and preservation of town property, rights and privileges; for the preservation of peace and good order; for securing protection and promotion of health, safety, comfort, convenience, welfare and happiness of the residents of the Town; and

**WHEREAS**, the Town Council has, from time to time, ordained that certain conduct is adverse to the protection and preservation of town property, rights and privileges; and

**WHEREAS**, the Town Council has, from time to time, ordained penalties for violations of the various provisions of the Ocean View Code.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN VIEW**, to read as follows:

**Section 1.** Amend Chapter 68, Animals, by adding thereto those matters underlined and deleting those matters ~~struck through~~ as follows:

Chapter 68: Animals

~~Article I Animals at Large.~~

~~§ 68-1. Horses and livestock not to run at large; violations and penalties.~~

~~No owner or keeper of any horse, gelding, mule, cow, sheep, hog, goat or other cattle whatever shall permit or suffer the same to run at large within the limits of the Town under a penalty of \$5 for each and every offense.~~

~~§ 68-2. Evidence of violation.~~

~~In all proceedings for a violation of this article, the fact of any horse or other animal above-mentioned being found at large shall be prima facie evidence that such horse or other animal was at large in violation of the provisions hereof.~~

~~§ 68-3. Impoundment.~~

~~All animals found at large in violation of this article shall be seized by the Town Constable and held by him until the fine and cost are paid.~~

#### Article II Dogs

##### ~~§ 68-4. Females dogs in heat at large; violations and penalties.~~

~~Any female dog, while in heat, being at large within the limits of the Town, shall be deemed a common nuisance, and the person or persons owning, keeping or harboring such female dog shall, for her being so at large, forfeit and pay a fine of \$5.~~

##### § 68-51. Barking and howling; violations and penalties.

A. Any person or persons, keeping or harboring any dog, which, being confined in any house, building or place, creates frequent or long-continued noise that disturbs any person in the vicinity, shall forfeit and pay a fine of \$275 for the first offense and \$5100 for each additional offense, to be recovered as hereinbefore provided.

B. Canines under the supervision and/or ownership of the Town of Ocean View are exempt from this section.

##### § 68-62. Dogs at large ~~to be muzzled~~; violations and penalties.

No person shall permit any dog to run at large within the limits of the Town of Ocean View ~~without the same being securely muzzled~~, and any person violating this article shall forfeit and pay a fine of \$75 for each offense, to be recovered as hereinbefore provided.

##### § 68-73. Authority of officers.

It shall be lawful for any officer of the Town to kill any dog not having a collar or other mark to identify its owner ~~and not being muzzled~~, which may be running at large and not accompanied by its owner or master.

#### Article III Stallion Horses

##### ~~§ 68-8. Riding horses in public for display or exhibition; violations and penalties.~~

~~If any person shall ride or drive a stallion horse through or along any of the public streets, lanes or alleys of the Town for the purpose of making a display or exhibiting such horse, he shall pay a fine of \$5 for every such offense, to be recovered with costs as hereinbefore described.~~

#### Article IVI

##### § 68-94. Definitions.

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

DOMESTICATED ANIMAL — Such animals as are habituated to live in or about the habitations of persons, or such as contribute to the support of a family. This term includes, but is not necessarily limited to, dogs, cats, horses, or other animals maintained as household pets.

RUNNING AT LARGE — The presence of a domesticated animal at any place except upon the premises owned or rented by its owner.

§ 68-105. Domesticated animals at large.

It shall be unlawful for any person owning or possessing any domesticated animal to permit the same to run at large.

§ 68-116. Leashes.

Any domesticated animal shall not be considered to be running at large if it is on a leash and under the control of a person physically able to control it.

§ 68-127. Domesticated animals in public parks.

No domesticated animal shall be allowed in any park open to the public in the Town; provided, however, that the Town Council may designate portions of John West Park as a domesticated animal walk area, subject to the other provisions of this article and such other reasonable regulations that it may determine are appropriate.

§ 68-138. Removal of excreta; exemptions.

It shall be unlawful for any person owning or possessing a domesticated animal to let his or her domesticated animal discharge such animal's excreta upon any public or private property, other than the property of the owner of any such domesticated animal, within the Town of Ocean View if such owner, keeper or walker does not immediately thereafter remove and clean up such animal's excreta from the public or private property. This section shall not apply to a person who is visually or physically handicapped.

§ 68-149. Violations and penalties.

Any person convicted of violating a provision of this article shall be fined not more than \$25.

**Section 2.** Amend the Ocean View Code by repealing Chapter 77 Bicycles, in its entirety.

**Section 3.** Amend Chapter 107, Disorderly Conduct, by adding thereto those matters underlined and deleting those matters ~~struck through~~ as follows:

Chapter 107 Disorderly Conduct

~~Article I Drunk and Disorderly Persons; Profane Language~~

~~§ 107-1 Duty to arrest drunk and disorderly persons; hearing; violations and penalties.~~  
~~It shall be the duty of the Town Constable to arrest any drunken and disorderly person or persons he may see on the streets, lanes or alleys of said Town and take such person or persons so arrested before the Alderman, who shall proceed forthwith to hear and determine the case in a summary manner, and, upon conviction thereof, he shall sentence every such person to pay the sum of \$10, and in default of payment thereof, he may commit the party to the county jail for the period as prescribed in Chapter 649, Vol. 18, Laws of Delaware, unless the said fine and costs be sooner paid. If, upon view of the person or persons who may be brought before the Alderman by virtue of the provisions of this section, it shall appear to the said Alderman that such person or persons be not in a condition to be heard and tried, he may postpone the hearing or trial to, or at a time to be by him fixed; but such time shall in no case be more than one day from the time of arrest, unless the expiration of said time would be on the Lord's day, commonly called "Sunday," and then not later than 10:00 a.m. on the following Monday; the offender or offenders to be lodged in the public jail until such hearing can be had.~~

~~§ 107-2~~

~~Profane or vulgar language; violations and penalties.~~

~~If any person or persons shall use profane or vulgar language on the streets, he, she or they shall be punished by a fine of \$10.~~

#### ~~Article II Disorderly Houses~~

~~§ 107-3~~

~~Disorderly houses constitute nuisances; violations and penalties.~~

~~Any person or persons of the Town of Ocean View shall be deemed guilty of a nuisance and shall, upon conviction before the Alderman, be fined \$10 for each offense.~~

#### ~~Article III: Disorderly Conduct~~

~~§ 107-4~~

~~Actions constituting disorderly conduct.~~

~~A person is guilty of disorderly conduct when:~~

~~A. He intentionally causes public inconvenience, annoyance, or alarm to any other person, or creates a risk thereof by:~~

- ~~—— (1) Engaging in fighting or in violent, tumultuous, or threatening behavior; or~~
- ~~(2) Making an unreasonable noise or an offensively coarse utterance, gesture, or display, or addressing abusive language to any person present; or~~
- ~~(3) Disturbing any lawful assembly or meeting of persons without lawful authority; or~~
- ~~—— (4) Obstructing vehicular or pedestrian traffic; or~~
- ~~(5) Congregating with other persons in a public place and refusing to comply with a lawful order of the police to disperse; or~~

~~(6) Creating a hazardous or physically offensive condition which serves no legitimate purpose; or~~

~~B. He engages with at least one other person in a course of disorderly conduct as defined in Subsection A of this section which is likely to cause substantial harm or serious inconvenience, annoyance, or alarm, and refuses or knowingly fails to obey an order to disperse made by a peace officer to the participants.~~

§ 107-5

~~Violations and penalties.~~

~~Any person convicted of violating a provision of this article shall be fined not less than \$25 nor more than \$50 for the first offense and not less than \$50 nor more than \$100 for each subsequent like offense.~~

#### Article IV: Sleeping in Public

§ 107-61. Sleeping in motor vehicles.

It shall be unlawful for any person to sleep at any time in any motor vehicle of any description parked on any highway, public park, parking lot, picnic grounds, or on any other public or semipublic area; or in any motor vehicle of any description parked in any such place, or for any reason to aid, assist, encourage or promote the same to be done by any other person.

§ 107-72. Camping or sleeping out of doors.

It shall be unlawful for any person to camp or sleep at any time on any highway, public park, parking lot, picnic ground, or on any other public or semipublic area, or upon the grounds of any other person in the Town, without the consent of the owner, or for any person to aid, assist, encourage or promote the same to be done by any other person.

§ 107-83. Exceptions.

Sections 107-61 and 107-72 shall not apply to premises duly licensed and operated to accept house trailers, recreational vehicles, motor homes and campers in accordance with the applicable Land Use and Development Ordinances.

§ 107-94. Definitions.

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

**CAMP or CAMPING** — To use the public, semipublic or other area set out above for living accommodations, including the keeping or storing of personal property or the use of a campfire, camp stove, or other heating source or cooking device.

**SHELTER** — Any cover or protection from the weather elements other than clothing, such as a tent, shack, sleeping bag, or other structure or material.

**SLEEPING** -- Includes, but is not limited to making preparations to sleep, including the lying down of bedding for the purposes of sleeping.

§ 107-105. Violations and penalties.

Any person convicted of violating a provision of this article shall be fined not less than \$25 nor more than \$50 for the first offense and not less than \$50 nor more than \$100 for each subsequent offense.

**Section 4.** Amend Chapter 123, Firearms, Fireworks and Bonfires, by adding thereto those matters underlined and deleting those matters ~~struck through~~ as follows:

Chapter 123: ~~Firearms, Fireworks and~~ Bonfires


§ 123-1 Restrictions on ~~firearms, fireworks and~~ Bonfires; violations and penalties.

~~It shall be unlawful for any person to discharge any gun or pistol, or let off or set fire to any firecracker, rockets or other explosive matter within the limits of the Town unless for the protection of his property or crops, under a penalty of \$5 for each and every such offense. Nor shall any set any bonfires be made on any of the streets, lanes or alleys, nor any fireworks of any kind be let off upon the same at any time, under a penalty of \$50 for each and every such offense. to be recovered with costs by action before the Alderman aforesaid.~~

**Section 5.** Amend the Ocean View Code by repealing Chapter 130, Gambling in its entirety.

**Section 6.** This ordinance shall become effective upon its adoption by a majority of all members of the Town Council of the Town of Ocean View.

TOWN OF OCEAN VIEW

By:   
Mayor

Attest:   
Town Clerk 3

First Reading: 2/13/18

Second Reading: 3/13/18

Adopted: 3/13/18

## Synopsis

The proposed amendment to Chapter 68 Animals, Chapter 77 Bicycles, Chapter 107 Disorderly Conduct, Chapter 123 Firearms and Chapter 130 Gambling eliminate certain offenses the Town Council deems redundant based on preexisting State law, and increases certain penalties for other offenses.