**DEPARTMENT OF HEALTH**

**SECOND NOTICE OF PROPOSED RULEMAKING**

The Director of the District of Columbia Department of Health (“Department”), pursuant to and in accordance with Section 2 of the Standard of Care for Animals Amendment Act of 2017, effective December 20, 2017 (D.C. Law 22-37; D.C. Official Code § 8-1814) (“Act”), Section 10 of the Dangerous Dog Amendment Act of 1988 (D.C. Law 7-176; D.C. Official Code § 8-1908) (“Dangerous Dog Act”), Mayor’s Order 2009-38, dated March 23, 2009 and Mayor’s Order 2009-40, dated March 23, 2009, hereby gives notice of her intent to adopt the following amendments to Chapter 9 (Animal Control) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (“DCMR”) and to add a new Section 3633 (Domestic Animal Infractions), to Title 16 (Consumers, Commercial Practices, and Civil Infractions), of the DCMR. The purpose of these regulations is to promote public health and safety and to encourage responsible pet ownership and the humane care of animals within the District.

The rulemaking will update existing regulations governing responsible ownership and care of domestic dogs and cats and establish in regulation vaccination requirements for domestic cats. The proposed rulemaking will also implement Section 2 of the Standard of Care for Animals Amendment Act of 2017, effective December 20, 2017 (D.C. Law 22-37; D.C. Official Code § 8-1814) by establishing a schedule of fines for various infractions of the Act’s provisions governing the care and treatment of animals, both domestic and non-domestic, by establishing a process by which infractions will be enforced, and by adding a definition section to define certain terms concerning the care and treatment of animals.

An initial notice of proposed rulemaking was published in the *District of Columbia Register* on June 21, 2019, at 66 DCR 007438. One comment was received during the allotted thirty (30)-day time-period, which noted certain incorrect section numbers. Corrections have been made to the numbering. Additionally, language has been added to allow the Department to enforce the infractions through the issuance of notices of infraction in the form of citations and to create fines for violations of the Dangerous Dog Act and minor changes were made for clarity.

The Director hereby gives notice of her intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *District of Columbia Register.*

**Chapter 9, ANIMAL CONTROL, of Title 24, PUBLIC SPACE AND SAFETY, of the DCMR is amended as follows:**

**Section 900, DOGS, is amended as follows:**

**Subsection 900.2 is amended to read as follows:**

900.2 No dog shall be allowed to go at large.

**Subsection 900.3 is amended to read as follows:**

900.3 No person owning, keeping, or having custody of a dog in the District shall permit the dog to be on any public space in the District, with the exception of an approved District dog park, unless the dog is on a leash of no more than six feet in length and under adequate means of control of a person capable of physically restraining the dog.

**Subsection 900.4 is repealed.**

**Subsection 900.7 is amended to read as follows:**

900.7 No person owning, keeping, or having custody of a dog in the District shall permit the dog to defecate or urinate on a public sidewalk. All dog excrement shall immediately be removed from any public or private property and properly disposed of in a closed container or receptacle designed to hold trash or other public waste.

**Subsections 900.8 through 900.10 are repealed.**

**Section 901, VACCINATION OF DOGS AGAINST RABIES, is amended as follows:**

**The title of Section 901 is amended to read as follows:**

**901 VACCINATION OF DOGS AND CATS AGAINST RABIES AND DISTEMPER**

**Subsection 901.1 is amended to read as follows:**

901.1 (a) Each person who owns, keeps, or has custody of a dog in the District of Columbia shall have that dog vaccinated against rabies and canine distemper by a licensed veterinarian before the dog is four (4) months old or within fifteen (15) days after the person becomes the owner, keeper, or custodian of the dog (if the dog has not previously been vaccinated), whichever is later.

(b) Each person in the District of Columbia who owns, keeps, or has custody of a cat that is four (4) months old or older shall have that cat vaccinated against rabies and feline distemper by a licensed veterinarian before the cat is four (4) months old or within fifteen (15) days after the person becomes the owner, keeper, or custodian of the cat (if the cat has not previously been vaccinated), whichever is later.

**Subsection 901.2 is repealed.**

**Subsection 901.3 is amended to read as follows:**

901.3 After receiving its initial vaccination for rabies and distemper, the dog or cat shall receive a booster for each vaccination twelve (12) months after the date of the initial vaccination and shall be vaccinated against rabies every three (3) years thereafter.

**Subsection 901.4 is amended to read as follows:**

901.4 The rabies and distemper vaccines used for the vaccination under this section shall be of a strength and type approved by the Director.

**Subsection 901.5 is amended to read as follows:**

901.5 Vaccination shall be done in either of the following ways:

(a) At the expense of the District by veterinarians designated for that purpose; or

(b) At the expense of the person owning, keeping, or having custody of the dog or cat by a private veterinarian.

**Subsection 901.6 is amended to read as follows:**

901.6 The Director shall conduct animal clinics on an annual basis where free vaccinations are provided to District licensed dogs and cats and to dogs and cats whose owners, keepers, or custodians are seeking to have the dog or cat licensed in the District.

**Subsections 901.7 and 901.8 are repealed in their entirety.**

**Subsection 901.9 is amended to read as follows:**

901.9 The veterinarian administering the anti-rabies and distemper vaccines shall execute a certificate of vaccination and furnish the original to the owner or other person presenting the dog or cat for vaccination. The certificate shall be on a form prescribed by the Director.

**Subsection 901.11 is amended to read as follows:**

901.11 A copy or duplicate of the certificate of vaccination shall be retained or electronically stored by the veterinarian until the later of: (1) at least one (1) year following the death of the animal, if the animal was still under the care of the veterinarian on the date of death; or (2) at least three (3) years after the date that the veterinarian is no longer providing care to the animal.

**Subsection 901.12 is amended to read as follows:**

901.12 Each veterinarian practicing in the District shall timely furnish to the Director any reports concerning dogs or cats vaccinated against rabies and distemper by the veterinarian that may be required by the Director.

**Subsection 901.13 is amended to read as follows:**

901.13 Upon completion of a rabies vaccination, a veterinarian shall furnish a numbered vaccination tag to the owner or other person presenting the dog or cat for vaccination.

**Subsection 901.14 is amended to read as follows:**

901.14 No veterinarian licensed to practice in the District shall issue a rabies vaccination certificate or vaccination tag for any dog or cat unless he or she has vaccinated the dog or cat against rabies.

**Subsection 901.15 is amended to read as follows:**

901.15 Each person owning, keeping, or having custody of a dog or cat in the District shall affix the vaccination tag provided under § 901.13 to the collar or harness of the dog or cat. The owner shall keep the tag affixed to the dog’s or cat’s collar or harness.

**Subsection 901.16 is amended to read as follows:**

901.16 No person owning, keeping, or having custody of a dog or cat in the District shall do either of the following:

1. Affix or permit to be affixed to the collar or harness of the dog or cat any tag other than a current license tag, vaccination tag, or owner’s identification tag; or
2. Affix or permit to be affixed to the collar or harness of the dog or cat any vaccination tags not issued for that dog or cat.

**Subsection 901.17 is amended to read as follows:**

901.17 Except as provided otherwise in § 901.18, the owner, keeper, or other person having custody of a dog or cat that is brought into the District shall have that dog or cat vaccinated against rabies within fifteen (15) days after the arrival of the dog or cat in the District.

**Subsection 901.18 is amended to read as follows:**

901.18 If a dog or cat brought into the District has already been vaccinated in the original jurisdiction in a manner in accordance with the provisions of this section and the owner, keeper, or other person having custody of the dog or cat has a valid vaccination certificate and tag issued by the veterinarian who performed the vaccination, the dog or cat shall not have to be vaccinated again until as otherwise required by this Chapter.

**Subsection 901.19 is amended by striking the phrase “Director of Human Services” and inserting the word “Director” in its place.**

**A new Section 908, ENFORCEMENT, is added, to read as follows:**

**908 NOTICES OF INFRACTION**

908.1 The Director or an enforcement official with the Animal Care and Control Agency may issue a Notice of Infraction, also known as a ticket or citation, imposing a civil fine or other civil penalty, whenever the Director or the enforcement official has reasonable grounds to believe the respondent is in violation of a provision of this title or other applicable law.

908.2 A Notice of Infraction shall be on a form prescribed by the Director and shall include:

(a) The name of the respondent;

(b) A citation or reference to the provision of this title or other applicable law that the respondent has violated;

(c) The circumstances giving rise to the infraction, including the date, time, and place of the infraction;

(d) The amount of the civil fine applicable to the infraction;

(e) A statement that:

(1) The fine must be paid within fifteen (15) calendar days of the date that the Notice of Infraction is served on the respondent;

(2) The respondent has the right to request a hearing before the Office of Administrative Hearings (“OAH”);

(3) If the respondent fails to pay the fine or request a hearing within fifteen (15) calendar days of the date the Notice of Infraction is served on the respondent, a penalty equal to the amount of the fine may be imposed and the respondent’s license may be suspended until the fine has been paid; and

(f) Any other information that the Director may require.

908.2 The signature of an enforcement official on a Notice of Infraction shall be evidence of the validity of the issuance and the truth of the facts stated on the Notice.

908.3 Each Notice of Infraction issued by the Director shall be served and filed in the manner prescribed by 16 DCMR § 3102. If someone other than the Director issues the Notice of Infraction, the original of a Notice of Infraction, accompanied by proof of service in accordance with 16 DCMR § 3102, shall be submitted to the Director within fifteen (15) calendar days after issuance.

908.4 Adjudication and enforcement of a Notice of Infraction shall be done in accordance with 16 DCMR § 3100 *et seq*.

**A new Section 999, DEFINITIONS, is added, to read as follows:**

**999 DEFINITIONS**

999.1 When used in this Chapter, the following words and phrases shall have the meanings ascribed:

**Abandon** – to desert, forsake, or give up an animal without having secured another owner or custodian for the animal or having transferred the animal to the Animal Care and Control Agency.

**Adequate care** – the responsible practice of animal husbandry, handling, confinement, feeding, watering, protection, shelter, transportation, treatment, and, when necessary, euthanasia, appropriate for the ages, species, condition, size, and type of the animal and the provision of veterinary care for the treatment of illness or injury and when needed to prevent suffering or impairment of health.

**Adequate exercise** or **exercise** – the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

**Adequate feed** – the provision of and access to food that is sufficient in quantity and nutritive value to maintain each animal in good health; is accessible; is prepared so as to permit ease of consumption for the age, species, condition, size and type of each animal; is provided in a manner sanitary for the animal; is placed so as to minimize contamination by excrement and pests and is provided at suitable intervals for the species, age, and condition of the animal, but at least once daily, except as may be otherwise prescribed by a veterinarian.

**Adequate shelter** – the provision of and access to shelter that is safe; enables each animal to be clean and dry; protects each animal from injury, rain, sleet, snow, hail, the adverse effects of heat or cold, and physical suffering; is of a size sufficient for the animal to stand up and turn around; provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and is maintained in a sanitary manner. Wire, grid, or slat floors that permit the animals’ feet to pass through the openings, sag under the animals’ weight, or otherwise do not protect the animals’ feet or toes from injury are not adequate shelter.

For an animal confined outside, the term “**adequate shelter**” shall additionally mean that:

1. When the temperature is at or below 40 degrees Fahrenheit, the animal has access to a shelter that has an entrance covered by a flexible wind-proofing material or self-closing door, that includes a platform at least 4 inches off the ground, and that contains dry bedding, which shall consist of an insulating material that does not retain moisture such as straw, and is of a sufficient depth for the animal to burrow; and
2. When the temperature is at or above 80 degrees Fahrenheit, the animal has access to a shelter shaded by trees, a roof, a tarp, or a tarp-like device and which provides adequate ventilation that allows for heat dissipation so as to allow for normal respiration by the animal.

**Adequate space** – sufficient space to allow each animal to easily stand, sit, lie, turn, and make all other normal body movements in a comfortable, normal position for the animal, while allowing the animal to interact safely with other animals. When an animal is tethered, adequate space means a tether that permits the above actions and is appropriate to the age, size, and health of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury, with enough room between the collar and the dog’s throat through which two (2) fingers may fit, and prevent the animal or tether from becoming entangled with other objects or animals, or from gaining access to public thoroughfares, or from extending over an object or edge that could result in the strangulation or injury of the animal; weighs not more than one-eighth (⅛) of the body weight of the animal tethered; and is at least ten (10) feet in length or three (3) times the length of the animal, whichever is longer, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. Where freedom of movement would endanger or harm the animal, temporarily and appropriately restricting movement of the animals according to veterinary standards for the species is considered the provision of adequate space. Tethering of an animal for a period of greater than two hours is not considered the provision of adequate space.

**Adequate water** – the provision of and access to clean, fresh, potable water of a drinkable temperature which is provided in a suitable manner, in sufficient volume, and at suitable intervals, appropriate for the weather and temperature, to maintain proper hydration for the ages, species, condition, size, and type of each animal and provided in clean, durable receptacles which are accessible to each animal and are placed so as to minimize contamination by excrement and pests.

**Animal Care and Control Agency** – the District of Columbia humane organization the Mayor contracts with to manage animal care and control.

**At large** – any animal found off the premises of its owner or custodian and not leashed, tethered, or otherwise under adequate means of control of a person capable of physically restraining it. The term at large shall not include a dog legally in a dog park. The term at large shall not include cats.

**Custodian** – a person who has assumed responsibility for the care and well-being of an animal in place of the animal’s owner with the owner’s knowledge and permission.

**Dangerous animal** – an animal that because of specific training or demonstrated behavior threatens the health or safety of the public. The term dangerous animal shall not include a dangerous dog as defined in section 2(1)(B) of the Dangerous Dog Amendment Act of 1988, effective October 18, 1988 (D.C. Law 7-176; D.C. Official Code § 8-1901(1)(B)).

**Director** – the Director of the District of Columbia Department of Health.

**Dog park** – a fully fenced area officially established by the District of Columbia government for dogs to exercise and play off-leash in a controlled environment under the supervision of their owners.

**Extreme weather** – weather phenomena that are at the extremes of the historical distribution and are rare for a particular place and/or time, especially severe or unseasonal weather. Such extremes include, but are not limited to, severe thunderstorms, severe snowstorms, ice storms, blizzards, flooding, hurricanes, high winds, and heat waves.Air temperatures below 32 degrees Fahrenheit or above 90 degrees Fahrenheit constitute extreme weather.

**Leash** – a line which is affixed to the collar, halter or harness of an animal held by a person on one end that is for leading or restraining an animal.

**Mayor** – the Mayor of the District of Columbia or his or her designee.

**NOI** – a Notice of Infraction.

**Owner** – a person who purchases or keeps an animal in temporary or permanent custody.

**Tether** – a line connected to a stationary object by which an animal is fastened so as to restrict its range of movement.

**Vaccinated** – protected by a documented inoculation that the Mayor, consistent with the practices of veterinary medicine, determines is currently effective.

**A new Section 3633, DOMESTIC ANIMAL INFRACTIONS, is added to Chapter 36, DEPARTMENT OF HEALTH (DOH) INFRACTIONS, of Title 16, CONSUMERS, COMMERCIAL PRACTICES, AND CIVIL INFRACTIONS, of the DCMR, to read as follows:**

**3633 DOMESTIC ANIMAL INFRACTIONS**

3633.1 Violation of any of the following provisions shall result in a $1,000 fine:

1. D.C. Official Code § 8-1804.01(f) (2018 Supp.) (a holder of a hobby permit failing to provide their animal with adequate care, adequate feed, adequate shelter, adequate space, and adequate water);
2. D.C. Official Code § 8-1808(n) (2018 Supp.) (an owner or custodian failing to provide their animal with adequate care, adequate feed, adequate shelter, adequate space, and adequate water);
3. D.C. Official Code § 8-1808(o) (2018 Supp.) (taking actions that intentionally harm, or that a person should know are likely to cause harm to, an animal);
4. D.C. Official Code § 8-1808(p)(1) (2018 Supp.) (an owner or custodian abandoning an animal in their possession);
5. D.C. Official Code § 8-1905(1) (2018 Supp.) (failure to obtain or maintain a valid certificate of registration for a potentially dangerous or dangerous dog);
6. D.C. Official Code § 8-1905(2) (2018 Supp.) (permitting a potentially dangerous dog to be outside a proper enclosure unrestrained by a leash or chain four feet in length or less and under the control of a responsible person);
7. D.C. Official Code § 8-1905(3) (2018 Supp.) (failure to maintain a dangerous dog exclusively on the owner’s property except for medical treatment or examination);
8. D.C. Official Code § 8-1905(4) (2018 Supp.) (failure to notify the Department within twenty-four (24) hours of a potentially dangerous or dangerous dog being on the loose, being unconfined, having attacked another domestic animal or a human being, having died, having been sold or having been given away);
9. D.C. Official Code § 8-1905(5) (2018 Supp.) (failure to surrender a potentially dangerous or dangerous dog to the Department for safe confinement pending disposition of the case when there is a reason to believe that the potentially dangerous or dangerous dog poses a threat to public safety); and
10. D.C. Official Code § 8-1905(7) (2018 Supp.) (removing a dangerous dog from the District without written permission from the Director).

3633.2 Violation of any of the following provisions shall result in a $500 fine:

1. 24 DCMR § 901.3 (failing to provide a dog or cat with booster vaccinations against rabies and distemper twelve (12) months after the date of the initial vaccinations, or failure to vaccinate the dog or cat against rabies every three (3) years thereafter.
2. 24 DCMR § 901.14 (falsely issuing a certificate of vaccination);
3. 24 DCMR § 901.17 (failure to vaccinate an unvaccinated dog or cat within fifteen (15) days of bringing a dog or cat into the District);
4. D.C. Official Code § 8-1803(a) (2018 Supp.) and 24 DCMR § 901.1 (failing to vaccinate a dog or cat over the age of four (4) months against rabies and distemper);
5. D.C. Official Code § 8-1804.01(a) (2018 Supp.) (an owner of seven (7) or more animals, larger than a guinea pig and older than four (4) months, failing to obtain animal hobby permit);
6. D.C. Official Code § 8-1808(c) (2018 Supp.) (leaving an animal, excluding cats, outdoors without human accompaniment or adequate shelter for more than fifteen minutes during periods of extreme weather, unless the age, condition, and type of each animal allows the animal to withstand extreme weather);
7. D.C. Official Code § 8-1808(e) (2018 Supp.) (allowing a dog on any school ground or on any public recreation area, other than a dog park, unless the dog is on a leash and under adequate means of control of a person capable of physically restraining the dog);
8. D.C. Official Code § 8-1808(f) (2018 Supp.) (separating a puppy or kitten from its mother until the puppy or kitten is at least six (6) weeks of age, unless the mother poses a danger to its offspring);
9. D.C. Official Code § 8-1808(g) (2018 Supp.) (selling, giving, or offering for sale a puppy or kitten under six (6) weeks of age, unless the puppy or kitten’s mother is sold, given, or offered to the same person as the puppy or kitten);
10. D.C. Official Code § 8-1808(k)(1) (2018 Supp.) (sponsoring, promoting, or training an animal to participate in, contributing to the involvement of an animal in, or attending as a spectator, any activity or event in which any animal engages in unnatural behavior, is wrestled or fought, mentally or physically harassed, or displayed in such a way that the animal is struck, abused, or mentally or physically stressed or traumatized, or is induced, goaded, or encouraged to perform or react through the use of chemical, mechanical, electrical, or manual devices, in a manner that will cause, or is likely to cause, physical or other injury or suffering);
11. D.C. Official Code § 8-1808(l)(1) (2018 Supp.) (directing, encouraging, causing, allowing, aiding, or assisting an owned or custodial dog to threaten, charge, bite, or attack a person or other animal except to protect a person under attack or, in the case of a Commercial Guard Dog licensed pursuant to D.C. Official Code § 8-1841.02, to defend private property); and
12. D.C. Official Code § 8-1808.02(a) (2018 Supp.) (leaving an animal alone in a vehicle in such a way as to endanger the animal’s health or safety).

3633.3 Violation of any of the following provisions shall result in a $250 fine:

1. 24 DCMR § 900.2 (allowing a dog to go at large);
2. 24 DCMR § 900.6 (permitting a dog to be confined in a yard, on any private property or in a vehicle in a manner that allows the dog to bite or menace persons lawfully using a public street, highway, or public space);
3. 24 DCMR § 901.11 (failure of a veterinarian to maintain a copy of the certificate of vaccination);
4. 24 DCMR § 901.16 and 24 DCMR § 901.1 (affixing to an animal’s collar or tag an expired vaccination tag or a vaccination tag issued for another animal);
5. D.C. Official Code § 8-1808(a)(1) (2018 Supp.) (an owner or custodian allowing their animal to go at large);
6. D.C. Official Code § 8-1808(b) (2018 Supp.) (knowingly and falsely denying ownership or custodianship of an animal);
7. D.C. Official Code § 8-1808(i) (2018 Supp.) (selling or offering for sale a rabbit under the age of sixteen (16) weeks or a chick or duck under the age of eight (8) weeks except for agricultural or scientific purposes);
8. D.C. Official Code § 8-1808(j) (2018 Supp.) (importing into the District, possessing, displaying, offering for sale, trade, barter, exchange, or adoption, or giving as a household pet, any living member of the animal kingdom, including those born and raised in captivity, except the following: domestic dogs; domestic cats; domestic rodents and rabbits; captive-bred species of common cage birds, including chickens; non-venomous snakes, fish and turtles; ferrets; goats; sheep and racing pigeons); and
9. D.C. Official Code § 8-1808(m) (2018 Supp.) (displaying, exhibiting, or otherwise moving animals in the District as part of a circus, carnival, or other special performance or event, without first obtaining a permit, issued by the Mayor, that governs the care and management of the animals).

3633.4 Violation of any of the following provisions shall result in a $100 fine:

1. 24 DCMR § 900.1 (owning or keeping a dog that disturbs the quiet of a person or neighborhood);
2. 24 DCMR § 900.5 (permitting a dog to enter onto private property without the consent of the owner or occupant of the property);
3. 24 DCMR § 900.7 (permitting a dog to defecate or urinate on a public sidewalk; failure to remove and properly dispose of dog excrement);
4. 24 DCMR § 901.15 (failure to affix and keep affixed to an animal’s collar or harness a valid vaccination tag);
5. D.C. Official Code § 8-1804(b) (2018 Supp.) (an owner failing to obtain and renew an annual license for a dog over the age of four (4) months);
6. D.C. Official Code § 8-1804.01(g) (2018 Supp.) (hobby permit holder permitting objectionable odors or noises that disturb the comfort or quiet of the neighborhood or committing a nuisance on public space or property owned by others);
7. D.C. Official Code § 8-1808(d) (2018 Supp.) (removing the license of a dog without the permission of its owner);
8. D.C. Official Code § 8-1808(h)(1) (2018 Supp.) (changing the natural color of a baby chicken, duckling, other fowl, or rabbit); and
9. D.C. Official Code § 8-1808(h)(2) (2018 Supp.) (offering for sale a baby chicken, duckling, other fowl, or rabbit that has had its natural color changed).

3633.5 Fines issued under D.C. Official Code § 8-1808.02(a) for leaving an animal alone in a vehicle shall be in addition to the expenses incurred by the District in the care, medical treatment, and impound cost of the animal, that must be reimbursed by the owner or custodian.

3633.6 Fines issued under this chapter shall not preclude any other criminal or civil penalty or enforcement action provided by District law.

3633.7 For purposes of enforcement of this Chapter pursuant to Chapter 31 of this Title, the term “Director” shall mean the Director of the District of Columbia Department of Health or his or her designee.

Copies of the proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcdocs.dc.gov/) or by contacting Phillip Husband, General Counsel of the District of Columbia Department of Health, 899 North Capitol Street, NE, 6th Floor, Washington, D.C. 20002. All persons desiring to file comments on the proposed rulemaking action should submit written comments via e-mail to Angli.Black@dc.gov or by mail to the District of Columbia Department of Health, Attn: Phillip Husband, General Counsel, no later than thirty (30) days after the publication of this notice in the *District of Columbia Register.*