

ORDINANCE NO. 179

AN ORDINANCE OF THE TOWNSHIP OF AMITY, BERKS COUNTY, PENNSYLVANIA PROHIBITING THE KEEPING OF ANIMALS CAUSING NUISANCES AND PRESCRIBING PENALTIES FOR VIOLATIONS

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Amity, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

Section 1. Intent and Purpose. The Board of Supervisors of the Township of Amity, Berks County, Pennsylvania, has determined that when the peace, comfort and enjoyment associated with the usual and common benefits of residing in the Township are disrupted, disturbed or adversely impacted as a result of any dog, cat or other animal, as hereinafter defined, by frequent or habitual barking, howling, screeching, yelping or baying or in any other way or manner disrupts, disturbs or adversely impacts the peace, comfort or enjoyment of any person or resident of the community, such that a person or resident of this Township has no other reasonable option but to "close" all windows at his or her residence in contradiction to the desire of the person in an effort to maintain some level of peace, comfort or enjoyment or when the peace, comfort or enjoyment is disrupted, disturbed or adversely impacted to the point that the normal pattern of sleep of the person or resident is compromised such that the health, safety and welfare of the person or resident is endangered or the comfort, repose or health of the person is adversely impacted, it is hereby declared that such disruption, disturbance or adverse impact is an unreasonable interference with a right to the general public and, therefore, constitutes a nuisance.

Section 2. Definitions.

(a) For purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein:

(1) Animal. Any animal or bird maintained as a domestic pet, including but not limited to dogs, cats, rabbits, hamsters and birds. "Animal" shall not include livestock or poultry being raised upon working farm(s) and shall not include horses which are not the method of transportation or power for the occupants of a dwelling.

(2) Animal Owner. Includes, regardless of whether any such animal is licensed or unlicensed:

(i) Every person having a right, proprietorship or ownership in an animal;

(ii) Every person who keeps or harbors an animal or has it in his or her care or custody;

(iii) Every person who permits an animal to remain on or about any premises occupied by him or her; and

(iv) The parent of any child under eighteen (18) years of age who owns or has the control and/or custody of an animal.

(3) Nuisance. The unreasonable, unwarrantable or unlawful use of public or private property which causes injury, damage, hurt, inconvenience, annoyance or discomfort to any person in the legitimate enjoyment of his or her reasonable rights or person or property.

(4) Owner. A person owning, leasing, occupying or having charge of any premises within the Township.

(5) Permit. To suffer, allow, consent or let, to give leave or license, to acquiesce by failure to prevent, to expressly accept or agree to the doing of any act.

(6) Person. As used herein, shall mean any natural person, firm, partnership, association, corporation, company or other legally recognized entity.

(7) Running at Large. Being upon any public highway, street, alley, sidewalk, park or any other public land or upon property of another person other than the owner and not being accompanied by or under the control of the owner or any other person having custody of any animal.

(b) When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, any personal pronoun shall be construed to mean either the masculine, feminine or neuter gender, as the context may require, and the word "shall" is always mandatory.

Section 3. Exceptions. This Ordinance shall not be deemed to prohibit or otherwise declare unlawful any agricultural operations protected from nuisance suits by Act No. 1982-133.

Section 4. Running at Large Prohibited.

(a) It shall be unlawful for the owner of any animal to allow or permit such animal to run at large in the Township of Amity. It further shall be unlawful for an animal owner to fail to keep at all times such animal either:

(1) Confined within the premises of the animal owner and maintained in a clean and sanitary condition at all times;

(2) Firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises or person on which it is secured;
or

(3) Under the reasonable control of some person or, when engaged in lawful hunting, exhibition or field training, accompanied by an owner or handler.

(b) For the purpose of this Ordinance, an animal shall be presumed to be running at large if it is not within the immediate control of its owner, said control being in the form of a tether, leash or other appropriate controlling device.

Section 5. Duty to Secure Animal. It shall be the duty of all animal owners and the duty of the parent or guardian of any minor owner of any dog or other animal, to keep the dog or other animal securely tied or penned in an enclosure in such a manner that the dog or other animal cannot break loose and run at large over the streets, alleys, sidewalks or public grounds in the Township, upon the property of anyone, other than the animal owner or the property of another who has granted permission to the animal owner to allow the dog or other animal upon such person's property.

Section 6. Duty to Control Animal. It shall be the duty of all animal owners, while traveling on the streets, alleys, sidewalks or public grounds in the Township of Amity, to have the dog or other animal on a leash at all times and to prevent the dog or other animal from entering upon the property of any person or persons in the Township without the property owner's consent.

Section 7. Noise. It shall be unlawful within the Township of Amity for any person or persons to own, possess, harbor or control any animal which makes any noise continuously and/or incessantly or intermittently for one-half (1/2) hour or more to the disturbance of any person any time of the day or night, regardless of whether the animal is physically situated in or upon private property, said noise being a nuisance; provided, however, that at the time the animal is making such noise no person is trespassing or threatening to trespass upon private property in or upon which the animal is situated nor is there any other legitimate cause which justifiably provoked the animal.

Section 8. Offensive Odors and Other Nuisances Prohibited. It shall be unlawful for any person to permit any animal to soil, defile, defecate or create noxious odors from defecation upon any common thoroughfare, sidewalk, passageway, by-pass, play area, park or any place where people congregate or walk or upon any public property whatsoever or upon any private property without the express permission of the owner or occupier of such property, unless such person shall immediately remove all feces deposited by said animal and dispose of the same upon his or her own property or by any other sanitary method. Furthermore, it shall be unlawful for any person to harbor, care for, shelter or maintain any breed of dog or dogs or other animal in such a manner so as to disturb or unduly annoy the public through the dog's or other animal's smell, mischief or other harmful propensities. All pens or other areas in which dogs or other animals are kept shall be maintained in a sanitary condition, free of offensive, obnoxious or foul odors.

Section 9. Vicious or Dangerous Animals. It shall be unlawful for any person to harbor a vicious or dangerous animal unless said animal is humanely caged or the public is otherwise safeguarded from any danger which said animal may present to the health, safety and welfare of any person, firm, corporation, property or other entity.

Section 10. Responsibilities of Offended Persons. It shall be the responsibility of the persons being offended to record the date and times of the offense, along with the location of the offending animal and type of offending animal, and owner, if possible. This record shall be signed and dated by the complainant and provided to the Police Department prior to issuing a notice of violation under Section 11 of this Ordinance. Should it become necessary, the complainant shall appear at the district justice hearing as a witness for the Township.

Section 11. Notice of Violation.

(a) Method of Serving Notice. Prior to the issuance of a citation for a violation of this Ordinance, it shall be necessary to serve written notice upon the animal owner in one (1) of the following ways:

(1) By mailing a copy of the notice to the animal owner by certified mail, return receipt requested, postage prepaid;

(2) By personal delivery of the notice to the animal owner, in which case the owner shall sign a copy of the notice to be retained by the Township; or

(3) By handing a copy of the notice at the residence of the animal owner to an adult member of the family with which the owner resides, but if no adult member of the family is found, then to an adult person in charge of the residence. Said adult shall sign a copy of the notice to be retained by the Township.

(b) Content of Notice. The notice shall set forth the following:

- (1) The name and address of the animal owner, if known;
- (2) The nature and extent of the violation or offense;
- (3) The period of time over which the nuisance has occurred;
- (4) The identity of the person giving notice;
- (5) The date and time of sending of the notice; and
- (6) A statement to the effect that a complaint may be filed with the district justice if the nuisance is not abated within twenty-four (24) hours of the time the notice is given to the animal owner.

(c) Duration of Notice. Any notice given pursuant to this Section shall be valid for a period of six (6) months. Within six (6) months, no additional notice need be given prior to a complaint being filed with a district justice.

Section 12. Penalties. Any person who shall violate or permit the violation of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than Six Hundred and 00/100 Dollars (\$600.00), plus all court costs, including reasonable attorney fees incurred by the Township of Amity, and such fine and costs shall be in addition to any other expenses for kennel charges, and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Enforcement of this Ordinance shall be by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

Section 13. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of the Township of Amity that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 14. Repealer. All ordinances or parts of ordinances conflicting with the provisions of this Ordinance shall be and the same hereby are repealed insofar as they are inconsistent with this Ordinance.

Section 15. Effective Date. This Ordinance shall become effective five (5) days following the date of adoption.

DULY ORDAINED AND ENACTED this 7th day of May, 2001.

TOWNSHIP OF AMITY
BERKS COUNTY, PENNSYLVANIA

F. Eric Sills -
F. Eric Sills, PhD, Chairman

D. Gene Hafer
D. Gene Hafer, Vice Chairman

Robert R. Yanos
Robert R. Yanos

opposed
Kathleen Greenawalt

Jacob S. Oxenford
Jacob S. Oxenford

Attest:

Kelly J. Gibilisco
Kelly J. Gibilisco, Secretary