

## **CHAPTER 2**

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**Part 1**

**Prohibiting the Keeping of Animals Causing Nuisances**

§101. Intent and Purpose. The Burgess and Town Council of the Borough of Pottstown, Montgomery County, Pennsylvania, has determined that when the peace, comfort and enjoyment associated with the usual and common benefits of residing in the Borough 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 Borough 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 and, therefore, constitutes a nuisance. (Ord. 1926, 10/10/2001, §101)

§102. Definitions.

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.

ANIMAL OWNER – includes, regardless of whether any such animal is licensed or unlicensed:

- A. Every person having a right, proprietorship or ownership in an animal.
- B. Every person who keeps or harbors an animal or has it in his or her care or custody.
- C. Every person who permits an animal to remain on or about any premises occupied by him or her.
- D. The parent of any child under eighteen (18) years of age who owns or has the control and/or custody of an animal.

DANGEROUS ANIMAL – any animal which bites or attacks a person or an animal but does not include the following:

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- A. An animal that bites or attacks a person or animal that is trespassing on the property of the animal's owner.
- B. An animal that bites or attacks a person or animal that provokes, torments, tortures or treats an animal cruelly.
- C. An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect their person. If that person is engaged in lawful activity or is the subject of an assault or battery, or to protect itself or another animal.

**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

**OWNER** – a person owning, leasing, occupying or having charge of any premises within the Borough.

**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.

**PERSON** – any natural person, firm, partnership, association, corporation, company or other legally recognized entity.

**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.

**VICIOUS ANIMAL** – any animal which has:

- A. Previously been declared a dangerous animal under this Section.
- B. A propensity, tendency or disposition to attack, cause injury or otherwise endanger the safety of persons or other animals.
- C. Behave in such a manner that the owner knows or should have known that the animal had tendencies to bite or attack persons or other animals. A vicious animal does not include the following:
  - (1) An animal that bites or attacks a person or animal that is trespassing on the property of the animal's owner.
  - (2) An animal that bites or attacks a person or animal that provokes, torments, tortures or treats an animal cruelly.

- (3) An animal that is responding in a manner that an ordinary and reasonable person would conclude was designated to protect the person, if that person is engaged in lawful activity or is the subject of an assault or battery or to protect itself or another animal.

(Ord. 1926, 10/10/2001, §102)

§103. Running at Large.

1. It shall be unlawful for the owner of any animal to allow or permit such animal to run at large in the Borough of Pottstown. It further shall be unlawful for an animal owner to fail to keep at all times such animal either:
  - A. Confined within the premises of the animal owner and maintained in a clean and sanitary condition at all times.
  - B. 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.
  - C. Under the reasonable control of some person or, when engaged in lawful hunting, exhibition or field training, accompanied by an owner or handler.
2. For the purpose of this Part, 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.

(Ord. 1926, 10/10/2001, §103)

§104. 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 manner that the dog or other animal cannot break loose and run at large over the streets, alleys, sidewalks or public grounds in the Borough, 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. (Ord. 1926, 10/10/2001, §104)

§105. 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 Borough of Pottstown, 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 Borough without the property owner's consent. (Ord. 1926, 10/10/2001, §105)

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§106. Noise. It shall be unlawful within the Borough of Pottstown 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. (Ord. 1926, 10/10/2001, §106)

§107. 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. (Ord. 1926, 10/10/2001, §107)

§108. Dangerous Animal and Vicious Animal Care. Every dangerous animal and vicious animal shall be confined, by its owner, within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner. (Ord. 1926, 10/10/2001, §108)

§109. 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 Animal Control Officer and/or the Borough Police Department prior to issuing a notice of violation under §110 of this Part. Should it become necessary, the complainant shall appear at the District Justice hearing as a witness for the Borough. (Ord. 1926, 10/10/2001, §109)

§110. Notice of Violation.

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

- A. By mailing a copy of the notice to the animal owner by certified mail, return receipt requested, postage prepaid.
  - B. 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 Borough.
  - C. 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 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 Borough.
2. Content of Notice. The notice shall set forth the following:
- A. The name and address of the animal owner, if known.
  - B. The nature and extent of the violation or offense.
  - C. The period of time over which the nuisance has occurred.
  - D. The identity of the person giving notice.
  - E. The date and time of sending of the notice.
  - F. 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.
3. 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.

(Ord. 1926, 10/10/2001, §110)

§111. Penalties. Any person who shall violate or permit the violation of this Part shall, upon conviction thereof, be sentenced to pay a fine of not less than fifty dollars (\$50.00) nor more than six hundred dollars (\$600.00), plus all court costs, including reasonable attorney's fees incurred by the Borough, and such fine and costs shall be in addition to any other expense for kennel charges, and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Enforcement of this Part 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.

(Ord. 1926, 10/10/2001, §111)



**Part 2**

**Keeping of Certain Animals**

§201. Keeping of Pigs Prohibited. No person or persons, partnership, firm or corporation shall keep any pig or hog at any place within the limits of the Borough. (Ord. 1517, 5/13/1985, §6)

§202. Prohibited Animals. It shall be unlawful to keep any wild animals (such as, but not limited to, fox, bear, monkeys, racoons opposums or skunks) in the Borough of Pottstown. (Ord. 1517, 5/13/1985, §6)

§203. Creation of Unnecessary Odor. No person owning or having in his custody animals or fowl shall so maintain said animals or fowl in such a manner as to create any obnoxious or foul odor therefrom beyond the property line. (Ord. 1517, 5/13/1985, §6)

§204. Shelter Standards. Any person owning or having in his custody animals or fowl on a tract of land less than one-half (1/2) acre shall meet the following standards:

- A. Animals and fowl shall be provided with a shelter having a roof and at least three (3) enclosed sides, and be contained within a fenced area with:
  - (1) Seventy-five (75'²[??90]) square feet of shelter area of each horse, pony, mule, donkey, cow or other animal of similar size.
  - (2) Twelve (12'²) square feet of shelter area for each dog, cat or other animal of similar size.
  - (3) Three (3'²) square feet of shelter area for each fowl.
- B. The following fenced area outside the shelter for each animal:
  - (1) Three thousand (3,000'²) square feet for each horse, pony, mule, donkey, cow or other animal of similar size.
  - (2) Three hundred (300'²) square feet for dog, cat or other animal of similar size.
  - (3) Ten (10'²) square feet for each fowl.
- C. Both the shelter and fenced area shall provide a five (5') foot side yard and shall be at least thirty (30') feet from the rear of the main building.

(Ord. 1517, 5/13/1985, §6)

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§205. Penalty. The owner of any animal who shall violate the terms of this Part may, upon conviction thereof, be sentenced to pay a fine of not less than fifty (\$50.00) dollars nor more than six hundred (\$600.00) dollars and costs of prosecution. In default of the payment of such fine and costs, such owner may be sentenced to imprisonment for not more than thirty (30) days. Such fine and costs shall be in addition to any payments required under this Part. (Ord. 1517, 5/13/1985, §4; as amended by Ord. 1735, 4/12/1993)