

ORDINANCE NO. 144 -2012

AN ORDINANCE OF THE TOWNSHIP OF CENTRE, 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 Centre, 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 Centre, Berks County, Pennsylvania, has determined that when the peace, comfort and enjoyment of a Person residing in the Township are disrupted, disturbed or adversely impacted as a result of any dog, cat or other Animal, as hereinafter defined, including but not limited to the frequent or habitual barking, howling, screeching, crowing, yelping or baying, the health, safety and welfare of the Person may be 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, including but not limited to dogs, cats, rabbits, roosters and all other types of birds and fowl. "Animal" shall not include livestock or poultry being raised upon working farm(s) by Persons actively engaged in a Normal Agricultural Operation.

(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, harbors or feeds an Animal, including but not limited to stray Animals, or has such Animal in his or her care, custody or control;

(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) Normal Agricultural Operation. The customary and generally accepted activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities and is:

(i) not less than ten (10) contiguous acres in area; or

(ii) less than ten (10) contiguous acres in area but has an anticipated yearly gross income of at least Ten Thousand Dollars (\$10,000.00).

(3) Nuisance. The unreasonable, unwarrantable or unlawful disruption, disturbance or adverse impact of the peace, comfort and enjoyment of a Person residing in the Township as a result of any Animal, including but not limited the permitting of offensive odors, to the frequent or habitual barking, howling, screeching, crowing, yelping or baying, or the 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; excluding, however, any agricultural operation conducted in accordance with Normal Agricultural Operations so long as the agricultural operation does not have a direct adverse effect on the public health and safety.

(4) Owner. A Person owning, leasing, renting, 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 Animal Owner and not being accompanied by or under the control of the Animal Owner or any other Person having custody of any Animal.

(8) Township. The Township of Centre, Berks County, Pennsylvania.

(b) When not inconsistent with the context, words used in the present tense include the future tense, 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 Normal Agricultural Operation protected from Nuisance suits by the Land Use Law, 53 P.S. 10107, et seq., or any Normal Agricultural Operation protected by the Agricultural Area Security Law, 3 P.S. 901, et seq., as amended from time to time.

Section 4. Running at Large Prohibited.

(a) It shall be unlawful for an Animal Owner to Permit such Animal to Run at Large in the Township. 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, such as a pen or secure fence, so that such Animal cannot stray beyond the premises or Person on which such Animal is secured; or

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

(b) For the purpose of this Ordinance, an Animal shall be presumed to be Running at Large if such Animal is not within the immediate control of its Animal Owner, said control being in the form of a fence, 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 Animal Owner, to keep the Animal securely tied, penned or fenced in an enclosure in such a manner that the 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 Person who has granted permission to the Animal Owner to allow such Animal upon such Person's property.

Section 6. Duty to Control Animal. It shall be the duty of all Animal Owners, while

while traveling on the streets, alleys, sidewalks or public grounds in the Township, to have have the Animal on a leash at all times and to prevent the Animal from entering upon the the property of any Person in the Township without the property Owner's consent.

Section 7. Noise. It shall be unlawful within the Township for any Person to own, possess, harbor, feed or control any Animal which makes any noise continuously and/or incessantly for a period of ten (10) minutes or makes such noise intermittently for thirty (30) minutes 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, bypass, 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, feed or maintain any Animal in such a manner so as to disturb or unduly annoy the public through the Animal's smell, mischief or other harmful propensities. All pens or other areas in which 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 and securely caged or the public is otherwise safeguarded from any danger which said Animal may present to the health, safety and welfare of any Person, and in accordance with the Dangerous Dog Law, 3 P.S. 459-501, et seq.

Section 10. Responsibilities of Offended Persons. It shall be the responsibility of the Person(s) 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 the Animal Owner, if possible. This record shall be signed and dated by the complainant and provided to the Township Code Enforcement Officer and/or the police with jurisdiction in the Township 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 first class mail, postage prepaid;

(2) By personal delivery of the notice to the Animal Owner, in which case the Animal 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 Animal 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 this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than than One Thousand Hundred Dollars (\$1,000.00), plus all court costs, including reasonable reasonable attorneys' fees incurred by the Township, 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 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 10th day of September, 2012.

BOARD OF SUPERVISORS OF THE  
TOWNSHIP OF CENTRE,  
BERKS COUNTY, PENNSYLVANIA

By:   
Chairman

By:   
Supervisor

By:   
Supervisor

Attest:

  
Secretary

[SEAL]