

ORDINANCE NO. 98

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF WASHINGTON TOWNSHIP, FRANKLIN COUNTY, PENNSYLVANIA, PROHIBITING NUISANCES RELATING TO DOGS AND CATS ON PRIVATE AND PUBLIC PROPERTY WITHIN THE TOWNSHIP; ESTABLISHING PROCEDURES FOR ENFORCEMENT OF THE SAME; AND FIXING PENALTIES FOR VIOLATION.

WHEREAS, the Board of Supervisors deems it to be in the best interests and general welfare of the citizens and the residents of this Township to prohibit disturbances of the peace caused by dogs and cats on public and private property and unreasonable annoyance and discomfort to others in the legitimate enjoyment of their rights of personal or property; and

WHEREAS, Section 702 of the Second Class Township Code, 1933, May 1, P.L.103, Art. VII, Section 702, cl. XII, as amended, 53 P.S. Section 65712, authorizes townships of the second class to prohibit nuisances, and to impose penalties therefore, and

WHEREAS, the Board of Supervisors desires to make specific provision for nuisances related to dogs and cats as a supplement to the provisions of Ordinance No. 88 enacted May 7, 1984.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is enacted and ordained, by the Board of Supervisors of this Township as follows:

SECTION 1. DEFINITIONS. For the purposes of this ordinance the following terms, phrases, words and their derivations shall have the meanings given herein. 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; and personal pronoun shall be construed so as to mean either the masculine, feminine or neuter gender, as the context may require; and the word "shall" is always mandatory and not merely precatory.

- (1) "Township" is the Township of Washington, Franklin County, Pennsylvania.
- (2) "Board of Supervisors" is the Board of Supervisors of Washington Township, Franklin County, Pennsylvania.
- (3) "Owner" is a person owning, leasing, occupying or having charge of any premises within the Township.
- (4) "Person" is an natural person, firm, partnership, association, corporation, company or organizaiton of any kind.
- (5) "Nuisance" is 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 reasonalbe rights of person or property.

- (6) "Dog Owner" shall include every person having a right of proprietorship or ownership in a dog; and every person who keeps or harbors a dog or has it in his care or custody; and every person who permits a dog to remain on or about any premises occupied by him; and the parents of any child under 18 years of age who owns or has the control and custody of a dog; regardless of whether any such dog is licensed or unlicensed.
- (7) "Cat Owner" shall include every person having a right of proprietorship or ownership in a cat; and every person who keeps or harbors a cat or has it in his care or custody; and every person who permits a cat to remain on or about any premises occupied by him; and the parents of any child under 18 years of age who owns or has the control and custody of a cat, regardless of whether any such cat is licensed or unlicensed.
- (8) "Permits" means to suffer, allow, consent, let; to give, leave or license; to acquiesce by failure to prevent, or to expressly accept or agree to the doing of any act.

SECTION 2. BARKING DOGS.

- (A) Nuisance Defined. With respect to dogs, a dog owner shall be presumed to have created or maintained a nuisance if he shall:
- (1) permit his dog to cause annoyance or discomfort to or to disturb the peace of the citizens, residents or other persons lawfully in the Township, by barking, yelping, howling or causing any other unseemly noise; or
 - (2) permit his dog to make any loud or harsh noise or disturbance with such frequency as to interfere with or disturb the peace, quiet, rest, sleep, or repose of any person within the Township.
- (B) Presumptions.
- (1) Disturbance of the Peace; Annoyance. It shall not be necessary to establish that any occurrence has lasted for any specific period of time in order to find a violation of this section. However, continuous barking, yelping, howling or the making of any loud or harsh noise by a dog for more than one-half (1/2) hour on any one occasion shall give rise to the presumption that such dog has disturbed the peace and has caused the annoyance and discomfort of persons in the Township.
 - (2) Permission. At the trial of any charge of violation of this section, if it shall be determined that a dog has disturbed the peace, quiet, rest, sleep or repose of any person within the Township or has caused the annoyance or discomfort of such persons by barking, yelping, howling or causing any other unseemly noise as hereinbefore set forth, it shall be conclusively presumed that the dog owner has permitted the occurrence to have happened.

SECTION 3. DOG AND CAT DEFECCATION AND URINATION.

(A) Nuisance Defined. With respect to dogs and cats, a dog owner or cat owner shall be presumed to have created or maintained a nuisance if he shall permit his dog or cat to defecate or urinate

- (1) upon any street, sidewalk, passageway, park or any other public place where people congregate or walk; or
- (2) upon any private property of another person without the permission of the owner of said property

unless, with regard to defecation only, such dog owner or cat owner shall immediately remove and dispose of in a sanitary manner all feces deposited by such dog or cat.

(B) Presumption. At the trial of any charge of violation of this section, if a dog or cat has defecated or urinated upon public or private property as hereinbefore set forth, it shall be conclusively presumed that the dog owner or cat owner has permitted the occurrence to have happened.

SECTION 4. NOTICE REQUIRED.

(A) Method of Serving Notice. Prior to the issuance of a citation or the filing of a private criminal complaint for a violation of Section 2 of this ordinance, it shall be necessary to serve written notice upon the dog owner in one of the following ways:

- (1) by mailing a copy of the notice to the dog owner by any form of mail requiring a receipt signed by the dog owner or his agent; or
- (2) by personal delivery of the notice to the dog owner; or
- (3) by handing a copy of the notice at the residence of the dog owner to an adult member of the family with which he resides; but if no adult member of the family is found, then to an adult person in charge of such residence; or
- (4) by fixing a copy of the notice to the door at the entrance of the premises in violation.

(B) Form to be Provided. Notice required under this section must be given on a form to be prescribed and provided and provided by the Township.

(C) Content of Notice. Notice shall set forth the name and address of the dog owner, if known; the nature and extent of the violation or offense; the period or periods of time over which the nuisance has occurred; the identify of the person giving notice; the date and time of the sending or posting of notice; and a statement to the effect that a citation may be issued or a private complaint filed if the nuisance is not abated within 24 hours of the time of receipt or posting of notice.

- (D) 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 the issuance of a citation or the filing of a private complaint.

SECTION 5. PENALTY FOR VIOLATION. Any person found guilty of a violation of this ordinance in a summary proceeding before a district magistrate shall pay a fine of not more than Three (\$300.00) Dollars and the costs of prosecution, and in default of payment of such fine and costs of prosecution, shall be imprisoned for not more than then (10) days; provided, each day's continuance of a violation shall constitute a separate offense.

SECTION 6. ENFORCEMENT. The provisions of this ordinance may be enforced

- (A) by a law enforcement officer instituting summary proceedings by citation as provided by law; or
- (B) when the affiant is not a law enforcement officer, the affiant shall institute a criminal proceeding by filing a complaint with the district magistrate as provided by law.

SECTION 7. EXCEPTION; HUMANE SOCIETY. Because of the unique nature and necessity of its mission, the Antietam Humane Society shall be absolutely exempt from the provisions of this Ordinance.

SECTION 8. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

SECTION 9. CONFLICTING ORDINANCES. Any ordinance inconsistent with the provisions of this ordinance is hereby repealed to the extent of the conflict.

SECTION 10. EFFECTIVE DATE. This ordinance shall become effective five (5) days after the adoption hereof.

ENACTED AND ORDAINED this 15th day of September, 1986, in lawful session duly assembled.

TOWNSHIP OF WASHINGTON
FRANKLIN COUNTY, PENNSYLVANIA

By _____

ATTEST:

Janita L. Kusherman
Secretary