

# **BOROUGH OF CLARKS SUMMIT**

LACKAWANNA COUNTY, PENNSYLVANIA

## **ORDINANCE NO. 2016-03**

AN ORDINANCE OF THE BOROUGH OF CLARKS SUMMIT REPEALING AND REPLACING ORDINANCE NO. 2001-08 OF JULY 3, 2001, REGULATING THE KEEPING OF ANIMALS, AND PRESCRIBING PENALTIES FOR VIOLATIONS.

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### Part 1

#### Intent and Purpose; Declaration; Title

##### **§101 Intent and Purpose**

The Borough Council of the Borough of Clarks Summit expressly recognizes and finds that the Borough is densely populated, being substantially developed primarily with residential homes and retail/service establishments, that the maintenance of certain animals within the Borough creates a hazard or potential hazard or threat or potential threat to the health, safety and welfare of the residents of the Borough and the general public, because such animals:

- A. Are or may be poisonous and/or dangerous to humans;
- B. Are or may be diseased which could adversely affect the health of a human or other animals;
- C. Are or may be affected with a contagious or infectious disease whereby the health of humans or other animals are affected;
- D. Are or may be or may become vicious by virtue of the animal's nature and/or disease and attack humans or other animals;
- E. Are or may be a threat to the peace and quiet of the neighborhood in which the animals are maintained by emitting or causing noises that disturb persons in the neighborhood; and
- F. Discharge feces or urine in open, public places that carry or can spread or cause disease and/or sickness to humans or other animals.

G.

**§102 Declaration of Policies and Nuisance**

A. Declaration of Policies

1. Clean, safe, sanitary and quiet neighborhoods are absolutely essential for persons in the Borough, so that the Borough may protect the health safety and welfare of the people in the Borough and attract new residents.
2. Clean, safe, sanitary and quiet neighborhoods are absolutely essential if persons in the Borough are to have adequate use of their property, both real and personal, without fear of, or threat of disease from, or attack by animals.
3. Clean, safe, sanitary and quiet neighborhoods are absolutely essential if persons in the Borough are to have use of and access to public areas, such as sidewalks, public walkways, streets, cartways, alleys, playgrounds, parks and recreational areas, now and in the future, without fear or threat of disease from, or attack by animals.
4. The objective of this Ordinance is to prevent animals from contracting disease, to prevent the spread of disease of any kind which animals may carry contract, protect the public and persons (including children of persons) from animals that may be diseased, and protect the safety of residents and the general public from animals that may be diseased, and protect the safety of residents and the general public from attack, or the threat of attack, from animals, and protect public property and the property of persons and owners of property, both real and personal, in the Borough.
5. The prevention and elimination of disease and/or the spread of disease carried by animals or the potential for disease or sickness due to animal feces, urine or feces, and/or the threat to the safety of residents and non-residents within the Borough by attack or threat of attack by animals and/or the threat or injuries and/or sickness and/or death or injury and/or sickness and/or death from animals or diseased animals or poisonous animals and/or the noises emitted by an animal, are directly related to the health, welfare and safety of the persons in the Borough and the peace and quiet of neighborhoods in the Borough.
6. The achievement of these policies and objectives herein set forth requires a comprehensive program of animal management and control.

B. Declaration of Nuisance - It is hereby ordained a nuisance and/or unlawful for a person:

1. Who owns, maintains, harbors, cares for, has custody of, controls, possesses, keeps, raises, nurses or otherwise has an animal to expose another person or animal to an animal infected with a contagious or infection disease, whereby the health, safety and welfare of another person and/or animal may be affected; or,
2. To treat an animal within the Borough in a cruel and inhumane manner by beating, underfeeding, overloading, abandoning, and/or failing to provide a proper and sanitary living area for an animal; or,
3. Who owns, maintains, harbors, cares for, has custody of, controls, possesses, keeps, raises, nurses or otherwise has an animal that is/are sick, diseased, infected or carrying a contagious disease to ship any such diseased animal or to remove it/them from the premises where located, except under the

supervision of the Clarks Summit Borough Police Department, Codes Enforcement Officer, State Health Officer, State Dog Warden, or licensed veterinarian; or,

4. Who owns, maintains, harbors, cares for, has custody of, controls, possesses, keeps, raises, nurses or otherwise has an animal without required state vaccinations; or,
5. Who owns, maintains, harbors, cares for, has custody of, controls, possesses, keeps, raises, nurses or otherwise has an animal that is poisonous to humans or other animals, can eat or swallow, or strangle or kill humans or other animals; or,
6. Who owns, maintains, harbors, cares for, has custody of, controls, possesses, keeps, raises, nurses or otherwise has an animal which is/are listed as an endangered species or threatened species by the U.S. Department of Interior.

**§103 Title**

This Ordinance shall be known and cited as the *Borough of Clarks Summit Animal Control Ordinance*.

**Part 2  
Definitions**

**§201 Applicability**

As used in this Ordinance, the terms in §202 shall have the meaning indicated unless a different meaning clearly is indicated from the context:

**§202 Definitions**

Animal - Any domesticated animal or fowl, or any wild animal or household pet, or any small animal or large animal as defined herein.

Borough - The Borough of Clarks Summit, Lackawanna County, Pennsylvania.

Domesticated Animal - Any animal normally or ordinarily domesticated or raised in this area and climate as livestock or for work or breeding purposes, or normally or ordinarily kept as a household pet.

Fowl - Any wild or domestic bird such as, but not limited to, animals of the chicken, turkey, goose, duck, pigeon or quail family. Parakeets, parrots and other similar caged birds are not considered fowl.

Household Pet - Any domesticated or tamed animal that is kept as a companion and cared for affectionately and normally and ordinarily kept in or permitted to be at large in the dwelling of its owner such as, but not by limitation, dogs, cats, snakes, lizards, turtles, gerbils, fish, parakeets, parrots and other similar caged birds.

Large Animal - Any wild or domestic animal such as, but not limited to the bovine, equine, sheep or swine family.

Owner- When applied to the proprietorship of an animal, includes every person having a right of property in such animal, and every person who keeps or harbors such animal or has it in his/her care, and every person who permits such animal to remain on or about such premises occupied by him/her.

Person - Any person, firm, partnership, association, or corporation.

Running at Large - Being upon any public highway, street, alley, cartway, 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 or the owner or any other person having custody of said animal.

Service Animal - Any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition. (Source: Americans with Disabilities Act.)

Small Animal - Any wild or domestic animal such as, but not limited to, a rabbit, hamster, guinea pig, rat, mouse, or chinchilla.

Wild Animal - Any animal not normally or ordinarily domesticated; not normally or ordinarily raised in this area and climate as livestock or for work or breeding purposes; or not capable of being kept as a household pet.

### **Part 3 Prohibiting Animals Running at Large**

#### **§301 Unlawful to Allow Animals to Run at Large**

It shall be unlawful for the owner of any animal to allow or permit such animal to run at large in the Borough.

#### **§302 Enforcement**

The Borough Police Department shall have the responsibility for the enforcement of this Ordinance and of the Dog Laws, 3 P.S. 459-101 et seq.

#### **§303 Seizing of Animals**

Any police officer may seize any animal found running at large in the Borough. Such animals shall be impounded in a licensed kennel or appropriate facility for keeping that type of particular animal.

#### **§304 Licensed Animals**

The Police Department shall notify the owner of a licensed animal in person or by registered or certified mail, with return receipt, that the animal is impounded and will be disposed of if not claimed in five (5) days after notification in person or in five (5) days after the return receipt has been received. If the animal has not been claimed the animal may be sold transferred to a new owner or destroyed, and in the instance of a dog, in accord with the Dog Law, 3 P.S. §§459.302.

#### **§305 Unlicensed Animals**

Unlicensed animals that are seized shall be held in such kennel or appropriate facility in accord with §303 for forty-eight (48) hours and if not claimed may be sold, transferred to a new owner or destroyed and in the instance of a dog, in accordance with the Dog Law, 3 P.S. §§459-303.

#### **§306 Dangerous Dogs**

- A. A dog determined to be dangerous under §502-A of the Dog Law, 3 P.S. §§459-502A, shall be restrained or otherwise kept in accord with Article VI-A of the Dog Law, 3 P.S. 459-501-A, et seq.
- B. A dog may be destroyed only in accord with the requirements of §501 of the Dog Law, 3 P.S. §§459-501, and otherwise, said dog(s) must be detained and delivered to the Police Department or a state dog warden.

**Part 4  
Animal Noise Control.**

**§401 Intent and Purpose**

The Borough Council, finding that excessive levels of sound are detrimental to the physical, mental and social well-being of the people as well as to their comfort, living conditions, general welfare and safety, and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of excessive sound and the sources of excessive sound within the Borough.

**§402 Noise Disturbance**

It shall be illegal within the Borough for any person or persons to own, possess, harbor, 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 one-half (0.5) hour or more to the disturbance of any person anytime of the day or night regardless of whether the animal is physically situated in or upon private property, said noise being a nuisance; provided, 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.

**Part 5  
Control of Animal Defecation**

**§501 Animal Defecation on Public and Private Property Restricted**

No person, having possession, custody or control of any animal, shall knowingly or negligently permit any animal to create a public nuisance by defecating or urinating upon any gutter, street, driveway, alley, curb, cartway or sidewalk in the Borough, or upon the floors or stairways of any building or place frequented by the public or used in common by the tenants, or upon the outside walls, walkways, driveways, alleys, curbs or sidewalks of any building abutting on a public street or park, or upon the grounds of any public parks or public area, or upon any private property other than the property of the owner of such animal.

**§502 Disposal of Animal Feces**

- A. Any person having possession, custody or control of any animal(s), which creates a public nuisance by defecating or urinating in any area other than the private property of the owner of such shall be required to immediately remove any feces from such surface and either:
  - 1. Carry same away for disposal in a toilet; or,
  - 2. Place same in a non-leaking fully enclosed container for deposit in a trash or litter receptacle; or,
  - 3. In the instance of urination, wash/flush the area with water.
- B. Animal feces, and/or defecation, and/or waste that are not property stored shall be deemed a threat to the public health. In order to prevent a threat of disease and/or the spread of disease, it shall be unlawful to

store and maintain animal feces and/or defecation, and/or waste except in a solid enclosed plastic bag that is stored in a rigid container (a hard plastic or metal garbage can) with a top that is secured at all times to prevent accidental spilling and/or access by animals and/or persons.

**§503 Service Animals Exempt**

The provisions of §501 and §502 shall not apply to a service animal on public property.

**Part 6  
Regulating Keeping of Certain Animals**

**§601 Large and Wild Animals Prohibited**

It shall be unlawful for any person to keep any large or wild animal at any place within the Borough.

**§602 Keeping of Fowl and Rabbits**

It shall be unlawful for any person to keep any fowl or rabbits except in accord with this §602.

- A. It shall be unlawful for any person to keep any fowl.
- B. Not more than six (6) rabbits shall be permitted per premises.
- C. The rabbits shall be kept confined in quarters no part of which shall be closer than ten feet (10') from the exterior limits of any dwelling or of any property line.
- D. The rabbits shall be confined in an enclosure sufficient to prevent the rabbits from running at large, and such enclosure shall be of a size and construction conducive to the animals' health, and adequate sanitary drainage facilities shall be provided.
- E. Litter and feces shall be collected daily in a fully enclosed container or receptacle that when closed shall be rodent-proof and insect-tight, and after every such collection shall cause such container or receptacle to be kept closed. At least once a week, every such keeper shall cause all litter and feces so collected to be disposed of in such a manner as not to permit the presence of insect larvae.
- F. All feed shall be stored and kept in a rodent-proof and insect-tight building, box, container or receptacle.

**§603 Household Pets**

It shall be unlawful for any person to keep any household pet except in accord with this §603.

- A. If the pet is kept in a dwelling, the pet owner shall be required to follow such procedures and practices with respect to the number of pets to be kept there and sanitation to insure that no public nuisance shall be created or maintained and no threat to public health shall be created.
- B. If the pet is kept in an enclosure outside a dwelling, the provisions of §602 related to confinement, setbacks, waste and feed shall apply.
- C. The combined maximum number of household pets, including rabbits over three (3) months of age shall be six (6). Any number in excess of six (6) and commercial breeding shall be considered a kennel subject to regulation by the Borough Zoning Ordinance.

**§604 Dangerous Animals**

- A. A dangerous animal is any animal that is found to be:

1. Dangerous in accord with any applicable Pennsylvania Law, Federal Law, governmental regulation or Pennsylvania Court or Federal Courts decision; or,
2. Dangerous due to disease, viciousness, poisonous nature, or prior threat, injury or death to a person(s) by the Borough Council after a duly advertised public hearing in which Borough residents, the public or any knowledgeable person have provided information about the particular animal, and/or were allowed the opportunity to provide information as to propensities of the particular animal; or,
3. In the discretion of any Clarks Summit Police Officer, obviously vicious and/or threatening to humans and/or sick and/or diseased creating an immediate and eminent threat to the health and welfare of the public.

B. Any dangerous animal shall be restrained at all times from the public by failsafe safeguards.

C. Any dangerous animal running at large may be destroyed or immobilized upon sight by any Clarks Summit Police Officer if the Police Officer determines the dangerous animal poses an immediate and/or imminent threat of injury and/or death to any person, including the Police Officer or to the property of any person. Any dangerous animal so immobilized must be detained for a minimum of twenty-four (24) hours in an appropriate and secure facility during which time the Clarks Summit Police Department shall seek appropriate veterinary help and an appropriate place to permanently deliver the dangerous animal. In the event no appropriate place to permanently deliver the dangerous animal is located, then the Clarks Summit Police Department may cause the dangerous animal to be destroyed.

#### **§605 Bees**

Any area intentionally used for the outdoor keeping of bees shall be a minimum of one hundred and fifty (150) feet from all lot lines and shall be well marked.

### **Part 7**

#### **Violations and Penalties; State Law Violations**

#### **§701 Violations and Penalties**

Any person, firm or corporation who is convicted of a violation of this Ordinance:

1. The first two (2) times, shall pay a fine of one hundred dollars (\$100.00), plus costs and reasonable fees for keeping an animal in a kennel or appropriate facility.
2. A third time or subsequent time(s) shall pay a fine of not more than six hundred dollars (\$600.00), plus costs and reasonable fees for keeping an animal in a kennel or appropriate facility.
3. Each day that a violation of this Ordinance continues shall constitute a separate offense.

#### **§702 Violation of State Law**

Any violation of this Ordinance that also violates any state law shall be prosecuted under that state law and not under this Ordinance.

### **Part 8**

#### **Miscellaneous Provisions**

#### **§801 Repealer**

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed. Ordinance No. 2001-08 is specifically repealed.

**§802 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 Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**§803 Interpretation**

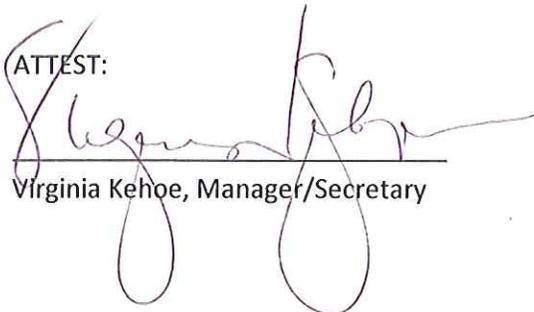
The object of interpretation and construction of this Ordinance and/or the provisions there of shall be, if possible, to give effect to all of its provisions. Whenever a provision in this Ordinance shall be in conflict with another provision in the same section or another part of this Ordinance or another Ordinance or part thereof, the two (2) shall be construed, if possible, so that the effect may be given to both.

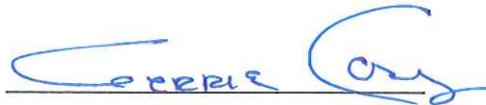
**§804 Effective Date**

This Ordinance shall become effective five (5) days following adoption.

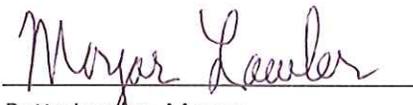
**ADOPTION**

ORDINANCE ORDAINED AND ENACTED this 6th day of APRIL, 2016, by the Borough Council of the Borough of Clarks Summit, Lackawanna County, Pennsylvania, to be effective immediately.

ATTEST:  
  
Virginia Kehoe, Manager/Secretary

By:   
Gerrie Carey, Council President

APPROVED this 6th day of APRIL, 2016

By:   
Patty Lawler, Mayor