

ORDINANCE 2001-08

**AN ORDINANCE OF THE BOROUGH OF CLARKS SUMMIT
REPEALING AND REPLACING CHAPTER 2, CODE OF ORDINANCES
BOROUGH OF CLARKS SUMMIT, PROHIBITING DOGS RUNNING
AT LARGE; ESTABLISHING PROCEDURES FOR THE DISPOSITION
OF LICENSED, UN-LICENSED AND THREATENING DOGS; AND
PRESCRIBING PENALTIES FOR VIOLATION. PROHIBITING THE
KEEPING OF ANIMALS MAKING DISTURBING NOISES,
PRESCRIBING PENALTIES FOR VIOLATION AND MAKING
CERTAIN EXCEPTIONS. CONTROLLING ANIMAL DEFECACTION
ON PUBLIC PROPERTY, PRESCRIBING PENALTIES FOR OWNERS
WHO ALLOW ANIMALS TO LEAVE EXCREMENT ON PUBLIC, OR
OTHER PERSON'S PROPERTY; AND ALLOWING FOR CERTAIN
EXCEPTIONS. REGULATING THE KEEPING OF CERTAIN
ANIMALS INCLUDING HOUSEHOLD PETS AND PRESCRIBING
DEFINITIONS AND PENALTIES FOR VIOLATIONS. REGULATING
THE KEEPING OF PIGEONS; REQUIRING PERMITS FOR LOFT
CONSTRUCTION AND THE INSPECTION THEREOF; PERMITTING
EXERCISE AND TRAINING OF PIGEONS; REQUIRING THE
INSPECTION OF PIGEONS AND LOFTS AND PRESCRIBING
PENALTIES FOR VIOLATION.**

The Borough Council hereby ordains:

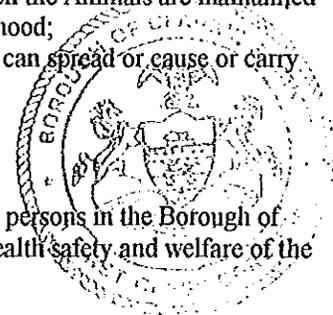
**CHAPTER 2
ANIMALS**

INTENT AND PURPOSE. Borough Council of the Borough of Clarks Summit expressly recognizes and finds that the Borough of Clarks Summit is a highly and densely populated Borough, being substantially developed primarily with residential homes, that the maintenance of Animals within the Borough of Clarks Summit creates a hazard or potential hazard or threat or potential threat to the health, safety and welfare of the residents of the Borough, because such Animals:

1. are or may be poisonous and/or dangerous to humans;
2. are or may be diseased which could adversely affect the health of a human or other animals;
3. are or may be affected with a contagious or infectious disease whereby the health of humans or other animals may be affected;
4. are or may be or may become vicious by the Animal's nature and/or disease or sick and/or attack and/or threaten to attack humans or other animals;
5. are or may be or may become vicious to humans and/or other Animals, and attack or threaten to attack humans or other Animals;
6. are or may be a threat to the peace and quite of the neighborhood in which the Animals are maintained by emitting noises or causing noises that disturb persons in the neighborhood;
7. discharge droppings or feces or urine in open, public places that carry or can spread or cause or carry disease and/or sickness to humans or other Animals.

DECLARATION OF POLICIES.

1. Clean, safe, sanitary and quite neighborhoods are absolutely essential for persons in the Borough of Clarks Summit, so that the Borough of Clarks Summit may protect the health safety and welfare of the people in the Borough of Clarks Summit and attract new residents.



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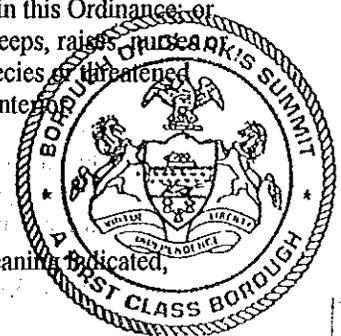
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2. Clean, safe, sanitary and quiet neighborhoods are absolutely essential if persons (inclusive of children of persons) in the Borough of Clarks Summit are to have adequate use of their property, both real and personal, without fear of, or threat of disease from, or attack by animals.
3. Clean, safe, sanitary and quiet neighborhoods are absolutely essential if persons (including children of persons) in the Borough of Clarks Summit 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 of, 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 contract, protect the public and persons (including children of persons) from Animals that may be diseased, and protect the safety of residents, including children and non-residents from Animals that may be diseased, and protect the safety of residents and non-residents within the Borough of Clarks Summit 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, the Borough of Clarks Summit.
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 droppings, and/or the threat to the safety of residents and non-residents within the Borough of Clarks Summit by attack or threat of attack by animals and/or the threat of 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 of Clarks Summit and the peace and quiet of neighborhoods in the Borough of Clarks Summit.
6. The achievement of these policies and objectives herein set forth requires a comprehensive program of Animal management and control in the Borough of Clarks Summit.

It is hereby ordained a nuisance and/or unlawful for a person:

1. who owns, maintains, harbors, cares for, has custody of, control, possesses, keeps, raises, nurses or other wise has an Animal or Animals to expose another person or Animal to an Animal afflicted with a contagious or infectious 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 of Clarks Summit 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 Animals, or
3. who owns, maintains, harbors, cares for, has custody of, control, possesses, keeps, raises, nurses or other wise has an Animal or Animals that is/are sick, diseased, infected or carrying a contagious disease to ship any such diseased Animal or Animals or to remove it/them from the premises where located, except under 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, control, possesses, keeps, raises, nurses or other wise has an Animal or Animals without required state vaccinations; or
5. who owns, maintains, harbors, cares for, has custody of, control, possesses, keeps, raises, nurses or other wise has an Animal or Animals that is/are poisonous to humans or other Animals, can eat or swallow, or strangle or kill humans or other Animals, except as provided for in this Ordinance; or
6. who owns, maintains, harbors, cares for, has custody of, control, possesses, keeps, raises, nurses or other wise has an Animal or Animals which is/are listed as an endangered species or threatened species. Said listing as maintained and published by the U.S. Department of Interior.

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Part 1. Prohibiting Animals Running At Large.

Section 1. Definitions. As used in this Part of Chapter 2, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

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.

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 of the owner or any other person having custody of said Animal.

Section 2. Enforcement. The Police Officers of the Borough of Clarks Summit shall have the responsibility for the enforcement of this Chapter of the Code of Ordinances Borough of Clarks Summit and of the Dog Laws, 3 P.S. 459-101 et seq.

Section 3. Unlawful to Allow Animals to Run at Large. It shall be unlawful for the owner of any Animal or Animals to allow or permit such Animal or Animals to run at large in the Borough of Clarks Summit.

Section 4. Seizing of Animals. Any police officer may seize any Animal found running at large in the Borough of Clarks Summit. Such Animals are to be impounded in a licensed kennel, or appropriate facility keeping particular Animal or may be held for a two (2) day period of time in the Animal cages located at the Borough DPW Garage on Davis Street.

Section 5. Licensed Animals. The Chief of Police or the Officer in Charge shall notify the owner of a licensed Animal by registered or certified mail, with return receipt, that the Animal is impounded and will be disposed of in five (5) days if not claimed. Five (5) days after the return receipt has been received, and the Animal has not been claimed, the Animal may be sold or destroyed, an in the instance of a dog in accordance with the Dog Law, 3 P.S. §§ 459-302.

Section 6. Unlicensed Animals. Unlicensed Animals that are seized shall be held in such kennel, or appropriate facility for keeping that particular animal or at the DPW Garage, for forty-eight (48) hours and if not claimed may be destroyed and in the instance of a dog, in accordance with the Dog Law, 3 P.S. §§ 459-303.

Section 7. Dangerous Dogs.

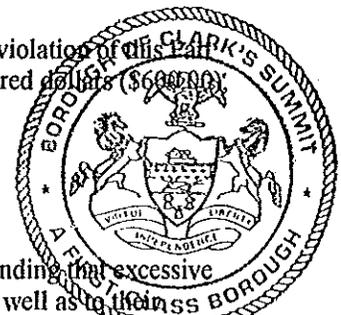
1. A dog determined to be dangerous under § 502-A of the Dog Law, 3 P.S. 459-502A, shall be restrained or otherwise kept in accordance with Article VI-A of the Dog Law, 3 P.S. 459-501-A, et seq.
2. Dogs may be killed only in accordance with the requirements of § 501 of the Dog Law, 3 P.S. §§ 459-501, and otherwise, said dog(s) must be detained and delivered to the police or a State dog warden. While detained, said dog must be treated in a humane manner.

Section 8. Penalties. Any person convicted of Part 1, Chapter 2, Code of Ordinances Borough of Clarks Summit:

1. The first two (2) times a Animal is seized, the owner shall pay a fine of fifteen dollars (\$15.00) plus costs to the Borough of Clarks Summit as well as reasonable fees for keeping the animal in a kennel, or appropriate facility, or by the Borough, as fixed pursuant to a Resolution of the Borough Council.
2. Any person allowing a Animal to run at large a third time or subsequent time(s) in violation of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00) plus court costs.

Part 2. Animal Noise Control.

Section 1. Intent and Purpose. The Borough Council of the Borough of Clarks Summit, 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



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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 of Clarks Summit.

Section 2. Noise Disturbance. It shall be illegal within the Borough of Clarks Summit for any person or persons to own, possess, harbor, or control any Animal (as defined in Part 4) which makes any noise continuously and/or incessantly for a period of ten (10) minutes or makes such noise 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, 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 3. Penalties. Any person, firm or corporation who shall violate this Part 2 of Chapter 2, Code of Ordinances Borough of Clarks Summit:

1. The first two (2) times, the owner shall pay a fine of fifty dollars (\$50.00), plus costs.
2. Any person, firm or corporation a third time or subsequent time(s) in violation of this Part 2 shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), plus court costs.

Part 3. Control of Animal Defecation.

Section 1. 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 commit any nuisance, i.e. defecation or urination, upon any gutter, street, driveway, alley, curb, cartway or sidewalk in the Borough of Clarks Summit, 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.

Section 2. Disposal of Animal Feces. Any person having possession, custody or control of any Animal(s), which permits a nuisance, i.e. defecation or urination, in any area other than the private property of the owner of such Animal, as prohibited in section 1 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 full enclosed container for deposit in a trash or litter receptacle; or
3. In the instance of urination, wash/flush the area with water.

Animal feces, and/or defecation, and/or waste that is not properly stored shall be deemed a threat to the public health in the Borough of Clarks Summit. 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 a person or persons, including children.

Section 3. Animals Accompanying Blind or Handicapped Persons Exempt. The provisions of section 1 and 2 of this Part shall not apply to a guide dog or any other certified guide Animal accompanying any blind persons, or to a dog or other certified animal used to assist any other physically handicapped person.

Section 4. Penalties. Any person, firm or corporation who shall violate this Part 3 of Chapter 2, Code of Ordinances Borough of Clarks Summit:

1. The first two (2) times, the owner shall pay a fine of fifty dollars (\$50.00), plus costs.
2. Any person, firm or corporation a third time or subsequent time(s) in violation of this Part 3 shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), plus court costs.

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Part 4. Regulating Keeping of Certain Animals.

Section 1. Definitions. As used in this Ordinance, the following terms, shall have the meanings indicated, unless a different meaning clearly appears from the context:

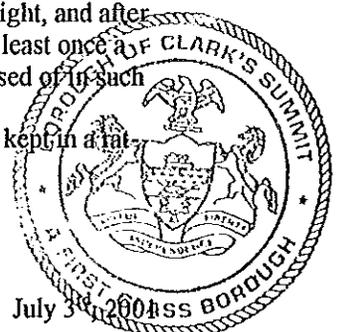
- ANIMAL -** any Domestic Animal or Fowl, or any Wild Animal or Household Pet, or any Small Animal or Large Animal as defined herein.
- DOMESTIC ANIMAL -** any Animal normally or ordinarily domesticated or raised in the area and climate as livestock or for work or breeding purposes, or normally or ordinarily kept as a household pet.
- FOWL -** any wild or domestic Animal such as, but not by limitation, Animals of the chicken, turkey, goose, ducks, pigeons, mallard, quail species.
- HOUSEHOLD PET -** any dog, cat, small lizards turtles, gerbils, and fish normally and ordinarily kept in or permitted to be at large in the dwelling of its owner.
- LARGE ANIMAL -** any wild or domestic animal of the bovine, equine or sheep family.
- PERSON -** any person, firm, partnership, association, or corporation.
- SMALL ANIMAL -** any wild or domestic animal such as a rabbit, hare, guinea pig, rat, mouse, or chinchilla; and any wild or domestic fowl such as chicken, turkey, goose, duck, or pigeon.
- WILD ANIMAL -** any animal, including bird, fowl, or reptile 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.

In this ordinance, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.

Section 2. Certain Animals Prohibited. It shall be unlawful for any person to keep pigs, hogs or swine at any place within the Borough of Clarks Summit.

Section 3. Keeping of Animals Regulated. It shall be unlawful for any person to keep any Animals, except household pets, except as provided in this section:

1. Large animals shall be confined in quarters no part of which shall be closer than one hundred feet (100') from the exterior limits of any dwelling or of any property line.
2. Small animals 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.
3. The keeper of every Animal shall confine the same in an enclosure sufficient to prevent such Animal from running at large, and such enclosure shall be of a size and construction conducive to the Animal's health, and adequate sanitary drainage facilities shall be provided.
4. Every keeper of any Animal shall cause the litter and droppings there from to be collected daily in a fully enclosed container or receptacle that when closed shall be rat-proof and fly-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 droppings so collected to be disposed of in such a manner as not to permit the presence of fly larvae.
5. Every keeper of any Animal shall cause all feed provided therefore to be stored and kept in a rat-proof and fly-tight building, box, container, or receptacle.



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Section 4. Household Pets. It shall be unlawful for any person to keep any household pet, except as provided in this section:

1. If any such pet shall be kept in a dwelling owned or occupied by its owner, such owner shall be required to follow such procedures and practices, as to the number of such pets to be kept there, and as to sanitation, to insure that no public nuisance shall be created or maintained and no threat to the health of persons living elsewhere that in such dwelling shall be created.
2. If any such pet shall be kept in an enclosure outside such dwelling, the provisions of section 3 of this Part, insofar as the same applies to small animals, shall be applicable to the keeping of such household pets.

Section 5. Dangerous Animals.

1. A dangerous Animal is any Animal that is found to be dangerous in accordance with any applicable Pennsylvania Law and/or Federal Law and/or governmental regulation and/or Pennsylvania Court(s) and/or Federal Court(s) decision(s) and/or is found to be dangerous due to disease, viciousness, poisonous nature, and/or prior threat and/or injury including death to a person(s) and/or public, by the Council of the Borough of Clarks Summit, after a duly advertised public hearing in which the residents of the Borough of Clarks Summit and/or public and/or any knowledgeable person about the particular Animal have provided information, and/or were allowed the opportunity to provide information as to propensities of the particular Animal, or the Animal(s) is 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, in the discretion of any Clarks Summit Police Officer, or Chief of Police or Officer In Charge.
2. Any dangerous Animal, as determined herein, shall be restrained, at all times, from the public by failsafe safeguards.
3. Any dangerous Animal, as determined herein, running at large, may be killed or immobilized upon sight by any Clarks Summit Police Officer or Chief Of Police or Officer In Charge, if the Police Officer or the Chief Of Police or Officer In Charge determines an immediate and/or imminent threat of injury and/or death to any person, including the Police Officer or Chief Of Police or Officer In Charge or property of any person. Any dangerous Animal so immobilized must be detained for no more than 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.

Section 6. Violation of State Law. Any violation of this Part 4 that would also violate any state law shall be prosecuted under that state law and not under this Part.

Section 7. Penalties. Any person, firm or corporation who shall violate this Part 4 of Chapter 2, Code of Ordinances Borough of Clarks Summit:

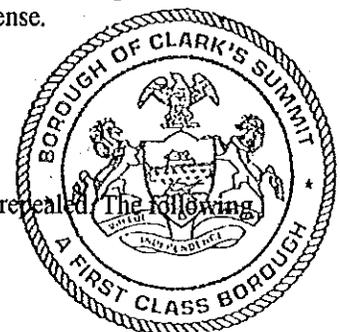
1. The first two (2) times, the owner shall pay a fine of fifty dollars (\$50.00), plus costs.
2. Any person, firm or corporation a third time or subsequent time(s) in violation of this Part 4 shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), plus court costs. Each day that a violation of this Part continues shall constitute a separate offense.

Part 5. Regulating the Keeping of Pigeons.

RESERVED FOR FUTURE USE.

Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances or parts thereof are specifically repealed:

Ordinance 46-4, dated October, 1946



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Ordinance 48-4, dated October 11th, 1948
Ordinance 51-1, dated February, 1951
Ordinance 83-5, dated November 2nd, 1983
Ordinance 84-4, dated December 5th, 1984

Penalties.

Except as provided for in the individual Parts above any person, firm or corporation who shall violate this Ordinance:

1. The first two (2) times, the owner shall pay a fine of one hundred fifty dollars (\$100.00), plus costs.
2. Any person, firm or corporation a third time or subsequent time(s) in violation of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), plus court costs. Each day that a violation of this Part continues shall constitute a separate offense.
3. **EXCEPT THAT**, any violation of this Ordinance that would also violate any federal and/or state law shall be prosecuted under that federal or state law and not under this Ordinance.

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.

Interpretation. The object of interpretation and construction of this Ordinance and/or the provisions thereof 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.

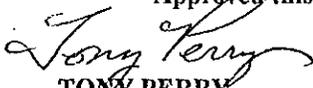
Effective Date. This ordinance shall become effective ten (10) day following adoption.

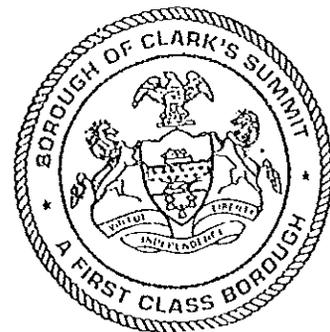
**DULY ENACTED AND ORDAINED BY THE CLARK'S SUMMIT BOROUGH COUNCIL AT
THE BOROUGH OF CLARK'S SUMMIT, COUNTY OF LACKAWANNA, COMMONWEALTH
OF PENNSYLVANIA THIS 3rd DAY OF JULY, 2001 AT A SPECIAL MEETING OF THE
BOROUGH COUNCIL.**


EDWARD M. BUSH, SR.
Council President

APPROVED:

Approved this 3rd day of July, 2001:


TONY PERRY
MAYOR



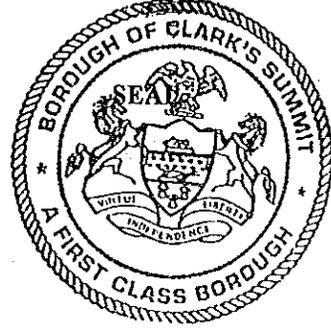
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ATTEST:

Adopted at a Borough of Clarks Summit Special Meeting conducted on Tuesday, July 3rd, 2001.

James G. Vones, Sr.
JAMES G. VONES, SR.
Borough Manager/Secretary



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