

BOROUGH OF WEST MIDDLETOWN

ORDINANCE NO.: 01 of 2006

AN ORDINANCE OF THE BOROUGH OF WEST MIDDLETOWN IMPOSING RESTRICTIONS ON ANIMALS KEPT AS PETS AND ANIMAL CONTROL FOR DOGS RUNNING FREE IN THE BOROUGH WHICH SHALL APPLY TO, UNDOMESTICATED CATS AND EXOTIC ANIMALS; AND PRESCRIBING PENALTIES FOR VIOLATIONS OF THIS ORDINANCE.

BE IT ORDAINED AND ENACTED by the Borough of West Middletown Council, Washington County, Pennsylvania, and it is hereby ORDAINED AND ENACTED under the authority of the Borough Code as amended for the Commonwealth of Pennsylvania, and set forth as follows:

TITLE

This Ordinance shall be known and may be cited as the **Animal Control Ordinance**. This Ordinance is broken down into four (4) parts. Part I shall pertain to Dogs and Undomesticated Cats running free and outside the property boundaries of resident owners; Part II will establish the duties of the Animal Control Officer; Part III pertains to Animal Disturbances; and Part IV concerns the Keeping of Certain Exotic Animals.

PURPOSE

It is the purpose of this Ordinance to control the dogs and undomesticated cats running at large, as well as regulations for keeping certain exotic animals in private residences and on property within the Borough.

PART I

Dogs and Undomesticated Cats Running at Large

SECTION 1 DEFINITIONS

As used in this Part, the following terms have the meaning indicated, unless a different meaning clearly appears from the context.

1. "Dog Control" – The apprehending, holding and disposing of stray or unwanted dogs or activities that reduce the number of dog related problems.
2. "Cat Control" – The apprehending, holding and disposing of any stray or unwanted cats or activities that reduce the number of cat related problems.
3. "Dog Law" – The Act of December 7, 1982, P.L. 784, No. 225, as amended, 3 P.S. § 459-101 et seq.
4. "Owner" – Any person having a right of property in any dog or cat or having custody of any dog or cat, or any person who harbors or permits a dog or cat to remain on or about any premises occupied by him/her.
5. "Running at Large" – Being upon any public highway, street, alley, park or any other public land or upon property of another person other than the owner's and not being accompanied by or under the control of the owner or any other person having custody of said dog or cat and controlled by a collar, harness, cage or leash.

SECTION 2 UNLAWFUL TO ALLOW DOGS OR CATS TO RUN AT LARGE

It shall be unlawful for the owner of any dog/dogs or cat/cats to allow or permit such animal to run at large in Borough of West Middletown.

SECTION 3 SEIZURE OF DOGS OR CATS

Any Borough police officer or official may seize any dog or cat found running at large in the Borough but any such animal officer may seize licensed dogs running at large in the Borough only under the supervision and control of Borough Council. Any dog or cat seized is to be impounded in a licensed kennel or a kennel maintained or approved by the Borough.

SECTION 4 LICENSED DOGS

Owners of licensed dogs must be notified by registered or certified mail, return receipt requested, that the dog 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 dog has not been claimed, the dog may be sold or destroyed in accordance with the Pennsylvania Dog Law.

SECTION 5 UNLICENSED DOGS

Unlicensed dogs that are seized are to be held in such kennel for 48 hours and if not claimed may be destroyed in accordance with the Pennsylvania Dog Law.

SECTION 6 DOGS AND CATS THAT THREATEN

Every Borough police officer or authorized representative may kill any dog or cat which is found running at large and is deemed, after due consideration by the police officer/official, to constitute a threat to the public health and welfare.

SECTION 7 PENALTIES

1. The owner or claimant of a dog or cat detained by the Borough or its animal control officer shall pay a penalty of fifteen dollars (\$15.00) to the Borough plus all reasonable expenses incurred by reason of the dog or cat's detention before the dog or cat is returned to the owner or claimant. The Board of Supervisors may fix and amend by Resolution a fixed and reasonable fee for detaining the animal in the Borough kennel (hereinafter referred to as "kennel fees").

2. The Borough's animal control officer is authorized to collect said penalties and kennel fees on behalf of the Borough and shall promptly remit such collected monies to the Borough.

3. Any person found in violation of any provision of this Ordinance, inclusive of the Pennsylvania Dog Law, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this Ordinance continues which shall be found to have been violated shall constitute a separate offense.

PART II Animal Control Officer

SECTION 1 APPOINTMENT OR HIRING

An animal control officer shall either be appointed or retained as an independent contractor by the Board of Supervisors.

SECTION 2 DUTIES OF OFFICER

1. Such officer shall have the power and responsibility for the enforcement of dog control as defined in this Ordinance and as defined in the Pennsylvania Dog Law; provided that he or she shall not have the power to make arrests under this Code or any Act of Assembly.

2. The said officer shall learn and carry out the provisions of this Ordinance and the Pennsylvania Dog Law, as amended.

PART III
Animal Disturbances

SECTION 1 INTENT AND PURPOSE

The West Middletown 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.

SECTION 2 NOISE DISTURBANCE

It shall be illegal within the Borough for any person or persons to own, possess, harbor, or control any animal or bird which makes any noise continuously and/or incessantly for a period of ten (10) minutes or makes such noise intermittently for one-half hour or more to the disturbance of any person any time of the day or night regardless of whether the animal or bird is physically situated in or upon private property, said noise being a nuisance; provided, that at the time the animal or bird is making such noise no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated nor is there any other legitimate cause which justifiably provoked the animal or bird.

SECTION 3 EXCEPTIONS

This Part shall not be deemed to prohibit or otherwise declare unlawful any agricultural operations protected from nuisance suits.

SECTION 4 PENALTIES

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

PART IV
Keeping of Certain Animals

SECTION 1 DEFINITIONS

1. "Exotic Animals" –Any animal that is not normally domesticated in the United states or is wild by nature. Exotic animals include, but are not limited to, any or all of the following orders and families, whether bred in the wild or in captivity, and also any or all of their hybrids with domestic species. The animals listed in parentheses are intended to act as expels and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified.

- a) Non-human primates and prosimians (monkeys, chimpanzees, baboons).
- b) Felidae (lions, tigers, bobcats, cougars, leopards, jaguars, mountain lions and non-domesticated cats).
- c) Canidae (wolves, coyotes, foxes, jackals, not domesticated dogs).
- d) Ursidae (all bears).
- e) Reptilia (all venomous snakes and all constricting snakes).
- f) Crocodilia (alligators and crocodiles).
- g) Proboscidae (elephants).
- h) Hyaenidae (hyenas).
- i) Artiodactyla (hippopotamuses, giraffes, camels, but not cattle, swine, sheep or goats).
- j) Procyonidae (raccoons and coatis).
- k) Marsupialia (kangaroos and opossums).
- l) Perissodactyla (rhinoceroses, tapirs, but not horses, donkeys or mules).
- m) Edentata (anteaters, sloths and armadillos).
- n) Viverridae (mongooses, civets and genets).

SECTION 2 KEEPING OF EXOTIC ANIMALS PROHIBITED

1. It shall be unlawful for any person to own, possess, keep, harbor, bring or have in one's possession an exotic animal(s) within Borough limits as defined above.

2. It shall be unlawful for the owner, possessor or any other person in control of a lot, tract or parcel of land within Borough limits or any residence or business premises situated thereon to knowingly permit any other person to be in possession of an exotic animal upon the property, residence or premises.

3. No animal located in the Borough prior to the enactment of this Part shall be exempt from the provisions of this Part.

SECTION 3 VIOLATIONS, PENALTIES, SEIZING AND INJUNCTIVE RELIEF

1. Any person, firm or corporation who shall violate any provision of this Part upon conviction thereof, in an action brought before a district justice in the manner provided for the

enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00), plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days. Each day that a violation of this Part continues or each section of this Part which shall be found to have been violated shall constitute a separate offense.

2. In addition to the foregoing, the Borough may, at its sole discretion, cause to be seized any animal which is located in Borough of West Middletown in violation of this Part. Furthermore, the Borough may seek injunctive relief in the Court of Common Pleas of Washington County requiring any animal located in West Middletown, in violation of this Part, be removed. These remedies available to the Borough are not mutually exclusive and the Borough may, at its sole discretion, fine any person, cause to be seized any animal and/or request injunctive relief regarding the same for violations of this Part.

SECTION 4 EXEMPTIONS

The provisions of this Part shall not apply to:

- a) Institutions accredited by the American Zoo and Aquarium Association.
- b) Licensed humane societies.
- c) Animal Control Officers.
- d) Licensed veterinary hospital or clinics.
- e) Farm animals.

REPEALER

All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed insofar as they may be inconsistent herewith.

SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause, or section 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, or sections of this Ordinance. It is hereby declared to be the intent of the West Middletown Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.

EFFECTIVE DATE

This Ordinance shall become effective five (5) days after the passage thereof.

AUTHORITY

This Ordinance is enacted under the authority of the Borough Code for the Commonwealth of Pennsylvania and by the Pennsylvania Dog Law, 3 Pa.C.S.A. § 459-101 et seq., as amended, and is intended to include and be subject to all provisions of Section 459.

ORDAINED AND ENACTED this 20 day of October, 2006, to become effective in five (5) days thereafter.

ATTEST BY:

BOROUGH OF WEST MIDDLETOWN



Secretary

By: 

Chairman

By: _____
Mayor



APPROVED BY:
Gary L. Sweat, Solicitor