

CHAPTER 4

ANIMALS

BOROUGH OF WYALUSING
ORDINANCE NO. 4

AN ORDINANCE CHAPTER NO. 4, ANIMALS, OF THE CODE OF
THE BOROUGH OF WYALUSING, COUNTY OF BRADFORD,
COMMONWEALTH OF PENNSYLVANIA.

The Borough of Wyalusing hereby ordains and enacts as follows:

SECTION 1. PURPOSE.

This chapter is enacted to prohibit and to regulate the maintenance, keeping and possession of animals within the Borough in order to promote the health, safety and general welfare of its inhabitants. The Borough believes an excessive number of pets may create a health hazard.

The Borough expects the owner, custodian or keeper of any animals to control their animal's numbers, noise, movement, excrement, and odor, condition of animals and their living quarters.

SECTION 2. INTERPRETATION; SEVERABILITY

Where the provisions of this chapter impose greater restrictions than those of any other ordinance, regulation or resolution, the provisions of this chapter shall be controlling. Where the provisions of any other ordinance impose greater restrictions than this chapter, the provisions of such other ordinance shall be supplemental to any laws of the Commonwealth of Pennsylvania hereinbefore or hereinafter adopted covering animals within the Commonwealth of Pennsylvania and specifically be contrary to the provisions of any act of assembly, it is the intent that the act of assembly shall supersede this chapter. Should any section or provisions of this chapter be declared by a court of competent jurisdiction to be invalid, such section or provision shall not affect the validity of the chapter as a whole or any other part thereof.

SECTION 3. DEFINITIONS.

As used in this chapter, the following terms shall have the meaning as indicated: ANIMAL – Construed in a broad sense to include not only animals

so called but also birds, fish, reptiles, insects, hogs, dogs, cats, pets, livestock, and fowl.

BOROUGH – The Borough of Wyalusing

BOROUGH COUNCIL – The Borough Council of the Borough of Wyalusing.

KENNEL – Any lot in which animals are kept, boarded or trained for a fee, whether or not in special buildings or runways, including but not limited to dog and cat kennels, or any lot in which more than four (4) animals are kept for the purpose of breeding, sale or show purposes.

PERSON – Any individual, partnership, association, corporation, estate or trust, as well as all officers, agents, servants, employees or others acting for any of the same, and shall be taken as applying in the singular or plural, as the case may require.

Section 4. Code Enforcement.

- A. Borough Council shall appoint the Ordinance Enforcement Officer. The Ordinance Enforcement Officer shall be under contract to enforce the provisions of this Ordinance. At the option of the Borough Council, they may direct the police Department to perform the functions of the Ordinance Enforcement Officer in enforcing this ordinance.
- B. The Ordinance Enforcement Officer or designated Borough Official shall have the following powers and duties.
 - (1) To review and cause to be reviewed each application for a permit submitted in accordance with Section 11.
 - (2) To approve or reject such application or require modification of such application.
 - (3) Upon approval of such application, to issue a permit upon such terms and conditions as are deemed appropriate.
 - (4) To revoke such permits:
 - i. If the information contained in the application for the permit is later determined to be false, incorrect or inaccurate; or
 - ii. If the terms and conditions upon which the permit has been issued are violated.

- (5) To take such further action as may be authorized by Borough Council to enforce the provisions of this chapter.

Section 5. Prohibited Animals

- A. No person shall keep, harbor or maintain any domestic animals or fowl on any premises within the borough limits in any manner which will cause unsanitary, insalubrious or offensive conditions to arise therefrom, nor shall any person harbor any animal or vermin whose natural actions and presence are or may be deleterious or harmful to the public health. The keeping of animals in excessive numbers that will cause unsanitary conditions is prohibited.
- B. No person is permitted to maintain, keep or possess within the Borough any animal that is outlawed by the Commonwealth of Pennsylvania with or without a permit.
- C. It shall be unlawful for any person to keep or maintain any farm animals including, horses, cattle, sheep or goats within the borough limits.
- D. Keeping of hogs or pigs prohibited
- E. No pigeons, turkeys, chickens, ducks, geese or other feathered animals, except such as may be confined in cages, shall be kept or maintained in the Borough.
- F. No person shall be permitted to keep or maintain a poisonous reptile in any aquarium, pen or other enclosure within the borough limits. However, persons shall be permitted to keep nonpoisonous snakes in an aquarium, pen or other enclosure within their home within the borough limits.

Section 6. Permitted Animals

- A. Number of dogs limited.

It shall be unlawful to keep more than four dogs six months of age or older on any premises, regardless of the number of owners (provided, however, that this section shall not apply to any premises for which a kennel license has been obtained pursuant to the Dog Law of 1965 (3P.S. 460-208 et seq.) The number of dogs

allowed per household is based on the noise, odor, and concern for the sanitary living conditions of the animal and to allow for the proper disposal of the waste products of the animals.

B. Dogs and Cats Permitted.

Any person is permitted to maintain, keep or possess within the Borough not more than a total of four (4) animals of the following types of animals, or combination thereof, which classification shall be strictly construed:

- a. Cats (*Felis catus*)
- b. Dogs (*Canis Familiaris*)

C. Any person is permitted to maintain, keep or possess within the Borough any of the following types of animals, which classification shall be strictly construed, limited to those quantities customarily maintained in a household:

(1) Aquarium Fish

(2) Cage Birds, (The term includes parakeets, parrots, canaries, finches, lovebirds, myna birds and birds ordinarily kept in cages in household; it excludes wild birds captured or rescued and kept in cages.)

(3) Non poisonous reptiles

(4) Rodents including guinea pigs, hamsters, mice customarily kept as pets

(5) Rabbits – (domestic) customarily kept as pets, the quantity permitted shall be 4 per household.

D. Application for Permit

A resident of the Borough may make application to the Borough for a permit to maintain, keep, or possess within the Borough (Section 11):

- (1) Animals not specifically mentioned in Section 6
- (2) Animals in larger quantity, than specially mentioned in

Section 6

E. Agricultural district exception

The prohibition of farm animals in § 5 (C) & 5 (D) shall not apply in the Agricultural District of the borough where the raising of said animals shall be allowed.

F. Violations and penalties.

Any person violating any of the provisions of this article shall be subject, upon conviction, to a fine of not more than six hundred dollars (\$600), plus costs for prosecution, or imprisonment in the county jail for a term of not to exceed thirty (30) days, or both. A separate punishment may be sentenced for each separate violation.

Section 7. Dogs Creating Disturbances

A. Purpose.

The purpose of this article is to provide for the control of dogs that create a disturbance by their barking or howling for lengthy periods of time, causing annoyance and discomfort to any person in the Borough of Wyalusing.

B. Unlawful to keep dogs disturbing the peace.

It shall be unlawful to own, harbor or keep in custody any dog, which disturbs the peace by barking, howling or making other loud noises to the annoyance and discomfort of any person in the Borough of Wyalusing. Continuous barking, howling or the making of other loud noises by any dog for more than any one hour or continuous barking for periods of less than one hour but more than 1/4 hour, which periods occur on two or more consecutive days, shall be deemed to be a disturbance of the peace and a cause of annoyance and discomfort to persons in the Borough of Wyalusing.

C. Notice of warning; determination of violation.

1. Any person may request in writing the Borough Ordinance Enforcement Officer to warn any person who shall own, harbor or

keep in custody any dog which disturbs the peace by barking, howling or making other loud noises to the annoyance and discomfort of persons in the Borough of Wyalusing.

2. A warning by the Ordinance Enforcement Officer shall consist of delivery of a copy of this article and a notice to the residence in the Borough of Wyalusing of any such owner, keeper or custodian in person or by registered mail.

3. Any such notice shall be in writing and shall identify and specify the residence of the owner, keeper or custodian of the dog or other animal.

4. A violation of this article shall be deemed to have occurred upon a second or subsequent violation of Section 7

B. above after the date of delivery of the written warning when the second one-hour disturbance or the second two one-half-hour disturbances take place within 30 days of the delivery of the written notice.

Section 8. Dogs Running at Large

The purpose of this article is to provide for the prohibition and regulation of dogs running at large under and pursuant to the Borough Code.

A. Running at large prohibited.

It shall be unlawful for the owner, custodian or keeper of any dog to allow such dog to run at large at any time, either upon any of the streets, alleys or public grounds in the Borough of Wyalusing or upon the property of another than the owner, custodian or keeper so such dog, unless accompanied by and under the immediate control of such owner, custodian or keeper.

B. Seizure and redemption.

It shall be the duty of any Ordinance Enforcement Officer and any Borough Dog Law Officer of the Borough of Wyalusing who witnesses any dog running at large in conflict with the provisions of §A of this article or who receives information of any dog so running at large to seize such dog and convey it to the place designated by the Borough Council as the borough dog pound. Dogs

not properly licensed or not bearing proper license tags shall be disposed of in the manner prescribed by the Code of the Commonwealth of Pennsylvania. Notice of seizure of a dog bearing a current license tag shall be sent to the owner of such dog, and such dog may be redeemed by the owner thereof within the time specified by law, upon payment of a penalty of \$15 to the political subdivision whose officers made such seizure and detention, in addition to all reasonable expenses incurred by reason of detention. The Borough Council shall determine rates of such charges from time to time and set said rates by resolution.

C. Violations and penalties.

Any person, firm or corporation who or which shall violate or fail to comply with any of the provisions of this article shall, upon conviction, be sentenced to pay a fine of not more than \$600 and costs of prosecution and, in default of payment of such fine and costs, be imprisoned for a term not exceeding 30 days. Such fee and costs may be in addition to any payments required to be made upon the seizure and detention of any dog.

Section 9. Cleaning of Dog Kennels & Animal Pens

A. Cleaning required. It shall be unlawful for the owner, custodian or keeper of any dog, dogs, or other animals, licensed or unlicensed, to allow, permit or maintain such dog, dogs, or other animals in any pen, kennel or other structure which is not kept in a clean and orderly manner, free from offensive odor and without the accumulation of manure or other matter tending to create an environment conducive to harboring of flies, spreading of disease or offensive odors. All kennels, pens or other structures used to house any dog, dogs, or other animals shall be kept and maintained clean and free from refuse, manure or other material tending to create a health hazard or offensive odors.

B. Defecation and urination.

1. It shall be unlawful for the owner of person in custody or control of any animal to allow such animal to defecate or urinate upon the public property of the Borough, the highways of the Commonwealth and the private property of another other than the owner or keeper of said animal.

2. If such animal shall defecate upon property other than that of the owner or keeper must immediately clean up the feces and make

proper disposition of it so as not to endanger the health and safety of the public.

3. If an animal shall defecate upon the property of the owner or keeper of such animal, the owner or keeper must clean up the feces and make proper disposition of it within a reasonable period of time so as not to endanger the health and safety of the public.

Section 10. Dangerous Dogs

A. Confinement Period.

It shall be unlawful to harbor or keep in custody any dog for a period of ten (10) days after it has bitten any person in the Borough of Wyalusing, unless said dog is confined in a pen approved by the Wyalusing Borough or Ordinance Enforcement Officer.

B. Access to approved pen.

In the event the owner of the dog does not have access to an approved pen for the required confinement period, the dog shall be taken to an animal shelter approved by the Wyalusing Borough and the cost of said shelter shall be paid by the owner of the dog.

Section 11. Application for permit.

- A. No individual other than a registered veterinarian in the course of his professional duties or a licensed pet shop owner, a traveling circus exhibition is permitted to maintain, keep or possess within the Borough any animal not specifically mentioned in Section 6, (Permitted Animals) or in numbers greater than mentioned in Section 6 (Permitted Animals) hereof unless application for a permit shall have been made by such person to the Ordinance Enforcement Officer and a permit shall have been issued therefore. If a State Permit is required for the animal, said State Permit will be obtained first.
- B. Unless waived by the Ordinance Enforcement Officer, the application for a permit shall have attached thereto a registered veterinarian's health certificate for each animal to be covered by the permit, shall be verified by an affidavit and shall set forth the following:

1. The type and number of animals to be covered by the permit.
2. The purpose of keeping such animals.
3. The period for which the permit is requested.
4. A description of the quarters in which the animals will be kept, including plans and specifications thereof, where appropriate.
5. The circumstances, if any, under which the animals will be removed from their quarters.
6. Biographical information about the applicant and any other person to be placed in charge of the animals, with particular emphasis on the knowledge of such persons about the animals in question and the experience of such persons handling the animals in question.
7. Such additional information as the Ordinance Enforcement Officer may require which is reasonably related to standards set forth in Section 11.C. (consideration for issuance of a denial of a permit)
8. The owner shall present proof of liability insurance in the event the animal got loose.

C. Considerations for issuance or denial of permit.

1. In making the determination as to whether a permit should be issued or revoked, the Ordinance Enforcement Officer shall consider the following standards:

- a. All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained, and protection from adverse weather condition, heat, and cold shall be maintained.
- b. The permit holder shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.
- c. Animals, which are enemies by nature or are temperamentally unsuited shall not be quartered together or so near each other as to cause the animals fear or to be abused, tormented or annoyed.
- d. The permit holder shall maintain the premises so as to eliminate offense odors or excessive noise.
- e. The permit holder shall not permit any condition-causing disturbance of the peace and quiet of his neighbors.
- f. Animals must be maintained in quarters so constructed as to prevent their escape. The permit holder assumes full responsibility for recapturing any animal that escapes from his premises. The

permit holder shall make adequate provisions and safeguards to protect the public from the animals.

- g. Every person shall conform to all present and future laws of the Commonwealth of Pennsylvania and the United States of America, the ordinances of the Borough which are in any way connected with animals, specifically including anticruelty laws.

2. If all of the standards have not been satisfied, the Ordinance Enforcement Officer shall reject the application for the permit or revoke the permit, as the case may be, and promptly notify the applicant or permit holder of his decision in writing. If the application is not approved within thirty (30) days of the date on which it was filed, the application shall be deemed to be denied.

3. If all of the standards have been satisfied, the Ordinance Enforcement Officer shall approve the application for permit, whereupon the permit shall be issued to the individual applicant only for the calendar year or remaining part thereof. Such permit shall not be transferable.

Section 12. Appeals.

- A. Any person aggrieved by any decision of the Ordinance Enforcement Officer may, within thirty (30) days thereafter, file a written notice of appeal with Borough Council. A person aggrieved by any decision of the Ordinance Enforcement Officer shall include any person who is a property owner in or a resident of the Borough who disagrees with such decision. Borough Council shall hear such appeal in accordance with the provisions of the Local Agency Law (Act of April 28, 1978 P.L. 202, No. 53, as amended, 2 Pa. C.S.A. Section 101 et seq.).
- B. The notice of appeal shall state the name and address of the applicant or the permit holder, as the case may be, the date on which the Ordinance Enforcement Officer made the decision appealed from and a statement of the grounds on which the appellant contends the decision of the Ordinance Enforcement Officer was erroneous.
- C. Within forty-five (45) days of receipt of the notice of appeal, the Borough Council shall fix a time and a place for public hearing thereon and shall, not less than five (5) days before the date of the hearing, cause to be published once in a newspaper having a general circulation in the

Borough notice of the time and place of the hearing; the name and address of the applicant or permit holder, as the case may be; and brief statement of the issues involved in the appeal.

- D. The Borough council shall not be required to conduct and/or complete such a hearing unless the appellant first pays to the Borough a deposit required by the Stenographer to be sufficient to cover any costs of the preparation of the stenographic record of the hearing which the Borough shall make part of the original record to be filed with the Court of Common pleas if an appeal is taken to that Court. Otherwise, such stenographic record shall be filed and preserved by the Borough.
- E. The Borough Council shall render its adjudication within sixty (60) days of its receipt of the stenographic record.

Section 13. Fees.

- A. As set by Resolution.
- B. All other applicants: fifty dollars (\$50.) for the first calendar year or part thereof, renewable thereafter for a fee of twenty-five dollars (\$25.) each calendar year or part thereof.

Section 14. Violations and penalties.

Any person who violates any provisions of this chapter or any of the rules and regulations made pursuant thereto shall be liable for each offense upon conviction before any District Justice to a fine of not more than six (\$600.) together with the costs of prosecution, or to imprisonment in the county jail for a period not exceeding thirty (30) days, or both, and each day's failure to comply with such provision shall constitute a separate violation. In addition, Borough Council may authorize the Animal Control Officer to institute any appropriate action or proceeding, whether by legal process or otherwise, to restrain, correct or abate a continuing violation of any provision of this chapter.

Section 15. Construal of provisions.

Nothing in this chapter shall be construed to affect any suit or proceeding now pending in any Court or any actions required or liability incurred or any cause or causes of action occurred or existing under any act or ordinances repealed hereby. No right or remedy of any character shall be lost,

impaired or affected by this chapter. This ordinance shall take effect immediately.