

BOROUGH OF BROOKHAVEN
DELAWARE COUNTY, PENNSYLVANIA
ORDINANCE NO. 975

AN ORDINANCE OF THE BOROUGH OF BROOKHAVEN, DELAWARE COUNTY, PENNSYLVANIA, PROHIBITTING CERTAIN ANIMALS FROM THE BOROUGH OF BROOKHAVEN; PROHIBITING THE BURIAL OF ANIMALS WITHIN THE BOROUGH OF BROOKHAVEN; SETTING REGULATIONS FOR NON-PROHIBITED ANIMALS WITHIN THE BOROUGH OF BROOKHAVEN; SETTING THE RESPONSIBILITIES OF AN ANIMAL'S OWNER/GUARDIAN; SETTING REGULATIONS FOR THE IMPOUNDMENT OF ANIMALS AND REDEMPTION FEES; SETTING VIOLATIONS AND PENALTIES FOR FAILURE TO COMPLY; AND REPEALING ALL ORDINANCES OF PARTS OF ORDINANCES INCONSISTANT HEREWITH, INCLUDING SPECIFICALLY REPLACING CHAPTER 614 "ANIMAL CONTROL."

BE IT ENACTED and it is hereby enacted and ordained by the Council of the Borough of Brookhaven, Delaware County, Pennsylvania, as follows:

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ARTICLE I- Findings and Administration

§ 614-1 Findings

The Council of the Borough of Brookhaven finds, determines and declares that this Chapter is necessary for the immediate preservation of the public health, safety and welfare of the Borough of the Brookhaven and the inhabitants thereof and for the welfare of animals.

§ 614-2 Definitions

The following terms shall apply to this chapter and shall have the meanings indicated. Singular words shall include the plural, and masculine words shall include the feminine and the neuter:

- a) "*Aggressive*" shall mean any dog determined by the court to be aggressive under the State's Dangerous Dog Act, 3 P.S. § 459-501-A through § 459-507-A.

- b) *"Animal"* shall mean a dog, cat or other companion animal (pet).
- c) *"Animal Control Officer"* shall mean any borough police officers and/or the borough agent or designee authorized by the Council of the Borough of Brookhaven specifically to enforce this Chapter.
- d) *"Animal Establishment"* shall mean any animal grooming shop, animal boarding facility, animal hospital or animal training facility within the lawful zoning classifications of the Borough of Brookhaven.
- e) *"Animal Shelter"* shall mean the "short-term animal care and control facility" located at the Brookhaven Police Department, 2 Cambridge Road, in the Borough of Brookhaven.
- f) *"At Large"*- An animal shall be deemed to be "at large" when off the property of the owner/guardian, unaccompanied and not under restraint. An animal shall be considered under restraint if the animal is within the owner/guardian's real property limits or is secured by a leash of lead or otherwise under the immediate control of the owner/guardian.
- g) *"Attack"* shall mean the deliberate action of a dog whether or not in response to a command by its owner, to bite, seize with its teeth or to pursue any human, animate or inanimate object, with obvious intent to destroy, kill, wound, injure or otherwise harm the object of its action.
- h) *"Borough's fee and rate schedule"* shall mean a list of all borough service, penalty, interest, permit fees, and hourly personnel and equipment rates, as adopted by resolution of the borough council from time to time.
- i) *"Cat"* shall mean a Domestic feline, *Felis domesticus*
- j) *"Cruelty"* shall mean any act of commission or omission whereby unjustifiable physical pain, suffering or death or an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food in sufficient quantity.
- k) *"Dangerous Dog"* shall mean any dog determined by the court to be dangerous under the State's Dangerous Dog Act, 3 P.S. § 459-501-A through § 459-507-A.
- l) *"Dog"* shall mean a Domestic canine, *Canis familiaris*.

- m) **"Guard or Attack Dog"** shall mean a dog trained to attack on command or to protect persons or property, and who will cease to attack on command.
- n) **"Humane Manner"** shall mean that the care of an animal is to include, but not be limited to, adequate heat, ventilation and sanitary shelter, wholesome food and water consistent with the normal requirements and feeding habits of the animal's size, species and breed, and at a minimum shall require compliance with state and county animal care requirements, including but not limited to 7 Pa. Code, Part II, Chapter 21, and 18 Pa. C.S.A. §5511 (Cruelty to animals).
- o) **"Impoundment"** shall mean the taking into custody of any animal by any police officer, animal control officer, or any authorized representative thereof.
- p) **"Kennel"** shall mean any establishment wherein dogs are kept for the purpose of breeding, hunting, training, renting, research or vivisection, buying, boarding, sale, show or any other similar purpose, and is so constructed that the dog(s) cannot stray therefrom.
- q) **"Microchip Implant"** shall mean an identifying integrated circuit placed under the skin of a dog, cat, horse, parrot or other animal. The chip, about the size of a large grain of rice, uses passive RFID (Radio Frequency Identification) technology.
- r) **"Muzzle"** shall mean a device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting a person or other animal.
- s) **"Neutered"** shall mean rendered permanently incapable of reproduction.
- t) **"Non-prohibited Animal"** shall mean any animal of any species not specifically prohibited by Article I of this chapter, or by any Federal, State or International laws or agreements.
- u) **"Nuisance"** shall mean any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners/guardians, to enjoyment of life and property. This meaning, in the context of this Chapter, shall also include, but not be limited to:
 - (1) Any animal that is found running at large
 - (2) Any animal upon any playing field or playground which is either owned by the Borough or leased by the borough, or such similar property of the Penn-Delco School District within the Borough of Brookhaven authorized to be used by the residents of the Borough of Brookhaven

- (3) Any animal that damages any property other than that of its owner/guardian?
- (4) Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance to neighbors or others in close proximity to the premises where the animal is kept, maintained or harbored.
- (5) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept, maintained or harbored.
- (6) Any animal in heat that is not confined so as to prevent attraction or contact with other animals.
- (7) Any animal, whether or not on the property of its owner/guardian, that without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way.
- (8) Any animal that chases motor vehicles in a public right-of-way
- (9) Any animal that attacks domestic animals
- (10) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept, maintained or harbored.
- (11) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

(v) *"Owner/Guardian"* shall mean a person having the right of the property or custody of an animal and/or one who keeps or harbors an animal and/or one who knowingly permits an animal to remain on or about any premises occupied by that person.

(w) *"Person"* shall mean any individual, corporation, partnership, organization or institution commonly recognized by law as a unit or the officers of a corporation or the partners of a partnership.

(x) *"Veterinarian"* shall mean a person licensed to practice veterinary medicine in the Commonwealth of Pennsylvania.

(y) *"Vicious or Dangerous Animal"* shall mean any animal that attacks, bites, or physically injures human beings or any domestic non-prohibited animal(s), as defined in this Chapter, without provocation or which, because of temperament or training, has a known propensity to attack, bite or physically injure human beings or any domestic non-prohibited animal(s). Any wild animal or any animal that, without provocation had bitten

or attacked a human being or other animal shall be prima facie presumed vicious or dangerous.

(z) "*Wild Animal*" shall mean any animal, bird, fowl or reptile not normally or ordinarily domesticated, nor normally or ordinarily kept as a household pet or companion animal which is naturally occurring in the wild within the borders of the Commonwealth of Pennsylvania, or the states of New Jersey or Delaware.

§614-3 Enforcement

A. It shall be the duty of every police officer of the Borough of Brookhaven Police Department, Health Officer, and/or other person or persons who may be designated by the Borough of Brookhaven as the Animal Control Officer, to enforce all Articles and Sections of this Chapter.

§614-4 Interference with Enforcement Officers

A. It shall be unlawful for any person to interfere with any police officer and/or the Animal Control Officer while such officers are engaged in the proper performance of his, her or their duties, as mandated by the Articles and Sections of this Chapter.

§614-5 Report of vehicular collision with domestic animal

A. A person whose vehicle causes injury or death to a domestic animal within the limits of the Borough of Brookhaven shall stop at once, assess the extent of the injury to the extent that it is safe to do so, and immediately notify the animal's Owner/Guardian, if known, or Animal Control Officer, either directly or through any Borough Police Officer, together with a description of the animal struck, the location of the striking and an estimate as to the condition of the animal after being struck, along with the rabies tag number of the animal, if it can safely be ascertained. Such person shall not be required to report his or her name, as the only purpose of this requirement is to aid the stricken animal and notify its owner, if any.

§614-6 Wild Animal Trapping Controlled

A. No person shall trap any wild animal or wildlife unless such person shall hold a valid, "Nuisance Wildlife Operator Permit" in compliance with the provisions of Pennsylvania Law-§147.721 amended May 28, 2004, effective May 29, 2004, 34 Pa.B. 2827; amended December 19, 2008, effective December 20, 2008, 38 Pa.B. 6930.

B. Exception: A nuisance wildlife control operator permit will not be required for municipal employees conducting animal control activities if the following conditions are met:

(1) The municipal, State or Federal employee has agreed, in writing, to conduct animal control in accordance with this subchapter. However, permit testing and permit possession requirements do not apply:

(2) Written request for exemption shall be made to the district wildlife conservation officer on letterhead from the municipal, State or Federal entity. The request must state that the employee is a legitimate employee of the entity, is employed as an animal control officer and that the entity has accepted responsibility for the employee's training and supervision as it relates to Pennsylvania Law- §147.721 amended May 28, 2004, effective May 29, 2004, 34 Pa.B. 2827; amended December 19, 2008, effective December 20, 2008, 38 Pa.B. 6930.

(3) This exemption is valid only if an animal control officer is acting within his scope of duty.

ARTICLE II – Livestock and Other Animals

§614-7 Keeping certain animals is prohibited

A. No person shall keep or maintain any wild animal species, livestock, such as horses, mules, cattle, sheep, hogs (including “Micro-Pigs” and “Miniature Vietnamese Pot Bellied Pigs”), goats, chickens and other barnyard fowl or pigeons or doves of any kind at any place within the Borough of Brookhaven

§614-8 Burial of animals is prohibited

A. No person shall permit or cause to be buried any animal on any property, public or private, within the Borough of Brookhaven, Delaware County, Pennsylvania.

§614-9 Kennels are prohibited

A. No person shall keep or operate any kennel at any location, within the Borough of Brookhaven, Delaware County, Pennsylvania.

§614-10 Animals in Motor Vehicles

A. It shall be unlawful to leave any animal unattended in a vehicle when the conditions in that vehicle would constitute a health hazard to the animal.

B. It shall be unlawful for any dog or cat to ride in the bed of a pickup truck on public streets, highways and/or rights-of-way unless the said animal is securely caged and protected from the environment or unless the bed of the pickup truck is enclosed with a camper shell or other device and there is appropriate and sufficient ventilation.

§614-11 Violations and penalties – Article II

A. Any person that shall violate any of the provisions of Article II of this Chapter shall, upon conviction thereof in a summary proceeding before a District Justice, be sentenced to pay a

fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600) per occurrence and costs of prosecution and, in default of payment of such fine and costs, be sentenced to imprisonment in the Delaware County Prison for not less than thirty (30) days.

ARTICLE III – Regulation of Non-prohibited Animals

§ 614-12 Rabies vaccination required

A. Pennsylvania State Code, 3 P.S. § 455.8 is hereby adopted by reference and in part states the following: “Every person living in the Commonwealth of Pennsylvania, owning or keeping a dog or cat over three (3) months of age, shall cause that dog or cat to be vaccinated against rabies. Rabies vaccine shall be administered by a licensed veterinarian or under the supervision of a licensed veterinarian. The Commonwealth shall recognize the three-year rabies vaccine as the vaccine to be used. Those animals vaccinated after one year of age shall get booster vaccinations every three years thereafter. Those animals vaccinated prior to one year of age will be considered protected for only one year and shall receive a booster vaccination one year later on the anniversary date of the original vaccination and shall be vaccinated every three years thereafter.”

B. *Certificate and tag of vaccination.*--Every licensed veterinarian who vaccinates a dog or cat against rabies shall issue a vaccination certificate and tag provided by the manufacturer to the owner.

§ 614-13 Licensing & Micro-Chipping

- A. No person shall own, keep or harbor any dog within the limits of the Borough of Brookhaven unless such dog is licensed as required by 3 P.S. § 459-101 et seq.
- B. Unlicensed dogs shall be impounded in conformance with § 614-20 of this Chapter.
- C. No person shall own, keep or harbor any dog or cat within the limits of the Borough unless such dog or cat is equipped with a micro-chip Implant.
- D. Dogs and cats not equipped with a Microchip Implant shall be impounded in conformation with § 614-20 of this Chapter.
- E. Any person that shall violate SECTION 614-13 shall, upon conviction thereof in a summary proceeding before a District Justice, be sentenced to pay a fine of not less than fifty dollars (\$50).

§ 614-14 Responsibility of an Owner/Guardian

A. A current license issued by the County of Delaware shall be obtained by the owner/guardian of every dog.

B. Every dog and cat within the limits of the Borough of Brookhaven **must have a Microchip Implant** and also wear identification collar, clearly and legibly indicating the name, address and phone number of the owner/guardian of that animal.

a. Cat collars must be safety-type collars with either elastic strips or breakaway fasteners.

b. Dogs must also display their County of Delaware license registration tag, microchip tag and their up-to-date rabies vaccination tag.

C. All animals, when not within the owner/guardian's real property limits, must be secured by a leash or lead or otherwise under the immediate control of the owner/guardian.

D. No owner/guardian of an animal shall be permitted to cause a nuisance as defined in § 614-2 of this Chapter.

E. The owner/guardian of every animal shall be held responsible for every act and behavior of such animal under the provisions of this Chapter.

F. Police officers of the Borough of Brookhaven and/or the Animal Control Officer may order a vicious animal confined by the animal's owner/guardian within a building or secure enclosure.

G. Except in cases of self-defense, the abandonment, killing, harming or tormenting of any animal, wild or domestic, is prohibited and is subject to fines and penalties provided herein, in addition to such fines and penalties as may be imposed under county, state and federal laws.

H. All animals shall be kept and cared for in a humane manner at all times. Animals shall be provided constant access to shelter which protects the animal from inclement weather, keeps the animals dry and keeps the animal's body temperature within the normal range. Chains or ropes of any material must be appropriate to the size and type of the animal, must be placed and attached so that the chain cannot become entangled so as to reduce the length of the chain and must be attached to the animal by a belt-type collar.

§ 614-15 Warning to Owner/Guardian

A. Any private citizen may request the Borough Police Department to warn any owner/guardian of any animal which is considered to be a public nuisance as set forth in § 614-19 of this Chapter.

B. A warning by the police shall consist of delivery of a copy of this Article and Section to the address in the borough of any such owner/guardian.

C. In the absence of any such warning being requested of the police, the complaining private citizen may request the Animal Protection Officer or Health Officer's office to provide the desired warning.

D. Any such request must be made in writing and shall identify and specify the residence address of the owner/guardian of the allegedly offending animal, and shall identify and specify the residence address of the private citizen making the request. Upon receipt of such request, the Animal Protection Officer or Health Officer shall mail a copy of this Article and Section and a warning notice to the person identified as the owner/guardian of the said animal.

E. A violation of this Article shall be deemed to have occurred upon a second or subsequent violation of § 614-19 below, after the date of delivery of the said warning notice.

§614-16 Restraint of Guard Dogs or Attack Dogs

A. Every owner/guardian of a guard dog or attack dog shall keep such dog confined in a building, compartment or enclosure. Any such enclosure shall be completely surrounded by a fence at least six (6) feet in height and shall be topped with an anti-climbing device sufficiently designed to prevent the said dog from escaping the enclosure by climbing over the fence. Such enclosure must be in compliance with the Borough of Brookhaven Zoning Code.

B. All such anti-climbing devices shall extend inward at an angle of not less than forty-five (45) degrees or more than ninety (90) degrees when measured from the vertical.

C. The areas of confinement shall have gates and entrances thereto which are securely closed and locked, and all fences, gates and entrances shall be properly maintained and escape proof.

D. The provisions of this Section shall not apply to dogs owned and controlled by municipal law enforcement agencies.

§614-17 Restraining of Dangerous or Aggressive Dogs

A. Every dangerous dog or aggressive dog shall be confined by its owner/guardian to the residence of its owner/guardian in accordance with Commonwealth of Pennsylvania [P.S.] Title 3, "Agriculture," Chapter 8, "Dog Law," [3 P.S.] § 459-502. Such residence shall be conspicuously posted with a placard once deemed dangerous by the court. Whenever off the premises of its owner/guardian, the dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not more than three (3) feet in length, or caged. Every person harboring a dangerous dog or an aggressive dog is charged with the affirmative duty to confine the animal in such a way that children do not have access to such animal.

§614-18 Biting of or Injuries to Human Beings or other animals

A. It shall be the duty of any owner/guardian of a dog which had bitten or injures any human being or animal to report such occurrence immediately to the Brookhaven Borough Police Department and to comply fully with the provisions of the Commonwealth of Pennsylvania [P.S.] Title 3, "Agriculture," Chapter 8, "Dog Law," [3 P.S.] § 459-502, its amendments and supplements, and to pay all costs of examination by a qualified veterinarian, and to comply with the orders of the borough health officer and/or the Borough of Brookhaven Animal Control Officer.

B. In the absence of such compliance or, in the case of an unidentified dog, the health officer and/or the Animal Control Officer shall have such examination made as promptly as possible, and the owner/guardian shall be liable to the borough for the costs thereof, to be collected in any manner authorize by law.

§614-19 Nuisances

A. It shall be unlawful for any person or persons to keep, maintain or harbor any animal or animals on any property located in the Borough of Brookhaven when keeping, maintaining or harboring of such animal or animals constitutes a public nuisance, as defined in §614-2. (t) "Nuisances" of this Chapter, or a menace to public health or safety.

B. No person having possession, custody or control of any dog or other animal shall knowingly or negligently permit such dog or other animal to defecate upon any gutter, street, driveway, alley, curb or sidewalk in the borough; upon the floor or stairway of any building or place frequented by the public or used in common by tenants; upon the outside walls, walkways, driveways, alleys, curbs or stairways of any building abutting a public street or park; upon grounds of any public park or public area; or upon any private property other than the **property owned or leased by the owner of such animal.**

C. Any person having possession, custody or control of any dog or other animal which commits a nuisance in any area other than on the private property of the owner of such dog or other animal, as prohibited in subsection (a) hereof, shall be required to immediately remove the feces from the surface.

D. The owner of an animal shall abate and clean his or her property of excrement so as not to present a public health hazard and/or nuisance.

E. This section shall not apply to a guide dog accompanying any blind or deaf/hearing impaired person, to a dog used to assist any other physically handicapped person or to an animal used in any police or fire activities of the Borough.

§614-20 Impoundment

A. No private citizen is authorized to trap animals. No private citizen is authorized to set a trap of any kind designed to ensnare any animal the size of an average adult cat or larger.

B. Upon receipt of a complaint alleging facts sufficient to show that actions of an owner/guardian of an animal is a nuisance any Borough Police Officer or the Animal Control Officer or the Code Enforcement Officer will investigate, and upon a finding of situations creating a nuisance and for good cause shown, the Animal Control Officer may seize or authorize the seizure of the animal via a humane live-animal trap set on the complaining citizen's property. When the Animal Control Officer authorizes and permits the setting of an animal trap in response to a citizen complaint, the person requesting the trap must make certain that any animal which becomes entrapped does not suffer any physical harm either through neglect of intentional acts, but limited thereto, during the time the animal is so trapped. Upon discovery of a trapped animal, it is the obligation of the complaining citizen to report the capture of any animal to the Animal Control Officer immediately. Failure to do so constitutes abusive neglect and subjects the complaining citizen to fines and penalties set forth in this Article. All trapped animals must be released to the custody of the Animal Control Officer. It shall be the right, the

duty and the obligation of any Borough Police Officer or the Animal Control Officer to impound any animal found running at large or seen to be without displaying the required County of Delaware license tag. Impoundment shall take place at such shelter as may be designated by the Council of the Borough of Brookhaven by resolution or motion, and such confinement shall be conducted in a humane manner.

C. Immediately upon the impoundment of an animal, the Animal Control Officer shall make every reasonable effort to notify the owner/guardian of the animal so impounded and inform such owner/guardian of the conditions and procedure whereby custody of the animal may be regained.

D. In the event that animals are not wearing identification and are not claimed within a period of two (2) days during which the borough designated shelter is open to the public, Animal Control Officer may:

1. Surrender the ownership/guardianship and possession of the animal to an approved "Rescue" organization, or other "no-kill shelter" organization, or
2. Contact the Chester County SPCA, have the animal evaluated and, if acceptable to them, surrender the ownership/guardianship and possession of the animal to that organization.

§614-21 Redemption.

A. Any owner, keeper or custodian of any dog, cat or other animal which has been apprehended and/or impounded, shall be responsible for all fees incurred by the Borough. Such fees may include, but not limited to, mobilization, transportation, and detention.

§614-22 Violations and Penalties – Articles I and III.

Brookhaven Borough's Codified Ordinances Part Two – Administration, Title Two – General Provisions – Chapter 208-General Fee Schedule

§614-23 Severability.

The provisions of this ordinance and code sections adopted hereby are severable, and if any clause, sentence or section thereof shall be adjudged invalid or unconstitutional, such decision or judgment shall not affect the validity of the remaining provisions.

§614-24 Repealer.

All ordinances, resolutions or parts thereof inconsistent herewith are repealed, rescinded, canceled and annulled to the extent of such inconsistency.

§614-25 Effective Date.

This Ordinance shall be effective upon its adoption by Brookhaven Borough Council and its approval by the Mayor.

DULY ENACTED AND ORDAINED THIS ^{4th} 3RD DAY OF FEBRUARY 2014 BY
THE COUNCIL OF THE BOROUGH OF BROOKHAVEN.

By: Susan Rendler Truesdale
Susan Rendler Truesdale, President
Brookhaven Borough Council

Attest: Mary Ellen McKinley
Mary Ellen McKinley
Secretary of Borough

EXAMINED AND APPROVED THIS ^{4th} 3RD DAY OF FEBRUARY 2014.

By: Michael Hess
Michael Hess, Mayor