

BOROUGH OF SHIREMANSTOWN

CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 415

AN ORDINANCE ESTABLISHING REQUIRMENTS AND PROHIBITIONS FOR THE RUNNING OF LARGE OF DOMESTIC PETS, DEFINITIONS, PROHIBITION OF ANIMAL NUISANCES, REGULATIONS FOR STRAY AND FERAL CATS, REGULATIONS FOR CHICKENS, NOTICE REQUIREMENTS AND PENALTIES, ALL IN THE BOROUGH OF SHIREMANSTOWN

BE IT ENACTED AND ORDAINED by the Council of the Borough of Shiremanstown, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by the authority of same:

SECTION 1: AUTHORITY. This Ordinance is enacted pursuant to the Borough Code, 8 P.S. § 1202 (Removal of nuisances on public and private property), (5) (Cleanliness, comfort and beauty of the borough), (7) Regulations relative to the accumulation of manure, (9) (Running at large of dogs, cats or other pets), (10) (Regulating the keeping or running at large of livestock and fowls and other animals, detention and seizure of animals), (12) (Regulation of streets and sidewalks), (13) (Regulation of animals on sidewalks), 8 P.S. §1203 (Reserved powers), 8 P.S. § 3301.1 (a) (Ordinances) and 8 Pa. P.S. 3321, et seq. (Enforcement of Ordinances).

SECTION 2: STATEMENT OF PURPOSE. The Borough Council of the Borough of Shiremanstown recognizes the necessity for the protection of citizens, real property, personal property and animals in the Borough of Shiremanstown. The Borough Council recognizes that improper care and supervision of animals can create a public nuisance to the public, individual harm and injure or disrupt the quality of life of persons residing in the Borough of Shiremanstown. The Borough Council of the Borough of

Shiremanstown recognizes that the proper and humane treatment of animals requires general municipal supervision for the protection, care, humane treatment and control of animals in the Borough of Shiremanstown.

SECTION 3: DEFINITIONS

The following terms shall have the meanings ascribed to them in this Ordinance, except where the context in which the word is used clearly indicates otherwise:

Animal - Any dog, cat, domesticated animal or non-domesticated animal.

At Large - An animal which is off the premises of the owner such as upon a public highway, street, alley, park or any other public land or upon property of another person other than the owner and not being secured by means of a leash, cord, chain or other device so that it cannot stray or not being accompanied by or under the reasonable control of a person; voice control alone shall not be considered as under the reasonable control of a person.

Borough - The Borough of Shiremanstown, Cumberland County, Pennsylvania

Domestic Pet - A pet, such as a dog, cat or bird, domesticated so as to live and breed in a tame condition.

Feral Cat - A cat existing in a natural state, not domesticated or owned, or having reverted from domestication to a wild state and tends to resist contact with humans.

Nuisance - An animal shall be considered a nuisance if it habitually trespasses upon or damages private or public property, annoys or harms Borough residents or others or is kept, harbored, walked or exercised, or allowed to run at large in violation hereof.

Nuisance Cat - Any unowned free-roaming cat that is partially socialized or unsocialized to humans and tends to resist contact with humans, is not altered and habitually trespasses upon or

damages either private or public property or annoys or harms lawful users or occupants thereof.

Owner - Includes every person, firm, corporation or other entity having a right of property in any animal which is kept or harbored, or permitted, or suffered to be within the limits of the Borough of Shiremanstown, Cumberland County, Pennsylvania, as well as every person, firm, corporation or entity occupying any premises within the limits of the Borough of Shiremanstown, Cumberland County, Pennsylvania, permitting an animal to remain on or about his, her or its premises. Any person having a right of property in, having custody of or who harbors or permits an animal to remain on or around his or her property, including any person who provides care, including food, water, shelter, and medical care.

Person - A natural person, firm, partnership, association, corporation or similar legal entity.

Police Officer - Any person employed by the Borough whose duty it is to preserve peace or to make arrests or to enforce any law, including auxiliary policemen.

Stray Cat - Any cat whose owner or keeper from time to time allows the cat to run free of the property of the owner or keeper.

Trap, neuter and return (TNR) - A non-lethal approach to feral cat population control where feral cats are humanely trapped, sterilized, vaccinated, ear-tipped, and then returned to the location where they were originally trapped.

SECTION 4: Nuisances prohibited

A. It shall be unlawful for any owner to keep or harbor any domestic pet which habitually barks, howls, screeches, bays, or yelps incessantly or which in any way or manner unreasonably disturbs the peace and quiet of any person in the vicinity, or which disturbs or endangers the comfort, repose or health of persons in the vicinity. The keeping or harboring of any such domestic pet is hereby declared to be a nuisance.

It shall not be necessary to establish that any occurrence has lasted for any specific period of time in order to find a violation of this section. However, continuous making of any loud or harsh noise by a domestic pet for more than one-quarter

(1/4) hour on any one occasion shall give rise to the presumption that the domestic pet on the premises has disturbed the peace and quiet of persons in the vicinity and has disturbed or endangered the comfort, repose or health of persons in the vicinity. Such domestic pets are hereby declared a nuisance.

In any legal proceeding brought to prosecute an alleged violation of this section, if it shall be determined that a domestic pet has disturbed the peace and quiet of persons in the vicinity or has disturbed or endangered the comfort, repose or health of persons in the vicinity by unseemly noise as hereinbefore set forth, it shall be conclusively presumed that the owner of the domestic pet has permitted the occurrence to have happened.

B. No person shall allow the frequent and habitual disruption of the comfort, repose, or health of persons in the neighborhood by domestic pets.

C. It shall be unlawful for any owner to allow a domestic pet to defecate, in or upon any public street, sidewalk, walkway, public property or private property (other than that of the owner), unless the defecation is immediately removed from the public or private property by the owner or person in control of the domestic pet.

D. It shall be unlawful for any owner to allow a domestic pet to be harbored or kept in unsafe, offensive or unsanitary conditions so as to create offensive or foul odors or so as to create a danger, risk or infringement upon or to the health, safety, welfare, or comfort of its neighbors or the public.

E. It shall be unlawful for any owner to allow a domestic pet to scratch, dig, burrow, chew or otherwise damage any public or private property (other than that of the owner).

F. Any vision or mobility impaired person who relies upon a dog specifically trained for such vision or mobility impaired person shall be exempt from compliance with subsection "C" above.

SECTION 5: Running at Large - Dogs

A. No person shall permit any dog owned by him or under his supervision or control, to run at large at any time upon the public streets, alleys, highways, or public grounds of the

Borough, or upon the private property of any other person or upon any property other than property belonging to the owner of such dog or to a person under whose supervision or control of such dog is being kept. A dog must be firmly secured by means of a leash, cord, chain or other device so that it cannot stray, or must be accompanied by or under the reasonable control of some person.

B. Any police officer, law enforcement officer or other authorized official of the Borough is hereby authorized and empowered to seize and detain any dog which is found running at large in the Borough, or upon any property other than the property of the owner of such dog or the property of a person under whose supervision or control such dog is being kept, and which is unaccompanied by the owner or such other person when such police officer, law enforcement officer or authorized official of the Borough is in pursuit or the presence of such dog.

C. The provisions of this section shall apply to all dogs found running at large in violation of this section, irrespective of payment for or issuance of any license in respect to the dog involved.

D. The Borough Council is hereby empowered and authorized to engage the services of a qualified and suitable person to enforce the provisions of this section.

SECTION 6: Nuisance, stray or feral cats

A. It is unlawful to be the owner of a nuisance cat. Any owner of a cat causing a nuisance as defined below shall be in violation of this article and subject to the penalties herein. The following shall be deemed a nuisance in fact:

(i) Any cat which causes damage to the property of anyone other than the owner.

(ii) Any cat that is a vicious animal in that it may cause injury to any person/animal or property or may be a hazard to public safety.

(iii) Any cat which causes unreasonable fouling of the air by odors.

(iv) Any cat which causes unsanitary conditions in enclosures or surroundings.

(v) Any cat which defecates on any public property, sidewalk, park or building or on any private property without the consent of the owner of such property, unless the person owning, having a proprietary interest in, harboring, or having care, charge, control, custody, or possession of such animal shall immediately remove any such defecation to a proper trash receptacle.

(vi) Any cat which whines, calls or makes other disturbing noises in an excessive or continuous manner.

(vii) Any cat which attacks other domestic animals.

(viii) Any cat which is determined by the Borough of Shiremanstown Code Enforcement Officer to be offensive or dangerous to the public health, safety, or welfare.

B. It shall be unlawful for a person other than the owner to intentionally provide food, water, or other forms of sustenance or care to a nuisance cat, stray cat or feral cat without assuming full responsibility for the cat by providing the cat with continued humane treatment, which shall include proper food, water, shelter, veterinarian care, rabies vaccination, and alteration of the cat.

C. It shall be unlawful for the owner of any cat to permit such cat to run free outside the residence, whether on or off the property of its owner or keeper unless such cat has been:

(i) Neutered or spayed to prevent procreating; and

(ii) Immunized against rabies in compliance with Pennsylvania law.

D. It shall be unlawful for any person to create conditions that are attractive to wild animals such as skunks, rats, rodents, raccoons, opossums, or similar animals.

E. Upon receipt of a complaint by one or more persons alleging the presence of a possible nuisance, stray or feral cat, the Borough of Shiremanstown Code Enforcement Officer may investigate the complaint to determine if in fact the animal is a nuisance, stray or feral cat.

F. Upon determination by the Borough of Shiremanstown Code Enforcement Officer that the cat is a nuisance, stray or feral cat, the following action may be taken:

(i) The Borough of Shiremanstown Code Enforcement Officer may order the owner of a nuisance cat to have the animal altered at the owner's expense.

(ii) A citation or order may be issued to the owner of the nuisance cat for failure to comply with any applicable provision of this article.

(iii) The cat in question may be impounded. All costs associated with impounding, to include boarding fees, shall be the responsibility of the owner. Such costs shall be paid in full prior to the owner reclaiming the cat. If the owner fails to reclaim the cat, the owner shall still be responsible for such costs. Notice shall be provided to the owner and the procedure outlined in paragraphs 4 and 5 above shall be followed.

G. Animal welfare organizations may apply to the Borough for the purpose of serving as a sponsor of a TNR program. Sponsors appointed by the Borough shall undertake the following responsibilities:

(i) Register any feral cat colony managed within the Borough. Information submitted to the Borough shall include general location (neighborhood), number of feral cats and number of caretakers working with the colony; and

(ii) Record and report to the Borough, on an annual basis, the intake and disposition of each feral cat brought to their facility; and

(iii) Record and report to the Borough, on an annual basis, the number of members and number of sterilize members of each feral cat colony with the Borough which a TNR program has been implemented; and

(iv) Record and report to the Borough, on an annual basis, the number of kittens born into each feral cat colony within the Borough for which they have implemented a TNR program; and

(v) Address complaints received and forwarded from the Borough regarding caretaker behavior, and serve as an intermediary to address and, where possible, remediate the

behavior within a reasonable period of time, based on the matters at issue and utilizing Borough resources, if available.

SECTION 7: Residential Chickens

A. Permit Required

(i) Permit. No person, corporation, limited liability company, partnership or other entity shall raise, harbor or keep chickens within the Borough without having first obtained a valid permit to do so from the Borough. No fowl or poultry other than chickens may be kept, harbored or permitted to reside on real property situate in the Borough.

(ii) Application. In order to obtain a permit to raise, harbor or keep chickens, an applicant shall submit an application on the forms provided by the Borough.

(iii) Fees. An applicant for a permit shall pay, in full at the time of submission, a fee for such permit, which fee shall be set by resolution of Borough Council from time to time.

B. Permit requirements. In order for a permit to be issued, the following requirements must be met:

(i) All requirements of this article shall be met.

(ii) All fees related to issuance of a permit shall have been paid in full.

(iii) The tract of land on which the chickens are to be kept shall contain a single-or two-family dwelling only and shall be occupied and used as such.

C. Issuance of permit. The Borough shall issue a permit within thirty (30) days of receipt of the application and upon all requirements having been met. A Borough representative shall inspect the subject property prior to issuance or renewal of a permit and the applicant shall make the property available for such inspection.

D. Denial, suspension or revocation. The Borough may deny, suspend or revoke any permit issued hereunder for any of the following reasons:

i. Any false statements on any application or other information required to be given by the applicant or permit holder.

ii. Failure to pay any fee or penalty required by this article or resolution of Borough Council.

iii. Failure to correct deficiencies noted in violation notices within the time specified in such notice.

(iv). Failure to comply with any provision of this article

E. Notification. A decision to revoke, suspend or deny a permit shall be in writing, delivered by certified mail or in person to the address indicated on the application. If such certified mail is not picked up by the applicant, it may be sent by ordinary mail to the address provided by the applicant. Such notice shall state the reasons for the action.

G. Effect of revocation. When a permit is revoked an applicant may not reapply for a new or reissued permit for a period of two (2) years from the date of revocation.

H. Appeals. The revocation, suspension or denial of a permit may be appealed in writing to the Borough Council within thirty (30) days of such action. The appeal shall be heard at the next regularly scheduled meeting of the Borough Council following receipt of the written appeal. The written appeal shall set forth the basis for such appeal. A written decision of Borough Council shall be issued within thirty (30) days of hearing the appeal and such decision shall be deemed final and binding.

I. General Requirements: Number and gender of chickens allowed.

(i) A permittee shall be permitted a maximum of four (4) chickens per lot, regardless of the size of the lot.

(ii) No roosters are permitted. Only hens are allowed.

(iii) Chickens shall be permitted within any zoning district provided the conditions set forth herein have been met.

(iv) Noncommercial purposes. Chickens kept under this Section may be kept for personal use and consumption only and permittees shall not engage in any commercial sales, breeding or

other commercial endeavor with regard to the chickens or eggs generated thereby. The eggs must be for the owner's personal use and cannot be sold.

(vi) Chicken coops or enclosures. Chickens must be kept in a coop, enclosure or fenced area. No chicken coops, enclosures or fenced areas shall be permitted in the front or side yard of any lot.

(vii) A building permit shall be obtained for all chicken coops and fencing for containing the chickens. For the purpose of this subsection, a chicken coop will be considered an accessory building (not connected to main structure) under the zoning ordinance and must meet all regulations relating to accessory buildings in applicable Borough ordinances.

(viii) Coops, enclosures and fenced areas shall be kept in a clean, dry, odor-free, neat and sanitary condition. Coops and enclosures shall provide adequate ventilation and adequate sun/shade and must be reasonably impermeable to rodents, wild birds and predators, including dogs, cats, raccoons, and the like.

(ix) The control and safety of chickens shall be the responsibility of the permittee.

(x) Chickens shall be provided with access to feed and clean water. Feed and water shall be rendered inaccessible to rodents, wild birds and predators. Uneaten food shall be removed in a timely manner.

(xi) Manure shall be stored in a fully enclosed structure or watertight container. Storage of manure on a property shall be limited to a container equivalent to no more than a thirty (30) gallon garbage can at any one time. The coop, enclosure, fenced area and surrounding area shall be kept free of trash and accumulated feces. If the storage of manure is found to be a nuisance, the Borough reserves the right to further limit the manner or location of such storage.

(xii) Chickens shall not be permitted to roam off of the permitted tract of land. If the owner of the chickens fails to keep the chickens on his/her land, it will be grounds for the Borough to revoke the permit in addition to any other remedies set forth herein.

(xiii) A permittee shall take all action necessary to reduce the attraction of rodents and predators and the potential infestation of insects and parasites. A permittee shall remove or have treated any sick chickens or those found to be infested with parasites or insects.

(xiv) Dead chickens shall be removed and disposed of immediately upon discovery.

J. Violations. The following acts shall be deemed to be violations of this Section 11:

(i) The keeping of chickens without a permit or the keeping of chickens in violation of any provision of this article.

(ii) Permitting any owner, renter, lessee or other occupant of a property to keep chickens on a property in violation of this article.

(iii) Keeping chickens inside of any dwelling unit.

(iv) The slaughtering of chickens.

(v) Any person and/or owner violating any provisions of Article II shall be issued a notice of violation in accordance with Section 12, and if the violation is not corrected, a citation will be filed with the local magisterial district justice as outlined in accordance with Section 13, Violations and Penalties of this ordinance.

Section 8: NOTICES OF VIOLATIONS

A. Whenever a person (including a Borough police officer or official) shall complain to the Borough of Shiremanstown or Code Enforcement Officer concerning a violation of any provision hereof, the Code Enforcement Officer shall determine if the complaint is accurate and, if so, shall provide written notification the owner of the domestic pet that a complaint has been received and that the owner must immediately take whatever steps are necessary to terminate the offensive conduct (the "notice"). For purposes of this Section, notice to the owner of the domestic pet shall include written notice to the owner of the real property where a violation has occurred if the owner of the animal violating the Ordinance cannot be reasonably ascertained.

B. In the event the offensive conduct continues after the Code Enforcement Officer gives written notice as set forth in Subsection 3 (A), then, upon the filing of a written complaint by a resident, or the Code Enforcement Officer concerning the continued violation of this ordinance, then the Code Enforcement Officer shall, upon verification of the facts that form the basis of the complaint, issue to the owner a citation in accordance with Section 13, Violations and Penalties of this ordinance.

Section 9: VIOLATIONS and PENALTIES.

Any person who violates the provisions of this ordinance shall be subject to a summary criminal proceeding before the magisterial district justice as provided by the Pennsylvania Rules of Criminal Procedure, as may be amended from time to time. Upon finding of a violation, a fine shall be imposed of not less than \$100.00 nor more than \$500.00, together with court costs and reasonable attorney fees at the rate of \$100.00 per hour incurred by the Borough of Shiremanstown in prosecution of the violation. Any person who fails to pay the fines, court costs and attorney fees within thirty (30) days of the imposition thereof may be subject to imprisonment for a period of time not to exceed 15 days. Each day in which a violation occurs or continues shall be deemed a separate violation hereof.

Section 10: EFFECTIVE DATE. This Ordinance shall be effective on April 30, 2021.

Section 11: SEVERABILITY. In the event any provision, section, sentence, clause or part of this Ordinance shall be held invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance or other Ordinances affected by this Ordinance, it being the intent of the Borough of Shiremanstown that such remainder shall be and shall remain in full force and effect.

SECTION 12: RELATIONSHIP TO OTHER ORDINANCES. All other Ordinances, parts of Ordinances or parts of Resolutions inconsistent herewith shall be and the same expressly are repealed invalid or unconstitutional by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect; it being the legislative intent that this Ordinance shall remain in effect

notwithstanding the invalidity of any part.

ENACTED AND ORDAINED, this 8th day of March, 2021.

COUNCIL

Janna Colechio

APPROVED this 8th 2021.

CERTIFICATE

I, Janna E. Colechio, Secretary of the Borough of Shiremanstown, Cumberland County, Pennsylvania (the "Borough"), certify that: the foregoing is a true and correct copy of an Ordinance of the Council of the Borough of Shiremanstown (the "Council"), which duly was enacted by affirmative vote of a majority of the members of the Council at a meeting held on March , 2021; being approved by the Mayor on March , 2021; said Ordinance duly has been recorded in the Ordinance Book of the Borough; said Ordinance duly has been published as required by law; and said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough, this day of March, 2021 .

Janna E. Colechio, Secretary