

TOWNSHIP OF BART

ORDINANCE # 11-01-00

"AN ORDINANCE OF THE TOWNSHIP OF BART PROHIBITING THE KEEPING OF ANIMALS MAKING DISTURBING NOISES, PRESCRIBING PENALTIES FOR VIOLATION AND MAKING CERTAIN EXCEPTIONS."

SECTION I. INTENT

A. The Board of Supervisors have received numerous complaints concerning constant and incessant noises made by dogs and other animals, to the general detriment of the residents; and

B. The Board of Supervisors finds that excessive levels of sound by certain animals or birds 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, and hereby declares it to be necessary to provide greater control and more effective regulation of excessive animal or bird sounds within the Township; and

C. The intent of this Ordinance is primarily the control of excessive barking of dogs, but it shall also control excessive sound from any pet or pets, or birds, regardless if domestic or exotic in nature; and

D. The Board of Supervisors declares that excessive levels of sound can be and is a public nuisance.

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED by the Supervisors of Bart Township, Lancaster County, Pennsylvania, as follows:

SECTION II. ADMINISTRATION

For the purpose of administration and enforcement of this Ordinance the position of Animal Noise Officer, hereinafter 'Animal Noise Officer' shall be created and such Animal Noise Officer shall be appointed by and shall serve at the pleasure of the Board of Supervisors.

SECTION III. DEFINITION INTERPRETATION

For the purpose of this Ordinance, the terms and words listed in this Section shall have the meaning herein defined. Words not herein defined shall have the meanings given in the Webster's New Universal Unabridged Dictionary, 1996 Barnes & Noble Books Editions (ISBN0-7607-0288-8), and shall be interpreted so as to give this Ordinance its most reasonable application.

- A. Continuously: Marked by uninterrupted extension in time or sequence for time periods as described in Section IV below.
- B. Incessantly: Continuing or following without appreciable interruption.
- C. Intermittently: Coming and going at intervals.
- D. Recurrently: Happening time after time, or at various intervals.
- E. Disturbance: What a reasonable person under normal circumstances would consider to be disturbing in that it creates an uncomfortable situation not unique to that person's particular sensibilities, but would be uncomfortable to a normal person under such circumstances.

SECTION IV. NOISE DISTURBANCE PROHIBITED

- A. It shall be illegal within the Township for any person or persons to own, possess, harbor, maintain, or be a custodian of any animal or bird which makes any noise continuously and/or incessantly for a period of fifteen consecutive minutes or makes such noise recurrently or intermittently (within the same twelve (12) hour period) for thirty (30) minutes or more, to the disturbance of any person at any time of the day or night, regardless of whether the animal or bird is physically situated in or upon private property.
- B. Such noise is hereby declared to be a nuisance;
- C. Notwithstanding the foregoing, such noise shall not be illegal if at the time the animal or bird is making such noise a person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or there is any other legitimate cause which justifiably provoked the animal or bird.

SECTION V. EXCEPTIONS

- A. This ordinance shall not be deemed to prohibit or otherwise declare unlawful any agricultural operations protected from nuisance suits by Act No. 1982-133. However dogs or birds

sounds on farms shall not be excluded from the provisions of this ordinance simply because they are owned by the proprietor or operator of an agricultural operation.

B. This ordinance shall not apply to owners or operators of dog training and special retriever training areas during daylight hours licensed by the Pennsylvania Game Commission; provided, that the owners and operators of the training areas were and remain in compliance with any applicable noise control laws or ordinances at the time the permit for establishment of the training area was authorized by the Commission.

C. In addition, this Ordinance shall not apply to licensed kennels, veterinarians, and or dog grooming operations from one hour before sunrise to one hour after sunset.

SECTION VI. PETITIONS COMPLAINING OF ANIMAL NOISES

A. Whenever any person shall complain in writing, in person, or by phone to the Animal Noise Officer that an animal or bird is causing a prohibited noise as described in Section IV above, the Animal Noise Officer shall notify the owner or custodian of the said animal or bird that a complaint has been received and that the owner or custodian must take whatever steps necessary to eliminate the alleged offense. Within five (5) days, the owner or custodian of the offending animal or bird shall be handed a written notice of alleged violation by the Animal Noise Officer.

B. If the Notice of Violation given to the person keeping the allegedly offending animal or bird as set forth above is ineffective, then a verified complaint of at least two (2) citizens must be presented to the Animal Noise Officer by the offended party(ies). The Animal Noise Officer shall inform the owner or custodian of such animal or bird, in person or by certified letter, return receipt requested, that said petition has been received and may cite the owner or custodian of the same for the violation alleged in the said complaint.

SECTION VII. DOCUMENTATION

For purposes of documentation and convenience of same the Township will provide upon request in person, free of charge, during established office hours, a form to document a noise disturbance as described in Section IV of this Ordinance.

SECTION VIII. SUPERVISOR APPROVAL

It is hereby established that the Animal Noise Officer shall obtain approval from the Board of Supervisors before filing charges.

SECTION IX. HEARING APPEARANCE

A. It is noted that appearance by an offended party(ies) at any Hearing for the purpose of possible prosecution for alleged

violation of this Ordinance will be necessary.

B. 1. In the event the offended party(ies) indicates unwillingness to cooperate as a witness for the said purpose of enforcing this Ordinance, the Township shall not receive any further complaints from such person concerning such animal or bird.

2. Notwithstanding the foregoing, nothing contained herein shall preclude the Township from initiating or prosecuting proceedings on its own.

SECTION X. OWNERSHIP

Animal or bird ownership shall be rebuttably presumed, for the purpose of enforcing this Ordinance if one or more of the following means is established:

- A. Any applicable licenses.
- B. Admission of ownership or guardianship by a person.
- C. Observance by a witness that the offending animal or bird is tied, restrained, or free to roam on or from a particular property for a period of time, continually or intermittently, of at least, but not necessarily restricted to five (5) or more days (in which case the animal or bird shall be presumed to be owned by the record property owner unless the property is leased, then by the lessee).
- D. Witnessing by more than one (1) person, and/or the Animal Noise Officer, of feeding of alleged offending animal or bird for at least two (2) or more times or days upon or within the same particular property from which the offending noise allegedly emanates.

SECTION XI. PENALTIES

Any person, partnership, corporation, or any other legally recognized entity who or which violates any provision of this Ordinance shall, upon summary conviction thereof, be fined not less than Fifty Dollars (\$50.00) and not more than Six Hundred Dollars (\$600.00) for any single violation of this Ordinance, together with the cost of prosecution. Each day's continuance of the offense following notice thereof shall constitute a new violation.

SECTION XII. OTHER REMEDIES

In addition to any other remedies provided in this Ordinance, any violation of the provisions of this Ordinance

shall constitute a nuisance and may be abated by the Township by seeking appropriate equitable relief from a court of competent jurisdiction.

SECTION XIII. 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 Supervisors of Bart Township that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included therein.

SECTION XIV. EFFECTIVE DATE

This ordinance shall become effective five (5) days after adoption by the Board of Supervisors of Bart Township.

ORDAINED AND ENACTED this 1ST day of
November, 2000.

BOARD OF SUPERVISORS OF BART TOWNSHIP

Calvin D. Keene

Joseph J. Zehr

R. Edm. Harvick

ATTEST:

Valerie L. Keene

(SEAL)

CERTIFICATION

I hereby certify that the foregoing ordinance was advertised in the Ledger Newspapers, on September 21, 2000, a newspaper of general circulation in the municipality, and was duly enacted and approved as set forth at a Meeting of the Board of Supervisors of Bart Township held on November 1st, 2000.

Signed: Valeria L. Keene
Valeria L. Keene, Secretary

SEAL