

BOROUGH OF AVALON

ORDINANCE NO. 1321

AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY, PROHIBITING THE PRIVATE POSSESSION AND/OR BREEDING OF EXOTIC ANIMALS BY PERSONS NOT IN POSSESSION OF THESE ANIMALS AFTER THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, Section 1202 of the Borough Code grants Avalon the power to make those regulations necessary for the health, safety, general welfare, beauty, and cleanliness of the Borough; 53 P.S. § 46202(6) and

WHEREAS, The Borough Code has vested Council with the power to regulate the foregoing;

NOW THEREFORE BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Council of the Borough of Avalon, County of Allegheny, Pennsylvania, as follows:

SECTION 1: INTENT

The Borough of Avalon intends to protect the public against the health and safety risks that exotic animals pose to the community and to protect the welfare of the individual animals held in private possession. By their nature, exotic animals are wild and potentially dangerous; as such, they do not adjust well to a captive environment.

SECTION 2 : DEFINITIONS

A. "Animal Control Authority" means any animal control agency contracted by the Borough of Avalon to conduct animal control.

B. "Exotic Animal" means those species of animals that are exotic to humans—meaning that the animal is of a wild or predatory nature and which, because of its size, vicious nature, and/or other characteristics would constitute an unreasonable danger to human life or property. "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. Exotic animals include any or all hybrids. The animals listed in parentheses are intended to act as merely

examples. These examples are not to be construed as an exhaustive list and nor are the examples to be construed as a generality of each group of animals, unless otherwise specified:

1. Class Mammalia
 - a. Order Artiodactyla (hippopotamuses, giraffes, camels, deer but not cattle, swine, sheep, or goats)
 - b. Order Carnivora
 - (1) Family Felidae (lions, tigers, cougars, leopards, ocelots, and servals but not domestic cats)
 - (2) Family Canidae (wolves, coyotes, foxes, and jackals but not domestic dogs)
 - (3) Family Ursidae (all bears)
 - (4) Family Mustelidae (weasels, skunks, martins, minks but not ferrets)
 - (5) Family Procyonidae (raccoons and coatis)
 - (6) Family Hyaenidae (hyenas)
 - (7) Family Viverridae (civets, genets, and mongooses)
 - c. Order Edentalia (anteaters, armadillos, and sloths)
 - d. Order Marsupialia (opossums, kangaroos, and wallabies but not sugar gliders)
 - e. Order Perissodactyla (rhinoceroses and tapirs but not horses, donkeys, or mules)
 - f. Order Primates (lemurs, monkeys, chimpanzees, gorillas, and orangutans)
 - g. Order Proboscidae (elephants)
 - h. Order Rodentia (squirrels, beavers, and porcupines but not guinea pigs, rats, mice, gerbils, or hamsters)

2. Class Reptilia

a. Order Squamata

(1) Family Varanidae

(2) Family Boidae (all species whose adult length has the potential to exceed fifteen (15) feet in length)

(3) Family Colubridae (only boomslangs and African twig snakes)

(4) Family Elapidae (coral snakes, cobras, mambas, etc.)

(5) Family Viperidae (copperheads, cottonmouths, rattlesnakes, etc.)
- All species

(6) Family Chelydridae (snapping turtles) - all types

b. Order Crocodilia (crocodiles, alligators, caimans, gavials, etc.) - All species

3. Class Actinopterygil

a. Order Characiformes

(1) Family Characidae (red bellied piranhas)

C. "Person" means any individual, partnership, corporation, organization, trade or professional association, firm, limited liability company, joint venture, association, trust, estate, or any other legal entity. "Person" includes any officer, member, shareholder, director, employee, agent, and/or representative thereof.

D. "Possessor" means any person who owns, possesses, keeps, harbors, brings into the Borough of Avalon, has in one's possession, acts as a custodian, or has custody or control of a exotic animal.

E. "Wildlife Sanctuary" means a non-profit organization described in section 170(b)(1)(A)(vi) of the Internal Revenue Code 1986, and its subsequent amendments, that operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced exotic animals are provided care for their lifetime or are released back to their natural habitat. To qualify as a "Wildlife Sanctuary," the organization must not do any of the following:

1. Conduct any activity that is not inherent to the animal's nature;

2. Use the animal for any type of entertainment;
3. Sell, trade, or barter the animal or the animal's body parts; or
4. Breed the animal for any purpose.

SECTION 3: KEEPING OF EXOTIC ANIMALS PROHIBITED

A. It shall be unlawful for any person to own, possess, keep, harbor, bring into the Borough of Avalon, have in one's possession, act as a custodian, or have custody or control of an exotic animal, except in compliance with this Ordinance.

B. It shall be unlawful for a person to breed an exotic animal.

SECTION 4: EXEMPTIONS

A. The provisions of this Ordinance shall not apply to any of the following:

1. Institutions accredited by the American Zoo and Aquarium Association (AZA) or under mentorship through the AZA;
2. Duly incorporated non-profit animal protection organizations housing an exotic animal at the written request of the animal control authority;
3. Animal control or law enforcement agencies or officers acting under the authority of this Ordinance;
4. Licensed veterinary hospitals or clinics;
5. Any wildlife sanctuary as defined under section 2E. of this Ordinance;
6. Any licensed or accredited research or medical institution;
7. Any licensed or accredited educational institution;
8. Any lawfully operated circus, carnival, or rodeo;
9. A person temporarily transporting an exotic animal through the Borough of Avalon so long as the transit time is not more than 48 hours, and the animal is at all times maintained within a confinement sufficient to prevent the exotic animal from escaping; or
10. Any person or facility licensed as an exhibitor or breeder by the United States Department of Agriculture (USDA) under the Animal Welfare Act.

SECTION 5: PERSONAL POSSESSION PERMIT REQUIRED FOR POSSESSOR

A. Unless a person qualifies for an exemption under section 4A. of this Ordinance, a person may not own, possess, keep, harbor, bring into the Borough, have in one's possession, act as a custodian, or have custody or control of an exotic animal---unless that person holds a Personal Possession Permit for that animal, as preliminarily approved by the authority and ultimately issued by Borough Council. A person may obtain a Personal Possession Permit for an exotic animal only if all of the following criteria are met:

1. The person was in legal possession of the exotic animal **prior** to the effective date of this Ordinance and is the legal possessor of the exotic animal; and
2. The person applies for and is granted a Personal Possession Permit for each exotic animal in the person's possession by the Borough of Avalon, as set forth in section 5C. of this Ordinance.

B. Persons who meet the requirements set forth in subsection A of this section shall annually obtain a Personal Possession Permit. However, from and after the effective date of this Ordinance, **no new exotic animal shall be brought into possession under the authority of a Personal Possession Permit.**

C. A first time applicant or an applicant seeking a renewal of a Personal Possession Permit shall first file an application to receive a Personal Possession Permit with the animal control authority on forms provided by the animal control authority. The application shall include all of the following for review by the authority:

1. A "Written Statement" which sets forth the following information:
 - a. The name, address, telephone number, and date of birth of the applicant;
 - b. Whether this is a first time application or a renewal application;
 - c. A description of each exotic animal the applicant possesses, including the scientific name, name, sex, age, color, weight, and any distinguishing marks or coloration that would aid in the identification of the animal;
 - d. A photograph of the exotic animal;
 - e. The exact location where the exotic animal being kept;
 - f. The names, addresses, and telephone number of the person (if known) from whom the applicant obtained the exotic animal;

g. The microchip number of the exotic animal, excluding exotic animals exempted under section 7 of this Ordinance; and

h. The name, address, and telephone number of the veterinarian providing veterinary care to the exotic animal and a certificate of good health from the possessor's veterinarian.

2. In addition to the Written Statement, the applicant must present to the animal control authority a "Certified, Notarized Statement" confirming all of the following:

a. The applicant is eighteen (18) years of age or older;

b. The applicant has not been convicted of or found responsible for violating a local or state law prohibiting cruelty, neglect, or mistreatment of an animal or has not, within the past ten (10) years, been convicted of a felony or been convicted for the possession, sale, or use of illegal narcotics;

c. The facility and the conditions in which the exotic animal is kept are in compliance with this Ordinance;

d. The applicant has regularly provided veterinary care to the exotic animal when needed and will provide such care in the future; and

e. Proof that a licensed veterinarian, pursuant to section 8 of this Ordinance, has spayed or neutered the exotic animal;

3. When filing the application, the applicant must also submit his/her "Plan for the Quick and Safe Recapture of the Exotic Animal if the Exotic Animal Escapes."

4. When filing the application, the applicant must submit a copy of the policy for liability insurance, as well as a declaration sheet evidencing and confirming the coverages available and the coverage period.

5. An applicant must provide any additional information the animal control authority may deem necessary to carry out the provisions of this Ordinance.

D. A Personal Possession Permit shall **not** be granted unless the animal control authority finds that all of the requirements in section 5C, including its paragraphs and subparagraphs, have been met.

E. The authority must provide written notice of the preliminary approval within ten days of the applicant submitting all of the requisite material listed in section 5C. of this Ordinance. If the tenth day falls on a Sunday or a legal holiday, then the next business day will qualify as the tenth day.

F. If the animal control authority preliminarily approves of issuing a Personal Possession Permit, final approval for the issuance of the Permit must be made by Avalon Borough Council within 30-days of the authority's approval, at the next, regularly scheduled, legislative Council Meeting. In order for Borough Council to approve of issuing the Permit, all of the following conditions must be satisfied:

1. The applicant must conspicuously post a sign on his/her premises where the exotic animal is to be kept. The sign, as provided by the animal control officer, shall provide notice of the application. This sign must also describe the type of exotic animal being kept on the premises, and the date, time, and place that the Borough hearing will occur to approve or reject the application. The sign must be posted for two consecutive and uninterrupted weeks prior to the Borough hearing. If there are homes to the rear of the premises at which the exotic animal is kept, then the sign must be posted for two consecutive and uninterrupted weeks at the rear of the property, prior to the Borough hearing; this is in addition to posting at the front of the property.

2. The Borough, at the applicant's expense, must advertise the same information contained in the section 5F1. notice/sign in a newspaper of general circulation in the Borough for two consecutive weeks prior to the Borough hearing at which the decision whether to approve or reject the application will be held; and

3. A designated official from animal control must appear to offer his/her recommendation as to whether Borough Council should approve or reject this application. While the recommendation from animal control is not binding, it is highly persuasive;

4. The decision to approve or reject the application must occur at the legislative meeting, unless the applicant, animal control, and Borough Council deem otherwise.

G. If the Borough approves that the Permit shall be issued, then animal control shall establish and charge reasonable fees for the application, the issuance (including the renewal of a Personal Possession Permit) in order to recover the costs associated with the administration and enforcement of this Ordinance. The fee charged to an applicant may not exceed **\$25.00** for each animal for which a Permit is sought. The fees collected under this section may be used only to administer and enforce this Ordinance.

H. If the Borough rejects the application, then the applicant will have 30-days from the date of the rejection, whether occurring at or after the legislative meeting, within which to file an appeal with the local District Justice.

I. If issued, the actual Personal Possession Permit shall set forth all of the following information:

1. The name, address, telephone number, and date of birth of the permit holder;
2. The address, if different than above, where the exotic animal(s) are kept;
3. The name, number of animals, sex, species, age of the exotic animal(s), and any distinguishing marks or coloration that would aid in the identification of the animal;
4. The identification number as required under section 7, if applicable.
5. The name, address, and telephone number of the veterinarian who provides veterinary care to the exotic animal(s) named on the Permit; and
6. Any other relevant information the animal control authority may deem necessary.

J. If a person can no longer care for his/her exotic animal, that person, upon approval by the authority, may transfer his/her exotic animal to another person currently holding a valid Personal Possession Permit.

K. The animal control authority shall keep records of who is carrying a valid Permit. A Permit holder shall notify the animal control authority of any changes in the stated information on the Permit; this includes, but is not limited to, the death of the exotic animal.

SECTION 6: REVOCATION OF PERSONAL POSSESSION PERMIT

The Personal Possession Permit shall terminate under any of the following circumstances:

- A. Upon the death of the animal;
- B. Upon the death of the Permit holder;
- C. Upon the relocation of the Permit holder or the animal to an address or site outside the Borough; or
- D. If the Permit Holder has pled guilty to or been convicted of an infraction of this Ordinance

Upon the termination of the Permit, the former Permit holder or the holder's heirs or successors in interest shall do either of the following:

- A. Immediately release the animal to animal control, where the animal may be euthanized through any lawful and humane means; or

B. Immediately transfer the animal to a lawfully exempt agency, as set forth in this Ordinance—provided that this agency has agreed, in writing, to accept the animal, and proof of this acceptance is provided to animal control by the possessor.

SECTION 7: IDENTIFICATION NUMBER

Every exotic animal must be implanted with a microchip, at the expense of the possessor, by or under the supervision of a veterinarian. This provision does not apply to an exotic animal if a veterinarian determines that the implant of a microchip would endanger the well-being of the exotic animal.

SECTION 8: SPAYING OR NEUTERING

Every exotic animal must be spayed or neutered, at the expense of the possessor, by a veterinarian. This provision does not apply to an exotic animal if a veterinarian determines that the spay or neuter procedure would endanger the well-being of the exotic animal.

SECTION 9: CAGING REQUIREMENTS AND STANDARDS FOR EXOTIC ANIMALS

For each exotic animal, the possessor shall comply with AZA's Minimum Husbandry Guidelines for animal care and maintenance of that animal.

SECTION 10: CARE AND TREATMENT OF EXOTIC ANIMALS HELD UNDER A PERSONAL POSSESSION PERMIT

A. An exotic animal shall not be tethered, leashed, chained outdoors, or allowed to roam at large. Rather, an exotic animal must be securely enclosed at all times in a manner appropriate for the character of the animal.

B. An exotic animal shall not be mistreated, neglected, abandoned, and/or deprived of necessary food, water, and sustenance.

C. A person transporting an exotic animal in a vehicle shall keep the animal securely caged in the vehicle at all times.

D. Each person shall have a plan for the quick and safe recapture of the exotic animal if the exotic animal escapes. If recapture is impossible, then a plan must be in place for the destruction of the exotic animal held under a Personal Possession Permit.

E. The possessor shall contact the animal control authority, a wildlife sanctuary as defined under this Ordinance, or an AZA accredited facility if the possessor can no longer care for the exotic animal prior to euthanasia of the exotic animal. Ultimately, the

possessor has the duty to advise animal control that it can no longer care for the exotic animal.

SECTION 11: INSURANCE; SIGNS; AND NOTIFICATION

A. A possessor of an exotic animal shall maintain liability insurance coverage in an amount of not less than two hundred and fifty thousand dollars (\$250,000.00) for each occurrence for liability damages for destruction of or damage to property and death or bodily injury to a person caused by the exotic animal. The possessor of an exotic animal shall provide a copy of the policy for liability insurance, as well a declaration sheet evidencing and confirming the coverages available and the coverage period, to the animal control authority on an annual basis.

B. The possessor of an exotic animal shall have continuously posted and displayed at each possible entrance onto the premises where an exotic animal is kept a conspicuous sign, clearly legible, and easily readable by the public warning that there is an exotic animal on the premises. In addition, the possessor shall conspicuously display a sign with a warning symbol that informs children of the presence of an exotic animal. The animal control authority shall prescribe the exact content and size of the sign.

C. If any exotic animal unintentionally escapes, the possessor of the exotic animal shall immediately contact a law enforcement officer of Avalon Borough to report the escape or release. The possessor is liable for all expenses associated with efforts to recapture the animal and will defend and indemnify the Borough from any damages and/or losses, whether to property or person, resulting from the release of the animal.

D. No person may intentionally release an exotic animal. If an exotic animal is intentionally released, the possessor is liable for all expenses associated with efforts to recapture the animal and will defend and indemnify the Borough from any damages and/or losses, whether to property or person, resulting from the release of the animal.

SECTION 12: PUBLIC CONTACT

The Permittee shall not bring an exotic animal to any public property or a commercial or retail establishment, unless the Permittee is bringing the animal to a licensed veterinarian or a veterinarian clinic.

SECTION 13: ENFORCEMENT OF ORDINANCE

The animal control authority, its staff, its agents, and the Avalon Police Department are authorized and empowered to enforce the provisions of this ordinance.

SECTION 14: INSPECTION

The possessor of an exotic animal, at all reasonable times, shall allow the animal control authority, its staff, and its agents to enter the premises where the animal is kept to ensure compliance with this Ordinance.

SECTION 15: DENIAL OF PERSONAL POSSESSION PERMIT

A. If the animal control authority finds that an applicant for an original or renewal of a Personal Possession Permit does not meet the requirements set forth in section 5 of this Ordinance, as well as its subsections, paragraphs, and subparagraphs, the animal control authority shall deny the applicant a Personal Possession Permit and give the applicant written notice of the denial and the reasons for the denial. Written notice of the denial must be provided within ten days of the applicant submitting all of the requisite material listed in section 5 of this Ordinance. If the tenth day falls on a Sunday or a legal holiday, then the next business day will qualify as the tenth day.

B. If the animal control authority finds that a person has not complied with any section of this Ordinance, the animal control authority may suspend or revoke the Personal Possession Permit and give the possessor written notice of the suspension or revocation and the reasons for the suspension or revocation.

C. A person who is denied an initial Personal Possession Permit, denied a renewal of a Personal Possession Permit, has had a Permit suspended or revoked, or is denied the transfer of the animal to another person having a valid, Personal Possession Permit, may appeal this decision to Borough Council. This appeal shall involve all of the same notice requirements set forth in section 5F., 1- 4. Similarly, if the Borough rejects the issuance of an initial Permit, a renewal, or the possessor's appeal of a suspension or revocation, then the applicant will have 30-days from the date of the rejection, whether occurring at or after the legislative meeting, within which to file an appeal with the local District Justice.

SECTION 16: CONFISCATION OF DISPOSITION OF EXOTIC ANIMALS

A. The animal control authority may immediately confiscate any exotic animal if the animal is kept in contravention of this Ordinance. This confiscation power includes the duty of the authority to confiscate the animal if an initial application for a Personal Possession Permit is rejected, a renewal application is rejected, or the Permit is suspended or revoked. The possessor is liable for the costs of placement and care for the exotic animal from the time of confiscation until the time of return to the possessor or until the time the animal has been relocated to an approved facility, such as a wildlife sanctuary, as defined under this Ordinance, or an institution accredited by the AZA.

B. If an exotic animal is confiscated due to the animal being kept in contravention of this Ordinance, the possessor must post a security bond or cash with the animal control

authority in an amount sufficient to guarantee payment of all reasonable expenses expected to be incurred in caring and providing for the animal. This bond or cash includes but is not limited to the estimated cost of feeding, medical care, and housing for at least thirty (30) days. The security bond or cash shall not prevent the animal control authority from disposing of the animal at the end of the thirty (30) days, unless the person claiming the animal posts an additional security bond or cash with the animal control authority to secure payment of all reasonable expenses expected to be incurred in caring and providing for the animal for an additional thirty (30) days; this posting must be done prior to the expiration of the first thirty (30) day period. A failure to meet this posting requirement may result in the animal being euthanized. The amount of the security bond or cash shall be determined by the animal control authority and will be based on the current rate to feed, provide medical care, and house the animal. The possessor cannot recover the cost of the bond or cash.

C. If the possessor of a confiscated exotic animal cannot be located or if a confiscated exotic animal remains unclaimed, then animal control authority may contact an approved facility, such as a wildlife sanctuary, as defined under this Ordinance, or an institution accredited by the American Zoo and Aquarium Association (AZA). Alternatively, the authority may allow the animal to be adopted by a person who currently possesses a Personal Possession Permit, or it may euthanize the animal.

D. If the exotic animal cannot be taken up or recaptured safely by the animal control authority or if proper and safe housing cannot be found, the animal control authority may immediately euthanize the animal.

E. An exotic animal may be returned to the possessor only if, to the satisfaction of the animal control authority, the possessor has a Personal Possession Permit, has corrected the conditions resulting in the confiscation, and has paid in full the costs of placement and care of the animal while under the care and control of the animal control authority.

SECTION 17: PENALTIES

Any person violating any provision of this Ordinance shall, upon conviction, be fined no more than three hundred dollars (\$300.00) plus court costs and, in default of payment of these fines and costs, to a term of imprisonment not to exceed thirty (30) days.

SECTION 18: EFFECTIVE DATE

A. This Ordinance takes effect within 60-days from the date it is signed into law.

B. The day this Ordinance takes effect, the animal control authority shall implement and administer the prohibitions of the keeping of exotic animals under this Ordinance. This includes, but is not limited to, the creation of the Personal Possession Permit program established by section 5 of this Ordinance, orders relating to the applications for Personal

Possession Permit and renewals, fees for the permit, and the form and content of the application and posting notices/signs.

C. A person must obtain a Personal Possession Permit, as required by section 5 of this Ordinance, within six months from the date this Ordinance takes effect.

SECTION 19: SEVERABILITY

If any part of this Ordinance is found to be unconstitutional or unenforceable it shall not affect the constitutionality or enforceability of any other part.

SECTION 20: REPEALER

Any Ordinance or part thereof conflicting with any provision of this Ordinance is hereby repealed insofar as the same affects this Ordinance.

ATTEST:

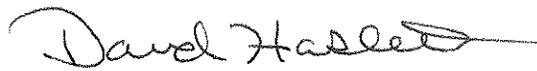


Harry W. Dilmore,
Borough Secretary



Edward Klicker,
President of Council

EXAMINED AND APPROVED this ____ day of _____, 2008.



David Haslett, Mayor of Avalon Borough

AVALON BOROUGH
640 California Avenue
Avalon, PA 15202
(412) 761-5820
Fax: (412) 761-5953

**WILD, EXOTIC, OR POISONOUS
ANIMAL PERMIT APPLICATION**
AVALON BOROUGH ORDINANCE # _____

PERMIT YEAR 2008

Initial Application - \$25.00

Renewal Application - \$15.00

The following application must be completed and signed before a permit for the possession of the animal(s) described hereon will be issued. This permit is valid for one year and must be renewed by January 31st of each year.

Owner(s) / Custodian(s) Name: _____

Mailing Address of Owner: _____

Physical Address of Owner: _____

Owner's Home Phone: _____ Work Phone: _____

Owner's Pager / Cell Phone: _____

Emergency Contact Person: _____

Physical Address of Contact Person: _____

Contact Person Home Phone: _____ Work Phone: _____

"Animal Permit Application" has been completed and approved:

Animal Control Officer's Name: _____

Signature: _____

Date: _____

Permit Number: _____

List type of verifiable documentation that animal was brought into this country legally (use other side of form if required):

Veterinarian's name, address and phone number who certified the animal is disease free (use other side of form if required):

What type of pen, cage or enclosure does animal(s) have to ensure its and the publics safety?

What type of insurance or surety bond in the amount of \$50,000.00 has the owner provided?

Insurance _____ Bond _____

Insurance Company; _____

Address; _____

Phone Number; _____

Confirmed Yes _____ No _____

AVALON BOROUGH
640 California Avenue
Avalon, PA 15202
(412) 761-5820

Exotic Animal Application
PERMIT YEAR 2008

WILD, EXOTIC, OR POISONOUS ANIMAL PERMIT - AVALON BOROUGH
ORDINANCE # _____

“Statement of Responsibility”

I, _____, certify that I have read and understand Avalon Borough Ordinance # _____, and I agree to comply with all of the requirements of this law. I also acknowledge the possible consequences if I fail to meet any of the conditions of this Ordinance.

(Signature)

(Name)

(Address)

Phone)