

BOROUGH OF AVALON

ORDINANCE NO. 1251

AN ORDINANCE OF THE BOROUGH OF AVALON, ALLEGHENY COUNTY, COMMONWEALTH OF PENNSYLVANIA, TO BE KNOWN AS THE BOROUGH OF AVALON DOG ORDINANCE, PROVIDING FOR THE REGULATION AND MAINTENANCE OF DOGS IN THE BOROUGH OF AVALON; PROVIDING DEFINITIONS; FINDING AS WELL AS ESTABLISHING ACTS WHICH CONSTITUTE A PUBLIC NUISANCE; AUTHORIZING ENFORCEMENT OF ORDINANCE; PROVIDING FOR PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ALL INCONSISTENT ORDINANCES.

The following are the findings of Borough Council of the Borough of Avalon:

WHEREAS, pursuant to 53 P.S. 46202(13), the Borough of Avalon is vested with the authority to enact ordinances relating to the regulation and maintenance of dogs, cats and other animals and prescribe penalties for the violation thereof; and

WHEREAS, certain dogs have been viewed as constituting nuisances, at least where they are ferocious, run at large, have the habit of jumping and biting at children or other people, and for various public sanitary reasons; and

WHEREAS, pursuant to the Borough Code, the Borough of Avalon is authorized to prohibit and regulate by ordinance the running of dogs, cats and other animals at large; and

WHEREAS, pursuant to 53 P.S. 46202(6), of the Borough Code, the Borough of Avalon is authorized to enact such regulations as may be necessary for the health, safety, general welfare and cleanliness and the beauty, convenience and comfort of the Borough, including the accumulation of manure and excrement; and

WHEREAS, Council of the Borough of Avalon finds that it is in the best interest of the health, safety and welfare of the citizens of the Borough of Avalon to provide for the enforcement of the Pennsylvania Dog Law, the Act of December 11, 1996, P.L. 943, No. 151, 2,3 P.S. 459-101, et. Seq.; and

WHEREAS, the keeping of dogs may be a public nuisance by reason of their howling, barking and whining, the stench they cause, unsanitary conditions in which they are kept, or their disturbing of people in the reasonable use and enjoyment of property when any of these factors cause annoyance, discomfort or injury to the health or welfare of persons; and

WHEREAS, Council of the Borough of Avalon finds that the removal of dog excrement and its disposal in a sanitary manner is necessary to safeguard the health and well-being of the citizens of the Borough of Avalon.

SECTION 1: ENACTING CLAUSE.

Be it ordained and enacted by the Council of the Borough of Avalon and it is hereby ordained and enacted by the authority of the same, that from and after the effective date of this Ordinance, the following Ordinance shall be in full force and effect in the Borough of Avalon.

SECTION 2: SHORT TITLE.

This Ordinance shall be known as the Borough of Avalon Dog Ordinance.

SECTION 3: CONFLICT WITH OTHER ORDINANCES OR REGULATIONS.

All Ordinances or parts of Ordinances conflicting herewith are hereby repealed.

SECTION 4: PURPOSE & INTENTION OF ORDINANCE.

This Ordinance is adopted to regulate dogs in the Borough of Avalon, to require the removal of dog excrement and its disposal in a sanitary manner, and to protect the health, safety and welfare of the residents and public in the Borough of Avalon. Moreover, it is the purpose and intent of this Ordinance to establish reasonable and uniform regulations to prevent the unsanitary accumulation of animal excrement on public and private property within the Borough.

SECTION 5: RULES OF CONSTRUCTION.

In the construction of this Ordinance, the rules and definitions contained in this Section shall be observed and applied, except when the context clearly indicates otherwise:

- A. Words used in the singular shall include the plural, and the plural the singular.
- B. Words used in the present tense shall include the future tense.
- C. The word "shall" is always mandatory and not discretionary.
- D. The word "may" is permissive.

SECTION 6: DEFINITIONS.

BOROUGH: The Borough of Avalon.

DOG: The genus and species known as *Canis familiaris*.

EXCREMENT: Waste matter discharged from the body, especially the feces.
Defecation.

OWNER: When applied to the proprietorship of a dog, included every person having a right of property in such dog, and every person who keeps or harbors such dog or has it in his care, control or custody as well as every person who permits such dog to remain on or about any premises occupied by him.

PERSON: Shall mean an individual, proprietorship, partnership, corporation, association, or other legal entity. Masculine words shall include the feminine and neuter.

POLICE OFFICER: Any person employed by the Borough of Avalon whose duty is to preserve peace or to make arrests or to enforce the law.

PUBLIC PLACE: A place in the Borough of Avalon in this Commonwealth to which the general public has a right to resort. A public place need not be a place devoted solely to use by the public but may be a place which is visited by many persons on a regular basis and is usually assessable to the neighboring public. A public place shall also include a place to which the public or a substantial group has access; among the places included are streets, sidewalks, highways, roads, alleys, parks, places of business or amusement, apartment houses, neighborhoods or any premises which are open to the public.

SERVICE DOG: Any dog which has been trained as a guide dog, signal dog, or has been trained to do work or perform tasks for the benefit of an individual with a disability, including but not limited to guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, pulling a wheelchair or fetching dropped items.

SECTION 7: AUTHORITY TO ENFORCE:

All police officers of the Borough of Avalon shall be authorized to enforce the provisions of this Ordinance as well as the Dog Law of the Commonwealth of Pennsylvania.

SECTION 8: RESTRAINT REQUIRED.

All dogs on public property or on property beyond the property of the owner, shall be kept under restraint by the owner either by leash, not to exceed (8) feet in length or held by the owner or a responsible person or his agent, or be kept within the exclusive premises of the owner. Violations of this provision shall be deemed, in addition to the provisions of the Pennsylvania Dog Law, a public nuisance of the Borough of Avalon when such dog is not under restraints as required by the provisions of this section.

SECTION 9: EXCESSIVE AND CONTINUOUS BARKING, CHASING PERSONS AND VEHICLES, TRESPASSING.

It shall be the duty of an owner, his agent or any person who has a dog in his care, control or custody in the Borough to prevent his dog from barking unreasonably, excessively or continuously, from molesting passerbys, from chasing motor vehicles or bicycles, from attacking other domestic animals or from trespassing upon public or private property and such acts shall be deemed to be a public nuisance and a violation of this Ordinance.

SECTION 10: INOCULATION AGAINST RABIES.

It shall be the duty of the owner of any dog in the Borough of Avalon to have the dog inoculated against rabies and to provide upon request, by a police officer or other authorized law enforcement officer, a certificate of effective current inoculation by a veterinarian. The failure to comply with the provisions of this section shall be a violation of this Ordinance.

SECTION 11: PUBLIC PARKS AND PUBLIC GROUNDS.

No dog, unless a service dog, whether under restraint or otherwise, is permitted in the playgrounds, park areas, or other public grounds or buildings of the Borough of Avalon.

SECTION 12: NUISANCES.

Defecating or urinating by a dog on public or private property not belonging to the owner constitutes a nuisance. No owner or agent shall permit a dog to urinate or defecate on public or private property not belonging to the owner; provided, however, if the owner or person in charge of the dog fully complies with Section 13 of this Ordinance and immediately removes all feces deposited by such dog and disposes of same in a sanitary manner, such nuisance shall be considered abated.

SECTION 13: DUTIES OF OWNERS AND AGENTS.

It shall be the duty of the owner of a dog or his agent as well as any person who has a dog in his care, control or custody, to promptly remove his dog's excrement from any property beyond the premises of the owner and to immediately clean such affected area. For the enforcement of this section, an owner, agent or possessor accompanying a dog under proper restraint shall carry upon his person, materials necessary to comply with the prior provisions of this section. An owner, agent or possessor of a dog is guilty of a violation of this section if he fails to promptly remove or clean his dog's excrement beyond the premises of the owner or to have available materials for this purpose on his person.

SECTION 14: NOXIOUS ODORS OF DOG EXCREMENT ON OWNER'S PROPERTY.

No dog shall be kept by an owner in a manner so as to create offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public. An owner, agent or possessor of a dog is guilty of a violation of this section if he fails to remove or clean his dog's excrement from his property which causes such noxious odors and such failure to do so shall constitute a public nuisance.

SECTION 15: VIOLATIONS AND PENALTIES.

A. Any person, firm, partnership, corporation or organization who or which violates any of the provisions of this Ordinance shall upon conviction in a summary proceeding, be fined not less than Twenty-five (\$25.00) Dollars nor more than Three Hundred (\$300.00) Dollars, together with costs or prosecution, and in default of the payment of the fine and costs, shall be committed to the Allegheny County Jail for a period not to exceed ten (10) days.

B. Each violation shall constitute a separate offense and shall be deemed committed on each day during, or on which a violation occurs or continues and shall constitute a separate offense.

C. Nothing contained herein shall be deemed to preclude the Borough to seek other relief or avail itself of any remedy that may be at law or in equity to prevent continuing violations of the terms of this Ordinance.

SECTION 16: VALIDITY.

The provisions of this Ordinance are severable and if any of its provisions or any part of any provision shall be held unconstitutional or otherwise held to be invalid, the decision of the Court shall not affect or impair any of the remaining provisions. It is hereby declared to be the intent of Borough Council that this Ordinance would have been enacted had such unconstitutional provisions or parts thereof not been included herein.

ORDAINED AND ENACTED THIS 16th day of March, 1999.

ATTEST:

BOROUGH OF AVALON

Jean A. Helsh
Secretary

Raymond E. Miller
President

THIS ORDINANCE examined and approved
by me this 18 day of March, 1999.

Daniel K. Brimont
DANIEL K. BRICMONT
Mayor