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ENACTED 3-1-2012

ORDINANCE NO. 3-2012

TOWNSHIP OF DUNBAR

ANIMAL NOISE ORDINANCE
ORDINANCE NO. 3-2012

AN ORDINANCE OF THE TOWNSHIP OF DUNBAR, FAYETTE COUNTY, PENNSYLVANIA, REGULATING AND GOVERNING ANIMAL NOISE AND PROHIBITING EXCESSIVE ANIMAL NOISE WITHIN THE BOUNDARIES OF THE TOWNSHIP OF DUNBAR; PROVIDING FOR ENFORCEMENT THEREOF; AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES OF THE TOWNSHIP OF DUNBAR IN CONFLICT THEREWITH.

WHEREAS, pursuant to Section 1506 of the Second Class Township Code, 53 P.S. § 66506, a second class township has the power to enact and enforce ordinances necessary for the proper management, care and control of the township and its finances, and the maintenance of peace, good government, health, and welfare of the township and its citizens, trade, commerce, and manufacturers; and

WHEREAS, pursuant to Section 1529 of the Second Class Township Code, 53 P.S. § 66529, a second class township has the power to enact and enforce ordinances to prohibit nuisances; and

WHEREAS, pursuant to Section 1530 of the Second Class Township Code, 53 P.S. § 66530, a second class township has the power to enact and enforce ordinances to prohibit and regulate the running at large of dogs; and

WHEREAS, the Board of Supervisors or the Township of Dunbar, Fayette County, Pennsylvania, desires to regulate and govern animal noise and prohibit excessive animal noise within the boundaries of the Township of Dunbar.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Dunbar, Fayette County, Pennsylvania, and it is hereby enacted and ordained as follows:

Section 1. Intent and Purpose. The Board of Supervisors finds that uncontrolled or excessive animal noise is detrimental to the physical, mental, and social wellbeing of the people as well as to their comfort, living conditions, and general welfare. Uncontrolled, and particularly incessant, barking of dogs or the making of noises from other animals can result in stress to people who are within audible range of such noise. Such stress can and does adversely affect the health of such individuals and interferes with the peaceable enjoyment of the property on which they reside. The purpose of this ordinance is to promote the public health, safety, and welfare by making it unlawful to permit an animal to create such an offensive situation by barking, howling, or otherwise creating excessive and detrimental noise. Accordingly, the Board of Supervisors

hereby declares it to be necessary to provide for the regulation and governance of animal noise and the prohibition of excessive animal noise within the Township of Dunbar, and any animal that disturbs the peace as defined hereinbelow shall be and hereby is deemed to create a nuisance.

Section 2. Definitions. For purposes of this ordinance, the following terms shall have the following meanings:

- (A) "Person" shall mean any individual, association, partnership, limited liability company, or corporation, and includes any officer, employee department, agency, or instrumentality of a state or any political subdivision of a state. Whenever used in any clause defining a violation or prescribing and imposing a penalty, "person" shall include the individual members, partners, officers, and managers, or any of them, of a partnership, association, limited liability company, or corporation.

Section 3. Noise Disturbance. It shall be unlawful within the Township of Dunbar for any person to own, possess, harbor, keep in custody, or control any animal that disturbs the peace by barking, howling, or making other loud noises to the annoyance and discomfort of any person in the Township of Dunbar, regardless of whether such animal is physically situated in or upon private property. Continuous or repeated barking, howling, or making other loud noises by such animal for periods of either a) one-half hour or longer from 8:00 a.m. to 9:00 p.m., or b) fifteen (15) minutes or longer from 9:00 p.m. to 8:00 a.m., which periods occur on either a) two or more consecutive days or nights, or b) three or more days or nights in any seven-day period shall be and hereby is deemed to disturb the peace and to cause the annoyance and discomfort of persons in the Township of Dunbar, provided that none of the exceptions set forth hereinbelow, are applicable.

Section 4. Report and Investigation. Any resident of the Township of Dunbar may request that an enforcement officer warn any person who owns, possesses, harbors, keeps in custody, or controls any animal that disturbs the peace by barking, howling, or making other loud noises to the annoyance and discomfort of any person in the Township of Dunbar. Any such request, whether in writing or by telephone, shall identify and specify the residence of the owner, possessor, keeper, or custodian of such animal and shall identify and specify the name and residence of the person making such request. Upon receipt of such request, an enforcement officer shall investigate and issue a warning about compliance with this ordinance to the person identified as the owner, possessor, keeper, or custodian of such animal.

Section 5. Evidence of Violation. Sworn oral testimony of the complainants accompanied by sworn affidavits from any two separate households, not related by blood or marriage, residing within one hundred (100) yards of the property on which such animal lives or is kept may be considered adequate and sufficient to evidence each instance of a violation of this ordinance and the prosecution of the person identified as the owner, possessor, keeper, or custodian of such animal by the Township of Dunbar. A person shall be given at least one (1) warning before being found in violation of this ordinance.

Section 6. Exceptions. The following events, conditions, circumstances, or situations

shall not be considered a violation of this ordinance:

(A) Noises made by farm animals located on farms that constitute agricultural operations protected from nuisance suits by the Right to Farm Act or any similar legislation now in force or hereinafter enacted to protect farm operations from legal actions that have the effect of restricting lawful agricultural operations.

(B) Barking, howling, or other noises made by dogs or other animals in response to a person who is trespassing upon private property in or upon which the animal is lawfully situated or if the noise is made in response to teasing or an unlawful physical assault upon the dog or other animal or upon a person lawfully on the property on which the dog or other animal is situated. By way of illustration and example, but not limitation, this exception does not apply to noises made in response to a person walking, running, or being present on a sidewalk or roadway intended for the public or within the public right-of-way of any road regardless of whether the animal may perceive the presence of such person as being intrusive or alarming.

(C) Barking, howling, or other noises made by dogs or other animals located in a kennel, veterinarian's office, or other similar lawful place of business, provided that the operator of the facility has satisfied all applicable laws, rules, regulations, and license requirements and has adopted and implemented reasonable policies to avoid adverse impacts to the occupants of neighboring properties such as, by way of illustration and example, but not limitation, installing or constructing buffers between the location of the animals and affected neighboring properties, the placement of loud animals indoors or the refusal to accept, on other than an emergency basis, animals which have previously created noise problems for the operator.

Section 7. Penalties. Any person who shall violate a provision of this ordinance, or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a summary offense, punishable by a fine of not less than \$100.00 and not more than \$1,000.00 per violation or imprisonment for a term not to exceed thirty (30) days, or both, at the discretion of the court. Each instance of a violation after due notice has been served shall be deemed a separate offense.

Section 8. Enforcement. The provisions of this ordinance may be enforced by any code enforcement officer, zoning officer, animal control officer, or supervisor of the Township of Dunbar, or any official of the Township of Dunbar appointed from time to time by resolution of the Board of Supervisors, or by any police officer having authority within the Township of Dunbar (including officers of the Pennsylvania State Police).

Section 9. Repealer. All other ordinances or parts of ordinances in conflict herewith are hereby repealed. All other ordinances or parts of laws or ordinances which regulate the keeping and handling of animals shall remain unaffected by this ordinance except in those cases where any of the specific provisions therein are in conflict with those of this ordinance, in which case this ordinance shall control.

Section 10. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares

that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

Section 11. Effective Date. This ordinance shall take effect and be in full force and effect five days from and after the date of its final passage and adoption.

DULY ENACTED AND ORDAINED by the Board of Supervisors of the Township of Dunbar, Fayette County, Pennsylvania, this 1 day of March, 2012.

BOARD OF SUPERVISORS OF THE TOWNSHIP OF
DUNBAR, FAYETTE COUNTY, PENNSYLVANIA

BY: John Tabaj
JOHN TABAJ, CHAIRMAN

Keith Fordyce
KEITH FORDYCE, VICE CHAIRMAN

Ronald Keller
RONALD KELLER, SUPERVISOR

ATTEST:

Ronald Keller
RONALD KELLER, SECRETARY/TREASURER