

BOROUGH OF ARCHBALD
ORDINANCE NO. 3 OF 2020

AN ORDINANCE GOVERNING ANIMALS, FERAL CATS AND ANIMALS RUNNING AT LARGE WITHIN THE BOROUGH OF ARCHBALD AND PROVIDING FOR FINES AND PENALTIES FOR THE VIOLATION THEREOF

Pursuant to the powers specifically granted to the Borough of Archbald by the Pennsylvania Borough Code, 8 Pa.C.S. § 101 et seq., specifically the power prohibit or regulate, by ordinance, the running at large of dogs, cats or other pets and, in the enforcement of these regulations, to direct the seizure and detention of dogs, cats or other pets, 8 Pa.C.S. § 1202(9); the power to impose fines and penalties, or to remit the same, 8 Pa.C.S. § 1202(2); the power to prohibit and remove any nuisance on public or private grounds within the Borough of Archbald, 8 Pa.C.S. § 1202(4), and the powers to make such regulations as may be necessary for the health, safety, morals, general welfare, cleanliness, beauty, convenience, comfort and safety of the Borough of Archbald and its residents, 8 Pa.C.S. § 1202(5), the Borough of Archbald adopts the within Ordinance. In adopting this Ordinance, the Archbald Borough Council recognizes that loud animals, feral cats and other animals running at large within the Borough of Archbald constitute a nuisance and safety hazard. It is the purpose and intent of the within Ordinance to address and rectify this nuisance and safety hazard in the most efficient and humane way possible; to protect the animals themselves and to provide for the enforcement of the terms of the within Ordinance by the imposition of fines and penalties.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Archbald Borough Council, Lackawanna County, Pennsylvania, and it is hereby **ENACTED and ORDAINED** by the Archbald Borough Council as follows:

SECTION 1. Definitions.

For the purpose of this Ordinance, the following terms shall have the meanings ascribed to them in this section, except where the context in which the word is used clearly indicates otherwise. Words not specifically defined in this Ordinance shall have their usual and customary meaning

- A. ANIMAL:** Any dog, cat, domesticated animal or non-domesticated animal.

- B. BOROUGH:** The Borough of Archbald, Lackawanna County, the Council of the Borough of Archbald and any duly authorized agent or representative of the Borough of Archbald or the Archbald Borough Council specifically including, but not necessarily limited to, the Archbald Borough Manager, the Archbald Borough Code Enforcement Officers, and members of the Archbald Borough Police Department.

- C. CAREGIVER:** Any person who provides care, food, water, shelter or medical care to feral cats in accordance with a program approved by the Borough of

M. STRAY CAT: Any cat allowed to run free off of the property of the person who owns, keeps or possesses said cat.

N. TRAP, NEUTER and RETURN PROGRAM (TNR Program): A non-lethal approach to feral cat population control in which feral cats are humanely trapped, sterilized, vaccinated, ear-tipped and then returned to the location at which they were originally trapped.

O. VEHICLE: Every device in, upon or by which any person or property is or may be transported or driven upon any highway, street, road or alley except devices used exclusively upon rails or tracks.

SECTION 2. Prohibition Against Disturbing or Loud Noise.

No person shall allow any animal confined or otherwise kept on that person's premises to make any loud or harsh noise or disturbance which shall interfere with, or deprive the peace, quiet, rest or sleep of, any person within the Borough of Archbald.

SECTION 3. Unsanitary Nuisance; exemptions.

- A. No person shall allow any animal owned by, possessed by or under the control of said person to defecate on any public or private property, sidewalk, walkway or other property of another without immediately cleaning it up by completely removing the feces of said animal from said property.
- B. Any person with a properly documented impairment of vision or mobility who relies upon a dog specifically trained to assist the person in connection with such a visual or mobility impairment shall be exempt from compliance with this section upon presentation to the Borough of Archbald of proper documentation of such visual or mobility impairment.

SECTION 4. Prohibition Against Animals Running at Large.

- A. No person shall permit any animal owned by, possessed by or under the control of said person to run at large at any time upon the public streets, alleys, highways, or public grounds of the Borough of Archbald; upon the private property of any other person or upon any property other than property belonging to either the owner or possessor of such animal or to a person under whose supervision or control such animal is being maintained. In public, an animal must at all times either be firmly secured by means of a collar, leash, chain or other restrictive device such that the animal cannot stray, or the animal must be accompanied by, or under the reasonable immediate control of, some person.
- B. Any police officer or law enforcement officer is hereby authorized and empowered to seize and detain: (i) any animal which is found running at large in the Borough of Archbald (ii) any animal which is on any property other than the property of the owner or possessor of such

animal and (c) any animal unaccompanied by the owner or possessor of such animal when such police officer or law enforcement office is in immediate pursuit of such animal.

- C. The provisions of this section shall apply to all animals found running at large in the Borough of Archbald in violation of this section, irrespective of payment for, or issuance of, any license with respect to the animal involved.
- D. The Archbald 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 5. Seizure, Detention and Impounding of Animals Running at Large.

Any police officer or law enforcement officer of the Borough of Archbald is hereby authorized to seize, detain and/or impound either any animal running at large in violation of any provision of this Ordinance or any animal concerning which information has been received that such animal has been running at large. Any animal so seized shall be held by the Borough of Archbald for up to forty-eight (48) hours. Immediate notice of such seizure, either by personal notice or by written notice via e-mail or regular mail shall be given to the person in whose name the license for such animal, if any, was issued, or to that person's agent, informing said person that said person is to claim such animal within forty-eight (48) hours after such a seizure and detention. In the event that the animal seized and detained does not bear a proper license tag, immediate notice of such seizure, either by personal notice or by written notice via e-mail or regular mail shall be given to the person known to be the owner or possessor of such animal, if known, or to that person's agent, if known. The owner, possessor or claimant of an animal so seized and detained for running at large in violation of this Ordinance shall pay a fine of Fifty Dollars (\$50.00) to the Borough of Archbald, together with any additional charges as the Archbald Borough Council may set forth from time to time by Resolution of the Archbald Borough Council for the per diem cost of feeding and sheltering any such animal so seized and detained. No animal shall be returned to the owner or possessor of said animal or to the person otherwise claiming such animal until said penalty and expenses and charges shall have been paid in full. If no owner or possessor of any such animal seized and detained is known, the animal may be held by the Borough of Archbald for up to forty-eight (48) hours.

SECTION 6. Disposition of any Unclaimed Animal.

If, after forty-eight (48) hours following the notice as set forth in Section 5 above, or after forty-eight (48) hours of the seizure and detention of an animal with no known owner or possessor, such animal has not been claimed, the police officer or law enforcement officer shall convey the animal to a shelter, animal rescue, or foster care. No licensed animal shall be adopted, sold or otherwise disposed of unless such licensed animal remains unclaimed for five (5) days after written notification to the licensed owner at the address identified on the license, either via e-mail or certified United States Mail, return receipt requested, at the option of the Borough of Archbald. Where the owner or agent of an unlicensed animal is not known, the police officer or law enforcement officer shall convey such animal to a shelter, animal rescue, or foster care. No animal shall be sold for the purpose of vivisection or research or be conveyed in any manner for such purposes.

SECTION 7. Transportation of Animals.

No person other than the person actually working a dog or other animal for agricultural purposes shall transport or carry on any public highway, street, road or alley such dog or other animal, unless such dog or animal is safely enclosed within the motor vehicle or protected by a container, cage, cross tether or other device to prevent the dog or animal from falling from, being thrown from or jumping out from said motor vehicle.

SECTION 8. Unattended Animal.

No person shall leave a dog or other animal in any unattended motor vehicle or structure without adequate ventilation, sanitary conditions or in such a manner as to subject the dog or other animal to extreme temperature which may adversely affect the health and safety of the dog or animal.

SECTION 9. Responsibilities of Cat Owners Regarding Stray Cats.

It shall be unlawful for any owner or possessor of any cat to permit such cat to run free outside the residence of its owner or possessor unless such cat has been:

- A. Neutered or spayed to prevent procreating;
- B. Immunized against rabies in compliance with Pennsylvania law; and
- C. Appropriately "tipped" on the left ear to signify that it has been neutered/spayed and immunized.

SECTION 10. Feeding Stray or Feral Cats.

It shall be unlawful for any person to feed any stray or feral cat as such feeding causes a nuisance to the Borough of Archbald and its residents and creates a condition contrary to the health, safety, and welfare of the Borough of Archbald and its residents. It shall not be unlawful for any person participating in a Trap, Neuter and Return Program (TNR Program) specifically authorized by the Borough of Archbald or for a Sponsor to feed stray or feral cats.

SECTION 11. Duties and Responsibilities of TNR Program Sponsors

Animal welfare organizations, or any other qualified person, may make application to the Borough of Archbald to serve as a Sponsor of a Trap, Neuter and Return Program (TNR Program). Sponsors authorized by the Borough of Archbald shall have the following duties and responsibilities:

- A. Sponsors must register with the Archbald Borough Manager each feral cat colony the Sponsor is managing with the Borough of Archbald. Information submitted to the Borough

of Archbald shall include general location (neighborhood), number of cats in the colony, and number of caretakers working the colony.

- B. Sponsors must provide a written report to the Borough of Archbald, on an annual basis, recording and reporting on the intake and disposition of each feral cat brought to the Sponsor's facility. This written report is due on December 31 of each year the Sponsor has been authorized to act as a Sponsor within the Borough of Archbald.
- C. Sponsors must provide a written report to the Borough of Archbald, on an annual basis, recording and reporting on the number of sterilized members of each feral cat colony within the Borough of Archbald for which they have implemented a TNR program. This written report is due on December 31 of each year the Sponsor has been authorized to act as a Sponsor within the Borough of Archbald.
- D. Sponsors must provide a written report to the Borough of Archbald, on an annual basis, recording and reporting on the number of kittens born into each feral colony within the Archbald Borough for which they have implemented a TNR program. This written report is due on December 31 of each year the Sponsor has been authorized to act as a Sponsor within the Borough of Archbald.
- E. Sponsors must address complaints received by the Borough of Archbald and passed along to the Sponsor regarding caretaker behavior and Sponsors must serve as an intermediary to address and, where possible, remediate such behavior within a reasonable period of time, based on the matters at issue and utilizing Borough of Archbald resources when necessary.

SECTION 12. Violations and Penalties.

- A. Subject to the other terms of this Ordinance, any person who violates any provision of this Ordinance commits a summary offense and, upon conviction thereof for a first offense, shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00), plus all costs of prosecution, shall be subject to imprisonment for up to ninety (90) days, or both.
- B. For any second or subsequent offense that occurs within three hundred and sixty five (365) days of sentencing for the prior violation, a person shall be charged with a summary offense, and upon conviction thereof, shall be fined not less than Three Hundred Dollars (\$300.00), plus all costs of prosecution, and be subject to up to imprisonment for up to ninety (90) days, or both.
- C. Each day there is a violation of this Ordinance constitutes a separate violation of this Ordinance.

SECTION 13. Continuation of Past Ordinance Provisions.

The provisions of the Ordinance, as far as they are the same as those of ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such ordinances and not as new enactments. The provisions of this Ordinance shall not affect any such suit or prosecuting pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any ordinance repealed by this Ordinance.

SECTION 14. Severance.

The provisions of the Ordinance are severable, and if any of its provisions shall be held to be unconstitutional, illegal, or invalid, such decision shall not affect the validity of any of the remaining provisions of the Ordinance. It is hereby declared as the legislative intent of the Archbald Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision not been included herein.

SECTION 15. Effective Date.

This Ordinance shall take effect immediately on the date of enactment.

ENACTED AND ORDAINED THIS 21ST DAY OF OCTOBER, 2020.

BOROUGH OF ARCHBALD

By: _____
Brian Gilgallon, President, Archbald Borough Council

ATTEST: _____
Michele Bianchi, Secretary, Borough of Archbald

Examined Approved this _____ day of _____, 2020

Shirley Barrett, Mayor