

**BOROUGH OF DARBY
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 776

**AN ORDINANCE OF THE BOROUGH OF DARBY AMENDING
CHAPTER 45 ANIMALS BY ADDING A NEW SECTION REGARDING
VICIOUS DOGS AND ANIMAL NUISANCES**

WHEREAS, the Borough of Darby is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, including but not limited to the Borough Code; and,

WHEREAS, the Legislature of the Commonwealth vests the Borough of Darby with the power and authority to make and adopt all such ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth, as is expedient or necessary for the proper management, care and control of, inter alia, the Borough's finances, the maintenance of peace, good government, safety and welfare of the Borough, its trade, commerce and manufacturers; and,

WHEREAS, vicious dogs and animal nuisances are becoming more prevalent in the Borough; and,

WHEREAS, as a means to combat the vicious dogs and related matters, and as an exercise of its legislatively granted power and authority, it is appropriate for Darby Borough to adopt an Ordinance regarding vicious dogs and animal nuisances; and

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Darby as follows:

SECTION I: The Borough Code of the Borough of Darby, Chapter 45 – Animals, is amended by adding the following Sections 45-9 & 45-12, which shall read as follows:

§ 45-9. Vicious Dogs.

A. Definition.

“Vicious Dogs” means:

1. Any dog that when unprovoked inflicts bites on or attacks a human being or other animal either on public or private property, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks, public grounds or public places in the Borough; or
2. Any dog with a known propensity, tendency or disposition to make an unprovoked attack, to cause injury or to otherwise endanger the safety of human beings or domestic animal; or
3. Any dog which attacks a human being or domestic animal without provocation; or
4. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

“Enclosure” means a fence or structure that is at least six feet in height, forming or causing an enclosure suitable to prevent the entry of young children and suitable for confining a vicious dog, in conjunction with other measures which may be taken by the owner or keeper, such as tethering of the dog. Enclosures shall be securely enclosed, locked, designed with secure sides, top and bottom and designed to prevent the animal from escaping therefrom.

B. Registration:

All vicious dogs shall be licensed by the Borough. The term of the license shall be January 1 to December 31 of every year. To license a vicious dog, the following requirements must be met:

- 1- The owner shall present to the Borough proof that the owner or keeper has procured a liability insurance policy in the amount of at least one hundred thousand dollars (\$100,000), covering any damage or injury which may be caused by such dog during the twelve-month period for which licensing is sought, which policy shall contain a provision requiring the Borough to be named as an additional insured for the sole purpose of notification of the Borough by the insurance company of any cancellation, termination or expiration of such policy.
- 2- The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. Such sign shall be visible and capable of being read from the public highway.
- 3- The owner or keeper shall sign a statement attesting that:
 - b. The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this subsection during the twelve-month period for which licensing is sought, unless the owner or keeper ceases to own or keep the vicious dog prior to expiration of such license.
 - c. The owner or keeper shall, on or prior to the effective date of the license for which application is being made, have a fenced enclosure for the vicious dog on the property where such dog will be kept or maintained.
 - d. The owner or keeper shall notify the Borough within one hour if a vicious dog is on the loose, in unconfined, has attacked another animal or human, has died or has been sold or given away. If the dog has been sold or given away, the owner or keeper shall also provide the licensing authority with the name, address and telephone number of the new owner of the dog.

The Dog Officer is hereby authorized to make whatever inquiry is deemed necessary to ensure compliance with this subsection and to seize and impound any vicious dog whose owner or keeper fails to comply with this subsection.

- C. Control:** All vicious dogs shall be confined in an enclosure. No owner or keeper of a vicious dog shall maintain such dog upon the premises which do not have a locked enclosure. No owner or keeper shall allow any vicious dog to be outside of the dwelling of the owner or keeper or outside of the

enclosure provided for such dog, unless it is necessary for the owner or keeper to obtain veterinary care for the dog or to sell or give away the dog or to comply with commands or directions of the Dog Officer with respect to the dog or to comply with the provisions of this section. In any of such events, the dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and a length of not more than three feet and such dog shall be under the direct control and supervision of the owner or keeper thereof.

- D. **Harboring for Unlawful Purpose:** No person shall own or harbor any dog for the purpose of dog fighting or train, torment, badger, bait or use any dog for the purpose of causing or encouraging such dog to commit unprovoked attacks upon human beings or domestic animals.
- E. **Seizure:** If a Dog Officer has probable cause to believe that a vicious dog is being harbored or cared for in violation of subsection (d) hereof, the Dog Officer may order the seizure and impoundment of the dog pending trial.
- F. **Actions for Damages; Destruction of Dogs:** If any vicious dog kills or wounds, or assists in killing or wounding, any domestic animal belonging to or in the possession of any person, or attacks, assaults, bites or otherwise injures, or assists in attacking, assaulting, biting or otherwise injuring, any person while out of or within the enclosure of the owner or keeper of such dog,, or while otherwise on or off the property of the owner or keeper, whether or not such dog was on a leash and securely muzzled, and whether or not the dog escaped without fault of the owner or keeper, such owner or keeper shall be liable to the person aggrieved, as aforesaid, for all damage, sustained, to be recovered in a civil action, with costs of suit. It is rebuttably presumed, as a matter of law, that the owing, keeping or harboring of a vicious dog in violation of this section a nuisance. It shall not be necessary, in order to sustain any such action, to prove that the owner or keeper of the dog knew that such dog possessed the propensity to cause such damage or that the dog had a vicious nature. Upon such attack or assault, the Dog Officer may confiscate and destroy such dog if the conduct of such dog or its owner or keeper constituted a violation of any of the provisions of this section, punishable by the confiscation and destruction of the animal.

§ 45-10. Peace Disturbances

- A. No owner or custodian of a dog or other animal shall permit such dog or other animal to bark, howl or make any other noise for continuous periods of time to the annoyance or discomfort of other persons in the Borough as further specified in Section 45-2.

§ 45-11. Violation and Penalties.

- A. Any person who shall violate the terms and provisions of this Section 45-6 shall, upon conviction thereof, be subject to a fine of not less than three hundred dollars (\$300) and costs of prosecution nor more than six hundred dollars (\$600) and costs of prosecution. Added to the fines will be a penalty of one hundred and sixteen dollars (\$116) for boarding and handling. In default of the payment of

such fine and costs, he, she and/or they may be imprisoned for not more than thirty (30) days in the Delaware County Prison. Each offense of feeding one stray animal shall be considered a separate offense for the purpose of this Ordinance.


SECTION II: The Borough Manager, Code Enforcement Department, Borough Police Department, and all others employed or appointed by Darby, are authorized to take all action necessary to ensure implementation of and effect the purpose hereof.

SECTION III: All Ordinances and/or Resolutions, or parts thereof, conflicting herewith are repealed insofar as the matters herein are affected.

SECTION IV: The provisions of this Ordinance are severable, and if any clause, sentence, subsection or section hereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder but shall be confined in its operation and application to the clause, sentence, subsection or section rendered. It is hereby declared the intent of the Borough Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional clause, sentence, subsection, or section had not been included therein.

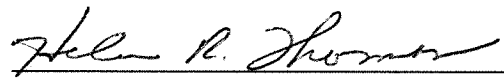
SECTION V: This is effective immediately upon enactment according to law, and shall remain in effect hereafter until revised, amended, or revoked by action of the Council of the Borough of Darby.

Adopted by the Borough Council this 21st day of October, 2015



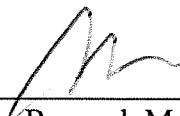
JANICE DAVIS
PRESIDENT OF BOROUGH COUNCIL

Approved by the Mayor, this 21st day of October, 2015



HELEN R. THOMAS
MAYOR

I **HEREBY CERTIFY** that the foregoing is a true and correct copy of the said Ordinance duly adopted at a regular meeting of Borough Council held on the 21st day of October, 2015.



Borough Manager/Secretary