

**BOROUGH OF KENNETT SQUARE**

**Chester County, Pennsylvania**

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**ORDINANCE NO. 884**

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**AN ORDINANCE AMENDING THE KENNETT SQUARE  
BOROUGH CODE, CHAPTER 3, *ANIMALS AND FOWL*:**

**(1) AMENDING ARTICLE I, *IN GENERAL*, DEFINING CERTAIN  
WORDS AND PHRASES AND PROHIBITING HORSES, CATTLE,  
ETC, AT SPECIAL EVENTS;**

**(2) AMENDING ARTICLE II, *DOGS, CATS AND OTHER PETS*,  
DIVISION 1, *GENERALLY*, PROHIBITING DOGS AND OTHER  
ANIMALS, AT SPECIAL EVENTS; AND**

**(3) REPEALING DOG MUZZLING PROVISION TO REFLECT  
STATE LAW**

**WHEREAS**, Section 1202(5) of the Borough Code, 53 P.S. § 46202(5), permits a borough to enact and enforce ordinances relating to the prohibition and removal of nuisances at the owner's expense; and, permits the adoption of an ordinance which permits a borough, upon default of an owner or occupier, to cause the removal of a nuisance and to collect the cost thereof, together with a penalty of ten percent of such cost; and

**WHEREAS**, Section 1202(6) of the Borough Code, 53 P.S. § 46202(6), permits a borough to enact and enforce ordinances relating to the health, safety, morals, general welfare, cleanliness, convenience, comfort, and safety of the borough; and

**WHEREAS**, Section 1202(17) of the Borough Code, 53 P.S. § 46202(17), permits a borough to enact and enforce ordinances relating to the regulation of the streets, public squares, common grounds, and sidewalks; and

**WHEREAS**, Section 1202(74) of the Borough Code, 53 P.S. § 46202(74), permits a borough to enact and enforce ordinances, bylaws, rules, and regulations as may be expedient or necessary for the proper management, care, and control of the borough, and for the maintenance of peace, good government, safety, and welfare of the borough; and

**WHEREAS**, the Borough Council of the Borough of Kennett Square specifically finds that the presence of dogs and other animals at special events in the Borough constitutes a nuisance in fact; a detriment to the health, safety, and general welfare of Borough citizens; and a detriment to the cleanliness, beauty, comfort, and safety of the Borough, due to the possibility that the dogs and other animals will: bite, scratch, or attack citizens of the Borough or other animals; leave waste throughout the venue; and cause an annoyance, potential hazard, and inconvenience.

**NOW, THEREFORE, BE IT ENACTED AND ORDAINED** by the Borough Council of the Borough of Kennett Square, as follows:

**Section 1.** The Kennett Square Borough Code, Chapter 3, Article I, ***In General***, shall be amended to read as follows:

Article I. In General.\*

[\*For provisions of this Code relating to animals and fowl in restaurants, see Section 14-17.]

3-1 Definitions.

As used in this Chapter, the following terms shall each have the meaning indicated, unless a different meaning clearly appears from the context:

LIVESTOCK – Wild or domesticated animals of all species not normally kept as pets, as that term is defined herein, and including without limitation: horses, cattle, swine, sheep, goats, poultry, fowl, and other animals.

OWNER – Any person having a right of property in an animal, every person who keeps or harbors an animal or has it in his or her care for however long, and every person who permits an animal to remain on or about any premises occupied by the person.

PET – Any domesticated dog, cat, rodent, amphibian, fish, or other animal, maintained in or near the household of its owner and generally kept in close contact with humans.

RUN AT LARGE – The presence of livestock or pet upon any public highway, street, alley, park, or any other public land, or upon the property of another person other than the owner, where the livestock or pet is not accompanied by and

under the immediate control of the owner or other person having custody of the animal.

**SERVICE ANIMAL** - An animal accompanying and assisting any blind person, an animal used to assist any physically handicapped person, or an animal used in any police or fire activities of the Borough.

**3-2 Prohibiting livestock to run at large in the Borough or to be present at special events in the Borough.**

(a) It shall be unlawful for any person to permit livestock belonging to that person to run at large in the Borough.

(b) In the case of a special event in the Borough, it shall be unlawful for any person to bring such animal to the event without the prior written approval of the Borough unless the animal is a service animal.

(c) Any person violating this section shall be subject to the penalties provided in Chapter 1, Article I, Section 1-7 and shall immediately remove the animal. If the owner or person in control of the animal fails to remove the animal as provided herein, the police shall have the right to take the animal from the owner or the person and dispose of the dog as provided by law.

**3-3 Table of Authorities**

<b>State Law</b>	<b>Powers Granted</b>
Borough Code, 53 P.S. § 46202 (14)	Power of borough to regulate the running at large of livestock and fowl
Borough Code, 53 P.S. § 46202 (12)	Power of borough to prohibit the keeping of hogs
Borough Code, 53 P.S. § 46202 (6)	Power of borough to maintain the health, safety, etc. of the borough's residents and the cleanliness, beauty, etc. of the borough
Borough Code, 53 P.S. § 46202 (17)	Power of borough to regulate streets, public squares, sidewalks, etc.

**Section 2.** The Kennett Square Borough Code, Chapter 3, Article II, ***Dogs, Cats and Other Pets***, shall be amended to read as follows:

Article II. Dogs, Cats, and Other Pets.

Division 1. Generally.

3-4 Prohibiting pets to run at large in the Borough or to be present at special events in the Borough.

(a) It shall be unlawful for any person to permit pets to run at large in the Borough.

(b) In the case of a special event in the Borough, it shall be unlawful for any person to bring such pet to the event without the prior written approval of the Borough unless the animal is a service animal.

(c) Any person violating this section shall be punished as provided in Chapter I, Article I, Section 1-7 and shall immediately remove the animal from the event. If the owner or person in control of the animal fails to remove the animal as provided herein, the police shall have the right to take the pet from the owner or the person and dispose of it as provided by law.

Division 2. Regulations Particularly Applicable to Dogs.\*

[\*For state Dog Law, see 3 P.S. §§ 459-101 *et seq.*]

3-5 Prohibiting annoyance and disturbance by dog barking, etc.

(a) No person owning, possessing or harboring any dog shall permit the dog to cause disturbance or annoyance to a reasonable person of normal sensitivities by the dog's barking or howling or other misconduct.

(b) Any person violating this section shall be punished as provided in Chapter I, Article I, Section 1-7. For continued violation of this section, the police shall have the right to go upon the premises of the owner of the dog, take the dog therefrom and dispose of the dog as provided by law.

### 3-6 Table of Authorities

State Law	Powers Granted
Dog Law, 3 P.S. § 459-302	Power to seize, detain, or kill dogs at large
Borough Code, 53 P.S. § 46202 (13)	Power of borough to destroy dogs found at large, to prohibit/regulate the running at large of pets, and to direct the detention, selling, or killing of pets
Borough Code, 53 P.S. § 46202 (6)	Power of borough to maintain the health, safety, etc. of the borough's residents and the cleanliness, beauty, etc. of the borough
Borough Code, 53 P.S. § 46202 (7)	Power of borough to regulate streets, public squares, sidewalks, etc.

**Section 3.** The following sections are repealed:

3-7  
3-8  
3-9

**Section 4.** This amendatory ordinance sets forth all of the terms of the Kennett Square Borough Code, Chapter 3, Animals and Fowl. All existing terms of that Chapter are hereby repealed and replaced with the terms hereof.

**Section 5.** The terms hereof shall supersede the terms of all other ordinances or resolutions of the Borough that are inconsistent herewith. The provisions of this ordinance shall supplement the regulations of Chapter 23, *Zoning*.

**Section 6.** The provisions of this amendatory ordinance are severable, and in the event any provision, section, sentence, clause, or part shall be held to be invalid, illegal, or unconstitutional by any court of competent jurisdiction, such invalidity, illegality, or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses, or parts of the amendatory ordinance. It is hereby declared to be the intent of the Borough that this amendatory ordinance would have been adopted as if such illegal, invalid, or unconstitutional provision, section, sentence, clause, or part had not been included herein.

**Section 7.** This amendatory ordinance shall take effect and be in force from and after its enactment. The enactment date of this amendatory ordinance is the date when the Mayor shall approve it, or the date of passage by the Borough Council over the veto of the Mayor; if the amendatory ordinance is not returned by the Mayor at the regular meeting of Borough Council, occurring at least ten days after the meeting at which such amendatory ordinance was passed by the

Borough Council, the date of enactment shall be the date of such succeeding regular meeting of Borough Council.

**DULY ORDAINED AND ENACTED** this 16<sup>th</sup> day of August 2010, by the Borough Council of the Borough of Kennett Square, Chester County, Pennsylvania, in lawful session duly assembled.

By: \_\_\_\_\_  
David B. Miller  
Borough Council President

ATTEST:

\_\_\_\_\_  
Brant Kucera  
Manager

(BOROUGH SEAL)

Approved by the Mayor this 16<sup>th</sup> day of August 2010.

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Matthew W. Fetick  
Mayor