BOROUGH OF NEW HOLLAND
LANCASTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 2012—555

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE BOROUGH OF NEW HOLLAND, BY DELETING AND ADDING A NEW CHAPTER 2 (ANIMALS), PART 1 (ANIMALS), REGULATING BEHAVIOR OF CERTAIN ANIMALS, TO PROVIDE A MECHANISM FOR ENFORCEMENT, AND TO PROVIDE PENALTIES AND REMEDIES FOR VIOLATIONS

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of New Holland, Lancaster County, Pennsylvania, that the Code of Ordinances of the Borough of New Holland (herein “Code”), Chapter 2 (Animals), Part 1 (Animals), is hereby deleted in its entirety and replaced with the following:

Section 1. Chapter 2, Part 1 of the Code is repealed entirely and replaced with the following new Chapter 2, Part 1 et seq:

Part 1
Animals

§101. Definitions. As used in this Ordinance, singular words shall include the plural, masculine words shall include the feminine and neuter, and the following terms shall mean as follows:

A. Animal — A dog; cat; bird; fowl; poultry; fish; reptile; hare; rabbit; mink; pet; members of the equine, bovine, ovine, and porcine species; and wild, exotic, domesticated, undomesticated, farm, barn yard, and any other type of animal.

B. Borough — The Borough of New Holland, in Lancaster County, Pennsylvania.

C. Domesticated Animal — An animal typically domesticated by man so
as to live and breed in a tame condition, especially by generations of breeding
to live in close association with humans as a pet or work animal and usually
creating a dependency so that the animal loses its ability to live in the wild.

D. Farm or Barn Yard Animal — An animal typically held, kept, or
maintained by farmers as a work animal or for raising, slaughtering, or some
other farm function other than a pet or domesticated animal.

E. Owner — When applied to the proprietorship of an animal, shall include
every person having a right of property in such animal; every person who
keeps or harbors such animal or has it in his care; every person who permits
such animal to remain on or about any premises occupied by such person; and
in the case of a minor, the parent or guardian of any such minor owner.

F. Person — An individual or entity of any kind including, but not limited
to corporations; limited liability companies; partnerships; associations;
officers, employees, and members of all entities; and in the case of a minor
individual, the parent or guardian of any such minor individual.

G. Police — Any police officer of the New Holland Police Department, state
dog wardens, state or New Holland Borough animal control officers, and any
other police officer authorized to enforce laws, ordinances, statutes, rules, and
regulations in the Borough of New Holland.

H. “Wild Animal”, “Exotic Animal”, or “Wild or Exotic Animal” —
Any animal of a species prohibited by Title 50, Code of Federal Regulations,
or otherwise controlled by the Commonwealth of Pennsylvania including, but
not limited to, any animal that is wild, fierce, dangerous, noxious, or naturally
inclined to do harm. “Wild animals,” however domesticated, also shall
include (but not be limited to) the following:

1. Dog family (Canidea): all except domesticated dogs, including
   (but not limited to) wolf, fox, coyote, dingo, wolf hybrids, etc.
2. Cat family (Felidea): all except commonly accepted domestic
cats, including (but not limited to) lions, pumas, panthers, mountain
   lions, leopards, jaguars, ocelots, margays, tigers, wild cats, etc.
3. Bears (Ursidea): all bears, including (but not limited to) grizzly
   bears, brown bears, black bears, etc.
4. Weasels (Mustelidea): all, including (but not limited to) weasels,
martens, mink, wolverine, badgers, otters, ermine, mongoose, etc.;
   BUT excluding ferrets.
5. Raccoons (Procynnidae): all raccoons and civets.
7. Skunks.
8. Snakes: all venomous and constricting snakes.
10. *Crocodilians:* all alligators, caimans, crocodiles, gavials, etc.
11. *Venomous fish and piranha.*

§102. **Duty To Control Animals At Large.** It shall be the duty of the owner, custodian, or keeper of any animal, and the duty of the parent or guardian of any minor owner, custodian, or keeper of any animal, to keep the animal securely tied or penned in a yard or enclosure in such a manner that the animal cannot break loose and run at large over the streets, alleys, sidewalks, or public grounds in the Borough of New Holland, or upon the property of any person other than the owner, custodian, or keeper of such animal. It shall be unlawful for any owner, custodian, or keeper of any animal, and the parent or guardian of any minor owner, custodian, or keeper of any animal, to allow or permit such animal, whether due to failure to adequately secure such animal or otherwise, to run at large upon the public streets of the Borough, upon the private property of any person, or upon property other than the property belonging to any owner of such animal, or the person under whose supervision, control, or custody such animal is being kept.

It also shall be the duty of the owner, custodian, or keeper of any animal, and the parent or guardian of any minor owner, custodian, or keeper of any animal, at all times while traveling on the streets, alleys, or public grounds in the Borough, to have the animal on a leash not greater than six (6 ft.) feet in length, and to prevent the animal from entering upon the property of any person without the consent of the owner of such property.

A. **Impounding of Animals Running at Large.** The Police are hereby authorized to impound any animal as set forth in Section 102 of this Ordinance. In the event such animal is licensed, the Police shall notify the owner of such animal as indicated by any such license. If any such animal is not claimed by its owner within three (3) days, custody and control of said animal shall be relinquished by the Police and transferred to the State Dog Warden, or any other person with similar powers to deal with stray or lost animals.

B. **Payment for Care of Animal in Addition to Fine.** Any person owning or having supervision, control or custody over any animal that is running at large in violation of Section 102 of this Ordinance shall, in addition to the fine as hereinafter provided, be liable to the Borough of New Holland for all costs incurred in the care of said animal during the term of its retention by the Borough of New Holland or its Police, such costs being set in the amount of Twenty-Five ($25.00) Dollars per day.
§103. Habitual Noise from Animals Declared Public Nuisance. It shall be unlawful for any person to keep or harbor any animal that habitually barks, howls, yelps, cries, or otherwise makes noise in such a manner as to materially disturb or annoy any person in the surrounding neighborhood, and such animal exhibiting the aforementioned behavior is hereby declared to be a public nuisance.

A. "Habitually" as used in this Ordinance is hereby defined to include (but not be limited to) for more than any one-half-hour time period from 8:00 a.m. to 8:00 p.m.; or for more than 15 minutes after 8:00 p.m. or before 8:00 a.m. on weekdays or after 8:00 p.m. or before 9:00 a.m. on weekends and holidays, which periods occur on two or more consecutive days or nights, or which occur three or more days or nights in any seven-day period.

B. Whenever any person shall complain to the Police that an animal habitually barks, howls, yelps, cries, or otherwise makes disturbing noise in the Borough, the Police shall:

1. Notify the owner, handler, custodian, or keeper of such animal that a complaint has been received and that such person shall take necessary action to alleviate (in a humane manner) the barking, howling, yelping, or crying of such animal.

2. If the warning given as described above to the person alleged to be keeping any such animal is ineffective, then a sworn complaint of at least two persons not from the same family may be presented to the Police alleging that the animal that habitually barks, howls, yelps, or cries is being kept by the person first complained about. If said complaint is found to be true, the Police shall inform the owner, handler, custodian, or keeper of said animal that said complaint has been received and shall prosecute that person for a violation of this Ordinance.

3. A violation of this Section 103 shall be deemed to have occurred after delivery of the first warning and upon a second or subsequent violation.

§104. Defecation by Animals others’ Property. It shall be unlawful for the owner, handler, custodian, or keeper of any animal (except for horses or mules lawfully traveling on public roads or streets) to allow any such animal under such person’s control to defile or defecate on any sidewalk, walkway, roadway, street, or property of another person. It shall be the duty of such owner, handler, custodian, or keeper of any animal (except for horses or mules lawfully traveling on public roads or
§105. Keeping of Farm or Barnyard Animals Prohibited. Except as otherwise permitted by the Borough's applicable zoning ordinance provisions, no person shall keep any chicken, fowl, sheep, cow, goat, or any other farm or barnyard animal that is not normally domesticated, at any place within the Borough.

§106. Keeping of Vicious, Dangerous, Carnivorous, or Wild or Exotic Animals Prohibited. It shall be unlawful for any person to keep, maintain, own, or have in such person's possession or control within the Borough (a) any vicious, dangerous, or carnivorous animal, or (b) any wild animal or exotic animal; provided, however, that any of the foregoing described animals may be held, kept, or maintained by any Police, zoological park, veterinary hospital or clinic, humane society, circus, sideshow, amusement show, or facility used for educational or scientific purposes, but only provided that such persons utilize proper cages, fences, and other protective devices adequate to prevent such animals from escaping or injuring the public are utilized by such persons or entities.

§107. Number of animals Limited. In addition to and concurrent with any other prohibition in this Ordinance, it shall be unlawful for any person within the Borough to keep more than five (5) animals within the Borough, with the exception that an excess of five (5) animals shall be permitted for a period not exceeding six (6) months after the birth of newborn animals. For purposes of this section, the term "animals" shall not include fish. The keeping of more than five (5) animals, however, shall be permitted under the following circumstances: Animals kept or maintained on more than five (5) acres of ground, which ground is held under common ownership; animals held, kept or maintained for the purpose of public auction; animals held, kept, or maintained by a retail pet store for the purpose of retail sales; or animals held, kept, or maintained in accordance with the Borough's applicable zoning ordinance provisions.

§108. Abandonment. It shall be unlawful for any person to abandon or attempt to abandon any animal within the Borough.

§109. Odors & Infestations. Except as otherwise protected or permitted pursuant to Pennsylvania's Right to Farm Law, 3 P.S. § 951 et seq., or other applicable law, it shall be unlawful for any person to hold, keep, or maintain any animal in any fashion that odor or insect infestation from or caused by such animal can be detected outside the property on which such animal is held, kept, or maintained. Any person violating this section shall only be warned for the first violation, but may be prosecuted for a second or any subsequent violation.
§110. Enforcement. The Police shall be charged with the responsibility to enforce the provisions of this Ordinance, and shall perform all other duties that may be prescribed by the Borough Council with respect to this Ordinance. Any violators of this Ordinance may be prosecuted before any Magisterial District Justice or any other court of competent jurisdiction. In addition to and concurrent with any and all other enforcement remedies in this Ordinance or otherwise, the Borough may bring civil actions at law, equity, or otherwise to enforce this ordinance, in which case the violator of this ordinance shall pay all attorney fees, costs, and expenses incurred by said Borough to enforce this ordinance.

§111. Fines and Penalties.

A. In the event of a violation of Section 102, 103, 104, 105, or 107 of this Ordinance, OR in the event that the animal that is the subject of the violation is licensed, then the Police shall first issue a warning directed to the owner, keeper, handler, or custodian of such licensed animal. Any subsequent violation regarding the same animal within a three (3) month period after the issuance of such warning, and subsequent conviction for such violation, shall be punishable by the imposition of a fine in the amount of Fifty Dollars ($50.00) and costs of prosecution for the first such subsequent offense within such three (3) month period, One Hundred Dollars ($100.00) and costs of prosecution for any second subsequent violation within a three (3) month period, and Two Hundred Dollars ($200.00) and costs of prosecution for any subsequent violation within said three (3) month period. Each day’s continuance of the offense following notice thereof shall constitute a violation, and be liable for prosecution at an additional amount of One Hundred ($100.00) Dollars per day, following the third day.

B. In the event of a violation of any Section OTHER than Sections 102, 103, 104, 105, or 107, OR in the event that the animal that is the subject of the violation is NOT licensed, then any person, upon conviction thereof, shall be sentenced to pay a fine of One Hundred Dollars ($100.00) and costs of prosecution for the first offense, Two Hundred Dollars ($200.00) and costs of prosecution for the second offense, and Five Hundred Dollars ($500.00) and costs of prosecution for each subsequent offense. Each day’s continuance of the offense following notice thereof shall constitute another violation, and be liable for prosecution at an additional amount of One Hundred ($100.00) Dollars per day, after the third day.

C. In default of payment of any foregoing fine or costs described in this Section 111, the convicted person shall be subject to imprisonment for not more than thirty (30) days.
§112. Violation Constitutes Public Nuisance. In addition to any other remedies provided in this Ordinance, any violations of the provisions of this Ordinance shall constitute a nuisance, and may be ceased and abated by the Borough by seeking equitable or other relief from a Court of competent jurisdiction.

Section 2. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found by a court of competent jurisdiction to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the intent of Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 3. Continuing Validity. Except as specifically described herein, all relevant codes, ordinances, regulations, and policies of the Borough shall remain in full force and effect as previously enacted and amended.

Section 4. Repealer. All other ordinances or parts thereof that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall become effective upon enactment.

ENACTED AND ORDAINED on August 7, 2012, in lawful session duly assembled.

ATTEST:

J. Richard Fulcher
New Holland Borough Secretary

BOROUGH OF NEW HOLLAND
Lancaster County, Pennsylvania

By:  Donald J. Herrington
New Holland Borough Council President

APPROVED this 7th day of August 2012.

Wilbur G. Horning
New Holland Borough Mayor

[Borough Seal]