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 Chapter 2, Part 1 of the Code is repealed entirely and replaced with the following new Chapter 2, Part 1 *et seq*: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

45 as to live and breed in a tame condition, especially by generations of breeding
46 to live in close association with humans as a pet or work animal and usually
47 creating a dependency so that the animal loses its ability to live in the wild.
48

49 **D. Farm or Barn Yard Animal** — An animal typically held, kept, or
50 maintained by farmers as a work animal or for raising, slaughtering, or some
51 other farm function other than a pet or domesticated animal.
52

53 **E. Owner** — When applied to the proprietorship of an animal, shall include
54 every person having a right of property in such animal; every person who
55 keeps or harbors such animal or has it in his care; every person who permits
56 such animal to remain on or about any premises occupied by such person; and
57 in the case of a minor, the parent or guardian of any such minor owner.
58

59 **F. Person** — An individual or entity of any kind including, but not limited
60 to corporations; limited liability companies; partnerships; associations;
61 officers, employees, and members of all entities; and in the case of a minor
62 individual, the parent or guardian of any such minor individual.
63

64 **G. Police** — Any police officer of the New Holland Police Department, state
65 dog wardens, state or New Holland Borough animal control officers, and any
66 other police officer authorized to enforce laws, ordinances, statutes, rules, and
67 regulations in the Borough of New Holland.
68

69 **H. “Wild Animal”, “Exotic Animal”, or “Wild or Exotic Animal”** —
70 Any animal of a species prohibited by Title 50, Code of Federal Regulations,
71 or otherwise controlled by the Commonwealth of Pennsylvania including, but
72 not limited to, any animal that is wild, fierce, dangerous, noxious, or naturally
73 inclined to do harm. “Wild animals,” however domesticated, also shall
74 include (but not be limited to) the following:
75

- 76 1. **Dog family (*Canidea*):** all except domesticated dogs, including
77 (but not limited to) wolf, fox, coyote, dingo, wolf hybrids, etc.
- 78 2. **Cat family (*Felidea*):** all except commonly accepted domestic
79 cats, including (but not limited to) lions, pumas, panthers, mountain
80 lions, leopards, jaguars, ocelots, margays, tigers, wild cats, etc.
- 81 3. **Bears (*Ursidea*):** all bears, including (but not limited to) grizzly
82 bears, brown bears, black bears, etc.
- 83 4. **Weasels (*Mustelidea*):** all, including (but not limited to) weasels,
84 martens, mink, wolverine, badgers, otters, ermine, mongoose, etc.;
85 BUT excluding ferrets.
- 86 5. **Raccoons (*Procyonidae*):** all raccoons and civets.
- 87 6. **Porcupine (*Erethizontidae*):** all porcupines.
- 88 7. **Skunks.**
- 89 8. **Snakes:** all venomous and constricting snakes.

90 9. *Venomous lizards.*

91 10. *Crocodillians:* all alligators, caimans, crocodiles, gavials, etc.

92 11. *Venomous fish and piranha.*

93 12. *Venomous invertebrates.*

94
95 **§102. Duty To Control Animals At Large.** It shall be the duty of the owner,
96 custodian, or keeper of any animal, and the duty of the parent or guardian of any
97 minor owner, custodian, or keeper of any animal, to keep the animal securely tied or
98 penned in a yard or enclosure in such a manner that the animal cannot break loose
99 and run at large over the streets, alleys, sidewalks, or public grounds in the Borough
100 of New Holland, or upon the property of any person other than the owner, custodian,
101 or keeper of such animal. It shall be unlawful for any owner, custodian, or keeper of
102 any animal, and the parent or guardian of any minor owner, custodian, or keeper of
103 any animal, to allow or permit such animal, whether due to failure to adequately
104 secure such animal or otherwise, to run at large upon the public streets of the
105 Borough, upon the private property of any person, or upon property other than the
106 property belonging to any owner of such animal, or the person under whose
107 supervision, control, or custody such animal is being kept.

108
109 It also shall be the duty of the owner, custodian, or keeper of any animal, and the
110 parent or guardian of any minor owner, custodian, or keeper of any animal, at all
111 times while traveling on the streets, alleys, or public grounds in the Borough, to have
112 the animal on a leash not greater than six (6 ft.) feet in length, and to prevent the
113 animal from entering upon the property of any person without the consent of the
114 owner of such property.

115
116 A. **Impounding of Animals Running at Large.** The Police are hereby
117 authorized to impound any animal as set forth in Section 102 of this
118 Ordinance. In the event such animal is licensed, the Police shall
119 notify the owner of such animal as indicated by any such license. If
120 any such animal is not claimed by its owner within three (3) days,
121 custody and control of said animal shall be relinquished by the Police
122 and transferred to the State Dog Warden, or any other person with
123 similar powers to deal with stray or lost animals.

124
125 B. **Payment for Care of Animal in Addition to Fine.** Any person
126 owning or having supervision, control or custody over any animal that
127 is running at large in violation of Section 102 of this Ordinance shall,
128 in addition to the fine as hereinafter provided, be liable to the
129 Borough of New Holland for all costs incurred in the care of said
130 animal during the term of its retention by the Borough of New
131 Holland or its Police, such costs being set in the amount of Twenty-
132 Five (\$25.00) Dollars per day.

134 **§103. Habitual Noise from Animals Declared Public Nuisance.** It shall be
135 unlawful for any person to keep or harbor any animal that habitually barks, howls,
136 yelps, cries, or otherwise makes noise in such a manner as to materially disturb or
137 annoy any person in the surrounding neighborhood, and such animal exhibiting the
138 aforementioned behavior is hereby declared to be a public nuisance.
139

- 140 A. "Habitually" as used in this Ordinance is hereby defined to include
141 (but not be limited to) for more than any one-half-hour time period
142 from 8:00 a.m. to 8:00 p.m.; or for more than 15 minutes after 8:00
143 p.m. or before 8:00 a.m. on weekdays or after 8:00 p.m. or before
144 9:00 a.m. on weekends and holidays, which periods occur on two or
145 more consecutive days or nights, or which occur three or more days
146 or nights in any seven-day period.
147
- 148 B. Whenever any person shall complain to the Police that an animal
149 habitually barks, howls, yelps, cries, or otherwise makes disturbing
150 noise in the Borough, the Police shall:
151
- 152 1. Notify the owner, handler, custodian, or keeper of such
153 animal that a complaint has been received and that such
154 person shall take necessary action to alleviate (in a humane
155 manner) the barking, howling, yelping, or crying of such
156 animal.
157
 - 158 2. If the warning given as described above to the person alleged
159 to be keeping any such animal is ineffective, then a sworn
160 complaint of at least two persons not from the same family
161 may be presented to the Police alleging that the animal that
162 habitually barks, howls, yelps, or cries is being kept by the
163 person first complained about. If said complaint is found to
164 be true, the Police shall inform the owner, handler, custodian,
165 or keeper of said animal that said complaint has been received
166 and shall prosecute that person for a violation of this
167 Ordinance.
168
 - 169 3. A violation of this Section 103 shall be deemed to have
170 occurred after delivery of the first warning and upon a second
171 or subsequent violation.
172

173 **§104. Defecation by Animals others' Property.** It shall be unlawful for the owner,
174 handler, custodian, or keeper of any animal (except for horses or mules lawfully
175 traveling on public roads or streets) to allow any such animal under such person's
176 control to defile or defecate on any sidewalk, walkway, roadway, street, or property
177 of another person. It shall be the duty of such owner, handler, custodian, or keeper
178 of any animal (except for horses or mules lawfully traveling on public roads or

179 streets) that defecates on any sidewalk, walkway, roadway, street, or property of
180 another to promptly clean up and remove all feces discharged and to dispose of such
181 feces in a lawful and sanitary manner.

182
183 **§105. Keeping of Farm or Barnyard Animals Prohibited.** Except as otherwise
184 permitted by the Borough's applicable zoning ordinance provisions, no person shall
185 keep any chicken, fowl, sheep, cow, goat, or any other farm or barnyard animal that
186 is not normally domesticated, at any place within the Borough.

187
188 **§106. Keeping of Vicious, Dangerous, Carnivorous, or Wild or Exotic Animals**
189 **Prohibited.** It shall be unlawful for any person to keep, maintain, own, or have in
190 such person's possession or control within the Borough (a) any vicious, dangerous,
191 or carnivorous animal, or (b) any wild animal or exotic animal; provided, however,
192 that any of the foregoing described animals may be held, kept, or maintained by any
193 Police, zoological park, veterinary hospital or clinic, humane society, circus,
194 sideshow, amusement show, or facility used for educational or scientific purposes,
195 but only provided that such persons utilize proper cages, fences, and other protective
196 devices adequate to prevent such animals from escaping or injuring the public are
197 utilized by such persons or entities.

198
199 **§107. Number of animals Limited.** In addition to and concurrent with any other
200 prohibition in this Ordinance, it shall be unlawful for any person within the Borough
201 to keep more than five (5) animals within the Borough, with the exception that an
202 excess of five (5) animals shall be permitted for a period not exceeding six (6)
203 months after the birth of newborn animals. For purposes of this section, the term
204 "animals" shall not include fish. The keeping of more than five (5) animals,
205 however, shall be permitted under the following circumstances: Animals kept or
206 maintained on more than five (5) acres of ground, which ground is held under
207 common ownership; animals held, kept or maintained for the purpose of public
208 auction; animals held, kept, or maintained by a retail pet store for the purpose of
209 retail sales; or animals held, kept, or maintained in accordance with the Borough's
210 applicable zoning ordinance provisions.

211
212 **§108. Abandonment.** It shall be unlawful for any person to abandon or attempt to
213 abandon any animal within the Borough.

214
215 **§109. Odors & Infestations.** Except as otherwise protected or permitted pursuant
216 to Pennsylvania's *Right to Farm Law*, 3 P.S. § 951 *et seq.*, or other applicable law,
217 it shall be unlawful for any person to hold, keep, or maintain any animal in any
218 fashion that odor or insect infestation from or caused by such animal can be detected
219 outside the property on which such animal is held, kept, or maintained. Any person
220 violating this section shall only be warned for the first violation, but may be
221 prosecuted for a second or any subsequent violation.

221 **§110. Enforcement.** The Police shall be charged with the responsibility to enforce
222 the provisions of this Ordinance, and shall perform all other duties that may be
223 prescribed by the Borough Council with respect to this Ordinance. Any violators of
224 this Ordinance may be prosecuted before any Magisterial District Justice or any other
225 court of competent jurisdiction. In addition to and concurrent with any and all other
226 enforcement remedies in this Ordinance or otherwise, the Borough may bring civil
227 actions at law, equity, or otherwise to enforce this ordinance, in which case the
228 violator of this ordinance shall pay all attorney fees, costs, and expenses incurred by
229 said Borough to enforce this ordinance.
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232
233 **§111. Fines and Penalties.**
234

- 235 A. In the event of a violation of Section 102, 103, 104, 105, or 107 of
236 this Ordinance, OR in the event that the animal that is the subject of
237 the violation is licensed, then the Police shall first issue a warning
238 directed to the owner, keeper, handler, or custodian of such licensed
239 animal. Any subsequent violation regarding the same animal within
240 a three (3) month period after the issuance of such warning, and
241 subsequent conviction for such violation, shall be punishable by the
242 imposition of a fine in the amount of Fifty Dollars (\$50.00) and costs
243 of prosecution for the first such subsequent offense within such three
244 (3) month period, One Hundred Dollars (\$100.00) and costs of
245 prosecution for any second subsequent violation within a three (3)
246 month period, and Two Hundred Dollars (\$200.00) and costs of
247 prosecution for any subsequent violation within said three (3) month
248 period. Each day's continuance of the offense following notice
249 thereof shall constitute a violation, and be liable for prosecution at an
250 additional amount of One Hundred (\$100.00) Dollars per day,
251 following the third day.
252
- 253 B. In the event of a violation of any Section OTHER than Sections 102,
254 103, 104, 105, or 107, OR in the event that the animal that is the
255 subject of the violation is NOT licensed, then any person, upon
256 conviction thereof, shall be sentenced to pay a fine of One Hundred
257 Dollars (\$100.00) and costs of prosecution for the first offense, Two
258 Hundred Dollars (\$200.00) and costs of prosecution for the second
259 offense, and Five Hundred Dollars (\$500.00) and costs of prosecution
260 for each subsequent offense. Each day's continuance of the offense
261 following notice thereof shall constitute another violation, and be
262 liable for prosecution at an additional amount of One Hundred
263 (\$100.00) Dollars per day, after the third day.
264
- 265 C. In default of payment of any foregoing fine or costs described in this
266 Section 111, the convicted person shall be subject to imprisonment
267 for not more than thirty (30) days.

268 **§112. Violation Constitutes Public Nuisance.** In addition to any other remedies
269 provided in this Ordinance, any violations of the provisions of this Ordinance shall
270 constitute a nuisance, and may be ceased and abated by the Borough by seeking
271 equitable or other relief from a Court of competent jurisdiction.
272

273 **Section 2. Severability.** If any sentence, clause, section or part of this Ordinance is for any reason
274 found by a court of competent jurisdiction to be unconstitutional, illegal or invalid, such
275 unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining sentences,
276 clauses, sections or parts of this Ordinance. It is hereby declared to be the intent of Borough Council
277 that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence,
278 clause, section or part thereof not been included herein.
279

280 **Section 3. Continuing Validity.** Except as specifically described herein, all relevant codes,
281 ordinances, regulations, and policies of the Borough shall remain in full force and effect as
282 previously enacted and amended.
283

284 **Section 4. Repealer.** All other ordinances or parts thereof that are in conflict with this ordinance
285 are hereby repealed to the extent of such conflict.
286

287 **Section 5. Effective Date.** This Ordinance shall become effective upon enactment.
288

289 **ENACTED AND ORDAINED** on August 7, 2012, in lawful session duly assembled.
290

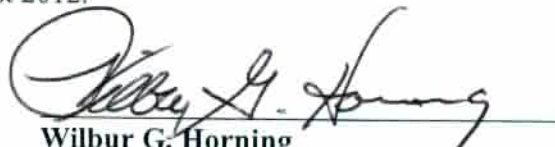
291 ATTEST:

BOROUGH OF NEW HOLLAND
Lancaster County, Pennsylvania

292
293
294 
295 **J. Richard Fulcher**
296 *New Holland Borough Secretary*
297
298
299

By: 
Donald J. Herrington
New Holland Borough Council President
300
301

302
303 APPROVED this 7th day of August 2012.
304
305

306
307 
308 **Wilbur G. Horning**
309 *New Holland Borough Mayor*
310

[Borough Seal]