

IN THE YEAR TWO THOUSAND AND FIFTEEN

NINTH AMENDMENT TO CHAPTER 14 OF THE REVISED CODE OF ORDINANCES OF THE CITY OF HOLYOKE, MASSACHUSETTS 1997

AN ORDINANCE

Be it ordained by the City Council of the City of Holyoke as follows:

SECTION 1. Chapter 14 entitled “Animals” of the Revised Code of Ordinances of the City of Holyoke, Massachusetts, 1997, as amended, is hereby further amended by the following:

DELETING:

Chapter 14 in its entirety

AND ADDING IN ITS PLACE:

Chapter 14 - ANIMALS

ARTICLE I. - IN GENERAL

- Sec. 14-1. Preamble, Statement of Purpose, Interpretation, Severability; Definitions.
- Sec. 14-2. Rabies Vaccination and Dog Licensing.
- Sec. 14-3. Commercial Animal Establishment Permits.
- Sec. 14-4. License and Permit Conditions, Suspension and Revocation.
- Sec. 14-5. Restraint and Control of Animals; Public Nuisances; Barking Dogs.
- Sec. 14-6. Impoundment of Unrestrained Dogs and Nuisance Animals, Quarantined Animals.
- Sec. 14-7. Sterilization of Animals Released for Adoption.
- Sec. 14-8. Animal Care Standards.
- Sec. 14-9. Animal Control Officers; Regulatory Authority Vested in Board of Health; Hearing Authority.

Sec. 14-10. Dangerous Dogs and Nuisance Dogs; Hearing; Right of Appeal.

Sec. 14-11. Animal Waste.

Sec. 14-12. Wild Animals, Livestock Animals.

Sec. 14-13. Warnings; Notices of Violation; Issuance of Citations; Appeals.

Sec. 14-14. Trap-neuter-return programs for homeless or feral cats.

Secs. 14-15—14-52. - Reserved.

14-1. Preamble, Statement of Purpose, Interpretation, Severability; Definitions.

- (A) It shall be the purpose of this Chapter to provide for the orderly licensing and regulation of domestic animals, to provide for their well being and safe keeping, and to prevent and or punish the improper care and training of said animals.
- (B) The provisions of this Article shall be interpreted in accordance with M.G.L. C. 140 §§ 136-174D. In the event of a conflict between these ordinances, or any provisions thereof, the General Laws shall control.
- (C) In the event that one or more portions of these ordinances are deemed invalid, the remaining ordinances or portions of ordinances shall remain in full effect.
- (D) The definitions contained in M.G.L C. 140 § 136A are incorporated by reference, and apply to this chapter where applicable, except when otherwise specified below.
- (E) Supplementary Definitions:
 - (1) Alter - to neuter, spay, sterilize, or otherwise render an animal permanently unable to procreate.
 - (2) Animal - any live vertebrate or invertebrate species, domesticated or wild, excluding *Homo sapiens*.
 - (3) Animal, Livestock - any animal which is ordinarily kept for agricultural purposes and not as pets, such as for the sale or consumption of their meat, eggs, milk, skins, fur, or labor, for profit or otherwise. Livestock animals include, but are not limited to: cattle, horses, swine, sheep, goats, chickens, ducks, geese, and rabbits.

- (4) Animal, Wild - any animal which is wild or feral by nature, normally found in the wild, and not kept as a pet, including, but not limited to: raccoons, skunks, foxes, "big cats" (lions, tigers, cougars, leopards, etc.), bears, birds, and venomous reptiles.
- (5) Animal Control Center - any facility or shelter operated by or on behalf of the City of Holyoke, for the purposes of impounding and caring for animals held under the authority of this Chapter or the laws of the Commonwealth of Massachusetts.
- (6) Animal Control Officer - any person designated by the City to enforce this Chapter or Sections 137 to 174E inclusive, of Chapter 140 of the Massachusetts General Laws. Agents of an Animal Control Center as defined in this Chapter shall also be considered Animal Control Officers.
- (7) Animal Exhibition - any act, display, or spectacle which includes or features one or more animals that are exposed to the public for the entertainment or education of the viewers.
- (8) Board of Health - shall mean the Holyoke Board of Health.
- (9) Commercial Animal Establishment - any pet shop, shelter, auction, riding school, stable, zoological park, circus, animal exhibition or kennel.
- (10) Dangerous dog - a dog that either: (a) without justification, attacks a person or domestic animal causing physical injury or death; or (b) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.
- (11) Feeding - the provision of food, water, or other sustenance left outside of any building or structure.
- (12) Fenced-In Area - shall mean an area which is completely enclosed by a chain-link or similar fence, and is accessible by one or more sealable egresses, and which prevents an animal kept within from leaving the enclosed area.
- (13) Feral/Homeless Cat - a cat that exists in an untamed state, or one that has returned to an untamed state and is no longer considered domesticated, or one that was previously residing in a home as a domesticated cat that has been abandoned by its owner.
- (14) Hearing Authority - shall mean the Holyoke Board of Health.
- (15) Licensing Authority - shall mean the Holyoke City Clerk.

- (16) Sheltering - the provision of any type of shelter, whether temporary or permanent, that a cat may enter outside of the primary structure on the property.
- (17) Sponsor Organization - a nonprofit organization that is approved by the Board of Health and agrees to comply with the requirements of this section by assisting an individual with a Trap-Neuter-Return program.
- (18) Trap - shall mean the humane restraint or confinement of a feral/homeless cat, such as with a humane box trap.
- (19) Trap Neuter Return (TNR) Program - a program for the feeding and sheltering of feral or homeless cats which traps, alters, vaccinates, and returns cats, which has been approved by the Board of Health under this Chapter.
- (20) Unaltered - any animal which has not been neutered, spayed, or sterilized and remains able to procreate.

14-2. Rabies Vaccination and Dog Licensing.

- (A) Each owner of a dog, cat, or ferret that is twelve (12) weeks of age or older shall cause such dog, cat, or ferret to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions, and shall cause such dog, cat, or ferret to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dogs, cats, or ferrets acquired or moved into the City shall be vaccinated within thirty (30) days after the acquisition or arrival of such animal into the Commonwealth or upon reaching the age of twelve (12) weeks, whichever occurs later. It shall be the duty of each veterinarian to issue a rabies vaccination tag and to complete a certificate of rabies vaccination which shall include, but not be limited to, the following information: the owner's name and address; a description of the animal, including breed, sex, age, name, and distinctive markings; the date of vaccination; the rabies vaccination tag number; the type of rabies vaccine used; the route of vaccination; the expiration date of the vaccination; and the vaccine lot number. A dog, cat, or ferret shall be exempt from rabies vaccination if a veterinarian has examined the animal and has certified in writing that vaccinating the animal at that time would endanger the animal's health because of its age, infirmity, disability, illness or other medical considerations. An animal exempt under this Section must be vaccinated as soon as its health allows.

(B) *Dog Licenses*

- (1) In accordance with Massachusetts General Laws, Chapter 140, Section 137, any dogs that are the age of six (6) months or older, that are kept in the City of Holyoke for more than sixty (60) days shall be licensed. The license application shall include: the name and address of the applicant; a description of the dog; proof of rabies vaccination; or proof of rabies vaccination exemption as defined in part (A) of this section; and the appropriate fee.
- (2) The owner or keeper of such dog must make application to the Licensing Authority within thirty (30) days after obtaining a dog over the age of six (6) months, or if obtained prior to reaching the age of six (6) months, within thirty (30) days of the dog reaching six (6) months of age. This requirement shall not apply to a non-resident keeping the dog in the City for fewer than sixty (60) days.
- (3) If not sooner revoked, licenses for the keeping of dogs shall be for a period of one (1) year, running from April 1 to March 31. Reapplication for a license may be made up to thirty days prior to and up to thirty days after April 1.
- (4) Upon acceptance of the application and license fee, the licensing authority shall issue a durable tag stamped with an identifying number and year of issuance. Tags shall be designed so that they may be conveniently fastened to a dog's collar or harness.
- (5) Dogs shall be made to wear both identification tags and rabies vaccination tags at all times.
- (6) The licensing authority shall maintain records of the identifying numbers of all tags issued, and shall make these records available to the public.

(C) *Licensing Fees:*

- (1) Unaltered dogs six months of age or older - \$15.00;
- (2) Unaltered dogs under six months of age - \$10.00;
- (3) Altered Dogs - \$5.00, with the following requirement:
 - (a) Applicants for an altered dog license shall, as a condition of obtaining such license, produce: a certificate issued by the veterinarian who spayed or neutered the dog; or, a sworn statement, by a veterinarian registered to practice in Massachusetts, describing the dog, and stating that the veterinarian has examined the dog, and

- that the dog appears to have been spayed or neutered, and is incapable of procreation;
- (4) Dogs deemed to be dangerous, as defined in this Chapter - \$100.00;
 - (5) Dogs deemed to be a nuisance, as defined in this Chapter - \$50.00;
 - (6) A license fee shall not be required for:
 - (a) Seeing-eye dogs or other service dogs as defined by the Americans with Disabilities Act or regulations promulgated thereunder;
 - (b) Governmental police dogs;
 - (c) Dogs owned by persons over the age of seventy (70) years.
 - (d) Persons and entities exempt from paying license fees are not exempted from the remainder of the licensing scheme defined in this section. Owners of dogs exempt from paying licensing fees are required to apply for a license with the licensing authority, and are required to cause dogs covered under this section to wear tags issued by the licensing authority.
 - (7) No license fee or portion thereof shall be refunded because of the subsequent death, loss, transfer, spaying, neutering, removal from the City of Holyoke, or Commonwealth of Massachusetts, or other disposal of the dog.
 - (8) Duplicate licenses may be obtained by payment of \$2.00 to the licensing authority.
- (D) There shall not be allowed more than three (3) dogs within a single dwelling unit, unless the keeper of such dogs is granted a license to operate a kennel, in accordance with this Chapter.
- (E) *Violations.*
- (1) Owners who fail to obtain a license as required within the time period specified in this Section may be fined not more than \$50.00, separate from any licensing fees owed, and the unlicensed dog may be subject to impoundment.
 - (2) No person may use any dog license for a dog other than for the dog for which it was issued. Violators may be fined not more than \$25.00.
 - (3) Any person keeping a dog in the City of Holyoke that does not cause such dog to be vaccinated as required by this Section may be fined not more than \$100.00.

14-3. Commercial Animal Establishment Permits.

- (A) No person, partnership, or corporation shall operate a commercial animal establishment without first obtaining a permit in compliance with this Section. A permit shall not be issued unless the applicant is in compliance with this Section and applicable state law, and the applicable permit fee is paid.
- (B) Permits for commercial animal establishments shall be for a period of one year, running from April 1 to March 31. Renewal applications may be made thirty (30) days prior to and thirty (30) days after April 1. Application for a permit to establish a new commercial animal establishment under the provisions of this Section may be made at any time.
- (C) An applicant for a commercial animal establishment permit must certify in writing to the licensing authority that they have read and agree that the applicant is willing and able to abide by all applicable ordinances and regulations as a precondition to the issuance of any permits.
- (D) If there is a change of ownership of a commercial animal establishment, the new owner may have the current permit transferred to his name upon a payment of a \$10.00 transfer fee to the licensing authority, and a certification of compliance with this Section.
- (E) Annual Permits shall be issued upon payment of the applicable fee after inspection by an animal control officer, for each:
 - (1) Kennel authorized to house four dogs or less, \$25.00;
 - (2) Kennel authorized to house five or more but fewer than ten dogs, \$40.00;
 - (3) Kennel authorized to house ten or more but less than fifty (50) dogs, \$60.00;
 - (4) Kennel authorized to house fifty (50) or more dogs, \$100.00;
 - (5) Zoological park, \$100.00;
 - (6) Circus, \$25.00;
 - (7) Performing animal exhibition, \$50.00
 - (8) Grooming shop, \$50.00.
 - (9) No fee is required for any: veterinary hospital or clinic, animal shelter, or governmentally operated zoological park. Permits will be issued without charge.
- (F) Every facility at a different address regulated by this chapter shall be considered a separate enterprise, and requires a separate permit.

- (G) Operators of kennels who keep dogs for breeding purposes may elect to license animals within their care individually.
- (H) *Violations.*
 - (1) Failure to obtain a permit before opening or operating any facility covered by this Section may result in a fine of up to \$200.00. Each day of operation shall constitute a separate offense.
 - (2) Any person, partnership, or corporation operating a commercial animal establishment who fails to renew the annual permit shall pay a late penalty of \$100 per month prior to such permit being issued.

14-4. License and Permit Conditions, Suspension and Revocation.

- (A) It shall be a condition for the issuance of any permit or license granted under this Chapter that any holder of such permit or license shall grant access and permission to the Animal Control Officer to inspect all animals and or the premises where such animals are kept at any time. The Animal Control Officer shall provide reasonable notice of any inspections, and such inspections shall be at reasonable times.
- (B) No person who has been convicted of any crime involving cruelty to animals shall be issued a permit or license of any kind under this Chapter for a period of four (4) years from the date of conviction.
- (C) The City or the Licensing Authority may suspend or revoke any permit or license granted under this Chapter if the person or entity holding the permit or license:
 - (1) Refuses or fails to comply with this Chapter, or any law governing the protection, safety, or keeping of animals;
 - (2) Refuses to allow access to the Animal Control Officer for inspections to determine compliance with this Chapter;
 - (3) Is shown to have withheld or falsified any information on the permit or license application.
- (D) Any person or commercial animal establishment whose license has been denied or revoked shall cause any and all animals covered by said license to be placed or humanely disposed of within ten days of such denial or revocation. Failure to place or humanely dispose of each and every animal shall result in a fine of up to \$200.00 per animal. No part of any permit or license fee shall be refunded.

- (E) Any person or commercial animal establishment whose license has been denied or revoked may reapply after the conditions upon which the denial or revocation were based have been corrected, and a \$10.00 fee has been paid to the Licensing Authority.
- (F) Any animal that is kept without a required license or in violation of any other ordinance or state law may be impounded by an Animal Control Officer, as defined in this Chapter.

14-5. Restraint and Control of Animals; Public Nuisances; Barking Dogs.

- (A) All animals, with the exception of altered cats, shall be kept under restraint when in public or outdoors. Restraint shall mean a leash, lead, or other physical restraint, held by a person capable of controlling such animal to prevent it from coming into contact with other persons or animals.
 - (1) Exceptions:
 - (a) A dog may be off restraint if under adequate voice control of a person, and that person has a leash in their possession. A dog which does not respond to commands of the person in control of such animal is not under restraint;
 - (b) A dog may be off restraint if it is completely confined within a fenced in area or pen.
- (B) It shall be unlawful for any person owning, keeping, harboring, or possessing any animal to permit the same to go at large at any time with the limits of the City, to the damage or annoyance of any residents of the City.
- (C) Notwithstanding any other ordinance, law, or regulation to the contrary, no owner of an animal shall allow his animal to be upon the property of any school within the City between the hours of 8:00 a.m. and 4:00 p.m.
- (D) Every owner or keeper of an animal shall exercise proper care and control of their animals to prevent them from becoming a public nuisance. Further, persons who feed or care for wild animals shall not cause such animals to become a public nuisance. An animal found to be a public nuisance may be impounded by an Animal Control Officer, as set forth in this Chapter. Animal nuisance behaviors include, but are not limited to:
 - (1) Molesting or attacking persons, animals or vehicles without provocation;
 - (2) Repeated trespassing on public or private property, including school grounds;
 - (3) Repeatedly being found at large, outside of confinement or off restraint;

- (4) Causing offensive odors through accumulated waste or other reason that is detectable from the public way, any right of way, or adjoining properties;
- (5) Allowing an animal which tests positive for a communicable disease (for example, feline leukemia, parvovirus, distemper) to interact with other animals in such a manner as to increase the likelihood of the spread of such disease;
- (6) Barking, whining, howling, or other noises natural to such animal's species in an excessive, continuous or untimely fashion so as to disturb the peace or otherwise be disruptive to any person's quiet enjoyment of property, comfort, or repose;
- (7) Obstructing any public or private way, or distracting drivers upon the public way;
- (8) Any other circumstances affecting the health or safety of the public or other animals as determined by an Animal Control Officer or the Board of Health.

(E) *Violations.*

- (1) Failure to properly restrain an animal covered by this Section shall result in a fine to the owner of such animal an amount not more than \$50.00.
- (2) Failure to properly restrain an animal covered by this Section which is found to be unaltered shall result in the owner of such animal to be fined an additional \$100.00.
- (3) Failure to properly restrain an animal covered by this Section which results in such animal entering upon school property shall result in an additional fine to the owner of such animal an amount not more than \$50.00.
- (4) An owner of an animal covered by this Section that allows such animal to become public nuisance may be fined:
 - (a) Not more than \$50.00 for a first offense;
 - (b) Not more than \$100.00 for a second offense;
 - (c) Not more than \$300.00 for a third or subsequent offense;
 - (d) Each day that a violation occurs shall be deemed a separate offense. Following a third offense, any license to keep animals may be revoked, and the offending animal may be impounded.

14-6. Impoundment of Unrestrained Dogs and Nuisance Animals, Quarantined Animals.

- (A) Unrestrained dogs and nuisance animals may be seized by an Animal Control Officer, Board of Health agents, or police officers, and impounded or quarantined in an animal control center or otherwise humanely confined. A person in custody of such animals shall make a reasonable effort to identify the owner(s) of such animal and notify such person(s) of the location of the animal and reason for impoundment.
- (B) Impounded dogs shall be kept for not less than seven (7) days unless claimed by the owner within such period. An impounded animal may be claimed upon proof of licensure and payment of the following fees, if applicable, to the Animal Control Center:
 - (1) An impound fee as set by the Animal Control Center;
 - (2) A per diem boarding fee as set by the Animal Control Center;
 - (3) All charges for veterinary care of the animal;
 - (4) The cost of sterilizing the animal;
 - (5) The cost of vaccinating the animal for rabies;
- (C) Any animal which remains unclaimed after a period of not less than seven (7) days may be either placed for adoption in a suitable home, or humanely euthanized. The City shall not be responsible for the costs of placement, vaccination, veterinary care or euthanasia.
- (D) An animal which has been seized following a bite or other violent incident shall be quarantined and confined from contact with persons or other animals for not less than ten (10) days:
 - (1) In the home of the owner of the animal if owner proves that the animal has been vaccinated for rabies;
 - (2) In an animal control center if the owner is unable to prove that the animal has been vaccinated for rabies.
- (E) Animal Control Officers shall make, keep and maintain records for animals in the custody of the Animal Control Officer or the Animal Control Center, as required by state law. The records for each animal that is impounded shall be maintained by the Animal Control Officer for at least two (2) years.

14-7. Sterilization of Animals Released for Adoption.

- (A) No impounded dog or cat sheltered at an animal control center shall be released for adoption without first being altered, except when a veterinarian states in writing that sterilization would place the animal at considerable risk due to poor health.

14-8. Animal Care Standards.

- (A) Owners shall provide each of their animals with sufficient good and wholesome food and water, proper shelter, protection from the weather, veterinary care when needed to prevent suffering, and otherwise humane care and treatment.
- (B) No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal.
- (C) No person shall keep or place an animal in a location that would cause an unreasonable risk of injury or death to the animal. If an animal is found to be in a location that causes an unreasonable risk to the animal, an Animal Control Officer or a police officer may use reasonable force to remove the animal from the dangerous situation, and impound said animal as necessary.
 - (1) Leaving an animal unattended in a stationary or parked car shall be prima facie evidence of keeping an animal in a location that causes an unreasonable risk of injury or death. The above stated officials may use reasonable force to remove the animal from the vehicle, including, but not limited to, breaking the windows of the vehicle.
- (D) No person shall cause, instigate, or permit any animal to fight, combat, or otherwise cause violence with another animal or a human.
- (E) Dog tethering shall be permitted subject to the following conditions:
 - (1) No person shall tether a dog to a stationary object for longer than twelve consecutive hours.
 - (2) A dog tether shall be an appropriate length to prevent a tethered dog from leaving the owner's property.
 - (3) A dog tether shall be designed for dogs, shall not weigh more than one-eighth of the dog's body weight, and shall not be a logging chain or other lines or devices not designed for tethering dogs.
 - (4) No dog under the age of six months shall be tethered outside for any length of time.

- (F) A person owning or keeping a dog may confine such dog outside, subject to the following conditions:
- (1) The following outdoor confinement methods may be used:
 - (a) A pen that allows the dog to exercise, with a dimension of at least one hundred (100) square feet, constructed of chain link or similar material, with a fence height sufficient to successfully confine the dog to the pen.
 - (i) Commercial dog kennels with pens intended for temporary boarding of dogs are exempt from the requirement that the pen be at least 100 square feet.
 - (b) A fully fenced, electronically fenced, or otherwise securely enclosed yard, wherein a dog has the ability to run, but is unable to leave the enclosed yard;
 - (c) A cable run, trolley, or similar pulley system, with the following conditions:
 - (i) Only one dog shall be tethered to each cable run;
 - (ii) The tether shall be attached to a properly fitting collar or harness worn by the dog, with at least one inch of space between the collar and the dog's throat to prevent choking; and, no choke or pinch collars shall be used to tether a dog to a cable run;
 - (iii) There must be at least one swivel at one end of the tether to minimize tangling of the tether;
 - (iv) The tether and cable run must each be at least ten feet in length; the tether must be suspended not less than four feet, and not more than seven feet above ground level;
 - (v) The length of the tether from the cable run to the dog's collar or harness shall allow continuous access to clean water and appropriate shelter at all times, as defined in this section; and,
 - (vi) The tether system shall be of appropriate configuration to confine the dog to the owner's property, to prevent the dog from accessing an object that would cause injury or strangulation of the dog, and to prevent the cable run or tether from becoming tangled with other objects or animals.
 - (2) A person owning or keeping a dog confined outside in accordance with this Chapter shall provide the dog with access to clean water and appropriate dog shelter. Such shelter shall allow the dog to remain dry

and protected from the elements, shall be fully enclosed on at least three sides, roofed, have a solid floor, and be sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and shall be small enough to retain the dog's body heat, but large enough to allow the dog to stand, lie down, and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage shall be provided so that water, ice, or waste is not standing in or around the shelter. All shelters constructed pursuant to this section shall be constructed in accordance with city of Holyoke zoning ordinances and Massachusetts law.

(G) Where, in the opinion of an Animal Control Officer, any violation of any portion of this Chapter regarding the safety or health of an animal which places said animal at imminent risk of harm, the Animal Control Officer may immediately remove and impound the animal for its own protection.

(H) *Violations.*

(1) Any person who violates this section shall:

- (a) For a first violation: be issued a written warning, or punished by a fine of not more than \$50.00;
- (b) For a second violation: be punished by a fine of not more than \$100.00;
- (c) For a third or subsequent violation: be punished by a fine of not more than \$300.00, and the affected animal shall be subject to impoundment at an Animal Control Center at the owner's expense. Such animal shall not be returned unless the owner certifies he will comply with this section, or ownership of the dog is relinquished.

14-9. Animal Control Officers; Regulatory Authority Vested in Board of Health; Hearing Authority.

(A) The Mayor shall appoint an Animal Control Officer, whose primary responsibilities shall include the enforcement and implementation of this chapter and any rules and regulations promulgated hereunder; any state or federal laws regarding the safety and wellbeing of animals, or their impact on public health. The Animal Control Officer shall coordinate and administer the activities of the animal control program in accordance with

the goals, policies, practices, and procedures established by the Board of Health.

- (B) No person shall interfere with, molest, hinder, or abuse an Animal Control Officer in the exercise of official duties. A person who violates this section shall be fined not less than \$100.00.
- (C) The Board of Health shall have the power to make rules and regulations, not inconsistent with this Chapter or state or federal law, for the efficient and orderly enforcement of this Chapter, and otherwise to provide for the safety and wellbeing of animals kept within the city.

14-10. Dangerous Dogs and Nuisance Dogs; Hearing; Right of Appeal.

- (A) Any person who observes a dog engaged in nuisance behavior or behavior which is dangerous to persons or other animals, may file a written complaint to the Hearing Authority within thirty (30) days of the observed behavior. Such complaint shall state the reasons for the complaint, the specific instances of conduct, the purported owner of the dog, and the names and contact information of any witnesses.
- (B) An Animal Control Officer that discovers a dog which the Officer believes to be a nuisance dog or a dangerous dog may request that the Hearing Authority hold a special hearing.
- (C) Upon a complaint, or a request for a special hearing, the Hearing Authority shall cause the investigation of the factual allegations within the complaint. At a public hearing within twenty one (21) days of the complaint, the complainant and/or Animal Control Officer shall be required to testify under oath as to the factual allegations contained within the complaint. The owner of the alleged nuisance dog or a dangerous dog shall be notified in advance of any hearing, and be permitted to be heard and shall be allowed to cross-examine the complainant or any witnesses. Based upon credible evidence and testimony presented at the hearing, the Hearing Authority shall within ten (10) days issue a written decision that the subject dog is: a nuisance dog, a dangerous dog, or neither and dismiss the complaint. The Hearing Authority shall state the grounds for their decision, and serve said findings to the complainant and the owner of the dog.
 - (1) If the Hearing Authority finds that a dog is a nuisance dog, the Hearing Authority may issue an order against the owner of such animal take appropriate remedial action to prevent the cause of the nuisance behavior.

- (2) If the Hearing Authority finds that a dog is a dangerous dog, the Hearing Authority may order one or more of the following:
 - (a) The dog be humanely restrained, as defined in this Chapter;
 - (b) The dog be confined to the premises of the keeper of the dog;
 - (i) The Hearing Authority may order the construction of certain kinds of enclosures, such as setting the size, height, flooring, and materials of construction.
 - (c) That when the dog leaves the premises of the keeper of the dog, the dog be securely and humanely muzzled and restrained by a tether with a tensile strength of at least 300 pounds, and at most three (3) feet in length;
 - (d) That the owner of such dog procure or provide proof of insurance in an amount not less than \$100,000.00 insuring the owner or keeper against any claim, loss, damage, or injury to persons domestic animals, or property resulting from the acts, whether intentional or unintentional, of the dog found to be dangerous;
 - (e) That the owner or keeper of the dog provide such information to the Licensing Authority and Animal Control Officer to allow them to identify the dog throughout its lifetime, including, but not limited to: photographs, videos, veterinary examinations, tattooing or microchip implantation, or a combination of such methods of identification;
 - (f) That the dog be altered by a licensed veterinarian, unless such veterinarian determines that such procedure would be dangerous to the health of the dog;
 - (g) That the dog be implanted with microchip identification, with information registered with the City;
 - (h) That the dog be humanely euthanized; or
 - (i) Any other order that the Hearing Authority deems appropriate or necessary to protect the public from the dangerous dog.
- (D) No dog shall be found to be a dangerous dog solely:
 - (1) Based upon barking or growling;
 - (2) Based upon the breed of the dog;
 - (3) Based upon reasonable reaction of the dog as a result of:
 - (a) The dog protecting itself, its offspring, another domestic animal, or a person from assault or battery;

- (b) The person attacked or threatened by the dog was committing a crime upon the person or the property of the owner or keeper of the dog;
 - (c) The person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring, or otherwise provoking the dog;
 - (d) The person attacked or threatened by the dog was at the time of the incident within a fenced-in area that kept the dog separated from the public, without the express permission of the owner or keeper of the dog;
 - (e) It shall be a rebuttable presumption that a person under seven (7) years of age was not committing a crime, provoking the dog, or trespassing, as set forth by Massachusetts General Laws, Chapter 140, Section 157 (a) (iii) (4).
- (E) An owner of a dog found to be a dangerous dog may appeal to the district court, in accordance with Massachusetts General Laws, Chapter 140, Section 157.
- (F) If a dog which has been found to be a nuisance dog or a dangerous dog has no additional incidences of nuisance or dangerous behavior within a thirty-six (36) month period from the date of decision, the dog shall be removed from the list of nuisance and dangerous dogs. An owner of a nuisance or dangerous dog can request in writing to the Hearing Authority that the dog be removed from the list of nuisance and dangerous dogs prior to the expiration of the thirty six (36) month period. The Hearing Authority may, but is not required to, remove a designation of nuisance or dangerousness if they are satisfied that there has been a change of circumstances or measures taken by the owner, such as training, that have mitigated the risk to public safety.
- (G) Any and all costs for the impounding of a dangerous dog will be borne by the owner of such dog unless otherwise ordered by the Hearing Authority or a court of final appeal. Any costs incurred by the City shall be repaid by the owner within twenty one (21) calendar days of a final decision by the Hearing Authority. An owner reclaiming a dangerous dog shall pay the following costs, within twenty one (21) calendar days, or as otherwise ordered, where applicable:
- (1) Impound and boarding fees, as set by the Animal Control Center;
 - (2) All outstanding fines, except those subject to timely appeal;

- (3) All veterinary charges;
 - (4) The cost of altering the dog;
 - (5) The cost of medicines or vaccinations;
 - (6) The cost of license and registration;
 - (7) The cost of microchip implantation and registration;
 - (8) The cost of euthanasia.
- (H) If an owner or keeper of a dog is found in violation of an order issued under this section, the dog shall be subject to seizure and impoundment by a law enforcement or Animal Control Officer. If the keeper of the dog is in violation, all reasonable effort shall be made by the seizing authority to notify the owner of the dog of such seizure. Upon receipt of such notice, the owner may file a petition with the Hearing Authority, within 7 days, for the return of the dog to the owner. The owner or keeper shall be ordered to immediately surrender to the licensing authority the license and tags in the person's possession, if any, and the owner or keeper shall be prohibited from licensing a dog within the city for 5 years. If the Hearing authority determines that a dog is dangerous or a nuisance or that a dog owner or keeper has violated an order issued under this section shall report such violations to the Licensing Authority within 30 days.

14-11. Animal Waste.

- (A) The owner or person in possession of any animal shall be responsible for the removal of any fecal matter deposited by such animal(s) on the public way, sidewalks, public property, recreation areas, or private property.
- (B) The owner or person in possession of any animal on any public way, sidewalk, recreation area, or private property shall possess the means to remove any fecal matter left by such animal. Such means include, but are not limited to, any tool, implement, device, and or bag for the purpose of picking up and containing such fecal matter.
- (C) Animal waste must be disposed of in accordance with City Ordinances for the disposal of biological waste.
- (D) *Violations.*
 - (1) Any owner or person in possession of an animal who fails to comply with the provisions of this section may be subject to a fine of not more than:

- (a) \$50.00 for the first offense;
- (b) \$100.00 for the second offense; and
- (c) \$300.00 for third or subsequent offenses.

14-12. Wild Animals, Livestock Animals.

- (A) No person shall keep or permit to be kept on his premises any wild, wild-domestic hybrid, or vicious animals as a pet, for display, or for exhibition purposes. This section shall not be construed to apply to zoological parks, animal exhibitions, circuses, or approved Trap-Neuter-Return Programs, as defined in this Chapter. This section shall not apply to animals which are deemed permissible to keep by the laws or regulations of Massachusetts.
- (B) No person shall provide food or sustenance to wild animals in such a manner that would cause a public health or safety risk, or cause a nuisance, as defined in this Chapter.
- (C) An Animal Control Officer may remove any animals kept in violation of this section and either release such animal into its natural habitat or place it in a suitable animal shelter. Any costs associated with the removal of an animal kept in violation of this section shall be payable by the owner.
- (D) No person shall keep any livestock animals on their property except as otherwise allowed by Holyoke Zoning Ordinance or state law. An Animal Control Officer may seize and impound any animals kept in violation of this Section or Holyoke Zoning Ordinance, as defined by this chapter.
- (E) *Violations.*
 - (1) Any person who keeps, feeds, or shelters an animal in violation of this section shall be subject to a fine of not more than:
 - (a) \$50.00 for the first violation;
 - (b) \$100.00 for the second violation; and
 - (c) \$300.00 for the third or subsequent offenses.

14-13. Warnings; Notices of Violation; Issuance of Citations; Appeals.

- (A) Animal Control Officers shall be authorized to issue warnings, notices of violations, orders, citations, fines, and penalties for violations of this Chapter.

- (B) A warning or notice of violations shall be construed to be an order of the City of Holyoke to comply with this Chapter or the laws and regulations of the state of Massachusetts. Repeated failure to comply with such orders is grounds for revocation of any licenses or permits granted under this Chapter and or impoundment of any animals owned or kept.
- (C) The Animal Control Officer may seek enforcement of orders, citations, fines, and penalties for violations of this Chapter either through the application for a criminal complaint or by seeking a non-criminal disposition in the Holyoke District Court.
- (D) *Fines, Fees, Charges.*
- (1) A citation, fine, or penalty may be issued by the Animal Control Officer for violations of this Chapter with or without a written warning or notice of violation, including for a first offense.
 - (2) All fines, fees, and charges under this Chapter shall be due and payable twenty-one (21) calendar days from the date printed on the citation, notice, or bill. In the absence of a citation, notice or bill, fines, fees and charges issued under this Chapter shall be due and payable within twenty-one (21) calendar days of the date of service or violation.
 - (3) Failure to pay any fine, fee, or charge within twenty-one (21) calendar days shall result in an additional late fee of \$25.00 for each individual fine, fee, or charge.
 - (4) Persons who are assessed fines, fees, or charges shall make payment to the Licensing Authority.
 - (5) Outstanding fines, fees, or charges and associated late fees shall become a municipal lien against the property of the person issued the fine, fee, or charge, in accordance with the provisions of Massachusetts General Laws, Chapter 40, Section 58. Further, no license under this Chapter shall be issued unless all outstanding fines, fees, or charges and associated late fees have been paid.
- (E) *Appeals.*
- (1) A person aggrieved by an action or decision of the Animal Control Officer or the Hearing Authority may appeal to the Holyoke District Court by making application within twenty one (21) days of the decision, ticket, or notice of violation.

14-14. Trap-neuter-return programs for homeless or feral cats.

- (A) The outdoor feeding and/or sheltering of more than four feral or homeless cats shall be allowed only for the specific purpose of catching, vaccinating, sterilizing and releasing the cats in accordance with a trap-neuter-return ("TNR") program approved by the board of health in accordance with this section.
- (B) A TNR program shall be approved by the board of health in accordance with the following procedures:
 - (1) The property owner shall submit an application to the board the health. The application shall contain the location of the proposed TNR program and the name and contact information for the sponsor organization.
 - (2) Upon receipt of an application for a TNR program, the board of health shall place the application on its next regularly scheduled meeting, provided said meeting is at least 14 days after the application is received.
 - (a) The applicant shall be responsible for notifying neighboring property owners, within 300 feet of the proposed TNR program location, of the date and time of the board of health meeting. Proof of such notification shall be provided to the board at the meeting.
 - (b) The board of health shall notify the city council of any application submitted at least seven days prior to the board meeting.
 - (3) As a condition of approval the board of health shall require:
 - (a) That food will be provided for the cats twice a day, for one hour each time at a specific time. No food shall be put out until one hour after sunrise and all food shall be taken in one hour prior to sun-down.
 - (b) That all cats that are trapped shall be sterilized.
 - (c) That all cats that are trapped shall be vaccinated against rabies.
 - (d) That all cats that are trapped shall be marked by eartipping or other electronic animal identification device.
 - (4) The sponsor organization shall submit a report to the board and the city council within 90 days of approval of a TNR program. Said report shall detail the total number of cats in the program and the number of cats trapped, neutered, vaccinated and marked with identification. Supporting documentation shall be included in the report. Subsequent reports shall be submitted every 180 days.

(C) *Requirements for all TNR programs.*

- (1) No TNR program will be allowed on vacant lots or buildings or on any public property.
- (2) Only one sponsor organization per TNR program shall be allowed. Any changes in the sponsor organization must be reported to the board of health, neighboring residents and the city council.
- (3) No TNR programs will be approved within 1,000 feet of each other.
- (4) If the sponsor organization fails to provide the required reports, the resident shall have a new sponsor organization approved within 14 days, or the board of health approval will be revoked. Any sponsor organization who fails to submit the required reports shall be prohibited from being a sponsor of future TNR programs.
- (5) The board of health reserves the right to revoke its approval at any time if any condition of the board's approval has been violated, if there is a documented public health or safety concern, or if the feeding has led to the creation of a nuisance, as defined in this Chapter. Upon doing so the board shall notify the resident and sponsor organization.
- (6) The board of health shall promulgate any additional regulations as it determines necessary for the legal implementation of this section.

(D) *Enforcement and penalties.*

- (1) This section shall be enforced by the animal control officer or the board of health or its agents in accordance with this Chapter and may be enforced through a non-criminal disposition in accordance with the procedures set forth in M.G.L.A. c. 40 § 21D.
- (2) Anyone who is found to be feeding and/or sheltering feral or homeless cats in violation of this section shall immediately be issued a cease and desist order.
- (3) Unless otherwise provided for herein, any person who fails to comply with a cease and desist order, any condition of approval by the board of health, any other written order or any other provision of this section shall be subject to a fine of \$50.00 per day for the first offense, \$75.00 for the second offense and \$100.00 for the third and each subsequent offense. Each day that the violation continues shall be deemed a separate offense. In addition to any civil or criminal penalties, any license to keep animals may be revoked.

- (4) In the event that the board of health finds that there is a public health or safety risk or that the feeding has led to the creation of a nuisance, the animal control officer may remove the animals from the property. If animals are removed from a property, the property owner shall bear all costs for such public impoundment, all boarding costs and other fees as may be required to humanely and safely keep the animal(s) at the animal control center. Said costs may also be placed as lien on the property.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on the date of passage.

APPROVED AS TO FORM:

William Newcomb
Associate City Solicitor

IN THE YEAR TWO THOUSAND AND FIFTEEN

NINTH AMENDMENT TO CHAPTER 1 OF THE REVISED CODE OF ORDINANCES OF THE CITY OF HOLYOKE, MASSACHUSETTS 1997

AN ORDINANCE

Be it ordained by the City Council of the City of Holyoke as follows:

SECTION 1. Section 1-10(C) entitled “Enforcement and Penalties” of Chapter 1 entitled “General Provisions” of the Revised Code of Ordinances of the City of Holyoke, Massachusetts, 1997, as amended, is hereby further amended by the following:

DELETING:

The following from the chart set forth after the last paragraph of the subsection:

Ordinance		Penalty and Enforcement
Sec. 14-2	Failure to obtain commercial animal permit	\$200.00 (animal control officer, board of health)
Sec. 14-4	Dogs on leash/restrained	\$50.00 (animal control officer, human officers, board of health)
Sec. 14-8	Animal cruelty	\$300.00 (animal control officer, human officers, board of health)
Sec. 14-9	Keeping of wild animals	\$300.00 (animal control officer, human officers, board of health)
Secs. 14-11—14-16	Keep fowl, swine, animals at large, on sidewalk or tied to city property	\$300.00 (animal control officer, human officers, board of health)
Sec. 14-17	Nuisance animals	\$50.00 1st offense, \$100.00 2nd offense, \$200.00 3rd and each subsequent offense (animal control officer, board of health)
Sec. 14-18	Trap-Neuter-Return programs for homeless or feral cats	\$50.00 1st offense, \$75.00 2nd offense, \$100.00 3rd and each subsequent offense (animal control officer, board of health)
Sec. 14-41	License requirements for dogs	\$25.00 (city clerk)
Secs. 14-44A and 14-44B	Vicious and dangerous dog or animal disposition	\$100.00 (animal control officer, board of health)
Sec. 14-44B(d)	Unregistered dangerous dog or animal	\$50.00 (animal control officer, board of health, city clerk)
Sec. 14-45	Dogs biting or attacking	\$300.00 (animal control officer, board of health)
Sec. 14-46	Dogs on school premises	\$100.00 (animal control officer, board of health)
Sec. 14-52	Dogs trained for fighting	\$300.00 (animal control officer, board of health)

AND ADDING IN ITS PLACE:

Ordinance		Penalty and Enforcement
Sec. 14-2(E)(1)	Failure to obtain dog license	Up to \$50 (city clerk)
Sec. 14-2(E)(2)	Fraudulent use of dog license	Up to \$25 (animal control officer)
Sec. 14-2(E)(3)	Failure to vaccinate animal for rabies	Up to \$100 (animal control officer, city clerk)
Sec. 14-3(H)(1)	Failure to obtain commercial animal establishment permit	Up to \$200/day (animal control officer, city clerk)
Sec. 14-3(H)(2)	Failure to renew commercial animal establishment permit	\$100 per month (animal control officer, city clerk)
Sec. 14-4(D)	Failure to dispose of animals covered by revoked license	Up to \$200 per animal (animal control officer)
Sec. 14-5(E)(1)	Failure to restrain animal	Up to \$50 (animal control officer)
Sec. 14-5(E)(2)	Failure to restrain unaltered animal	\$100 (animal control officer)
Sec. 14-5(E)(3)	Failure to restrain animal resulting in entry on school premises	Up to \$50 (animal control officer)
Sec. 14-5(E)(4)	Animal nuisance	Up to \$50 for 1st offense; up to \$100 for a 2nd offense; up to \$300 for 3rd or subsequent offenses (animal control officer)
Sec. 14-8(H)	Animal control standards	Up to \$50 for 1st offense; up to \$100 for a 2nd offense; up to \$300 for 3rd or subsequent offenses (animal control officer)
Sec. 14-9(B)	Interfering with animal control officer	Up to \$100 (animal control officer)
Sec. 14-11(D)	Animal waste	Up to \$50 for 1st offense; up to \$100 for a 2nd offense; up to \$300 for 3rd or subsequent offenses (animal control officer)
Sec. 14-12(E)	Feeding or keeping wild animals; keeping livestock in violation of zoning ordinances	Up to \$50 for 1st offense; up to \$100 for a 2nd offense; up to \$300 for 3rd or subsequent offenses (animal control officer)
Sec. 14-13 (D)(3)	Late fee for failure to pay fine	\$25 per fine not paid or appealed within 21 days
Sec. 14-14 (D)	Trap-neuter-return program violation	\$50 for 1st offense; \$75 for a 2nd offense; \$100 for 3rd or subsequent offenses (animal control officer, board of health)

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on the date of passage.

APPROVED AS TO FORM:

William Newcomb
Associate City Solicitor