



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: April 21, 2020

Title: An Ordinance Amending Pima County Code Title 6, Pima County Animal Code

Introduction/Background:

The current Pima County Animal Code (Title 6 of the Pima County Code) was written in the mid-1970s, and partially amended in the subsequent three decades, when Pima Animal Care Center's main roles were enforcement of rabies laws and the rounding up of stray roaming dogs. There was not an emphasis on keeping pets with their families, and the euthanasia rates during that time was at or above 50%.

Since then, the role and responsibilities of PACC have evolved, including a greater emphasis on community support for pet owners and lifesaving for shelter pets. In addition, the County Attorney's office identified legal language in the current code that was difficult for residents to understand and problematic for the County to enforce. PACC therefore determined that a complete redraft of the Animal Code was necessary to reflect current practices and ensure legal clarity.

After conducting an in-depth review of animal ordinances from other counties and cities, researching which ordinances were most helpful in creating safe, humane communities, and holding meetings with leaders of animal control organizations in several of those communities, the Director of PACC met with PACC staff, including animal control personnel, and the County Attorney's office, to develop a draft of a revised animal code. PACC consulted with local stakeholders and national experts, sharing drafts of the ordinance and requesting input throughout the process.

Discussion:

PACC has engaged key institutions, public stakeholders, and legal subject matter experts to make modifications and to refine the language in the ordinance, with the goal of ensuring that the proposed code reflects the needs of our community.

Public Stakeholder Meetings: Throughout January 2020, PACC hosted five stakeholder meetings at libraries or community centers in each of the five districts of Pima County. PACC leadership and Animal Protection Officers answered questions and solicited feedback from members of the public. The most recent draft and an Animal Ordinance Fact Sheet was made available to attendees. PACC discussed all feedback from these constituents with the Pima County Attorney and changes were incorporated as necessary and appropriate.

Animal Welfare Court: PACC and the Pima County Attorney have been meeting regularly with the Animal Welfare Court working group, which includes judges and attorneys who oversee or argue animal cases. The attendees provide feedback regarding definitions and the penalties that should be assigned to each violation. As part of the Animal Welfare Court, representatives from the Pima County Sheriff's Department and Animal Cruelty Task Force, and local professionals who work in domestic violence and related behavioral health attended meetings and provided input. This expert input alongside feedback from the district community stakeholder meetings resulted in several changes to the previous draft including the following:

- Removal of the definition of 'companion animal' in favor of a simple definition of 'animal.' This is to ensure legal clarity and to avoid confusion around whether an animal is actually a 'companion.'
- Development of the 'penalties' section, which will include civil penalties for leash law and licensing violations and criminal penalties for all other offenses.
- The addition of language to criminalize the possession of dog and rooster fighting paraphernalia.

Advisory Committee: On February 13, the PACC Advisory Committee reviewed the updated draft ordinance and voted to move it forward to the Pima County Board of Supervisors for their consideration. PACC staff agreed they would be apprised of any significant changes following their review and approval.

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Rescue Partner Meeting: On February 19, PACC hosted a feedback session for rescue partners. Rescue partners that attended expressed concerns over the proposed multiple animal permit, which would have required pet owners with more than 10 indoor pets to obtain a no-fee permit. Following this meeting, PACC and the Pima County Attorney's Office removed the section in favor of a kennel permit to regulate people intentionally breeding animals for sale.

Conclusion:

The proposed ordinance updates the Pima County Animal Code to reflect the current functions of the animal services department, provide clarity for residents and those involved in enforcement, and conform with best practices in animal control and animal welfare.

Recommendation:

Staff recommends the Board adopt Ordinance 2020-_____ amending the Pima County Code, Title 6, Pima County Animal Code.

Fiscal Impact:


Board of Supervisor District:

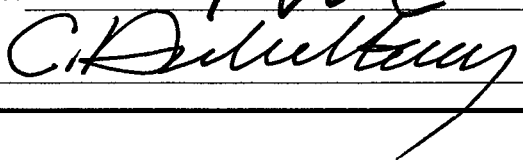
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Department: Pima Animal Care Center Telephone: 520 724- 5908

Contact: Kristen Hassen, Director Telephone: 520 724-5908

Department Director Signature/Date: 

Deputy County Administrator Signature/Date: 

County Administrator Signature/Date:  4/6/20

ORDINANCE 2020- _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY,
ARIZONA, RELATING TO ANIMALS; AMENDING THE PIMA COUNTY CODE,
TITLE 6, PIMA COUNTY ANIMAL CODE**

THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, FINDS THAT:

1. The Board of Supervisors has authority under A.R.S. §§ 11-251.05, 11-1005, and 13-2910(F) to adopt ordinances relating to animal control and the neglect and mistreatment of animals.
2. It is in the best interest of the County to update the Pima County Animal Code to reflect the current functions of the animal services department, provide clarity for residents and those involved in enforcement, and conform with best practices in animal control and animal welfare.

IT IS ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

SECTION 1. Title 6 of the Pima County Code is repealed in its entirety.

SECTION 2. A new Title 6 is enacted, reading as follows:

TITLE 6 - ANIMALS

6.02 – GENERAL

6.02.010 Applicability

This title applies only within the unincorporated areas of the county, and not within any incorporated city, town, or Indian reservation.

6.02.020 Definitions

For the purposes of this title:

- A. "Animal" means a non-human mammal, bird, reptile, or amphibian, that is not regulated by the Arizona Department of Agriculture or the Arizona Game and Fish Department.
- B. "Animal welfare organization" means a 501(c)(3) nonprofit organization that is an animal shelter, animal rescue organization, or other animal welfare organization.
- C. "At large" means neither confined by an enclosure nor physically restrained by a leash.
- D. "Cat" means a member of the species *Felis catus*, or any combination of *Felis catus* and other feline species.

- E. "Community cat" is a cat that is living outdoors, lacks discernible identification, is of sound health and possesses its claws, and is returned to the vicinity where it was originally captured as part of a sterilization program.
- F. "Dangerous dog" means a dog that has been declared dangerous under Chapter 6.10.
- G. "Days" means calendar days unless otherwise specified.
- H. "Dog" means a member of the species *Canis familiaris* or any combination of *Canis familiaris* and other canine species.
- I. "Department" means the animal services department of Pima County.
- J. "Director" means the director of the department.
- K. "Handler" means a person who has charge, care, custody or control of an animal.
- L. "Impound" means the act of taking or receiving any animal into custody by a peace officer or the department.
- M. "Microchip" means a passive electronic device injected into an animal by means of a pre-packaged, sterilized, implanting device for purposes of identification and future recovery.
- N. "Officer" means an animal protection officer employed by the department.
- O. "Owner" means the legal owner of an animal, or any person who keeps, harbors, or regularly feeds an animal other than a community cat for more than six consecutive days.
- P. "Veterinarian" means a doctor of veterinary medicine licensed to practice in Arizona.

6.02.030 Enforcement Authority

- A. The department is designated as the county enforcement agent under A.R.S. § 11-1005(A)(1).
- B. The department is designated as an animal control agency under Arizona Administrative Code R9-6-501.
- C. To the extent permitted by law, the department and its officers and certified peace officers are authorized to enforce, and to issue citations for violations of, the relevant provisions of A.R.S. Title 11, Chapter 7, Article 6; A.R.S. Title 13, Chapter 29; Arizona Administrative Code Title 9, Chapter 6, Article 5; of this title; and of municipal ordinances that the board of supervisors has contractually agreed to enforce.

6.02.040 Fees

- A. The County may, by ordinance, establish and amend a schedule of fees for animal permits and licenses and for products and services provided by the department.
- B. Any fee for a product or service must be attributable to and defray or cover the expense of the product or service for which it is assessed.
- C. The department may waive or reduce any fee if the director determines it is in the public interest.

6.02.050 Records

The department shall keep a record of each animal impounded, kept, or disposed by the department's animal shelter that includes:

- A. A description and photograph of the animal and the date of its impoundment or acceptance;
- B. The date of disposition of that animal; and
- C. The type of disposition and reason for disposition type.

6.02.060 Community Advisory Committee

- A. Responsibilities: The Community Advisory Committee:

1. Offers opinions and makes recommendations to the department and the board of supervisors in the following areas:
 - a. Development of short and long-term strategic goals and objectives;
 - b. Amendments to Title 6 of the Pima County Code;
 - c. Materials and programs to educate the public;
 - d. Delivery of programs and services to the community;
 - e. Input regarding animal-related community needs and trends
 - f. Provision of services and facilities for the care and control of animals by the county; and
 - g. Cooperation in the care and control of animals among the county, other government entities, veterinarians, professional animal handlers, animal lovers, community safety groups, and humane groups;
 2. Serves as a liaison to increase support and awareness of the department in the community;
 3. Performs any additional duties involving care and control of animals that are assigned to the committee by the board of supervisors.
- B. Membership:
1. Each of the following appoints one committee member: the Pima County Board of Health; Southern Arizona Veterinary Medical Association; Animal Services Partner Jurisdictions; Friends of Pima Animal Care Center; and Animal Services Volunteers and Foster Caregivers.
 2. Each member of the board of supervisors appoints one committee member.
 3. The county administrator appoints one staff member and one community member to serve on the committee. The staff member appointee serves as a non-voting member.
- C. Terms and Officers:
1. Committee members serve two-year terms, which begin July 1 and expire on June 30 of the second year of their respective terms.
 2. Committee members may serve a maximum of four consecutive terms. A member may be appointed after the fourth term for an additional term if there are no other interested and qualified applicants.
 3. At the first advisory committee meeting following July 1, the committee members shall elect a chair and vice-chair to serve for one year.
- D. Meetings:
- Regular meetings are held at least every two months. The chair may call a special meeting if there is sufficient business before the committee.
- E. The director or the director's designee shall attend each meeting and provide a report to the committee.
- F. The committee may adopt by-laws not inconsistent with law for its procedures.

6.02.070 Reporting

The department shall present a report at every regularly scheduled Community Advisory Committee meeting that includes:

- A. The total number of animals impounded;
- B. The total number of animals euthanized and died in care;
- C. The total number of animals placed through adoption and rescue;
- D. The total number of animals outcomed; and
- E. The live-release rate calculated as live outcomes/total outcomes.

6.04 – IMPOUNDMENT OF ANIMALS

6.04.010 Impoundment

- A. An officer or a peace officer may impound:
 - 1. Any animal at large;
 - 2. Any animal that has bitten a person or other animal susceptible to rabies in the past ten days;
 - 3. Any animal exposed to or suspected to be exposed to rabies;
 - 4. Any dog that poses an immediate threat to public safety;
 - 5. Any animal whose life or health is in immediate danger.
- B. An officer may enter private property when:
 - 1. A person with authority over the property consents to entry; or
 - 2. A valid warrant is obtained; or
 - 3. The entry is legally warranted because of exigent circumstances or another recognized exception to the warrant requirement under the United States and Arizona constitutions.
- C. When an animal is at large and an officer knows its ownership, an officer may:
 - 1. Impound the animal; or
 - 2. Cite the owner or handler; or
 - 3. Issue a verbal or written warning to the owner or handler.

6.04.020 Retention and Redemption of Impounded Animals

- A. The department is the designated caretaker of every impounded animal from the date of impoundment.
- B. Upon intake, the department may provide an impounded animal with any treatment it determines to be medically necessary, including vaccinations and deworming, and shall document any such treatment.
- C. Except when an animal is the subject of forfeiture proceedings under Chapter 6.12, an owner may redeem an impounded animal upon payment of impound, boarding, and veterinary fees and compliance with vaccine, registration, licensing, microchipping, and any other relevant legal requirements.
- D. Hold periods
 - 1. Unless redeemed by its owner:
 - a. an animal without identification is kept for a minimum of three days.
 - b. an animal with a microchip, license, or other specific owner information available is kept for a minimum of five days.
 - 2. An animal impounded pending forfeiture proceedings under chapter 6.12 is kept until the conclusion of such proceedings, including any available appeal.
 - 3. An animal impounded for purposes of quarantine is held for a 240-hour (10 day) observation period from the time the animal was exposed to rabies or bit a person or other animal, as applicable.
- E. The department may transfer an animal to an animal welfare organization prior to the expiration of the hold period described in subsection C, subject to the following conditions:
 - 1. The department maintains documentation, in physical and electronic form reviewable by the public, of an animal transferred under this subsection, including a photograph and all information pertaining to the animal's impoundment and transfer, at the department's animal shelter and on the department website, for the hold period.
 - 2. By accepting the animal, the transferee organization becomes the designated caretaker of the animal for the remainder of the hold period.

3. The transferee organization shall permit an officer or a peace officer to inspect the animal at any time during the hold period to gather evidence for an ongoing investigation or administrative or judicial proceeding.
4. An animal transferred under this subsection remains subject to reclamation by its owner prior to the expiration of the hold period.
5. Upon the expiration of the hold period, an animal transferred under this subsection is considered abandoned by its owner and becomes the property of the transferee organization or, at the department's option, of the department.
- F. An animal surrendered by its owner to the department becomes the property of the department at intake and no hold period applies.
- G. The department shall not euthanize any animal before the animal has been impounded for the hold period unless the animal is medically suffering with a poor to grave prognosis and pain cannot be managed effectively, even with prompt and comprehensive medical care.
- H. An animal in the temporary custody of the department solely for purposes of sterilization, vaccination, or microchipping is not considered to be impounded for the purposes of this chapter. The department is the designated caretaker, but not owner or handler, of such animal during any period of custody.

6.04.030 Disposition of Unclaimed Animals

- A. After the expiration of the relevant hold period, the department may, as appropriate, dispose of any animal that is not claimed by its owner by:
 1. transferring it to an animal welfare organization;
 2. placing it back in the community as part of a community cat program
 3. adopting it out to an individual who has received adoption counseling from the department; or
 4. euthanizing it.
- B. Before release, any cat or dog adopted from the department must be:
 1. spayed or neutered, unless a licensed veterinarian certifies that the animal should not be spayed or neutered due to reasons related to health or age; and
 2. if a dog three months of age or older, licensed and microchipped.

6.06 – REGULATION OF ANIMALS

6.06.010 Registration and Licensing

- A. The department shall establish a process for the registration and licensing of dogs, and the primary identifying mechanism may be a tag or a microchip.
- B. The owner of any dog three months of age or older that has resided in Pima County for more than thirty days must have the dog microchipped, registered with the department, and licensed.
- C. Owners of dogs that have previously been microchipped may use the existing microchip identification number for their registration.
- D. The owner of the dog must maintain current registration with the microchip registration company.
- E. No dog may be licensed unless it has a current rabies vaccination as required by A.R.S. § 11-1010.
- F. A license is valid for three years or until the dog's rabies vaccination is due, whichever is shorter.
- G. If there is a change in ownership of a registered dog, the new owner must have the registration transferred to their new owner's name within thirty days.

- H. Animals other than dogs are not required to be licensed or registered with the department.
- I. Owners of animals other than dogs may register them with the department.

6.06.020 Kennel Permit

- A. A person operating a kennel must obtain a kennel permit issued by the department.
- B. For the purposes of this section, "kennel" means a commercial establishment, other than a veterinary establishment, in which a person keeps, harbors, or maintains five or more dogs for breeding, boarding, sale, or training.
- C. The department may inspect the premises at any time Monday through Sunday, 8:00 a.m. to 5:00 p.m.
- D. The department shall deny a kennel permit to or revoke an existing permit from any person who:
 - 1. Denies entry to the property for such inspection; or
 - 2. Pursuant to any state, county, municipal or federal law or regulation, criminal or civil, has been convicted of or found responsible for neglect or mistreatment of an animal or any other offense relating to animals; or
 - 3. Has, within the past ten years, been convicted of a felony; or
 - 4. Has ever forfeited an animal pursuant to chapter 6.12 or any other state, county, municipal or federal proceeding or law; or
 - 5. Has ever been denied the right, pursuant to any legal proceeding or law, to own, possess, or have control of animals in general.
- E. Any dog habitually kept at the kennel must have a current rabies vaccination and, if over three months of age, be implanted with a microchip. The department may request proof of vaccination and scan any dog in the kennel to verify the presence of a microchip.

6.06.030 Dogs at Large Prohibited

- A. An owner or handler must not permit their dog to be at large on public property or on the private property of any other person without that person's permission, except when the dog is:
 - 1. participating in a field trial, obedience class, or kennel club event;
 - 2. being used or trained for legal hunting or for control of livestock;
 - 3. assisting a peace officer engaged in law enforcement duties; or
 - 4. a trained service dog assisting, and under the direct and effective voice control of, a disabled person or their aide.
- B. In a rabies quarantine area, an owner or handler must ensure that their dog is confined entirely to their property.
- C. The exceptions in subsection A do not apply to a female dog during her breeding or mating season or to a dangerous dog.

6.06.040 Dog Waste

- A. An owner or handler must immediately remove and dispose of animal waste when their dog defecates anywhere on public property, or on private property without the consent of the property owner.
- B. An owner or handler must carry or have ready access to a container for waste disposal when on public property with a dog.
- C. This section does not apply to:
 - 1. blind persons;
 - 2. persons with mobility disabilities; or
 - 3. law enforcement officers while on duty.

6.06.050 Sale of Animals

- A. It is unlawful for any person to sell, trade, barter, lease, rent, or give away any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place.
- B. It is unlawful for any property manager, operator or owner to permit the conduct described in subsection A.
- C. This section does not apply to an animal welfare organization.
- D. This section does not prohibit the sale, gift, or other transfer of ownership of animals at county fairs, animal exhibitions or shows, 4-H activities, and other activities or events that are regulated by the state or county.

6.06.060 Penalties

- A. The department may issue a citation to any person violating this chapter and assess a civil penalty not to exceed five hundred dollars for each violation.
- B. The department may waive or reduce any penalty if the person participates in an animal cruelty prevention program or other educational program at the department's direction.

6.08 – NEGLECT, CRUELTY, AND PUBLIC SAFETY

6.08.010 Animal Welfare

- A. An animal's owner must keep the animal in a clean, sanitary, and healthy condition.
- B. An animal's owner must provide the following, as appropriate for the species of animal:
 - 1. Regular and adequate amounts of uncontaminated, nutritious and palatable food that maintains the animal in good health.
 - 2. Clean food receptacles that are accessible to the animal and are located to minimize contamination by insects or excrement.
 - 3. A constant and adequate supply of clean, fresh, potable water that keeps the animal hydrated appropriate to environmental conditions.
 - 4. Care and medical treatment for injuries, parasites and diseases that is sufficient to maintain the animal in good health or minimize suffering.
 - 5. A shelter that:
 - a. is large enough for the animal to enter, stand, turn around and lie down in a natural manner;
 - b. keeps the animal dry;
 - c. provides the animal with shade from direct sunlight;
 - d. protects the animal from excessive heat and cold and other adverse weather conditions; and
 - e. is adequately ventilated
 - 6. An animal's owner may not confine the animal to the extent that it is forced to stand, sit, or lie in its own excrement.
 - 7. An animal's owner must regularly maintain the animal and its shelter to prevent odor or a health and sanitation problem.
 - 8. An animal's owner must provide the animal with exercise space that is large enough to prevent injury and keep the animal in good condition, allowing the animal to maintain normal muscle tone and mass.
- C. A person violating this section is guilty of animal neglect.

6.08.020 Tethering and Tie Outs

- A. The use of tethers or tie outs to restrain an unaccompanied animal is prohibited.
- B. The use of any collar or tether exceeding one-eighth of an animal's total body weight is prohibited.

- C. The use of any collar or tether with a weighted object attached is prohibited.

6.08.030 Animal Endangerment

- A. A person may not:
1. Confine an animal in a pen, house, car, truck, trailer, or any other place without sufficient ventilation, clean air, potable water, food, and necessary veterinary care.
 2. Confine an animal in a motor vehicle or other enclosed space in which the animal's life or health is endangered by high temperatures, low temperatures, or inadequate ventilation.
 3. Transport an animal in a motor vehicle on a public roadway unless the animal is safely enclosed within the vehicle or confined in a secure and appropriately-sized vented container in a manner that prevents the animal from falling or jumping from the vehicle or otherwise being injured.
- B. An officer or peace officer may remove an animal from a vehicle or enclosed space using any reasonable means, including breaking a window or lock. The officer should first attempt to locate the animal's owner if doing so will not endanger the animal's life or health.

6.08.040 Cruelty

- A. A person is guilty of animal cruelty if that person:
1. Intentionally or recklessly kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal authority.
 2. Injures, overworks, overloads, tortures, torments, beats, or mutilates an animal.
 3. Gives drugs or alcohol to an animal with an intent to harm the animal or with reckless disregard for the animal's health.
 4. Deprives an animal of necessary medical attention when the animal is or has been suffering from illness, injury, disease or excessive parasitism.
 5. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment.
 6. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal.
 7. Intentionally allows an animal to fight with another animal or person.
 8. Possesses, with the intent to use in furtherance of the unlawful conduct of cockfighting, spurs, gaffs, swords, leather training spur covers, or anything worn by a gamecock during a fight to further the killing power of such gamecock.
 9. Possesses, with the intent to use in furtherance of the unlawful conduct of dog fighting, any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, springpole, or other paraphernalia.
 10. Cruelly abandons an animal.
 11. Carries an animal or causes an animal to be carried in or upon a vehicle or otherwise, in a cruel or inhumane manner.
 12. Crops a dog's ears without assistance from a licensed veterinarian.
 13. Docks a dog's tail without assistance from a licensed veterinarian.

6.08.050 Injury to People, Animals or Property

- A. No owner or handler may permit an animal to bite, attempt to bite, endanger, or otherwise injure or cause to be injured a person or another animal.
- B. No owner or handler may permit an animal to destroy or damage the property of a person other than the animal's owner.

- C. A person injured by an animal may provide an affidavit describing the animal and their injury to the department and the owner of the animal alleged to have caused the injury.
- D. It is not a defense that the animal was not under the physical control of its owner or handler.
- E. It is an affirmative defense if the animal was:
 1. Not at large and there was provocation; or
 2. Assisting a peace officer engaged in law enforcement duties.

6.08.060 Failure to Quarantine

- A. No person may willfully conceal information about the location or ownership of an animal of a species subject to rabies that has bitten or otherwise exposed a person to rabies, with the intent to prevent the quarantine or isolation of that animal.
- B. No person may violate any order of an officer concerning the isolation, quarantine, or production of an animal that has bitten or otherwise exposed a person to rabies.

6.08.070 Penalties

- A. A violation of any provision of this chapter is a Class 1 misdemeanor punishable by a fine of not less than one hundred dollars nor more than two thousand five hundred dollars, six months in jail, three years' probation, or any combination thereof. No judge may grant probation in lieu of, or otherwise suspend, the imposition of the minimum fine.
- B. The department may also initiate civil forfeiture proceedings under chapter 6.12 of this title for any animal owned by a person cited for violating any provision of this chapter.

6.10 – DANGEROUS DOGS

6.10.010 Declaration of Dangerousness

- A. The department may evaluate any dog it has reason to believe may be dangerous.
- B. The department may declare a dog to be dangerous based on an evaluation that includes:
 1. an investigation of any incidents of causing harm or threatening to cause harm to a human or animal, including consideration of any affidavits provided to the department under subsection 6.08.050(C);
 2. an assessment of behavior in or out of the shelter setting; and
 3. an assessment of its interactions with humans and other animals in and outside of its owner's presence.
- C. The department may immediately declare a dog to be dangerous if, without provocation, it killed or inflicted substantial bodily harm upon a person while off the property of its owner.
- D. When the owner of a dog is notified that the department wishes to evaluate the dog to determine whether it is dangerous, the owner must make the dog available for evaluation at its usual place of abode within twenty-four hours of a request by the department. The owner must not sell, give away, or hide the dog, or otherwise prevent the department from conducting the evaluation.
- E. On declaring a dog to be dangerous, the department shall notify the owner and issue them a dangerous dog order under section 6.10.030.
- F. Once declared dangerous, the dog is considered dangerous until a hearing officer or court determines otherwise.
- G. The department may impound the dangerous dog at the owner's expense until the owner has complied with the dangerous dog order.

- H. If the owner's whereabouts cannot be determined or the dog poses an immediate threat to public safety, the department shall impound the dog and post notice on the property or mail it to the owner at the owner's last-known address by registered or certified mail.
- I. The owner is responsible for payment of all impound and boarding fees.

6.10.020 Exemptions

- A. No dog may be declared dangerous based solely on an act which was provoked or reasonably justified. This includes, but is not limited to, a dog's actions under the following circumstances:
 - 1. The dog was protecting or defending a person in the immediate vicinity from an attack or assault;
 - 2. The dog was responding to pain or injury;
 - 3. A person was injured while committing a crime or offense upon the property of the owner or custodian of the dog;
 - 4. A person was injured while intervening between two or more animals engaged in aggressive behavior or fighting;
 - 5. The person injured had willfully tormented, abused or assaulted the dog, either at the time of the injury or in the past.

6.10.030 Dangerous Dog Order

- A. When a dog is declared dangerous, the department shall issue a dangerous dog order requiring the owner:
 - 1. Within thirty days, to provide at the direction of the department adequate confinement measures for the dog, which may include a six-foot high fence, a fully-enclosed kennel run, an enclosure with fully-secured top and bottom barriers, and an enclosure with padlocked entrances.
 - 2. To keep the dog in the confinement area except when muzzled, restrained with a leash no more than six feet in length, and under the control of a handler.
 - 3. To post a sign on every gate or entryway to the confinement area stating "Dangerous Dog Lives Here." The sign shall be provided by the department.
 - 4. To obtain and maintain liability insurance in a single incident amount of no less than \$50,000.
 - 5. To license the dog at the dangerous dog rate.
 - 6. To ensure that the dog is spayed or neutered, microchipped, and vaccinated.
- B. The department may require or allow temporary confinement measures until the order has been complied with or a hearing officer or court determines the dog is not dangerous.
- C. The owner must comply with the dangerous dog order.
- D. The owner must permit an officer to inspect the premises where the dog is housed and provide proof at the officer's request that the owner is fully compliant with the order.
- E. The owner must provide proof of licensure, proof of liability insurance or bonding, and the veterinarian's certificate of spaying or neutering and microchipping to an officer upon demand.
- F. The owner must prevent the dog from running at large.
- G. The owner must prevent the dog from biting, injuring, or attacking any person or animal outside of the confinement area.
- H. The owner may not relocate, give away, sell, abandon, or dispose of the dog, or acquire any additional dog, without written approval from the department.
- I. The department shall maintain a registry of dangerous dogs, their owners, their microchip and license numbers, and the current address at which they reside.

6.10.040 Rescission of Declaration and Order

- A. The owner may, no sooner than three years after a dog is declared dangerous, apply to the department to have the declaration of dangerousness and dangerous dog order rescinded if:
 - 1. the owner has complied with all the provisions of this chapter; and
 - 2. the department has issued no further citations involving the dog.
- B. If the department finds that all conditions in this section have been met, the department will conduct a new evaluation of the dog.
- C. If the evaluation concludes that the dog no longer merits a declaration of dangerousness, the department will rescind the dangerous dog declaration and order and notify the owner in writing.

6.10.050 Penalties

- A. A violation of any provision of this chapter is a Class 1 misdemeanor punishable by a fine of not less than one hundred dollars nor more than two thousand five hundred dollars, six months in jail, three years' probation, or any combination thereof. No judge may grant probation in lieu of, or otherwise suspend, the imposition of the minimum fine.
- B. The department may initiate civil forfeiture proceedings under chapter 6.12 of this title for any dog subject to a dangerous dog order whose owner fails to comply with the order or is cited for violating any other provision of this chapter.

6.12 – PROCEDURE TO FORFEIT ANIMALS

6.12.010 Removing Animals

- A. An owner cited with a violation of any provision of chapter 6.08 or 6.10 of this code must produce the animal for impoundment at the request of the department.
 - 1. Failure to comply with this subsection is a Class 2 misdemeanor punishable by imprisonment for not less than twenty-four hours nor more than four months and by a fine of not less than two hundred dollars nor more than seven hundred fifty dollars.
 - 2. No judge may grant probation in lieu of, or otherwise suspend, the imposition of the minimum fine.
- B. The owner may sign a statement permanently relinquishing ownership of the animal to the department.
- C. If the owner declines to sign such a statement, the officer shall issue the owner written notice of the department's intent to petition a justice of the peace to order a hearing for the owner to show cause why the animal should not be forfeited to the department.
- D. If the owner's whereabouts cannot be determined, notice shall be mailed to the owner at the owner's last-known address by registered or certified mail, return receipt requested.
- E. The owner must, within ten days after the notice is issued, deposit with the department cash in a sum equivalent to the fees associated with impoundment and fifteen days of sheltering as a bond to secure the owner's obligation to pay costs under 6.12.020(B)(2) if the owner is found to have violated any provision of chapter 6.08 or 6.10. This sum shall be listed on the notice.
- F. If the bond is not posted within ten days of the notice being issued, the animal is deemed forfeited to the department.
- G. The department shall file the petition with Justice Court within ten business days of receiving the bond.
- H. The hearing shall be set for a date not less than ten and no more than fifteen business days after the petition has been filed.

6.12.020 Order to Show Cause Hearing

- A. If the owner fails to appear at the hearing, the justice of the peace shall order the animal forfeited to the department.
- B. On finding by a preponderance of the evidence that the owner violated a provision of chapter 6.08 or 6.10 of this code, the justice of the peace:
 - 1. shall order the animal forfeited to the department; and
 - 2. shall order the owner to pay to the department all outstanding costs of impoundment, including veterinary and boarding fees; and
 - 3. may also order that the owner not be permitted to own or control any animal for a period of up to three years.

6.12.030 Appeal

- A. Either party may appeal the decision of the justice of the peace by way of special action to the superior court on the record of the hearing.
- B. If either party claims the record is incomplete or lost, and the justice of the peace who conducted the hearing so certifies, a new hearing shall be conducted before that justice of the peace.
- C. The owner, if the appealing party, must post a bond equivalent to sixty days of impoundment costs in order to perfect the appeal. Notice of the amount due shall be given to the owner by the justice of the peace at the time of the order to show cause hearing if forfeiture is ordered.
- D. The appealing party bears the cost of preparing the record of the hearing on appeal.
- E. No appeal may be taken later than ten business days after the decision.

6.14 – ANIMAL ENFORCEMENT RULES OF PROCEDURE

6.14.010 Scope of Rules

With the exception of forfeiture actions under chapter 6.12, these rules apply in all cases involving the adjudication of civil animal violations and denials of licenses or permits by the department under Title 6 of this code.

6.14.020 Hearing Officer

- A. The hearing officer performs the following duties:
 - 1. Hearing and deciding appeals of civil citations and adverse actions of the department under this title except where otherwise provided;
 - 2. Administration of oaths;
 - 3. The issuance of subpoenas and summonses ordering appearance before the hearing officer;
 - 4. The making of any other order necessary for the determination and resolution of violations under this title.
- B. The hearing officer is appointed by the board of supervisors.
- C. The hearing officer must have training, experience, or familiarity with administrative hearings and this section.
- D. The hearing officer may not be an employee of the department.

6.14.030 Commencement of Action

- A. All citations or notices of an adverse action by the department issued under this title shall include written notice of the person's right to file, within five days of receipt, a written request with the department for a hearing.
- B. If no request for a hearing is filed, the department's action becomes final when the time for requesting a hearing has expired.

- C. The hearing shall be conducted within thirty days of the department's receipt of the request.
- D. The department shall provide notice of the hearing to the person who is the subject of the citation or action at least ten days before the hearing.

6.14.040 Notice of counsel or other designated representative.

- A. The notice of the hearing shall include notice that the person's right to be represented by counsel or other designated representative is waived unless they notify the hearing officer and the department in writing of such representation at least five business days prior to the hearing date.
- B. Absent extraordinary circumstances, failure to timely notify the hearing officer and the department of representation by counsel or other designated representative constitutes a waiver of the right to such representation.

6.14.050 Discovery

- A. No pre-trial discovery shall be permitted absent extraordinary circumstances.
- B. Immediately prior to the hearing, each party shall produce for inspection by the opposing party any prepared exhibits and written or recorded statements of any witness which may be offered at the hearing. Failure to comply with this rule may result, in the hearing officer's discretion, in the granting of a recess or a continuance to permit such inspection or in the denial of admission of the evidence not so exchanged.

6.14.060 Continuance

- A. The hearing officer may, upon any motion of any party or on the officer's own motion, continue the hearing for a period not exceeding thirty days, if it appears that the interests of justice so require.
- B. Absent extraordinary circumstances, no hearing shall be continued by the hearing officer without notice to all parties.
- C. The hearing officer shall notify all parties in writing of the new hearing date.

6.14.070 Default Judgment

- A. If the person who is the subject of the citation or action fails to appear at the hearing, the allegations of the citation shall be deemed admitted or the department's action shall be upheld, as appropriate, and the hearing officer shall enter judgment for the department.
- B. For good cause shown, and upon terms the hearing officer deems just, the hearing officer may set aside a judgment entered upon a failure to appear. A motion to set aside the judgment may be filed within thirty days after entry of judgment.
- C. The hearing officer shall set aside a judgment entered upon a failure to appear if the hearing officer learns that the named person was not served a copy of the citation or for any other reason where necessary to prevent a manifest injustice.

6.14.080 Hearing

- A. The department shall present evidence, and the person who is the subject of the citation or action, or their attorney or other designated representative, shall have an opportunity to present evidence.
- B. All testimony shall be given under oath or affirmation.
- C. The Arizona Rules of Evidence shall not apply. Any evidence offered may be admitted subject to a determination by the hearing officer that the offered evidence is relevant and material and has some probative value to a fact at issue. Nothing in this rule is to be construed as abrogating any statutory provisions relating to privileged communications

6.14.090 Findings and Written Judgment

- A. If the hearing officer finds by a preponderance of the evidence that the person violated any provision of this title, the hearing officer shall enter judgment for the county and impose civil penalties provided for under this title. Otherwise, the hearing officer shall enter judgment for the defendant.
- B. If the hearing officer finds that there was a reasonable basis for an adverse action by the department, the hearing officer shall uphold the department's action. Otherwise, the hearing officer shall remand the matter to the department for reconsideration.
- C. Written judgment shall be rendered not later than five business days after the conclusion of the hearing.
- D. Nothing in these rules shall prohibit an officer from issuing a citation based on subsequent violations of this title.

6.14.100 Review by Superior Court

Judicial review of the final decision of the hearing officer shall be pursuant to Arizona Revised Statutes Title 12, Chapter 7, Article 6 (A.R.S. § 12-901 et seq.).

SECTION 3. This Ordinance is effective 30 days after the date of adoption.

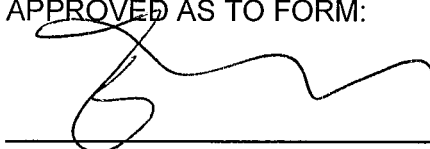
PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this
_____ day of _____, 2020.

Chairman, Pima County Board of Supervisors

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:



Deputy County Attorney