



Staff Report

Agenda Item: **RESOLUTION DECLARING THE “ANIMAL CODE ORDINANCE AMENDMENT TO CHAPTER 6, SECTIONS 6-1 THROUGH 6-8”;**
A PUBLIC RECORD – Consideration of resolution # _____ declaring as a public record those certain documents filed with the Town Clerk and entitled “Animal Code Ordinance Amendment to Chapter 6-1 Through 6-8”; Town Code.

Staff Contact: Walt Good, Deputy Town Clerk

Meeting Date: October 14, 2008

Background: On September 23, 2008 Council reviewed the document entitled “Animal Code Ordinance Amendment to Chapter 6-1 Through 6-8”. Council discussed the document and recommended changes. The changes made to the proposed amendment to the Town Code follow:

Section 6-1-1 Definitions

➤ Changed the definition of animal to:

B. Animal – Any species of fowl, rodent, reptile, fish, domestic, or wild animals

➤ Changed verbiage from family to species:

E. Dog - means a member of the *canis familiaris* species.

Section 6-1-2 Nuisance

➤ The changed definition of animal now reflects all animals. Majority of immediate adjacent neighbors was also changed to be immediate adjacent neighbors.

A. Harboring, feeding, or maintaining any **animal** whatsoever which annoys or disturbs the peace, comfort, or health of the immediate adjacent neighbors, shall constitute a nuisance; provided, however, that a complaint is filed with and verified by an **Enforcement Officer**.

Section 6-1-3 Strays

➤ The change in the definition of animal now includes wildlife. The Enforcement Officer does not impound wildlife that is lost or strayed and it is not required that the finder notify an Enforcement Officer.

A. It is unlawful for any person to **harbor**, feed, or maintain within the Town limits any lost or strayed **animal**. Whenever an **animal, excluding wildlife**, is found which appears to be lost or strayed, it shall be the duty of the finder to notify an **Enforcement Officer**, who may **impound** the **animal**. If there is a registration tag attached to the **animal** for the current year, the Police Department or authorized agent will attempt to

notify the person to whom such permit was issued, at the address in the permit.

Section 6-1-6 Inhumane Treatment of Animals

- The action of administering poison has been deleted from this section. The change in the definition of animal reflects inhumane treatment to all animals.
 - D. It is unlawful for any person or persons to willfully and/or maliciously poison any **animal**, with the intent to injure or destroy such **animal**. This ordinance shall not apply to poison designed for the control of mice and **vermin**.

Section 6-1-8 Biting Animals That Are Susceptible to Rabies

- The change in the definition of animal now reflects all animals. This section only applies to animals that are susceptible to rabies so that the Police Department is notified of any bites breaking skin which could be from a rabid animal.
 - A. Whenever an **animal** susceptible to rabies bites any person, causing a break to the skin, the incident shall be reported to the Police Department immediately by a person having direct knowledge of the incident.
- Reference to other dangerous contagious and infectious disease was deleted from this section since it relates to rabies only. Contagious and infectious disease other than rabies could be handled under the nuisance section.
 - B. An Enforcement Officer shall order any **animal** susceptible to rabies that is not licensed, permitted, or **vaccinated** quarantined in a **pound** if the officer has reason to believe that the **animal** that bit a person, is showing signs or symptoms of rabies , or has been in contact with a rabid **animal**.
 - E. **DELETED** - If and when a veterinarian is convinced that the **animal** is free from such diseases the **animal** shall be released to the **owner**.

To save the cost of publishing in the newspaper a lengthy ordinance, this revision is being first made a public record by resolution and then is adopted by reference by an ordinance.

Recommendation: To adopt Resolution #____, declaring as a public record that certain document filed with the Town Clerk entitled “Animal Code Ordinance Amendment to Chapter 6-1 Through 6-8” of the Town Code.

RESOLUTION # _____

A RESOLUTION OF THE MAYOR AND COUNCIL, OF THE TOWN OF CLARKDALE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED “ANIMAL CODE ORDINANCE AMENDMENT TO CHAPTER 6, SECTIONS 6-1 THROUGH 6-8” OF THE TOWN OF CLARKDALE.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF CLARKDALE, ARIZONA:

That certain document entitled “ANIMAL CODE ORDINANCE AMENDMENT TO CHAPTER 6, SECTIONS 6-1 THROUGH 6-8”, three copies of which are on file in the office of the Town Clerk, is hereby declared to be a public record, and said copies are ordered to remain on file with the Town Clerk.

PASSED AND ADOPTED by the Mayor and Council of the Town of Clarkdale, Arizona, this 14th day of October, 2008.

ATTEST:

Doug Von Gausig, Mayor

Kathy Bainbridge, Town Clerk

APPROVED AS TO FORM:

Robert Pecharich, Town Attorney

CHAPTER 6 ANIMALS

Article 6-1 RULES AND REGULATIONS

- 6-1-1 Definitions
- 6-1-2 Nuisance
- 6-1-3 Strays
- 6-1-4 Swine
- 6-1-5 Animal Waste
- 6-1-6 Inhumane Treatment of Animals
- 6-1-7 Rabies Quarantine Area
- 6-1-8 Biting Animals

Section 6-1-1 Definitions*

***Bolded items in this Article are identifying terms in the definitions section.**

- A. **Altered** - means a spayed female or a neutered male.
- B. ~~Animal~~ — Any animal of a species that is susceptible to rabies, except humans.
- C. ~~Animal~~ — Any species of fowl, rodent, reptile, fish, domestic, or wild animals
- D. ~~C.~~ **At large** – Off the premises of the **Owner** and not under the control of the **owner** or secured by physical restraint such as a leash, chain, rope, or is otherwise not confined in a secured enclosure.
- E. ~~D.~~ **Collar** - means a band, chain, harness or suitable device worn around the neck of a **dog** or other **animal** to which a license may be affixed.
- F. ~~E.~~ **Dog** - means a member of the *canis familiaris* ~~species~~family.
- G. ~~F.~~ **Enforcement Officer** – means a person(s) delegated by the Chief of Police who is responsible for the enforcement of this chapter and the regulations promulgated hereunder.
- H. ~~G.~~ **Fowl** - means a bird of any kind, domesticated or wild, including **poultry**.
- I. ~~H.~~ **Impound** - The act of taking or receiving into custody by an **Enforcement Officer** any **animal** for the purpose of confinement in an authorized facility in accordance with the provisions of this chapter.
- J. ~~I.~~ **Harbor** – means to provide shelter or sanctuary.
- K. ~~J.~~ **Livestock** – means bovine, equine, sheep, and goats.

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- ~~L.K.~~ **Owner** – any person owning, keeping, possessing, **harboring** or maintaining an **animal** or any person acting for the **owner** or having charge of an **animal**.
- ~~M.L.~~ **Poultry** – domestic **fowl** raised for food or show.
- ~~N.M.~~ **Pound** – Any establishment authorized by the Town for the confinement, maintenance, safekeeping and control of **animals** that come into the custody of an **Enforcement Officer** in the performance of his official duties.
- ~~MO.~~ **Rabies Quarantine Area** – means any area in which a state of emergency has been declared to exist due to the occurrence of rabies in **animals** in or adjacent to this area.
- ~~NP.~~ **Vaccination** - means an anti-rabies **vaccination** using a type of vaccine approved by the State **Veterinarian**.
- ~~OQ.~~ **Veterinarian** – Any **veterinarian** licensed to practice in the State of Arizona, or any **veterinarian** employed in Arizona by a governmental agency.
- ~~PR.~~ **Vermin** – destructive small animals or insects that harm people, livestock, property, or crops and are difficult to control, e.g. rats, fleas, or cockroaches.
- ~~QS.~~ **Vicious** - Aggressive and liable to attack or bite.

Section 6-1-2 Nuisance

- A. ~~Harboring, feeding, or maintaining any fowl, rodent, domestic or wild animal whatsoever which annoys or disturbs the peace, comfort, or health of the majority of the immediately adjacent neighbors, shall constitute a nuisance; provided, however, that a complaint is filed with and verified by an Enforcement Officer.~~
- B. The offending party may be given three (3) days notice by the Police Department to remove, eliminate, or correct the cause of the annoyance, or disturbance, or to abate any unsanitary conditions which may exist. Failure to comply with said notice is unlawful and punishable as set forth herein.

Section 6-1-3 Strays

- A. It is unlawful for any person to **harbor**, feed, or maintain within the Town limits any lost or strayed **animal**. Whenever an **animal, excluding wildlife**, is found which appears to be lost or strayed, it shall be the duty of the finder to notify an **Enforcement Officer**, who may **impound** the **animal**. If there is a registration tag attached to the **animal** for the current year, the Police Department or

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authorized agent will attempt to notify the person to whom such permit was issued, at the address in the permit.

Section 6-1-4 Swine

It is unlawful to keep any live swine or pigs in the Town.

Section 6-1-5 Animal Waste

- A. The **owner** of any **animal** shall immediately remove and dispose of any fecal matter deposited by that **animal** on any sidewalk, street, park, other public area, or private property, unless the property owner has given approval to use said property for this purpose.
- B. Accumulation of fecal matter is prohibited on private property. The **owner** of any **animal** must prevent accumulation of **animal** waste on his or her property by regularly patrolling and properly disposing of the fecal matter.
- C. The **owner** shall provide a receptacle of sufficient size for the reception of such fecal matter. Such receptacle shall be so constructed that the contents thereof will not be accessible to flies and will prevent the emission or spread of offensive odors. Such receptacle shall be placed upon the premises owned, occupied or controlled by such person in a location as remote as possible from any surrounding dwelling or street. Such person shall empty and cleanse the receptacles as often as necessary to ensure the comfort, or health of the immediate adjacent neighbors.

Section 6-1-6 Inhumane Treatment of Animals

- A. It is unlawful for any person(s) to overdrive, overload, overwork, torture, torment, cruelly beat, mutilate or unlawfully kill an **animal**.
- B. It is unlawful for any person(s) to neglect any **animal**. Persons shall comply with the following minimum requirements:
 - 1. All **animals** shall receive daily food that is free from contamination and is of sufficient quantity and nutritive value to maintain the **animal** in good condition.
 - 2. All **animals** shall have unobstructed access to potable water at all times of day.
 - 3. All **animals** shall have access to natural or artificial shelter throughout the

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year. Any such artificial shelter shall be structurally sound and maintained in good repair to protect the **animal** from injury.

4. All **animals** receive care and medical treatment for debilitating injuries, parasites, and diseases, sufficient to maintain the **animal** in good health or be humanely euthanized to prevent protracted suffering and pain to the **animal**.
 5. Tie outs shall be so located that the **animal** cannot become entangled with other objects. **Collars** used to attach an **animal** to a tie out shall not be of a choke type. The tie out shall not weigh more than one-eighth of the **animals** weight nor be shorter than four (4) times the **animals** length measuring from the **animals** nose to the end of the tail.
- C. It is unlawful for a person to drop off, leave or abandon any **animal** on a street, road, highway, greenbelt, in a public place or on private property.
 - D. It is unlawful for any person or persons to willfully and/or maliciously ~~administer, or cause to be administered,~~ poison of any sort whatsoever to any **animal**, with the intent to injure or destroy such **animal**. This ordinance shall not apply to poison designed for the control of mice and **vermin**.
 - E. The use of metal animal traps, leg traps or spring loaded traps with jaws of any kind is prohibited within the city limits as constituting an unreasonable hazard to the general populace and cruelty to domesticated **animals**. This article shall not apply to **animal** traps designed to capture live **animals** without injury to the **animal**. This ordinance shall not apply to traps designed for the control of mice and **vermin**.

Section 6-1-7 Rabies Quarantine Area

During any declared rabies epidemic by the State **Veterinarian** or representatives from the Department of Health Services or the Arizona Game and Fish an **Enforcement Officer** shall restrict all transport or movement of **animals** by declaring a **Rabies Quarantine Area** within the Town jurisdiction.

Section 6-1-8 Biting Animals That Are Susceptible to Rabies

- A. Whenever an **animal** susceptible to rabies bites any person, causing a break to the skin, the incident shall be reported to the Police Department immediately by a person having direct knowledge of the incident.
- B. An Enforcement Officer shall order any **animal** susceptible to rabies that is not

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licensed, permitted, or **vaccinated** quarantined in a **pound** if the officer has reason to believe that the **animal** that bit a person, is showing signs or symptoms of rabies or other dangerous contagious and infectious disease, or has been in contact with a rabid **animal**.

- C. An **animal** properly licensed, permitted and vaccinated may be confined and quarantined at the home of the **owner** or wherever the **animal** is harbored and maintained with the consent of and in a manner prescribed by an Enforcement Officer.
- D. Upon the request of and at the expense of the **owner**, an **animal** may be quarantined at a veterinary hospital for a period of not less than ten (10) days.
- ~~E. If and when a veterinarian is convinced that the **animal** is free from such diseases the **animal** shall be released to the **owner**.~~
- E.F. If quarantine cannot be imposed because the **animal** cannot be captured, and in the Enforcement Officer's opinion, the **animal** is a risk to public safety, the Enforcement Officer may destroy or order the **animal** destroyed. The officer shall attempt to destroy the **animal** in a humane manner and in a manner which avoids damage to the animal's head.
- FG. If an **animal** dies during the period of quarantine, or has been destroyed, it's head shall be sent to the State Department of Health Services for examination.

Article 6-2 DOGS

- 6-2-1 Licenses and Tags
- 6-2-2 Vaccination Required
- 6-2-3 Running at Large

Section 6-2-1 Licenses and Tags

- A. All **dogs** kept, harbored or maintained in the Town must be licensed and registered. **Dog** licenses shall be issued by the Town of Clarkdale, or by an authorized representative. License fees are established by resolution of the Council and expire on the last day of December of each year. All **dogs** shall be licensed:
 - 1. Upon the earliest age a veterinarian will administer a vaccination;
 - 2. Within 30 days of first possession;
 - 3. Within 30 days of residence.

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- B. The license payment shall be deemed delinquent as of January 31st and a penalty in an amount established by resolution of the Council, shall be added to the license fee.
- C. An assistance **dog** belonging to a person with a disability, certified by any bona fide nonprofit organization, or belonging to any bona fide nonprofit organization which is in the business of breeding, raising, or training assistance **dogs**, may be licensed without payment of a fee.
- D. Each **dog** licensed under the terms of this article shall receive, at the time of licensing, a tag which shall be inscribed with the name of the Town, the number of the license and the year in which it expires. The tag shall be attached to a **collar** which shall be worn by the **dog** at all times except as otherwise provided in this article. Whenever a **dog** tag is lost, a duplicate tag shall be issued upon application by the **owner** and payment of fee in an amount established by resolution of the Council, to the Town of Clarkdale or an authorized agent.
- E. It is unlawful for any person to counterfeit or attempt to counterfeit an official **dog** tag or remove such tag from any **dog** for the purpose of willful and malicious mischief or place a **dog** tag upon a **dog** unless the tag was issued to that **dog**.
- F. Whenever the ownership of a **dog** has been changed, the new **owner** must secure a transfer of license to such **owner** within 30 days. A transfer fee in an amount established by resolution of the Council shall be charged to transfer any license.
- G. While being used for hunting, being exhibited at American Kennel Club approved shows, engaging in races approved by the Arizona Racing Commission, or being transported to and from such events, **dogs** need not wear a **collar** with a valid license attached; provided, that they are properly **vaccinated** and licensed.
- H. An **Enforcement Officer** may apprehend and **impound** any **dog** found without a current valid **dog** tag.

Section 6-2-2 Vaccination Required

- A. Before a license is issued for any **dog**, the **owner** must present a **vaccination** certificate signed by a **veterinarian** stating the **owner's** name, address, **dog's** description, date and type of **vaccination**, manufacturer and serial number of the vaccine, and date re-**vaccination** is due. No **dog** shall be licensed unless it is vaccinated in accordance with the provisions of this article and the regulations promulgated hereunder.

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- B. A **dog** vaccinated in any other place prior to entry into the Town may be licensed by the Town, provided that, at the time of licensing, the **owner** of such **dog** presents a **vaccination** certificate, signed by a **veterinarian** stating the **owner's** name and address and giving the **dog's** description, date of **vaccination** and type, manufacturer, and serial number of the vaccine used.
- C. The Police Department may make provisions for low-cost **vaccination** clinics as deemed necessary. The **vaccination** shall be performed by a **veterinarian**.
- D. If a **dog** is impounded and found to be without current **vaccination**, an **Enforcement Officer** is hereby authorized to cause such **dog** to be vaccinated at a cost to be borne by the **owner**. The **vaccination** shall be performed by a **veterinarian**, who shall issue a certificate of **vaccination**.

Section 6-2-3 Running At Large

- A. It shall be the absolute responsibility of every **owner**, to prevent any **dog**, from running **at large** within the corporate limits of the Town including, but not limited to, streets, alleys, sidewalks, vacant lots, school yards, private property owned by a person other than the **owner** of the **dog**, and private easements used for access by persons other than the **dog owner** or possessor. The fact that such **dog** runs **at large** by reason of some other person's actions, failure to act or other circumstances, shall not be deemed a defense to prosecution under this section.
- B. A **dog** is not deemed to be **at large**:
 - 1. While it is tethered or restrained by a leash, chain, rope or cord of sufficient strength so as to keep the **dog** under control by **owner**, or completely on the premises where secured.
 - 2. While participating in field trials, organized school, club or park-sponsored shows.
 - 3. While the **dog** is confined by an enclosure.
- C. An **Enforcement Officer** may apprehend and **impound** any **dog** running **at large** or cite the **owner** into the town court, or both.

Article 6-3 LIVESTOCK, POULTRY, AND FOWL

- 6-3-1 Permit for Livestock, Poultry, and Fowl; Limitations
- 6-3-2 Running At Large
- 6-3-3 Impoundment

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Section 6-3-1 Permit for Livestock, Poultry, and Fowl; Limitations

- A. Any person desiring to keep any **livestock, poultry, or fowl** shall apply to the Town for an animal permit.
- B. Animal permits shall be issued by the Town of Clarkdale or by an authorized agent upon payment of a permit fee in an amount established by resolution of the Council, which shall expire on the last day of December of each year. The Community Development Department shall be the enforcing agent.
- C. The permit holder shall agree to inspections by the Community Development Department , or the authorized agent.
- D. The following limitations shall apply to the keeping of **livestock and poultry**:
 - 1. **Livestock**: Two **animals** per acre on lots not less than one acre.

Section 6-3-2 Running At Large

- A. Any person who keeps or causes to be kept by any means bovine, equine, sheep, goats, **poultry**, or **fowl** shall keep such animal in a pen or similar enclosure to prevent their roaming **at large** within the corporate limits of the Town. Any such animal running **at large** may be impounded by an **Enforcement Officer**.

Section 6-3-3 Impoundment

- A. An **Enforcement Officer** may impound any **livestock, poultry, or fowl** found running **at large** on any street, alley, road or premise of another without permission within the Town in accordance with Arizona State Statutes Title 3, Chapter 11; Agriculture - Ownership, Control and Regulation of Livestock.

Article 6-4 CITATION OF OWNERS

- 6-4-1 Citation Issued to **Owners**
- 6-4-2 Payment of Citation
- 6-4-3 Right to Impound Animals Not Superseded
- 6-4-4 Impeding an **Enforcement Officer**
- 6-4-5 Penalties

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Section 6-4-1 Citation issued to Owners

- A. Whenever any person is in violation of the provisions of this chapter, an **Enforcement Officer** may hand deliver or mail to the last known mailing address of such person an **animal** violation citation. Such citation shall be approved as to form by the Town Attorney and the Magistrate Court. The citation shall advise the person of the specific violation with which they are charged and of the time and place of such violation. A copy of such notice shall be sent to the Clerk of the Court by an **Enforcement Officer** or Police Department.
- B. Each day any violation continues or occurs shall constitute a separate offense.

Section 6-4-2 Payment of Citation

- A. The fines for violating the provisions of this chapter shall be adopted from time to time by resolution of the Council.
- B. Any person charged with a violation of this chapter must appear in the Magistrate's Court.

Section 6-4-3 Right to Impound Animals Not Superseded

The provisions of this article shall not supersede the Town's right to **impound animals**.

Section 6-4-4 Impeding an Enforcement Officer

It is unlawful for any person to intervene, impede, prevent, obstruct, or intimidate any **Enforcement Officer** in the discharge of duties to enforce provisions of this Chapter.

Section 6-4-5 Penalties

- A. Any person who violates or fails to comply with this Chapter or any part thereof, shall be guilty of a petty offense on the first offense. The second or subsequent offences within one year of the first offense shall be a Class 2 Misdemeanor, whether or not the subsequent offense involves the same **animal**, punishable as may be established by law.
- B. In addition, the Court may order any **vicious animal impounded** and destroyed.
- C. The Court may order any person who violates this Chapter to pay all expenses related to the **impounding** of the **animal**, including shelter, food, handling, transport, and **veterinarian** care.

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- D. The Court may also order any person who violates this Chapter to pay restitution to any victim or victims whose person or property or **animal** was injured or killed or damaged.
- E. The Court may also order any person who violates this Chapter to pay all related Court fees or cost or penalties.