

ORDINANCE No. 16-124

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, AMENDING THE TOWN OF DEWEY-HUMBOLDT, ARIZONA CODE OF ORDINANCES, TITLE IX GENERAL REGULATIONS, CHAPTER 90 ANIMALS, RELATED TO ANIMAL CONTROL, REGULATION OF DOGS, DANGEROUS AND BITING ANIMALS, LIVESTOCK, MAINTENANCE STANDARDS FOR ANIMALS AND ENFORCEMENT; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR PENALTIES

Be it ordained by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, as follows:

Section I. In General

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title IX Administration, Chapter 90 Animals, is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

ANIMAL CONTROL

§ 90.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. ANY NONHUMAN MAMMAL, BIRD, REPTILE, AMPHIBIAN OR FISH.

AT LARGE. Being neither confined by an enclosure nor an electronic fence capable of restraining the animal, nor physically restrained on a leash.

CRUELLY MISTREAT. TO BEAT, CRUELLY ILL-TREAT, ABANDON, TORMENT, OVERWORK OR OTHERWISE ABUSE AN ANIMAL, TORTURE OR INFLICT UNNECESSARY SERIOUS PHYSICAL INJURY ON AN ANIMAL OR TO KILL AN ANIMAL IN A MANNER THAT CAUSES PROTRACTED SUFFERING TO THE ANIMAL.

CRUELLY NEGLECT. TO FAIL TO PROVIDE AN ANIMAL WITH NECESSARY FOOD, WATER OR SHELTER.

DANGEROUS ANIMAL. ANY ANIMAL THAT BITES WITHOUT PROVOCATION, IS KNOWN TO HAVE A HISTORY, TENDENCY OR DISPOSITION TO BITE, OR KILLS OR CAUSES INJURY, INCLUDING INJURY TO DOMESTICATED ANIMALS.

DOG. A member of the canis lupis familiaris and domesticated wolves and offspring of dogs cross-bred with wild animals or domesticated wolves.

ENFORCEMENT OFFICER. Any person responsible for the enforcement of this subchapter and the regulations promulgated hereunder.

FARM ANIMALS. Any ANIMALS OTHER THAN HOUSEHOLD PETS.

HOUSEHOLD PET. A DOMESTICATED ANIMAL, SUCH AS A DOG, CAT, RABBIT, BIRD, RODENT, FISH, OR TURTLE, THAT IS TRADITIONALLY KEPT IN THE HOME FOR PLEASURE RATHER THAN FOR COMMERCIAL PURPOSES.

MICRO CHIP. A device implanted in a dog, used for identification, usually between the withers of a canine.

RABIES VACCINATION. THE ADMINISTRATION OF A RABIES VACCINE TO ANIMALS BY A VETERINARIAN.

~~OWNER.~~ Any person owning, possessing, harboring or maintaining a dog, or any persons acting for, or in the place of, the owner, or having charge of, or having taken charge of, a dog.

RESPONSIBLE PERSON. A PERSON WHO HAS POSSESSION, CARE, CUSTODY OR CONTROL OF AN ANIMAL.

WORKING DOGS. DOGS KEPT FOR THE PRIMARY PURPOSE OF HUNTING, HERDING, SEARCH AND RESCUE, LAW ENFORCEMENT, SERVICE DOGS, GUARDIAN DOGS, LIVESTOCK PROTECTION, OR OTHER JOBS, UNDER THE SUPERVISION OF A RESPONSIBLE PERSON AND WHILE CARRYING OUT THESE PURPOSES.

§ 90.02 GENERAL PROVISIONS.

(A) No dog shall be at large except as provided herein. Dogs shall be confined within a suitable enclosure capable of restraining the animal or otherwise physically restrained to prevent entry of dogs on public or private property other

than the ~~owner's~~ RESPONSIBLE PERSON'S, or on a leash of sufficient LENGTH AND strength to control the dog.

(B) Any dog over the age of four months shall HAVE A CURRENT IDENTIFICATION NUMBER ISSUED BY YAVAPAI COUNTY AND, EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, wear a collar or harness to which is attached a valid rabies tag. Dogs shall not be required to wear a collar or harness with a valid rabies tag attached while being used for control of FARM ANIMALS, while being used or trained for hunting, while being exhibited or trained at a kennel club event, while engaged in races approved by the Arizona Racing Commission or while being transported to and from such events, provided that they are properly vaccinated and controlled ON THE PROPERTY OF A RESPONSIBLE PERSON.

(C) It shall be unlawful for an ~~owner or any other person or designated~~ A responsible person to maintain a dog ~~having a propensity to~~ THAT excessively barks, howls, EMITS OTHER NOISES or otherwise disturbs the peace and quiet of ~~any town resident~~ NEARBY NEIGHBORS.

(D) IT SHALL BE UNLAWFUL FOR A RESPONSIBLE PERSON FOR A FARM ANIMAL, TO PERMIT SUCH FARM ANIMAL TO RUN AT LARGE WITHIN THE CORPORATE LIMITS OF THE TOWN. FARM ANIMALS ROAMING AT LARGE WITHIN THE CORPORATE LIMITS OF THE TOWN SHALL BE RETRIEVED BY THE RESPONSIBLE PERSON WITHIN A REASONABLE PERIOD OF TIME AFTER NOTIFICATION.

(E) ANIMAL CARE.

(1) NO RESPONSIBLE PERSON SHALL FAIL TO PROVIDE HIS ANIMALS WITH SUFFICIENT FOOD AND WATER, PROPER SHELTER AND PROTECTION FROM THE WEATHER, OR VETERINARY CARE WHEN NEEDED.

(2) NO PERSON SHALL, CRUELLY MISTREAT OR NEGLECT, AN ANIMAL, OR CAUSE, INSTIGATE OR PERMIT ANY DOGFIGHT, COCKFIGHT, BULLFIGHT OR OTHER COMBAT BETWEEN ANIMALS OR BETWEEN ANIMALS AND HUMANS.

(3) THE ENFORCEMENT OFFICER, ON A REASONABLE BELIEF THAT VERY PROMPT ACTION IS REQUIRED TO PROTECT THE HEALTH OR SAFETY OF AN ANIMAL OR THE HEALTH OR SAFETY OF OTHER ANIMALS MAY IMMEDIATELY IMPOUND ANY ANIMAL THAT APPEARS TO BE CRUELLY NEGLECTED OR OTHERWISE CRUELLY MISTREATED AS DESCRIBED IN THIS SECTION. THE

ENFORCEMENT OFFICER SHALL THEN REQUEST A HEARING PURSUANT TO THIS CHAPTER FOR THE DISPOSITION OF THE IMPOUNDED ANIMAL.

(4) NOTHING CONTAINED HEREIN SHALL PROHIBIT OR RESTRICT ANY ACTIVITY INVOLVING A DOG, WHETHER THE DOG IS RESTRAINED OR NOT, IF THE ACTIVITY IS DIRECTLY RELATED TO THE BUSINESS OF SHEPHERDING OR HERDING LIVESTOCK AND THE ACTIVITY IS NECESSARY FOR THE SAFETY OF A HUMAN, THE DOG OR LIVESTOCK OR IS PERMITTED BY OR PURSUANT TO TITLE 3 OF THE ARIZONA REVISED STATUTES.

~~90.03 ENFORCEMENT.~~

~~—(A) Any dog, which is running at large, may be apprehended and impounded by the town enforcement officer. The town enforcement officer shall have the right to enter upon private property in order to apprehend any dog that has been running at large, provided the enforcement officer is in reasonable pursuit of the dog.~~

~~—(B) Town enforcement officers may issue citations to the owner, any other person acting for the owner, or any person exercising control over a dog when a dog is at large. The procedure for the issuance of a notice to appear shall be as provided for peace officers in A.R.S. § 13-3903, except that the enforcement officer shall not make an arrest before issuing the notice. The issuance of citations pursuant to this subchapter shall be subject to the provisions of A.R.S. § 13-3899.~~

~~—(C) Consistent with A.R.S. § 11-1015 and statutes applying to towns, it is unlawful for any person to interfere with the enforcement officer in the performance of his or her duties pursuant to this subchapter.~~

§ 90.04 90.03 EXEMPTIONS – DOGS RUNNING AT LARGE.

(A) A dog may run at large while participating in field trials, obedience classes, kennel club events, organized school or park-sponsored shows, while assisting its owner THE RESPONSIBLE PERSON or being trained in legal hunting or in herding livestock, while assisting a police officer engaged in law enforcement duties, or while assisting its blind or deaf master, so long as sufficient control is exercised and the RESPONSIBLE PERSON'S control would permit immediate leashing of the dog upon any person's reasonable request.

(B) A dog is allowed to occupy vehicles, including truck beds, without restraint, but upon leaving a vehicle or truck bed, it is considered to be at large.

~~§ 90.05 BITING ANIMALS.~~

~~—(A) The procedures set forth in Arizona Revised Statutes shall be followed for biting animals.~~

~~(B) Domesticated wolves and offspring of domestic animals bred with wild animals or domesticated wolves shall be considered wild animals consistent with the provisions of A.R.S. § 11-1014c.~~

90.04 ENFORCEMENT- RUNNING AT LARGE.

(A) ANY DOG WHICH IS RUNNING AT LARGE MAY BE APPREHENDED AND IMPOUNDED BY THE ENFORCEMENT OFFICER. THE ENFORCEMENT OFFICER SHALL HAVE THE RIGHT TO ENTER UPON PRIVATE PROPERTY IN ORDER TO APPREHEND ANY DOG THAT HAS BEEN RUNNING AT LARGE, PROVIDED THE ENFORCEMENT OFFICER IS IN REASONABLE PURSUIT OF THE DOG.

(B) ENFORCEMENT OFFICERS MAY ISSUE CITATIONS TO THE RESPONSIBLE PERSON. THE PROCEDURE FOR THE ISSUANCE OF A NOTICE TO APPEAR SHALL BE AS PROVIDED BY PEACE OFFICERS IN A.R.S. § 13-3903, EXCEPT THAT THE ENFORCEMENT OFFICER SHALL NOT MAKE AN ARREST BEFORE ISSUING THE NOTICE. THE ISSUANCE OF CITATIONS PURSUANT TO THIS SUBCHAPTER SHALL BE SUBJECT TO THE PROVISIONS OF A.R.S. § 13-3899.

(C) IF FARM ANIMALS ARE RUNNING AT LARGE, THE COST OF ENFORCEMENT SHALL BE BORNE BY THE OWNER OF THE FARM ANIMALS.

~~§ 90.06~~ 90.05 RELEASE OF IMPOUNDED DOG.

(A) ANY PERSON REQUESTING THE RELEASE OF AN IMPOUNDED DOG SHALL PROVIDE PROOF OF A RABIES VACCINATION, OR SHALL OBTAIN A RABIES VACCINATION AND SHALL PAY FOR THE COSTS OF IMPOUNDMENT. PROOF OF OWNERSHIP MAY BE REQUIRED PRIOR TO RELEASE.

(B) ANY IMPOUNDED DOG WHICH IS NOT CLAIMED WITHIN 72 HOURS SHALL BE DEEMED ABANDONED. ENFORCEMENT OFFICERS MAY TAKE POSSESSION OF ABANDONED DOGS AND MAY PLACE THE DOG FOR SALE OR MAY DISPOSE OF THE DOG IN A HUMANE MANNER. ANY PERSON PURCHASING AN ABANDONED DOG SHALL OBTAIN A RABIES VACCINATION AND PAY THE APPLICABLE AND IMPOUNDMENT FEES.

~~VICIOUS DANGEROUS AND BITING ANIMALS~~

~~§ 90.15~~ DEFINITIONS.

~~For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning-~~

~~**DANGEROUS or VICIOUS ANIMAL.** Any animal that bites without provocation, is known to have a propensity HISTORY, tendency or disposition to bite, or kills or causes injury, including injury to domesticated animals.~~

§ 90.16 DETERMINATION OF TOWN MAGISTRATE.

(A) IF THE ENFORCEMENT OFFICER HAS REASON TO BELIEVE AN ANIMAL IS A DANGEROUS ANIMAL, HE MAY FILE A PETITION WITH THE TOWN'S MAGISTRATE COURT FOR A DETERMINATION THAT THE ANIMAL IS DANGEROUS AS DEFINED IN SECTION 90.01.

(B) THE TOWN'S MAGISTRATE SHALL NOTIFY THE RESPONSIBLE PERSON FOR THE ANIMAL OF THE DATE, TIME AND PLACE OF A HEARING FOR A DETERMINATION OF A DANGEROUS ANIMAL.

(C) Following a THE hearing, the Town Magistrate may declare an THE animal to be dangerous ~~or vicious if the animal is found to have exhibited a pattern of aggressive behavior which threatens the safety or well-being of persons or domesticated animals, or has caused injury, reasonable apprehension of such injury, or intimidation to any person~~ AS DEFINED IN SECTION 90.01. EACH DAY OF NON-COMPLIANCE SHALL CONSTITUTE A SEPARATE OFFENSE.

§ 90.17 CONTROL OF DANGEROUS ANIMALS.

No person having charge, care, custody or control of an animal determined to be a vicious ~~or~~ dangerous animal shall permit the animal off his or her premises unless the animal is securely restrained BY A RESPONSIBLE PERSON WHO CAN PHYSICALLY KEEP THE ANIMAL IN CONTROL.

§ 90.18 KILLING OF DANGEROUS ANIMALS.

Any law enforcement officer is hereby authorized to destroy any animal determined to be a dangerous ~~or vicious~~ animal when immediately necessary to protect any person or property.

§ 90.19 BITING ANIMALS.

THE PROCEDURES SET FORTH IN ARIZONA REVISED STATUTES A.R.S. § 11-1014 SHALL BE FOLLOWED FOR BITING ANIMALS.

LIVESTOCK

~~§ 90.30 DEFINITIONS.~~

~~—For the purpose of this subchapter the following definition shall apply unless the context clearly indicates or requires a different meaning.~~

~~—**LIVESTOCK.** Cattle, horses, pigs, sheep, goats, or other similar animals, other than dogs or domestic house cats.~~

~~§ 90.31 LIVESTOCK ROAMING AT LARGE.~~

~~—It shall be unlawful for the owner of livestock, a person acting for the owner of livestock or a person exercising control over livestock to permit such livestock to roam at large within the corporate limits of the town. Livestock roaming at large within the corporate limits of the town shall be retrieved by the owner, the person acting for the owner or the person exercising control over such livestock within a reasonable period of time after notification.~~

~~§ 90.32 INVESTIGATION AND ENFORCEMENT.~~

~~—Enforcement will only occur upon signed complaint and a preliminary investigation to verify that a violation has in fact occurred. Enforcement of § 90.31 shall be the same as contained in § 90.03 of this chapter. Costs of enforcement shall be borne by the owner of such livestock. Any livestock roaming at large may be impounded by the Enforcement Officer so designated by the town.~~

~~§ 90.33 PAYMENT OF CITATION IN LIEU OF PENALTIES.~~

~~—(A) *Fines.* The fines for violating the provisions of § 90.31-90.05 shall be adopted from time to time by resolution of the Council. Unless the Council determines otherwise, the fines shall be those applicable under § 90.99 of this chapter. Any citation must be paid as stated therein.~~

~~—(B) *Appearance if fine not paid.* Any person charged with a violation of this CHAPTER WHO DOES NOT PAY THE FINE AS PROVIDED IN § 90.31 § 90.33 shall appear in the Magistrate's Court at a date and time set by the Court for disposition in accordance with § 90.99, unless all fines imposed have been paid at least 24 hours in advance of the scheduled court appearance.~~

MAINTENANCE; NUISANCE

90.50 MAINTENANCE STANDARDS

PREMISES ON WHICH ANIMALS OR FOWL ARE KEPT SHALL BE MAINTAINED IN A MANNER NOT TO UNREASONABLY INTERFERE WITH THE USE AND ENJOYMENT OF THE PROPERTIES OF OTHERS, INCLUDING BUT NOT LIMITED TO COMPLIANCE WITH THE FOLLOWING MAINTENANCE STANDARDS:

(A) ALL ANIMALS AND FOWL AND THE PENS, STALLS, STABLES, YARDS, SHELTERS, CAGES, AREAS, PLACES AND PREMISES WHERE THEY ARE HELD OR KEPT, SHALL BE SO MAINTAINED THAT FLIES, INSECTS, VERMIN, RODENT HARBORAGE, ODORS, PONDED WATER, THE ACCUMULATION OF MANURE, GARBAGE, REFUSE OR OTHER NOXIOUS MATERIAL DO NOT BECOME A PUBLIC HEALTH NUISANCE.

(B) ANIMAL MANURE AND DROPPINGS SHALL BE REMOVED FROM ENCLOSURES SUCH AS PENS, STABLES, YARDS, CAGES, AND STALLS AND HANDLED OR DISPOSED OF IN A MANNER FREE OF HEALTH HAZARD OR PUBLIC HEALTH NUISANCE. NOTHING IN THIS SUBSECTION SHALL BE DEEMED TO PROHIBIT THE USE OF ANIMAL MANURE OR DROPPINGS ON ANY FARM, GARDEN, LAWN OR RANCH.

(C) WATERING TROUGHS SHALL BE EQUIPPED WITH ADEQUATE DRAINAGE TO ALLOW FOR ADEQUATE RUN-OFF TO PREVENT A HEALTH HAZARD.

90.51 NUISANCE PROHIBITED

VIOLATION OF SECTION 90.50 SHALL CONSTITUTE A NUISANCE AND A VIOLATION OF THIS CHAPTER.

ENFORCEMENT

§ 90.98 CITATION ISSUED TO RESPONSIBLE PERSONS

(A) FOR PURPOSES OF THIS SECTION AND § 90.50, THE ENFORCEMENT OFFICER SHALL BE THE TOWN CODE ENFORCEMENT OFFICER OR DESIGNEE OR THE COUNTY ANIMAL CONTROL OFFICER.

(B) IT IS UNLAWFUL FOR ANY PERSON TO INTERFERE WITH THE ENFORCEMENT OFFICER IN THE PERFORMANCE OF HIS DUTIES PURSUANT TO THIS CHAPTER.

(C) ENFORCEMENT WILL ONLY OCCUR UPON SIGNED COMPLAINT AND A PRELIMINARY INVESTIGATION TO VERIFY THAT A VIOLATION HAS IN FACT OCCURRED.

(D) IF THE ENFORCEMENT OFFICER DETERMINES THERE IS PROBABLE CAUSE TO BELIEVE THAT A VIOLATION OF THIS CHAPTER HAS OCCURRED, HE MAY FILE A COMPLAINT IN THE MAGISTRATE COURT AND CAUSE THE COMPLAINT TO BE SERVED ON THE PERSON ALLEGED TO BE VIOLATING THIS CHAPTER. THE CITATION SHALL SET FORTH THE SPECIFIC VIOLATION WITH WHICH THE PERSON IS CHARGED AND THE TIME AND PLACE OF SUCH VIOLATION.

(E) EACH DAY A VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE.

(F) FINES FOR VIOLATING THE PROVISIONS OF THIS CHAPTER SHALL BE ADOPTED FROM TIME TO TIME BY RESOLUTION OF THE COUNCIL. ANY PERSON CHARGED WITH A VIOLATION OF THIS CHAPTER WHO DOES NOT PAY THE FINE SHALL APPEAR IN THE MAGISTRATE'S COURT AT A DATE AND TIME SET BY THE COURT FOR DISPOSITION IN ACCORDANCE WITH § 90.99, UNLESS ALL FINES IMPOSED HAVE BEEN PAID AT LEAST 24 HOURS IN ADVANCE OF THE SCHEDULED COURT APPEARANCE.

§ 90.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is provided shall be subject to the terms of § 10.99.

(B) A person who is convicted of a violation of §§ ~~90.01~~ 90.02 through ~~90.06~~ 90.04 is guilty of a Class 2 misdemeanor. As a minimum penalty, a person convicted hereunder shall pay a fine of not less than \$50, which shall not be suspended unless, at the discretion of the court, that person is ordered to perform and complete a minimum of eight hours of community service.

(C) Any person violating the conditions of §§ ~~90.15~~ 90.17 through ~~90.18~~ or is in charge of a dangerous animal as defined herein, may be fined in the amount OF \$250 and be liable for reimbursement of any costs incurred by law enforcement officials in the exercising of their duties.

(D) A person convicted of violating § ~~90.31~~ 90.02(D) shall be found responsible for a civil code infraction and shall be subject to the civil sanctions on the first offense as set forth in § 10.99 of this code. Thereafter, a violation of § ~~90.31~~ 90.02(D) shall be a CLASS 2 misdemeanor subject to the penalty provisions set

forth in § 10.99 of this code. The court may order any person who violates § 90.02(D) to pay all expenses related to the impounding of the livestock, including shelter, food, handling, transport and veterinarian care. The court may also order any person who violated this chapter to pay all related court fees or costs or penalties.

Section II. Savings Clause

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance as amended is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance.

Section III. Repeal of Conflicting Ordinance

All other code provisions, ordinances, or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed as of the effective date hereof.

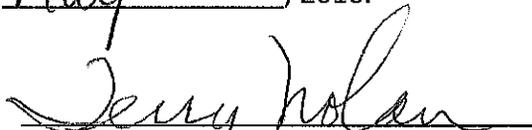
PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 3rd day of May, 2016, by the following vote:

AYES: 5

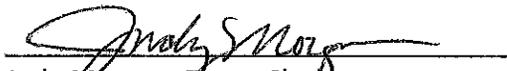
NAYES: 2 ABSENT: 0

EXCUSED: 0 ABSTAINED: 0

APPROVED this 3rd day of May, 2016.


Terry Nolan, Mayor

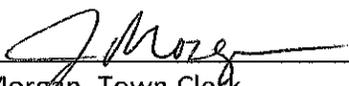
ATTEST:


Judy Morgan, Town Clerk

APPROVED AS TO FORM:


Gust Rosenfeld, P.L.C.
Town Attorneys
By Susan D. Goodwin

I, JUDY MORGAN, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 16-124 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA ON THE 3rd DAY OF May, 2016, WAS POSTED IN THREE PLACES ON THE 6th DAY OF May, 2016.



Judy Morgan, Town Clerk