

## **Ordinance No. 746**

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, A MUNICIPAL CORPORATION OF ARIZONA, ADOPTING BY REFERENCE A DOCUMENT ENTITLED "RE-ENACTED CHAPTER 6 'ANIMALS'" (DECLARED BY RESOLUTION NO. 1707 TO BE A PUBLIC RECORD) WHICH REPEALS AND RE-ENACTS CHAPTER 6 "ANIMALS" OF THE TOWN CODE TO, AMONG OTHER THINGS, CORRESPOND MORE CLOSELY TO RELATED PROVISIONS IN THE ARIZONA REVISED STATUTES; DIRECTLY ADOPTING PENALTY PROVISIONS; PROVIDING THAT ALL OTHER CHAPTERS, ARTICLES AND SECTIONS OF THE TOWN CODE, NOT HEREIN REPEALED, RE-ENACTED OR AMENDED, SHALL REMAIN IN FULL FORCE AND EFFECT; PROVIDING THAT, IF ANY PROVISION IN THIS ORDINANCE IS HELD INVALID BY A COURT OF COMPETENT JURISDICTION, THE REMAINING PROVISIONS SHALL NOT BE AFFECTED BUT SHALL CONTINUE IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE THIRTY (30) DAYS AFTER ITS PASSAGE AND APPROVAL ACCORDING TO LAW.

WHEREAS, Arizona towns may prohibit the roaming at large of animals within the town limits, authorize impounding and summary sale thereof when found roaming at large, impose penalties upon owners for a violation of any ordinance in relation thereto, and regulate, restrain and prohibit the running at large of dogs and authorize their destruction when at large, and impose penalties upon the owners [ARS 9-240(B)(16)]; and

WHEREAS, the Mayor and Common Council of the Town of Prescott Valley first adopted an animal regulation code on June 28, 1979; and

WHEREAS, the Council has occasionally updated said code from time to time as the community has developed and grown and laws concerning animal regulation have changed; and

WHEREAS, after adoption of the animal regulation code, the Arizona Legislature enacted provisions regarding the proper care, maintenance and destruction of impounded animals and the disposition of abused and vicious animals; and

WHEREAS, A.R.S. §11-1021(D) requires the governing body of any city or town which operates a pound to establish procedures for the humane destruction of impounded animals by the methods described in A.R.S. §11-1021(B) and (C); and

WHEREAS, A.R.S. §11-1029(C) exempts cities and towns from the application of A.R.S. §11-1029 (hearing on disposition of abused and vicious animals) provided that a city or town adopts an ordinance or resolution providing for the forfeiture of an animal that has suffered cruel mistreatment or cruel neglect; and

WHEREAS, the Town Council desires to establish procedures that correspond more closely to related provisions in the Arizona Revised Statutes for the humane destruction of impounded animals and to clarify the standard for appropriate animal care; and

WHEREAS, the Town Council desires to establish hearing procedures for the disposition of abused and vicious animals and to provide for the forfeiture of an animal that has suffered cruel mistreatment or cruel neglect; and

WHEREAS, the Arizona Game and Fish Commission regulates the keeping, harboring or maintaining of wildlife and exotic animals in Arizona; and

WHEREAS, the Town Council desires to amend the Town Code to prohibit persons from keeping, harboring or maintaining wildlife and exotic animals within the corporate limits of the Town unless a person has received a special license to do so by a duly-authorized employee of the Arizona Game and Fish Commission; and

WHEREAS, the Town Council also desires to clarify certain provisions of the animal regulation code as a general housekeeping matter; and

WHEREAS, the Town Council finds that these Town Code amendments are designed to help preserve the peace, health and safety of the community; and

WHEREAS, ARS §9-802 provides for the adoption by reference of "public records" (except that any penalty clauses therein shall not be adopted by reference but shall be included in the adopting ordinance per ARS §9-803); and

WHEREAS, this "Re-Enacted Chapter 6 'Animals'" has been declared by Resolution No. 1707 to be a "public record";

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PRESCOTT VALLEY, ARIZONA, AS FOLLOWS:

SECTION ONE. That certain document entitled "Re-Enacted Chapter 6 'Animals'" of the Town Code of the Town of Prescott Valley, declared to be a "public record" by Resolution No. \_\_\_\_ (and available for public inspection in the Office of the Town Clerk, 7501 East Civic Circle, Prescott Valley, Arizona, 86314), is hereby referred to, adopted and made a part hereof as if fully set forth herein.

SECTION TWO. That a new Section 6-01-050 "Dog License" in Article 6-01 "GENERAL ANIMAL CONTROL" in Chapter 6 "ANIMALS" of the Town Code is hereby enacted to read as follows:

**6-01-050 Dog License.**

- A. All dogs three (3) months of age or older kept, harbored or maintained within the corporate limits of the Town for at least thirty (30) consecutive days shall be licensed in accordance with the provisions of this Article. Said licenses shall be obtained prior to March 31 of any calendar year or within 30 days of the date a dog is acquired by the owner, and shall be valid through December 31 of the year in which the license expires.

Owners who fail to obtain a license as required herein, within the time period specified in this Section, will be charged with a class 2 misdemeanor; however, prosecution of this offense may be waived or dismissed if the violator obtains the necessary license. Such waiver or dismissal shall only be allowed if the owner fulfills the dog licensing requirements of the Town Code and pays the applicable increased license fee set forth in Section 6-01-100 of this Article.

...

SECTION THREE. That a new Section 6-01-080 “License Tags” in Article 6-01 “GENERAL ANIMAL CONTROL” in Chapter 6 “ANIMALS” of the Town Code is hereby enacted to read as follows:

**6-01-080 License Tags.**

...

- C. Any person who counterfeits an official dog tag, removes such tag from any dog for the purpose of intentional and malicious mischief, or places a dog tag upon any dog other than the one for whom the tag was issued will be charged with a class 2 misdemeanor.

SECTION FOUR. That a new Section 6-01-090 “Kennels” in Article 6-01 “GENERAL ANIMAL CONTROL” in Chapter 6 “ANIMALS” of the Town Code is hereby enacted to read as follows:

**6-01-090 Kennels.**

...

- D. A person who fails to obtain a kennel permit under this Article is subject to a penalty of twenty-five dollars (\$25.00) in addition to the annual fee.

...

- G. A person who knowingly fails to obtain a kennel permit within thirty (30) days after written notification from the Animal Control Officer will be charged with a class 2 misdemeanor.

SECTION FIVE. That a new Section 6-01-110 “Dogs Not Permitted At Large” in Article 6-01 “GENERAL ANIMAL CONTROL” in Chapter 6 “ANIMALS” of the Town Code is hereby enacted to read as follows:

**6-01-110 Dogs Not Permitted At Large.**

...

- E. If, while running at-large contrary to the provisions of this Section, a dog inflicts a bite upon a human without causing severe injury, the owner or other person entrusted with the

care of the dog may be charged with an aggravated dog-at-large violation which shall be a class 1 misdemeanor. Upon conviction, the Court may impose an aggravated penalty and order restitution to the victim.

SECTION SIX. That a new Section 6-02-010 “Dangerous Dogs” in Article 6-02 “SPECIAL ANIMAL REGULATIONS” in Chapter 6 “ANIMALS” of the Town Code is hereby enacted to read as follows:

**6-02-010 Dangerous Dogs.**

...

- D. A dangerous dog shall be immediately confiscated by an Animal Control Officer, and the owner will be charged with a class 1 misdemeanor, if the:
1. Dog is not validly registered under Subsection A of this Section;
  2. Owner does not secure the surety bond or liability insurance coverage required under this Section;
  3. Dog is not maintained in the proper enclosure; or
  4. Dog is outside of the dwelling of the owner, or outside of the proper enclosure and not under the physical restraint of a responsible person.
- E. If a dangerous dog that was the subject of an owner’s prior conviction under this Chapter attacks or bites a person or another domestic animal without provocation, the dog's owner will be charged with a class 1 misdemeanor. In addition, the dangerous dog shall be immediately confiscated by an Animal Control Officer, placed in quarantine for the proper period and confined until final disposition pursuant to Section 6-05-020 of this Chapter.
- F. The owner of any dog that aggressively attacks and causes severe injury or death of any human, irrespective of whether the dog has previously been declared a dangerous dog, will be charged with a class 1 misdemeanor. In addition, the dog shall be immediately confiscated by an Animal Control Officer, placed in quarantine for the proper period and confined until final disposition pursuant to Section 6-05-020 of this Chapter.

SECTION SEVEN. That a new Section 6-02-020 “Wildlife; Exotic Animals” in Article 6-02 “SPECIAL ANIMAL REGULATIONS” in Chapter 6 “ANIMALS” of the Town Code is hereby enacted to read as follows:

**6-02-020 Wildlife; Exotic Animals.**

...

- E. A wildlife or exotic animal shall be immediately confiscated by an Animal Control Officer, and the owner will be charged with a class 1 misdemeanor, if the:
  - 1. Wildlife or exotic animal is not validly registered under Subsection B of this Section;
  - 2. Owner does not secure the surety bond or liability insurance coverage required under this Section;
  - 3. Wildlife or exotic animal is not maintained in the proper enclosure; or
  - 4. Wildlife or exotic animal is outside of the dwelling of the owner, or outside of the proper enclosure and not under the physical restraint of a responsible person.
  
- F. The owner of wildlife or an exotic animal that aggressively attacks and causes severe injury or death to any human will be charged with a class 1 misdemeanor. In addition, the wildlife or exotic animal shall be immediately confiscated by the Animal Control Officer and placed in quarantine for the proper period. The Animal Control Officer shall immediately notify the Director of the Arizona Game and Fish Commission of the incident and, at the conclusion of the quarantine period, shall dispose of the wildlife or exotic animal in accordance with the written direction of the Director or the Director's designee.

...

SECTION EIGHT. That a new Section 6-03-010 "Disturbing the Peace; Nuisances; Notice to Abate" in Article 6-03 "ANIMAL NUISANCES" in Chapter 6 "ANIMALS" of the Town Code is hereby enacted to read as follows:

**6-03-010 Disturbing the Peace; Nuisances; Notice to Abate.**

...

- E. Persons violating this Section shall be subject to civil and criminal penalties as set forth in Article 6-05 hereinafter, and/or criminal prosecution as otherwise provided by law.

SECTION NINE. That a new Section 6-05-010 "Violations and Penalties" in Article 6-05 "VIOLATIONS" in Chapter 6 "ANIMALS" of the Town Code is hereby enacted to read as follows:

**6-05-010 Violations and Penalties.**

- A. Criminal Penalties. Violators of the provisions of this Chapter may be issued citations according to standard laws and Court rules. Any person convicted of a violation of this Chapter will be charged with a class 2 misdemeanor unless otherwise stated in this Chapter. Subsequent violations may be sentenced as class 1 misdemeanors pursuant to

A.R.S. § 13-604(E). Upon conviction, the Court shall, at a minimum, order the person to pay the following minimum fines.

Dog at-Large

First Offense	\$24.00
Second Offense (within a period of 36 months)	\$44.00
Third Offense (within a period of 36 months)	\$64.00
Fourth and Subsequent Offenses (within a period of 36 months)	\$100.00

No Dog License \$24.00

Dog Barking

First Offense	\$50.00
Second Offense (within a period of 36 months)	\$100.00
Third and Subsequent Offenses (within a period of 36 months)	\$200.00

B. Civil Penalties. Any violation of the provisions of this Chapter shall also constitute a civil offense, and any person who is served with a citation charging such violation and who admits, or is found responsible for such offense, shall be liable to pay to the Town the minimum fines set forth in the preceding paragraph. Such civil citation shall be issued and processed in accordance with Article 1-08 of the Town Code. Each day that a violation continues shall be a separate offense, except as otherwise provided, punishable as described herein.

C. Remedies. With regard to these remedies for violations:

1. All remedies provided herein shall be cumulative and not exclusive.
2. The imposition of penalties criminal or civil on any persons hereunder shall not relieve such persons from the responsibility of correcting any and all violations.

SECTION TEN. That all other Chapters, Articles and Sections of the Town Code not herein repealed, re-enacted and amended shall remain in full force and effect.

SECTION ELEVEN. That, if any provision in this Ordinance is held invalid by a Court of competent jurisdiction, the remaining provisions shall not be affected but shall continue in full force and effect.

SECTION TWELVE. That this Ordinance shall be effective thirty (30) days after its passage and approval according to law.

PASSED AND APPROVED by the Mayor and Common Council of the Town of Prescott Valley, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Harvey C. Skoog, Mayor

ATTEST:

\_\_\_\_\_  
Diane Russell, Town Clerk

APPROVED AS TO FORM:

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Ivan Legler, Town Attorney