ORDINANCE NUMBER 592

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING THE MUNICIPAL CODE BY DELETING TITLE 6 ANIMALS, IN ITS ENTIRETY; ADDING A NEW TITLE 6, ANIMALS; AND AMENDING SECTION 1.12.010 OF THE MUNICIPAL CODE.

WHEREAS, the City Council finds it necessary and appropriate to update the chapter of the Municipal Code pertaining to the keeping, care, and treatment of animals;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

Section 1. That Title 6, Animals, of the Municipal Code is hereby deleted in its entirety, and a new Title 6, Animals, is hereby adopted as follows:

Title 6 – ANIMALS

Chapters:

Chapter 6.01 - Introduction
Chapter 6.04 - Impoundment
Chapter 6.08 - General requirements
Chapter 6.11 - License-Vaccination-Rabies
Chapter 6.12 - Dogs
Chapter 6.13 - Vicious Dogs

Chapter 6.01 - INTRODUCTION

Chapter 6.01.010 - INTRODUCTION AND DEFINITIONS

6.01.010 - Introduction.

The purpose and intent of Title 6 is to protect public health and safety and promote the general welfare of citizens and animals residing within the City in accordance with the Arizona State Statues. Pet ownership is encouraged and welcomed when it is accompanied by responsible, caring, humane, and legal treatment of the animal.

6.01.020 - Definitions.

The following words, terms and phrases, when used in Title 6, shall have the meanings ascribed to them below, except where the context clearly indicates a different meaning:

A. "Abandon" means the act of placing an animal on public property or within a public building, unattended or uncared for, or on or within the private property of another without the express permission of the owner, custodian or tenant of the private property. An animal shall also be considered abandoned when it has been unattended and without adequate food, water, ventilation or shelter, for a period in excess of twenty-four (24) hours, regardless of where such animal may be found or kept.

B. "Abuse" refers to physical injury, physical pain, and death.

C. "Animal Shelter" means any facility designated by the City for the purpose of housing and caring for animals held under the authority of this chapter.

D. "At large" means off the premises of the owner, not under the control of the owner or other persons acting for the owner by physical restraint on a leash.

E. "Baiting" means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals.

F. "Bite" means any actual puncture, tear, or abrasion of the skin inflicted by the teeth of an animal.

G. "Caregiver" refers to the responsible person caring for a maintained colony of cats.

H. "Cat" means the domestic cat, felis catus.

I. "Citation" means a written notice issued to a person by an officer stating that the officer has probable cause to believe that the person has committed an infraction of this chapter and that the court will hear the charge.

J. "Collar" means a band, chain, harness or suitable device worn around the neck of a dog to which a license may be affixed.

K. "Dog" means any domesticated member of the canis familiaris family.

L. "Domestic" refers to a household pet of a tame nature.

M. "Ear -tipping" is a straight line cutting of the tip of the left ear of a cat while the cat is under anesthesia.

N. "Feral "means any wild cat or dog, whether it was born in the wild or reverted to a wild state due to abandonment or lack of domestication.

O. "Fowl" means poultry of any kind, including but not limited to chickens, pheasants, guineas, turkeys, peacocks, ducks, and geese.

P. "Leash" means a line made of rope, chain or other suitable material, not less than one-quarter inch in diameter the purpose of which is to restrain a dog.

Q. "Livestock "means all animals of the equine, bovine, ratite or swine class. This includes goats, sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals.

R. "Maintained Colony" refers to a group of cats being taken care of in a TNR ("Trap Neuter Return") Program.

S. "Motor vehicle" includes, without limitation, an automobile, a pickup truck, or any self-propelled vehicle or a trailer that is drawn by a self-propelled vehicle.

T. "Neglect" means an act involving failure to provide for animal health or safety, including but not limited to failure to provide adequate food, water, shelter, exercise, or necessary veterinary care to an animal or to adequately confine an animal in a manner appropriate to its species, breed, age, and condition

U. "Nuisance" means that which causes offence, annoyance, trouble or injury.

V. "Ordinance Enforcement Officer" means a person employed by the City of Cottonwood responsible for the enforcement of this chapter and the regulations promulgated thereunder.

X. "Owner" means any person, partnership, corporation or other legal entity owning, harboring, or keeping any animal, or in the case of a person under the age of 18 years of age, that person's parent or legal guardian. This definition shall not apply to any veterinary clinic or boarding kennel.

Y. "Pound" means any establishment authorized by the City for the confinement, maintenance, safekeeping and control of dogs that come into the custody of the police department.

Z. "Scratch" means that the skin has been penetrated by an animal's claws, horn, or other appendage.

AA. "Spayed or neutered" means rendered permanently incapable of reproduction by a licensed veterinarian.

BB. "TNR Program" refers to a program pursuant to which feral and stray cats are humanely trapped, and taken to a veterinarian to be evaluated, neutered or spayed, and vaccinated against rabies, and returned to the colony location where they were collected or safely relocated to a more appropriate location.

CC. "Vaccination" means the inoculation of an animal against rabies in accordance with state law.

DD. "Veterinarian" means a person trained and authorized to treat animals medically who is duly licensed and registered.

EE. "Vicious Dog" means any dog that bites human beings without provocation; or with a known propensity, tendency or disposition to bite human beings; or any dog that, while at large, kills or causes injury to domestic animals; or that has been so declared after a hearing before a city magistrate or a justice of the peace.

Chapter 6.04 - IMPOUNDMENT

6.04.010 – Poundmaster-Designated
6.04.020 – Deputy poundmaster
6.04.030 – Impeding poundmaster prohibited
6.04.040 – Animals at large-Impoundment
6.04.050 – Biting animals-Examination
6.04.060 – Contracting for services

6.04.010 - Poundmaster - Designated.

The chief of police is designated poundmaster for the City of Cottonwood.

6.04.020 - Deputy Poundmaster.

The poundmaster shall appoint any deputy poundmaster he may deem necessary for the proper performance of the work and duties of the poundmaster, and any such deputy is empowered to perform any of the duties of the poundmaster set forth in this chapter.

6.04.030 - Impeding poundmaster prohibited.

It is unlawful for any person to interfere with, impede, prevent, obstruct, intimidate, or attempt to interfere with, impede, prevent, obstruct, or intimidate the poundmaster or his deputies: in the discharge of their duties in taking up or attempting to take up and impound any and all animals under the provisions of this Title 6; or to release any animal so impounded.

6.04.040 - Animals at large-Impoundment.

A. The poundmaster and his deputies shall impound all domesticated animals, poultry, or livestock found at large, or not in the charge or under the care or control of some person, in the streets, alleys or other public places or vacant or unenclosed lots in the city.

1. If the owner of any impounded livestock be known to the poundmaster and shall reside or have a known place of business inside the city limits, the poundmaster shall notify the owner of such livestock in person, by phone, or by letter through the post office within twenty-four (24) hours after such livestock has been taken up and impounded. The notice shall contain a description of the livestock and shall state that unless reclaimed, such livestock shall be sold at public auction to the highest bidder at the time and place specified in the notice. Copies of the notice shall be posted at the place of impoundment and at the City Hall.

2. If the owner of any livestock shall, within five (5) days after such livestock has been taken up and impounded, apply to the poundmaster and pay all fees and charges accrued, the poundmaster shall release the animal to the owner.

3. All livestock taken up and impounded under the provisions of this chapter which have not been claimed or for which the fees and charges have not been paid to the poundmaster by the owner within five (5) days, shall at the time provided in the notice to owner, be sold by the poundmaster at public auction to the highest cash bidder. The poundmaster shall execute a bill of sale in favor of the purchaser of such livestock and upon payment of the amount bid shall deliver the bill of sale to the purchaser. The poundmaster shall immediately pay to the clerk the proceeds of the sale of any such livestock, after deducting any fees and charges accrued. Any proceeds shall be paid to the owner of the livestock if he appears and claims the same within thirty (30) days after the sale, and if not, then the proceeds shall be paid into the general fund of the city.

B. The poundmaster shall provide for the keeping of all animals taken up and impounded by him or his deputies in a safe, convenient and comfortable place within or conveniently near the city limits and shall feed such animals at least once every twenty-four (24) hours and treat them in a humane manner during the time they are

impounded, which shall not be less than five (5) days, unless sooner claimed by the owner, except dogs which shall be kept as provided in Chapter **6.12**.

C. If the owner of any animal, other than a dog, shall, within five (5) days after such animal has been taken up and impounded, apply to the poundmaster and pay all fees and charges accrued, the poundmaster shall release the animal to the owner.

6.04.050 - Biting animal-Examination.

Whenever any animal, other than dogs, cats or ferrets which are addressed under Section **6.11.050**, bites a person, the person so bitten and the owner of the animal shall immediately notify the police department, which shall cause an examination of the animal to be made by a duly licensed physician or a duly licensed veterinarian, and shall order the animal impounded as long as necessary for a complete examination. If it is determined that the animal is infected with rabies or other dangerous, contagious and infectious disease the police department may destroy such animal in as humane a manner as is reasonably possible. If at the end of the quarantine or impoundment, a veterinarian is convinced that the animal is free from such diseases, the animal shall be released. If the animal dies during the period of quarantine or impoundment, it shall be sent to the laboratory at the Department of Health Services for examination in accordance with the Department's rules and regulations.

6.04.060 - Contracting for services.

The city council may enter into a contract with any organization for the operation of the animal pound and may enter into a contract with any licensed veterinarian for the medical care and humane disposal of animals impounded under the provisions of this title.

Chapter 6.08 - GENERAL REQUIREMENTS

6.08.010 – Care requirements.
6.08.020 – Cruel treatment prohibited.
6.08.030 – Trapping.
6.08.040 – Housing requirements.
6.08.050 – Feeding of feral animals.
6.08.060 – Noisy animals prohibited.
6.08.070 – Removal of animal waste.
6.08.080 – Diseased animals.
6.08.090 –Sale or giveaway of animals prohibited.
6.08.100 – Protection of animals and public.
6.08.110 – Dangerous animals-Prohibited.
6.08.120 – Dangerous animals-Killing permitted when.

6.08.130 – Bees-Keeping-Permission required.
6.08.140 – Cats.
6.08.150 –Cats-TNR program.
6.08.160 –Violation-Penalties.

6.08.010 - Care requirements.

A. Any animal restrained on an owner's premises shall be cared and provided for. Care of an animal shall include, but not be limited to, a clean, safe shelter that provides protection from the weather at all times, veterinary care, sufficient heat and ventilation, wholesome food and water, and exercise consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

B. The owner or caretaker of an animal shall provide clean water for the animal in a sufficient quantity to maintain the animal in a healthy condition. Water shall be provided at all times in a stable container that is sized appropriately for the animal's species and breed.

C. Owners and caretakers of animals shall provide all health-related grooming, cleaning and parasite control required to ensure that the animals are maintained in a humane state and able to carry out normal activities.

D. The owner or caretaker to any sick or injured animal shall seek veterinary care when needed to prevent suffering.

E. A person who violates this section will be guilty of a class 2 misdemeanor.

6.08.020 - Cruel treatment prohibited.

A. It is unlawful for any person to torture or mistreat any animal whether the person is an owner or not of the animal.

B. No person shall unnecessarily overload, overdrive, torture or torment, deprive of necessary sustenance or shelter, beat, mutilate, or inhumanely kill, or otherwise abuse any animal or cause or permit the same to be done.

C. No person shall abandon any animal.

D. Any person who commits any of the following acts shall be in violation of this section:

1. Baiting, breeding, training, transporting, selling, owning, possessing, or using any wild or domestic animal for the purpose of animal fighting or baiting;

2. Betting or wagering any money or other valuable consideration on the fighting or baiting of animals.

3. Attending the fighting or baiting of animals.

4. Providing or allowing property for use in the housing, training, transport, fighting or baiting of animals.

E. It is unlawful for any person to poison any domestic animal, which term includes but is not limited to poultry and livestock, or to distribute poison in any manner whatsoever with the intent or the purpose of poisoning any domestic animal, or to willfully injure or disfigure any domestic animal, within the city, except that any officer or agent of the United States or of this state or of the city who exposes poison to be taken by predatory animals shall be exempted from the provisions of this section.

F. A person who violates this section will be guilty of a class 1 misdemeanor.

6.08.030 -Trapping.

Any person who is a property owner or agent of property owner may trap domestic animals or feral animals on their property by use of humane live traps only. Trapped domestic animals or feral animals may be turned over to an ordinance enforcement officer. The relocation and abandonment of any species of domestic animal or feral animal is strictly prohibited.

6.08.040 -Housing requirements.

Any person who keeps or causes to be kept any horses, mules, cattle, burros, goats, sheep or other livestock, poultry within the corporate limits of the city, as allowed by the specific zoning ordinances associated with the property, shall keep such livestock or poultry in a pen or similar enclosure to prevent them from roaming at large. Any such livestock or poultry running at large may be impounded as provided in this chapter. It is unlawful to cause or allow any stable, pen, or other enclosure where any animal is or may be kept to become unclean or unwholesome.

A person who violates this section will be guilty of a class 2 misdemeanor.

6.08.050 -Feeding of feral animals

A. It is unlawful to feed or harbor any feral animal within city limits as feral animals constitute health and environmental risks to domesticated animals, wildlife and persons.

B. Exceptions are as follows:

A person may feed or harbor a feral animal on their own private property as long as:

1. The person accepts legal responsibility for the feral animal and ensures compliance with all provisions of this chapter; and

2. The feral animal has been spayed or neutered; and

3. The feral animal is kept currently vaccinated against rabies.

6.08.060 - Noisy animals prohibited.

A. It is unlawful for any person to keep or harbor within the city any animal which frequently or for continuous duration barks, howls, whines, or makes other noises by day or night and disturbs the peace and quiet of any reasonable person or family.

B. No person shall keep or harbor an animal which barks, howls, whines, or makes other noises in violation of this section. It shall be a violation of this section if the barking , howling, whining, or other noises that are made continually occur and are audible beyond the property line of the premises on which the animal is located if:

1. It occurs for more than five (5) minutes between the hours of 10:00 p.m. and 8:00 a.m.; or

2. It occurs for more than fifteen (15) minutes between the hours of 8:00 a.m. and 10:00 p.m.; or

3. For a shorter duration than cited above, but on more than five (5) occasions within a given ten (10) day period if attested to by complaints from two or more separate properties.

C. It shall be a defense to such violation if the owner of an animal proves by a preponderance of the evidence that the animal was barking, howling, whining, or making other noises because it was being provoked by a person or otherwise being incited to make noise.

6.08.070 – Removal of animal waste.

A. The owner or custodian of any animal, including but not limited to dogs, cats, livestock, horses, or any other animal under his or her control within the City of Cottonwood, shall be responsible for the immediate clean up and proper disposal of all

feces deposited by an animal on public property including but not limited to sidewalks, walkways, trails, recreation areas, and parks, or on any privately owned property without the consent of the owner.

B. Exceptions to this section shall include: unsighted persons while relying on a guide dog; police officer or other law enforcement officer accompanied by police dogs; or horses and or livestock at the equestrian center or taking part in an authorized public event or parade that have separate rules and regulations regarding the collection and removal of animal feces.

6.08.080 - Diseased animals.

A. It is unlawful to allow any domestic animal afflicted with a contagious or infectious disease to run at large, or to be exposed in any public place whereby the health of man or animal may be affected. It is unlawful for such diseased animal to be shipped or removed from the premises of its owner, except under the supervision of the police chief or ordinance enforcement officer.

B. It is the duty of the police chief or ordinance enforcement officer, at the owner's expense and under the direction of a licensed veterinarian and/or health official, to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except in cases where the State Health Officer or State Veterinarian is empowered to act.

6.08.090 -Sale or giveaway of animals prohibited.

A. It is unlawful for any business or store to allow any person(s) to sell or give away any animal in front of any business or store in the city limits of Cottonwood, Arizona.

B. It is unlawful for any person(s) to give away or sell any animal in front of any business, store or on the side of any public roadway in the city limits of the city of Cottonwood, Arizona.

6.08.100 - Protection of animals and public.

A. No person shall transport or carry on any public highway or public roadway, any dog or other animal in or on a motor vehicle unless the dog or other animal is enclosed within the vehicle or protected by a container, cage, cross-tether, or other device to prevent the animal from falling from, being thrown from, or jumping from said motor vehicle.

B. Any animal in a parked motor vehicle shall be confined in the manner set forth above so as to prevent it from reaching to or beyond the outside edge of such vehicle

with any portion of its body. A law enforcement officer or an animal control officer shall be empowered to remove an animal that is not so confined from a motor vehicle when it appears that said animal may itself be in danger or when it appears that said animal may endanger the safety of the public.

C. No person shall leave or confine any animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

1. Removal authorized. A law enforcement officer or ordinance enforcement officer shall be empowered to take all steps that are reasonably necessary to remove an animal from a motor vehicle if the animal's safety, health, or well-being appears to be in immediate danger from heat, cold or lack of adequate ventilation and the conditions could reasonably be expected to cause extreme suffering or death, pursuant to Arizona Revised Statutes Section 13-2910.

2. Notice required. A law enforcement officer or ordinance enforcement officer who removes an animal in accordance with the foregoing subsection 1 shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing the officer's or agent's name and office and the address of the location where the animal may be claimed. The owner may claim the animal only after payment of all charges that have accrued for the maintenance, care, medical treatment and impoundment of the animal.

D. A person who violates this section will be guilty of a class 1 misdemeanor.

6.08.110 - Dangerous animals–Prohibited.

It is unlawful to permit any dangerous or vicious animal of any kind to run at large within the city and such animals shall be immediately impounded by the police department. Exhibitions or parades of animals which are of a feral or wild nature in the eyes of the law may be conducted only upon securing a permit from the chief of police.

6.08.120 - Dangerous animals-Killing permitted when.

The members of the police department or any other persons in the city are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person, animal or property in a safe and humane manner.

6.08.130 – Bees-Keeping-Permission required.

It is unlawful to keep or care for bees or maintain any stands or hives of bees within the corporate limits of the city without the written permission of the city council.

6.08.140 - Cats.

No owner of any cat shall allow the animal to freely roam out of doors unless it has been spayed or neutered. The owner of each spayed or neutered cat shall keep a record for each cat from a duly licensed veterinarian containing a description of the cat, the name of the owner and the date on which the spaying or neutering took place, as well as proof of current rabies vaccination as described in Section 6.11.040.

6.08.150 - Cats-TNR Program.

A. Any person or organization conducting a program for the reduction of feral cats through a TNR program within the City may do so with their own funding and personnel under the following guidelines:

B. Every TNR Program must maintain current contact information with Ordinance Enforcement for the care giver, in the event that complaints are received concerning the colony.

C. Every TNR Program must remove each cat in the maintained colony to be sterilized, vaccinated as provided in Section 6.11.040, tested for the transmittable diseases Feline leukemia virus (FeLV) and feline immunodeficiency virus (FIV), and ear-tipped.

D. Every TNR Program must maintain each of the following documented records;

1. A detailed description of each cat in the maintained colony;

2. Proof each cat in the maintained colony has been sterilized, vaccinated as provided in Chapter **6.11.040**, tested for the transmittable diseases feline leukemia virus (FeLV) and feline immunodeficiency virus (FIV), and ear-tipped OR are being actively trapped so as to perform sterilization, vaccinations as provided in **Chapter 6.11.040**, tested for the transmittable diseases feline leukemia virus (FeLV) and feline immunodeficiency virus (FIV), and ear-tipped;

3. Specific feeding site location for the maintained colony. Feeding site shall not be located in any roadway, alleyway, public area, or city-owned property for the safety of the public.

4. Proof of current property owner and/or landlord permission at the site that the colony is being maintained if different than the owned property of the person or organization.

E. Every TNR Program must remove kittens from the colony before eight (8) weeks of age for domestication and placement.

F. Every TNR Program must remove sick or injured cats from the maintained colony for immediate veterinarian care or humane euthanasia.

G. Every TNR Program must remove or relocate any cat in a maintained colony causing a nuisance to any citizen in the community.

H. An ordinance enforcement officer may;

1. Seize or remove cats from a maintained colony that have not been vaccinated against rabies and which are demonstrating signs of the disease;

2. Seize or remove a cat from a maintained colony that is creating a nuisance after the caregiver has been afforded fifteen (15) days to remove and relocate the cat and has failed to do so;

3. Seize and remove a maintained colony of cats when a caregiver is unable to provide care and management of the colony and has not been able to obtain a replacement or substitute caregiver.

4. Take any and all other measures reasonably necessary to protect the health and safety of the community.

6.08.160 –Violation-Penalties

Unless otherwise specified, any violation of this chapter is designated as a petty offense, and fines will be determined in accordance with ARS 13-802.

Chapter 6.11 – LICENSE-VACCINATION-RABIES

6.11.010 – License-Required
6.11.020 – License-Certificate-Tag
6.11.030 – License-Delinquent
6.11.040 – Vaccination required
6.11.050 – Biting dogs, cats, or ferrets
6.11.060 – Rabies-Infection-Disposition
6.11.070 – Rabies-Destruction
6.11.080 – Rabies-Moving prohibited
6.11.090 – Violation-Penalties

6.11.010 - License—Required.

All dogs kept, harbored, or maintained in the city must be licensed at four (4) months of age and older. Dog licenses will be issued by the police department, pound, or participating veterinary office upon payment of such fees as set by the poundmaster. The owner shall state at the time application is made for such license his/her name, street address, dog's name, breed, color, and sex of each dog in the owner's possession. A certificate of sterilization must also be provided for each dog, if applicable). No license shall be issued except upon presentation of proof of rabies vaccination as provided for in Section **6.11.040**. The provisions of this section shall not apply to dogs brought into the city for purposes of any dog show. Dog licenses shall be issued for a period of one (1) year and shall run from the first day of January in each calendar year to the last day of December, the same year. Licenses issued shall be worn, either by collar or harness, only by the dog for which they were issued.

6.11.020 - License—Certificate—Tag.

Upon payment of the license fee, there shall be issued to the owner a license certificate and a tag for each dog licensed. The tag shall have the year for which it was issued and number corresponding with the number on the certificate. Every owner must provide each dog with a collar or harness to which the license tag must be affixed and must see that the collar or harness and tag are worn at all times that the dog is out of doors. In case a dog tag is lost or destroyed, a new tag will be issued upon payment of the license fee, as provided for in this chapter. Dog tags are not transferable from one dog to another. It is unlawful for a person to counterfeit or attempt to counterfeit a dog tag, certificate of vaccination or license certificate, or to take from a dog a tag legally placed upon it, or place a dog tag upon a dog unless the tag was specifically issued for that particular dog.

6.11.030 - License-Delinquent.

Except as provided for in Section **6.11.010**, if the license is not obtained by the owner during the month of January of each year, or within thirty (30) days of the first possession of any dog or of its becoming four (4) months old, or within thirty (30) days from the arrival of the dog in the city, whichever occurs first, the license payment shall be deemed delinquent and a penalty of five dollars ($5.00) shall be added to the license fee.

6.11.040 - Vaccination required.

Every owner of a dog, cat, or ferret within the corporate limits of the city must have it vaccinated against rabies by a veterinarian licensed to practice veterinary medicine under the laws of the state, and no more frequently than the effective period of the approved vaccine used. Vaccination is excused only if a licensed veterinarian certifies in

writing that the vaccination would be injurious to the cat, dog or ferret's health. In such case, the cat, dog or ferret shall be confined to an enclosed building or kennel until the cat, dog, or ferret can be safely vaccinated. The chief of police may establish an administrative procedure to permit any licensed veterinarian to issue dog licenses and tags for dogs that have been vaccinated.

6.11.050 - Biting dogs, cats, or ferrets.

A. Whenever any dog, cat, or ferret bites a person, the person so bitten or, if a minor, the parent of such person and the owner of the dog, cat, or ferret shall immediately notify the police department. The responding ordinance enforcement officer shall then cause the dog, cat or ferret to be quarantined and observed as follows:

1. If unlicensed or unvaccinated within the preceding three (3) years, be quarantined in the pound or, upon request of and at the expense of the owner, at a veterinary hospital for a period of not less than ten (10) days in accordance with Arizona Department of Health Services guidelines;

2. If licensed, or an animal for which a license is not required, and vaccinated within the preceding three (3) years, be quarantined as provided for in subsection A of this section, or may be confined and quarantined at the home of the owner or wherever the dog, cat or ferret is harbored and maintained with the consent of, and in a manner prescribed by, the ordinance enforcement officer in accordance with Arizona Department of Health Services guidelines .

6.11.060 - Rabies-Infection-Disposition.

A. If an ordinance enforcement officer believes that a dog, cat, or ferret has rabies or that a dog, cat, or ferret has been bitten by another animal which is believed to have rabies, such dog, cat, or ferret shall:

1. If unlicensed or unvaccinated within the preceding three (3) years, be quarantined and observed in the pound or, on request of and at the expense of the owner, at a veterinary hospital for a period of not less than ten (10) days in accordance with Arizona Department of Health Services guidelines.

2. If licensed, or an animal for which a license is not required, and vaccinated within the preceding three (3) years, be quarantined as provided for in subdivision 1 of this subsection or may be confined and quarantined at the home of the owner or wherever the dog, cat, or ferret is harbored and maintained with the consent of, and in a manner prescribed by, the ordinance enforcement officer in accordance with Arizona Department of Health Services guidelines.

B. If an owner of a dog, cat, or ferret or other person has reason to believe a dog, cat, or ferret has been exposed to rabies, they shall notify the police department of such exposure. At the discretion of the responding ordinance enforcement officer, the responding ordinance enforcement officer may order that the dog, cat, or ferret be quarantined and observed as provided for in this section and in accordance with Arizona Department of Health Services guidelines.

6.11.070 - Rabies-Destruction.

Any dog, cat, or ferret determined by a certified veterinarian to be infected with rabies after quarantine and observation, as provided for in this chapter, it shall be destroyed by an ordinance enforcement officer. If, upon termination of the quarantine period, the veterinarian determines that the dog, cat, or ferret is free from rabies, it shall be released to the owner. If the dog, cat, or ferret dies during the period of confinement, it shall be sent to the State Department of Health Services for examination in accordance with the Department's rules and regulations.

6.11.080 - Rabies-Moving prohibited.

It shall be unlawful for any dog, cat, or ferret owner or other person knowing that a dog, cat, or ferret has rabies or has been exposed to rabies to remove the dog, cat, or ferret from the owner's premises or beyond the limits of the city, if not initially located on the premises, except upon order of the chief of police or his ordinance enforcement officer.

6.11.090 –Violation-Penalties.

Any violation of this chapter is designated as a petty offense and will be fined in accordance with A.R.S. Section 13-802, unless otherwise noted.

Chapter 6.12 - DOGS

6.12.010 – Care requirements
6.12.020 – Creating disturbance prohibited
6.12.030 – Running at large prohibited
6.12.040 – At large-Exemption
6.12.050 – Impoundment-Grounds
6.12.060 – Impoundment-Redemption and fees
6.12.070 – Impoundment-Sale or destruction
6.12.080 – Violation-Penalties

6.12.010 - Care requirements.

A. Any dog restrained on an owner's premises as required by Section **6.12.030** shall be cared and provided for. Care of a dog shall include, but not be limited to, a clean, safe shelter that provides protection from the weather at all times, veterinary care, sufficient heat and ventilation, wholesome food and water, and exercise consistent with the normal requirements and feeding habits of the animal's size, species, and breed..

B. The owner or caretaker of any dog shall provide clean water at all times in a stable container that is sized appropriately for the dog's size and breed.

C. Owners and caretakers of any dog shall provide all health related grooming, cleaning and parasite control required to ensure that the dog is maintained in a humane state and able to carry out normal activities.

D. The owner or caretaker of any sick or injured dog shall seek veterinary care as needed to prevent suffering.

E. The owner or caretaker of any dog kept or left outside the home for any length of time must provide shelter and protection from the elements.

1. Shelter must be constructed of solid wood or other weather resistant material with the exception of metal and glass.

2. Shall be sufficient in size for the dog being sheltered, so that the dog may enter and have room to stand and turn around inside.

3. Shelter must be seasonally equipped with ventilation to provide movement of air during the heat to help cool down the dog. Dry, clean bedding, such as blankets or wood chips, must be provided during the cold to help the pet retain heat .

F. The owner or caretaker of any dog contained in an outdoor kennel or pen must allow adequate space for exercise. A minimum sized enclosure for any dog is one hundred (100) square feet. Dogs over eighty (80) pounds must be provided with an additional fifty (50) square feet. For each additional dog inside the enclosure, fifty (50) square feet of space for exercise must be added per dog.

6.12.020 - Creating disturbance prohibited.

A. It is unlawful for any person to keep or harbor within the city any dog which frequently or for continuous duration barks, howls, whines, or makes other noises by day or night and disturbs the peace and quiet of any reasonable person or family.

B. It shall be a violation of this section if the barking , howling, whining, or other noises that are made are audible beyond the property line of the premises on which the dog is located if:

1. It occurs for more than five (5) minutes between the hours of 10:00 p.m. and 8:00 a.m. or;

2. It occurs for more than fifteen (15) minutes between the hours of 8:00 a.m. and 10:00 p.m. or;

3. For a shorter duration than cited above, but on more than five (5) occasions within a given ten (10) day period if attested to by complaints from inhabitants of two or more separate properties.

C. It shall be a defense to such violation if the owner of the dog proves by a preponderance of the evidence that the dog was barking, howling, whining, or making other noises because it was being provoked by a person or otherwise being incited, or was acting as a guide dog, hearing dog, service dog, or police work dog.

D. Any violation of this section will be charged as a criminal petty offense.

6.12.030 - Running at large prohibited.

A. Every person owning or having charge, care, custody or control of a dog of any age shall keep such dog exclusively upon the owner's property and shall have the dog restrained by a sufficient fence, leash, or both; provided, however, that a dog may be on such owner's premises and not restrained by fence or leash as long as it is under the immediate control of a competent person through voice or physical command.

B. Tethers on an owner's premises must follow the following guidelines:

1. The tether shall be attached to a properly fitted collar or harness. The use of a prong collar is prohibited.

2. The tether shall not extend over an object or edge in such a way that could result in strangulation of, or injury to, the animal. The length of the tether must be a minimum of six (6) feet and allow entry and egress from shelter, access to drinking water, and freedom to move about and avoid becoming entangled with objects.

3. The weight or gauge of any tether or chain shall not be more than necessary to establish direct control. Logging chains and vehicle tow chains are expressly prohibited. No person shall add any weight to an animal collar, harness, chain or tether.

4. No animals shall be tethered and left unattended on a vacant or abandoned property.

C. Any dog found running at large in violation of this chapter may be taken up and impounded. If a dog cannot safely be taken up and impounded due to its dangerous, vicious, or fierce propensities, it may be destroyed by a law enforcement officer in order to protect the health and safety of citizens.

D. A dog may be off the owner's property if it is under the control of a competent person and restrained by a leash of not more than six (6) feet in length, nor less than one-quarter (1/4) inch in diameter.

6.12.040 - At large-Exemption.

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 or trainer in legal hunting or herding livestock, while assisting a police officer engaged in law enforcement duties, or if it is a service dog assisting its disabled owner, as long as sufficient control is exercised to permit immediate leashing of the dog upon any person's reasonable request.

B. Dogs are allowed inside motor vehicles, including truck beds while parked, without restraint and under constant supervision, but as soon as the dog leaves the motor vehicle or truck bed, it is considered to be at large.

6.12.050 - Impoundment-Grounds.

The ordinance enforcement officer may apprehend and impound any dog found running at large in violation of the provisions of this chapter.

6.12.060 - Impoundment - Redemption and fees.

Any impounded dog may be reclaimed by its owner, or such owner's agent; provided, that the person reclaiming the dog furnishes proof of current license and rabies vaccination and pays the cost of impoundment in accordance with a fee schedule set by the poundmaster. Proof of ownership may be required.

6.12.070 - Impoundment—Sale or destruction.

Every impounded dog shall be kept and maintained at the pound for a minimum of seventy-two (72) hours unless claimed by its owner. Any person may purchase such dog upon expiration of the impoundment period, provided such person pays all impoundment fees and complies with the licensing and vaccinating provisions of this

chapter. Any dog unclaimed by its owner within seventy-two (72) hours of impoundment may be destroyed in a humane manner.

6.12.080 –Violation-Penalties.

A person who violates this chapter is guilty of a class 2 misdemeanor and will be sentenced in accordance with A.R.S. § 13-707, and fines will be determined in accordance with A.R.S. § 13-802, unless otherwise specified.

Chapter 6.13 – VICIOUS DOGS

6.13.010 – Determination of a vicious dog
6.13.020 – Control of a vicious dog
6.13.030 – Vicious dog at large prohibited
6.13.040 – Appeal process
6.13.050 - Penalties
6.13.060 - Exemption

6.13.010 - Determination of a vicious dog

Any dog declared by a city magistrate or hearing officer to be vicious shall be made only after a hearing on the issue of the dog's vicious propensities and only after presentation of evidence that a dog has exhibited aggressive behavior that has caused injury, apprehension or intimidation.

A. In the event that a law enforcement officer, enforcement agent, or citizen has probable cause to believe that a dog is vicious, a hearing may be convened by a city magistrate or hearing officer. The hearing officer will be designated by the city manager to fulfill the duties specified by this chapter.

B. There shall be a rebuttable presumption that any dog, owned or in the custody of an owner or custodian, who has been convicted of dog fighting charges shall be considered a vicious dog.

C. It shall be an affirmative defense to the determination of viciousness if:

1. The injury was sustained to a human, dog, cat or livestock as the result of teasing, tormenting, abusing or assaulting the dog.

2. The dog was defending or protecting a human being or the dogs young.

3. The dog injures or attacks a person criminally trespassing on/or unlawfully breaking into private property.

4. The dog, being on its owner's or custodian's premises, attacks, injures or kills a dog, cat, or livestock.

D. The city magistrate or hearing officer, law enforcement officer, or ordinance enforcement officer shall either deliver in person or send to the dog owner or custodian by certified mail, return receipt, the notice of hearing. Notification to owner or custodian will be considered complete at the mailing of the notice.

E. Notices may be left at the doorstep or mailed by first class mail to other interested persons, including, but not necessarily limited to, all properties contiguous to the address of the owner or custodian.

F. If the owner of the dog cannot be located and the dog has been impounded, the hearing officer shall determine whether the dog is vicious and if so, the dog will be destroyed pursuant to state laws.

G. A hearing date shall be set not later than ten calendar days from the date of notification (from the date of personal delivery of notice or the date of mailing of the notice sent by certified mail).

H. The hearing shall be informal and shall be open to the public. At the hearing, both testimony and documentary evidence may be taken from any interested person and be considered in determining whether the dog is vicious. If an owner or custodian fails to appear after proper notice was given, the hearing may proceed without him/her being present. The hearing officer's decision shall be based on the preponderance of evidence.

I. After the hearing, the city magistrate or hearing officer shall notify in person the owner or custodian of the dog of the determination or, if the matter is taken under advisement may notify him/her in writing of the determination. Notification will be considered complete at the mailing of the notice. If a determination is made that the dog is vicious, the owner or custodian shall comply with a time schedule established and broken down into immediate and time limited steps as specified by the city magistrate or hearing officer in Section **6.13.020** of this chapter. Compliance with immediate steps shall be as soon as notification of the determination is complete. Compliance with time limited steps shall be within thirty days of the date that notification of the determination is completed or on any other date specifically stated.

J. Without a court order, the law enforcement officer or ordinance enforcement officer may seize and impound a dog for a period of not more than seventy-two hours based upon probable cause to believe the dog is a vicious dog. At the end of the seventy-two hour period, the dog shall be released, unless a judge has ordered the

impoundment of the dog continued or unless there is another legal basis for continuing the impoundment of the dog.

K. The court may, upon ex parte motion of the prosecutor or other appropriate city official, order impoundment of a dog continued or order a dog seized and impounded upon a written showing of probable cause to believe the dog is a vicious dog. The procedures to be followed in obtaining an order and challenging the order shall be those specified in Section **6.13.050.C** and **6.13.050.D** of this chapter.

L. At the hearing, the court shall determine whether there is probable cause to believe the dog is a vicious dog. If the court finds the probable cause substantiated, then it may order the impoundment continued until there is a disposition of the viciousness complaint. In addition, the court may order the owner or custodian to pay all expenses, including shelter, food, handling and veterinary care, necessitated by the enforcement of subsection I of this chapter.

6.13.020 - Control of a vicious dog

Once a dog is declared vicious, the city magistrate or hearing officer may require in his/her sole discretion any combination of the following steps by the owner or custodian to continue ownership or custodial care of such animal. The steps are broken down into immediate and time limited:

A. Immediate (compliance within one calendar day upon completion of notification of a determination of viciousness):

1. Leash and Muzzle. No person shall permit a vicious dog outside confinement, unless such dog is securely leashed with a leash not longer than six feet in length. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside confinement, unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects, such as trees, posts, buildings, etc. In addition, all vicious dogs on a leash outside confinement must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals. Any pen must meet the requirements of subsection **B.1** of this section.

2. Notification. Should it be necessary to provide the dog with medical attention, it is the responsibility of the owner or custodian to provide advance notification to the veterinarian's office that this dog has been declared vicious.

3. Confinement Indoors. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building of its own volition. In addition, no such animal may be kept in a house or

structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure. If the door is answered while the dog is indoors, the dog must either be on a leash or behind another closed door.

4. Reporting Requirements. The following types of information must be reported by the owner or custodian of the dog to the hearing officer within ten calendar days of occurrence:

a. Spaying or neutering of dog;

b. Any permanent change of location and/or ownership of the dog to another location and/or owner or custodian.

5. The following occurrences must be reported by the owner or custodian to hearing officer, enforcement agent, or law enforcement officer within twenty-four hours of occurrence:

a. A vicious dog is at large;

b. A vicious dog bites or attacks another dog, cat or livestock, with or without provocation;

c. A human being has been attacked by the vicious dog, with or without provocation.

B. "Time Limited" means that a time schedule for completion of actions is set by the city magistrate or hearing officer, but in no case will it be longer than thirty (30) calendar days:

1. Confinement. All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen, except when leashed and muzzled. Such pen or structure must have secure sides and a secure top attached to the sides.

a. All structures used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. This structure must have a secure top and bottom or floor attached to the sides of the pen. If there is no secure floor, the sides of the pen must be embedded in the ground not less than two (2) feet;

b. No pen wall may be part of a perimeter fence;

c. All structures erected to house vicious dogs must comply with all applicable regulations of the city. All such structures must be adequately lighted, ventilated, and kept in a clean and sanitary condition and any other condition that provides for humane care.

2. Registration. A dog declared vicious shall not only be routinely registered with the police department yearly, but shall also be permanently registered as a vicious dog. At the expense of the owner or custodian, a registration number as decided by the city magistrate or hearing officer, will be tattooed on the inner right ear. This tattoo will be placed by a veterinarian. A written certificate shall be obtained from the veterinarian and provided to the city magistrate or hearing officer to prove compliance.

3. Reproduction. Any dog that is declared vicious shall be spayed or neutered by a veterinarian after notice of declaration. A certificate from the veterinarian shall be obtained by the owner or custodian and provided to the hearing officer to prove compliance.

4. Change of Ownership. Once a dog has been declared vicious, ownership may not be transferred to any other person without notice to the city magistrate or hearing officer. The new owner is required to be in compliance with this chapter.

5. Signs. All owners or custodians of vicious dogs within the city shall display, in a prominent place on their premises, a sign in three-inch letters which is easily readable by the public using the words "vicious dog." In addition, a similar sign is required to be posted on the pen of such animal.

6.13.030 - Appeal process.

A. The owner or custodian may pursue an appeal of the hearing officer's decision within five (5) calendar days of the mailing of the determination. He/she may appeal by bringing a petition to the municipal court requesting that the court conduct a *de novo* hearing on whether the dog should be declared vicious. The hearing officer will be served notice by the municipal court of the hearing and it shall be held within seven (7) calendar days of the notification of the hearing officer. In addition, all interested persons (as defined in Section **6.13.010.D** of this chapter) may receive notification of the hearing. The city magistrate will make a decision based on the preponderance of evidence. If the dog is declared vicious, the court shall inform the owner or custodian or, if the matter is taken under advisement, the court may mail notice of the determination of viciousness to him/her. Notification of the determination will be complete at the mailing of the notice. During the process of appeal, the owner or custodian shall be responsible for complying with the immediate steps of the control process. He/she shall be allowed not more than thirty (30) calendar days to institute the time-limited steps after notification of a determination of viciousness.

B. The determination by the municipal court will be final and conclusive with regard to the issues raised and adjudicated. Such determination will not bar an animal control officer, law enforcement officer or citizen from requesting a hearing to determine viciousness of the dog for subsequent actions of the dog.

6.13.040 - Penalties.

The purpose of complying with these requirements for a dog declared vicious is to prevent attacks, injuries or deaths by mandating the use of control methods.

A. Any person violating or permitting the violation of any provision of this chapter shall upon conviction in municipal court be fined a sum not less than two hundred fifty dollars and not more than one thousand dollars. In addition to the fine imposed, the court:

1. May impose any other penalties specified in Chapter **1.12** of this code;

2. May order the vicious dog destroyed; and

3. May order the owner or custodian to pay all expenses, including shelter, food, handling, and veterinary care, of the dog necessitated by the enforcement of this chapter.

B. Without an order, the animal control officer or a peace officer may seize and impound a dog for a period of not more than seventy-two (72) hours based upon probable cause to believe that the owner or custodian of a vicious dog has violated or permitted a violation of any provision of this chapter. At the end of the seventy-two (72) hour time period, the dog shall be released, unless a judge has ordered the impoundment of the dog continued.

C. The court may, upon ex parte motion of the prosecutor, peace officer or other appropriate city official, order the impoundment of a dog continued or a dog seized and impounded upon a written showing of probable cause to believe that the owner or custodian of a vicious dog has violated or permitted a violation of any provision of this chapter. In lieu of, or in addition to, a written affidavit, or affidavits, the judge may take an oral statement under oath which shall be recorded on tape, wire or other comparable method. This statement may be given in person to the judge, or by telephone, radio, or other means of electronic communication. This statement shall be deemed to be an affidavit for the purposes of issuance of an order pursuant to this subsection. In such cases, if a recording of the sworn statement has been made, the judge may direct that the statement be transcribed and certified by the judge and filed with the court.

D. If a dog is ordered seized and/or impounded, the court shall set a hearing not more than ten (10) days from the date of seizure with notice to the owner or custodian. In addition to sending such notice by certified mail, such notice shall also be accomplished by one of the following methods or attempted by at least two (2) of the following methods:

1. Personal service of notification by the appropriate city official on the owner or custodian;

2. Personal service of notification by the appropriate city official on a person of suitable age and discretion at the last known address of the owner or custodian; and/or

3. Telephone contact with the owner or custodian under circumstances which would lead a reasonable person to believe they have spoken with the owner or custodian.

E. At the hearing, the owner or custodian may appear, cross-examine witnesses and present evidence. At such hearing, the court may order:

1. The dog held in impoundment for a maximum of thirty (30) days or until the owner or custodian complies with the immediate or time-limited steps specified by a hearing officer or judge, whichever occurs first. If, at the end of thirty (30) days, the owner or custodian has failed to comply with the immediate or time-limited steps specified by a hearing officer or judge, the dog shall be destroyed; or

2. The dog destroyed in accordance with **A.R.S. Section 11-1014.H** and **A.R.S Section 11-1029**. In addition, the court may order the owner or custodian to pay all expenses, including shelter, food, handling and veterinary care, necessitated by the enforcement of this chapter.

F. Any vicious dog that kills a human being, dog, cat or livestock may be destroyed.

G. In the event that the owner or custodian of the vicious dog is a minor, the parent or guardian in physical control of such minor at the time of the acts giving rise to the determination of viciousness shall be liable:

1. For all injuries and property damage sustained by any person, dog, cat or livestock, caused without provocation by such vicious dog; and

2. All violations of this chapter.

6.13.050 – Exemption.

This chapter shall not apply to any dog used by the police department and trained to assist in carrying out police duties.

6.13.060 - Violation—Penalty.

Any person found to have been in violation of the provisions of this chapter shall be deemed to have committed a criminal infraction and shall be subject to a fine of not less than two hundred fifty dollars or more than one thousand dollars, unless specified otherwise.

Section 2. That Section 1.12.010 of the City Code is hereby amended as follows:

1.12.010 – Designated.

Except as otherwise provided in this code, any person violating any of its provisions or any ordinance of the city is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars or by imprisonment for a period not to exceed six months, or by a combination of fines and imprisonment not to exceed the above maximums, with each day or portion of a day that any such violation continues constituting a separate offense.

Section 3. That if any section, subsection, clause, phrase or portion of this ordinance 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 remaining provisions hereof.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 19th DAY OF FEBRUARY, 2013.

Vice Mayor
Karen Heyer for
Diane Joens, Mayor

APPROVED AS TO FORM:

Steven B. Horton, Esq.
City Attorney

ATTEST:

MATT McLEHAN
FOR
Marianne Jiménez, City Clerk