

ORDINANCE N<sup>o</sup> 10-78

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, AMENDING THE CODE OF DEWEY-HUMBOLDT, CHAPTER 90 - ANIMALS BY AMENDING SECTIONS 90.31 LIVESTOCK RUNNING AT LARGE, 90.32 INVESTIGATION AND ENFORCEMENT, 90.33 PAYMENT OF CITATION IN LIEU OF CRIMINAL PENALTIES, AND 90.34 CRIMINAL PENALTIES, ALL RELATED TO AMENDING PROVISIONS OF ORDINANCE NO. 10-74 RELATED TO LIVESTOCK ROAMING AT LARGE IN THE TOWN; FURTHER AMENDING SECTION 90.99 RELATED TO PENALTIES FOR VIOLATION OF SECTION 90.31; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR CIVIL SANCTIONS AND PENALTIES; AND DECLARING AN EMERGENCY.

Whereas, the Mayor and Council find it in the best interest of the health, welfare and safety of the Town's citizens to discourage the roaming at large of livestock and other such animals; and

Whereas, significant damage is being caused by livestock roaming at large;

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

**Section 1 In General.**

The Code Dewey-Humboldt, Arizona is hereby amended by amending Chapter 90 Animals, Sections 90.31 Livestock Running at Large, 90.32 Investigation and Enforcement, 90.33 Payment of Citation In Lieu Of Criminal Penalties, and 90.34 Criminal Penalties to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

**LIVESTOCK**

§ 90.31 LIVESTOCK RUNNING 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. ~~Any person who keeps or causes to be kept by any means livestock shall keep such animal in a pen or similar enclosure to prevent their roaming at large within the corporate limits of the Town. No livestock may roam at large within the Town, whether belonging to residents of the Town or not. Any~~

such animal running at large may be impounded by the Enforcement Officer so designated by the Town.

**§ 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 this Chapter §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. ~~Enforcement will only occur upon signed complaint.~~

**§ 90.33 PAYMENT OF CITATION IN LIEU OF CRIMINAL PENALTIES.**

**§ 90.33.1. Fines.** The fines for violating the provisions of §90.31 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.

**§ 90.33.2. Appearance if fine not paid.** Any person charged with a violation of this Chapter §90.31 shall appear in the Magistrate's Court at a date and time set by the Court for disposition in accordance with § 90.34, unless all fines imposed have been paid at least twenty-four (24) hours in advance of the scheduled Court appearance.

**§ 90.34 CRIMINAL PENALTIES.**

~~§ 90.34.1. Violation Classification.~~ Any person who violates or fails to comply with this Chapter, or any part thereof, shall be guilty of a criminal offense on the first offense. The second or subsequent offenses 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.

~~§ 90.34.2. Disposition of livestock running at large.~~ In addition, the Court may, but need not, order any livestock running at large impounded and destroyed.

~~§ 90.34.3. Livestock Expenses.~~ The Court may order any person who violates this Chapter to pay all expenses related to the impounding of the livestock, including shelter, food, handling, transport and veterinarian care.

~~§ 90.34.4. Restitution.~~ 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.

~~§ 90.34.5. Court Costs.~~ The Court may also order any person who violated this Chapter to pay all related Court fees or costs or penalties.

The Code of Dewey-Humboldt, Arizona is hereby amended by amending Chapter 90 Animals, Section 90.99 Penalty, by adding new Paragraph D to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

\* \* \*

D. A PERSON CONVICTED OF VIOLATING §90.31 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 SHALL BE A MISDEMEANOR SUBJECT TO THE PENALTY PROVISIONS SET FORTH IN § 10.99 OF THIS CODE. THE COURT MAY ORDER ANY PERSON WHO VIOLATES §90.31 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.

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**Section II. Providing for Repeal of Conflicting Ordinances.**

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

**Section III 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 V. Declaring an Emergency.**

The immediate operation of the provisions of this Ordinance is necessary for the preservation of the public peace, health and safety of the Town of Dewey-Humboldt, and an emergency is hereby declared to exist. This Ordinance shall be in full force and effect from and after its passage, adoption and approval by the Common Council of the Town of Dewey-Humboldt.

**PASSED AND ADOPTED** by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 7th day of December, 2010.

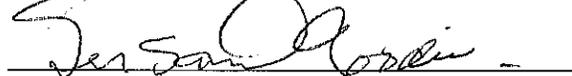


Len Marinaccio, Mayor

ATTEST:

  
Judy Morgan, Town Clerk

APPROVED AS TO FORM:

  
Susan D Goodwin, Town Attorney

I, JUDY MORGAN, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 10-78 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT ON THE 7th DAY OF DECEMBER, 2010, WAS POSTED IN THREE PLACES ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 201\_.

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Judy Morgan, Town Clerk

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