

ORDINANCE N<sup>o</sup>-17-140

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 BY RENAMING CHAPTER 90 AS DOGS RELATED TO THE CONTROL AND REGULATION OF DOGS, DANGEROUS AND BITING DOGS, MAINTENANCE STANDARDS FOR DOGS 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~~):

CHAPTER 90 ANIMALS DOGS

*~~Animal~~DOG 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.~~

**ADEQUATE CARE.** THE PROVISION OF A CLEAN, SAFE SHELTER, WHICH PROVIDES PROTECTION FROM THE WEATHER, SUFFICIENT VENTILATION FOR HOT AND COLD SEASONS, ADEQUATE FOOD, WATER AND EXERCISE CONSISTENT WITH THE NORMAL REQUIREMENTS AND FEEDING HABITS OF THE SIZE, SPECIES AND BREED OF THE DOG(S), AND VETERINARY CARE WHEN NEEDED TO PREVENT SUFFERING.

~~**AT LARGE.** Being neither confined by an enclosure nor an electronic fence capable of restraining the animal, nor physically restrained on a leash.~~ NOT ON THE PREMISES OF A RESPONSIBLE PERSON AND NOT UNDER THE CONTROL OF A RESPONSIBLE PERSON. A DOG IS NOT AT LARGE IF IT IS IN A SUITABLE ENCLOSURE OR PHYSICALLY-UNDER CONTROL OF A RESPONSIBLE PERSON.

~~**CRUELLY MISTREAT.** To beat, cruelly ill-treat, abandon, torment, overwork or otherwise abuse an animal~~ A DOG, TO torture or inflict unnecessary serious physical injury on an ~~animal~~ A DOG ~~animal~~ or to kill an ~~animal~~ A DOG in a manner that causes protracted suffering to the ~~animal~~ DOG.

~~**CRUELLY NEGLECT.** To fail to provide an animal with necessary food, water or shelter.~~ TO FAIL TO PROVIDE FOR A DOG'S HEALTH OR SAFETY, INCLUDING BUT NOT LIMITED TO FAILURE TO PROVIDE ADEQUATE FOOD, WATER, SHELTER, EXERCISE, OR NECESSARY VETERINARY CARE TO A DOG OR TO ADEQUATELY CONFINE A DOG IN A MANNER APPROPRIATE TO ITS SPECIES, BREED, AGE AND CONDITION.

**DANGEROUS ANIMAL DOG.** Any animal DOG that bites without provocation, is known to have a history, tendency or disposition to bite, or kills or causes injury, including injury to HUMANS OR ~~domesticated~~ OTHER 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 chapter.

~~**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.~~

**IDENTIFICATION.** COUNTY DOG LICENSE, RABIES TAG, MICROCHIP.

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

**RABIES VACCINATION.** The administration of a rabies vaccine to animals by a veterinarian, ~~identified with a Rabies tag~~

**RESPONSIBLE PERSON.** AN OWNER OR OTHER person who has possession, care, custody or control of ~~an animal~~ A DOG.

**UNDER CONTROL.** PHYSICALLY RESTRAINED BY A LEASH, ROPE, CORD OR CHAIN OR OTHER DEVICE AND UNDER THE DIRECT SUPERVISION AND CONTROL OF A RESPONSIBLE PERSON UNLESS IN A TRAINING ENVIRONMENT OR ON PERSONAL PROPERTY AND IN DIRECT VERBAL CONTROL OF A RESPONSIBLE PERSON.

**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) Any dog over the age of four months shall have a current ANTI-RABIES VACCINE AND identification TAG ~~number~~ issued by Yavapai County, ~~and, except as otherwise provided in this paragraph,~~ SHALL wear a collar or harness to which is attached a valid rabies tag AND A YAVAPAI COUNTY LICENSE. 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.

(AB) No dog shall be at large except as provided herein. Dogs shall be confined within a suitable enclosure capable of restraining the DOG ~~animal~~ or otherwise physically restrained to prevent entry of dogs on public or private property other than the ~~responsible person's,~~ OWNER'S or on a leash of sufficient length and strength to control the dog.

(1) NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY IN THIS CHAPTER, 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 ARE WORKING DOGS BEING TRAINED, WHILE HUNTING OR HERDING LIVESTOCK, ASSISTING A POLICE OFFICER ENGAGED IN LAW ENFORCEMENT DUTIES, OR WHILE ASSISTING A HANDICAPPED PERSON IN THEIR DAILY ACTIVITIES IF ON PERSONAL PROPERTY AND UNDER CONTROL SO LONG AS THE DOG CAN BE IMMEDIATELY LEASHED UPON ANY PERSON'S REASONABLE REQUEST.

(2) 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.

(3) NOTHING CONTAINED HEREIN SHALL PROHIBIT OR RESTRICT ANY ACTIVITY INVOLVING WORKING DOGS, WHETHER THE DOG IS RESTRAINED OR NOT, IF THE ACTIVITY IS DIRECTLY RELATED TO THE WORKING, EXHIBITING OR TRAINING OF DOGS, AS PURSUANT TO TITLE 3 OF THE ARIZONA REVISED STATUTES.

~~(C) It shall be unlawful for a responsible person to maintain a dog that excessively barks, howls, emits other noises or otherwise disturbs the peace and quiet of 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.~~

(EC) *Animal/DOG care.*

(1) No responsible person shall fail to provide his animals DOGS with sufficient food and water, proper shelter and protection from the weather, or veterinary care when needed ADEQUATE CARE.

(2) No person shall, cruelly mistreat or CRUELLY neglect, an animal A DOG, or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals DOGS or between animals DOGS and humans.

(3) The Enforcement Officer, on WITNESSING IMMINENT DANGER AND BELIEVING WHO BELIEVES 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 A DOG may immediately impound any animal DOG 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 DOG.

~~(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 A.R.S. Title 3.~~

### **~~§ 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 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.~~

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~~—(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.~~

**§ 90.04- 90.03 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 CAUSE A COMPLAINT TO BE ISSUED ~~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 COMPLAINT ~~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.~~

**§ 90.05- 90.04 RELEASE OF IMPOUNDED DOG.**

(A) Any person requesting the release of an impounded dog shall provide proof of an ANTI-rabies vaccination, or shall obtain an ANTI-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 after every effort to contact the owner by means of current County Tags, Microchip or Rabies Tags.. 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 fees and impoundment fees.

**DANGEROUS AND BITING DOGS**

**§ 90.15 PROPER ENCLOSURE FOR DANGEROUS DOG.**

A DANGEROUS DOG SHALL BE SECURELY CONFINED INDOORS OR OUTDOORS IN A SECURELY ENCLOSED AND LOCKED PEN OR STRUCTURE, SUITABLE TO PREVENT THE ENTRY OF YOUNG CHILDREN AND DESIGNED TO PREVENT THE DOG FROM ESCAPING. SUCH PEN OR STRUCTURE SHALL HAVE SECURE SIDES, TOP AND FLOOR, AND SHALL ALSO PROVIDE PROTECTION FROM THE ELEMENTS FOR THE DOG.

**§ 90.15- 90.16 DETERMINATION OF TOWN MAGISTRATE.**

(A) If the Enforcement Officer has reason to believe ~~an animal~~ A DOG is a DANGEROUS DOG ~~animal~~, The Enforcement Officer he may file a petition with the town's Magistrate Court for a determination that the ~~animal~~ DOG is dangerous as defined in § 90.01.

(B) The Town Magistrate shall notify the responsible person for the DOG ~~animal~~ of the date, time and place of a hearing for a determination of a dangerous ~~animal~~ DOG.

(C) Following the hearing, the Town Magistrate may declare the DOG ~~animal~~ to be dangerous as defined in § 90.01. Each day of non-compliance shall constitute a separate offense.

**§ 90.16 90.17 CONTROL OF DANGEROUS DOGS ANIMALS.**

No person having charge, care, custody or control of an animal A DOG determined to be a dangerous animal DOG shall permit the animal off his or her premises unless the animal DOG is securely restrained by a responsible person who can physically keep the animal DOG in control.

**§ 90.17 90.18 KILLING OF DANGEROUS DOGS.**

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

**§ 90.18 90.19 BITING ANIMALS DOGS.**

The procedures set forth in A.R.S. § 11- 1014 shall be followed for biting animals DOGS.

**MAINTENANCE; NUISANCE**

**§ 90.30 MAINTENANCE-STANDARDS.**

(A) VIOLATION OF THIS § 90.30 SHALL CONSTITUTE A NUISANCE AND A VIOLATION OF THIS CHAPTER.

(B) IT SHALL BE UNLAWFUL FOR A RESPONSIBLE PERSON TO MAINTAIN A DOG THAT EXCESSIVELY BARKS, HOWLS, EMITS OTHER NOISES OR OTHERWISE DISTURBS THE PEACE AND QUIET OF NEARBY NEIGHBORS OVER FIVE MINUTES OR BETWEEN THE HOURS OF 9:00 PM AND 6:00 AM.

(C) MAINTENANCE STANDARDS.

Premises on which animals or fowl DOGS 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 division 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.~~

(1) EMISSION OF ODOROUS GASES OR OTHER ODOROUS MATTER SHALL BE CONTAINED IN SUCH QUANTITIES SO AS NOT TO BE OFFENSIVE OR CREATE A PUBLIC NUISANCE OR HAZARD.

(2) DOG WASTE SHALL BE REMOVED FROM PENS, YARDS, CAGES AND OTHER ENCLOSURES AND HANDLED OR DISPOSED OF IN AN APPROVED MANNER FREE OF HEALTH HAZARD OR PUBLIC HEALTH NUISANCE.

(3) WATERING VESSELS SHALL BE MAINTAINED TO PREVENT THE BUILDUP OF ALGAE AND TO PREVENT THE BREEDING OF MOSQUITOES.

**~~§ 90.31 NUISANCE PROHIBITED.~~**

~~—Violation of § 90.30 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 § 90.30, 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 §§ 90.02 through ~~90.04~~ 90.03 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 § ~~90.16~~ 90.17 or is in charge of a dangerous ~~animal~~ DOG 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 § 90.02(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 § 90.02(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.

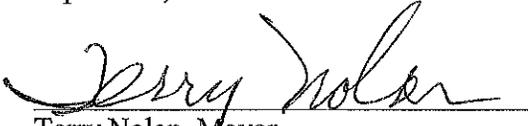
Section III. Repeal of Conflicting Ordinance

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.

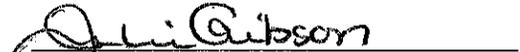
**PASSED AND ADOPTED** by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 19th day of September, 2017, by the following vote:

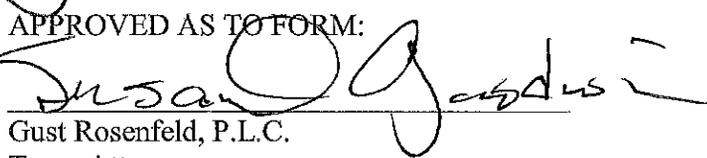
AYES: (6) Six  
NAYES: (1) One ABSENT: (0) Zero  
EXCUSED: (0) Zero ABSTAINED: (0) Zero

APPROVED this 19th day of September, 2017.

  
Terry Nolan, Mayor

ATTEST:

  
Julie Gibson, Acting Town Clerk

APPROVED AS TO FORM:  
  
Gust Rosenfeld, P.L.C.  
Town Attorneys  
By Susan D. Goodwin

I, JULIE GIBSON, ~~ACTING~~ TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 17-140 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA ON THE 18TH DAY OF SEPTEMBER, 2017, WAS POSTED IN THREE PLACES ON THE 20TH DAY OF SEPTEMBER, 2017.

  
Julie Gibson, Acting Town Clerk