

CHAPTER 91: ANIMAL CODE

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GENERAL PROVISIONS

§ 91.01 DEFINITIONS.

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

meaning.

AGENT. A person legally authorized to act in the place and stead of an animal owner, an enforcement agent, or law enforcement officer.

ANIMAL. Any creature belonging to the following taxonomic classes (except humans): mamalia, marsupial, ares, reptilia, and/or amphibia.

AT LARGE.

(1) Being neither confined in an enclosure nor physically restrained by a leash while on public property, or on private property that is not enclosed by a fence or other structure.

(2) Dogs in dog parks, and livestock and equine pleasure practices are specifically exempted.

CAT. Any animal of the feline genus.

CITY. The City of El Mirage.

COLLAR. A band, harness, or suitable device worn around the neck of an animal to which a license may be affixed.

COUNTY. The County of Maricopa, State of Arizona.

DANGEROUS AND AGGRESSIVE ANIMALS. Any animal that has a propensity to attack, to cause injury, or to otherwise endanger the safety of human beings or other animals without provocation, or that without provocation menaces, threatens, or causes injury to a human or other animal.

DEPARTMENT. The State Department of Health Services.

DOG. Any member of the canine genus.

ENFORCEMENT AGENT. A person designated by the city who is responsible for the enforcement of this chapter and regulations promulgated thereunder.

IMPOUND. The act of taking or receiving into custody by the city or its designee or authorized agent any animal for the purpose of confinement in an authorized pound in accordance with the provisions of this chapter.

KENNEL. An enclosed, controlled area, inaccessible to other animals in which a person keeps, harbors, or maintains four or more dogs under controlled conditions.

LIVESTOCK. Asses, cattle, horses, mules, sheep, goats, swine, poultry, and fowl.

OWNER. Any person keeping an animal other than livestock for more than six consecutive days.

PET SHOP. Any establishment at which are kept for sale any animals generally considered to be household pets.

POULTRY. Chickens, turkeys, domesticated birds, game birds, fowl, water fowl, and exotic birds, including ostriches, rheas, and emus.

POUND. Any establishment authorized by the enforcement agent for the confinement, maintenance, safekeeping, or control of animals that come into the custody of the enforcement agent in the performance of his or her official duties.

RABIES QUARANTINE AREA. Any area in which a state of emergency has been declared to exist due to the occurrence of rabies in animals in or adjacent to the area.

RABIES VACCINATION CERTIFICATE. A method of recording and duplicating rabies information that is in compliance with the enforcement agent's licensing system or the enforcement agent's prescribed forms.

RODENT. A mammal of the order Rodentia, such as a mouse, squirrel, rat, or beaver characterized by large incisors adapted for gnawing or nibbling.

STRAY DOG. Any dog four months of age or older running at large that is not wearing a valid license tag.

VACCINATION. The administration of an anti-rabies vaccine to animals by a veterinarian, or in authorized pounds by employees trained by a veterinarian.

VETERINARIAN. Any doctor licensed to practice animal medicine in the State of Arizona.

VETERINARY HOSPITAL. Any establishment operated by a veterinarian licensed to practice in Arizona that provides clinical facilities and houses animals or birds for dental, medical, or surgical treatment. A **VETERINARY HOSPITAL** may have adjacent to it or in conjunction with it or as an integral part of it, pens, stalls, cages, or kennels for quarantine, observation, or boarding.

VICIOUS ANIMAL. Any animal that has a propensity to attack, to cause injury, or to otherwise endanger the safety of human beings without provocation, after having been so declared after a hearing before a Justice of the Peace or the Municipal Court Judge.

WILD ANIMAL. Any animal of the ferae naturae or ferae bestiae or species that have not yet been domesticated or are still subject to further domestication.

(Prior Code, § 6-1-1) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007; Ord. O17-04-03, passed 4-4-2017)

§ 91.02 ANIMALS AT LARGE PROHIBITED.

(A) It shall be unlawful for any person to cause, allow, suffer, or permit any animal, fowl, or rodent to be at large at any place in the city at any time.

(B) In a rabies quarantine area, no animals shall be permitted at large. Each dog shall be confined within an enclosure on the owner's property.

(C) Any dog over four months in age shall wear a collar or harness to which is attached a valid license tag. Dogs used for the control of livestock or while being used or trained for hunting or dogs while being exhibited or trained at a kennel club event or dogs while engaged in races approved by the Arizona Racing Commission, and such dogs while being transported to and from such events need not wear a collar or harness with a valid license tag attached, provided they are properly vaccinated, licensed, and controlled.

(D) No person in charge of any animal shall permit the animal in a public park or upon any city or public school property or upon the property of a third party unless the animal is physically restrained by a leash, enclosed in a car, cage, or similar enclosure, or being exhibited or trained at a recognized kennel club event, public school, or city-sponsored event.

(E) Whenever any animal is found at large, the enforcement agent may take one or more of the following actions:

(1) The dog may be apprehended and impounded.

(2) The enforcement agent may issue a citation to the dog owner or person acting for the owner when the dog is at large. The procedure for issuance of notice to appear shall be in conformity with A.R.S. § 13-3903, except that the enforcement agent shall not make an arrest before issuing the notice to appear. The issuance of citations pursuant to this section shall be subject to the provisions of A.R.S. § 13-3899.

(F) Upon request of the city or county and issuance of an order by a hearing officer, the Justice of the Peace, or the Municipal Court, any animal impounded under this section may be kept or impounded until there is a final disposition of any associated criminal proceeding.

(Prior Code, § 6-1-2) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.03 DANGEROUS AND AGGRESSIVE ANIMALS.

(A) It is unlawful to permit any dangerous, vicious, aggressive, or wild animal of any kind to run at large within the city, and such animals shall be immediately impounded by the enforcement agent.

(B) Any owner of a dangerous and aggressive animal, as defined in this code, shall carry a minimum of \$50,000 of general liability insurance against such unforeseen and/or catastrophic occurrence.

(Prior Code, § 6-1-3) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.04 ANIMALS DISTURBING THE PEACE.

It shall be unlawful to harbor or keep any animals that disturb the peace at any time of the day or night which results in an

unreasonable interference with a citizen's right to quiet enjoyment of his or her own premises.

(Prior Code, § 6-1-4) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.05 RESTRICTIONS ON THE KEEPING OF ANIMALS.

(A) No person shall keep within the corporate limits of the city any animal in such a manner as to disturb the peace, health, safety, or welfare of any person residing in the city.

(B) No person shall keep within the corporate limits of the city any animal if the animal shall cause, create, contribute to, or become a health nuisance or health hazard. The presence of flies, mosquitoes, insects, vermin, rodent harborage, odors, dust, ponded water, accumulation of manure, garbage, refuse, or other obnoxious or putrescible material shall constitute prima facie evidence of a health nuisance.

(C) The keeping of all animals within the city shall be subject additionally to the regulations of the State of Arizona and the Maricopa County Board of Health.

(D) The premises upon which animals, livestock, and poultry are kept shall always be sanitary and subject to inspection and regulation by the city's enforcement agent or his or her designee.

(1) All pens, yards, runs, or other structures wherein any animal is kept shall be of such construction and/or erection so as to be easily cleaned and maintained and shall be kept in good repair.

(2) Fences which are intended to be used as an enclosure for any animal shall be securely constructed and shall not be allowed to deteriorate or become unsightly.

(Prior Code, § 6-1-5) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007; Ord. O11-09-17, passed 9-22-2011) Penalty, see § 91.99

§ 91.06 ENFORCEMENT AGENTS; POWERS AND DUTIES.

(A) *General.* The enforcement agent shall:

(1) Enforce the provisions of this chapter;

(2) May issue citations for the violations of the provisions of this chapter and the regulations promulgated thereunder. The procedure for the issuance of notices to appear shall be in accordance with A.R.S. §§ 13-3899, 13-3903, and this code, except that the enforcement agent shall not make an arrest before issuing the notice; and

(3) Shall be responsible for declaring a rabies quarantine area with the city's jurisdiction. When a quarantine area has been declared by the enforcement agent, the agent shall meet with the State Department of Health, the Game and Fish Department, and/or the State Livestock Board as applicable, to implement an emergency program for the control of rabies within the area. Any regulations restricting or involving movements of livestock within the area shall be subject to approval by the State Veterinarian.

(B) *Interference.* It shall be unlawful to interfere with the enforcement agent in the course of his or her official duties pursuant to this code and A.R.S. § 11-1015.

(C) *Lawful presence.* An enforcement agent, police officer, or their designee is lawfully in or on the private property of the owner of an animal within the meaning of this chapter when acting as an invitee or licensee, or when in the course of performance of a duty imposed upon him or her by the law of the state, the United States, or of the city.

(D) *Wrongful removal.* No person may remove or attempt to remove an animal which has been lawfully impounded or which is lawfully in the possession of the enforcement agent except in accordance with the provisions of this chapter and the regulations promulgated thereunder.

(E) *Deputization.* The enforcement agent may appoint deputies to his or her discretion and in the manner as he or she sees fit.

(F) *Animal Control Fund.* The enforcement agent or his or her authorized representative shall place fees collected by him or her under the provisions of this chapter in a special fund to be known as the "Animal Control Fund" and these funds shall be used for the enforcement of the provisions of this chapter and the regulations promulgated thereunder.

(G) *Accounting and oversight.* There shall be an annual review of the account balances, appropriations, expenditures, and revenue sources of all monies relative to the Animal Control Fund. This review shall be prepared by the enforcement agent and shall be presented to the City Manager upon request.

(Prior Code, § 6-1-6) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.07 ANIMALS KEPT BY OWNERS; VIOLATIONS; RESPONSIBILITY FOR DAMAGES.

(A) Injury or damage to any property by an animal kept by the owner while at large shall be the full responsibility of the owner or person responsible for the animal when the damages occurred.

(B) Injury or damage to any person or animal as defined by this code shall create in the aggrieved party a cause of action for the full amount of damages associated therewith.

(Prior Code, § 6-1-7) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.08 VICIOUS ANIMALS; DETERMINATION.

(A) Any person having reasonable belief that an animal is vicious may petition the Justice of the Peace or the Municipal Court for a determination that the animal is vicious. The Court may assign the matter to a civil hearing officer within the Court for all proceedings under this section.

(1) After notice to the owner of the animal in any manner calculated to provide reasonable notice, including but not limited to the Arizona Rules of Civil Procedure, the Justice of the Peace or the Municipal Court shall conduct a hearing on the merits of the instant matter. The hearing shall be open to the public. Any relevant oral and documentary evidence from any interested party may be considered by the Court, whether or not the evidence is admissible under the Arizona Rules of Evidence.

(2) Any owner who fails to appear after notice pursuant to this section may be deemed to have waived any right to introduce evidence and eventual right of appeal of the final judgment of the court. Further, the Justice of the Peace or Municipal Court shall thereby determine that all of the allegations contained in the petition are deemed admitted as true.

(3) The decision under this section shall be based upon the standard of a preponderance of the evidence.

(4) The Justice of the Peace or the Municipal Court may consolidate a viciousness petition with a criminal proceeding arising out of the same violation, provided that viciousness is alleged as an element of the associated criminal complaint.

(B) Upon determining an animal to be vicious, the Justice of the Peace or Municipal Court shall enter such orders as it deems necessary to protect the public. The Justice of the Peace or Municipal Court shall retain continuing jurisdiction over the matter for a period not to exceed three years to ensure that orders are enforced. The Justice of the Peace or Municipal Court may order but is not limited to the following:

(1) The owner of the vicious animal post one or more signs on the premises where the animal is kept containing letters not less than three inches high and easily readable by the public using the words: "Danger: Vicious Animal";

(2) The owner obtain public liability insurance in a single incident amount of not less than \$50,000 or other such amount as determined by the Court for bodily injury or death of any person for damage to property caused by the vicious animal;

(3) The animal be destroyed or removed from the premises;

(4) The animal at all times be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed or muzzled;

(5) The animal be spayed, neutered, or tattooed for identification purposes;

(6) The animal be defanged, declawed, or debarked; and

(7) The cost of any successful proceedings to declare an animal vicious be assessed against the owner.

(C) Proof of provocation of the attack by the person injured shall be a rebuttable defense to an action to declare an animal dangerous or vicious.

§ 91.09 HANDLING OF BITING ANIMALS; RESPONSIBILITY FOR REPORTING ANIMAL BITES; AUTHORITY TO DESTROY ANIMALS; KILLING ANIMALS IN LIEU OF IMPOUNDMENT.

(A) Any animal that bites a person shall be confined and quarantined in an authorized pound or, upon request of and at the expense of the owner, at a veterinary hospital for a period of not less than seven days. A dog properly licensed and vaccinated pursuant to this chapter that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the enforcement agent.

(B) Any animal other than a dog or cat that bites any person shall be confined and quarantined in an authorized pound or, upon the request of and at the expense of the owner, at a veterinary hospital for a period of not less than 14 days provided that livestock shall be confined and quarantined for the 14-day period in a manner regulated by the Livestock Board. If the animal is a caged rodent, it may be confined and quarantined at the home of the owner or where it is harbored or maintained, for the required period of time with the consent of and in a manner prescribed by the enforcement agent.

(C) Any wild animal which bites any person may be killed as a matter of public privilege and submitted to the enforcement agent or his or her deputies for transmission to an appropriate diagnostic laboratory.

(D) Whenever an animal bites any person, the incident shall be reported to the enforcement agent immediately by any person having direct knowledge of such a bite incident.

(E) The enforcement agent may destroy any animal confined and quarantined pursuant to this section prior to the termination of the minimum confinement period for laboratory examination of rabies if:

- (1) The animal shows any clear indicator of rabies; or
- (2) The owner of the animal consents to the animal's destruction.

(F) Any animal subject to licensing under this chapter found without a tag identifying its owner shall be deemed unowned.

(G) The enforcement agent shall destroy a vicious animal upon order of a Justice of the Peace or Municipal Court. A Justice of the Peace or Municipal Court may issue such an order in the manner provided for by this chapter or pursuant to the provisions of A.R.S. § 11-7-6.

Statutory reference:

The statute cited in this division does not exist. Issuance of orders, see A.R.S. § 11-1014

(H) Killing certain animals in lieu of impoundment. In the reasonable judgment of an enforcement agent or police officer, if any animal at large is dangerous or fierce and constitutes an immediate threat to human safety that cannot be immediately rectified by impoundment, that animal may be immediately slain by such agent or officer.

IMPOUNDMENT, PERMITS, AND PUBLIC BUILDINGS

§ 91.20 IMPOUNDMENT OF LIVESTOCK, FOWL, AND RODENTS.

(A) The city or its agent or designee may apprehend and impound any livestock, fowl, or rodent that is at large within the city. The city shall have the limited authority to enter upon private property for the purpose of apprehending or impounding the livestock, fowl, or rodent. The entry upon private property shall be reasonable and shall not include entry into a residence or enclosure upon the property unless it is with the consent of the owner or the resident or occupant of the structure. After entry, the city shall take reasonable steps to apprehend and impound the livestock, fowl, or rodent. If any livestock, fowl, or rodent that is at large within the city leaves the city limits during an attempt by the city to impound or apprehend the livestock, fowl, or rodent, the city may take reasonable steps to pursue the livestock, fowl, or rodent for the purpose of impoundment or apprehension of same.

(B) After impoundment at a public facility or a private authorized facility, the city shall make a reasonable effort to contact the owner of the impounded livestock, fowl, or rodent and give the owner a reasonable opportunity to reclaim the impounded animal. The

city may request assistance from the Arizona Livestock Department in contacting the owner. It shall be presumed to be a reasonable effort to contact the owner of the brand on the livestock impounded. Prior to releasing any impounded livestock, fowl, or rodent to the owner, the city shall collect from the owner the actual costs and expenses incurred in apprehending and impounding the livestock, fowl, or rodent. The city may release any impounded livestock, fowl, or rodent to the Arizona Livestock Department or Arizona Game and Fish Commission if the appropriate agency agrees to collect the city's actual costs and expenses from the owner prior to releasing the livestock, fowl, or rodent.

(C) If the owner fails within ten days after notice to reclaim any impounded livestock, fowl, or rodent by paying the city's actual costs and expenses of apprehension and impoundment, the city shall post notices in three public places and publish a notice once in a newspaper of general solicitation in the city that the impounded livestock, fowl, or rodent will be sold. The sale shall be conducted in a commercially reasonable manner and with reasonable notice. The proceeds of the sale shall be applied first to paying the city's actual costs and expenses of impoundment, apprehension and sale. The city shall pay the remaining sale proceeds, if any, to the owner of the animal(s) that were sold. Alternatively, the city may release any impounded livestock, fowl, or rodent to the custody of the Arizona Livestock Department, if the Department agrees to pay the city's actual costs and expenses of impoundment and apprehension out of the proceeds of any such sale of livestock, fowl, or rodent.

(Prior Code, § 6-2-1) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.21 ANIMALS IN PUBLIC BUILDINGS, PROHIBITED; EXCEPTIONS, VIOLATIONS.

(A) Except as provided in division (B) of this section, it shall be unlawful for any person to bring into any public building under the control and jurisdiction of the city any animal, fowl, or rodent.

(B) Any legally blind person, deaf person, handicapped person, dog guide trainer, or service dog trainer may make use of a dog guide or service dog while in a public building under the control and jurisdiction of the city. These uses shall be subject to the provisions of A.R.S. § 11-1024.

(Prior Code, § 6-2-2) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.22 DOGS; KENNEL PERMIT REQUIRED.

(A) A person operating a kennel shall obtain a permit issued by the county's Board of Supervisors unless each individual dog is licensed. A dog remaining within the kennel is not required to be licensed individually. A dog leaving the controlled kennel conditions shall be individually licensed unless it is only being transported to another kennel for which a permit has been issued under this section.

(B) A person operating a kennel must obtain a business license from the city, have a zoning clearance from the Community Development Department, and may only operate a kennel subject to applicable zoning restrictions. For purposes of this section, kennel operations shall include any animal which is domesticated by the full blood or in part.

(Prior Code, § 6-2-3) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.23 DOG LICENSE.

It is unlawful to keep a dog that is over the age of four months that is not currently licensed by the county.

(Prior Code, § 6-2-4) (Ord. O07-07-06, passed 7-12-2007, Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.24 LICENSE FEES.

The annual license fee for all animals shall be set by the county's Board of Supervisors for unincorporated Maricopa County and maintained in accordance with all applicable county and state laws.

(Prior Code, § 6-2-5) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.25 ESTABLISHMENT OF POUNDS; IMPOUNDING AND DISPOSING OF DOGS AND CATS; RECLAIMING

IMPOUNDED DOGS AND CATS; IMPOUND FEES.

(A) All animals impounded under this code shall be given proper care and maintenance.

(B) Each stray animal impounded shall be kept for no less than 72 hours unless claimed by its owner.

(C) Prior to the release of a stray dog or cat from the pound for purchase by any person, the dog or cat shall be surgically spayed or neutered.

(D) The pound may use any unrefunded deposits for any of the purposes provided for in A.R.S. § 11-1022(D).

(E) Any person may purchase an impounded dog or cat upon expiration of the impoundment period, provided that person pays the actual costs and pound fees associated with the animal, and complies with all licensing, vaccinating, and sterilization provisions of this chapter. If a dog or cat is not claimed within the impoundment period, the enforcement agent shall take possession of the unclaimed animal and may place the animal for sale or may dispose of the cat or dog in a humane manner. The enforcement agent may destroy impounded, sick, or injured dogs or cats whenever necessary to prevent the dog or cat from suffering or to prevent the spread of disease.

(F) Any impounded licensed dog or cat may be reclaimed by its owner or the owner's agent provided that the person reclaiming the dog or cat furnishes proof of right to do so and pays all pound fees. If the dog or cat is not reclaimed within the impoundment period, the enforcement agent shall take possession and may place the dog or cat for sale or may dispose of same in a humane manner. Any person purchasing such an animal shall pay all pound fees associated with the animal.

(Prior Code, § 6-2-6) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

§ 91.26 PROPER DESTRUCTION OF IMPOUNDED ANIMALS.

(A) Any dog or cat, except those showing signs of rabies destroyed while impounded in an authorized county, city, or town pound shall be destroyed only by the use of one of the following:

- (1) Sodium pentobarbital or a derivative of sodium pentobarbital;
- (2) Nitrogen gas; or
- (3) T-61 euthanasia solution or its generic equivalent.

(B) If an animal is destroyed by means specified above, it shall be done by a licensed veterinarian or in accordance with procedures established by the state veterinarian pursuant to A.R.S. § 24-153.

(Prior Code, § 6-2-7) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)

Statutory reference:

The statute cited in division (B) has been repealed and renumbered. State procedures, see A.R.S. § 3-1213

§ 91.27 ANIMAL WASTE.

It shall be unlawful for an owner of an animal or any person responsible for the animal to allow that animal to defecate in public or on public property without removing the animal waste.

(Prior Code, § 6-2-8) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

TREATMENT OF ANIMALS

§ 91.40 CONFINEMENT OF ANIMALS IN VEHICLES.

(A) No person having charge, custody, or ownership of an animal and a motor vehicle shall place or confine the animal or allow the animal to be placed, confined, or remain in a motor vehicle under such conditions or for such period of time as may endanger the health

or well being of the animal due to heat, lack of food or drink, or other such circumstances as may reasonably be expected to cause suffering, disability, or death of the animal.

(B) When in the judgement of a peace officer, enforcement officer, or firefighter an animal has been placed in danger as described herein, they may take such steps as are reasonable and necessary to enter the vehicle and impound the animal in the manner provided by this chapter.

(Prior Code, § 6-3-1) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.41 CRUELTY TO ANIMALS.

A person commits the offense of cruelty to animals if the person:

- (A) Intentionally kills or attempts to kill any animal without first obtaining legal authority, or without necessary public privilege;
- (B) Overworks, overloads, tortures, torments, abandons, administers poison to, cruelly beats, or mutilates an animal or exposes a poison with an intent that it be ingested by an animal;
- (C) Ties, tethers, chains, or restrains an animal, either a pet or livestock, in a manner that is inhumane or detrimental to its welfare. Livestock and animal husbandry practices are specifically exempted;
- (D) Deprives an animal which a person owns, possesses, or acts as an agent for, of adequate food, water, shelter, ventilation, rest, sanitation, grooming, necessary medical attention, and protection from extremes of temperature, all in sufficient quantity and quality so as to meet the needs of the animal;
- (E) Abandoning any animal over whom the person has ownership, charged care, custody, or possession. Abandonment shall mean a person's intent not to supply all of the elements listed in division (D) above;
- (F) Owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control;
- (G) Acts as judge or participates as a spectator at events of animal fighting or bets or wagers on the outcome of the fight;
- (H) Intentionally torments or harasses an animal owned by or engaged by a police department or public agency of the state or its political subdivisions, or interferes with the lawful performance of a police animal;
- (I) Uses a live animal as bait or a lure in a race, game, or contest, or in training animals in a manner inconsistent with state law;
- (J) Keeping, using, owning, or possessing any property, paraphernalia, or animals for the purpose of animal fighting or baiting, giving, or receiving money or wagering money in relation to any animal fighting or baiting or causing an animal to fight, or training an animal to fight other animals;
- (K) Commits theft, conversion, taking, leading away, or secreting of any animal;
- (L) Concealing the identity of any animal for the purpose of making the return of the animal to their owner more difficult, including but not limited to the obscuring, altering, or removing of any collar, tag, license, tattoo, or other identifying device or mark;
- (M) Tripping, felling, or dragging an animal by the legs or tail;
- (N) Causes a risk to the health, peace, or life of an animal for the purposes of entertainment, amusement, sport, or monetary gain; and/or
- (O) Uses any animal as a lure or bait, except for the purposes of fishing or trapping, pursuant to state license.

(Prior Code, § 6-3-2) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.42 "SIDEWALK SALES"; UNLICENSED SALES OF ANIMALS.

(A) It shall be unlawful for any person to sell any brood or litter of animals within the confines of the city if the person does not possess a valid business license, the purpose of which declares the licensee's primary occupation to be that of selling animals in the ordinary course of business.

(B) Nothing in this code shall prevent the lawful owner of a brood or litter of animals from transferring ownership of the litter or brood by gift, or by a transaction where there exists no consideration.

(Prior Code, § 6-3-3) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Any person found guilty of violating any provision of this chapter is subject to non-waivable penalties of up to \$2,500 and may be guilty of a Class 1 misdemeanor, and shall be prosecuted for the violation in the manner as provided by law.

(B) Any violation of this chapter is hereby declared to be a nuisance. In addition to any other relief provided by this code, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. The application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.

(C) (1) A violation of § 91.03(A) is a Class 1 misdemeanor, and shall be accompanied by a non-waivable fine of \$2,500.

(2) A violation of § 91.03(B) is a Class 1 misdemeanor and shall carry a non-waivable fine of \$2,500.

(D) Violation of § 91.04 is a petty offense and shall result in a non-waivable fine of \$100.

(E) Violation of § 91.05 shall be a Class 3 misdemeanor and shall carry a non-waivable fine of \$500.

(F) Violation of § 91.06(B) shall be a Class 1 misdemeanor and shall carry a non-waivable fine of \$2,500.

(G) Violation of § 91.21 shall be a petty offense and carry a non-waivable fine of \$100.

(H) A person who knowingly fails within 30 days after written notification from the enforcement agent to obtain a kennel permit is guilty of a Class 2 misdemeanor which shall carry a non-waivable fine of \$750. The Court shall order the person to obtain the kennel permit, zoning clearance, and business license and pay all applicable fees as a condition of sentencing.

(I) Violation of § 91.27 shall be a petty offense and shall carry a non-waivable fine of \$50.

(J) Violation of § 91.40(A) shall be a Class 2 misdemeanor and shall carry a non-waivable fine in the amount of \$750.

(K) A violation of § 91.41 shall be charged either as a misdemeanor or a felony under the provisions of A.R.S. § 13-2910 within the discretion of the City Prosecutor.

(1) *Misdemeanor provision.* Any violation of § 91.41(A), (B), (D), (F), (G), (H), (J), (M) and/or (N) shall be a Class 1 misdemeanor that carries a non-waivable fine in the amount of \$2,500 and/or a term of imprisonment not to exceed six months. Violations of § 91.41 (C), (E), (I), (K), (L) and/or (O) shall be a Class 1 misdemeanor that carries a non-waivable fine in the amount of \$1,000 and/or a term of imprisonment not to exceed six months.

(2) *Recidivist provision.* Any offender who is charged with a second and independent occurrence of offense within the meaning of § 91.41 shall at the election of the prosecutor have the charges prosecuted against them as a felony within the meaning of A.R.S. § 13-2910.

(L) Violation of § 91.42(A) shall be a Class 3 misdemeanor and shall carry a non-waivable fine in the amount of \$500.

(Prior Code, §§ 6-1-3(B), 6-1-4, 6-1-5(F), 6-2-2(C), 6-2-3(C), 6-2-8, 6-3-2(P), 6-3-4) (Ord. O07-07-06, passed 7-12-2007; Res. R07-07-17, passed 7-12-2007)