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# MEMORANDUM

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Date: December 6, 2019

To: The Honorable Chairman and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator

A handwritten signature in black ink, appearing to read "CHH", is written over the printed name "C.H. Huckelberry".

Re: **Future Modifications to Pima County Code Title 6: *Animals***

The present Title 6: *Animals* of the Pima County Code was written in the mid-1970s and has been amended over the years. Many of the amendments are difficult to interpret and at times, contradictory.

Pima Animal Care Center Director, Kristen Hassen, along with the County Attorney's Office has drafted an update of Title 6. This rewrite has been reviewed with stakeholders over the last few months. During their 2018 Retreat, the Animal Care Advisory Committee formed an ordinances working group that has provided input on more than 20 drafts of the proposed modifications.

Ms. Hassen also conducted an in-depth review on animal care ordinances from cities and counties throughout the southwest. The attached December 2, 2019 memorandum describes this subject in more detail, including the proposed modifications to Title 6.

This memorandum provides advanced notice that this process will culminate with the new code being placed on the Board of Supervisors Agenda next Spring. I believe the draft is a great improvement over what we have in place today. It has undergone extensive input with stakeholders and those who have an interest in our operations at the Pima Animal Care Center.

We will continue to conduct outreach meetings in each District and hold additional meetings to bring the most up-to-date draft to the Pima Animal Care Advisory Committee for review and approval. The final document will be brought to the Board for adoption in the previously stated timeframe.

CHH/anc

Attachment

c: Andrew Flagg, Chief Civil Deputy County Attorney  
Jan Leshner, Chief Deputy County Administrator  
Dr. Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer,  
Health and Community Services  
Kristen Hassan, Director, Pima Animal Care Center  
Jonathan Pinkney, Pima County Attorney's Office

Date: December 2, 2019

To: Chuck H. Huckelberry  
County Administrator

From: Kristen Hassen  
PACC Director



Via: Francisco Garcia  
Deputy County Administrator



Re: Pima County Ordinance Draft and Community Stakeholder Feedback

I am writing today to share the draft of *Title 6: Animals* of the Pima County Code (see attachment A), written by PACC leadership staff with assistance from the Pima County Attorney's Office. I am requesting your permission to share these draft ordinances with the Pima County Board of Supervisors and to hold meetings in each district to share the draft with the community and to solicit feedback.

**Background:** In July of 2017, Deputy County Attorney Paula Perrera met with Deputy County Administrator Garcia and me to discuss the challenges with Pima County Code Title 6. During this meeting, Ms. Perrera explained that the ordinances, which were written in the mid-1970s, and partially amended in the subsequent three decades, were confusing, difficult to interpret and at times contradictory. According to Ms. Perrera, the existing ordinances contained legal language that was difficult for residents to understand and problematic for the County to enforce.

It is recognized that the ordinance was written when PACC's main roles were enforcement of rabies laws and the rounding up of stray roaming dogs. There was not an emphasis on keeping pets with their families, and the euthanasia rates during the time the ordinances were written and amended was at or above 50%. Due to the evolution in the role and responsibilities of Pima Animal Care Center, including a greater emphasis on community support for pet owners and lifesaving for shelter pets, combined with the aforementioned challenges with the existing ordinances, Ms. Perrera recommended that PACC re-draft the entire set of Pima County pet-related ordinances. Following this meeting, PACC staff began the process of reviewing the existing ordinances and re-drafting them to reflect current practices and ensure legal clarity.

PACC and the Pima County Attorney's Office, with the input of stakeholders, drafted a revised ordinance over many months. The process began with an updated definitions section and then addressing each existing ordinance and determining if it needed to be simplified, clarified or completely re-written. After this, we added in language to address community issues like hoarding that are not addressed by our current ordinances. Lastly, we assigned appropriate legal penalties to each of the ordinances. Throughout and following this re-draft, we took four steps to get stakeholder input and create ordinances based on best practices that are working here or in other model communities.

**Actions taken:** During its 2018 retreat, the PACC Advisory Committee formed an ordinances working group inclusive of three members of PACC AC. This group met regularly and reviewed and provided input as we worked through more than 20 drafts of the ordinances. Updates were provided regularly by this working group to the entire PACC Advisory Committee and to stakeholders attending PACC AC meetings.

***Re: Pima County Ordinance Draft and Community Stakeholder Feedback***

Second, I conducted an in depth review of animal ordinances from cities and counties. The communities I reviewed included Washoe County, Nevada, Dallas, Texas, El Paso, Texas, Los Angeles City, California, Seattle, Washington, Portland, Oregon, Washington D.C., Santa Fe, New Mexico, Albuquerque, New Mexico and Maricopa County, Arizona. I discovered little consistency among these ordinance sets, and conducted further research about which ordinances were most helpful in helping to create safe, humane communities, holding meetings with the leaders of animal control agencies in several of these communities. Through this process, I gained information about the success of ordinances in various cities and counties and used this information to guide the drafting of our ordinances.

Third, the PACC staff and the Pima County Attorney's Office met approximately quarterly, beginning in June of 2018 to review, line by line, the existing and proposed ordinances. The County Attorney team working on the ordinance re-write was first led by Paula Perrera and later by Deputy County Attorney Jonathan Pinkney. Through this process, animal control personnel who enforce the ordinances were included in all conversations to ensure the ordinances were in line with current standard operating procedures and enforcement efforts.

Fourth, PACC consulted with local stakeholders and national experts, sharing drafts of the ordinances and requesting input throughout the process. Among the organizations who have reviewed and been asked to provide feedback on the ordinances are representatives from the Pima County Sheriff's Department, the Pima Alliance for Animal Welfare (PAAW), the Humane Society of Southern Arizona, AWASA, the Anti-Cruelty Task Force, Hermitage No Kill Cat Sanctuary and Shelter, No Kill Pima County, Best Friends Animal Society, Friends of PACC, the City of Tucson, The Town of Oro Valley, and the National Animal Care and Control Association.

We currently have an ordinance draft that reflects the input of numerous community and national stakeholders. Throughout the process, we have shared several drafts with the PACC Advisory Committee, which continues to review them as we move forward. At the November PACC Advisory Committee meeting, the group discussed each ordinance in the draft, with Deputy County Attorney Jonathan Pinkney in attendance to respond to legal questions. PACC AC will continue to provide feedback and suggestions, but voted to approve PACC soliciting more widespread community feedback through scheduling a series of community meetings. At this time, I am requesting permission to share the current draft with the Pima County Board of Supervisors and to schedule stakeholder review and feedback meetings in each of the Supervisory Districts.

If approved, PACC will schedule meetings in each district; advertise the meetings via print and online communications; hold the meetings; respond to feedback and then bring the most up-to-date draft back to the PACC Advisory Committee for final review and approval before sending it forward to your office for review by the Pima County Board of Supervisors. Our goal is to have the stakeholder meetings completed by January 31, 2020 so the PACC Advisory Committee can review the final draft at the February meeting.

C: Jan Leshner, Chief Deputy County Administrator  
Jonathan Pinkney, Pima County Attorney's Office  
Byron Gwaltney, Chief Deputy Pima County Sheriff's Department

## Attachment A

### TITLE 6 - ANIMALS

#### **6.02 – GENERAL**

##### 6.02.010 Definitions

For the purposes of this title:

- A. "Animal" means a mammal, bird, reptile or amphibian.
- B. "At large" means neither confined by an enclosure nor physically restrained by a leash.
- C. "Cat" means a member of the species *Felis catus*, or any combination of *Felis catus* and other feline species.
- D. "Companion animal" means an animal that is kept primarily as a pet or companion or bred to be a pet or companion and that is not regulated by the Arizona Department of Agriculture or the Arizona Game and Fish Department.
- E. "Dog" means a member of the species *Canis familiaris* or any combination of *Canis familiaris* and other canine species.
- F. "Department" means the animal service department.
- G. "Director" means the director of the department.
- H. "Handler" means a person who has charge, care, custody or control of an animal.
- I. "Impound" means the act of taking or receiving any animal into custody by the department.
- J. "Microchip" means a passive electronic device injected into an animal by means of a pre-packaged, sterilized, implanting device for purposes of identification and future recovery.
- K. "Officer" means an animal protection officer employed by the department.
- L. "Owner" means the legal owner of a companion animal, or any person who keeps, harbors, or regularly feeds a companion animal other than a community cat.
- M. "Veterinarian" means a doctor of veterinary medicine licensed to practice in Arizona.

##### 6.02.020 Enforcement Authority

- A. The department is designated as the county enforcement agent pursuant to A.R.S. § 11-1005(A)(1).
- B. The department is designated as an animal control agency pursuant to Arizona Administrative Code R-9-601.
- C. To the extent permitted by law, the department and its officers and certified peace officers are authorized to enforce the provisions of A.R.S. Title 11, Chapter 7, Article 6, Arizona Administrative Code R-9-601, and of this chapter, and to issue citations for violations.

##### 6.02.030 Fees

- A. The department may, by ordinance, establish and amend a schedule of fees.
- B. Any fee must be attributable to and defray or cover the expense of the product or service for which the fee is assessed.

##### 6.02.040 Records

The department shall keep a record of each animal impounded, kept, or disposed by the department's animal shelter that includes:

- A. A description and photograph of the animal and the date of its impoundment or acceptance;

- B. The date of disposition of that animal; and
- C. The type of disposition and reason for disposition type.

#### 6.02.050 Community Advisory Committee

- A. The Community Advisory Committee offers opinions and makes recommendations to the department and the Board of Supervisors in the following areas:
  - 1. Development of short and long-term strategic goals and objectives;
  - 2. Amendments to Title 6 of the Pima County Code;
  - 3. Materials and programs to educate the public;
  - 4. Delivery of programs and services to the community; and
  - 5. Input regarding animal-related community needs and trends.
- B. Membership:
  - 1. Each of the following organizations or associations appoints one committee member: the Pima County Board of Health; The Southern Arizona Veterinary Medical Association; Animal Services Partner Jurisdictions; Friends of Pima Animal Care Center; and Animal Services Volunteers and Foster Caregivers.
  - 2. Each member of the Pima County Board of Supervisors appoints one committee member.
  - 3. The county administrator appoints one staff member and one community member to serve on the committee. The staff member appointee serves as a non-voting member.
- C. Terms and Officers:
  - 1. Committee members serve two-year terms, which begin July 1 and expire on June 30 of the second year of their respective terms.
  - 2. Committee members may serve a maximum of four consecutive terms. A member may be appointed after the fourth term for an additional term if there are no other interested and qualified applicants.
  - 3. At the first advisory committee meeting following July 1, the committee members shall elect a chair and vice-chair to serve for one year.
- D. Meetings:

Regular meetings are held at least every two months. The chair may call a special meeting if there is sufficient business before the committee.
- E. The director, or their designee, shall attend each meeting and provide a report to the committee.
- F. The committee may adopt by-laws not inconsistent with law for its procedures.

#### 6.02.060 Reporting

The department shall present monthly reports to the Community Advisory Committee that include:

- A. The total number of animals impounded;
- B. The total number of animals euthanized and died in care;
- C. The total number of animals placed through adoption and rescue;
- D. The total number of animals outcome; and
- E. The live release rate calculated as live outcomes/total outcomes.

### **6.04 – IMPOUNDMENT OF ANIMALS**

#### 6.04.010 Impoundment

- A. An officer or a peace officer may impound:
  - 1. Any companion animal at large;
  - 2. Any animal that has bitten a person in the past ten days;

3. Any animal exposed to or suspected to be exposed to rabies;
  4. Any dog that poses an immediate threat to public safety;
  5. Any companion animal whose life or health is in immediate danger.
- B. An officer may enter or intrude upon private property when:
1. A person with authority over the premises consents to entry; or
  2. A valid warrant is obtained; or
  3. Exigent circumstances exist such that the entry is legally warranted.
- C. When an animal is at large and an officer knows its ownership, an officer has the discretion to:
1. Impound the animal;
  2. Cite the owner or handler;
  3. Issue a verbal or written warning to the owner or handler.

#### 6.04.020 Retention of Impounded Animals

- A. The department is the designated caretaker of every impounded animal on the date of impoundment.
- B. Immediately upon intake, the department may provide an impounded animal with any treatment it determines to be medically necessary, including vaccinations and deworming.
- C. Hold periods
  1. Unless redeemed by its owner:
    - a. an animal without identification is kept for a minimum of three business days.
    - b. an animal with a microchip, license, or other specific owner information available is kept for a minimum of five business days.
  2. An animal impounded pending forfeiture proceedings is kept until the conclusion of such proceedings, including any available appeal.
  3. An animal impounded for purposes of quarantine is held for a 240-hour (10 day) observation period.
- D. The department may transfer an animal to a 501(c)(3) nonprofit organization located within Arizona that is an animal shelter, animal rescue organization, or other animal welfare organization prior to the expiration of the hold period described in subsection C, subject to the following conditions:
  1. The department shall maintain documentation, in physical and electronic form reviewable by the public, of an animal transferred under this subsection, including a photograph and all information pertaining to the animal's impoundment and transfer, at the department's animal shelter and on the department website, for the hold period.
  2. Prior to the expiration of the hold period, the transferee organization is the designated caretaker of the animal.
  3. An animal transferred under this subsection remains subject to reclamation by its owner prior to the expiration of the hold period.
  4. Upon the expiration of the hold period, an animal transferred under this subsection is considered abandoned by its owner and becomes the property of the transferee organization or, at the department's option, of the department.
- E. An animal surrendered by its owner to the department becomes the property of the department at intake and no hold period applies.
- F. The department shall not euthanize any animal before the animal has been impounded for the hold period unless the animal is medically suffering with a poor to grave prognosis and pain cannot be managed effectively, even with prompt and comprehensive medical care.
- G. An animal in the temporary custody of the department solely for purposes of sterilization, vaccination, or microchipping is not considered to be impounded for the purposes of this

chapter. The department is the designated caretaker, but not owner, of such animal during any period of custody.

#### 6.04.030 Redemption of Impounded Animals

- A. Except when an animal is the subject of forfeiture proceedings, an owner may reclaim possession of an impounded animal upon payment of impound and boarding fees and compliance with vaccine, registration, licensing or microchipping and any other relevant legal requirements.
- B. The department may seek reimbursement for all its costs, including daily boarding and veterinary care, from the owner of an animal impounded and not redeemed within the hold period.

#### 6.04.040 Disposition of Unclaimed Animals

- A. The department may transfer, place, adopt out, or euthanize any animal that is not claimed by its owner during the relevant hold period.
- B. Before release, any cat or dog adopted from the department must be:
  - 1. spayed or neutered, unless a licensed veterinarian certifies that the animal should not be spayed or neutered due to reasons related to health or age; and
  - 2. microchipped; and
  - 3. if a dog, licensed.

### **6.06 – REGULATION OF COMPANION ANIMALS**

#### 6.06.010 Registration and Licensing

- A. The department shall establish a process for the registration and licensing of dogs, and the primary identifying mechanism may be a tag or a microchip.
- B. The owner of any dog of three months of age or older that has resided in Pima County for more than 30 days must have the dog microchipped, registered with the department, and licensed.
- C. Owners of dogs that have previously been microchipped may use the existing microchip identification number for their registration.
- D. The owner of the dog must maintain current registration with the microchip registration company.
- E. No dog may be licensed unless it has a current rabies vaccination as required by A.R.S. § 11-1010.
- F. A license is valid for three years or until the dog's rabies vaccination is due, whichever is shorter.
- G. If there is a change in ownership of a registered dog, the new owner shall have the registration transferred to their new owner's name within 30 days.
- H. Companion animals other than dogs are not required to be licensed or registered with the department.
- I. Owners of companion animals other than dogs may register them with the department.

#### 6.06.020 Multiple Animal Permit

- A. No person may keep more than 10 dogs, or 10 indoor cats, over four months of age at a single residence or location without a multiple animal permit.
- B. For the purposes of this section, an indoor cat is a cat that is housed indoors and not allowed to be at large.
- C. The following are exempt from this section:
  - 1. Animal shelters that are operated by a government entity or a humane society;

2. Veterinarians who provide clinical care and are not engaged in the practice of breeding.
- D. Any person who wishes to keep more than 10 dogs, or 10 indoor cats, over four months of age at their residence or other location must submit an application for a permit to the department, specifying:
  1. the number and breed or type of animals kept or anticipated to be kept on the premises;
  2. the licensing identification numbers for any dogs habitually kept on the premises; and
  3. any previous citations or convictions related to animal cruelty or neglect and, if a residence, the names of any other people who habitually live there, and any previous citations or convictions related to animal cruelty or neglect for any such person.
- E. Applications are reviewed within 60 days of receipt, during which time the applicant may continue to house the animals.
- F. An officer may inspect the premises for which the application is made to determine that:
  1. Keeping the animals at the location specified does not violate any state or local animal welfare laws or regulations;
  2. There is adequate fencing or other containment to prevent any dogs from escaping from the premises; and
  3. The premises are being maintained in a clean and sanitary condition, and any animals contained on the premises are receiving appropriate care in accordance with section 6.08.010.
- G. The officer may recommend conditions to the issuance of the permit, including:
  1. Making improvements or repairs to enclosures; and
  2. Developing a plan to avoid the owner becoming overwhelmed or unable to care for the animals.
- H. Upon completion of the review, the department sends a written or electronic notice to the applicant that informs the applicant by mail or email whether the permit has been approved or declined with a written explanation for the decision.
- I. If the department denies the permit, the applicant must reduce the number of animals kept on the premises to the legally-allowable limit within 30 days of the decision.
- J. Permits are valid no less than one year and no more than ten years, based on the determination of the department.
- K. An officer may reinspect the premises if the department has a reasonable belief that conditions have changed since it issued the permit.
- L. The department may revoke a multiple animal permit if:
  1. The applicant denies entry to the premises for a reinspection; or
  2. An officer finds that conditions at the premises are such that a permit would not have been issued had they existed at the time of the application; or
  3. The department becomes aware of citations or convictions related to animal cruelty or neglect for the applicant or any person living at the residence.
- M. If a multiple animal permit is revoked, the applicant must reduce the number of animals kept at the premises to the legally-allowable limit within 30 days of the revocation.

#### 6.02.030 Dogs at Large Prohibited

- A. An owner or handler must not permit their dog to be at large on public property or on the private property of any other person without that person's permission, except when the dog is:
  1. participating in a field trial, obedience class, or kennel club event;
  2. being used or trained for legal hunting or for control of livestock;
  3. assisting a peace officer engaged in law enforcement duties; or

4. a trained service dog assisting, and under the direct and effective voice control of, a disabled person or their aide.
- B. In a rabies quarantine area, an owner or handler must ensure that their dog is confined entirely to their property.
- C. Neither a female dog during her breeding or mating season nor a dangerous dog may be permitted to be at large.

#### 6.06.040 Dog Waste

- A. An owner or handler must immediately remove and dispose of animal waste when their dog defecates anywhere on public property, or on private property without the consent of the owner.
- B. An owner or handler must carry or have ready access to a container for waste disposal when on public property with a dog.
- C. This section does not apply to:
  1. blind persons;
  2. persons with mobility disabilities; or
  3. law enforcement officers while on duty.

#### 6.06.050 Penalties

- A. The department may issue a citation to any person violating this chapter and assess a civil penalty not to exceed five hundred dollars for each violation.
- B. The department may waive or reduce any penalty if the person participates in an animal cruelty prevention program or other educational program at the department's direction.

### **6.08 – ANIMAL WELFARE**

#### 6.08.010 Animal Care

- A. A companion animal's owner must keep the animal in a clean, sanitary, and healthy condition.
- B. A companion animal's owner or handler must provide the following, as appropriate for the species of animal:
  1. Regular and adequate amounts of nutritious and palatable food, free of contamination, that maintains the animal in good health.
  2. Clean food receptacles that are accessible to the animal and are located to minimize contamination by insects or excrement.
  3. A constant and adequate supply of clean, fresh, potable water that keeps the animal hydrated appropriate to environmental conditions.
  4. Care and medical treatment for injuries, parasites and diseases that is sufficient to maintain the animal in good health.
  5. A shelter that:
    - a. is large enough for the animal to enter, stand, turn around and lie down in a natural manner;
    - b. keeps the animal dry;
    - c. provides the animal with shade from direct sunlight;
    - d. protects the animal from excessive heat and cold and other adverse weather conditions; and
    - e. is adequately ventilated
  6. An animal's owner may not confine the animal to the extent that it is forced to stand, sit, or lie in its own excrement.

7. An animal's owner shall regularly maintain the animal and its shelter to prevent odor or a health and sanitation problem.
8. An animal's owner shall provide the animal with exercise space that is large enough to prevent injury and keep the animal in good condition, allowing the animal to maintain normal muscle tone and mass.

#### 6.08.020 Tethering and Tie Outs

- A. The use of tethers or tie outs to restrain an unaccompanied companion animal is prohibited.
- B. The use of any collar or tether exceeding one-eighth of an animal's total body weight is prohibited.
- C. The use of any collar or tether with a weighted object attached is prohibited.

#### 6.08.030 Sale of Animals

- A. It is unlawful for any person to sell, trade, barter, lease, rent, or give away any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place.
- B. It is unlawful for any property manager, operator or owner to permit the conduct described in subsection A.
- C. This section does not apply to any tax-exempt non-profit organization that provides humane sanctuary or shelter for abandoned or unwanted animals.
- D. This section does not prohibit the sale, gift, or other transfer of ownership of animals at county fairs, animal exhibitions or shows, 4-H activities, and other activities or events that are regulated by the state or county.

#### 6.08.040 Animal Endangerment

- A. A person may not:
  1. Confine an animal in a pen, house, car, truck, trailer, or any other place without sufficient ventilation, clean air, potable water, food, and necessary veterinary care.
  2. Confine an animal in a motor vehicle or other enclosed space in which the animal's life or health is endangered by high temperatures, low temperatures, or inadequate ventilation.
  3. Transport an animal in a motor vehicle on a public roadway unless the animal is safely enclosed within the vehicle or confined in a secure and appropriately-sized vented container in a manner that prevents the animal from falling or jumping from the vehicle or otherwise being injured.
- B. An officer or peace officer may, after attempting to locate the animal's owner, remove an animal from a vehicle or enclosed space using any reasonable means, including breaking a window or lock.

#### 6.08.050 Penalties

- A. The department may issue a citation to any person violating this chapter and assess a civil penalty not to exceed five hundred dollars for each violation.
- B. The department may waive or reduce any penalty if the person participates in an animal cruelty prevention program or other educational program at the department's direction.

### **6.10 – ANIMAL CRUELTY AND PUBLIC SAFETY**

#### 6.10.010 Cruelty

- A. A person is guilty of animal cruelty if that person:

1. Repeatedly or willfully violates any section of chapter 6.08 of this title.
2. Intentionally or recklessly kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal authority.
3. Injures, overworks, tortures, torments, cruelly beats or intentionally mutilates an animal.
4. Gives drugs or alcohol to an animal with an intent to harm the animal or with reckless disregard of the animal's health.
5. Deprives an animal of necessary medical attention when the animal is or has been suffering from illness, injury, disease or excessive parasitism.
6. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment.
7. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal.
8. Intentionally allows an animal to fight with another animal or person.
9. Cruelly abandons an animal.
10. Carries an animal or causes an animal to be carried in or upon a vehicle or otherwise, in an unnecessarily cruel or inhumane manner.
11. Crops a dog's ears without assistance from a licensed veterinarian.
12. Docks a dog's tail without assistance from a licensed veterinarian.

#### 6.10.020 Injury to People, Animals or Property

- A. No owner or handler may permit a companion animal to bite, attempt to bite, endanger, or otherwise injure or cause to be injured a person or another animal.
- B. No owner or handler may permit a companion animal to destroy, damage or cause damage to the property of a person other than the animal's owner.
- C. A person injured by an animal may provide an affidavit describing the animal and their injury to the department and the owner of the animal alleged to have caused the injury.
- D. It is not a defense that the animal was not under the physical control of its owner or handler.
- E. It is an affirmative defense if the animal was:
  1. Not at large and there was provocation; or
  2. Assisting a peace officer engaged in law enforcement duties.

#### 6.10.030 Failure to Quarantine

- A. No person may willfully conceal information about the location or ownership of an animal that has bitten or otherwise exposed a person to rabies, with the intent to prevent the quarantine or isolation of that animal.
- B. No person may violate any order of an officer concerning the isolation, quarantine, or production of an animal of a species subject to rabies, that has bitten or otherwise exposed a person to rabies.

#### 6.10.040 Penalties

- A. A violation of any provision of this chapter is a Class 1 misdemeanor punishable by a fine of not less than one hundred dollars nor more than two thousand five hundred dollars, six months in jail, three years' probation, or any combination thereof. No judge may grant probation in lieu of, or otherwise suspend, the imposition of the minimum fine prescribed herein. This shall not be construed to affect, in any way, the imposition of any mandatory minimum penalties provided herein.
- B. The department may also initiate civil forfeiture proceedings under chapter 6.14 of this title for any animal owned by a person cited for violating any provision of this chapter.

## **6.12 – DANGEROUS DOGS**

### 6.12.010 Declaration of Dangerousness

- A. The department may declare a dog to be dangerous based on its evaluation of any dog it had reason to believe was dangerous, to include:
  - 1. an investigation of any incidents of causing harm or threatening to cause harm to a human or animal;
  - 2. an assessment of behavior in or out of the shelter setting; and
  - 3. an assessment of its interactions with humans and other animals in and outside of its owner's presence.
- B. The department may immediately declare a dog to be dangerous if, without provocation, it killed or inflicted substantial bodily harm upon a person while off the property of its owner.
- C. When the owner of a dog is notified that the department wishes to evaluate the dog to determine whether it is dangerous, the owner must make the dog available for evaluation at its usual place of abode within twenty-four hours of a request by the department. The owner must not sell, give away, or hide the dog or otherwise prevent the department from conducting the evaluation.
- D. On declaring a dog to be dangerous, the department shall notify and issue the owner with a dangerous dog order.
- E. The dog is considered dangerous until a hearing officer or court determines otherwise.
- F. The department may impound the dog at the owner's expense until the owner has complied with the dangerous dog order.
- G. If the owner's whereabouts cannot be determined or the dog poses an immediate threat to public safety, the department shall impound the dog and post notice on the property or mail it to the owner at their last-known address by registered or certified mail.
- H. The owner is responsible for payment of all impound and boarding fees.

### 6.12.020 Exemptions

- A. No dog may be declared dangerous based solely on an act of justified provocation. Justified provocation includes, but is not limited to, the following:
  - 1. The dog was protecting or defending a person in the immediate vicinity from an attack or assault;
  - 2. The dog was responding to pain or injury;
  - 3. A person was injured while committing a crime or offense upon the property of the owner or custodian of the dog;
  - 4. A person was injured while intervening between two or more animals engaged in aggressive behavior or fighting;
  - 5. The person injured had willfully tormented, abused or assaulted the dog, either at the time of the injury or in the past.

### 6.12.030 Dangerous Dog Order

- A. When an animal is declared dangerous, the department shall issue a dangerous dog order requiring the owner:
  - 1. Within thirty days, to provide at the direction of the department adequate confinement measures for the dog, which may include a six-foot high fence, a fully-enclosed kennel run, an enclosure with fully-secured top and bottom barriers, and padlocked entrances and gates to the enclosure.

2. To keep the dog in the confinement area except when muzzled, restrained with a leash no more than six feet in length, and under the control of a handler.
  3. To post a sign on every gate or entryway to the confinement area stating "Dangerous Dog Lives Here." The sign shall be provided by the department.
  4. To obtain and maintain liability insurance in a single incident amount of no less than \$50,000.
  5. To license the dog at the declared dangerous dog rate.
  6. To ensure that the dog is spayed or neutered, microchipped, and vaccinated.
- B. The department may require or allow temporary confinement measures until the order has been complied with or a hearing officer determines the animal is not dangerous.
  - C. The owner must comply with the dangerous dog order.
  - D. The owner must permit an officer to inspect the premises where the dog is housed and provide proof at the officer's request that the owner is fully compliant with the order.
  - E. The owner must provide proof of licensure, proof of liability insurance or bonding, and the veterinarian's certificate of spaying or neutering and microchipping to an officer upon demand.
  - F. The owner must prevent the dog from running at large.
  - G. The owner must prevent the dog from biting, injuring, or attacking any person or animal outside of the confinement area.
  - H. The owner may not relocate, give away, sell, abandon or dispose of the dog without notifying the department in writing in advance.
  - I. The department shall maintain a registry of declared dangerous dogs, their owners, their microchip and license numbers and the current address at which they reside.

#### 6.12.040 Rescission of Declaration and Order

- A. After three years have elapsed following a dog being declared dangerous, the owner may apply to the department to have the declaration of dangerousness and dangerous dog order rescinded if:
  1. the owner has complied with all the provisions of this chapter; and
  2. the department has issued no further citations involving the dog.
- B. If the department finds that all conditions in this section have been met, the department will conduct a new evaluation of the dog.
- C. If the evaluation concludes that the dog no longer merits a declaration of dangerousness, the department will rescind the dangerous dog declaration and order and notify the owner in writing.

#### 6.12.050 Penalties

- A. A violation of any provision of this chapter is a Class 1 misdemeanor punishable by a fine of not less than one hundred dollars nor more than two thousand five hundred dollars, six months in jail, three years' probation, or any combination thereof. No judge may grant probation in lieu of, or otherwise suspend, the imposition of the minimum fine prescribed herein. This shall not be construed to affect, in any way, the imposition of any mandatory minimum penalties provided herein.
- B. The department may initiate civil forfeiture proceedings under chapter 6.14 of this title for any dog subject to a dangerous dog order whose owner fails to comply with the order or is cited for violating any other provision of this chapter.

## **6.14 – PROCEDURE TO FORFEIT ANIMALS**

### 6.14.010 Removing animals

- A. An owner cited with a violation of section 6.10.010, 6.10.020, 6.10.030, 6.12.010, or 6.12.030 shall produce the animal for impoundment at the request of the department.
  - 1. Failure to comply with this subsection is a Class 2 misdemeanor and shall be punishable by imprisonment for not less than twenty-four hours nor more than four months and by a fine of not less than two hundred dollars nor more than seven hundred fifty dollars.
  - 2. No judge may grant probation in lieu of, or otherwise suspend, the imposition of the minimum fine prescribed herein.
- B. The owner may sign a statement permanently relinquishing ownership of the animal to the department.
- C. If the owner declines to sign such a statement, the officer shall issue the owner with written notice of the department's intent to petition a justice of the peace to order a hearing for the owner to show cause why the animal should not be forfeited to the department.
- D. If the owner's whereabouts cannot be determined, notice shall be mailed to the owner at the owner's last-known address by registered or certified mail, return receipt requested.
- E. In order to proceed to a hearing, the owner must post a sum equivalent to the fees associated with impoundment and 15 days of sheltering in advance as a bond to defray part of the cost of boarding, impoundment and any veterinary care needed. This sum shall be listed on the notice.
- F. If the bond is not posted within ten days of the notice being issued, the animal is deemed forfeited to the department.
- G. The department shall file the petition with Justice Court within ten business days of receiving the bond.
- H. The hearing shall be set for a date not less than ten days nor more than fifteen working days after the petition has been filed.

### 6.14.020 Order to Show Cause Hearing

- A. If the owner fails to appear at the hearing, the justice of the peace shall order the animal forfeited to the department.
- B. On finding by a preponderance of the evidence that the owner violated an animal ordinance listed in section 6.14.010(A), the justice of the peace:
  - 1. shall order the animal forfeited to the department; and
  - 2. shall order that the owner pay to the department all outstanding veterinary, impound and board fees resulting from the animal's impoundment; and
  - 3. may also order that the owner not be permitted to own or control any animal for a period of up to three years.

### 6.14.030 Appeal

- A. Appeal of the decision of the justice of the peace shall be by way of special action to the superior court on the record of the hearing.
- B. If either party claims the record to be incomplete or lost, and the justice of the peace who conducted the hearing so certifies, a new hearing shall be conducted before that justice of the peace.
- C. The owner must post a bond equivalent to sixty (60) days of impoundment costs in order to perfect the appeal. Notice of the amount due shall be given to the owner by the justice of the peace at the time of the order to show cause hearing if forfeiture is ordered.
- D. The appealing party shall bear the cost of preparing the record of the hearing on appeal.

- E. No appeal shall be taken later than ten (10) days after the decision.

## **6.16 – ANIMAL ENFORCEMENT RULES OF PROCEDURE**

### 6.16.010 Scope of Rules

These rules apply in all cases involving the adjudication of civil animal violations and adverse actions by the department before a hearing officer under Title 6 of the Pima County Code.

### 6.16.020 Hearing Officer

- A. The hearing officer performs the following duties:
  - 1. Hearing and deciding appeals of civil citations and adverse actions of the department under this title except where otherwise provided;
  - 2. Administration of oaths;
  - 3. The issuance of subpoenas and summonses ordering appearance before the hearing officer;
  - 4. The making of any other order necessary for the determination and resolution of violations under this title.
- B. The hearing officer is appointed by the board of supervisors.
- C. The hearing officer shall have training, experience or familiarity with administrative hearings and this section.
- D. The hearing officer may be an employee of the county, except that the hearing officer shall not be a Pima animal care officer.
- E. The board of supervisors shall conduct an annual review of the hearing officer.
- F. The board of supervisors has the authority to remove the hearing officer, by majority vote, for neglect of duty, inefficiency or misconduct in office.

### 6.16.030 Commencement of Action

- A. All citations or notices of an adverse action by the department issued under this title shall include written notice of the person's right to file, within five days of receipt, a written request with the department for a hearing.
- B. If no request for an appeal is filed, the department's action becomes final when the time for appeal has expired.
- C. The hearing shall be conducted within thirty days of the department's receipt of the request.
- D. Notice of the hearing shall be served on the person who is the subject of the citation or action at least ten days before the hearing.

### 6.16.040 Notice of counsel or other designated representative.

- A. The notice of the hearing shall include notice that the person's right to be represented by counsel or other designated representative is waived unless they notify the hearing officer in writing of such representation at least five days prior to the hearing date.
- B. Absent extraordinary circumstances, failure to timely notify the hearing officer of representation by counsel or other designated representative constitutes a waiver of the right to such representation.

### 6.16.050 Discovery

- A. No pre-trial discovery shall be permitted absent extraordinary circumstances.
- B. Immediately prior to the hearing, each party shall produce for inspection by the opposing party any prepared exhibits and written or recorded statements of any witness which may be offered at the hearing. Failure to comply with this rule may result, in the hearing officer's discretion, in the

granting of a recess or a continuance to permit such inspection or in the denial of admission of the evidence not so exchanged.

#### 6.16.060 Continuance

- A. The hearing officer may, upon any motion of any party or on his own motion, continue the hearing for a period not exceeding thirty days, if it appears that the interests of justice so require.
- B. Absent extraordinary circumstances, no hearing shall be continued by the hearing officer without notice to all parties.
- C. The hearing officer shall notify all parties in writing of the new hearing date.

#### 6.16.070 Default Judgment

- A. If the person who is the subject of the citation or action fails to appear at the hearing, the allegations of the citation shall be deemed admitted or the department's action shall be upheld, as appropriate, and the hearing officer shall enter judgment for the department.
- B. For good cause shown, and upon terms the hearing officer deems just, the hearing officer may set aside a judgment entered upon a failure to appear. A motion to set aside the judgment shall be made in writing within thirty days after entry of judgment.
- C. At any time the hearing officer shall set aside a judgment entered upon a failure to appear if it appears to the hearing officer that the named person was not served a copy of the citation or for any other reason where necessary to prevent a manifest injustice.

#### 6.16.080 Hearing

- A. The department shall present evidence, and the person who is the subject of the citation or action, or their attorney or other designated representative, shall have an opportunity to present evidence.
- B. All testimony shall be given under oath or affirmation.
- C. The Arizona Rules of Evidence shall not apply. Any evidence offered may be admitted subject to a determination by the hearing officer that the offered evidence is relevant and material and has some probative value to a fact at issue. Nothing in this rule is to be construed as abrogating any statutory provisions relating to privileged communications

#### 6.16.090 Findings and Written Judgment

- A. If the hearing officer finds by a preponderance of the evidence that the person violated an animal ordinance, the hearing officer shall enter judgment for the county and impose civil penalties provided for under this title. Otherwise, the hearing officer shall enter judgment for the defendant.
- B. If the hearing officer finds that there was a reasonable basis for an adverse action by the department, the hearing officer shall uphold the department's action. Otherwise, the hearing officer shall remand the matter to the department for reconsideration.
- C. Written judgment shall be rendered not later than five days after the conclusion of the hearing.
- D. Nothing in these rules shall prohibit an officer from issuing a citation based on subsequent violations of this title.

#### 6.16.100 Review by Superior Court

Judicial review of the final decision of the hearing officer shall be pursuant to Arizona Revised Statutes Title 12, Chapter 7, Article 6 (A.R.S. § 12-901 et seq.).