

ORDINANCE NO. 2017-04

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA AMENDING CHAPTERS 4 AND 16 OF THE PEORIA CITY CODE (1992) BY AMENDING SECTION 4-1 AND RENUMBERING IT AS SECTION 16-1 PERTAINING TO DEFINITIONS; BY AMENDING SECTION 4-2 AND RENUMBERING IT AS SECTION 16-2 PERTAINING TO POWERS AND DUTIES OF ENFORCEMENT AGENT; BY AMENDING SECTION 4-3 AND RENUMBERING IT AS SECTION 16-3 PERTAINING TO CONFINEMENT OF ANIMALS IN MOTOR VEHICLES; RESPONSIBILITY OF PERSONS; AUTHORIZATION FOR PEACE OFFICER OR ENFORCEMENT AGENT TO ENTER VEHICLE; BY AMENDING SECTION 4-4 AND RENUMBERING IT AS SECTION 16-4 PERTAINING TO LICENSE AND IMPOUND FEES; BY RENUMBERING SECTION 4-5 AS SECTION 16-5 PERTAINING TO RABIES QUARANTINE; BY AMENDING SECTION 4-6 AND RENUMBERING IT AS SECTION 16-6 PERTAINING TO INTERFERENCE WITH ENFORCEMENT AGENT; BY AMENDING SECTION 4-7 AND RENUMBERING IT AS SECTION 16-7 PERTAINING TO DOGS, UNLAWFUL KEEPING AND MAINTAINING, TAKING INTO PUBLIC BUILDINGS, PROHIBITED, EXCEPTIONS, VIOLATIONS; BY AMENDING SECTION 4-8 AND RENUMBERING IT AS SECTION 16-8 PERTAINING TO GENERAL RESTRICTIONS ON KEEPING OF ANIMALS; BY AMENDING SECTION 4-9 AND RENUMBERING IT AS SECTION 16-9 PERTAINING TO SPECIFIC RESTRICTIONS ON KEEPING OF ANIMALS; BY AMENDING SECTION 4-10 AND RENUMBERING IT AS SECTION 16-10 PERTAINING TO EXCEPTIONS TO RESTRICTIONS ON KEEPING ANIMALS; BY AMENDING SECTION 4-11 AND RENUMBERING IT AS SECTION 16-11 PERTAINING TO HANDLING OF BITING ANIMALS; RESPONSIBILITY FOR REPORTING ANIMAL BITES; AUTHORITY TO DESTROY ANIMALS; BY AMENDING SECTION 4-12 AND RENUMBERING IT AS SECTION 16-12 PERTAINING TO KILLING CERTAIN ANIMALS IN LIEU OF IMPOUNDMENT; BY AMENDING SECTION 4-13 AND RENUMBERING IT AS SECTION 16-13 PERTAINING TO REMOVING IMPOUNDED ANIMALS; BY AMENDING SECTION 4-14 AND RENUMBERING IT AS SECTION 16-14 PERTAINING TO PROPER CARE, MAINTENANCE AND DESTRUCTION OF IMPOUNDED ANIMALS; BY RENUMBERING SECTION 4-15 AS SECTION 16-15 PERTAINING TO VICIOUS ANIMALS; DETERMINATION;

BY AMENDING SECTION 4-16 AND RENUMBERING IT AS SECTION 16-16 PERTAINING TO VICIOUS ANIMALS; ORDERS, ENFORCEMENT; BY RENUMBERING SECTIONS 4-17 THROUGH 4-30 AS RESERVED SECTIONS 16-17 THROUGH 16-30; BY AMENDING SECTION 4-31 AND RENUMBERING IT AS SECTION 16-31 PERTAINING TO ESTABLISHMENT OF POUNDS; IMPOUNDING AND DISPOSING OF DOGS AND CATS; RECLAIMING IMPOUNDED DOGS AND CATS; POUND FEES; BY RENUMBERING SECTION 4-32 AS SECTION 16-4 PERTAINING TO DOG LICENSE; BY AMENDING SECTION 4-33 AND RENUMBERING IT AS SECTION 16-33 PERTAINING TO DOGS; KENNEL PERMIT REQUIRED; BY AMENDING SECTION 4-34 AND RENUMBERING IT AS SECTION 16-34 PERTAINING TO DOGS, ANIMALS NOT PERMITTED AT LARGE; WEARING LICENSE; BY AMENDING SECTION 4-35 AND RENUMBERING IT AS SECTION 16-35 PERTAINING TO DOGS; WILD ANIMALS KEPT BY OWNERS; BY AMENDING SECTION 4-36 AND RENUMBERING IT AS SECTION 16-36 PERTAINING TO LAWFUL PRESENCE ON PRIVATE PROPERTY DEFINED; BY RENUMBERING SECTION 4-37 AS SECTION 16-37 PERTAINING TO PROVOCATION AS A DEFENSE; BY RENUMBERING SECTIONS 4-38 THROUGH 4-40 AS RESERVED SECTIONS 16-38 THROUGH 16-40; BY AMENDING SECTION 4-41 AND RENUMBERING IT AS SECTION 16-41 PERTAINING TO ANIMALS AT LARGE; PROHIBITED; BY AMENDING SECTION 4-42 AND RENUMBERING IT AS SECTION 16-42 PERTAINING TO LIVESTOCK, FOWL, RODENTS; IMPOUNDING AND SUMMARY SALE; IDENTIFYING CURRENT CHAPTER 16 OF THE PEORIA CITY CODE (1992) TO BE RENUMBERED AND/OR AMENDED BY A SEPARATE ORDINANCE; AND PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

THEREFORE, it is ordained by the Mayor and Council of the City of Peoria as follows:

SECTION 1. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-1 and renumbering it as Section 16-1 pertaining to Definitions and which shall read as follows:

Sec. 164-1. Definitions.

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

~~Animal~~: means a Any animal of a species that is susceptible to rabies, except man.

~~At large~~: means

(i) Being neither confined by an enclosure nor physically restrained by a leash no greater than six (6) feet in length.

(ii) The presence at any place in the ~~city~~City of any livestock on public or private property except for public or private property that is owned, leased or otherwise lawfully controlled by the owner of the livestock, or by a person acting with the consent of the owner of the livestock. Notwithstanding the foregoing livestock that is being driven or ridden on a street or other right of way by the owner of the livestock or by another person having immediate and direct control of the livestock is not at large.

~~Birds~~: A warm-blooded vertebrates that commonly, but not without exception, possesses characteristics such as a beak, feathers, wings, and the ability to lay eggs and fly.

~~Cat~~: means Aa small animal that is related to lions and tigers and that is often kept as a pet. For the purposes of this chapter, the definition excludes exotic cats including, but not limited to, lions and tigers, but does include feral/non-pet examples of otherwise domestic cats.

~~Collar~~: means a A band, chain, harness, or suitable device worn around the neck of an animal to which a license may be affixed.

~~Department~~: means tThe state department of health services.

~~Dog~~: means a Any member of the *canis familiaris* family.

~~Enforcement agent~~: means a A person designated by the ~~city~~City who is responsible for the enforcement of this chapter and regulations promulgated hereunder.

~~Impound~~: means tThe act of taking or receiving into custody by the ~~city~~City or its designee any dog or other animal for the purpose of confinement in an authorized pound in accordance with the provisions of this chapter.

~~Kennel~~: means a An enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors or maintains five (5) or more dogs under controlled conditions.

~~Livestock~~: means a Asses, cattle, horses, mules, sheep, goats and swine, except wild pigs.

~~Mammal~~: means a Any animal except birds ~~fowl~~ or reptiles.

~~*Owner:* means a~~Any person keeping an animal other than livestock for more than six (6) consecutive days.

~~*Pet shop:* means a~~Any establishment at which are kept for sale any animals generally considered to be household pets.

~~*Poultry:* means c~~Chickens, turkeys, domesticated birds, game birds, fowl, waterfowl and exotic birds, including but not limited to ostriches.

~~*Pound:* means a~~Any establishment authorized by the enforcement agent for the confinement, maintenance, safekeeping and control of animals that come into the custody of the enforcement agent in the performance of his official duties.

~~*Rabies quarantine area:* means a~~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:* means a~~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~~agent's prescribed forms.

~~*Reptile:* means t~~Those cold-blooded air-breathing vertebrates including, but not limited to, snakes, lizards, turtles, and alligators, that usually lay eggs and have skin covered with scales or bony plates.

~~*Rodent:* means a~~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:* means a~~Any dog four (4) months of age or older running at large that is not wearing a valid license tag.

~~*Swine:* means a~~A stout-bodied short-legged hoofed mammal with a thick bristly skin and a long snout.

~~*Vaccination:* means t~~The administration of an anti-rabies vaccine to animals by a veterinarian, or in authorized pounds by employees trained by a veterinarian.

~~*Veterinarian:* means a~~Any veterinarian licensed to practice in this state or any veterinarian employed in this state by a governmental agency.

~~*Veterinary hospital:* means a~~Any establishment operated by a veterinarian licensed to practice in this state 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:* means a~~Any animal of the order carnivora that has a propensity to attack, to cause injury to or to otherwise endanger the safety of human beings without provocation, or that has been so declared after a hearing before a justice of the peace or

the municipal court.

SECTION 2. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-2 and renumbering it as Section 16-2 pertaining to Powers and duties of enforcement agent and which shall read as follows:

Sec. 16-4-2. Powers and duties of enforcement agent.

(a) The enforcement agent:

(1) Shall enforce the provisions of this chapter.

(2) May issue citations for ~~the~~ violations of the provision of this chapter; and the regulations promulgated ~~thereunder~~ there under. The procedure for the issuance of notices to appear shall be as provided in ~~arizona~~ Arizona revised statutes, sections 13-3899, 13-3903 and this code, except that the enforcement agent shall not make an arrest before issuing the notice.

(3) Shall be responsible for declaring a rabies quarantine areas within their area of jurisdiction. When a quarantine areas has been declared the enforcement agent shall meet with the state veterinarian and representatives from the department of health services and the game and fish department 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

SECTION 3. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-3 and renumbering it as Section 16-3 pertaining to Confinement of animals in motor vehicles; responsibility of persons; authorization for peace officer or enforcement agent to enter vehicle and which shall read as follows:

Sec. 416-3. Confinement of animals in motor vehicles; responsibility of persons; authorization for peace officer or enforcement agent to enter vehicle.

(a) No person having charge, custody or ownership of an animal, shall place or confine such animal or allow such animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being or such animal due to heat, lack of food or drink, or such other circumstances as may reasonably be expected to cause suffering disability or death.

(b) No person having dominion or control over a motor vehicle shall place or confine an animal or allow an animal to be placed or confined in a motor vehicle under such conditions or for such period of time as may endanger the health or well being of such animal due to heat, lack of food or drink or such other circumstances as may be reasonably expected to cause suffering, disability or death.

(c) When in the judgment of a peace officer, an animal has been placed or confined in a motor vehicle under such conditions and for such period of time that

constitutes a violation of this section and is likely to result in the death of the animal, and the owner or person having control over the motor vehicle is not available, the peace officer may take such steps as reasonably necessary to enter the vehicle and impound the animal in the manner provided by this chapter.

SECTION 4. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-4 and renumbering it as Section 16-4 pertaining to License and impound fees and which shall read as follows:

Sec. 164-4. License and impound fees.

(a) The annual license fee shall be that set by the County Board of Supervisors for unincorporated Maricopa County which shall be paid for each ~~D~~dog four months of age or over that is kept, harbored or maintained within the boundaries of the City for at least thirty (30) consecutive days of each calendar year. License fees shall be payable in the same manner as imposed by the County Board of Supervisors for unincorporated Maricopa County. The licensing period shall not exceed the period of time for revaccination as designated by the State veterinarian. License fees shall be paid within ninety days to the County Treasurer or its authorized representatives. A penalty fee set by the County Board of Supervisors shall be added to the license fee in the event that application is made subsequent to the date on which the dog is required to be licensed under the provisions of this ordinance. This penalty shall not be assessed against the applicants who furnish adequate proof that the dog to be licensed has been in their possession or in the City less than thirty consecutive days.

(b) Durable dog tags shall be provided by the County. –Each dog licensed under the terms of this chapter shall receive, at the time of licensing, such a tag on which shall be inscribed the name of the county, the number of the license, and the date on which it expires. The tag shall be attached to a collar or harness which shall be worn by the dog at all times while running at large, except as otherwise provided in this chapter. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and the payment of a fee to the County.

(c) The County Board of Supervisors may provide license fees that are lower for dogs permanently incapable of procreation. An applicant for a license for a dog claimed to be incapable of procreation shall furnish adequate proof satisfactory to the County that such a dog has been surgically altered to be permanently incapable of procreation.

(d) Any person who fails within fifteen days after written notification from the enforcement agent to obtain a license for a dog required to be licensed, counterfeits or attempts to counterfeit an official dog tag, or removed such tag from any dog for the purpose of willful and malicious mischief or places a dog tag upon a dog unless the tag was issued for that particular dog is guilty of a class two misdemeanor.

SECTION 5. Chapter 4 of the Peoria City Code (1992) is amended by renumbering Section 4-5 as Section 16-5 pertaining to Rabies quarantine and which shall read as follows:

Sec. 164-5. Rabies quarantine.

The enforcement agent shall be responsible for declaring a rabies quarantine area. When a quarantine has been declared, the enforcement agent shall meet with the state veterinarian and representatives from the department of health services and the game and fish department to implement an emergency program for the control of rabies. Regulations restricting or involving movements of livestock within an area shall be subject to approval by the state veterinarian.

SECTION 6. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-6 and renumbering it as Section 16-6 pertaining to Interference with enforcement agent and which shall read as follows:

Sec. 164-6. Interference with enforcement agent.

It is unlawful for any person to interfere with the enforcement agent in the performance of ~~his~~their duties.

SECTION 7. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-7 and renumbering it as Section 16-7 pertaining to Dogs, unlawful keeping and maintaining, taking into public buildings, prohibited, exceptions, violations and which shall read as follows:

Sec. 164-7. Dogs, unlawful keeping and maintaining, taking into public buildings, prohibited, exceptions, violations.

(a) It is unlawful to keep, harbor or maintain a dog within the ~~city~~City except as provided by the terms of this chapter.

(b) Except as provided in subsection (c) 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.

(c) Any legally blind person, deaf person, ~~physically handicapped person~~with a disability, 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. Such use shall be subject to the provisions of A.R.S. § 11-1024.

SECTION 8. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-8 and renumbering it as Section 16-8 pertaining to General restrictions on keeping of animals and which shall read as follows:

Sec. 164-8. General restrictions on keeping of animals.

(a) It shall be unlawful to keep any animal or birds in such a manner so as to disturb the peace, comfort or health of any person residing within the ~~city~~City. ~~Any person violating any provisions of this chapter shall be guilty of a class one (1) misdemeanor.~~

~~Alternatively, the city may enforce this chapter by imposing civil penalties not to exceed the maximum fine of \$2,500.00 For a class one misdemeanor.~~

(b) It shall be unlawful to keep any animal or birds in such condition that any offensive, disagreeable or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any inhabitant of the neighborhood thereof.

(c) The keeping of all animals or birds within the ~~city~~City is subject to all pertinent regulations of the ~~city~~City, county and the state.

(d) The premises upon which animals, livestock and birds ~~poultry~~ are kept shall always be sanitary and subject to inspection and regulation by the enforcement agent.

SECTION 9. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-9 and renumbering it as Section 16-9 pertaining to Specific restrictions on keeping of animals and which shall read as follows:

Sec. 16-9. Specific restrictions on keeping of animals

(a) It is unlawful to keep any poisonous, dangerous or carnivorous wild animals or reptiles without first having registered such animal with the City. The City Manager or his designee may issue guidelines for the registration and safe keeping of such animals. The registration list, owners name and address and type of animal shall be deemed to be a public record subject to disclosure. Registration shall be done at the Police Department or such other location as designated by the City Manager.

~~It shall be a class one (1) misdemeanor to violate the provisions of this section or any guideline issued by the City Manager pertaining to the registration and safekeeping of animals.~~

(b) The maintaining and keeping of all animals, livestock and birds ~~poultry~~ within the ~~city~~City shall be allowed only so long as they not cause, create, contribute to or become a public nuisance due to noise, the presence of flies, mosquitos, insects, vermin, rodent harborage, odors, dust, ponded water, accumulation of manure, garbage, refuse or other obnoxious or putrescible material, or for any other like reason. For purposes of this subsection, public nuisance is defined as maintaining any of the conditions described above to the extent that one or more adjacent property owners are restricted in the use of their property due to the existence of the Public Nuisance. Manure and droppings shall be removed from enclosures at least twice weekly and shall be removed from the premises at least once each week. In this subsection ``premises" means the lot or parcel of ground upon which an enclosure is located. This subsection does not apply to areas zoned for agriculture.

(c) Except in areas zoned for agriculture, no swine shall be kept within the ~~city~~City limits. Swine must be kept at least one thousand (1,000) feet away from any adjoining residence.

(d) Mammals, excepting dogs and cats confined or kept in an enclosure of less than five hundred (500) square feet shall be forty (40) feet or more from any adjoining residence. No more than two (2) mammals, ~~E~~excepting dogs and cats but including livestock shall be kept upon the first twenty thousand (20,000) square feet of land. For each additional mammal, an additional twenty thousand (20,000) square feet of land is required.

(e) Any person owning, keeping, possessing or harboring any dog or wild animal shall promptly remove and dispose of all feces left by the dog or wild animal on any public property, public park or public right of way. ~~The City or political subdivision shall post notice of this requirement only at the entrances of public parks. No such notice is required for other public property or right of way.~~

SECTION 10. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-10 and renumbering it as Section 16-10 pertaining to Exceptions to restrictions on keeping of mammals and which shall read as follows:

Sec. 164-10. Exceptions to restrictions on keeping mammals.

Sections 416-8 through 416-9 shall not apply in areas properly zoned for agriculture to the keeping of rodents, household pets, or livestock_; licensed kennels_; pet shops_; and veterinary hospitals.

SECTION 11. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-11 and renumbering it as Section 16-11 pertaining to Handling of biting animals; responsibility for reporting animal bites; authority to destroy animals and which shall read as follows:

Sec. 164-11. Handling of biting animals; responsibility for reporting animal bites; authority to destroy animals.

(a) Any dog or cat that bites any 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 (7) 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 fourteen (14) days, provided that livestock shall be confined and quarantined for the fourteen-day period in a manner regulated by the state 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 and submitted to the enforcement agent or his 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.

(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 for rabies if:

(1) The animal shows clear clinical signs of rabies.

(2) The owner of the animal consents to its destruction. Any animal subject to licensing under this chapter found without a tag identifying its owner shall be deemed unowned.

(gf) The enforcement agent shall destroy a vicious animal upon an order of a justice of the peace or the municipal court. A justice of the peace or the municipal court may issue such an order in the manner provided for by this chapter or pursuant to the provisions of Title 11, Chapter 7, Article 6, Arizona Revised Statutes.

SECTION 12. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-12 and renumbering it as Section 16-12 pertaining to Killing certain animals in lieu of impoundment and which shall read as follows:

Sec. 164-12. Killing certain animals in lieu of impoundment.

In the judgement of the enforcement agent if any dog at large or other animal that is dangerous or fierce and a threat to human safety ~~that cannot be safely impounded~~, it may be immediately slain.

SECTION 13. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-13 and renumbering it as Section 16-13 pertaining to Removing impounded animals and which shall read as follows:

Sec. 164-13. Removing impounded animals.

No person may remove or attempt to remove an animal which has been impounded ~~or which has been impounded~~ or which is in the possession of the enforcement agent except in accordance with the provisions of this chapter ~~and the regulations promulgated thereunder~~.

SECTION 14. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-14 and renumbering it as Section 16-14 pertaining to Proper care, maintenance and destruction of impounded animals and which shall read as follows:

Sec. 164-14. Proper care, maintenance and destruction of impounded animals.

(a) Any animal impounded in a ~~county, city or town~~ pound shall be given proper and humane care and maintenance.

(b) 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 (1) of the following:

(1) Sodium pentobarbital or a derivative of sodium pentobarbital.

(2) Nitrogen gas.

(3) T-61 euthanasia solution or its generic equivalent.

(c) If an animal is destroyed by means specified in subsection (b)(1) or (b)(3) of this section, 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.

SECTION 15. Chapter 4 of the Peoria City Code (1992) is amended by renumbering Section 4-15 as Section 16-15 pertaining to Vicious Animals; determination and which shall read as follows:

Sec. 164-15. Vicious Animals; determination

(a) Any person having reasonable belief that an animal is vicious may petition a justice of the peace or the municipal court for a determination that the animal is vicious. The municipal court may assign the matter to a civil hearing officer within the court for all proceedings under this section.

(b) After notice to the owner of the animal in any manner calculated to provide reasonable notice, including but not limited to those in the Arizona Rules of Civil Procedure, the justice of the peace or the municipal court shall conduct a hearing. The hearing shall be informal and open to the public. Any relevant oral and documentary evidence from any interested may be considered by the court, whether or not admissible under the Arizona Rules of Evidence.

(1) Any owner who fails to appear after notice pursuant to this section may be deemed to have waived any right to introduce evidence and the justice of the peace or the municipal court shall determine that all of the allegations contained in the petition are admitted.

(2) The decision shall be based on the preponderance of the evidence.

(c) 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 in the criminal complaint.

SECTION 16. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-16 and renumbering it as Section 16-16 pertaining to Vicious Animals; orders, enforcement and which shall read as follows:

Sec. 164-16. Vicious animals; orders, enforcement.

(a) 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 the orders are enforced. The justice of the peace or municipal court may order but is not limited to the following:

- (1) That the owner of the vicious animal post one or more signs on the premises where the animal is kept a sign in letters not less than three inches, easily readable by the public using the words "Danger: Vicious Animal."
- (2) That the owner obtain public liability insurance in a single incident amount of not less than fifty thousand (\$50,000.00) dollars or such other amount as determined by the court for bodily injury or death of any person for damage to property caused by the vicious animal.
- (3) That the animal be destroyed or removed from the premises.
- (4) That 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) That the animal be spayed, neutered or tattooed for identification purposes.
- (6) That the animal be defanged, declawed or debarked.
- (7) That the cost of the proceedings to declare the animal vicious be assessed against the owner.

SECTION 17. Chapter 4 of the Peoria City Code (1992) is amended by renumbering Sections 4-17 through 4-30 as Reserved Sections 16-17 through 16-30 and which shall read as follows:

Sec. 164-17. through 164-30. Reserved.

SECTION 18. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-31 and renumbering it as Section 16-31 pertaining to Establishment of pounds; impounding and disposing of dogs and cats; reclaiming impounded dogs and cats; pound fees and which shall read as follows:

Sec. 164-31. Establishment of pounds; impounding and disposing of dogs and cats; reclaiming impounded dogs and cats; pound fees.¹

(a) Any stray dog shall be impounded. All dogs and cats impounded shall be given proper care and maintenance.

(b) Each stray dog or any cat impounded shall be kept and maintained at the pound for a minimum of seventy-two (72) hours unless claimed by its owner.

(c) Prior to release of a stray dog or cat from the pound for purchase by any person, ~~the dog or cat shall be:~~

(1) ~~The dog or cat shall be surgically spayed or neutered; or-~~

(2) ~~¶~~The purchasing party shall signs an agreement with the pound to have the dog or cat spayed or neutered within thirty days after purchase or before the dog or cat is sexually mature and deposits with the pound the amount determined by the pound to be sufficient to assure sterilization. Upon presentation of a statement by a veterinarian that the dog or cat has been spayed or neutered, the deposit shall be refunded.

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

(e) Any person may purchase an impounded dog or cat upon expiration of the impoundment period, provided such person pays all pound fees and complies with the licensing, vaccinating, and sterilization provisions of this chapter. If the dog or cat is not claimed within the impoundment period, the enforcement agent shall take possession and may place the dog or cat for sale or may dispose of the dog or cat in a humane manner. If the dog or cat is to be used for medical research, no license or vaccination shall be required. 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.

(~~e~~f) Any impounded licensed dog or any cat may be reclaimed by its owner or such 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 the dog or cat in a humane manner. Any person purchasing such a dog or cat shall pay all pound fees.

SECTION 19. Chapter 4 of the Peoria City Code (1992) is amended by renumbering Section 4-32 as Section 16-32 pertaining to Dog license and which shall read as follows:

¹Cross reference(s)--Injuring police dogs, § 13-80.

Sec. 164-32. Dog license.

It is unlawful to keep a dog that is over the age of four (4) months that is not currently licensed by the county.

SECTION 20. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-33 and renumbering it as Section 16-33 pertaining to Dogs; kennel permit required and which shall read as follows:

Sec. 164-33. Dogs; kennel permit required.

(a) A person operating a kennel shall obtain a permit issued by the county 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 and have a zoning clearance from the ~~Community Development Department~~City. For purposes of this section, kennel operations include any animal ~~which~~—whether domesticated full blood or in part.

(c) A person who knowingly fails within thirty (30) days after written notification from the enforcement agent to obtain a kennel permit is guilty of a misdemeanor. The Court shall order the person to obtain the required kennel permit, zoning clearance and business license and pay all applicable fees as a condition of sentence.

SECTION 21. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-34 and renumbering it as Section 16-34 pertaining to Dogs; animals not permitted at large; wearing licenses and which shall read as follows:

Sec. 164-34. Dogs, animals not permitted at large; wearing licenses.

(a) Neither a female dog during her breeding or mating season, nor a wild animal, nor a vicious dog shall be permitted at large.

(b) In a rabies quarantine area, no dogs, or wild animals for which a permit has been issued by the ~~city~~City, shall be permitted at large. Each dog shall be confined within an enclosure on the owner's property, or secured so that the dog is confined entirely to the owner's property, or on a leash not to exceed six (6) feet in length and directly under the owner's control when not on the owner's property.

(c) Any dog over the age of four (4) months running at large shall wear a collar or harness to which is attached a valid license tag. Dogs used for 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 attached provided that they are properly vaccinated, licensed and controlled.

(d) No person in charge of any dog, or a wild animal, shall permit such dog, or wild animal, in a public park or upon any ~~city~~City or public school property or upon the property of a third party, unless the dog 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~~City sponsored event.

(e) Whenever any dog is found at large, the enforcement officer may take one or more of the following actions:

(1) The dog may be apprehended and impounded. The enforcement agent shall have the right to enter upon private property when it is necessary to apprehend any dog or wild animal that has been running at large. Entrance upon private property shall be in reasonable pursuit of a dog and shall not include entry into a domicile or enclosure which confines a dog except at the invitation of the occupant.

(2) The enforcement agent may issue a citation to the dog owner or person acting for the owner when the dog is at large. In lieu of issuing a citation, a report may be submitted to the office of the ~~city~~City ~~attorney~~Attorney requesting criminal prosecution.

(3) In the judgment of the enforcement agent or a peace officer, any dog at large or other animal that is dangerous, vicious or fierce and a threat to human safety that cannot be safely impounded may be immediately slain. All animals slain under this section shall be diagnosed for rabies prior to release to the owner and or disposal. Public records will be maintained by the ~~city~~City for each slaying incident, including the results of the rabies diagnosis on the animal.

(f) Upon request of the ~~City~~City or County and issuance of an order by a hearing officer, justice of the peace or the municipal court, any dog or other animal impounded under this section may be kept or impounded until there is a final disposition of any criminal complaint or civil citation filed under this chapter. The City or County may direct that any dog be kept impounded until payment in full of any civil sanctions or fines imposed by a hearing officer, justice of the peace or the municipal court under this chapter.

~~(g) A violation of this section shall be a class one (1) misdemeanor, punished by a minimum fine of not less than fifty (\$50.00) dollars, which shall not be waived or suspended.~~

SECTION 22. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-35 and renumbering it as Section 16-35 pertaining to Dogs; wild animals kept by owners and which shall read as follows:

Sec. 164-35. ~~Dogs; wild animals kept by owners; v~~Violations; responsibility for damages.

(a) A violation of this chapter shall ~~be be punished by a class one (1) misdemeanor. fine of not less than fifty (\$50.00) dollars which shall not be waived or suspended. Alternatively, the City may enforce a violation of this chapter as a civil offense by imposing a civil penalty not to exceed \$2,500.~~

(b) Injury to any person or damage to any property by a dog or wild animal kept by the owner while at large shall be the full responsibility of the dog or wild animal kept by the owner or person responsible for the dog or wild animal kept by the owner when such damages were inflicted.

SECTION 23. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-36 and renumbering it as Section 16-36 pertaining to Lawful presence on private property defined and which shall read as follows:

Sec. 164-36. Lawful presence on private property defined.

A person is lawfully in or on the private property of the owner of the dog within the meaning of this chapter when an invitee or guest, or when in performance of a duty imposed upon him by the law of the state or of the United States, or by ordinances of the ~~city~~City.

SECTION 24. Chapter 4 of the Peoria City Code (1992) is amended by renumbering Section 4-37 as Section 16-37 pertaining to Provocation as a defense and which shall read as follows:

Sec. 164-37. Provocation as a defense.

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.

SECTION 25. Chapter 4 of the Peoria City Code (1992) is amended by renumbering Sections 4-38 through 4-40 as Reserved Sections 16-38 through 16-40 and which shall read as follows:

Sec. 164-38 through 416-40. Reserved.

SECTION 26. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-41 and renumbering it as Section 16-41 pertaining to Animals at large; prohibited and which shall read as follows:

Sec. 164-41. Animals at large; prohibited.

(a) It shall be unlawful for any person to cause, allow, suffer or permit any animal, ~~bird~~ bird ~~fox~~ or rodent to be at large at any place in the ~~city~~City at any time (excluding cats).

(b) The owner of every animal, bird fowl or rodent or person having control over an animal, fowl or rodent shall at all times control such animal fowl or rodent in such a manner that it is not at large at any place in the City.

SECTION 27. Chapter 4 of the Peoria City Code (1992) is amended by amending Section 4-42 and renumbering it as Section 16-42 pertaining to Livestock, fowl, rodents; impounding and summary sale and which shall read as follows:

Sec. 164-42. Livestock, birds fowl, rodents; impounding and summary sale.

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

(b) After impoundment at a cityCity facility or a private facility, the cityCity shall make a reasonable effort to contact the owner of the impounded livestock, bird fowl or rodent and give the owner a reasonable opportunity to reclaim the impounded livestock, bird fowl or rodent. 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, bird fowl or rodent to the owner, the cityCity shall collect from such owner the actual costs and expenses incurred by the cityCity in apprehending and impounding the livestock, bird fowl or rodent. The cityCity may release any impounded livestock, bird fowl or rodent to the custody of the Arizona Livestock Department or the Arizona Game and Fish Commission if the appropriate agency agrees to collect the cityCity's actual costs and expenses from the owner prior to releasing the livestock, bird fowl or rodent.

(c) If the owner fails within Ten (10) days after notice to reclaim any impounded livestock, bird fowl or rodent by paying the cityCity'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 circulation in the cityCity that the impounded livestock, fowl or rodent will be sold. The sale shall be conducted in a reasonable manner. The proceeds of such sale shall be applied first to paying the cityCity's actual costs and expenses of impoundment, apprehension and sale. The cityCity shall pay the remaining sale proceeds, if any to the owner of the livestock, bird fowl or rodent that was sold. Alternatively, the cityCity may release any impounded livestock, bird fowl or rodent to the custody of the Arizona Livestock Department, if the Livestock Department agrees to pay the cityCity's actual costs and expenses of impoundment and apprehension out of the proceeds of any sale of such livestock, bird fowl or rodent.

through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where the ~~city~~City is a party or has a direct and substantial interest.

SECTION 28. The current sections of Chapter 16 of the Peoria City Code (1992) will be renumbered and/or amended by way of a separate ordinance to be submitted to the Mayor and City Council for approval.

SECTION 29. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 30. This Ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Peoria, Arizona, this 21st day of February, 2017.

Dated: _____

Cathy Carlat, Mayor

ATTEST:

Rhonda Geriminsky, City Clerk

APPROVED AS TO FORM:

Stephen J. Burg, City Attorney

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