

ORDINANCE 620

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, REPEALING EXISTING CHAPTER 6 OF THE BENSON CITY CODE AND REPLACING IT WITH A NEW CHAPTER 6, "ANIMAL CONTROL"

WHEREAS the Mayor and Council are authorized by ARS § 9-499.04 to adopt local ordinances relating to rabies and animal control; and

WHEREAS the Mayor and Council previously adopted Chapter 6 of the Benson City Code to impose requirements relating to rabies and animal control; and

WHEREAS the Mayor and Council have amended the Benson City Code from time to time as is their right; and

WHEREAS the Mayor and Council hereby determine that revising the City's local ordinance relating to Animals will protect the public health, safety, convenience, and general welfare of the citizens of the City of Benson.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA:

SECTION 1. Three (3) copies of the document entitled Chapter 6, "Animal Control" is on file in the office of the City Clerk of the City of Benson, Arizona, which record has been designated a public record by Resolution 1-2023 of the City of Benson, Arizona, is hereby adopted, passed and approved by reference and made a part hereof as if fully set forth in this Ordinance.

SECTION 2: The previously existing Chapter 6 of the Benson City Code is repealed as of the effective date of this Ordinance.

SECTION 3: The material penalty provisions of this Ordinance, in addition to those set forth in Benson City Code Article 1-8(A), are as follows:

Sec. 6-3-5 Impoundment for Non-Licensed Animal

The city enforcement agent may apprehend and impound any dog found without a current valid license tag.

Sec. 6-3-6 Penalty for Failure to Comply

Any person who knowingly fails within fifteen days after written notification from an Animal Control Officer to obtain a license for a dog required to be licensed, or counterfeits an official tag, or removes such tag from any dog for the purpose of intentional and malicious mischief or places a tag upon a dog unless the tag was issued for that particular dog shall be guilty of a petty offense, which may be punished by a fine not to exceed sixty dollars (\$60).

Sec. 6-4-3 Penalty for Failure to Comply

Any owner or other person who violates Sec. 6-4-1 shall be guilty of a petty offense punishable by a fine not to exceed sixty dollars (\$60) for a first offense. A second or any subsequent offense of this section shall be a Class 3 misdemeanor.

Sec. 6-5-1 Harboring of Vicious or Destructive Animals

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B. The owner of any animal, that bites, attempts to bite, endangers, or otherwise injures or causes injury to human beings or one or more other animals is guilty of a class 3 misdemeanor.

C. The owner of any animal that destroys, damages, or causes damage to the property of a person other than its owner is guilty of a Class 3 misdemeanor.

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H. Upon the declaration of an animal as vicious or destructive, the Court shall order one or more of the following:

1. That the animal shall be kept in an enclosure that is secure, high and tight enough such that the animal cannot escape; that the enclosure and property whereon it is located shall be posted with conspicuous signs warning about the animal; and that at no time shall the animal leave the enclosure unless it is muzzled, leashed and under the control of a responsible adult; or
2. That the animal be banished from being within the City's corporate limits; or
3. That the animal be humanely destroyed; or
4. That the owner of the animal pay restitution in accord with Title 13, Chapter 8 to any person; or
5. That all or part of any fine imposed upon an owner be allocated as restitution to any person who suffered economic loss due to a violation of this Chapter.

I. It is unlawful for any person to fail to comply with an order of a Court regarding a vicious or destructive animal. It is a separate offense for each day that such person fails to comply with the Court's order. Any person who fails to comply shall be guilty of a class 3 misdemeanor.

Sec. 6-6-1 Cruelty to Animals

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B. Any person who commits cruelty to animals shall be guilty of a Class 1 misdemeanor.

Sec. 6-6-2 Neglect to Animals

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C. Any person who violates a provision of this section shall be issued a warning for the first such violation within a twelve (12) month period provided the conduct involved is not deliberate, intentional, or willful, and the condition complained of is subject to reasonable corrective action. A second violation of this article within a twelve (12) month period which is not deemed to be deliberate, intentional, or willful shall be guilty of a Class 3 misdemeanor. A third or subsequent violation of this article within a twelve (12) consecutive month period which is not deemed to be deliberate, intentional, or willful, shall be subject to a Class 2 misdemeanor.

Sec. 6-6-3 Unlawful Public Sale or Gifting of Animals

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C. A person who is found responsible for a violation of this section is subject to a civil penalty of not more than fifty dollars (\$50).

Sec. 6-6-4 Harboring of Nuisance Animals

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B. A person found in violation of this section shall be guilty of a petty offense the first time which may be punishable by a fine not to exceed sixty dollars (\$60). A second or any subsequent offense of this section shall be a Class 3 misdemeanor.

Sec. 6-6-5 Interference with Enforcement Agent; Penalty

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B. Any person who violates this section shall be guilty of a Class 3 misdemeanor.

Sec. 6-7-1 Authority to Remove from a Curtilage and Impound Animal

A city enforcement agent is authorized to seize and remove an animal from a home's curtilage (i.e., a yard or other area around a dwelling), and impound that animal in any of the following circumstances:

- A. The city is issued a judicial order to seize the animal;
- B. If a city enforcement agent has consent from the property owner or custodian; or
- C. If the city enforcement agent has reasonable grounds to believe that prompt action is required to protect the health or safety of the animal or the health or safety of any other animal or person;

Sec. 6-7-2 Authority To Remove An Animal From A Dwelling and Impound; Ex Parte Seizure

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D. Upon making a determination of probable cause, a judge may order that the city enforcement agent enter the dwelling to seize, transport, impound, and board the animal at the owner's expense.

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G. If no demand for return of the animal is filed within five (5) days of the execution of the order, if the owner fails to appear at any hearing on the Owner's petition, or upon a finding of responsibility, the Court shall order the animal forfeited.

H. In any action in which the city believes the animal to be of evidentiary value, the court on written motion may authorize the City to keep and care for the animal pending completion of the action.

SECTION 4: All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the public record adopted by reference are hereby repealed.

SECTION 5: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or any part of the public record adopted herein by reference 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 portion thereof.

SECTION 6: Pursuant to A.R.S. §9-812 and §39-204, the City Clerk is directed to publish the text of this Ordinance for two (2) consecutive weeks in a newspaper of general circulation and, further, to post a copy of this Ordinance in three (3) or more public places within the City.

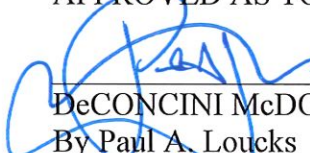
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BENSON, ARIZONA, this 9th day of January, 2023.


JOE A. KONRAD, Mayor

ATTEST:


VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:


DeCONCINI McDONALD YETWIN & LACY, PC
By Paul A. Loucks
City's Attorney