

ORDINANCE NO. 19-05

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF YOUNGTOWN, ARIZONA, DECLARING THE DOCUMENT ENTITLED "ANIMAL CODE AMENDMENTS, MAY 16, 2019" AS A PUBLIC RECORD; ADOPTING THE "ANIMAL CODE AMENDMENTS, MAY 16, 2019" BY REFERENCE; AMENDING THE TOWN CODE OF THE TOWN OF YOUNGTOWN, ARIZONA, BY REPEALING TITLE 6 ANIMALS IN ITS ENTIRETY AND REPLACING IT WITH A NEW TITLE 6 ANIMAL REGULATIONS, RELATED TO REGULATIONS FOR THE CARE, LICENSE, REGISTRATION, SEIZURE, IMPOUNDMENT, AND DISPOSITION OF ANIMALS WITHIN THE TOWN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES.

WHEREAS, that certain document entitled "Animal Code Amendments, May 16, 2019," three copies of which are on file in the office of the Town Clerk, is hereby declared to be a public record and said copies are hereby ordered to remain on file with the Town Clerk; and

WHEREAS, the Town Council has determined that the proposed amendments are necessary to update animal regulations, efficiently enforce the law, and meet the best interest of the public health, safety, and welfare of Town residents;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Youngtown, Arizona, as follows:

Section I. In General.

The Code of Youngtown, Arizona, is hereby amended by repealing Title 6 Animals and adopting a new Title 6 Animal Regulations to read as set forth in that certain document entitled "Animal Code Amendments, May 16, 2019," which document is hereby adopted and incorporated by reference.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code 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 portions thereof.

Section IV. Providing for Penalties.

A. Unless otherwise provided, any person found in violation of any provision of this Ordinance shall be responsible under Section 1.12.010 of the Town Code for a civil violation, punishable by a fine not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) for each violation. Each day that a violation continues shall be a separate offense punishable as herein described. After having been found responsible for committing three (3) or

more civil infractions of the same code provision in any twenty-four (24) month period, a person is a habitual offender and may be charged with a class one misdemeanor, punishable by a fine of not less than five hundred dollars (\$500) nor more than twenty five hundred dollars (\$2,500), imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment.

B. Any person found to have violated Sections 6.04.050, 6.04.120, 6.04.140, 6.04.150 or 6.04.180 of this Ordinance shall be guilty of a class one misdemeanor, punishable by a fine of not less than five hundred dollars (\$500) nor more than twenty five hundred dollars (\$2,500), imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

PASSED AND ADOPTED by the Common Council of the Town of Youngtown, Arizona, this 16th day of May 16, 2019, by the following vote:

AYES: 7

NAYES: 0 ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this 16th day of May, 2019.



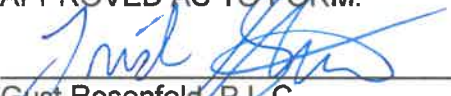
Michael E. LeVault, Mayor

ATTEST:



Mary Reynolds, Town Clerk

APPROVED AS TO FORM:



Gust Rosenfeld, P.L.C.
Town Attorneys
By Trish Stuhan

I, MARY REYNOLDS, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 19-05 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF YOUNGTOWN ON THE 16th DAY OF MAY, 2019, WAS POSTED IN THREE PLACES ON THE 17th DAY OF MAY, 2019.



Mary Reynolds, Town Clerk

ANIMAL CODE AMENDMENTS, MAY 16, 2019

The following title is hereby adopted into the Town of Youngtown Town Code to read as follows:

Title 6 – ANIMAL REGULATIONS

Chapter 6.04 - ANIMAL CONTROL

Sections:

- 6.04.010 Definitions
- 6.04.020 State Veterinarian and Department of Agriculture Regulations
- 6.04.030 Department of Health Services Regulations
- 6.04.040 Powers and Duties of Enforcement Agent
- 6.04.050 Unlawful Interference with Enforcement Agent
- 6.04.060 Administration of Enforcement
- 6.04.070 Noises
- 6.04.080 Disposal of Fecal Matter
- 6.04.090 Restriction on Keeping of Livestock and Poultry
- 6.04.100 Restriction on Keeping of Animals
- 6.04.110 Dog Licensing Requirements and Fees
- 6.04.120 Dogs Not Permitted at Large; Wearing License
- 6.04.130 Handling of Biting Animals; Responsibility for Reporting Animal Bites; Authority to Destroy Animals
- 6.04.140 Vicious or Dangerous Animals
- 6.04.150 Removing Impounded Animals
- 6.04.160 Kennels
- 6.04.170 Animals; Liability
- 6.04.180 Confinement of Animals in Motor Vehicles
- 6.04.190 Dog Parks

6.04.010 Definitions

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

- A. "Animal" means any animal of a species that is susceptible to rabies, except man.
- B. "At large" means on or off premises of owner and not under control of owner or a responsible party. Any animal confined in a suitable enclosure or appropriately and legally restrained shall not be considered to be at large.
- C. "Dog Park" means a fenced and marked "off-leash" area in a park or open space for use by dogs and their owners.
- D. "Domestic animal" means an animal kept as a pet and not primarily for economic purposes.
- E. "Enforcement agent" means that person appointed by the Town Manager, or authorized designee, or by the County, that is responsible for enforcement of this chapter.

F. "Impound" means the act of taking or receiving into custody by the enforcement agent or the Town's designated Law Enforcement provider any dog or other animal for the purpose of confinement.

G. "Kennel" means an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors, or maintains five or more dogs under controlled conditions.

H. "Livestock" means cattle, horses, mules, burros, asses, sheep, goats and swine, except feral pigs.

I. "Owner" means any person keeping an animal other than livestock for more than six (6) consecutive days.

J. "Pound" means any establishment authorized for the confinement, maintenance, safekeeping, and control of dogs or other animals that come into the custody of the enforcement agent or the Town's designated law enforcement provider in the performance of his/her official duties.

K. "Poultry" means any domesticated bird including chickens, turkeys, ducks, geese, guineas, ratites and squabs.

L. "Rabies quarantine area" means 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 this area.

M. "Responsible party" means an owner of an animal or any person acting on behalf of an owner.

N. "Vaccination" means the administration of an anti-rabies vaccine to animals by a veterinarian.

O. "Veterinarian", unless otherwise indicated, means any veterinarian licensed to practice in Arizona or any veterinarian employed in Arizona by a governmental agency.

P. "Vicious animal" means any animal of the order carnivora that has a propensity to attack, to cause injury, or to otherwise endanger the safety of human beings or domestic animals without provocation, or that has been so declared after a hearing before a judge.

6.04.020 State Veterinarian and Department of Agriculture Regulations

A. The State Veterinarian regulates the vaccination of animals.

B. The State Department of Agriculture regulates the handling and disposition of animals classed as livestock that have been bitten by a rabid or suspected rabid animal or are showing symptoms suggestive of rabies.

C. All owners and responsible parties shall comply with State Veterinarian and Department of Agriculture regulations for the handling of animals. Nothing in this chapter shall be interpreted to conflict with or provide lesser regulation than State requirements.

6.04.030 Department of Health Services Regulations.

A. The State Department of Health Services regulates the handling and disposition of animals other than livestock that have been bitten by a rabid or suspected rabid animal or are showing symptoms suggestive of rabies.

B. All owners and responsible parties shall comply with State Department of Health Services regulations for the handling of animals. Nothing in this chapter shall be interpreted to conflict with or provide lesser regulation than State requirements.

C. The enforcement agent shall cooperate with the State Department of Health Services and may submit a record of all dog licenses and any information deemed necessary to aid in the control of rabies.

6.04.040 Powers and Duties of Enforcement Agent

A. The enforcement agent shall:

1. Enforce the provisions of this chapter.

2. Issue citations for the violation of the provisions of this chapter. The procedure for the issuance of notices to appear for criminal citations shall be as provided for peace officers in A.R.S. § 13-3903, except that the enforcement agent shall not make an arrest before issuing notice.

3. Be responsible for coordination between the State Veterinarian, Department of Agriculture, and Department of Health Services and assist these agencies in the declaration of any rabies quarantine areas or other public health and safety measures.

B. The issuance of criminal citations under this chapter shall be subject to the provisions of A.R.S. § 13-3899.

6.04.050 Unlawful Interference with Enforcement Agent

It is unlawful for any person to interfere with an enforcement agent in the performance of duties. Any person who violates this section shall be guilty of a class one misdemeanor, punishable by a fine of not less than five hundred dollars (\$500) nor more than twenty five hundred dollars (\$2,500), imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

6.04.060 Administration of Enforcement

The Town Manager may enter into a contract with the Maricopa County Board of Supervisors or other provider to enforce the provisions and perform requirements of this chapter. In addition to any contract provider, code enforcement may enforce civil penalties in accordance with Section 1.12.010 of the Town Code.

6.04.070 Noises

It is unlawful to harbor or keep animals or poultry that disturb the peace by loud noises at any time of the day or night.

6.04.080 Disposal of Fecal Matter

A. It is unlawful for any person owning, possessing, harboring, or having the care, charge, control, or custody of dogs to fail to immediately remove and dispose of any fecal matter deposited by said animal in any park or on any public property. All such fecal matter shall be immediately removed by placing said matter in a closed or sealed container and disposing of it by depositing it in a trash receptacle, sanitary disposal unit, or other closed or sealed container. This provision shall not apply to blind persons accompanied by a dog used for their assistance.

B. No person shall permit the accumulation of feces upon that person’s property or property occupied by that person to the extent that the odor becomes noticeable or a nuisance to adjoining property or in such a manner as will affect the health, safety, and welfare of the public.

6.04.090 Restriction on Keeping of Livestock and Poultry

It is unlawful to keep or cause to be kept any livestock or poultry within the corporate limits of the Town except as provided in Section 6.04.100. Any livestock or poultry running at large may be impounded by the enforcement agent.

6.04.100 Restriction on Keeping of Animals

A. It is unlawful to keep or cause to be kept any animals within residential areas of the Town exceeding the maximum number permitted in Table 6.04.100(A).

Table 6.04.100(A): Maximum Permitted Animals Per Square Footage of Residential Lot

Square Footage of Residential Lot	Number of Animal Units Permitted
Under 43,559 sf	A maximum of four (4) cats and dogs, in any combination, but no more than four (4) total.
43,560 sf and larger	A maximum of four (4) cats and dogs, in any combination, but no more than four (4) total. Plus: up to three (3) medium or six (6) small animals, or a combination of one (1) medium and up to 5 (five) small animals, but no more than six (6) medium/small animals in addition to the maximum of four (4) cats and dogs.

B. For purposes of this section, “small animals” means rabbits, ducks, chickens, geese, or fowl, excluding pea fowl, pigeons, homing pigeons, and roosters.

C. For purposes of this section, “medium animals” means goats or sheep.

D. No livestock, poultry, or fowl shall be maintained, penned, or kept within the corporate limits of the Town within one hundred (100) feet of any residence, dining room, sleeping room, or other place of human habitation, or any place of business, church, or school, other than that of the owner.

E. Individuals with disabilities may request a reasonable accommodation from the provisions of this section.

6.04.110 Dog Licensing Requirements and Fees

Each dog three (3) months of age or over that is kept, harbored or maintained within the corporate limits of the Town for at least thirty (30) consecutive days of each calendar year shall be licensed and have fees paid pursuant to the requirements of State law and such violations shall be punishable in accordance with A.R.S. §§ 11-1008 and 11-1010.

6.04.120 Dogs Not Permitted at Large; Wearing License

A. No dog(s) shall be permitted to run at large on public or private property. Any responsible party whose dog is at large is in violation of this section. A dog is not at large if:

1. The dog is (a) confined within an enclosure on the responsible party's property, (b) secured so that the dog is confined entirely to the responsible party's property, (c) restrained by a leash, chain, rope, or cord of not more than six (6) feet in length and of sufficient strength to control action of such dog and directly under the control of the responsible party, when not on the responsible party's property, or (d) in designated off-leash areas in the Citizens' Dog Park of Youngtown.

2. The dog is used for control of livestock or while being used or trained for hunting or being exhibited or trained at a kennel club event or while engaged in races approved by the state racing commission.

3. The dog is actively engaged in dog obedience training, accompanied by and under the control of its responsible party or trainer, provided that the responsible party or trainer of said dog has in their possession a dog leash of not more than six (6) feet in length and of sufficient strength to control said dog, and, further, that said dog is actually enrolled in a dog obedience training school.

B. Any dog over the age of three (3) 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 state 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.

C. Any dog(s) at large shall be apprehended and impounded by an enforcement agent.

1. The enforcement agent shall have the right to enter upon private property when it shall be necessary to do so in order to apprehend any dog that has been running at large. Such entrance upon private property shall be in reasonable pursuit of such dog(s), and shall not include entry into a domicile unless at the invitation of the occupant.

2. The enforcement agent may issue a citation(s) to the responsible party when the dog is at large.

3. Any person who violates this section shall be guilty of a class one misdemeanor, punishable by a fine of not less than five hundred dollars (\$500) nor more than twenty five hundred dollars (\$2,500), imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

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

6.04.130 Handling of Biting Animals; Responsibility for Reporting Animal Bites; Authority to Destroy Animals

A. An unvaccinated dog or cat that bites any person or domestic animal 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 ten (10) days. The quarantine period shall start on the day of the bite incident. If the day of the bite incident is not known, the quarantine period shall start on the first day of the impoundment. A dog properly vaccinated pursuant to this chapter that bites any person or domestic animal 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. A dog or cat that is impounded as the result of biting any person or domestic animal shall not be released from the pound to its owner unless the provisions of A.R.S. § 11-1014(B) are met.

C. Any domestic animal other than a dog, a cat or a caged or pet rodent or rabbit, that bites any person or domestic animal 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 (14) day period in a manner regulated by the State Department of Agriculture. Caged or pet rodents or rabbits shall not be quarantined or laboratory tested.

D. With the exception of a wild rodent or rabbit, any wild animal that bites any person or domestic animal or directly exposes any person or domestic animal to its saliva may be killed and submitted to the enforcement agent for transport to an appropriate diagnostic laboratory. A wild rodent or rabbit may be submitted for laboratory testing if the animal has bitten a person and either the animal's health or behavior indicates that the animal may have rabies or the bite occurred in an area that contains a rabies epizootic, as determined by the State Department of Health Services.

E. If an animal bites any person or domestic animal, the incident shall be reported to the enforcement agent immediately by any person having direct knowledge.

F. The enforcement agent may destroy any animal confined and quarantined pursuant to this section before the termination of the minimum confinement period for laboratory examination for rabies if:

1. The animal shows clear clinical signs of rabies.
2. The animal's owner consents to its destruction.

G. Any animal subject to licensing under state law found without a tag identifying its owner shall be deemed unowned.

H. The enforcement agent shall destroy a vicious animal by order of a judge. A judge may issue an order to destroy a vicious animal after notice to the owner, if any, and the person who was bitten, and a hearing. A judge may impose additional procedures and processes to protect

all parties in the interest of justice, and any decision by a judge may be appealed to the superior court.

I. The owner of a vicious animal shall be responsible for any fees incurred by the enforcement agent for the impounding, sheltering and disposing of the vicious animal.

6.04.140 Vicious or Dangerous Animals

A. It is unlawful for any person to permit any vicious or dangerous animal of any kind to run at large within the Town, and such animals shall be immediately impounded by the enforcement agent or slain as authorized by this chapter.

B. Any person who violates this section shall be guilty of a class one misdemeanor, punishable by a fine of not less than five hundred dollars (\$500) nor more than twenty five hundred dollars (\$2,500), imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

C. Any member of the Town's law enforcement provider or the enforcement agent is authorized to kill any vicious animal of any kind when it is necessary for the protection of any person, domestic animal or property.

6.04.150 Removing Impounded Animals

It is unlawful for any person to remove or attempt to remove an animal which has been impounded or which is in the possession of the enforcement agent except in accordance with the provisions of this chapter. Any person who violates this section shall be guilty of a class one misdemeanor, punishable by a fine of not less than five hundred dollars (\$500) nor more than twenty five hundred dollars (\$2,500), imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

6.04.160 Kennel

It is unlawful for a person to operate a kennel within the Town without a conditional use permit from the Town and a permit issued by the Maricopa County Board of Supervisors except if each individual dog is licensed.

6.04.170 Animals; Liability

Injury to any person or domestic animal or damage to any property by an animal while at large shall be the full responsibility of the owner or person or persons responsible for the animal when such damages were inflicted.

6.04.180 Confinement of Animals in Motor Vehicles

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 of 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.

D. Any person who violates this section shall be guilty of a class one misdemeanor, and upon conviction thereof shall be punished by a base fine not to exceed two thousand five hundred dollars (\$2,500.00) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense.

6.04.190 Dog Parks.

A. Dog park rules. Any person may use, at their own risk, any dog park provided that such use is consistent with the use restrictions and prohibitions set forth in this chapter.

1. Owners of dogs or persons who bring any dog to a park, facility, or open space are required to clean up after such dogs.
2. Children under thirteen (13) years of age must be accompanied by a person at least eighteen (18) years old in order to bring a dog to a park, facility or open space.
3. All dogs older than 4 months must be licensed, vaccinated, and must wear their identification and permit tags to use the park. Dogs younger than 4 months may be permitted to use the park if they are under the owner's control and do not cause any disruption to other dogs, park patrons, or park facilities.
4. Dogs are required to be under voice control and within the owner's sight at all times when using a dog park.
5. Owners are required to immediately remove any dog exhibiting aggressive behavior toward another dog or any person including the owner in a dog park.
6. Eating or bringing any food into a dog park is prohibited.
7. Bringing more than three (3) dogs per person into a dog park is prohibited.
8. Dogs showing signs of illness are not allowed in the dog park. Dogs must be spayed and neutered to use the dog park.
9. All special uses and competitive events must be reviewed and approved by the Town Manager prior to any event.
10. Users may not enter a dog park at any time other than posted operational hours.
11. The Town Manager or the Town Public Works Manager may close the park for performance of routine maintenance or preparation for a reserved use, or when deemed

necessary to protect public safety, dog safety, or property. Notice shall be posted when closed. The notice shall reasonably describe the time and period of closure for the area.

12. No person who has custody of an animal shall cause or permit the animal to cause damage to any Town property including but not limited to trees, shrubs, plants, turf and landscaping. No person shall cause the lighting facilities or electrical appliances to be turned on or used without written permission of the Town Manager.

13. It is unlawful for a person or animal to remain in or return to the dog park after a reasonable request to leave by the Town Manager, Public Works Manager, a Town code enforcement officer, or a law enforcement officer.

B. The presence of a dog in a dog park or any other park area, facility, or open space shall constitute a waiver of liability, on behalf of the person either owning, controlling, or attempting to control the dog, to the Town of Youngtown, as well as an agreement and undertaking to protect, indemnify, defend, and hold harmless the Town of Youngtown for any and all liability and/or damages alleged to have been or adjudicated to have been caused by the actions or presence of a dog including but not limited to property damage or personal injury.