Chapter 6

ANIMALS[1]

Art. I.	**In General, §§ 6-l—6-20**
Art. II.	**Dogs, Cats, Etc., §§ 6-21—6-48**
	Div. 1. Generally, §§ 6-21—6-45
	Div. 2. Impoundment, §§ 6-46—6-53
Art. III.	**Prohibition on Sale of Cats and Dogs,** §§ 6-54—6-60

ARTICLE I. IN GENERAL

Sec. 6-1. Running at large.

No person who is the owner of, or is in charge of or control of, or has the custody of, any livestock or fowl of any kind or nature shall negligently, willfully or intentionally permit or allow the same to run at large within the city.
(Code 1967, § 6-1)

State law reference—Authority of city to regulate the roaming at large of animals, A.R.S. §9-240(B)(16A).

Sec. 6-2. Burial of dead animals.

Every person in whose possession any animal shall die shall bury the same at least four (4) feet underground, except cats, dogs or fowl, which shall be buried two (2) feet underground, either upon his own premises, in a city-approved burial place for dead animals, or outside the city.
(Code 1967, § 6-3)

Sec. 6-3. Repealed.

(Code 1967, §§ 6-4—6-6; Ord. No. 2009.38, 10-22-09)

Secs. 6-4—6-20. Reserved.

[1]**Cross references**—Noisy animals, § 21-3(19); animals in parks, § 23-37.
State law reference—Animals generally, A.R.S. §§ 11-1001 to 11-1027.
Zoning and Development Code reference—Small animals, Section 3-404(I)

ARTICLE II. DOGS, CATS, ETC.[2]

DIVISION 1. GENERALLY

Sec. 6-21. Definitions.

As used in this article, unless the context otherwise requires, the following words and phrases shall have the meanings ascribed in this section:

Abandoned animal means any animal that has been found or provided to the police department, whether the owner is known or unknown, that is not the subject of a prosecution for animal cruelty.

Animal means any animal of a species that is susceptible to rabies, except man.

At large means on or off the premises of the owner and not under control of the owner or other persons acting for the owner. Any dog in a suitable enclosure which actually confines the dog shall not be considered to be running at large.

Department means the state department of health services.

Enforcement agent means that person in each county who is responsible for the enforcement of this article and the regulations promulgated thereunder.

Impound means the act of taking or receiving into custody by the enforcement agent any dog or other animal for the purpose of confinement in an authorized pound in accordance with the provisions of this article.

Kennel means 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 neat animals, horses, sheep, goats, swine, mules and asses.

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

Pound means any establishment authorized for the confinement, maintenance, safekeeping and control of dogs and other animals that come into the custody of the enforcement agent in the performance of his official duties.

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.

Rabies vaccination certificate means a method of recording and duplicating rabies information that is in compliance with the county enforcement agent's licensing system and/or county enforcement agent's prescribed forms.

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[2]**State law references**—Dog control, A.R.S. § 11-1001, et seq.; local dog control ordinances, A.R.S. § 11-1018.

Stray dog means any dog three (3) months of age or older running at large which is not wearing a valid license tag.

Vaccination means the administration of an antirabies vaccine to animals by a veterinarian, or in authorized pounds by employees trained by a veterinarian.

Veterinarian, unless otherwise indicated, means any veterinarian licensed to practice in this state or any veterinarian employed in this state by a governmental agency.

Veterinary hospital means 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 any animal that (a) has a propensity to bite without provocation; (b) has killed or inflicted injury on a human being on public or private property; or (c) has killed a domestic animal without provocation while the animal was off the owner's property. A determination that an animal is a vicious animal under this chapter may be declared only after a hearing before a justice of the peace or a city magistrate. This definition does not apply to a police animal under the command of its trainer.
(Code 1967, § 6-7; Ord. No. 87.38, 8-27-87; Ord. No. 97.21, 5-8-97; Ord. No. O2014.08, 1-23-14)

State law reference—Similar provisions, A.R.S. § 11-1001.

Sec. 6-22. Violations; penalty.

(a) Any person violating § 6-31 of this code is guilty of a civil offense and subject to a civil sanction not to exceed five hundred dollars ($500).

(b) Any person violating any provision of this chapter, except § 6-31, is guilty of a misdemeanor, punishable pursuant to § 1-7 of this code.
(Ord. No. 412.7, 8-16-84; Ord. No. 92.45, 11-12-92)

Sec. 6-23. Powers, duties of enforcement agent.

(a) The enforcement agent shall have the powers and duties to:

(1) Enforce the provisions of this article and the regulations promulgated under this article.

(2) Issue citations for the violation of the provisions of this article and the regulations promulgated under this article. The procedure for the issuance of notices to appear shall be as provided for peace officers in Arizona Revised Statutes, § 13-3903, except that the enforcement agent shall not make an arrest before issuing the notice.

(3) Be responsible for declaring a rabies quarantine area within the area of jurisdiction. When a quarantine area 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 or rabies within the area. Any regulations restricting or involving movements of livestock within the area shall be subject to approval by the state veterinarian.

(b) The issuance of citations pursuant to this section shall be subject to the provision of Arizona Revised Statutes, § 13-3899.

(c) The enforcement agent may designate deputies.
(Code 1967, § 6-8)

State law reference—Similar provisions, A.R.S. § 11-1007.

Sec. 6-24. Rabies control fund.

(a) The enforcement agent or his authorized representative shall place the monies collected by him under the provisions of this article in a special fund to be known as the rabies control fund to be used for the enforcement of the provisions of this article and the regulations promulgated under this article.

(b) Any unencumbered balance remaining in the rabies control fund at the end of a fiscal year shall be carried over into the following fiscal year.
(Code 1967, § 6-12)

State law reference—Similar provisions, A.R.S. § 11-1011.

Sec. 6-25. Interference with enforcement agent.

It is unlawful for any person to interfere with the enforcement agent in the performance of his duties.
(Code 1967, § 6-16)

State law reference—Similar provisions, A.R.S. § 11-1015.

Sec. 6-26. Biting animals; reporting animal bites; authority to destroy animals.

(a) An unlicensed or unvaccinated dog or any 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 article 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 (14) 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 county enforcement agent immediately by any person having direct knowledge.

(e) The county 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) Such animal shows clear clinical signs of rabies; or

(2) The owner of such animal consents to its destruction.

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

(g) It is unlawful to have custody of, own or possess an animal declared to be vicious under this chapter unless it is restrained, confined or muzzled so that it cannot bite, attack or cause injury to any person or domestic animal.

(h) The county enforcement agent shall destroy a vicious animal upon an order of a justice of the peace or a city magistrate. A justice of the peace or city magistrate may issue such an order after notice to the owner, if any, and a hearing.
(Code 1967, § 6-15; Ord. No. 97.21, 5-8-97)

State law reference—Animal bites, A.R.S. § 11-1014.

Sec. 6-27. Unlawful keeping of dogs.

It is unlawful for a person to keep, harbor or maintain a dog within the city except as provided by the terms of this article.
(Code 1967, § 6-18)

State law reference—Similar provisions, A.R.S. § 11-1017.

Sec. 6-28. Dog licensing procedure; fees, penalty; dog tags.

(a) The city council shall set an annual license fee which shall be paid for each dog four (4) 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 become payable at the discretion of city council (See Appendix A). 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 (90) days. A penalty not to exceed four dollars ($4) 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 article. This penalty shall not be assessed against applicants who furnish adequate proof that the dog to be licensed has been in their possession less than thirty (30) consecutive days.

(b) Durable dog tags shall be provided. Each dog licensed under the terms of this article shall receive at the time of the 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 article. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and payment of a fee to the enforcement agent.

(c) License fees may be 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 enforcement agent that such dog has been surgically altered to be permanently incapable of procreation.

(d) Any person who fails within fifteen (15) 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 remove such tag from any dog for the purpose of wilful and malicious mischief or places a dog tag upon a dog unless the tag was issued for that particular dog, is guilty of a misdemeanor.
(Code 1967, § 6-9)

State law reference—Similar provisions, A.R.S. § 11-1008.

Sec. 6-29. Antirabies vaccination.

(a) Before a license is issued for any dog, the owner must present a vaccination certificate signed by a veterinarian stating the owner's name and address and giving the dog's description, date of vaccination, and type, manufacturer and serial number of the vaccine used and date revaccination is due. A duplicate of each rabies vaccination certificate issued shall be transmitted to the enforcement agent on or before the tenth day of the month following the month during which the dog was vaccinated. No dog shall be licensed unless it is vaccinated in accordance with the provisions of this article and the regulations promulgated under this article.

(b) A dog vaccinated in any other state prior to entry into Arizona may be licensed in Arizona, provided that at the time of licensing the owner of such dog presents a vaccination certificate, signed by a veterinarian licensed to practice in that state or a veterinarian employed by a governmental agency in that state, stating the owner's name and address and giving the dog's description, date of vaccination, and type, manufacturer and serial number of the vaccine used. The vaccination must be in conformity with the provisions of this article and the regulations

promulgated under this article.

(c) The enforcement agent shall make provisions for vaccination clinics as deemed necessary. The vaccination shall be performed by a veterinarian.
(Code 1967, § 6-11)

State law reference—Similar provisions A.R.S. § 11-1010.

Sec. 6-30. Dogs at large; wearing license tags.

(a) In a rabies quarantine area, no dogs 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.

(b) 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.

(c) If any dog is unrestrained on the public streets, public parks or public property, then such dog's owner or custodian is in violation of this chapter. Dogs will, however, be permitted to be unleashed within areas of public parks as may be designated "off-leash areas" by the community services director.

(d) Any person whose dog is at large is in violation of this chapter. A dog is not at large if:

(1) Said dog is restrained by a leash, chain, rope, or cord of not more than six (6) feet in length and of sufficient strength to control the actions of said dog;

(2) Said 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; or

(3) While the dog is actively engaged in dog obedience training, accompanied by and under the control of his owner or trainer, provided that the person training said dog has in his 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 or has graduated from a dog obedience training school.

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

(f) The enforcement agent shall have the right to enter upon private property when it is 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 or enclosure which confines a dog unless it be at the invitation of the occupant.

(g) The agent may issue a citation(s) to the dog owner or person acting for the owner when the dog is at large. The procedure of the issuance of notice to appear shall be as provided for peace officers in Arizona Revised Statutes, § 13-3903, except the enforcement agent shall not make an arrest before issuing the notice. The issuance of citations pursuant to this section shall be subject to the provisions of Arizona Revised Statutes, § 13-3899.

(h) In the judgment of the enforcement agent if any dog at large or any other animal that is dangerous or fierce and a threat to human safety that cannot be safely impounded, it may be slain; provided, however, the enforcement agent shall have satisfactorily completed an approved course on the use of weapons and firearms and shall have been so certified by the firearms instructor for the Phoenix Police Department Regional Academy, county sheriff or the National Rifle Association. Additionally, immediately upon slaying any animal, the enforcement agent shall prepare a detailed incident report of the shooting, which report shall be available to the general public.
(Code 1967, § 6-13; Ord. No. 412, § 8, 9-12-85; Ord. No. 96.07, 4-25-96; Ord. No. 2001.17, 7-26-01; Ord. No. 2006.25, 4-6-06; Ord. No. 2010.02, 2-4-10)

State law reference—Dogs at large, A.R.S. § 11-1012.

Sec. 6-31. Removal of animal defecation from public parks and school grounds.

(a) An owner or person having custody of any dog or any other animal shall not permit said dog or any other animal to defecate on any school ground or public park, unless said defecation is removed immediately.

(b) Animal defecation which is removed from a school ground or public park may be deposited in a garbage receptacle upon such school ground or public park if the defecation is first placed in a sealed plastic bag.
(Ord. No. 87.21, § 1, 7-9-87)

Sec. 6-32. Abandoned animals.

(a) If any animal has been found or provided to the police department, that animal shall be considered an abandoned animal.

(1) If no person is immediately available, capable and willing to provide shelter and care for an abandoned animal, the police department shall facilitate the sheltering of that animal through Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter or a suitable home;

(2) If the owner is known, the police department shall provide notice to the owner that the animal has been placed pursuant to this section. That notice shall include the contact information of the sheltering entity; or

(3) If the owner is not known, the police department shall make reasonable efforts to identify the owner and provide notice to the owner. If no owner can be identified, no notice is necessary.

(b) The police department will not take ownership or responsibility for an abandoned

animal, but shall facilitate the placement of an abandoned animal pursuant to the provisions of this section.

(c) Any facility sheltering an abandoned animal pursuant to this section shall keep the abandoned animal for no less than seventy-two (72) hours prior to placing the animal for adoption or otherwise disposing of the animal.

(1) The police department shall only be responsible for the first seventy-two (72) hours of sheltering or veterinary costs of an abandoned animal if the animal is not retrieved by the owner or adopted by another person; or

(2) The owner of the abandoned animal or any person adopting an abandoned animal shall be responsible for all sheltering and veterinary costs for the abandoned animal.

(Ord. No. O2014.08, 1-23-14)

Secs. 6-33—6-45. Reserved.

DIVISION 2. IMPOUNDMENT

Sec. 6-46. Generally.

(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. Any person may purchase such a dog or cat upon expiration of the impoundment period provided such person pays all pound fees and complies with the licensing and vaccinating provisions of this chapter. If such 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 such 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 such destruction is necessary to prevent such dog or cat from suffering or to prevent the spread of disease.

(c) 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.

(Code 1967, § 6-14; Ord. No. 412, § 8, 9-12-85)

Sec. 6-47. Treatment of animals; methods of euthanasia.

(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, destroyed while impounded in a county, city or town pound shall be destroyed only by the use of one of the following:

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

(2) Nitrogen gas; or

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

(c) If an animal is destroyed by means specified in paragraph (b)(l) 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 Arizona Revised Statutes, § 3-1213.
(Code 1967, § 6-21)

State law reference—Impoundment of animals, A.R.S. § 11-1021.

Sec. 6-48. Removing impounded animals.

No person may 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 article and the regulations promulgated under this article.
(Code 1967, § 6-17)

State law reference—Similar provisions, A.R.S. § 11-1016.

Sec. 6-49. Animal cruelty.

(a) A person commits animal cruelty if the person does any of the following:

(1) Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment;

(2) Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control;

(3) Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal;

(4) Recklessly subjects any animal to cruel mistreatment;

(5) Intentionally, knowingly or recklessly kills or attempts to kill any animal under the custody or control of another person without either legal privilege or consent of the owner;

(6) Recklessly interferes with, strikes, kills or harms a working or service animal without either legal privilege or consent of the owner;

(7) Intentionally, knowingly or recklessly leaves an animal unattended and confined

in a motor vehicle and physical injury to or death of the animal is likely to result;

(8) Recklessly allows any dog that is under the person's custody or control to interfere with, kill or cause physical injury to a service animal;

(9) Strikes any domestic animal with a vehicle resulting in injury to the animal, and leaves the scene without rendering aid and assistance in the care of such animal, if such action can be taken with reasonable safety. For purposes of this section, "domestic animal" shall mean an animal usually domiciled with or cared for by humans, such as a cat, dog, horse or cattle;

(10) Intentionally or knowingly poisons or attempts to poison any domestic animal. For purposes of this section, "poison" or "attempt to poison" includes the act of placing food, water, or lure of another sort which contains poison or contains health threatening foreign objects, such as glass or metal, in a location where any animal may be attracted to it; or

(11) Intentionally, knowingly or recklessly uses a baited trap or mechanical device to capture an animal, causing it injury or death.

(b) It is a defense to subsection (a) above if:

(1) To protect himself or his livestock or poultry, a person does the following:

a. Exposes poison to be taken by a dog that has killed or wounded livestock or by predatory animals on premises owned, leased or controlled by the person; and

b. The treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed; and

c. The poison is removed after the threat to the person or the person's livestock or poultry has ceased to exist.

d. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice that is posted shall be readable at a distance of fifty (50) feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".

(2) A person uses poisons in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling rodents as otherwise allowed by the laws of the state.

(c) It is not a defense to subsection (a) above if:

(1) The animal was trespassing on property owned or controlled by the person

alleged to have violated this section;

(2) The animal was not restrained in compliance with any leash law, including § 6-30; or

(3) The person alleged to have violated this section did not know that the animal was under the custody or control of another person.

(d) This section does not prohibit or restrict:

(1) The taking of wildlife or other activities permitted by or pursuant to A.R.S. Title 17;

(2) Activities permitted by or pursuant to A.R.S. Title 3;

(3) Activities regulated by the Arizona Game and Fish Department or the Arizona Department of Agriculture; or

(4) Any activity involving a dog, whether the dog is restrained or not, if the activity is directly related to the business of shepherding or herding livestock and the activity is necessary for the safety of a human, the dog or livestock.

(e) A person who violates subsection (a) herein is guilty of a class 1 misdemeanor.

(f) A person convicted of violating subsection (a) herein, shall be required by the court to make restitution to the owner of the animal in the full amount of the owner's economic loss, unless the convicted person is the owner.

(1) The full amount of economic loss shall include, but not be limited to: the cost of veterinary care, boarding, and necropsy; the value of the animal; cost of a replacement animal; or cost of training a replacement animal; and

(2) In the case of a working or service animal, any additional costs incurred to replace the services of the working or service animal while the animal remains unavailable to its owner.

(g) Upon conviction of a violation of §§ 6-49 and 6-50, involving an animal that is under the convicted person's custody or control, the court shall order the victimized animal forfeited to the city and the animal may then be placed up for adoption through Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter, a suitable home, or humanely destroyed. For purposes of forfeiture, a conviction may result from a verdict or plea, including a no contest plea. All right, title and interest to the animal is deemed to have vested in the city on the commission of the act or omission giving rise to the conviction. The court shall order the convicted person to make restitution to the city for the city's reasonable costs incurred in housing, care, feeding and treatment of the animal from the time of seizure or impoundment to the time of conviction.

(h) Reserved.

(i) Reserved.

(j) For the purposes of this section:

(1) Animal means a mammal, bird, reptile or amphibian;
(2) Cruel mistreatment means to torture or otherwise inflict unnecessary serious physical injury upon an animal or to kill an animal in a manner that causes protracted suffering to the animal;

(3) Cruel neglect means to fail to provide an animal with necessary food, water or shelter;

(4) Handler means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person's agency or the service animal owner and who used a specially trained animal under the direction of the person's agency or the service animal owner;

(5) Service animal means an animal that has completed a formal training program that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public; or

(6) Working animal means a horse or dog used by a law enforcement agency, specially trained for law enforcement work and is under the control of a handler.

(Ord. No. O2014.08, 1-23-14)

Sec. 6-50. Authority to remove, impound and forfeit animals; cost of care.

(a) A peace officer, enforcement agent or county animal control officer is hereby authorized and empowered to seize and impound any animal as follows:

(1) On process issued pursuant to the provisions of A.R.S. Title 13, including a search warrant.

(2) If the peace officer, enforcement agent or county animal control officer has reasonable grounds to believe that a violation of § 6-49 has occurred.

(3) If the peace officer, enforcement agent or animal control officer has reasonable grounds to believe any of the following:

a. That an animal is in distress caused by mistreatment, lack of food or water, restraint, restriction of movement, confinement, lack of sufficient exercise space, constrictive gear, injury, illness, physical impairment or parasites; or

b. That an animal's well-being is threatened by a dangerous condition or circumstance; or

c. That seizure is necessary to protect the health or safety of the animal or the health and safety of other animals; or

d. That an animal is vicious or destructive and may be a danger to the safety of any person or other animal; or

e. That an animal is an abandoned animal.

(b) Nothing in this section shall be construed to prohibit the attorney for the state, after seizure of an animal by a peace officer, enforcement agent or animal control officer, from taking possession of and keeping the animal when the attorney deems the animal to be of evidentiary value in any criminal prosecution relating to the condition of the animal. If the attorney for the state intends to take possession of and retain an animal as evidence in any criminal prosecution, the attorney shall promptly provide written notice to the police department.

(c) The city may contract with any person, agency or shelter, including volunteers, to house, care for and treat an animal that has been seized and impounded pursuant to the provisions of this section.

(d) The owner or keeper of an animal properly seized under this section is liable for the cost of housing, caring for and treating the animal. Unless the seizure or impoundment of an animal is for evidentiary purposes, supported by a written notice of intent as required by subsection (b), or the court determines at a post-seizure hearing that the seizure or impoundment was not justified, the owner or keeper shall post with the court a bond, in an amount established by city council resolution (see Appendix A), in the form of cash or a surety's undertaking to offset some of the costs incurred by the city relating to housing of, caring for and treating the animal. The owner or keeper shall post the bond within ten (10) days of the date of the notice provided under § 6-51. The owner or keeper shall post the bond within three (3) days of the date of the seizure if pursuant to § 6-50(a)(3)(e). If the owner or keeper fails to post the bond within the specified time, the owner or keeper shall be deemed to have abandoned the animal. The animal may then be placed for adoption through Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter, a suitable home or humanely destroyed.

(e) Upon forfeiture of an animal, the court shall forfeit the bond to pay the expenses incurred in the housing of, caring for and treating the animal. If the bond exceeds the expenses, the court shall exonerate the bond amount and order the security returned to the owner or keeper only to the extent the bond exceeds the expenses incurred in the housing of, caring for and treatment of the animal. The court shall order the bond exonerated and the security returned to the owner or keeper if at the conclusion of the case the animal is not forfeited under this article.
(Ord. No. O2014.08, 1-23-14; Ord. No. O2014.56, 10-2-14)

Sec. 6-51. Post-seizure hearings.

(a) The burden of proof in the seizure hearing pursuant to this article shall be by a preponderance of the evidence. The formal rules of evidence shall not apply and reliable hearsay shall be admissible. The court shall order the animal to be forfeited to the city to be placed for adoption through Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter, a suitable home or humanely destroyed if the court finds from a preponderance of the evidence that a violation of § 6-49 or § 6-50 has occurred or if the court finds that the animal will suffer needlessly if humane destruction is delayed.

(b) Whenever a peace officer, enforcement agent or animal control officer seizes or impounds an animal based on a reasonable belief that a violation of § 6-49 or § 6-50 has occurred

or that prompt action is required to protect the health or safety of the animal or the health and safety of other animals, the owner or keeper of the animal may request a post-seizure hearing to determine the validity of the seizure or impoundment or both. The post-seizure hearing shall be commenced as follows:

(1) If the owner is known, the owner may sign a statement permanently relinquishing ownership of the animal to the peace officer or enforcement agent. The statement shall indicate that the animal will be either placed for adoption, through Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter, a suitable home or humanely destroyed according to law;

(2) If the owner's or keeper's whereabouts cannot be determined, the notice shall be mailed to the owner or keeper's last known address by registered or certified mail, return receipt requested;

(3) The police department, within forty-eight (48) hours, excluding weekends and city holidays, of the seizure or impoundment, shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper, if known or ascertainable after reasonable investigation. The notice shall include the following:

a. The name, business address and telephone number of the person providing the notice;

b. A description of the animal seized, including identification upon the animal if any;

c. The authority and purpose for the seizure, or impoundment, including the time, place and circumstances under which the animal was seized;

d. A statement that, in order to receive a post-seizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning to the court an enclosed declaration of ownership or right to keep the animal within ten (10) days, including weekends and city holidays, of the date of the notice. The declaration must be returned by personal delivery or by mail. The declaration will be deemed received at the time it is personally served or, if mailed, upon receipt;

e. A statement that the owner or keeper is responsible for the cost of housing, caring for and treating the animal that was properly seized and impounded;

f. A statement that the owner is required to post a bond with the court to defray the expenses of housing, caring for and treating the animal that has been properly seized and impounded;

g. A warning that if the owner or keeper fails to post the bond within ten (10) days of the seizure, including weekends and holidays, the animal will be

deemed abandoned and will be placed for adoption through Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter, a suitable home or humanely euthanized according to law;

h. A warning that if the owner or keeper fails to appear at the hearing, the court shall order the animal forfeited to the city to be placed for adoption through Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter, a suitable home or humanely destroyed according to law; and

i. A warning that this civil hearing is separate and distinct from any animal cruelty prosecution, that anything the person testifies to at the hearing may be used against them in the criminal prosecution, that they are not entitled to a public defender, that if they wish to be represented by an attorney at the seizure hearing they must retain an attorney and that no continuances of the hearing will be granted to secure an attorney.

(4) The court shall conduct the post-seizure hearing within fifteen (15) days of the court's receipt of the request, excluding weekends and city holidays; and

(5) Failure of the owner or keeper, or the owner's or keeper's agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a post-seizure hearing and the animal shall be abandoned and will be either placed up for adoption through Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter, a suitable home or humanely destroyed according to law.

a. In the event of the acquittal or final discharge without a conviction of a person who was charged under this article, or a determination that the animal is not vicious, the court shall, upon demand, direct the release of seized or impounded animals that have not been forfeited upon a showing of proof of ownership. Any questions regarding ownership shall be determined in a separate hearing by the court and the court shall hear testimony from any persons who may assist in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animal for any reason, the court shall order the animal released for placement with Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter, a suitable home or humanely euthanized according to law. This subsection shall not be construed to cause the release of an animal seized or impounded pursuant to any other local, state or federal law or regulation; and

b. It is unlawful for a person to fail to produce the animal at the time of the hearing if the animal was not initially seized, make arrangements with and allow the police department to view the animal upon request, or provide verification that the animal has been humanely destroyed.

(Ord. No. O2014.08, 1-23-14)

Sec. 6-52. Enforcement; nonpreclusion of other enforcement action; appeal.

(a) Any peace officer, enforcement agent or county animal control officer is hereby authorized and empowered to enforce the provisions of this article and to issue citations for the violations thereof.

(b) It shall be unlawful for any person(s) to interfere with any officer authorized to enforce this article in the performance of his duties, or to release any animal duly seized and/or impounded and any person guilty of such act shall be guilty of a class 1 misdemeanor.

(c) Use of the civil procedures and remedies provided for in this article shall neither require nor preclude other enforcement action on the same facts, including a criminal prosecution of the owner. The civil procedures and remedies provided for in this article are remedial and not punitive and are not precluded by an acquittal or conviction in a criminal proceeding.

(d) Appeal by either party of the decision of the court shall be by way of special action to the superior court on the record of the hearing. The court, at the hearing, shall issue an order that includes written findings of fact and conclusions of law. If either party claims the record to be incomplete or lost and the court who conducted the hearing so certifies, a new hearing shall be conducted before that court. The owner must post a bond equivalent to sixty (60) days of impoundment costs in order to prefect the owner's appeal. Notice of the amount due shall be given to the owner by the court at the time of the seizure hearing if forfeiture is ordered. The appealing party shall bear the cost of preparing the record of the hearing on appeal. No appeal shall be taken later than five (5) days after the decision.

(e) Unless good cause is shown, the owner shall be liable for all veterinary, impound and board fees resulting from the animal's impoundment until a final decision by the court, including the pendency of an appeal. The owner shall not be responsible for any fees if the owner prevails at the hearing or ultimately on appeal.
(Ord. No. O2014.08, 1-23-14)

Sec. 6-53. Disposition of animals.

Any animal forfeited, abandoned, ownerless or unclaimed, and any other animal to be permanently disposed of by the city shall be placed for adoption through Maricopa County Animal Care and Control, an animal welfare organization, an animal shelter, a suitable home or humanely destroyed.
(Ord. No. O2014.08, 1-23-14)

ARTICLE III. PROHIBITION ON SALE OF CATS AND DOGS

Sec. 6-54. Prohibition on sale of cats and dogs.

(a) Definitions:

(1) *Animal rescue organization* means any nonprofit organization properly registered under § 501(c)(3) of the Internal Revenue Code, whose mission, in whole or in part is the placement of rescued dogs or cats and which does not obtain dogs or cats from a breeder or broker for payment or compensation.

(2) *Animal shelter* means any establishment maintained by Maricopa County, the City of Tempe, or any other city, county, or state for the confinement and maintenance of rescued dogs, cats, and other animals that come into their custody in the performance of their official duties together with any establishment maintained by a nonprofit organization for the relief of suffering of dogs and other animals provided that such establishment maintains facilities under the supervision of a licensed veterinarian for the confinement, maintenance, safekeeping and control of dogs and other animals that come into its custody.

(3) *Pet dealer* means any person who owns or operates a pet shop.

(4) *Pet shop* means a commercial establishment that engages in a for-profit business of selling at retail cats, dogs, or other animals. Pet shop does not mean a publicly operated pound or a private, charitable nonprofit humane society. Pet shop does not mean a transaction of an isolated nature made by a person who neither represents himself or herself to be nor is engaged in a business subject to a tax imposed by the Tempe City Code, Chapter 16.

(b) No pet shop or pet dealer shall display, sell, deliver, offer for sale, barter, auction, give away, broker, or otherwise transfer or dispose of a dog or cat, unless that dog or cat was obtained from:

(1) An animal shelter;

(2) A private, charitable, nonprofit humane society or publicly operated nonprofit animal rescue organization; or

(3) An animal shelter, nonprofit humane society or nonprofit animal rescue organization that operates out of or in connection with a pet shop.

(c) All pet shops and pet dealers are required to maintain records, for a period of one (1) year from the date of acquisition, listing the source of all dogs or cats under their ownership, custody or control, in a form prescribed by the City Manager. Records shall be immediately available, upon request, to law enforcement, code compliance officials, and any other city employees charged with enforcing the provisions of this section.

(d) This section does not apply to:

(1) A person or establishment which displays, sells, delivers, offers for sale, barters, auctions, gives away, brokers, or otherwise transfers or disposes of only dogs or cats, directly to the general public at retail, that were bred and reared on the premises of the person or establishment, of no more than two (2) litters per year total;

(2) An animal shelter;

(3) A private, charitable, nonprofit humane society or publicly operated nonprofit animal rescue organization; or

(4) An animal shelter, nonprofit humane society or nonprofit animal rescue organization that operates out of or in connection with a pet shop for adopting animals to the public on a cost-recovery basis only.

(e) Nothing in this section shall prevent a pet shop or pet dealer from providing space and appropriate care for animals owned by an animal shelter, nonprofit humane society or nonprofit animal rescue agency and maintained at a pet shop for the purpose of adopting those animals to the public on a cost-recovery basis only.

(f) Records of acquisition and adoption pursuant to subsection (c) shall be retained for a period of one (1) year to confirm compliance with this section. Such records are subject to audit and review by the City Manager or designee, upon reasonable request by the city.

(g) Violation of this article shall constitute a civil offense, and shall result in a penalty of up to five hundred dollars ($500) per occurrence and shall be administered pursuant to sections 1-7 through 1-10 of this code.
(Ord. No. O2016.12, 2-11-16)

Secs. 6-55—6-60. Reserved.