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ORDINANCE NO. 08-06

AN ORDINANCE REGULATING THE RUNNING AT LARGE
AND UNRESTRAINED BARKING OF DOGS, AND ANIMAL CONTROL
WITHIN THE UNINCORPORATED AREAS OF YUMA COUNTY.

DOCUMENT APPROVAL:

Approved by Yuma County Board of Supervisors:
November 17, 2008, Item No. D1.

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YUMA COUNTY BOARD OF SUPERVISORS
ORDINANCE NO. 08-06
AN ORDINANCE REGULATING THE RUNNING AT LARGE AND UNRESTRAINED BARKING OF DOGS, AND ANIMAL CONTROL WITHIN THE UNINCORPORATED AREAS OF YUMA COUNTY.

Adopted: 11-17-08, Item #D1.

SECTION ONE. Definitions

In this ordinance, unless the context otherwise requires:

1) "Dog" means any member of the canis lupus familiaris.

2) "Stray Dog" means any dog three (3) months of age or older running at large that is not wearing a valid license tag. (A.R.S. §11-1001 (12).)

3) "At Large" means being neither confined by an enclosure nor physically restrained by a leash. (A.R.S. §11-1001 (2).)

4) "Owner" means any person owning, harboring, keeping, possessing or maintaining a dog for more than six consecutive days within the unincorporated areas of the County. (A.R.S. §11-1001 (10).)

5) "Vicious Dog" means any animal of the order carnivora that has a propensity to attack, cause injury or otherwise endanger the safety of human beings without provocation, or has been so declared after a hearing before a Justice of the Peace or City Magistrate; (A.R.S. § 11- 1001 (16).)

6) "License or tag" means, a current Rabies Control License issued by Yuma County.

7) "Premises of the Owner" means all property, real or personal, owned or controlled by the Owner.

8) "Urban" means, those unincorporated areas of the County within recorded subdivisions.

9) "Rural" means the remainder of the unincorporated area of the County.

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10) "County Enforcement Agent" means that person in the County who is responsible for the enforcement of this Ordinance and regulations promulgated thereunder. (A.R.S. §11-1001 (4).)

11) "Kennel" means an enclosed, controlled area, inaccessible to other animals, in which a person, group of persons or corporation that keeps, harbors or maintains five or more dogs for the purpose of breeding, buying, selling or boarding dogs. (A.R.S. §11-1001 (8).)

SECTION TWO. Prohibitions

A. No person owning, keeping, possessing, harboring, or maintaining a dog shall allow said dog to be At Large or to permit said dog, which by frequent or habitual barking, howling, or yelping, to disturb the quiet of a reasonable person of the community.

1) The Owner, or other person acting for the Owner, of a dog shall at all times keep such dog from running At Large upon the streets, sidewalks, alleys, or public property within the unincorporated areas of the County or from running At Large upon or about the private premises of any person not consenting thereto. (A.R.S. §11-1005 (4).)

2) The Owner, or other person acting for the Owner, of a dog shall not allow, either willfully or through failure to exercise due care and control, any dog to bark, howl, yelp or produce other clearly audible sounds beyond the property line of another, in an unreasonable, continual or unprovoked manner which disturbs the peace and quiet of any person or persons within the unincorporated areas of the County. (A.R.S. §11-1005 (5).)

B. A dog is not deemed to be At Large:

1) If said dog is restrained by a leash, chain, rope, or cord of sufficient strength to control the action of said dog, or if confined, in a suitable enclosure;

2) While accompanied by and under the control of his Owner or trainer in the Rural areas of the County or at a dog obedience training school, provided that the person training or handling said dog has in his possession a dog leash of sufficient strength to control the actions of said dog;

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3) While said dog is being used or trained for hunting purposes, accompanied by and under the control of the Owner or trainer; (A.R.S. §11-1012 (C).)

4) While said dog is being exhibited or trained at a recognized kennel club show; (A.R.S. §11-1012 (C).)

5) While said dog, under the Owner's control, is engaged in races approved by the Arizona Racing Commission; (A.R.S. §11-1012 (C).)

6) While said dog, under the Owner's control, is actively engaged in livestock control; (A.R.S. §11-1012 (C.)

7) While said dog is assisting a Peace Officer engaged in law enforcement duties, or assisting it's blind or deaf master serving as a guide dog or service dog for an individual with a disability, so long as such dog is under direct and effective voice control of such individual to assure that it does not violate any other provisions of the law and this Ordinance; or

8) When upon the Premises of the Owner and under the Owner's control in the "Rural" areas of the County.

C. Any dog running At Large may be apprehended and impounded by the Enforcement Agent. Reasonable effort shall be made to ascertain and contact the Owner prior to impoundment. If the Owner can be contacted, he or she shall be afforded the opportunity to restrain the dog without the necessity of impoundment. The Owner may be issued a citation for violation of this Ordinance.

D. If the Owner of a dog At Large is known but the Owner's whereabouts cannot reasonably be ascertained, the dog shall be impounded. When the dog is claimed by the Owner, the Owner may be issued a citation for violation of this Ordinance.

E. The Enforcement Agent, in reasonable pursuit of a dog found At Large, 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. (A.R.S. §11-1026.)

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SECTION THREE. Enforcement/Hearing

A. The Board of Supervisors or designee(s) shall enforce the provisions of this section.

B. The Board of Supervisors shall appoint a hearing officer to hear and determine barking dog and/or running at large violations. (A.R.S. §11-1006 (A).)

C. The hearing officer shall hold a hearing on each violation reported by the county enforcement agent. Notice of the hearing shall be served personally on the person cited at least fourteen (14) calendar days before the hearing.

The County Enforcement Agent shall use a uniform traffic ticket and complaint for civil cases in citing persons for violations of this Ordinance and in compliance with A.R.S. §1006 (B).

D. At the hearing, the County Enforcement Agent shall present evidence of the violation. The person cited, or his or her attorney or other designated representative, shall have an opportunity to present evidence. The county attorney may represent and present evidence for the County Enforcement Agent if, in his or her discretion, she or he decides to do so.

1) Pre-public hearing discovery shall not be permitted.

2) Immediately prior to the hearing, both parties shall produce for inspection by the opposing party any prepared exhibits and written, taped or recorded statements of any witnesses, which may be offered at the public hearing.

3) The Arizona Rules of Evidence shall not apply. Evidence is subject to determination by the hearing officer that is relevant and material.

E. At the conclusion of the hearing, the hearing officer shall determine whether a violation occurred and, if so, impose civil penalties in an amount not less than Fifty Dollars ($50.00 USD) and in an amount not to exceed Five Hundred Dollars ($500.00 USD). Monies collected for civil penalties shall be deposited into the County general fund.

F. A written notice of appeal shall be filed with the Director of the Yuma County Health Services District within seven (7) calendar days after the hearing officer's finding.

G. The Board of Supervisors, or its designee, shall review all appeals and either uphold, reduce or remand the hearing officer's finding. Appeals shall be limited to the record of the proceeding. Within ten (10) working days, the decision shall be sent certified mail to the defendant's last known address.

H. Final decisions under this subsection are subject to judicial review under A.R.S. 12-901, et seq. (A.R.S. §11-1006.)

SECTION FOUR. County Enforcement Agent

The Board of Supervisors shall designate or employ a County Enforcement Agent. In the absence of such designation the County Sheriff shall be the County Enforcement Agent. (A.R.S. §11-1005 (A)(1).)

SECTION FIVE. Powers and Duties of County Enforcement Agent

A. The County Enforcement Agent shall:

1) Enforce the provision of this Ordinance and the regulations promulgated herein and municipal ordinances which the Board of Supervisors has contracted to enforce; (A.R.S. §11-1007(A)(1)) and

2) Issue citations for the violation of the provisions of this Ordinance. The procedure for the issuance of notices to appear shall be as provided for Peace Officers in Section 13-3903, Arizona Revised Statutes, except that the Enforcement Agent shall not make an arrest before issuing the notice. (A.R.S. § 11-1007 (A)(2).)

B. The issuance of citations pursuant to this section shall be subject to the provision of A.R.S. Section 13-3899 and all citations shall contain a form of certification by the Enforcement Agent, or the deputy, stating as follows:

"I hereby certify that I have reasonable ground to believe and do believe that the persons cited herein committed the offense described herein contrary to law." (A.R.S. §11-1007 (B).)

C. The County Enforcement Agent may designate deputies, as it deems Necessary, to carry out its powers and duties. (A.R.S. §11-1007 (C).)

SECTION SIX. Handling Biting Dogs, Vicious Dogs.

A. Whenever a dog that bites any person, the incident shall be reported to the County Enforcement Agent immediately by any person having direct knowledge. (A.R.S. §11-1014 (D).)

B. Any dog that bites any person shall be confined and quarantined as provided in and in accordance with A.R.S. Section 11-1014.

C. An unvaccinated dog that bites any person shall be confined and quarantined in a county pound or contracted animal shelter, or upon request of and at the expense of the Owner, at a veterinary hospital for a period of not less than ten days. A dog properly vaccinated pursuant to this Ordinance, 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 the manner prescribed by the County Enforcement Agent. (A.R.S. § 11-1014 (A).)

D. No person owning, harboring or having the care or custody of a Vicious Dog shall suffer or permit such dog to go "unconfined," as hereinafter defined, unless such dog is securely leashed, muzzled and securely restrained.

E. A Vicious Dog is "unconfined" if while on the premises of its Owner, such dog is not securely confined indoors or confined in a securely enclosed and locked pen or dog run area upon the Owner's premises.

F. The County Enforcement Agent shall destroy a vicious dog found at large upon an Order of a Justice of the Peace pursuant to and in accordance with A.R.S. Section 11-1014.

SECTION SEVEN. Licensing and Tags

A. All dogs three (3) months of age or over, kept, harbored, or maintained in Yuma County for at least thirty consecutive days, must be licensed and registered as provided in A.R.S. §11-1012 (C). The Board of Supervisors shall establish fees for licenses annually. (A.R.S. § 11-1008 (A).)

B. Before a license is issued for any dog, a rabies vaccination certificate shall be required as provided in A.R.S. Section 11-1010.

C. Persons operating a kennel shall obtain permits as provided in A.R.S. Section 11-1009. Any person who has been convicted of animal cruelty and/or dog fighting will be denied a kennel permit. (A.R.S. § 11-1009 (E).)

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D. A license shall not be required for dogs:

1) Temporarily brought into Yuma County for the purpose of any dog show. (A.R.S. §11-1012 (C).)

2) Used as guide dog or service dog to assist an individual with a disability. Such guide dogs must be vaccinated and shall be licensed without the payment of a fee.

3) If validly licensed in another state and temporarily brought into Yuma County provided the Owner has in his or her possession certification from a veterinarian of the vaccinations otherwise required by Ordinance. The Owner shall register said dog with the County Humane office and secure an identification tag which shall be securely attached to the collar of said dog.

4) Dogs confined in a kennel provided the Owner possesses a kennel permit as provided in subsection "C" above.

E. A license shall be issued for a particular dog and is not transferable to another. A new license is required upon any change of ownership.

F. It is unlawful to counterfeit or attempt to counterfeit a dog license certificate, vaccination certificate or dog tag or to place such tag upon a dog unless the license was specifically issued for that dog. Any person who knowingly does so is guilty of a class 2 misdemeanor. (A.R.S. §11-1008 (E).)

SECTION EIGHT. Impoundment

A. It shall be the duty of the County Enforcement Agent to apprehend any Stray Dog or dog At Large and to impound such dog as provided herein.

1) Each unlicensed dog impounded shall be kept and maintained at the shelter for a minimum of three (3) days unless a person claiming ownership furnishes proof of right to the dog and pays all pound fees, including license fees. Such Owner may be issued a citation for violation of this Ordinance. At the expiration of the impoundment periods, the dog may be placed for adoption or disposed of in a humane manner. (A.R.S. §11-1013 (C).)

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2) The Owner of an impounded licensed dog shall be notified of the impoundment without delay. Any impounded licensed dog may be reclaimed provided the person claiming the dog furnishes proof of right to do so and pays all established pound fees. Such Owner may be issued a citation for violation of this Ordinance. If such dog is not reclaimed within six (6) days after notice to the Owner, the dog may be placed for adoption or disposed of in a humane manner.

3) A dog or cat shall not be released for adoption from any County animal shelter unless either:

a. The dog or cat has been first surgically spayed or neutered. (A.R.S. §11-1022.)

b. If the adoption fee does not include the costs of spaying or neutering, the adopting individual must deposit with the animal shelter an amount sufficient to cover the costs for sterilization and have the dog or cat spayed or neutered within thirty (30) days from the date of adoption or before sexual maturity. Said deposit will be refunded upon presentation of veterinary verification. The deposit will be forfeited six months from the day of adoption. (A.R.S. §11-1022.)

B. No person may remove or attempt to remove a dog which has been impounded or which is in the possession of the County Enforcement Agent except in accordance with the provisions of this Ordinance. (A.R.S. §11-1016.)

C. In the discretion of the County Enforcement Agent, any impounded licensed or unlicensed dog or cat which is suffering from serious injuries and in great pain and unlikely to recover or is suffering from any infectious disease which is a danger to other dogs, cats, or to man, may be destroyed by the County Enforcement Agent in as humane a manner as possible after reasonable efforts to notify the Owner have failed. (A.R.S. §11-1013 (E).)

D. Impoundment cost and fees shall be as established by the Board of Supervisors. (A.R.S. §11-1005 (C).)

SECTION NINE. Unlawful Keeping of Dogs

A. It is unlawful to have a kennel without a valid kennel permit. (A.R.S. §11-1009.)

B. It is unlawful for a person to keep, harbor or maintain a dog within the County of Yuma except as provided by the terms of this Ordinance. (A.R.S. §11-1017.)

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SECTION TEN. Dogs; Liability

Injury to any person or damage to any property by a dog while At Large shall be the full responsibility of the dog Owner or person or persons responsible for the dog when such damages were inflicted. (A.R.S. §11-1020.)

SECTION ELEVEN. Unlawful Interference with County Enforcement Agent

It is unlawful for any person to interfere with the County Enforcement Agent in the performance of his duties. (A.R.S. §11-1015.)

SECTION TWELVE. Endangered Dog

An County Enforcement Agent or a Peace Officer may enter a vehicle or other enclosure structure and remove a dog when under the circumstance the existing conditions constitute a hazard to the animal's health. The dog shall be delivered to the Owner without delay if the Owner can be located. If the Owner cannot be readily located the dog shall be impounded as provided in this Ordinance. A written notice shall be left in a prominent place in the vehicle or other enclosed structure advising the Owner where the animal may be reclaimed.

SECTION THIRTEEN. Injured Animal

It is unlawful for any person who knowingly strikes and injures an animal with a motor vehicle to fail to report the incident without delay.

SECTION FOURTEEN. Legislative Intent

By the adoption of this Ordinance it is the intent of the Board of Supervisors of Yuma County that the provisions of this Ordinance be equal to or more stringent than the provisions of Article 6, Chapter 7 of Title 11, Arizona Revised Statutes as amended to the extent that this Ordinance purports to cover said provisions. It is expressly intended that the provision of said Article not specifically covered by the Ordinance are recognized as more stringent than this Ordinance and are enforceable according to the terms of said statutes within the County of Yuma.

SECTION FIFTEEN. Severance

If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such provision shall not affect the validity of the remaining portions of the Ordinance in each section, subsections, sentences, clauses or phrases thereof irrespective of the fact that any one or more such sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

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SECTION SIXTEEN. Effective Date

This Ordinance repeals and supersedes prior ordinances adopted by the Yuma County Board of Supervisors and shall become effective and enforceable from and after 11:59 p.m. on December 21, 2008.

PASSED AND APPROVED by the Board of Supervisors of Yuma County, on the 17th day of November, 2008, Item #D1.

YUMA COUNTY BOARD OF SUPERVISORS

GREGORY S. FERGUSON, CHAIRMAN

ATTEST:

Sue Stallworth, Clerk

APPROVED AS TO FORM:

Theresa W. Fox for
Jon R. Smith, County Attorney

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