

Ordinance No.02-06

*An Ordinance of the Navajo County Board of Supervisors,
Regulating the Keeping of Animals within the Unincorporated
Area of Navajo County and Providing Criminal Penalties
for Violations.*

Article 1 – General Provisions

1.1 Purpose

The purpose of this Ordinance is to comprehensively regulate the keeping of animals within the unincorporated area of Navajo County, Arizona.

1.2 Short title

This Ordinance may be cited as the "Navajo County Animal Control Ordinance."

1.3 Applicability

This Ordinance applies within the unincorporated area of Navajo County, with the exception of land under the jurisdiction of a federally recognized Indian tribe.

1.4. Authority

The Navajo County Board of Supervisors is authorized by ARS § 11-251(47) to "make and enforce ordinances for the protection and disposition of domestic animals subject to inhumane, unhealthful or dangerous conditions or circumstances."

The Board of Supervisors is further authorized by Title 11, Chapter 7, Article 6 of the Arizona Revised Statutes (ARS § 11-1001 et seq.) to appoint a County Enforcement Agent, to require the licensing of dogs, and to regulate, restrain and prohibit the running at large of dogs and the excessive and unrestrained barking of dogs by the adoption of ordinances at least as stringent as the state statutes.

All provisions of Title 11, Chapter 7, Article 6 of the Arizona Revised Statutes, as the same may be amended from time to time, are hereby incorporated by this reference and shall hereinafter be referred to as the "State Animal Control Statutes." If there is any inconsistency between this Ordinance and a provision of the State Animal Control Statutes, the statutory provision shall control.

1.5 Repeal of prior ordinances

This Ordinance supersedes any and all ordinances of Navajo County concerning the same subject matter, including without limitation the Navajo County Animal Control Ordinance No. 01-93 as revised May 19, 1997, which is hereby repealed.

1.6 Rabies Control Fund

The County Treasurer shall place the monies collected under the provisions of this Ordinance in a special fund to be known as the Rabies Control Fund to be used for the enforcement of the provisions of this

Ordinance. 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.

1.7 Severability

If any provision of this Ordinance is held to be unenforceable by a court of competent jurisdiction, the unenforceable provision shall be stricken and the remaining provisions shall remain in full force and effect.

1.8 Definitions

"Animal" means any fowl, reptile, amphibian or mammal, except for human beings.

"At large" means on or off the premises of an owner and either:

not under the control of the owner by a leash, cord, rope, chain or other physical restraint not more than six feet in length and of sufficient strength to effectively control the dog; or

not enclosed within a suitable enclosure.

"Board" means the Board of Supervisors of Navajo County.

"County pound" means any establishment authorized by the Board for the confinement, maintenance, safekeeping and control of dogs and other animals which come into the custody of the County Enforcement Agent in the performance of the Agent's official duties.

"Dog" means any animal of the canine species; including wolf-hybrids (see Section 2.1.1 for special rule applicable to wolf-hybrids).

"Fowl" means a bird of any kind.

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

"Owner" means a person owning or having the custody or control of an animal.

"Stray dog" means any dog at large that is not wearing a valid license tag pursuant to Section 2.1 hereof.

"Suitable enclosure" means a vehicle, cage, kennel, fenced yard or other area which effectively prevents the dog from escaping.

"Veterinarian" means any veterinarian licensed to practice in Arizona or employed in Arizona by a governmental agency.

"Vicious dog" means:

any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

any dog that attacks a human being or a domestic animal without provocation; or

any dog owned, harbored or trained for the purpose of dog fighting; or

any dog that has been so declared after a hearing before a justice of the peace or a municipal magistrate.

1.7 Appointment of County Enforcement Agent

Pursuant to ARS § 11-1005, the Director of the Navajo County Public Health Services District is hereby appointed as the County Enforcement Agent for purposes of enforcing this Ordinance, the State Animal Control Statutes and any municipal ordinance(s) which the Board may contract to enforce pursuant to ARS § 11-1005. The Director may appoint employees of the District as Deputy County Enforcement Agents with full authority to act on behalf of the County Enforcement Agent. All references herein to the County Enforcement Agent shall also include Deputy County Enforcement Agents.

1.8 Enforcement

This Ordinance may be enforced by the County Enforcement Agent or any peace officer.

The County Enforcement Agent is hereby authorized to enter onto private property in the performance of the Agent's duties under this Ordinance. It shall be unlawful for any person to interfere with the County Enforcement Agent in the performance of the Agent's duties.

Article 2 – Provisions Applicable to Dogs

2.1 Requirement for Dogs to be Licensed and Vaccinated

Every dog three months of age or over that is kept, harbored or maintained in the unincorporated area of Navajo County for at least 30 consecutive days of each calendar year shall be licensed except as provided in Section 2.2 hereof. License fees and penalties shall be set forth on a separate schedule of fees adopted by the Board, subject to amendment from time to time. The schedule may provide for lower fees for dogs which have been surgically altered so as to be incapable of procreation.

Before a license is issued for any dog, the owner or a veterinarian shall present a paper or electronic or facsimile copy of a current anti-rabies vaccination certificate signed by a veterinarian stating the owner's name and address and giving the dog's description, date of vaccination, 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 County Enforcement Agent within two weeks of the date the dog was vaccinated. A dog vaccinated in another state may be licensed if, at the time of licensing, the owner presents a current vaccination certificate signed by a veterinarian licensed to practice in the other state or employed by a governmental agency in the other state, stating the owner's name and address and giving the dog's description, date of vaccination and type, and manufacturer and serial number of the vaccine used. The County Enforcement Agent may schedule vaccination clinics as deemed necessary. All vaccinations shall be performed by a veterinarian.

Each dog licensed under the terms of this Ordinance shall receive, at the time of licensing, a durable tag on which shall be inscribed the name of the County, the number of the license, and the year in which it expires. The tag shall be attached to a collar or harness which shall be worn by the dog at all times.

It shall be unlawful for any person to fail, within 15 days after written notice from the County Enforcement Agent, to obtain a license for a dog required to be licensed; to counterfeit an official dog tag;

to remove such a tag from any dog for the purpose of intentional and malicious mischief; or to place a dog tag upon a dog unless the tag was issued for that particular dog.

2.1.1 Wolf-Hybrids

Although wolf-hybrids are defined as dogs for purposes of this Ordinance, it has not been scientifically established that rabies vaccine is effective in wolf-hybrids. See the Arizona Department of Health Services' "Manual for Rabies Control and Bite Management." Therefore, a wolf-hybrid which bites a person or subjects a person to its saliva shall be deemed a wild animal for purposes of ARS § 11-1014 and shall be subject to immediate destruction for rabies testing even if it has been vaccinated and licensed in accordance with this Ordinance.

2.2 Kennel Permits

For purposes of this Section 2.2, the term "kennel" shall mean an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors or maintains five or more dogs under controlled conditions.

Unless each dog is individually licensed pursuant to Section 2.1 hereof, a person operating a kennel shall obtain a Kennel Permit issued by the County Enforcement Agent on behalf of the Board. Permit fees and penalties shall be set forth on a separate schedule of fees adopted by the Board, subject to amendment from time to time.

A dog remaining within the kennel is not required to be individually licensed under Section 2.1 hereof. A dog leaving the controlled kennel conditions shall be licensed under Section 2.1 unless the dog is merely being transported to another permitted kennel or for purposes of medical treatment or sponsored exhibition.

It shall be unlawful for any person to fail to obtain a Kennel Permit within 30 days after written notice from the County Enforcement Agent, unless each dog is individually licensed within said 30-day period.

2.3 Prohibition Against Dogs at Large

It shall be unlawful for an owner to cause or allow, either willfully or through a failure to exercise reasonable control, the dog to be at large. Provided, however, that a dog may be at large while engaging in or being trained for legal hunting activities or herding livestock, being exhibited or trained at a kennel club event, assisting a peace officer or military officer, or assisting a blind, deaf or disabled person, so long as the dog is under direct and effective voice control.

2.4 Impoundment of Stray Dogs and Cats

Any stray dog or cat may be impounded by the County Enforcement Agent or a peace officer. If in the judgment of the Agent or officer any dog at large is dangerous or fierce and a threat to human safety and cannot be safely impounded, it may be slain.

The Board may provide or authorize a County pound or enter into a cooperative agreement with a municipality, a veterinarian or an Arizona incorporated humane society for the establishment and operation of a County pound.

Pound fees for impounding and maintaining dogs and cats at the County pound shall be set forth on a separate schedule of fees adopted by the Board, subject to amendment from time to time.

Each impounded dog or cat shall be kept and maintained at the County pound for a minimum of 72 hours unless sooner claimed by the owner. The owner may reclaim the impounded dog or cat upon furnishing proof of ownership, paying the applicable pound fees, and complying with the licensing and vaccination requirements of this Ordinance. Any other person may purchase the impounded dog or cat upon expiration of the impoundment period, provided such person pays the applicable pound fees and complies with the licensing and vaccination requirements of this Ordinance.

If the impounded dog or cat is not reclaimed or purchased within a reasonable time after the expiration of the impoundment period, the County Enforcement Agent may cause the dog or cat to be disposed of in a humane manner. The Agent may destroy impounded sick or injured dogs or cats at any time if destruction is necessary to prevent the dog or cat from suffering or to prevent the spread of disease.

2.5 Prohibition Against Excessive or Unrestrained Barking

It shall be unlawful for an owner to allow, either willfully or through a failure to exercise reasonable control, the dog to bark or howl in an unreasonable, continual or unprovoked manner which disturbs the peace and quiet of any person.

2.6 Vicious Dogs

It shall be unlawful for an owner of a vicious dog to allow, either willfully or through a failure to exercise reasonable control, the dog to go unconfined. A vicious dog is "confined" for purposes of this Section 2.6 only if it is kept indoors or in a securely enclosed and locked pen or dog run or is muzzled and securely restrained by a leash, cord, rope, chain or other physical restraint not more than six feet in length and of sufficient strength to control the dog.

It shall be unlawful for any person to own or possess any dog for the purpose of dog fighting or to train, torment, badger, bait or use any dog for the purpose of dog fighting or for the purpose of causing or encouraging the dog to engage in unprovoked attacks upon human beings or domestic animals.

Article 3 – Provisions Applicable to All Animals (Including Dogs)

3.1 Prohibition Against Cruelty to, or Neglect of, Animals

3.1.1 Cruelty

It is unlawful for any person to knowingly, intentionally or recklessly overdrive, overload, overwork, torture, torment, cruelly beat, inflict unnecessary cruelty or suffering upon, cruelly abandon or neglect, carry in or upon a vehicle in an unnecessarily cruel or inhumane manner, mutilate or unlawfully kill an animal, or to cause or procure an animal to be so treated.

3.1.2 Neglect

The purpose of this Subsection 3.1.2 is to ensure that animals under human custody or control are housed in healthy environments and are provided with proper food, water, shelter, medical care, exercise space and ventilation. Any person owning an animal shall ensure:

That the animal receives daily food which is free from contamination and is of sufficient quantity and nutritive value to maintain the animal in good health.

That potable water is accessible to the animal at all times, either free-flowing or in a clean receptacle.

That, except for livestock, all animals have convenient access to natural or artificial shelter throughout the year. Any such artificial shelter shall be structurally sound and maintained in good repair to protect the animal from injury and from the elements, and of sufficient size to permit the animal to enter, stand, turn around and lie down in a natural manner. Any shelter which does not protect the animal from temperature extremes or precipitation, or which does not provide adequate ventilation or drainage, shall not comply with this section. Any shelter, all bedding and any spaces accessible to the animal shall be maintained in a manner which minimizes the risk of the animal contracting disease, being injured, or becoming infested with parasites.

That the animal receives care and medical treatment for debilitating injuries, parasites and diseases, sufficient to maintain the animal in good health and minimize suffering.

That the animal is given adequate exercise space within an enclosure that shall be constructed of material, and in a manner, to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition. With the exception of temporary tethering of horses, the use of tie-outs such as chains, leashes, wires, cables, ropes, or similar restraining devices for the purpose of animal confinement is hereby prohibited.

That the animal has access to adequate ventilation and is protected from temperature extremes at all times. In this connection, it is unlawful for any person to keep any animal in a vehicle or other enclosed space in which the temperature is either so high or so low, or the ventilation is so inadequate, as to endanger the animal's life or health. The County Enforcement Agent or any peace officer is authorized to use whatever force is reasonable and necessary to remove any animal from a vehicle or other enclosed space whenever it appears that the animal's life or health is endangered by extreme temperatures or lack of ventilation within the vehicle or other enclosed space. Neither the Agent nor any peace officer shall be liable for damages to property caused by the use of reasonable force to remove an animal from such a vehicle or other enclosed space under such circumstances.

It is unlawful for any owner to knowingly, intentionally or recklessly neglect an animal. Any provision of this Subsection 3.1.2 may be waived as dictated by treatment under the direction of a licensed veterinarian.

3.2 Vicious or destructive animals

3.2.1 Definitions

In this Section 3.2:

"Bite" means any penetration of the skin by the teeth of any animal.

"Destructive animal" means any animal that has a propensity, without provocation, to destroy, damage, or cause damage to the property of a person other than the animal's owner.

"Vicious animal" means any animal that has a propensity, without provocation, to bite, attempt to bite, endanger or otherwise injure or cause to be injured a person or other animals, or one that has been declared vicious by a court of competent jurisdiction.

"Provocation" means any behavior toward an animal or its owner which is likely to cause a defensive reaction by the animal.

3.2.2 Prohibition against vicious and destructive animals

It is unlawful for any person to keep, control, harbor or otherwise have under control any animal which is vicious or destructive. This prohibition shall not apply to zoos, wild animal parks or animal shelters, to law enforcement agencies or to persons who are in compliance with an order of a court of competent jurisdiction.

3.3 Removal and impoundment of vicious or destructive animals, or animals subject to cruelty or neglect

3.3.1 Authority

The County Enforcement Agent or any peace officer is hereby authorized and empowered to remove and impound any animal in plain view, or pursuant to a valid search warrant, if the Agent or officer has probable cause to believe any of the following:

That an animal is in distress caused by cruelty or neglect, including without limitation mistreatment, tieout, exposure to the elements, extremes of temperature, lack of adequate ventilation or drainage, lack of sanitation, deprivation of proper food or potable water, restraint, restriction of movement, confinement, lack of sufficient exercise space, constrictive gear, injury, illness, physical impairment or parasites.

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

3.3.2 Procedure

The following procedures shall be followed by the County Enforcement Agent or a peace officer when any animal is removed or impounded pursuant to Subsection 3.3.1:

If the owner is known, and unless the owner signs a statement permanently relinquishing ownership of the animal to the County pound, the owner shall be provided with a written notice of the County's intent to file, within ten days of receipt of the notice, a written request with the local Justice of the Peace for a hearing to determine if the animal should be returned to the owner or forfeited to the County pound. If the owner's whereabouts cannot be determined, notice shall be mailed to the owner's last-known address by registered or certified mail, return receipt requested.

Upon seizure pursuant to Subsection 3.3.1, the owner must post 15 days of impoundment fees in advance as a bond to defray some of the costs of boarding, impoundment and any required veterinary care. This sum shall be listed on the notice provided to the owner pursuant to the preceding paragraph. If the bond is not posted within ten days of the notice, the animal shall be deemed forfeited to

the County pound to be placed by adoption in a suitable home or humanely destroyed.

If the County files a written request for a hearing before the Justice of the Peace, the hearing shall be set for a date not less than ten nor more than 15 working days after the request has been filed.

If the owner fails to appear at the hearing, the Justice of the Peace shall order the animal forfeited to the County pound to be placed by adoption in a suitable home or humanely destroyed.

At the hearing, the issue to be decided by the Justice of the Peace shall be whether, by a preponderance of the evidence:

The animal is in distress caused by cruelty or neglect, including without limitation mistreatment, tieout, exposure to the elements, extremes of temperature, lack of adequate ventilation or drainage, lack of sanitation, deprivation of proper food or potable water, restraint, restriction of movement, confinement, lack of sufficient exercise space, constrictive gear, injury, illness, physical impairment or parasites; or

The animal is vicious or destructive or may otherwise be a danger to the safety of any person or other animal.

If the owner testifies at a hearing held pursuant to this subsection, the owner does not, by so testifying, waive the right to remain silent during any criminal trial related to the animal or its treatment. If the owner does testify, neither this fact nor the substance of the testimony shall be mentioned at any criminal trial unless the owner testifies at the trial concerning the same matter(s).

Upon finding that the animal is in distress caused by cruelty or neglect or is vicious, destructive or otherwise a danger, the Justice of the Peace may, in addition to whatever penalties may be imposed pursuant to this Ordinance or state statute, impose upon the owner such conditions and restrictions as will assure the proper and humane treatment of the animal and the safety of the public; order the animal forfeited to the County pound or other agency for adoption in a suitable home or humane destruction; or make such other orders as the Justice of the Peace deems appropriate under the circumstances.

Appeal of the decision of the Justice of the Peace shall be by way of a special action to the Superior Court on the record of the hearing. No appeal shall be filed later than ten days after the decision of the Justice of the Peace. If either party claims the record to be incomplete or lost, and the Justice of the Peace who conducted the hearing so certifies, a new hearing shall be conducted before that Justice of the Peace. If the Justice of the Peace has ordered the animal to be forfeited, the owner must post a bond equivalent to 60 days of impoundment costs in order to perfect the appeal. Notice of the amount due shall be given to the owner by the Justice of the Peace at the time of the hearing.

Unless good cause is shown, the owner shall be liable for all boarding, impoundment and veterinary fees arising out of the animal's impoundment until a final decision by the Justice of the Peace (including the pendency of an appeal). No Justice of the Peace may

waive or reduce any fees arising out of the animal's impoundment unless the owner prevails.

3.3.3 Non-exclusivity

Nothing in Section 3.3 shall be construed as precluding or requiring the use of any other remedies, civil or criminal. The remedies provided herein are not punitive and are cumulative with and not exclusive of any other remedies provided for by law. Nothing in Section 3.3 shall be construed to estop the prosecution of the owner for violations of this Ordinance or state statutes.

3.4 Excessive Noise

3.4.1 Definition

In this Section 3.4, "property line" means the line which represents the legal limits of property (including an apartment, condominium, room or other dwelling unit) owned, leased or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the "property line" shall be the nearest boundary of the public right-of-way.

3.4.2 Prohibition

It is unlawful for any person to own, possess, keep or control any animal which frequently or for continuous duration howls, barks, meows, squawks or makes other sounds which are clearly audible beyond the property line of the property on which the animal is located and which disturb the public peace, quiet or comfort of the neighbors or other persons.

3.5 Rabies Quarantine Area

The Board may from time to time declare a rabies quarantine area on the recommendation of the Director of the Navajo County Public Health Services District due to the occurrence of rabies in animals in or adjacent to the area. If a rabies quarantine area is declared, the Board and the County Enforcement Agent shall institute an emergency program for the control of rabies within the area, provided that any regulations restricting or involving the movement of livestock within the area shall be developed by the State Veterinarian.

Article 4 – Penalties and Enforcement

A violation of this Ordinance is a Class 2 Misdemeanor. Each day that a violation continues shall be deemed a separate offense.

The provisions of this Ordinance are supplementary to the State Animal Control Statutes; ARS §§ 13-1208 (concerning vicious animals); 13-2910 (prohibiting cruelty to animals); 13-2910.01 (prohibiting dog fighting); and any and all other provisions of the Arizona Revised Statutes which may provide separate criminal penalties for conduct that is within the scope of this Ordinance.

The County Enforcement Agent is authorized to issue citations for a violation of this Ordinance, the State Animal Control Statutes and any municipal ordinance which the Board of Supervisors may contract to enforce. The procedure for the issuance of notices to appear shall be as provided for peace officers in ARS § 13-3903, except that the County Enforcement Agent shall not make an arrest before issuing the

notice. The issuance of citations pursuant to this Ordinance shall be subject to the provisions of ARS § 13-3899.

This Ordinance may also be enforced by any peace officer.

PASSED AND ADOPTED by the Navajo County Board of Supervisors on June 6, 2006.