

COUNCIL DECISION REQUEST

SUBJECT: Changes to the current animal control ordinances of the Town of Payson.

MEETING DATE: June 5, 2008

PAYSON GOAL: NEW:

EXISTING:

ITEM NO.:

TENTATIVE SCHEDULE:

SUBMITTED BY: Chief Donald B. Engler

AMOUNT BUDGETED: \$0.00

SUBMITTAL TO AGENDA

EXPENDITURE REQUIRED: \$0.00

APPROVED BY TOWN MANAGER

CONT. FUNDING REQUIRED:

EXHIBITS (If Applicable, To Be Attached): Attachment 1, exhibit 90.15, Vicious or Dangerous animals; Attachment 2, exhibit 90.04 Definitions; Attachment 3, exhibit 90.21 control of dogs

POSSIBLE MOTION: I move to authorize the Payson Town Attorney's office to review the proposed changes to the Animal Control Ordinance regarding Definitions, 90.04, Vicious or Dangerous Animals, 90.15, and Control of Dogs, 90.21 and prepare recommendations to return to the Town Council for approval at a later date.

SUMMARY OF THE BASIS FOR POSSIBLE MOTION:

The Payson Police Department is requesting the Council direct the Town Attorney's Office to review the proposed Animal Control Ordinances for the Town of Payson, and to address the following concerns and recommendations:

Review the Attached:

- **Definitions: review the attack, dangerous animals, micro chip, potentially dangerous animal secure, substantial injury and vicious animal.**
- **Review the proposed additions to 90.15 Vicious or Dangerous Animals as listed**
- **Review the proposed change to 90.21 Control of Dogs in Public Places.**

The Payson Police Department is making these recommendation based on safety to the community in general. It is apparent, as the population in our community becomes more dense, that it is important to attempt to provide ordinances that will help us control animals that have a propensity to harm humans or other animals in the community. To accomplish this there is a need to add some definitions and provide for some classifications that are of a lower level than a declared vicious animal. This will allow our Animal Control Officer and the officers of the Payson Police Department to deal with problems before they develop into serious issues. Along with that, the proposed change to 90.21 allows for a more clear interpretation of the leash law, which is currently in effect in the community. This proposed change deletes the language of "whether by oral command or otherwise" and replaces it with, "with an adequate leash or restraint." With this change it is apparent that it will be a much clearer interpretation of the ordinance and thus allow better enforcement for certain situations in our community that arise involving the control of dogs.

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COUNCIL DECISION REQUEST

PROS:

- These ordinance changes will allow the Animal Control Department to be more effective in combating vicious animal situations at a lower level then we are currently able to address.
- As noted in the potentially dangerous animal definition and the notable difference is the fact that in this situation the animal has caused a less severe injury then a substantial injury.
- We also added an additional classification of dangerous animal. Some of the key elements of this are in addition to not only the attack of a person but it also includes the attack of an animal, which has been a concern in the past.
- As vicious animal concerns continue to grow throughout the country, it is imperative that the Town of Payson address these issues in an appropriate manner.
- In reference to the Control of Dogs, this clarifies the fact that a restraint is necessary for the control of an animal within the town limits of Payson. In the prior ordinance, due to the statement "whether by oral command or otherwise" without the addition of the adequate leash or restraint it open to considerable amount of interpretation on violations. This will clarify the statement.

CONS:

Without the proposed changes:

- The Animal Control Ordinance will stay the way it is with only one classification for vicious animals, which is at a very high level and does not allow for early intervention for potentially dangerous or dangerous animals.
- The ordinance remaining the same will hamper attempts to solve issues rather than allowing them to grow into major issues.
- The Control of Dogs Ordinance will lack the clarification needed. The current ordinance allows individuals to not utilize an adequate restraint within the town limits of Payson.

PUBLIC INPUT (if any): We have held approximately 8 meetings over the past year to receive input from the community.

BOARD/COMMITTEE/COMMISSION ACTIONS/RECOMMENDATIONS (if any) (give dates and attach minutes):

FUNDING:

| | | |
|-----------------|--------|----------------|
| Account Number: | Title: | Amount: \$ |
| Account Number: | Title: | Amount: \$ |
| Account Number: | Title: | Amount: \$ |
| Account Number: | Title: | Amount: \$ |
| | | Total Cost: \$ |

CFO: _____ Date: _____

§ 90.15 VICIOUS OR DANGEROUS ANIMALS.

(A) Every vicious or dangerous animal shall be confined by its owner or authorized agent of its owner within a building or secure enclosure and, whenever off the premises of its owner, shall be caged or shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not more than three feet in length. Every person harboring a vicious or dangerous animal is charged with an affirmative duty to confine the animal in such a way that persons other than the owner or agent of the owner do not have access to the animal.

(B) A violation of this section shall be cited as a civil violation except in instances where the violation falls within the provisions of A.R.S. § 13-1208, in which instances the violation shall be cited as a criminal offense.

(C) **A.R.S. § 13-1208 states as follows.**

“Assault; vicious animals; classification; exception

(1) A person who owns a dog, which the owner knows or has reason to know has a propensity to attack, to cause injury or otherwise endanger the safety of human beings without provocation, or has been found to be a vicious animal by a court of competent authority that bites, inflicts physical injury on, or attacks a human being while at large is guilty of a class 6 felony.

(2) A person who owns a dog, which the owner knows or has reason to know that the dog has a propensity to attack, to cause injury or otherwise endanger the safety of human beings without provocation, or that has been found to be a vicious animal and who keeps the dog or vicious animal in an enclosed area or yard outside of a residence or structure on the property, shall post a notice indicating the presence of the dog or vicious animal.

(3) The provisions of this section shall not apply to dogs owned or used by a law enforcement agency that are used in the performance of police work.”

(82 Code, § 6-2-1) (Ord. 500, passed 6-26-97) Penalty, see § 90.99

**Proposed Ordinance § 90.15; Potentially Dangerous,
Dangerous and Vicious Animals**

A) Potentially Dangerous Animal

- (1) The animal, while on the owner's or keeper's property, shall at all times be kept secured.
- (2) A sign must be posted in a conspicuous place at each entrance to the premises reading "Beware of Animal," or "Beware of Dog". The lettering must be at least (2) two inches in width and in height.
- (3) The animal shall at all times be properly vaccinated and licensed.
- (4) When the animal is off the owner's or keeper's property it must be restrained on a leash that is no more than six (6) feet in length.
- (5) If the animal dies, is sold or transferred or permanently removed from the Town of Payson, the owner shall notify Payson Animal Control within 72 hours.

B) Dangerous Animal

- (1) The animal while on the owner's or keeper's property, must at all times be kept in a secured enclosure in such a manner as approved by Payson Animal Control, from which the animal cannot escape.
- (2) A sign must be posted in a conspicuous place at each entrance to the premises reading "Beware Dangerous Animal," or "Beware Dangerous Dog" of which the lettering must be at least (2) two inches in width and in height.
- (3) The animal shall at all times be properly vaccinated, licensed, and a

microchip shall be implanted at the owner's expense.

- (4) The licensing authority shall include the "Dangerous" designation in the dog's registration records.
- (5) When the animal is off the property, it must be restrained by a substantial leash of no more than (6) six feet in length and must continually be under the control of a responsible adult.
- (6) Before the animal can be sold, transferred or permanently removed from the Town of Payson the owner shall notify Payson Animal Control 72 hours in advance of this condition and the new location.

C) Vicious Animal

- (1) The animal while on the owner's or keeper's property, must at all times be kept indoors or in a secured enclosure in such a manner approved by Payson Animal Control, from which the animal can not escape and to which children can not trespass into.
- (2) All gates entering the secured enclosure or fenced yard must have self-locking latches and are to remain padlocked at all times. Signs must be posted at each entrance and in a conspicuous place around the secured enclosure at least every 30 feet reading, "Beware Vicious Animal," or "Beware Vicious Dog." The lettering must be at least (2) two inches in width and in height.
- (3) The animal shall at all times be properly vaccinated, licensed, and

a microchip shall be implanted at the owners expense.

- (4) The licensing authority shall include the "Vicious" designation in the animal's registration records. Also the licensing authority shall charge (\$50.00) fifty dollars each year so that the title of "Vicious Animal" is associated with the animal, in addition to the license registration.
- (5) When the animal is off the property it must be caged or securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds, and not more than (3) three feet in length, and only when it is under the control of a responsible adult.
- (7) Before the animal can be sold, transferred or permanently removed from the Town of Payson the owner shall submit in writing an advanced notice to Payson Animal Control of not less than 72 hours. The notice shall include the name, address and phone number of the responsible adult taking possession of the animal.

D) A violation of this section shall be cited as a civil violation except in instances where the violation falls within the provisions of A.R.S 13-1208, in which the violation shall be cited as a criminal offense.

90.04 Definitions.

For the purpose of this chapter the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ANIMAL: Any animal of a species that is susceptible to rabies, except man, as defined in A.R.S. 11-1001(1).

ANIMAL CONTROL OFFICER. The Payson Animal Control Officer and such other certified law enforcement officers designated by the Chief of Police or appointed by the Council.

AT LARGE: Being neither confined by an enclosure nor physically restrained by a leash, as defined in A.R.S. 11-1001(2)

Proposed Change:

Attack:

Any action by an animal, which places a person in danger of immediate bodily harm.

COLLAR: A band, chain, harness or suitable device worn by a dog to which a license may be affixed

Proposed Change:

Dangerous Animal

Any animal that has twice within a 48-month period in two separate incidents, has actively pursued, attacked, bitten, or otherwise caused a less severe injury than a Substantial Injury, as hereinafter defined to another person or animal engaged in a lawful activity; or,

Any animal that has once attacked, bitten, or otherwise caused injury to a person or animal engaged in lawful activity, resulting in death or substantial injury; or,

Any animal that has been previously declared a potentially dangerous animal and the owner/custodian, has failed to restrain the animal as so directed.

DOG: A member of the canis familiaris family.

EXOTIC ANIMAL: Any live monkey, alligator, crocodile, cayman, raccoon, skunk, fox bear, sea mammal, poisonous snake, member of the feline species other than domestic cat, member of the canine species other than domestic dog or any other animal that would require a standard of care and control greater than that required for customary household pets sold by commercial pet shops, or domestic farm animals.

IMPOUND: The act of taking or receiving into custody by the Animal Control Officer any dog or other animal for the purpose of confinement in accordance with the provisions of this chapter..

KEEP or KEEPING an animal: To have the animal in one's possession or control, and includes the actions of holding, guarding, supporting, having custody of, caring for or maintaining an animal upon one's premises.

KENNEL: An enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors or maintains dogs or cats under controlled conditions, for the purpose of operating a related business for profit.

LIVESTOCK: Neat animals, horses, sheep, goats, swine, mules and asses, as defined in A.R.S. 11-1001(9)

Proposed Change:

Microchip

A rice-sized device encoded with a unique and unalterable number. The chip is implanted just under the skin in the scruff of the neck and is read by a scanner.

OWNER: Any person keeping an animal other than livestock for more than six consecutive days, as defined in A.R.A. 11-1001(10)

POULTRY: Domesticated birds, which include chickens, turkeys, ducks, geese, guinea fowl, pigeons and pheasants.

POUND: Any establishment licensed and authorized by the town for the confinement, maintenance, safekeeping and control of dogs and other animals that come into the custody of the Animal Control Officer and licensed law enforcement officers of the town in the performance of their official duties.

Proposed Change:

Potentially Dangerous Animal

Any animal that has once actively pursued, attacked, bitten, or otherwise caused a less severe injury than a Substantial Injury, (as hereinafter defined), to another person engaged in a lawful activity.

Any animal that has once attacked, bitten, or otherwise caused a less severe injury than a Substantial Injury, (as hereinafter defined,) to another animal.

Any animal that is found actively pursuing livestock, poultry, dogs, cats or other animals.

PUBLIC NUISANCE ANIMAL: Any animal that unreasonably annoys humans, endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term PUBLIC NUISANCE ANIMAL shall include, but not limited to the following:

- (1) Any animal, fowl or poultry that makes disturbing noises, including but not limited to, continued and continuous and incessant or repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or other in close proximity to the premises where the animal is kept or harbored. This also includes, but is not limited to the barking of dogs after 10:00 p.m. and before 6:00 a.m. CONTINUOUS and INCESSANT BARKING is defined for the purpose of this chapter as barking which continues for more than one hour.
- (2) Any animal that is repeatedly found running at large.
- (3) Any animal that damages, soils, defiles or defecates on any property other than that of its owner.
- (4) Any animal that causes fouling of the air by noxious, offensive odors, thereby creating unreasonable annoyance or discomfort

to neighbors or others in close proximity to the premises where the animal is kept or harbored.

- (5) Any animal in heat that is not confined so as to prevent attraction or contact with other animals.
- (6) Any animal that, without provocation, molests, attacks or otherwise interferes with the freedom of movement of persons in public right-of-way.
- (7) Any animal that chases motor vehicles in a public right-of-way.
- (8) Any animal that attacks domestic animals.

RABIES QUARANTINE AREA: 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, as defined in A.R.S. 11-1001(11)

Proposed Change:

Secure Enclosure.

A fence or structure suitable to prevent the entry of young children, which is suitable to confine a potentially dangerous, dangerous or vicious animal in conjunction with other measures shall be taken by the owner or keeper of the animal, or at the discretion of the Animal Control Officer. The enclosure shall be designed to prevent the animal from escaping and from preventing an adult or child from coming in contact with the animal. (A chain where a person can walk within the length of the chain, or an electric collar or invisible fence is not a sufficient restraint or enclosure.)

SERVICE DOG: A dog trained to assist the disabled.

STRAY ANIMAL: Livestock whose owner is unknown or cannot be located, or any animal included in the definition of livestock whose owner is known but permits an animal to roam at large within the town or on the premises of another without permission.

STRAY DOG: Any dog four months of age or older running at large that is not wearing a valid license tag, as defined in A.R.S 11-1001.

Proposed Change:

Substantial Injury:

A substantial impairment of the physical condition of a person or animal which requires professional medical treatment, including, but not limited to, loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; muscle tears, disfiguring lacerations, punctures, or a wound requiring multiple sutures; or any injury requiring corrective or cosmetic surgery.

VACCINATION: The administration of an anti-rabies vaccine to animals by a veterinarian, as defined in A.R.S. 11-1001(15)

Proposed Change:

DELETE:

VICIOUS OR DANGEROUS ANIMAL: Any animal of the order carnivore that has a propensity to attack, to cause injury to or to otherwise endanger the safety of human beings without provocation, or that has been so declared after a hearing before a justice of the peace or a city or town magistrate, as defined in A.R.S. 11-1001(16)

Proposed Change:

Vicious Animal:

Any animal which, when unprovoked, in an aggressive manner, inflicts substantial injury on a human being or animal, or that has been so declared after a hearing before a justice of the peace or a city or town magistrate.

WILD ANIMAL: Any non-domesticated animal, including but not limited to wolf-hybrids. ('82 Code, 6-1-4) (Ord. 500, passed 6-26-97)



§ 90.21 CONTROL OF DOGS.

(A) *Control of dogs in public places.* No owner or custodian of any dog shall permit the dog upon any public street, highway, public place or upon any private property other than that owned by the owner or custodian of the dog unless the dog is under the immediate control and supervision of the owner or custodian, ***whether by oral command or otherwise.***

Proposed Change 90.21

(A) *Control of dogs in public places.* No owner or custodian of any dog shall permit the dog upon any public street, highway, public place or upon any private property other than that owned by the owner or custodian of the dog unless the dog is under the immediate control and supervision of the owner or custodian ***with an adequate leash or restraint.***

(B) *Leash law in public parks and schools.* No owner or custodian of any dog shall permit the dog in a public park or upon any public school property unless the dog is physically restrained by a leash, enclosed in a car, cage or similar enclosure or being exhibited or trained at a recognized kennel club event, public school or park sponsored event.

(C) *Dogs owned by government law enforcement agencies.* The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies.

(82 Code, § 6-2-8) (Ord. 500, passed 6-26-97)