

ORDINANCE NO. 2415

AN ORDINANCE OF THE COMMON COUNCIL OF THE TOWN OF GILBERT, ARIZONA, AMENDING THE CODE OF GILBERT, ARIZONA, CHAPTER 6 ANIMALS, ARTICLE I IN GENERAL, BY AMENDING SECTIONS 6-1 ANIMAL CRUELTY, 6-2 NOISY ANIMALS, 6-3 AUTHORITY TO REMOVE, IMPOUND AND FORFEIT ANIMALS; COST OF CARE AND 6-4 POST-SEIZURE HEARINGS RELATED TO ACTIVITIES COVERED UNDER THE DEFINITION OF ANIMAL CRUELTY, BOND AMOUNTS FOR ANIMALS SEIZED AND THE POST-SEIZURE HEARING PROCESS; AMENDING ARTICLE II DOGS AND CATS; ANIMAL CONTROL, DIVISION 1 GENERALLY, BY AMENDING SECTION 6-35 HANDLING OF BITING ANIMALS; REPORTING RELATED TO DOGS USED FOR LAW ENFORCEMENT PURPOSES; AMENDING DIVISION 2 DOGS BY REPEALING SECTIONS 6-57 LICENSE FEES; ISSUANCE OF TAGS AND 6-58 KENNEL PERMIT; FEE; PENALTY FOR VIOLATION OF SECTION; CLASSIFICATION RELATED TO THE LICENSING OF DOGS AND PERMITTING OF DOG KENNELS; AMENDING SECTION 6-60 RUNNING AT LARGE RELATED TO DOG PARKS; AMENDING DIVISION 3 RABIES CONTROL BY AMENDING SECTION 6-83 FUND RELATED TO MONIES COLLECTED FOR CODE VIOLATIONS UNDER ARTICLE II DOGS AND CATS; ANIMAL CONTROL; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR CIVIL SANCTIONS.

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

Section I. In General.

The Code of Gilbert, Arizona, Chapter 6 Animals, Article I In General, Section 6-1 Animal Cruelty is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

Sec. 6-1. **Animal cruelty.**

* * *

(d) This section does not prohibit or restrict:

* * *



(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.

* * *

The Code of Gilbert, Arizona, Chapter 6 Animals, Article I In General, Section 6-3 Authority to Remove, Impound and Forfeit Animals; Cost of Care is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

Sec. 6-3. Authority to remove, impound and forfeit animals; cost of care.

* * *

(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 the form of cash or a surety's undertaking to defray some of the costs of housing of, caring for and treating the animal. The bond shall be ~~in the amount necessary to cover the cost of the services provided~~ IN THE AMOUNT OF TWENTY-FIVE DOLLARS PER ANIMAL. The owner or keeper shall post the bond within ten days of the date of the notice provided under section 6-4. 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.

* * *

~~(f) If an animal is impounded pursuant to this section, the owner must post 20 days of impoundment fees in advance as a bond to defray some of the costs of boarding, impoundment and any veterinary care needed. This sum shall be listed as the bond amount on the notice provided to the owner pursuant to section 6-4. If the bond is not posted within ten days of receipt of the seizure, the animal shall be deemed forfeited to the town 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.~~

The Code of Gilbert, Arizona, Chapter 6 Animals, Article I In General, Section 6-4 Post-Seizure Hearings is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

Sec. 6-4. 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 town 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 section 6-1 or 6-3 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 section 6-1 or 6-3 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:

* * *

(4) The court shall conduct the post-seizure hearing within ~~five~~ FIFTEEN days of the court's receipt of the request, excluding weekends and town holidays.

(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 ~~adopted~~ 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.

* * *

The Code of Gilbert, Arizona, Chapter 6 Animals, Article II Dogs and Cats; Animal Control, Division 1 Generally, Section 6-35 Handling of Biting Animals; Reporting is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

Sec. 6-35. Handling of biting animals; reporting.

* * *

(h) *EXCEPTION.* THIS SECTION DOES NOT APPLY TO A DOG THAT IS USED BY ANY FEDERAL, STATE, COUNTY, CITY OR TOWN LAW ENFORCEMENT AGENCY AND THAT BITES ANY PERSON IF THE BITE OCCURS WHILE THE DOG IS UNDER PROPER LAW ENFORCEMENT SUPERVISION AND THE CARE OF A LICENSED VETERINARIAN, EXCEPT THAT THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE COUNTY ENFORCEMENT AGENT IF THE DOG EXHIBITS ANY ABNORMAL BEHAVIOR AND MAKE THE DOG AVAILABLE FOR EXAMINATION AT ANY REASONABLE TIME.

The Code of Gilbert, Arizona, Chapter 6 Animals, Article II Dogs and Cats; Animal Control, Division 2 Dogs, is hereby amended by repealing Section 6-57 License fees; issuance of tags.

The Code of Gilbert, Arizona, Chapter 6 Animals, Article II Dogs and Cats; Animal Control, Division 2 Dogs, is hereby amended by repealing Section 6-58 Kennel permit; fee; penalty for violation of section; classification.

The Code of Gilbert, Arizona, Chapter 6 Animals, Article II Dogs and Cats; Animal Control, Division 2 Dogs, Section 6-60 Running at large is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

Sec. 6-60. Running at large.

(a) *Prohibited; exceptions.* 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 feet in length and directly under the owner's control when not on the owner's property. A dog is not at large:

* * *

(4) IF THE DOG IS IN A DESIGNATED OFF-LEASH AREA IN A DOG PARK.

* * *

(c) *Owner's responsibility; violation.* If any dog is unrestrained on the public streets, public parks or public property, then the dog's owner or custodian is in violation of this article, UNLESS THE DOG IS IN A DESIGNATED OFF-LEASH AREA IN A DOG PARK.

The Code of Gilbert, Arizona, Chapter 6 Animals, Article II Dogs and Cats; Animal Control, Division 3 Rabies Control, Section 6-83 Fund is hereby repealed.

Section II. Providing for Repeal of Conflicting Ordinances.

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

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section IV. Providing for Civil Sanctions.

Any person found responsible for violating this section shall be subject to the civil sanctions and habitual offender provisions set forth in Section 1-5 of the Gilbert Municipal Code.

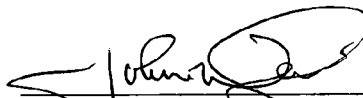
PASSED AND ADOPTED by the Common Council of the Town of Gilbert,
Arizona, this 17th day of January 2013, by the following vote:

AYES: COOK, COOPER, DANIELS, LEWIS, PETERSEN, RAY, TAYLOR

NAYES: _____ ABSENT: _____

EXCUSED: _____ ABSTAINED: _____

APPROVED this 17th day of January 2013.



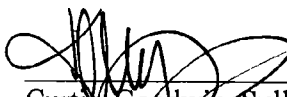
John W. Lewis, Mayor

ATTEST:



Catherine A. Templeton, Town Clerk

APPROVED AS TO FORM:



Curtis Goodwin, Sullivan, Udall & Schwab, P.L.C.
Town Attorneys
By ~~Susan D. Goodwin~~ Kelly Schwab

I, CATHERINE A. TEMPLETON, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE
AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE
COMMON COUNCIL OF THE TOWN OF GILBERT ON THE 17th DAY OF JANUARY
2013, WAS POSTED IN THREE PLACES ON THE _____ DAY OF JANUARY 2013.



Catherine A. Templeton, Town Clerk