RESOLUTION NO. 2391

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING SECTIONS 90.04, 90.15, 90.20, 90.21, 90.35, AND 90.36 OF THE CODE OF THE TOWN OF PAYSON, AND DECLARING SUCH AMENDMENT TO BE A PUBLIC RECORD. (*ANIMAL CONTROL*)

WHEREAS, the Code of the Town of Payson was declared to be a public record by Resolution Number 1536 of the Town of Payson; and

WHEREAS, the Code of the Town of Payson was adopted as a public record by Ordinance Number 588 of the Town of Payson; and

WHEREAS, it is the intention of the Town of Payson to amend Sections 90.04, 90.15, 90.20, 90.21, 90.35, and 90.36 of the Code of the Town of Payson related to Animal Control; and

WHEREAS, such amendment may be enacted by reference, pursuant to A.R.S. § 9-802,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. Section 90.04 (Definitions) of the Code of the Town of Payson is hereby amended, is declared to be a public record, and as amended shall read as set forth in Exhibit A attached hereto.

Section 2. Section 90.15 (Potentially Dangerous, Dangerous, and Vicious Animals) of the Code of the Town of Payson is hereby amended, is declared to be a public record, and as amended shall read as set forth in Exhibit B attached hereto.

Section 3. Sections 90.20 (Dogs at Large) and 90.21 (Control of Dogs) of the Code of the Town of Payson is hereby amended, is declared to be a public record, and as amended shall read as set forth in Exhibit C attached hereto.

Section 4. Sections 90.35 (License Required; Proof) and 90.36 (Application; Fee) of the Code of the Town of Payson is hereby amended, is declared to be a public record, and as amended shall read as set forth in Exhibit D attached hereto.

Section 5. If any section, subsection, sentence, clause, phrase or portion of Resolution Number 2391 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 of Resolution Number 2391 The Town Council of Payson declares that it would have adopted Resolution Number 2391 and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or unconstitutional.

JUL 17 2008 C9.2

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2008, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

EXHIBIT A (To Resolution 2391)

§ 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 persons ~~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)~~.

ATTACK. Any action which places a person in reasonable apprehension of immediate physical injury.

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

DANGEROUS ANIMAL. Any animal that is kept and maintained by an owner and that has:

(1) on two or more separate occasions within the preceding 48 months, attacked, bitten, or otherwise caused an injury to livestock, a domestic animal, or a person engaged in a lawful activity, or
(2) caused a substantial injury or death to livestock, a domestic animal, or a person engaged in a lawful activity, or
(3) been previously determined to be a Potentially Dangerous Animal and after notice of such determination is not restrained pursuant to Section 90.15.

DOG. A member of the *canis familiaris* family.

DOMESTIC ANIMAL. Any animal that is tamed, kept as a companion, and normally cared for affectionately.

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, and llamas ~~as defined in A.R.S. § 11-1001(9)~~.

MICROCHIP. The process of placing an identifying integrated circuit under the skin of an animal that allows the animal to be identified by the use of a scanner.

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

POTENTIALLY DANGEROUS ANIMAL. Any animal that is kept and maintained by an owner and that has:

(1) attacked, bitten, or otherwise caused a injury to livestock, a domestic animal, or a person engaged in a lawful activity, or
(2) has been found to be actively pursuing livestock, poultry, or domestic animals on more than one occasion.

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.

PUBLIC NUISANCE ANIMAL. Any animal that unreasonably annoys or endangers the life or health of persons or ~~other~~ domestic animals, or which disturbs the peace and quiet of any person. The term ***PUBLIC NUISANCE ANIMAL*** shall include, but not be limited to the following:

(1) Any animal that makes disturbing noises, including but not limited to, repeated howling, barking, whining or other utterances in such a manner as to disturb the peace and quiet of any person or deprive any person or

persons of the quiet and peaceful enjoyment of their property.

(2) Any animal that is 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 or offensive odors and thereby creates 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 a public right-of-way.

(7) Any animal that chases motor vehicles, bicycles, or other 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)~~.

SECURE ENCLOSURE. A fence or structure that is designed to (1) prevent an animal from escaping and (2) prevent a person from coming into contact with the animal.

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(12)~~.

SUBSTANTIAL INJURY. Any injury which required professional medical or veterinarian treatment, including, but not limited to: (1) loss of consciousness, (2) concussion, (3) bone fracture, (4) protracted loss or impairment of a body organ or part, (5) muscle tears, lacerations or wounds requiring multiple sutures, or (6) injuries 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(13)~~.

VETERINARIAN. Unless otherwise indicated, means any veterinarian licensed to practice in this state or any veterinarian employed in this state by a governmental agency ~~, as defined in A.R.S. § 11-1001(14)~~.

VETERINARY HOSPITAL. 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~~, as defined and provided in A.R.S. § 11-1001(15)~~.

~~***VICIOUS OR DANGEROUS ANIMAL.*** Any animal of the order *carnivora* 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).~~

VICIOUS ANIMAL. Any animal that is kept and maintained by an owner and that has:

(1) without provocation, caused substantial injury to livestock, a domestic animal, or a person engaged in a lawful activity, or

(2) been declared vicious after a hearing before a justice of the peace or city or town magistrate.

WILD ANIMAL. Any non-domesticated animal, including but not limited to wolf-hybrids.

EXHIBIT B (To Resolution 2391)

~~**§ 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 which has been found to be a vicious animal by a court of competent authority, and which 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 which 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 and which are used in the performance of police work."~~

§90.15 POTENTIALLY DANGEROUS, DANGEROUS, AND VICIOUS ANIMALS.

(A) POTENTIALLY DANGEROUS ANIMAL. The owner of a Potentially Dangerous Animal shall do all of the following:

(1) while on the owner's property, secure the Potentially Dangerous Animal,
(2) place a sign in a conspicuous place at each entrance to the owner's property reading 'Beware of Animal' or 'Beware of Dog.' The lettering of such sign shall be at least two inches in height and width,
(3) vaccinate and license the Potentially Dangerous Animal,

(4) restrain the Potentially Dangerous Animal on a leash that is no more that six feet in length when not on the owner's property, and

(5) notify the Animal Control Officer within 72 hours if the Potentially Dangerous Animal is sold, transferred, permanently removed from the Town of Payson, or deceased,

(B) DANGEROUS ANIMAL. The owner of a Dangerous Animal shall do all of the following:

(1) while on the owner's property, keep the Dangerous Animal in a secure enclosure,

(2) place a sign in a conspicuous place at each entrance to the owner's property reading 'Beware Dangerous Animal' or 'Beware Dangerous Dog.' The lettering of such sign shall be at least two inches in height and width,

(3) vaccinate, license, and microchip the Dangerous Animal,

(4) assure that the Dangerous Animal is restrained by an adult on a leash that is no more that six feet in length when not on the owner's property, and

(5) at least 72 hours prior to the sale, transfer, or permanent removal from the Town of Payson of the Dangerous Animal notify the Animal Control Officer of such sale, transfer or permanent removal; or if the Dangerous Animal dies, notify the Animal Control Officer within 72 hours of such death.

C) VICIOUS ANIMAL. The owner of a Vicious Animal shall do all of the following:

(1) while on the owner's property, secure the Dangerous Animal in a secure enclosure. Such secure enclosure shall have self latching gates and remain locked at all times,

(2) place signs in a conspicuous place at each entrance to the owner's property and at least every thirty feet along the secure enclosure reading 'Beware Vicious Animal' or 'Beware Vicious Dog.' The lettering of such sign shall be at least two inches in height and width,

(3) vaccinate, license, and microchip the Vicious Animal,

(4) assure that the Vicious Animal is caged, or muzzled and restrained by an adult on a chain having a minimum tensile strength of 300 pounds when not on the owner's property, and

(5) at least 72 hours prior to the sale, transfer, or permanent removal from the Town of Payson of the Vicious Animal notify the Animal Control Officer of such sale, transfer or permanent removal. Such notice shall include the name, address, and phone number of the adult taking responsibility for possession of the Vicious Animal; or if the Vicious Animal dies, notify the Animal Control Officer within 72 hours of such death.

EXHIBIT C (To Resolution 2391)

§ 90.20 DOGS AT LARGE.

(A) It is unlawful for any owner or person in charge of any dog to permit or allow the dog to be at large within the corporate limits of the town, upon any public street, highway or public place, or upon private property not owned or lawfully controlled by the owner or person in charge of the dog.

(B) Subsection (A) above shall not apply to ~~A dog is not deemed at large in~~ the following instances:

(1) While the dog is being exhibited at an American Kennel Club approved show, public school sponsored or park sponsored event.

(2) While the dog is a service dog actively engaged in servicing the disabled.

(3) While the dog is within designated off-leash areas (dog parks).

(C) In a rabies quarantine area, no dogs shall be permitted at large, other than service dogs servicing the disabled.

(D) ~~Injury to any person or damage to property caused by a dog at large shall be the full responsibility of the owner or custodian of the dog at the time the injuries or damages were inflicted.~~

~~(E) No owner or person in charge of any dog shall cause or allow the dog to soil, defile or defecate on the grounds of any public street, highway, public place or upon any private property other than that owned or lawfully controlled by the owner or person in charge of the dog, unless otherwise permitted or unless such person immediately removes and disposes of all feces deposited by the dog by the following method:~~

~~(1) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container.~~

~~(2) Removal of the bag or container to the property of the dog owner or person in charge of the dog and disposition thereafter in a manner as otherwise may be permitted by law.~~

~~(F)~~ The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies nor to any dog located upon any Rural Trail leading to the National Forest designated in the Payson Area Trails System ~~Town Trails Master Plan~~, so long as the dog is under the immediate control and supervision of the owner or custodian, whether by oral command or otherwise.

§ 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.~~

~~(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.~~

(A) No owner or person in charge of any dog shall permit the dog to bite or cause injury to any livestock, domestic animal, or person engaged in a lawful activity.

(B) No owner or person in charge of any dog shall permit the dog to cause damage to the property of another.

(C) No owner or person in charge of any dog shall allow the dog to soil, defile or defecate on the grounds of any public street, highway, public place or upon any private property other than that owned or lawfully controlled by the owner or person in charge of the dog, unless otherwise permitted or unless such person immediately removes and disposes of all feces deposited by the dog by the following method:

(1) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container.

(2) Removal of the bag or container to the property of the dog owner or person in charge of the dog and disposition thereafter in a manner as otherwise may be permitted by law.

(D) Injury or damage to property in violation of this section shall be the responsibility of the owner or custodian of the dog at the time the injuries or damages were inflicted.

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

EXHIBIT D (To Resolution 2391)

90.35 LICENSE REQUIRED; PROOF.

(A) *License required.* No person shall own, keep or harbor any dog over the age of four months within the town unless the dog is licensed as provided in this chapter.

(B) *Change of ownership.* Whenever ownership of a dog is changed, the new owner must secure a new license in the new owner's name from the town in compliance with these licensing and vaccination provisions.

(C) *Proof of license for dogs and kennels.*

(1) *Proof of license for dogs.* Upon payment and acceptance of the license fee for a dog, the town licensing authority shall issue a durable license tag, stamped with the year of issuance, an identification number for the dog for which the license has been obtained, and the number of year(s) for which the license is valid. Each dog for which the owner is required to obtain a license must wear a valid license tag attached to a collar, as defined in § 90.04, at all times when the animal is off the premises of its owner.

(2) *Proof of license for dog kennels.* Upon payment and acceptance of the dog kennel license fee, the town licensing authority shall issue a form of "Kennel License" for posting purposes, indicating the year of issuance, an identification number for the kennel, location and owner of the kennel, and the expiration date of the license within one year from its issuance. The "Kennel License" shall be publicly posted by the kennel owner on the kennel premises at all times.

(D) *Notation of Dangerous or Vicious Animal.* If a dog is a Dangerous Animal or a Vicious Animal, the license records for such dog shall include such designation.

§ 90.36 APPLICATION; FEE.

(A) *Application.* Application for a dog license shall be made by the owner on a form to be provided by the town within ten days after acquiring any dog over four months of age, or within ten days after a dog becomes four months of age; provided that any owner moving to the town for the purpose of establishing residence or becoming a resident as a result of any annexation, and otherwise required to obtain a license, shall have until ten days after moving or annexation to obtain such a license.

(B) *License fee for dogs.* A license fee shall be paid at the time of making application. License fees shall be determined by the Council from time to time as necessary and may be amended by resolution.

The license fees for dogs, upon implementation of this chapter, shall be as follows:

(1) *One-year license.*
(a) Altered dog: $3.
(b) Unaltered dog: $7.

(2) *Two-year license.*
(a) Altered dog: $6.
(b) Unaltered dog: $14.

(3) *Three-year license.*
(a) Altered dog: $9
(b) Unaltered dog: $21

C) *Vicious Animal Surcharge*. If a dog is a Vicious Animal, a fifty dollar ($50.00) annual surcharge shall be added the license fees set forth in this section.