RESOLUTION NO. 2793

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING CHAPTER 90: ANIMALS OF THE PAYSON TOWN CODE AND DECLARING SUCH AMENDMENTS TO BE A PUBLIC RECORD.

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 various provisions of Chapter 90: Animals of the Payson Town Code; and

WHEREAS, such amendments 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. Chapter 90: Animals, Section 90.02 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.02 PURPOSE AND SCOPE.
The purpose of this chapter is to promote the public health, safety and general welfare of the citizens of the town by providing a clear policy and efficient and effective enforcement procedure for the care, maintenance and control of animals within the town. The keeping of all animals within the town shall be subject to the Payson Unified Development Code with respect to zoning and all land uses.

Section 2. Chapter 90: Animals, Section 90.03 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.03 AUTHORITY TO ENFORCE.
This Chapter shall be enforced by the Police Department.

Section 3. The definitions of AT LARGE, IMPOUND, POUND, PUBLIC NUISANCE ANIMAL, VETERINARIAN, AND VETERINARY HOSPITAL contained in Chapter 90: Animals, Section 90.04 of the Payson Town Code are amended, declared to be a public record, and shall read as follows:

AT LARGE. Being neither confined by an enclosure nor physically restrained by a leash or other means of restraint (which may include an electronic leash or training device).

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

POUND. Any establishment authorized by the town for the confinement, maintenance, safekeeping and control of dogs and other animals that come into the custody of an animal control officer and/or a sworn police officer in the performance of their official duties.

PUBLIC NUISANCE ANIMAL. Any animal that unreasonably annoys or endangers the life or health of persons or 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) Reserved.

(2) Any animal that is found running at large.

(3) Any animal that damages 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.

VETERINARIAN. Unless otherwise indicated, means any veterinarian licensed to practice in the State of Arizona or any veterinarian employed in this state by a governmental agency.

VETERINARY HOSPITAL. Any establishment operated by a veterinarian licensed to practice in the State of Arizona 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.

Section 4. The definition of LEASH in Chapter 90: Animals, Section 90.04 of the Payson Town Code is added, declared to be a public record, and shall read as follows:

LEASH. A chain, strap, etc. for the control, restraint, or leading of a dog.

Section 5. Chapter 90: Animals, Section 90.15 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 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, 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 than 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 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 30 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 on a chain not more than six feet in length and having a minimum tensile strength of 300 pounds by an adult 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 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.

Section 6. Chapter 90: Animals, Section 90.20(A) of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 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 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.

Section 7. Chapter 90: Animals, Section 90.21(F) of the Payson Town Code is added, declared to be a public record, and shall read as follows:

§ 90.21 CONTROL OF DOGS.

(F) Injury to any person or animal or damage to any property by an animal while at large or under the owner's control shall be the full responsibility of the animal owner or person responsible for the animal when the damages are inflicted.

Section 8. Chapter 90: Animals, Section 90.22 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.22 ADEQUATE CARE.

(A) The owner or custodian of any animal shall provide sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering, humane care and treatment, and protection from the elements.

(B) Within an area, the greater part of which is utilized for residential, business or commercial purposes, and zoned as such, manure and droppings shall be removed from pens, yards, cages and other enclosures daily, and placed in fly-proof and insect-proof containers for disposal in an approved manner that will maintain the premises nuisance-free. Owners or keepers of animals shall not allow the animals to defecate on the residential or commercial property of another.

(C) No owner or custodian shall willfully abandon an animal on any street, road, highway or public place, or on private property of another when not in the care of another person.

(D) Animals kept in violation of this section may be taken into custody and impounded by the Animal Control Officer or such other law enforcement officer as authorized herein.

Section 9. Chapter 90: Animals, Section 90.23(A) of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.23 IMPOUNDMENT.

(A) Reasons for impoundment. In addition to any other remedies provided in this chapter, a police department representative may seize, impound and confine to an animal shelter or hospital, subject to legal authority to enter upon the premises, any of the following animals:

(1) Any dog over four months of age without a valid license tag.
(2) Any animal at large.
(3) Any animal constituting a public nuisance as defined in § 90.04 or

considered a danger to the public.

(4) Any animal that is in violation of any quarantine or confinement order of the Chief of Police.

(5) Any unattended animal that is ill, injured or otherwise in need of care.

(6) Any animal that is reasonably believed to have been abused or neglected.

(7) Any animal that is reasonably suspected of having rabies.

(8) Any animal that is charged with being potentially dangerous, or where an Animal Control Officer or other law enforcement officer determines that there is a threat to public health and safety.

(9) Any animal that a court of competent jurisdiction has ordered impounded or destroyed.

(10) Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been absent for an extended period of time leaving the animal without proper care, has been incarcerated leaving no one to care for the animal, or has been evicted from the owner's place of residence.

(11) Any stray dog or stray animal.

Section 10. Chapter 90: Animals, Subsections 90.24(A), (B), (G), and (I) of the Payson Town Code are amended, declared to be a public record, and shall read as follows:

§ 90.24 RABIES CONTROL; QUARANTINE AND DESTRUCTION.

(A) Quarantine of unvaccinated dog or cat. Any unvaccinated dog or cat that bites any person shall be confined and quarantined for a period of not less than ten days. The quarantine period shall start on the day of the bite incident. If the day of the bite is not known, the quarantine period shall start on the first day of impoundment.

(B) Quarantine of properly vaccinated dog or cat. A dog or cat properly vaccinated that bites any person may be confined and quarantined at the home of the owner or wherever the dog or cat is harbored and maintained with the consent of and in a manner prescribed by the Animal Control Officer. The Animal Control Officer shall have the right to enter upon the owner's premises to inspect the animal premises and cage for compliance with the quarantine procedure as described herein, and may remove the animal to the Humane Society or other appropriate location at any time when the Animal Control Officer determines that quarantine and confinement precautions taken by the owner are insufficient to protect the health, safety and welfare of the citizens of the town and surrounding areas.

(G) Destruction of animal by court order.

(1) A duly licensed veterinarian shall destroy a vicious animal upon an order of a justice of the peace or town magistrate. A justice of the peace or town magistrate may issue such an order after notice to the owner, if the owner is known or can be located, and if the owner is located, after a hearing.

(2) The owner of the animal shall be responsible for the cost of destruction. In the event that either the Humane Society or town incurs any expense in connection with the destruction of an animal pursuant to court order, the owner of the animal shall reimburse the proper entity for the expense. In the event that the owner fails to so reimburse the proper entity as herein provided, failure shall be deemed a violation of this

chapter and shall be subject to enforcement under the terms hereof.

(I) Disposition of animal following quarantine. Upon the failure of the owner of any quarantined dog or other animal to obtain release of the dog or other animal, the animal shall become the property of the Humane Society for disposition as provided in this section. Failure shall include failing to pay all charges and costs of quarantine on the tenth day of the quarantine period, including compliance with all licensing provisions herein by paying a current license fee if the dog is not currently licensed as required herein, as well as providing proof of compliance with all vaccination provisions herein within 15 days following the animal's release from the Humane Society.

Section 11. Chapter 90: Animals, Section 90.35 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 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.

(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.

(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 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.

Section 12. Chapter 90: Animals, Section 90.36 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 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 (i) ten days after acquiring any dog over four months of age, (ii) within ten days after a dog becomes four months of age, or (iii) within ten days of the owner moving to the town.

(B) License fee for dogs. A license fee shall be paid at the time of making application. License fees shall be set by the Council from time to time.

(C) Vicious animal surcharge. If a dog is a vicious animal, an annual surcharge shall be added to the license fees in an amount set by the Council from time to time.

Section 13. Chapter 90: Animals, Section 90.37 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.37 PROOF OF VACCINATION.

Before a license is issued for any dog, the owner must present a vaccination certificate signed by a veterinarian, stating the owner's name and address, and giving the dog's description, date of vaccination, and type, manufacturer and serial number of the vaccine used and date the next vaccination is due.

Section 14. Chapter 90: Animals, Section 90.38 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.38 LICENSING PERIOD.

A license may be issued by the town for a period to run concurrently with the dog's current rabies vaccination. The owner of the animal may choose to purchase a license for only one year, for two years or for three years so long as the license period chosen does not exceed the period of time for revaccination as designated by the state veterinarian.

Section 15. Chapter 90: Animals, Section 90.40 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.40 LICENSE FEE FOR DOG KENNEL.

(A) A dog kennel license fee shall be paid at the time of making application. The application must conform with all provisions of this chapter as well as all zoning and land use rules, regulations, codes and ordinances of the town. License fees shall be determined by the Council from time to time as necessary and may be amended by resolution.

(B) License fees for dog kennels shall be issued on an annual basis, with a new license being required each year to assure compliance with all town rules, regulations, codes and ordinances.

Section 16. Chapter 90: Animals, Section 90.41 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.41 EXEMPTION FROM LICENSE FEE.

License fees shall not be required for service dogs or dogs belonging to a nonresident of the town and kept within the boundaries of the town for not longer than 30 days, provided that all dogs of nonresidents shall be properly vaccinated against rabies and meet all other requirements of this chapter. Any owner claiming any of these exemptions has the burden of proving to the satisfaction of the town licensing authority that the dog in question is entitled to the exemption.

Section 17. Chapter 90: Animals, Section 90.55 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.55 DEFINITIONS.

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

POTBELLIED PIG. Registered purebred miniature Vietnamese potbellied pigs or other similar registered purebred miniature potbellied pigs which shall not exceed 100 pounds in weight.

REGISTERED. Registration by the North American Potbellied Pig Association.

Section 18. Chapter 90: Animals, Section 90.56 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.56 LICENSES AND TAGS.

(A) (1) An applicant for a potbellied pig license shall provide, at the time of licensing application, proof of ownership, including registry papers identifying the animal as a potbellied pig, and a completed form, as provided by the town, verifying by the applicant that the location for the keeping of the potbellied pig is not encumbered or restricted through private agreement or deed restriction from the keeping of swine.

(2) No applicant shall provide incomplete, false or fraudulent information in order to obtain a town potbellied pig license.

(3) At the time of application for a license an applicant shall further provide evidence of the spaying or neutering of the potbellied pig.

(B) Licensing and vaccination of potbellied pigs shall be in accordance with §§ 90.35 through 90.41 as applicable, and shall be subject to all other county and state laws, rules and codes.

(C) No person shall counterfeit or attempt to counterfeit an official license tag or remove the tag from any potbellied pig.

(D) Whenever the ownership of a potbellied pig has changed, the new owner must secure a transfer of license. A fee shall be charged to transfer any license.

(E) The Animal Control Officer shall apprehend and impound any potbellied pig found without a current valid license tag.

Section 19. Chapter 90: Animals, Section 90.59 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.59 BITING; QUARANTINE.

(A) Whenever a potbellied pig bites any person, the incident shall immediately be reported to the Animal Control Officer by any person having direct knowledge of the

incident.

(B) Any unlicensed potbellied pig that bites any person shall be quarantined and impounded or, at the request of and at the expense of the owner, placed in a veterinary hospital for a period of not less than 14 days. The owner of an unlicensed potbellied pig that has bitten a person may voluntarily deliver the potbellied pig to the enforcement agent at the pound, otherwise, there shall be an assessment against the owner if the Animal Control Officer must pick up the potbellied pig. If the potbellied pig is impounded in the pound for observation as a result of a bite incident, there shall be a per day charge for board.

(C) Any licensed potbellied pig that bites any person may be fined and quarantined at the home of the owner or wherever the potbellied pig is harbored and maintained with the written consent of and in a manner prescribed by the Animal Control Officer. The potbellied pig shall not be moved or relocated unless the Animal Control Officer is so notified. The time for quarantine under this section shall be 14 days.

(D) At the completion of the quarantine or impoundment period as set forth in divisions (B) and (C) of this section, and prior to the release of the potbellied pig, the potbellied pig shall be examined by a licensed veterinarian and released only if the veterinarian determines that the potbellied pig does not exhibit signs of rabies infection or any other dangerous, contagious and infectious disease.

(E) If it is determined that the potbellied pig is infected with rabies or other dangerous, contagious and infectious disease, it shall be the duty of the Arizona Livestock Board officials to destroy the potbellied pig. Following such action, or if the potbellied pig dies during the period of quarantine or impoundment, its head shall be sent to the State Department of Health Services or appropriate diagnostic laboratory for examination.

Section 20. Chapter 90: Animals, Section 90.60 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.60 OWNER LIABILITY.

(A) The owner of a potbellied pig which bites a person who is in or on a public place or lawfully in or on a private place, including the property of the owner of the animal, is liable for damages suffered by the person bitten, regardless of the former viciousness of the animal or the owner's previous knowledge of its viciousness.

(B) It is unlawful for an owner to keep any potbellied pig which squeals or makes other aggravating noises which unreasonably disturb the peace and quiet of the neighborhood.

Section 21. Chapter 90: Animals, Section 90.63 of the Payson Town Code is repealed.

Section 22. Chapter 90: Animals, Section 90.75 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.75 WAIVER FOR INDIGENTS.

(A) The minimum fines, sanctions and costs imposed herein may be reduced, waived or suspended in the discretion of the magistrate court upon a determination that the defendant is indigent.

(B) In the event that the magistrate court determines a defendant to be indigent and thereby waives or suspends the minimum fines, sanctions and costs imposed herein, alternative arrangements shall be made to abate the violation, including, but not limited to, effective restraint of the animal by muzzling, bark collar, the owner's voluntary removal of the animal, or court ordered removal of the animal.

Section 23. Chapter 90: Animals, Section 90.76 of the Payson Town Code is amended, declared to be a public record, and shall read as follows:

§ 90.76 RULES OF PROCEDURE.

The Arizona Rules of Procedure in Civil Traffic Violation cases shall govern the proceedings under this chapter, except as modified by, or where inconsistent with, the provisions of this chapter.

Section 24. Chapter 90: Animals, Sections 90.77, 90.78, 90.79, 90.80, 90.81, and 90.82 of the Payson Town Code are repealed.

Section 25. If any portion of this Resolution is held to be invalid or unconstitutional such decision shall not affect the validity of the remaining portions of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of August, 2014, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Timothy M. Wright, Town Attorney