

ORDINANCE NO. 984

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA, AMENDING THE CODE OF WICKENBURG, ARIZONA, CHAPTER 7 ANIMALS, ARTICLE 7-2 LIVESTOCK REGULATIONS, BY AMENDING SECTION 7-2-2 ANIMALS PROHIBITED, PARAGRAPHS A AND B, DECLARING THE MAINTENANCE OF CERTAIN ANIMALS IN THE TOWN TO BE A NUISANCE AND PROHIBITING AT LARGE ANIMALS; DELETING PARAGRAPH E RENDERING VIOLATIONS TO BE CLASS ONE MISDEMEANORS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PENALTIES

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

Section I. In General

The Code of Wickenburg, Arizona, Chapter 7 Animals, Article 7-2 Livestock Regulations, is amended by amending Section 7-2-2 Animals Prohibited, to read as follows (deleted text appears in ~~strikeout~~; new text in ALL CAPS):

Section 7-2-2. Animals Prohibited: Holding and Repossession of Stray Animals

A. MAINTENANCE OF CERTAIN ANIMALS IN THE TOWN. Maintenance of dairy, dairy herd, ~~any milk cow~~, cattle feed penS, cattle feed lotS, pigs, swine, pig sties, goats, ~~growing~~-roosters, commercial rabbit hutches or farms, or commercial chicken farms, is hereby declared to be a nuisance.

B. At-Large Animals Prohibited. ~~No cow or other animal listed in Subsection A of this Section shall be permitted at large within the Town limits. Such at large animals and their owners shall be subjected to the following procedure:—~~NO PIGS, SWINE, GOATS, ROOSTERS, CHICKENS, BISON, RATITES AND LIVESTOCK, INCLUDING HORSES, SHALL BE PERMITTED TO ROAM AT LARGE IN THE TOWN. IF THE ANIMAL IS FOUND ON PRIVATE PROPERTY AND AN OFFICER CAN IDENTIFY THE OWNER OF THE ANIMAL AT LARGE, HE SHALL PROVIDE NOTICE TO THE OWNER THAT THE ANIMAL IS ROAMING AT LARGE AND THAT THE OWNER SHALL TAKE POSSESSION OF THE ANIMAL AND CONFINED IT WITHIN FOUR HOURS OF SAID NOTICE. IF THE OWNER FAILS TO RETRIEVE THE ANIMAL IMMEDIATELY UPON NOTICE OR IF THE OWNER CAN NOT BE LOCATED, THE OFFICER MAY HAVE THE ANIMAL CONTAINED AND REMOVED BY AN APPROPRIATE AGENCY OR COMPANY; THE COSTS OF REMOVAL AND STORAGE SHALL BE BORNE BY THE OWNER AND PAID UPON RETRIEVAL. WRITTEN NOTICE OF THE REMOVAL AND PLACE OF STORAGE SHALL BE PROVIDED AS SOON AS PRACTICAL TO THE OWNER.

1. ~~Police officers and other employees of the Town shall, with or without a formal complaint, be authorized and directed to herd such animals outside the Town limits and, while so doing, may corral one (1) or more such animals into one (1) or more confinement pens.~~

2. ~~On the first regular business day after confinement, efforts shall be made to identify the owner or owners of the confined animals. If ownership can be determined, attempts shall be made by the Chief of Police or his designee to notify said owner or owners by the most expedient means, advising such owner or owners of the number and description of the impounded animals and advising such owner of the amount of charges that have accrued as of that date and time and an estimate of the per diem charges that are accruing by reason of the impoundment. The owner, may at any time, before sale of the animal at public auction by the Town, pay over to the Town all accrued charges, as same are hereafter specified, furnish satisfactory proof of ownership to the Chief of Police, and reclaim his or her animal or animals. Per diem impoundment charges shall be determined by calculating the actual costs to the Town for corralling an at-large~~

~~animal or animals; feeding, watering and otherwise attending corralled animals; veterinarian fees if any; costs of mailing and publishing notices provided for in this Section; and in cases where the animal or animals are sold at public auction, the costs associated with transporting the animal or animals and the costs associated with the sale of the animal or animals at auction. In case of more than one (1) animal, charges shall be apportioned between the animals, taking into consideration at the time per diem charges are computed, which of the above listed items apply to the animals for which costs are being computed.~~

~~3. If the Chief of Police cannot identify the owner of an animal impounded pursuant to paragraph 1 of this Subsection or is not successful in notifying the owner of the impoundment, or the owner fails to reclaim his or her animal or animals within twenty-four (24) hours after he or she is notified that one~~

~~(1) or more of his or her animals has been impounded, the Chief of Police shall notify the Town Clerk on the next business day following such twenty-four (24) hour period and the Town Clerk shall place a notice in a local weekly~~

~~4. If no owner has claimed his or her animal(s) seven (7) days after the date the last of the two (2) notices appeared in the newspaper, the Town Manager or his designee shall arrange to sell such unclaimed animal or animals at public auction. Once a date, time and place for the public auction has been determined, the Town Manager or his designee shall notify the Town Clerk, who shall cause to be published, in a local newspaper of general circulation, a Notice To Sell Animals At Public Auction in the following week's edition of the local newspaper, setting forth in such notice the date, time and address of the public auction. All public auctions at which animals at-large are to be sold shall be located in Maricopa County.~~

~~5. Proceeds from the sale of an at-large animal, after deduction of all per diem impoundment costs and all costs for newspaper notices, shall be accounted for separately by the Town's Finance Director for six (6) months from the date of sale at auction. If, during said six (6) month period, any person can satisfactorily demonstrate ownership in one (1) or more animals sold at auction, the sum held in respect to each such animal, in which ownership is demonstrated to the satisfaction of the Town Manager, shall be turned over to the owner of the animal or animals sold.~~

~~6. If no owner comes forward during said six (6) month period after the sale at public auction, the Finance Director shall transfer any separate funds held on behalf of an animal's or animals' owner, to the general fund.~~

C. Animal Owners Liable For Damages. The owner of any animal listed in Subsections A and of this Section shall be liable for all property damages, injuries or death proximately caused by his or her animal or animals during any period or time the animal or animals were at-large within the Town limits save and except damages, injuries or death proximately caused by a person or persons provoking the animal or animals, if it is determined in a Court of competent jurisdiction that the provocation was the proximate cause of the property damages, injuries or death to the provoking person or persons.

D. Determination of Ownership. A registered brand displayed on an animal shall be prima facie evidence of ownership of the animal, but the owner of the brand by a preponderance of evidence, offered in a Court of competent jurisdiction, may demonstrate to the satisfaction of the Court that he or she was not the owner of the animal at the time it was at-large in the Town.

~~E. Penalties For Violations.~~

~~1. In addition to any other penalty, and notwithstanding any other provisions of this code, it shall be unlawful for an animal to be at-large within the town limits, and the owner of an at-large animal shall be guilty of a petty offense on the first offense, but the court may suspend any penalty for such first offense.~~

~~2. An owner shall be guilty of a class 3 misdemeanor for a second offense and the court shall, if it finds the owner guilty of a second offense under this article, require the owner to pay a fine of no less than one hundred dollars per at-large animal. An owner who commits three or more offenses under this section shall be guilty of~~

~~a class 1 misdemeanor and shall be assessed a fine of not less than five hundred dollars per at-large animal, and may, in addition to said fine or fines, be sentenced to up to six months in jail.~~

~~3. Each day an animal is at-large within the town limits shall constitute a separate offense.~~

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.

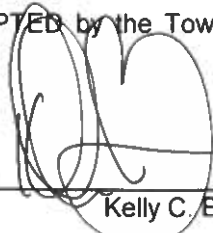
Section III. Providing for Severability.

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.

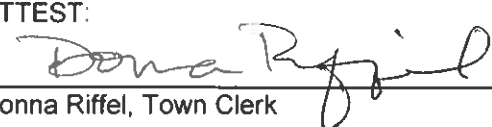
Section IV. Providing for Penalties

Any person found guilty of violating any provision of this Ordinance shall be subject to the violation and penalty provisions of Section 1-8 of the Wickenburg Town Code.

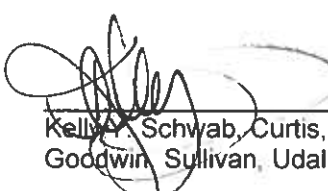
PASSED, APPROVED, AND ADOPTED by the Town Council of the Town of Wickenburg, Arizona, this 16 day of January, 2012.

By: 
Kelly C. Blunt, Mayor

ATTEST:


Donna Riffel, Town Clerk

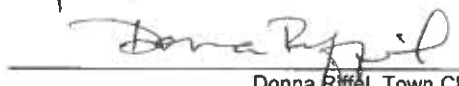
APPROVED AS TO FORM:


Kelly A. Schwab, Curtis, Town Attorney
Goodwin, Sullivan, Udall & Schwab, P.L.C.

Number of Council members Present: 6
Number of Votes For: 6
Number of Votes Against: 0
Number of Votes Abstaining: 0

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance Number 984 was duly passed and adopted by the Mayor and Common Council of the Town of Wickenburg, Arizona, at a special meeting held on the 16 day of January, 2012, and that a quorum was present at the meeting.


Donna Riffel, Town Clerk