

ORDINANCE O-14-01

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, AMENDING THE CITY CODE BY THE ADOPTION OF ARTICLE 6.2.14, VICIOUS DOG, AND PROVIDING FOR REPEAL AND SEVERABILITY

WHEREAS, the applicable laws of the State of Arizona establish certain requirements for ownership and maintenance of dogs, but do not restrict the authority of cities and towns to adopt their own provisions which are equal or more stringent than these state provisions; and

WHEREAS, the City of Bisbee, pursuant to its City Charter, has the authority to adopt additional provisions regulating the ownership and control of dogs and the protection of its citizens, as may be in the best interests of the City; and

WHEREAS, neither the existing City Code provisions nor the applicable laws of the State of Arizona address in what context and under what circumstances a dog may be identified as a “vicious” dog, or what the specific remedies may be in the event of any such identification; and

WHEREAS, it is appropriate to enact a clear set of procedures that will provide due process and an opportunity to be heard in the event that a dog may be alleged to be “vicious” and to authorize the City Magistrate to impose certain remedies, should such a finding be made; and

WHEREAS, it is in the best interests of the City of Bisbee and its citizens to adopt this amendment to the City Code,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:

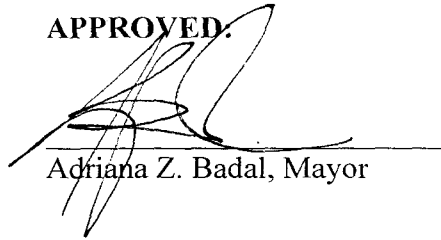
Section 1. The amendment to Article 6.2.14 of the City Code, as stated in the attached Exhibit A, incorporated herein by reference, is hereby adopted.

Section 2. The previously adopted version of Article 6.2.14, Confinement of Vicious Dogs, is hereby repealed.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance 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.


PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee on this 4th day of February, 2014.

APPROVED.



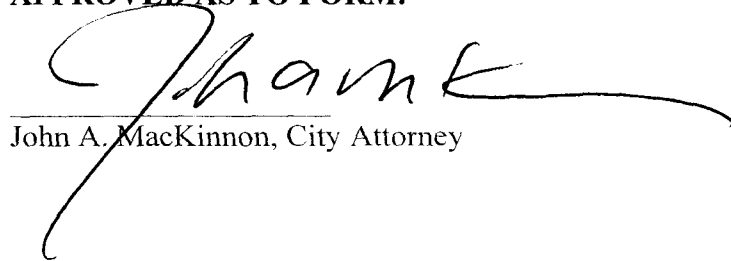
Adriana Z. Badal, Mayor

ATTEST:



Ashlee Coronado, City Clerk

APPROVED AS TO FORM:



John A. MacKinnon, City Attorney

EXHIBIT A

AMENDMENT TO THE CITY CODE, ARTICLE 6.2.14

[New Language]

[Deleted Language]

6.2.14—Confinement of Vicious Dogs

~~Vicious dogs shall be confined within a secure enclosure and shall not be taken off the owner's premises without being leashed and securely muzzled.~~

6.2. 14 Vicious Dogs

A. Definition of “Vicious Dog”

A “vicious dog” is a canine or canine crossbreed, hereinafter a “dog,” which the City Magistrate has determined to meet one or more of the following criteria:

1. a dog which has bitten a person or domestic animal without provocation (an “aggressive dog” pursuant to Arizona state law) and which has not been maintained with reasonable care by the owner or person responsible for the care of the dog, as those terms are defined at A.R.S. § 11-1014.01.
2. a dog which has a demonstrated history of attacking persons or domestic animals without provocation.
3. a dog that while at large kills or causes injury to any person or domestic animal.

B. Viciousness Determination

1. Any person, including the Animal Control Officer, the Animal Shelter Coordinator, the City Attorney, or any citizen, having reasonable grounds to believe a dog is vicious, may petition the City Magistrate for a determination that the animal is vicious.
2. Upon the receipt of the petition, or at any time thereafter, if the City Magistrate finds that there are reasonable grounds to believe that the subject animal poses a present risk of injury to any person or domestic animal, the City Magistrate may order that the animal be impounded on such terms as the Court deems necessary to protect the public safety, pending further review.
3. After notice to the owner of the animal, the City Magistrate shall conduct a hearing to determine if the animal is “vicious” as defined in this Article. The decision shall be based on the preponderance of the evidence presented at the hearing.

4. A viciousness determination hearing may be conducted with and as a part of any other related proceeding involving the same animal and same owner.
5. At the conclusion of this hearing, the City Magistrate may order the owner of the subject dog to reimburse the applicant for all of the costs and fees incurred in the hearing process, including reasonable attorney's fees, if the dog has been determined to be "vicious."

C. Disposition of Vicious Dogs

Upon a determination that a dog is "vicious," the Court shall enter such orders as it deems to be necessary to protect the public. These orders may include one or more of the following:

1. That the dog at all times be securely confined indoors or in a securely enclosed and locked pen or kennel, with secure gate, sides, and ceiling, except when the dog is leashed and muzzled. These premises shall be designated with a prominent sign reading "Vicious Dog."
2. That the dog be spayed or neutered.
3. That the dog be defanged or declawed.
4. That the owner obtain liability insurance in a single incident amount of not less than one hundred thousand dollars for compensation for bodily injury or death to any person or for damage to property, including other domestic animals, caused by the vicious dog.
5. That the vicious dog be euthanized.
6. That the Court require such other and further relief as may be appropriate in the particular circumstances at issue to protect the public from any future harm or injury that may be caused by the vicious dog.

D. Exemptions

This Article does not apply to any of the following:

1. A dog that is owned by a governmental agency and that is being used in connection with military or law enforcement work.
2. A service dog that is assisting a person with a disability, in the manner that it is trained to do.
3. A dog that is performing any other service that is exempt from this regulation under applicable law.