

Chapter 12

ANIMALS AND FOWL

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ARTICLE I. IN GENERAL*

Sec. 12-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means intentionally leaving an animal without adequate food, water, shelter or medical attention required for the animal's proper care by its owner, the person responsible for the animal's care or custody, or any other person having possession of such animal.

Animal means any such organism other than a human being, esp. a mammal or, often, any four-footed creature. Animal is from the kingdom (Animalia) of eukaryotes generally characterized by a multi-cellular body, the ability to move quickly and obtain food, specialized sense organs and sexual reproduction.

Animal husbandry means the branch of agriculture concerned with the care and breeding of domestic animals such as cattle, hogs, sheep and horses.

Area of control means a vehicle, corral, house, stables, pen, yard, kennel or trailer (transportation).

At large means on or off the premises of the owner and not under the control of the owner, or other persons acting for the owner. Any animal in a suitable enclosure shall not be considered to be running at large.

Cruel mistreatment means to inflict unnecessary serious physical injury or distress upon an animal, to torture an animal, or to kill an animal in a manner that causes protracted suffering to the animal.

***Editor's note**—Ord. No. SRO-529-2021, adopted Dec. 16, 2020, amended Art. I, §§ 12-1—12-11, in its entirety, in effect repealing and reenacting said article, §§ 12-1—12-13, as set out herein. Formerly, art. I pertained to similar subject matter and derived from Code 1981, §§ 12-1—12-11; Code 2012, §§ 12-1—12-11; Ord. No. SRO-360-2010, adopted March 3, 2010; and Ord. No. SRO-402-2012, §§ 12-1—12-11, adopted May 30, 2012.

Cruel neglect means the intentional failure to provide an animal with necessary food, water, healthcare, sanitation, stimulation (interaction) or shelter.

Domestic means any of the various animals domesticated as to live and breed in a tame condition.

Endangered species means those species listed as endangered or threatened in the Endangered Species Act (16 USC 1531 et seq.), as amended. This definition includes those species designated as endangered, threatened or sacred by the Community.

Enforcement agent means any individual authorized by the Community to enforce the provisions of this chapter.

Euthanasia means the humane destruction of an animal accomplished by a method that produces rapid unconsciousness and subsequent death without evidence of pain or distress, or a method that utilizes anesthesia produced by an agent that causes painless loss of consciousness and subsequent death.

Exotic animal means any animal not identified in the definition of the term "animal" provided in this section that is native to a foreign country or of foreign origin or character, that is not native to the United States, or was introduced from abroad. This term "exotic animal" specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal and Yak.

Handler means a law enforcement officer, or any other person who has successfully completed a course of training prescribed by the person's agency, or the service animal owner, and who uses a certified service animal under the direction of the person's agency, or the service animal owner.

Health service means the U.S. Public/Community health and human services department, and/or the duly authorized state or county board of health.

Impound means the act of taking or receiving into custody by an enforcement agent any animal for the purpose of confinement in accordance with this chapter.

Law enforcement agency means the Community police department and any agency lawfully designated to enforce this chapter.

Law enforcement animal means a service animal such as a dog, horse, or other domesticated animal that is specially trained for use by a law enforcement agency handler or rider.

Leash means a chain, rope, strap made of durable material such as leather or woven fabric that is not more than six feet long, capable of being fastened to a dog's collar or harness, and is used to effectively lead, restrain, and control the dog.

Livestock means a domesticated animal that has been reared in an agricultural setting to produce such things as food, fiber, pelts, or for its labor.

Owner means any person owning, keeping, possessing, harboring or maintaining any animal.

Pound or shelter means a facility that accepts and/or seizes animals for the purpose of caring for them, placing them through adoption, or carrying out law enforcement, whether or not the facility is operated for profit.

Research facility means any school (except an elementary or secondary school), institution, organization, or person that uses live animals in research, tests or experiments, and that:

- (1) Purchases or transports live animals in commerce; or
- (2) Receives funds under a grant award, loan or contract from a department, agency or instrumentality of the United States for the purpose of carrying out research, tests or experiments.

Species means live or dead warm- or cold-blooded animal including, but not limited to: reptiles, dogs, cats, birds, horses, guinea pigs, hamsters, rabbits, mammals, amphibians, etc. Included in this definition are domestic, endangered species and wild animals.

Stray dog means any dog four months of age or older running at large that is not wearing a valid license and vaccination tag.

Veterinarian means any veterinarian licensed to practice in the United States or any veterinary employed in Arizona by a governmental agency in the United States in good standing.

Vicious dog means a dog that:

- (1) Has attached or bitten a person; or
- (2) Has killed or mauled another animal; or
- (3) Cannot be controlled; or
- (4) By its breeding, has a propensity to be violent and a danger to persons.

Wild animal means any animal which is now or historically has been found in the wild, or in the wild state, within the boundaries of the Community/United States, its territories, or possessions. The term "wild animal" includes, but is not limited to, animals such as: deer, skunk, squirrels, coyote, horse, javelin, etc.

Wild horse means living in its original, natural condition; not domesticated.
(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-2. Civil nature of chapter.

Except where expressly criminal, the provisions of this chapter are civil and regulatory in nature. This chapter does not amend or alter any other applicable provisions of this Community Code of Ordinances unless specifically stated.
(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-3. Cruelty to animals.

(a) A person shall be in violation of this chapter if the person commits any or all of the following acts:

- (1) Intentionally, knowingly, or recklessly subjects any animal under the person's custody, care, or control to cruel mistreatment, neglect or abandonment.
- (2) Intentionally, knowingly, or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control.

- (3) Intentionally, knowingly, or recklessly fails to provide the necessities such as food, water, shelter, nutrition to adequately provide for the health and welfare of the animal.
- (4) Intentionally, knowingly or recklessly inflicts, or subjects the animal to unnecessary pain, or serious physical injury to any animal under the person's ownership, care or control.
- (5) Intentionally, knowingly, or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.
- (6) Intentionally, knowingly, or recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.

(b) A person who disturbs, distresses, hunts, traps, poisons, captures, brands, or takes possession of any wild or exotic animal dwelling within the preserve and/or wild state areas of the Community shall be considered in violation of this chapter with the exception of capturing an injured animal (good Samaritan).

(c) A person, organization, or institution who conducts research and experiments utilizing live animals or any operation of a research facility utilizing such methods is prohibited by the Community.

(d) Any person who violates this section shall be subject to a fine not to exceed \$5,000.00. Extreme and/or severe cases of cruel mistreatment and/or neglect shall be found guilty of a criminal offense and subject to a sentence of imprisonment for a period not to exceed one year, or to a fine not to exceed \$5,000.00, or both. (Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-4. Animal forfeiture/seizure.

(a) If any animal is to be discovered without an adequate supply of food, water, and shelter it shall be lawful for any officer or enforcement agent, peace officer, licensed veterinarian to, from time to time as may be needed, enter into any and upon any area or building where such animal is confined and supply it with adequate

food and water; except that such entry shall not be made into any building which is a person's residence, unless by search warrant or court order.

(b) Such officer/enforcement agent, peace officer, or veterinarian shall not be liable for such entry.

(c) Notice of the entry and care shall be given by posting such notification at an entrance to or at a conspicuous place upon such area or building where such animal is confined.

(d) Upon seizure such animal shall be transported to a temporary foster home, pound, rescue, shelter, etc., for the further care and welfare of such animal upon completion/determination of ownership, court proceedings, or abandonment. At such time that ownership is forfeited/severed, said animal shall be placed up for adoption or assigned a safe environment that can prove to provide food, shelter, and medical attention permanently.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-5. Euthanasia of animals.

(a) Any owner, enforcement agent or law enforcement officer described in this chapter may lawfully euthanize or cause to be euthanized, as defined in Section 12-1, any animal in his or her charge when, in the judgment of said owner, enforcement agent or law enforcement officer, and/or in the opinion of a licensed veterinarian or by accepted animal husbandry practices, the animal is experiencing extreme pain or suffering or is severely injured beyond recovery, severely disabled beyond recovery, or severely diseased beyond recovery or contains a severe communicable disease harmful to humans or other animals. In the event a licensed veterinarian is unavailable, the animal may be euthanized if, written consent is obtained from the owner and/or another witness in the presence of an enforcement agent and/or law enforcement officer. If owner cannot be located or determined within a reasonable time frame based on the severity of the injury, illness, or disease of the animal, owner consent shall be waived and the determination and decision for euthanasia shall be rendered by documentation of a witness,

enforcement agent, and law enforcement officer. Documentation shall describe the nature of the illness, injury, or disease, signature of the witness, enforcement agent, and law enforcement officer. Such documentation shall be kept on file with the appropriate enforcement agent of the Community. This section excludes: the euthanasia of one's own animals on his or her property, if done humanely.

(b) Any person who violates this section shall be subject to a fine not to exceed \$5,000.00. (Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-6. Abandonment and feeding of animals.

(a) It is prohibited to abandon, release, or dump live or dead animals anywhere within the geographic region limits of the Community. Persons performing such acts shall be in violation of this chapter with the exception of designated areas as determined by the environmental protection and natural resources/CDD for the natural decomposition of deceased animals.

(1) Any person who violates this subsection (a) shall be subject to a fine not to exceed \$5,000.00.

(b) It is prohibited to leave food for animals on a public right-of-way or on the property of another without the property owner's consent.

(1) Any person who violates this section (b) shall be subject to a fine not to exceed \$150.00.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-7. Animal poisoning.

(a) The intentional poisoning of animals by individuals on the Community is a violation of this chapter. Poisoning of animals to control disease or other health hazards shall be done only when the life and/or health of the residents of the Community is endangered and only under the supervision of an enforcement agent or officer of the Community.

(b) Any person who violates this section shall be subject to a fine not to exceed \$2,500.00. (Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-8. Law enforcement animals.

(a) It shall be unlawful for a person to intentionally, knowingly or recklessly interfere, harm, intend to harm, destroy, injure or obstruct a police service animal. Law enforcement animals are exempt from leash laws, the wearing/ displaying of tags or licenses, and from being defined as vicious animals.

(b) It is an offense if the person intentionally, knowingly or recklessly:

- (1) Taunts, torments or strikes a police service animal;
- (2) Throws an object or substance at a police service animal;
- (3) Interferes with or obstructs a police service animal or interferes with or obstructs the handler or rider of a police service animal in a manner that inhibits or restricts the handler's or rider's control of the animal or deprives the handler or rider control of the animal;
- (4) Releases a police service animal from its area of control;
- (5) Enters the area of control of a police service animal without the effective consent of the handler or rider, including placing food or any other object or substance into that area;
- (6) Injures or kills a police service animal;
- (7) Engages in conduct likely to injure or kill a police service animal, including administering or setting out poison, a trap, or any other injurious object or substance.

(c) Exemption from quarantine.

- (1) A police service animal is exempt from the quarantine requirement of this and subsequent articles if the animal bites a person while the animal is under routine veterinary care or while the animal is being used for law enforcement, corrections, jail security, court security, or investigative purposes.
- (2) If after biting the person the animal shows any abnormal or suspicious

behavior, the law enforcement agency and the animal's handler or rider shall make the animal available within a reasonable time for testing by the local health authority.

(d) Any person who violates this section shall be found guilty of a criminal offense and subject to a sentence of imprisonment for a period not to exceed one year or to a fine not to exceed \$5,000.00, or both.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-9. Restricting roaming animals.

(a) It is prohibited for any person owning or having charge of domestic animals who permits them to run at large in any locality or within the boundaries of the Community.

(b) Any person who violates this section shall be subject to a fine not to exceed \$150.00 per violation, with costs.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-10. Forfeiture/prohibited ownership.

In the event an individual is found liable of a severe or extreme case of cruelty, abandonment, mistreatment, or misconduct involving animals, an individual's privileges of ownership or caretaker responsibilities of an animal within the jurisdiction of the Community shall be revoked or suspended, the individual shall be subject to permanent forfeiture of such animal and further prosecution pursuant to section 12-3.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-11. Sexual assault of an animal.

(a) A person commits the crime of sexual assault of an animal if the person:

- (1) Touches or contacts, or causes an object or another person to touch or contact, the mouth, anus, or sex organs of an animal or animal carcass for the purpose of arousing or gratifying the sexual desire of a person; or
- (2) Causes an animal or animal carcass to touch or contact, the mouth, anus, or sex

organs of a person for the purpose of arousing or gratifying the sexual desire of a person.

(b) Any person who violates this section shall be found guilty of a criminal offense and subject to a sentence of imprisonment for a period not to exceed one year or to a fine not to exceed \$5,000.00, or both.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-12. Dogs to wear collar with tag.

Any dog over four months of age running at large shall wear a collar or harness to which is attached a valid vaccination tag.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-13. Dogs not on owner's property must be on a leash.

Any dog that is not on the owner's property must be on a leash and directly under the owner's control. Any dog found in public that is not on a leash is considered at-large and the owner may be cited for a violation of Section 12-9 of the Community Code of Ordinances.

(Ord. No. SRO-529-2021, 12-16-2020)

Secs. 12-14—12-19. Reserved.

Sec. 12-20. Poultry limitations and cockfighting prohibition.

(a) It shall be unlawful for any person, family, residents, or group of cohabitants to own or possess more than two roosters. If more than two roosters are found at any location, the excess poultry are subject to immediate seizure and euthanasia.

- (1) This subsection does not apply to any legitimate business activity that is subject to a Community issued business license in good standing. The business license shall be in good standing and identify the person and address of the same location for which the SRPMIC business license is held. The burden of proof for this exception will fall upon the party claiming it.

- (2) This subsection also will not apply to a Community member family farm where poultry is being used for a Community member's family's consumption and which generates no revenue for the Community member. The burden of proof for this exception will fall upon the party claiming it.
 - (3) For purposes of this subsection, a Community member family farm is defined as activity related to cultivating crops and raising livestock or poultry for family consumption which generates no revenue or other benefit.
 - (4) Any poultry not claimed by a person found near the land or property upon which it is kept is presumed abandoned and subject to immediate seizure and euthanasia.
- (b) It shall be unlawful to conduct any cockfighting activities or allow any cockfighting activities involving roosters, fowl, or cockerel to take place in the Community.
- (1) Any male rooster, chicken, hen, fowl, poultry, or cockerel found to have its feathers plucked, a leg shaved, or its wattles or combs removed is presumed to be used for cockfighting and is subject to immediate seizure and euthanasia.
 - (2) For purposes of this chapter, the term cockfighting refers to the practice of owning, possessing, or training any rooster, chicken, hen, fowl, poultry, or cockerel to fight or exhibiting fighting roosters, chickens, hens, fowl, poultry, or cockerels for any purpose.

(c) Any violation of this section is a civil offense subject to a fine not to exceed \$1,000.00. (Ord. No. SRO-505-2019, 4-10-2019)

Secs. 12-21—12-40. Reserved.

ARTICLE II. RABIES CONTROL*

Sec. 12-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cat means a little, soft-furred animal of the feline family.

Collar means a band, chain, harness or suitable device of permanent nature worn around the neck of a dog to which a license may be affixed.

Dog means a member of the genus and species *Canis familiaris*.

State board of health means the state board of health of the State of Arizona.

Vaccination means administration of an approved anti-rabies vaccine to animals by a veterinarian.

Vaccination tag means an official, numbered, dated metal tag attached to the dog by a collar or harness.

Veterinarian means any veterinarian licensed to practice in the State of Arizona or any veterinarian employed in the State of Arizona by a governmental agency.
(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-42. Vaccination and reports.

Every owner of an animal subject to this article shall, in reference to such animal:

- (1) Vaccinate or cause to be vaccinated for rabies every dog over the age of four months and every cat over the age of six months.

***Editor's note**—Ord. No. SRO-529-2021, adopted Dec. 16, 2020, amended Art. II, §§ 12-41—12-56, in its entirety, in effect repealing and reenacting said article, §§ 12-41—12-63, as set out herein. Formerly, art. II pertained to similar subject matter and derived from Code 1981, §§ 12-21—12-36; Code 2012, §§ 12-21—12-36; Ord. No. SRO-50-78, §§ I, IIA—III, adopted Jan. 25, 1978; Ord. No. SRO-137-91, §§ 1—6, adopted Dec. 12, 1990; Ord. No. SRO-336-08, adopted June 25, 2008; and Ord. No. SRO-402-2012, §§ 12-21—12-36, adopted May 30, 2012.

- (2) Report any evidence of rabies in such dog or cat to the law enforcement agency.
 - (3) Report any bite by any such animal to the law enforcement agency.
- (Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-43. Anti-rabies vaccine; term of vaccination.

The type or types of anti-rabies vaccines that may be used for vaccination of dogs or cats, the period of time between vaccination and revaccination shall be in conformity with that designated by the state veterinarian of the State of Arizona.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-45. Counterfeit or removal of tag.

Any person who counterfeits or attempts to counterfeit an official vaccination tag, or removes such vaccination tag from any dog for the purpose of willful or malicious mischief or places a vaccination tag upon a dog, unless the vaccination tag was issued for that particular dog, is in violation of this article.

(Ord. No. SRO-529-2021, 12-16-2020)

Secs. 12-46, 12-47. Reserved.

Sec. 12-48. Rabies quarantine areas.

(a) Any area in which a state of emergency has been declared to exist by the county board of health, the Arizona department of health services or the Community Council because of the danger of rabies infection shall be a rabies quarantine area.

(b) When a rabies quarantine area has been declared, the president of the Community Council, in cooperation with the superintendent of the Salt River Agency and after consultation with the U.S. Public Health Service shall institute a program for the control of rabies within that area.

(c) No dog shall be permitted at large in a rabies quarantine area. Each dog shall be confined within an enclosure on his or her owner's property, or securely tied so that the dog is confined entirely to the owner's property, or on a leash not

to exceed five feet in length and directly under the control of an able-bodied person when not on the owner's property.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-49. Procedure for dealing with animals alleged to have bitten a human or suspected of having rabies.

(a) *Impoundment; fees.* Any dog that bites any person shall be quarantined and impounded voluntarily or involuntarily at an authorized animal control facility at the request of the Community or the owner of the dog. Any animal that is suspected of having rabies shall be quarantined and impounded at an authorized animal control facility at the request of the owner or the Community.

- (1) There shall be a fee assessed as prescribed by the fee schedule at the animal control facility against the owner if the enforcement agent must pick up the dog; and/or
- (2) If the dog is impounded and quarantined in the animal control facility as a result of a dog bite incident or if an animal is suspected of having rabies is impounded and quarantined, there may also be fees assessed for any and all boarding and associated costs for such impoundment and quarantine services.
- (3) If the owner does not retrieve the dog from an animal control facility within 30 days it shall be deemed abandoned and the animal facility is authorized to place the dog for adoption or euthanize the dog as appropriate.

(b) *Confinement at home.* Notwithstanding the provisions of subsection (a) of this section, any properly licensed and vaccinated dog that bites any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of, and in a manner prescribed by the enforcement agent.

(c) *Notification of public health service.* Notification of the name and address of any person bitten by an animal must be given to the

health service. Physicians attending dog-bite victims will be responsible for advising the director, Community, concerning such incidents. The director, Community, will be responsible for following up on the patient's case. Attending physicians include field clinic physicians during clinic hours, and Community physicians at all hours.

(d) *Interference unlawful.* It is unlawful for any person to interfere with the enforcement agent in the performance of his or her duties.

(e) *Unauthorized removal from impoundment unlawful.* No person may remove or attempt to remove any animal which has been impounded or which is in the possession of the enforcement agent.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-50. Reserved.

Sec. 12-51. Poisoning generally prohibited; poisoning program.

The poisoning of animals by individuals on the Salt River Pima-Maricopa Indian Reservation is a violation of the article. Poisoning of animals to control disease or other health hazards shall be done only when life, health or economy of the residents of the Salt River Pima-Maricopa Indian Reservation is endangered and only under the jurisdiction of a law enforcement agency. In the event a program of poisoning animals is undertaken, the law enforcement agency involved shall observe the safety precautions on the label of the product used as well as all other safety requirements of the U.S. Environmental Protection Agency and Indian Health Service Environmental Health Consultant.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-52. Responsibility of enforcement agency or its designated representatives.

The Community police department or its designated representative or enforcement agent (including an authorized animal control authority) shall:

- (1) Collect and impound dogs, cats and/or other animals in conformity with this article.

- (2) Notify the Community environmental health program of any animal that has bitten a human.
 - (3) Issue civil citations for violations of Chapter 12.
 - (4) Refer criminal violations of Chapter 12 to the Office of the Prosecutor.
- (Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-53. Responsibility of the health service.

The health service shall:

- (1) Conduct rabies vaccination clinics in designated locations in each Community for the purpose of vaccinating dogs and cats at the same intervals as designated by the state veterinarian.
 - (2) Be responsible for the declaration of any quarantine whose area is solely within the boundaries of the Community. When a quarantine has been declared, the health service shall meet with the enforcement agent and institute an emergency program for the control of rabies.
 - (3) Supervise the proper preparation and give technical advice as to the handling of a specimen of a suspected rabid animal being submitted to the state health department laboratory.
- (Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-54. Control of behavior of vicious dogs.

(a) *Determination of vicious dog.* An officer of animal control technician employed by the Community police department is authorized to designate a dog as a vicious dog as defined by Section 12-1 of this article. Once this designation is made and notice is provided to the owner, the owner is required to comply with the provisions of subsection (b) below. The owner may petition the Community Court to have the designation withdrawn but the designation shall remain in effect until withdrawn by order of the Community Court. The Community police department may petition the Community Court for authority to euthanize a vicious dog that has

bitten a human being. The Court shall schedule a hearing and provide notice to the Community police department and to the owner of said dog. The Community Court shall make a determination as to whether the vicious dog in question shall be euthanized.

(b) *Vicious dogs not permitted at large.* A vicious dog shall not be permitted at large. Vicious dogs 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. Any owner of a vicious dog that is in violation of the requirements of this section may be cited and held responsible for a violation of Section 12-9 of the Community Code of Ordinances.

(c) *Authority to destroy vicious dogs.*

- (1) The Community police department shall destroy a vicious dog upon an order of the Community court. The Community court may issue such an order only after notice to the dog's owner, if any, and a hearing.
- (2) The Community police department, through any of its officers, may destroy a vicious dog, during or just subsequent to an attack upon a person by it if the officer believes with good cause that any attempt to capture and restrain the dog will likely place the officer or any other person at risk of harm.

(d) *Liability of owners of vicious dogs.* Injury to any person or damage to any property by a vicious dog while at large shall be the full responsibility of the dog owner and the person or persons having responsibility for controlling the dog when such injury or damage was inflicted.

(e) *Liability of community.* Neither the Community, its officers or employees, shall have any liability resulting from the destruction of a dog pursuant to the terms of this section and any regulation adopted pursuant to it.
(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-55. Reserved.

Sec. 12-56. Fee schedule adjustment.

(a) Identified animal owners shall pay the impoundment fee including any associated fee. If an owner is not identifiable, the Community shall pay the impoundment fee including any associated fee.

(b) The fees listed in this article are subject to change from time to time. Prior to their implementation, such changes in fees shall be approved by the Community manager who shall ensure that the fees are compatible with those charged for similar services in the surrounding jurisdictions.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-57. Sufficiency and amendment of the complaint.

(a) *Sufficiency.* No civil citation filed pursuant to this chapter shall be deemed insufficient for failure to contain a sufficient statement of essential facts constituting the specific offense which the cited person is alleged to have committed if the citation or the complaint contains either a written description or the code designation of the offense.

(b) *Juveniles.* For offenses alleged against a juvenile, the citation or the complaint shall include a space that allows the juvenile to provide the name and address of his or her parent or legal guardian.

(c) *Amendments.* The court may permit a civil citation to be amended at any time before judgment if no additional or different offense is charged and if substantial rights of the cited person are not thereby prejudiced.

(d) *Conform to evidence.* The citation or the complaint may be amended to conform to the evidence adduced at hearing, if no additional or different offense is charged thereby and if substantial rights of the cited person are not thereby prejudiced.

(e) *Notice required.* If the cited person has convictions or adjudications for a prior offense under this chapter that would expose the person to any additional penalties, the prosecutor shall

file a notice of prior adjudications or convictions at least five days prior to the cited person's scheduled hearing.

(f) *Conflicts.* If the judge determines there is a conflict between the written description and the statutory description of a civil offense, the descriptive text shall take precedence unless the substantial rights of the cited person are prejudiced or such action would result in a criminal offense. In the event the judge cannot determine what offense was charged, the judge shall dismiss the offense without prejudice and provide the officer who issued the citation or an advocate from the Office of General Counsel with an opportunity to refile the citation or charging document.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-58. Representation of parties.

(a) *Counsel.* Counsel for the cited person shall be permitted consistent with Section 4-4 of the Community Code of Ordinances. If counsel has been retained to represent the cited person, counsel shall file an entry of appearance with the Community court and notify the Office of General Counsel of the counsel's appearance. The hearing will be rescheduled if counsel for a cited party fails to notify the Office of General Counsel at least five business days before the hearing.

(b) *Community representation.* The Community law enforcement agency shall be represented by the Office of General Counsel, but may proceed without the assistance of the Office of General Counsel. At the beginning of any civil offense hearing arising out of this chapter, the Office of General Counsel or the law enforcement agent shall advise the court of the representation.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-59. Initial appearance and entry of plea.

(a) *Time and place.* The citation shall require the appearance of the cited person at the Community Court for an initial appearance, at a time at least ten and no more than 30 days after the alleged offense occurred. The citation shall advise the cited person of the court date and time of the

initial appearance and address of the court. Initial appearances shall not be set on weekends or any Community recognized holiday. If any cited person is ordered to appear on a weekend or Community holiday, the court shall reset the date and notify the cited person of a new date and time.

(b) *Notice.* The Court shall provide notice of the initial appearance and a copy of the civil citation to the Office of General Counsel within five business days of receipt of a civil citation.

(c) *Entry of plea.* The cited person shall enter a plea of responsible or denial at the time of initial appearance to each and every offense in the citation. Failure to enter a plea to any offense shall be entered as an admission to the offense.

(d) *Denial of offenses.* The cited person may enter a denial to any and all of the offenses in the citation and an informal hearing on any challenged offenses shall be set consistent with section 12-60. When the cited person enters a denial and the matter is set for a hearing, the cited person shall ensure that the court is provided with a valid mailing address for service of any necessary court orders. The court shall advise the person that the duty to update the court for address changes is solely the responsibility of the cited person. A default judgment will be entered against a person who does not appear at the scheduled initial appearance.

(e) *Admission of offenses.* The cited person may admit responsibility to any and all of the offenses, and offer any explanation to the court. The cited person may also enter into an oral agreement to resolve the matter with the Community. The court shall consider any explanation of the person or consider the agreement between the cited person and the Community. The court shall then impose a fine as penalty and enter the judgment.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-60. Hearing.

(a) *Hearing.* If the cited person denies the allegations in the citation at the initial appearance, the matter shall be heard in an informal

hearing before a judge of the Community court. The hearing shall be heard no sooner than 15 days and no later than 45 days after the initial appearance. The hearing shall be informal and without a jury. Witnesses may testify in narrative form. The Community shall have the burden of proof and shall prove the civil violation by a preponderance of the evidence. The rules of evidence do not apply, except for provisions relating to privileged communications.

(b) *Order of proceedings.* The order of proceedings shall be as follows:

- (1) Direct, cross, and re-direct examination of Community's witnesses.
- (2) Direct, cross, and re-direct examination of defense witnesses.
- (3) Direct, cross, and re-direct examination of Community's rebuttal witnesses, if any.
- (4) Closing argument of the parties or their counsel.
- (5) Ruling by the court.

(c) *Witnesses.* The cited person and the Community may subpoena witnesses, but shall request the court issue subpoenas at least ten days prior to the hearing.

(d) *Discovery.* No pre-trial discovery shall be permitted absent extraordinary circumstances. Immediately prior to the hearing for the alleged offense, both parties shall produce for inspection any pre-prepared exhibits and written or recorded statements of any witness which may be offered at the hearing. Failure to comply with this rule may result, in the court's discretion, a continuance or recess to permit such inspection, or denying the admission of the evidence not so exchanged.

(e) *Continuances.* The Community or the cited person may request a continuance for the informal hearing in writing prior to the hearing, or in extraordinary circumstances, by oral motion at the beginning of the hearing. The court may grant a continuance when such a continuance is in the interest of justice, but shall not permit undue delay for the matter to proceed. When a continuance is requested and not granted, the

parties are required to appear for the hearing, or may be subject to default consistent with section 12-61.

(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-61. Outcomes of hearing, payment of fines.

(a) *Admissions by cited person.* The cited person may enter an admission of responsible to any and all of the offenses at the time of the hearing. After the admission of such offense, the judge shall consider any explanation of those offenses, and impose a fine as penalty.

(b) *Agreement by the cited person and the community.* The cited person and the Community may enter into an agreement to resolve the matter. After the agreement is placed on the record, the judge shall impose the terms of the agreement.

(c) *Contested offenses.* For those offenses that the person enters a denial, the judge shall evaluate the evidence presented and determine if the Community has proven the contested allegation by a preponderance of the evidence.

(d) *Finding for community, cited person responsible.* For any offense the judge finds in favor of the Community and the cited person is responsible, the judge shall impose a fine as penalty pursuant to the allowable fine in the offenses the cited person is found responsible of and record the judgment.

(e) *Finding for cited person, not responsible or dismissal of offense.* For any offense the judge finds in favor of the cited person, the judge shall enter and record judgment for the person.

(f) *Dismissal by community.* The Community may also dismiss any and all alleged offenses in the citation at any time prior to the judge rendering a decision.

(g) *Default for community, cited person's failure to appear.* When the court finds that the cited person received proper notice for the hearing and no requested continuance on behalf of the cited person for the hearing has been granted, and the person fails to appear, the court shall find the person responsible for the offenses

alleged in the citation and impose a fine as penalty in accordance with allowable fine under the code provision(s) cited. Notice shall be sent within three business days to the cited person at the address on record with the court as to the fine due and the date due.

(h) *Default for cited person, community failure to prosecute.* When the court finds that the Community received proper notice for the hearing and no requested continuance on behalf of the Community has been granted, and the Community fails to appear and present evidence to support the alleged offenses in the citation, the court shall find that the Community has failed to prosecute the citation and dismiss the citation in its entirety with prejudice.
(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-62. Admissions, not evidence in other matters.

Any admission of an allegation contained in a civil citation or a judgment on the matter shall not be evidence in any negligence-related claim or in any criminal matter.
(Ord. No. SRO-529-2021, 12-16-2020)

Sec. 12-63. Payment of fines.

If a fine has been ordered under this section, the person shall pay the fine within 30 days of either the entry of judgment or the date the judgment is mailed to the cited person, whichever is later. If the payment of fine within 30 days of entry of judgment will create an economic burden on the person, the court may permit the person to make payments in installments provided that the full fine(s) are paid within six months.
(Ord. No. SRO-529-2021, 12-16-2020)

Secs. 12-64—12-85. Reserved.

ARTICLE III. WILD FREE-ROAMING HORSES*

Sec. 12-86. Policy.

The Salt River Pima-Maricopa Indian Community (Community) finds and declares that

***Editor's note**—Ord. No. SRO-477-2016, adopted Oct. 21, 2015, changed the title of Art. III from "Wild Free-Roaming Horses and Burros" to "Wild Free-Roaming Horses."

wild free-roaming horses are living symbols of the historic heritage of the Community and that they contribute to the diversity of life forms within the Community and enrich the lives of the people. It is the policy of Community that these animals shall be protected from capture, harassment, starvation, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the Community lands.
(Code 1981, § 12-41; Code 2012, § 12-41; Ord. No. SRO-187-95, § 1, 11-2-1994; Ord. No. SRO-402-2012, § 12-41, 5-30-2012; Ord. No. SRO-477-2016, 10-21-2015)

Sec. 12-87. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Community lands means nonallotted land within Salt River Pima-Maricopa Indian Community.

Wild free-roaming horses means all unbranded and unclaimed horses on Community lands.
(Code 1981, § 12-42; Code 2012, § 12-42; Ord. No. SRO-187-95, § 2, 11-2-1994; Ord. No. SRO-402-2012, § 12-42, 5-30-2012; Ord. No. SRO-477-2016, 10-21-2015)

Sec. 12-88. Powers and duty of Community.

(a) *Jurisdiction, protection and management; delegation.* All wild free-roaming horses are under the jurisdiction of Community for the purpose of protection and management. The Community development department is authorized and directed to protect and manage the wild free-roaming horses.

(b) *Inventory.* Community shall maintain a current inventory of wild free-roaming horses on Community lands in order to determine whether the animals have access to sufficient water and food and whether there are injured and/or unhealthy animals which need to be destroyed in a humane manner. If the director of the Community development department determines that

an overpopulation exists and that action is necessary to remove excess animals so as to achieve appropriate management levels, the excess animals may be adopted by qualified individuals, organizations, educational institutions or other entities that can demonstrate and assure humane treatment and care.

(c) *Adoption*. Where excess animals have been transferred to a qualified member of the Community, or other individual, organization, educational institution, or other entity for adoption and the director of the Community development department determines that such an individual, organization, educational institution or other entity has demonstrated humane conditions, treatment and care for such animal for a period of one year, the Community is authorized to grant title of the animal at the end of the one-year period.

(Code 1981, § 12-43; Code 2012, § 12-43; Ord. No. SRO-187-95, § 3, 11-2-1994; Ord. No. SRO-402-2012, § 12-43, 5-30-2012; Ord. No. SRO-477-2016, 10-21-2015)

Sec. 12-89. Cooperative agreements.

The Community is authorized to enter into cooperative agreements with other landowners, state and local agencies, or other entities as it deems necessary for the furtherance of the purposes of this article.

(Code 1981, § 12-44; Code 2012, § 12-44; Ord. No. SRO-187-95, § 4, 11-2-1994; Ord. No. SRO-402-2012, § 12-44, 5-30-2012; Ord. No. SRO-477-2016, 10-21-2015)

Sec. 12-90. Civil penalty.

Any person or entity who takes into his or her custody an animal protected by this article or acts in violation of the terms of this article shall be guilty of a civil offense and upon conviction shall be subject to a fine not to exceed \$1,500.00. (Code 1981, § 12-45; Code 2012, § 12-45; Ord. No. SRO-187-95, § 5, 11-2-1994; Ord. No. SRO-402-2012, § 12-45, 5-30-2012; Ord. No. SRO-477-2016, 10-21-2015)

Sec. 12-91. Crime.

Any person who takes into his or her custody an animal protected by this article or acts in violation of the terms of this article shall be guilty of a crime and upon conviction shall be subject to a fine of no more than \$1,500.00 or to imprisonment of no more than 45 days or to such fine and imprisonment, with costs.

(Code 1981, § 12-46; Code 2012, § 12-46; Ord. No. SRO-187-95, § 6, 11-2-1994; Ord. No. SRO-402-2012, § 12-46, 5-30-2012; Ord. No. SRO-477-2016, 10-21-2015)

Secs. 12-92—12-110. Reserved.

ARTICLE IV. SONORAN DESERT NESTING BALD EAGLE PROTECTION ACT

Sec. 12-111. Short title.

This article may be cited as the "Salt River Pima-Maricopa Indian Community Sonoran Desert Nesting Bald Eagle Protection Act."

(Code 1981, § 12-50; Code 2012, § 12-50; Ord. No. 359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-50, 5-30-2012)

Sec. 12-112. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Community means the Salt River Pima-Maricopa Indian Community.

Council means the governing body of the Community.

Department means the Community development department.

Director means the director of the department or designee.

Endangered species means any aquatic species or species of wildlife whose prospects of

survival or recruitment within the Community are in jeopardy due to any of the following factors:

- (1) The present or threatened destruction, modification or curtailment of its habitat;
- (2) Overutilization for scientific, commercial or sporting purposes;
- (3) The effect of disease or predation;
- (4) Other natural or manmade factors affecting its prospects of survival or recruitment within the Community; or
- (5) Any combination of the foregoing factors.

Law enforcement agency means the Community police department or any department responsible for enforcement of this article.

Management means the collection and application of biological information for the purposes of establishing and maintaining a congruous relationship between individuals within species and populations of wildlife and the carrying capacity of their habitat. The term includes the entire range of activities that constitutes a full scientific resource program of, including but not limited to, research, census, law enforcement, propagation, maintenance of land or aquatic habitat interests appropriate for recovery of the species, improvement and maintenance, education and related activities or protection and regulated taking.

Person means any individual, corporation, partnership, company, association, or other legal entity.

Protected nesting habitat means an area of Community-owned land that supports nesting and stands of trees for nesting for the Sonoran Desert Nesting Bald Eagle.

Reservation means all lands within the exterior boundary of the Community.

Take or taking means to harass, harm, injure, hunt, capture, remove or kill any wildlife or attempt to do so.

Threatened species means any species that is likely to become an endangered species within

the foreseeable future throughout all or a significant portion of its range in the Sonoran Desert.

(Code 1981, § 12-51; Code 2012, § 12-51; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-51, 5-30-2012)

Sec. 12-113. Findings and declarations.

The Community Council finds and declares that:

- (1) The Sonoran Desert Nesting Bald Eagle and its habitat are deeply intertwined with the O'Odham and Piipaash traditional beliefs regarding cultural origins, cultural history, and the nature of the world; accordingly, the Sonoran Desert Nesting Bald Eagle and its habitat are considered sacred and vital to the continuation of the way of life of both the O'Odham and Piipaash people;
- (2) The Sonoran Desert Nesting Bald Eagle is indigenous to the Community and is found to be a threatened or endangered species and should be managed and protected to maintain and, to the extent possible, enhance their numbers within the carrying capacity of the habitat;
- (3) It is essential to the O'Odham and Piipaash people that they retain opportunities to maintain close contact with the Sonoran Desert Nesting Bald Eagle and its habitat and to benefit from the scientific, educational, aesthetic, and cultural values they represent. It is therefore the public policy of the Community that habitat areas be preserved by the Community;
- (4) The management and recovery of threatened or endangered species are the responsibility of and a benefit to all of society; it is in the best interest of and has a direct effect on the Community's efforts to protect the health, welfare, safety, economy, environment and natural resources of the Community and the reservation for future generations;

- (5) Pursuant to its inherent sovereignty and power to exclude, the Community has power to regulate the conduct of persons who enter or remain on the reservation, which includes the power to place conditions on a person's conduct or presence on the reservation; and
- (6) Except as otherwise provided in this article, it is unlawful for any person to take the Sonoran Desert Nesting Bald Eagle; provided that any Sonoran Desert Nesting Bald Eagle, in whole or parts thereof, transported into the Community from a point outside the exterior boundary of the reservation and which is destined for a point beyond the Community, may be transported across the Community without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of a state or otherwise in accordance with federal law.

(Code 1981, § 12-52; Code 2012, § 12-52; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-52, 5-30-2012)

Sec. 12-114. Management programs.

(a) Subject to Community Council approval, the department may establish such programs for the management of the Desert Nesting Sonoran Bald Eagle.

(b) In carrying out programs authorized by this article, subject to Community Council approval, the director may enter into agreements with federal agencies, political subdivisions of the state or with private persons for administration and management of any program established under this section or utilized for management of the Desert Nesting Sonoran Bald Eagle.

(c) The department may conduct studies to determine the status and requirements for survival of the Desert Nesting Sonoran Bald Eagle.

(d) The director may authorize by permit the taking, possession, transportation, exportation or shipment of the Desert Nesting Sonoran Bald Eagle as provided in this article, so long as such

use is for scientific, zoological or educational purposes, for propagation in captivity of such wildlife or to protect private property.

(e) The Desert Nesting Sonoran Bald Eagle may be removed, captured or destroyed where necessary to alleviate or prevent damage to property or to protect human health. Such removal, capture or destruction may be carried out only by prior authorization by permit from the director, unless otherwise provided by Community law or applicable federal law; provided that the Desert Nesting Sonoran Bald Eagle may be removed, captured or destroyed without permit by any person in emergency situations involving an immediate threat to human life or private property. Regulations governing the removal, capture or destruction of the Desert Nesting Bald Eagle shall be adopted by the department within one year after the effective date of the ordinance from which this article is derived.

(Code 1981, § 12-53; Code 2012, § 12-53; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-53, 5-30-2012)

Sec. 12-115. Protected nesting habitats.

On the recommendation of the director, the Community Council may establish protected nesting habitats on Community trust lands for the Desert Nesting Sonoran Bald Eagle. Protected nesting habitats dedicated under this article are to be held in trust, for the uses and purposes set forth herein for the benefit of the people of the Community of present and future generations. They shall be managed and protected in the manner approved by, and subject to, the rules and regulations established by the department. Protected nesting habitats may not be used for any purpose inconsistent with the provisions of this article or disposed of, without a finding by the Community Council that the other use or disposition is in the best interest of the Community.

(Code 1981, § 12-54; Code 2012, § 12-54; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-54, 5-30-2012)

Sec. 12-116. Department; power to regulate.

The department is authorized and directed to establish and enforce such regulations as it may deem necessary to carry out all the provisions and purposes of this article.

(Code 1981, § 12-55; Code 2012, § 12-55; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-55, 5-30-2012)

Sec. 12-117. Enforcement.

(a) Any person who violates the provisions of section 12-113(6) shall be guilty of a civil offense and shall be subject to a civil fine not exceeding \$5,000.00 per violation, and may be removed or excluded from the reservation by order of the Community Council.

(b) Any person who fails to procure any permit required by section 12-114(d) or who fails to abide by the terms of such permit shall be guilty of a civil offense and upon conviction shall be subject to a civil fine not exceeding \$5,000.00 per violation.

(c) The Community court shall have jurisdiction over causes of action alleging violations of this Salt River Pima-Maricopa Indian Community Desert Nesting Bald Eagle Act except where otherwise vested in the Community Council.

(d) The director and Community law enforcement agency shall enforce this article.

(Code 1981, § 12-56; Code 2012, § 12-56; Ord. No. SRO-359-2010, 2-17-2010; Ord. No. SRO-402-2012, § 12-6, 5-30-2012)