

ORDINANCE 2010- _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, RELATING TO ANIMALS; AMENDING THE PIMA COUNTY CODE BY AMENDING CHAPTER 6.04 AMENDING SECTION 6.04.160 EXCESSIVE NOISE CAUSED BY ANIMALS OR BIRDS.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

SECTION 1: Chapter 6.04, Section 6.04.160 is amended to require third and subsequent violations of the noise ordinance be adjudicated by a Justice of the Peace and amend paragraph numbers and titles as appropriate:

CHAPTER 6.04

ANIMAL CONTROL REGULATIONS

6.04.160 Excessive noise caused by animals or birds.

A. Definitions. In this section, unless the context otherwise requires:

1. "Property line" means the line which represents the legal limits of property (including an apartment, condominium, room or other dwelling unit) owned, leased or otherwise occupied by a person, business, corporation or institution. In cases involving sound from an activity on a public street or other public right-of-way, the "property line" shall be the nearest boundary of the public right-of-way.

B. Prohibited activity.

1. The following activities are prohibited if they produce clearly audible sound beyond the property line of the property on which they are conducted and they disturb the public peace and quiet or comfort of the neighboring inhabitants.

a. Owning, possessing, harboring or controlling any animal or animals or bird or birds which frequently or for continuous duration howls, barks, meows, squawks or makes other sounds.

C. Enforcement. The provisions of this section shall be enforced and administered by Pima ~~animal~~ Animal control-Care and appropriate local law enforcement.

D. Penalty.

1. A violation of any provision of this section is a civil infraction and will be adjudicated by a hearing officer, as set forth in Section 6.04.160(F), and the written rules of procedure for hearings adopted by the board of supervisors. If an owner is found responsible for two violations, any subsequent violation shall be filed in Pima County Justice Court. A uniform traffic ticket and complaint for civil traffic cases pursuant to the rules of procedure in traffic cases adopted by the Arizona Supreme Court, modified as applicable, shall be used for citations.

2. If the owner of the animals s or birds s which ~~has~~ have engaged in an activity prohibited by this section cannot be determined, the owner, lessee or occupant of the property on which the activity is located shall be deemed responsible for the violation.

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3. Each day's continuance of a violation under this section shall be deemed a separate offense.

4. A fine of no less than fifty dollars and no more than five hundred dollars shall be imposed for each violation. Monies collected for civil penalties shall be deposited in the Pima Animal Care Center financial center of the county general fund. The Justice of the Peace may also grant injunctive relief and such other and further relief as appropriate against a party found responsible for a violation of this article to prevent future violations.

E. Exemptions. Persons wishing to continue activities which constitute a violation of this section but were commenced prior to the enactment of the ordinance codified in this section may seek an exemption from the hearing officer. Such an exemption may be granted if the hearing officer finds that strict application of this section would cause undue hardship and that there is no reasonable or productive alternative method of engaging in the activity.

F. Hearing officer.

1. Scope. The hearing officer hears and decides appeals of violations under this section.

2. Powers and duties. The hearing officer performs the following duties:

a. Hearing and deciding complaints alleging civil violations of this section;

b. Administration of oaths;

c. The issuance of subpoenas and summonses ordering appearance before the hearing officer;

d. The making of any other order necessary for the determination and resolution of violations under this section.

3. Establishment. a. Appointment. The hearing officer shall be appointed by the board of supervisors;

b. Qualifications. 1) The hearing officer shall have training, experience or familiarity with administrative hearings and this section;

2) The hearing officer may be an employee of the county, except that the hearing officer shall not be a Pima animal care officer;

3) Annual review. The board of supervisors shall conduct an annual review of the hearing officer;

4) Removal. The board of supervisors has the authority to remove the hearing officer, by majority vote, for neglect of duty, inefficiency or misconduct in office.

4. Transaction of Business. The hearing officer shall follow the written rules of procedures for hearings on civil violations of the Animal Control Ordinance, Chapter 6.04 of the Pima County Code, as adopted by the board of supervisors.

G. Judicial review. The final decision of the hearing officer may be reviewed by the superior court in accordance with Title 12, Chapter 7, Article 6 of the Arizona Revised Statutes.

H. Additional remedies. In addition to other remedies provided by law, the board of supervisors, the county attorney, Pima animal care or a private individual or other entity that is specially damaged by a violation of an animal statute or ordinance may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent or abate the violation. (Ord. 2004-17 § 1 (part), 2004; Ord. 1989-40 § 1, 1989)

SECTION 2. This ordinance shall become effective _____.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this _____ day of _____, 2010.

Chair, Board of Supervisors Date
(Chairman) **Use current preference**

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Deputy County Attorney

