

After recording, please deliver to: Marian Sheppard, BOS

ORDINANCE NO. 01-4

BARKING DOG PROHIBITIONS AND REGULATIONS



SECTION 100. DEFINITIONS.

In this Ordinance, unless the context otherwise requires:

1. **"Barking"** means the characteristic short, abrupt, explosive, loud, sound or noise uttered by a dog.
2. **"County Enforcement Agent"** means that person set forth in section 500 of this Ordinance. This person is responsible for the enforcement of this Ordinance.
3. **"Excessive"** means that which goes beyond what is proper, right, or usual; being too much or too great; immoderate; inordinate.
4. **"Hearing Officer"** means that person set forth in Section 600 of this Ordinance.
5. **"Unrestrained"** means failure to use physical restraint, force or authority in preventing, suppressing, controlling, or bringing under control.

SECTION 200. DOG BARKING; CLASSIFICATION

- A. A person violates this Ordinance prohibiting unrestrained dog barking if, with the intent to disturb the peace or quiet of a neighborhood, family or person, or with knowledge of doing so, such person knowingly or recklessly:
 1. Owns, possesses or keeps any dog which engages in excessive and unrestrained barking at a time and place unreasonable under the circumstances.
 2. Permits any act in violation of paragraph A (1) to be done on any premises under his charge or control.
- B. Violation of this section results in a civil penalty not to exceed \$500.00 as determined by the hearing officer established below:

SECTION 300. EXEMPT ACTIVITIES.

Unless unreasonable under the circumstances, activity involving the possession, training, exhibition or use of a dog in the otherwise lawful pursuits of hunting, ranching, farming, rodeos, shows, exhibitions, racing, and the lawful operation of veterinary clinics, pet shops and kennels, and security services, shall be exempt from the provisions of this Ordinance.

SECTION 400. PROVOCATION OR INCITEMENT TO BARK AS A DEFENSE

A third person's provocation or incitement to bark shall be a defense to the violation under this Ordinance.

SECTION 500. ENFORCEMENT BY COUNTY ENFORCEMENT AGENT.

Enforcement of this Ordinance shall be by the County Enforcement Agent who is any Deputy of the Gila County Sheriff's Office or any member of Gila County Rabies Control, each of whom may exercise all powers available under law or this Ordinance in the performance of duty. The County Enforcement Agent may issue violations of this article.

A. The County Enforcement Agent shall:

- 1. Enforce the provisions of this article, county ordinances adopted under this article and municipal ordinances which the Board of Supervisors has contracted to enforce.**
- 2. Issue citations for the violation of this ordinance and municipal ordinances which the Board of Supervisors has contracted to enforce. The procedure for the issuance of notices to appear shall be as provided for peace officers in A.R.S. Section 13-3903, except that the enforcement agent shall not make an arrest before issuing the notice.**

B. The issuance of citations pursuant to this section shall be subject to the provisions of A.R.S. Section 13-3899.

C. The County Enforcement Agent may designate deputies.

SECTION 600. ESTABLISHMENT OF HEARING OFFICER.

- A. A hearing officer is hereby appointed to hear and determine such cases arising out of this Ordinance.**
- B. The hearing officer shall hold a hearing on each violation reported by the County Enforcement Agent. Notice of the hearing shall be served personally on the person cited at least ten (10) days before the hearing. The County Enforcement Agent shall use a uniform traffic ticket and complaint for civil traffic cases in citing persons for violation of this Ordinance.**
- C. At the hearing, the County Enforcement Agent shall present evidence of the violation, and the person cited, or his attorney, shall have an opportunity to present evidence. The county attorney may represent and present evidence for the County Enforcement Agent.**
- D. At the conclusion of the hearing, the hearing officer shall determine whether a violation occurred and, if so, impose civil penalties in the amount not to exceed \$500.00. Monies collected for civil penalties shall be deposited in the County general fund. The Board of Supervisors shall adopt written rules of procedure for the hearings. Final decisions of the hearing officer under this subsection are subject to judicial review under A.R.S. Section 12-901 *et seq.***

SECTION 700. EFFECTIVE DATE OF ORDINANCE.

Whereas, the preservation of the public peace, health and safety of the residents of the County of Gila, requires the early operation of this Ordinance, an emergency is hereby declared to exist and this Ordinance shall become immediately operative when enacted by the Board of Supervisors.

SECTION 800. ALTERNATIVE REMEDIES.

In addition to other remedies provided by law, the Board of Supervisors, the County Attorney, the County Enforcement Agent 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.

SECTION 900. JURISDICTION

This Ordinance is effective within the unincorporated areas of Gila County, Arizona.

SECTION 1000. REPEAL

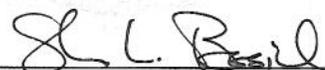
This Ordinance repeals and supercedes every other ordinance adopted by the Gila County Board of Supervisors relating to barking dogs.

PASSED AND ADOPTED by the Board of Supervisors of Gila County, Arizona on the 15th day of January 2002.

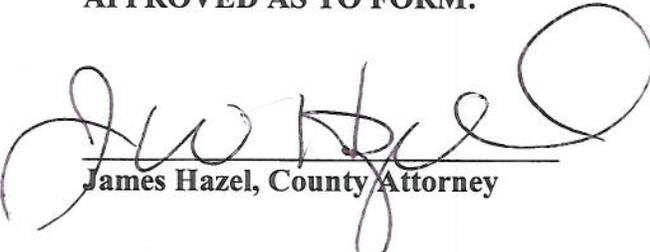
GILA COUNTY BOARD OF SUPERVISORS


Cruz Salas, Chairman


ATTEST:


Steve Besich, Clerk of the Board

APPROVED AS TO FORM:


James Hazel, County Attorney