

MARANA ORDINANCE NO. 2023.037

RELATING TO ANIMAL CONTROL; AMENDING MARANA TOWN CODE TITLE 6 (ANIMAL CONTROL); ADDING NEW CHAPTER 6-10 "PET STORES" TO REGULATE PET STORES BY ESTABLISHING REQUIREMENTS AND AUTHORIZING ENFORCEMENT; AND DESIGNATING AN EFFECTIVE DATE.

WHEREAS local governments may regulate pet stores pursuant to Arizona Revised Statutes ("A.R.S.") § 44-1799 *et seq.*; and

WHEREAS the regulation of pet stores is necessary to ensure the health, safety, and welfare of the Town's residents and to protect the dogs and cats offered for sale; and

WHEREAS the Marana Town Council deems it necessary to adopt certain regulations regarding pet stores to protect the health, safety, and welfare of the Town's residents and to protect the dogs and cats offered for sale.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, as follows:

Section 1. The amendments to Title 6 "Animal Control" of the Marana Town Code adding new chapter 6-10 "Pet Stores", one paper copy and one electronic copy of which are on file in the office of the Town Clerk of the Town of Marana, Arizona, which were made a public record by and attached as Exhibit A to Resolution No. 2023-104 of the Town of Marana, Arizona, are hereby referred to, adopted and made a part of this ordinance as if fully set out here.

Section 2. The following penalty clauses are included in Marana Town Code chapter 6-10 "Pet Stores" as adopted pursuant to this ordinance:

6-10-6 Animal care requirements; violation; classification

A. A pet dealer shall do the following:

1. Maintain facilities in which cats or dogs are housed in a sanitary condition.
2. Provide cats or dogs with potable water and adequate nutrition.
3. Provide adequate space that is appropriate to the age, size, weight, species and breed of cat or dog. For the purposes of this paragraph, "adequate space" means sufficient space for the cat or dog to experience normal body movements without having to make contact with the sides or top of the enclosure, including the ability to stand up, sit down, turn about freely, and relax in a natural position.

4. If cats or dogs are housed on wire flooring, provide a resting board, a floormat or another similar device that is maintained in a sanitary condition and that allows the cat or dog to rest off of the wire flooring.
 5. If a cat or dog is afflicted with a contagious disease, handle the cat or dog in a manner that is required by section 6-10-3.
 6. Promptly provide appropriate veterinary care when it is necessary.
- B. A pet dealer shall not offer for sale a cat or dog that is less than eight weeks old.
- C. A pet dealer who violates subsection A of this section is guilty of a class 1 misdemeanor.

6-10-8 Civil Penalties; enforcement actions

- A. Except as provided in subsection B or C of this section, a pet dealer who violates this chapter is subject to a civil penalty of not more than one thousand dollars per violation.
- B. Any violation of section 6-10-7 by a pet store or pet dealer or a violation of section 6-10-7 by someone who should have known the dog or cat was obtained for sale or resale shall have the following penalties:
1. For a first violation, a civil penalty of not more than one thousand dollars per violation.
 2. For a second violation within a five-year period, a civil penalty of not more than two thousand five hundred dollars per violation.
 3. For a third or subsequent violation within a five-year period:
 - a. A civil penalty of not more than five thousand dollars per violation.
 - b. An order entered by the court enjoining the pet store or pet dealer from selling or offering for sale, for up to three years, a dog or cat obtained from any person other than a publicly operated pound or a private, charitable nonprofit humane society or from any animal adoption activity conducted by a pound or humane society.
- C. In an action brought to enforce section 6-10-7:
1. A violation is a subsequent violation if it occurs within a five-year period after a final judgment or order that the pet store or pet dealer knowingly violated section 6-10-7 or A.R.S. § 44-1799.10, subsection A or B or should have known of the violation.
 2. In addition to any other defense that may be raised, a pet store or pet dealer is presumed to have acted in good faith and to have satisfied its obligation to ascertain whether a person meets the criteria described in section 6-10-7 if, when placing an order to obtain a dog or cat for sale or resale, the pet store or pet dealer conducts a search for inspection reports

of the breeder on the animal care information system search tool maintained by the United States department of agriculture.

3. Each order placed by a pet store or pet dealer to obtain a dog or cat for sale or resale shall be considered a single act, regardless of the number of dogs or cats obtained in the order.

D. This section does not prohibit prosecution for criminal violations.

Section 3. The various town officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

Section 4. All ordinances, resolutions, or motions and parts of ordinances, resolutions, or motions of the Council in conflict with the provisions of this ordinance are hereby repealed, effective as of the effective date of this ordinance.

Section 5. 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, the decision shall not affect the validity of the remaining portions of this ordinance.

Section 6. This ordinance shall become effective on the thirty-first day after its adoption.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 17th day of October, 2023.



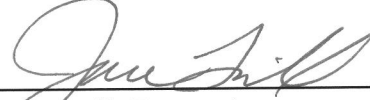
Mayor Ed Honea

ATTEST:



David L. Udall, Town Clerk

APPROVED AS TO FORM:



Jane Fairall, Town Attorney

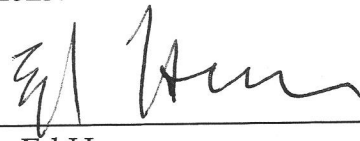


MARANA RESOLUTION NO. 2023-104

RELATING TO ANIMAL CONTROL; DECLARING AS A PUBLIC RECORD FILED WITH THE TOWN CLERK THE AMENDMENTS ADOPTED BY ORDINANCE NO. 2023.037 TO MARANA TOWN CODE TITLE 6 (ANIMAL CONTROL); ADDING NEW CHAPTER 6-10 "PET STORES" TO REGULATE PET STORES BY ESTABLISHING REQUIREMENTS AND AUTHORIZING ENFORCEMENT.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, that the amendments to Marana Town Code Title 6 (Animal Control) adopted by Ordinance No. 2023.037, a copy of which is attached to and incorporated in this resolution as Exhibit A and one paper copy and one electronic copy of which are on file in the office of the Town Clerk, are hereby declared to be a public record and ordered to remain on file with the Town Clerk.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF MARANA, ARIZONA, this 17th day of October, 2023.



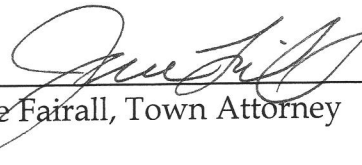
Mayor Ed Honea

ATTEST:



David L. Udall, Town Clerk

APPROVED AS TO FORM:



Jane Fairall, Town Attorney



EXHIBIT A TO MARANA RESOLUTION NO. 2023-104
Amendments to Marana Town Code, Title 6 "Animal Control" pursuant to Marana
Ordinance No. 2023.037

SECTION 1. Title 6 "Animal Control" of the Marana Town Code is hereby revised by adding new chapter 6-10 "Pet Stores" as follows:

CHAPTER 6-10. PET STORES

6-10-1 Purpose

This chapter is intended to carry out the provisions of Arizona Revised Statutes, Title 44, Chapter 11, Article 17 (A.R.S. § 44-1799 *et seq.*), which sets forth the regulations for Pet Dealers.

6-10-2 Definitions

In this chapter, unless the context or definitions in A.R.S. §44-1799 indicate otherwise, the following terms or phrases are defined as follows:

- A. "Clinically ill" means an illness that is apparent to a veterinarian based on the veterinarian's observation, examination, or testing of an animal or on a review of the animal's medical records.
- B. "Nonelective surgical procedure" means a surgical procedure that is necessary according to commonly accepted standards of veterinary medicine to preserve or restore the health of the cat or dog, to prevent the animal from experiencing pain or discomfort, or to correct a condition that would interfere with the cat's or dog's ability to walk, run or jump or to otherwise function in a normal manner.
- C. "Pet dealer" means a person who owns a pet store.
- D. "Pet store" means a commercial establishment that engages in a for-profit business of selling at retail cats, dogs or other animals, but does not include commercial livestock operations and commercial livestock auction markets. Pet store does not mean a publicly operated pound or a private, charitable not-for-profit humane society or any animal adoption activity that a pound or humane society conducts off site at any pet store or other commercial enterprise.
- E. "Purchaser" means a person who purchases any cat or dog without intent to resell.

6-10-3 Initial veterinary inspection

- A. A veterinarian, who is licensed pursuant to A.R.S. §32-2212, shall examine all cats and dogs that are received by a pet dealer before the cat or dog is placed for sale.
- B. If the veterinarian determines that a cat or dog is afflicted with a contagious disease, the cat or dog may be returned to the source or kept by the pet dealer. If the pet dealer keeps the cat or dog, the pet dealer shall cage the

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cat or dog separately from healthy animals and shall house and handle the cat or dog in a manner that will minimize the likelihood of contagion.

6-10-4 Information statement; purchaser rights; notice

A. At the time of sale, each pet dealer shall give the purchaser of a cat or dog a written statement that contains the following information:

1. The date of the animal's birth, if known, the state in which the animal was born, if known, and the date the pet dealer received the animal.
2. The immunizations and deworming treatments that have been administered to the animal as of the time of sale, if known, including the dates of administration and the type and brand of vaccine or deworming treatment.
3. The breed, sex, color, and other identifying marks apparent at the time of sale. If the animal is from a source that is licensed by the United States department of agriculture, the individual identifying tag, tattoo, or color number for the animal shall be included. If the breed is unknown or mixed, this fact shall be stated.
4. Any veterinary treatment or medication that the animal received while in the possession of the pet dealer and either of the following:

a. A statement signed by the pet dealer and the purchaser at the time of sale that contains all of the following:

i. A statement that a veterinarian examined the animal and the animal has no apparent disease or illness.

ii. A statement that a veterinarian examined the animal and at the time of the examination the animal had no apparent congenital or hereditary condition that would adversely affect the health of the animal at the time of sale or that is likely to adversely affect the health of the animal in the future.

b. A record of any known disease or illness or any hereditary or congenital condition that adversely affects the health of the animal at the time of sale or that is likely to adversely affect the health of the animal in the future. The record shall include a statement that is signed by a veterinarian who is licensed pursuant to A.R.S. §32-2212, that recommends necessary treatment, if any, and that

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verifies that the disease, illness, or condition does not require hospitalization or nonelective surgical procedures and is not likely to require hospitalization or nonelective surgical procedures in the future. A veterinarian's statement is not required for intestinal or external parasites. The pet dealer and the purchaser shall sign the statement required by this subdivision.

- B. The purchaser shall acknowledge in writing that the purchaser has received the information required by subsection A.
- C. In addition to information required to be given to a purchaser pursuant to subsection A, at the time of sale and on request of the purchaser, a pet dealer that sells a cat or dog shall provide the prospective purchaser with written notice of the purchaser's rights. The notice shall be a legible copy of A.R.S. § 44-1799 et seq.
- D. A pet dealer shall post the following notice within close proximity of the cages or enclosures in which cats or dogs are offered for sale:

Pursuant to title 44, chapter 11, article 17, Arizona Revised Statutes, information on the source of the cat or dog and any veterinary treatment received by the cat or dog is available for review. You are entitled to a copy of the law describing your rights as a consumer.

6-10-5 Record keeping

- A. A pet dealer shall maintain a written record on the health, status, and disposition of each cat and dog at the time of sale for at least one year after the cat or dog is sold or as otherwise provided by law.
- B. The records shall contain all of the information that is required by section 6-10-4 and shall be made available to town enforcement agents, law enforcement officers, and representatives of the county health or environmental services department for inspection during normal business hours.

6-10-6 Animal care requirements; violation; classification

- A. A pet dealer shall do the following:
 - 1. Maintain facilities in which cats or dogs are housed in a sanitary condition.
 - 2. Provide cats or dogs with potable water and adequate nutrition.
 - 3. Provide adequate space that is appropriate to the age, size, weight, species and breed of cat or dog. For the purposes of this paragraph, "adequate space" means sufficient space for the cat or dog to experience normal body movements without having

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to make contact with the sides or top of the enclosure, including the ability to stand up, sit down, turn about freely, and relax in a natural position.

4. If cats or dogs are housed on wire flooring, provide a resting board, a floormat or another similar device that is maintained in a sanitary condition and that allows the cat or dog to rest off of the wire flooring.
 5. If a cat or dog is afflicted with a contagious disease, handle the cat or dog in a manner that is required by section 6-10-3.
 6. Promptly provide appropriate veterinary care when it is necessary.
- B. A pet dealer shall not offer for sale a cat or dog that is less than eight weeks old.
- C. A pet dealer who violates subsection A of this section is guilty of a class 1 misdemeanor.

6-10-7 Pet stores; pet dealers; prohibitions on dog and cat purchases; recordkeeping

- A. A pet store or pet dealer may not obtain a dog or cat for resale or sell or offer for sale any dog or cat obtained from a person who is required to be licensed by the pet dealer regulations of the United States department of agriculture under the animal welfare act (7 United States Code §§ 2131 through 2159) if any of the following applies:
1. The person is not currently licensed by the United States department of agriculture under the animal welfare act (7 United States Code §§ 2131 through 2159).
 2. Within two years before obtaining the dog or cat the person commits a direct violation of any of the pet dealer regulations of the United States department of agriculture under the animal welfare act (7 United States Code §§ 2131 through 2159).
 3. The person receives an indirect no access violation on each of the two most recent inspection reports issued by the United States department of agriculture under the animal welfare act (7 United States Code §§ 2131 through 2159).
 4. The person commits three or more indirect violations of the pet dealer regulations of the United States department of agriculture during the two-year period before obtaining the dog or cat for violations relating to the health or welfare of the animal and the violations were not administrative in nature.

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The indirect violations described in this paragraph do not include a violation described in paragraph 3 of this subsection.

- B. A pet store or pet dealer may not obtain a dog or cat for resale or sell or offer for sale any dog or cat obtained from a person who directly or indirectly obtained a dog or cat from a person described in subsection A of this section. A pet store or pet dealer is presumed to have acted in good faith and to have satisfied its obligation to ascertain whether a person meets the criteria described in subsection A of this section if, when placing an order to obtain a dog or cat for sale or resale, the pet store or pet dealer conducts a search for inspection reports of the breeder on the animal care information system search tool maintained by the United States department of agriculture.
- C. Notwithstanding subsections A and B of this section, a pet store or pet dealer may obtain a dog or cat for resale or sell or offer for sale any dog or cat obtained from a publicly operated pound or a private, charitable nonprofit humane society or from any animal adoption activity conducted by a pound or humane society.
- D. A pet dealer shall maintain records verifying its compliance with this section for at least two years after obtaining the dog or cat to be sold or offered for sale. Records maintained pursuant to this subsection shall be open to inspection on request by a town enforcement agent.
- E. A pet dealer shall display the source of any dog or cat offered for sale by providing the name of the breeder of the animal, the United States department of agriculture license number of the breeder if the animal is from a breeder that is licensed by the United States department of agriculture and the United States department of agriculture website where information about the breeder may be obtained. The pet dealer shall display the information described in this subsection on both of the following:
 - 1. The cage or enclosure for each animal.
 - 2. All printed or electronic marketing materials about a specific dog or cat that has been obtained by the pet dealer and that is being offered for sale.

6-10-8 Civil Penalties; enforcement actions

- A. Except as provided in subsection B or C of this section, a pet dealer who violates this chapter is subject to a civil penalty of not more than one thousand dollars per violation.
- B. Any violation of section 6-10-7 by a pet store or pet dealer or a violation of section 6-10-7 by someone who should have known the dog or cat was obtained for sale or resale shall have the following penalties:

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1. For a first violation, a civil penalty of not more than one thousand dollars per violation.
2. For a second violation within a five-year period, a civil penalty of not more than two thousand five hundred dollars per violation.
3. For a third or subsequent violation within a five-year period:
 - a. A civil penalty of not more than five thousand dollars per violation.
 - b. An order entered by the court enjoining the pet store or pet dealer from selling or offering for sale, for up to three years, a dog or cat obtained from any person other than a publicly operated pound or a private, charitable nonprofit humane society or from any animal adoption activity conducted by a pound or humane society.

C. In an action brought to enforce section 6-10-7:

1. A violation is a subsequent violation if it occurs within a five-year period after a final judgment or order that the pet store or pet dealer knowingly violated section 6-10-7 or A.R.S. § 44-1799.10, subsection A or B or should have known of the violation.
2. In addition to any other defense that may be raised, a pet store or pet dealer is presumed to have acted in good faith and to have satisfied its obligation to ascertain whether a person meets the criteria described in section 6-10-7 if, when placing an order to obtain a dog or cat for sale or resale, the pet store or pet dealer conducts a search for inspection reports of the breeder on the animal care information system search tool maintained by the United States department of agriculture.
3. Each order placed by a pet store or pet dealer to obtain a dog or cat for sale or resale shall be considered a single act, regardless of the number of dogs or cats obtained in the order.

D. This section does not prohibit prosecution for criminal violations.