

THE CODE OF THE CITY OF PHOENIX, ARIZONA

Codified through Ordinance No. G-4716, adopted June 22, 2005, effective July 22, 2005.

(Supplement No. 13, Update 2)

Sec. 8-3. Animal cruelty.

- A. A person commits animal cruelty if the person does any of the following:
1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel 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 inflicts unnecessary physical injury to any animal.
 4. Recklessly subjects any animal to cruel mistreatment.
 5. Intentionally, knowingly or recklessly kills or attempts to kill any animal under the custody or control of another person without either legal privilege or consent of the owner.
 6. Recklessly interferes with, strikes, kills or harms a working or service animal without either legal privilege or consent of the owner.
 7. Strikes an animal with a vehicle resulting in injury to the animal, and leaves the scene without rendering aid and assistance in the care of such animal if such action can be taken with reasonable safety. For the purposes of this paragraph, "animal" means any animal of a species that is susceptible to rabies, except man.

8. Intentionally or knowingly poisons or attempts to poison any animal. attempt to poison includes the act of placing food, water, or lure of another sort which contains poison or contains health threatening foreign objects, such as glass or metal, in a location where any animal may be attracted to it. For the purposes of this paragraph, "animal" means any animal of a species that is susceptible to rabies, except man.

9. Intentionally, knowingly or recklessly making use of a baited trap for the purpose of trapping an animal, or making use of any mechanical device to capture an animal in such a manner so as to cause its death or injury, or causing a pet to be kept for a period in excess of twenty-four hours from its owner without making an attempt to return the pet to its owner, to a proper governmental authority, or to a recognized humane organization for purposes of return to its owner. Nothing contained in this paragraph shall be construed to prohibit governmental agencies or recognized animal humane groups or any entity licensed to perform such function from engaging in trapping and capturing of animals for the welfare of those animals.

B. It is a defense to subsection A. of this section if:

1. Any person exposes poison to be taken by a dog which has killed or wounded livestock or poison to be taken by predatory animals on premises owned, leased or controlled by the person for the purpose of protecting the person or the person's livestock or poultry, and the treated property is kept posted by the person who authorized or performed the treatment until the poison has been removed, and the poison is removed by the person exposing the poison after the threat to the person, or the person's livestock or poultry, has ceased to exist. The posting required shall provide adequate warning to persons who enter the property by the point or points of normal entry. The warning notice

which is posted shall be readable at a distance of fifty feet, shall contain a poison statement and symbol and shall state the word "danger" or "warning".

2. Any person uses poisons, baited trap or a mechanical device in and immediately around buildings owned, leased or controlled by the person for the purpose of controlling rodents as otherwise allowed by the laws of the state.

C. It is not a defense to subsection A of this section if:

1. The animal was trespassing on property owned or controlled by the person alleged to have violated this section.

2. The animal was not restrained in compliance with any leash law, including section 8-14.

3. The person alleged to have violated this section did not know that the animal was under the custody or control of another person.

D. This section does not prohibit or restrict:

1. The taking of wildlife or other activities permitted by or pursuant to Title 17, Arizona Revised Statutes.

2. Activities permitted by or pursuant to Title 3, Arizona Revised Statutes.

3. Activities regulated by the Arizona Game and Fish Department or the Arizona Department of Agriculture.

E. A person who violates subsection A of this section is guilty of a Class 1 misdemeanor.

F. If a person is convicted of a violation of subsection A. of this section, the court shall require the convicted person to make restitution to the owner of the animal in the full amount of the owner's economic loss, unless the convicted person and the owner are the

same. The full amount of economic loss shall include, but not be limited to, the costs of veterinary care, boarding, and necropsy; value of the animal; costs of a replacement animal; costs of training a replacement animal; and, in the case of a working or service animal, any additional costs incurred to replace the services of the working or service animal while the animal remains unavailable to its owner.

G. Upon conviction of any person under subsection A., paragraphs 1., 2., 3. or 4. for cruelty to an animal that is under the person's custody or control, the court shall order the animal that was subjected to animal cruelty forfeited to the City and disposed of as authorized by law for the disposition of other property of the City. For purposes of forfeiture, a conviction may result from a verdict or plea including a no contest plea. all right, title and interest to the animal is deemed to have vested in the City on the commission of the act or omission under this section giving rise to the forfeiture. The court also shall order the convicted person to make restitution to the City for the reasonable costs incurred in the housing, care, feeding, and treatment of the forfeited animal from the time of seizure or impoundment to the time of conviction.

H. No owner's interest in an animal may be forfeited under this section if the owner establishes all of the following:

1. The owner acquired the interest before or during the conduct giving rise to forfeiture.
2. The owner did not empower any person whose act or omission gives rise to forfeiture with legal or equitable power to convey the interest, as to a bona fide purchaser for value, and the owner was not married to any such person or if married to such person, held the property as separate property.

3. The owner did not know and could not reasonably have known of the act or omission or that it was likely to occur.

Further, no owner's interest in an animal may be forfeited under this section if the owner establishes all of the following:

1. The owner acquired the interest after the conduct giving rise to forfeiture.
2. The owner is a bona fide purchaser for value not knowingly taking part in an illegal transaction.
3. The owner was at the time of purchase and at all times after the purchase and before the filing of a criminal proceeding under this section relating to the animal, reasonably without notice of the act or omission giving rise to forfeiture and reasonably without cause to believe that the animal was subject to forfeiture.

I. In this section, unless the context otherwise requires:

1. "*Animal*" means a mammal, bird, reptile or amphibian, but excludes rodents, which may be controlled as otherwise allowed by the law of the State of Arizona. The exclusion of rodents from the definition of animal shall not apply to rodents classified as fur-bearing animals as defined in section 17-101, Arizona Revised Statutes, or to any particular rodent known by the person alleged to have violated this section to be kept as a pet or any rodent clearly marked and denominated as being a pet, such as rodents wearing collars or harnesses.
2. "*Cruel mistreatment*" means to torture or otherwise inflict unnecessary serious physical injury upon an animal, or to kill an animal in a manner that causes protracted suffering to the animal.

3. *"Cruel neglect"* means to fail to provide an animal with necessary food, water or shelter.
4. *"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 used a specially trained animal under the direction of the person's agency or the service animal owner.
5. *"Owner"* means a person who has an interest in an animal, whether legal or equitable. A person who holds an animal for the benefit of or as an agent for another is not an owner. An owner with power to convey an animal binds other owners, and a spouse binds his or her spouse, by his or her act or omission.
6. *"Service animal"* means an animal that has completed a formal training program, that assists its owner in one or more daily living tasks that are associated with a productive lifestyle and that is trained to not pose a danger to the health and safety of the general public.
7. *"Working animal"* means a horse or dog that is used by a law enforcement agency, that is specially trained for law enforcement work and that is under the control of a handler.

(Ord. No. G-4388, § 3, passed 10-3-2001, eff. 12-1-2001)

Sec. 8-3.01. Seizure of animals subjected to cruelty; cost of care.

- A. An animal subject to forfeiture under section 8-3 may be seized:
 1. By a peace officer on process issued pursuant to the provisions of title 13, Arizona Revised Statutes, including a search warrant.

2. By a peace officer upon reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of other animals. When a peace officer determines that prompt action is required under this paragraph, the officer shall immediately seize the animal and the police department and the court shall comply with the postseizure hearing requirements of section 8-3.02A.

B. In all cases where there is not a prior judicial determination of probable cause and the need for immediate seizure is not present as provided in paragraph A(2) above, the police department shall provide the owner or keeper of the animal with the opportunity for a hearing pursuant to section 8-3.02B, prior to any seizure or impoundment of the animal.

C. Nothing in this section shall be construed to prohibit the attorney for the state, after seizure of an animal by a peace officer, from taking possession of and keeping the animal when the attorney deems the animal to be of evidentiary value in any criminal prosecution relating to the condition of the animal. If the attorney for the state intends to take possession of and retain an animal as evidence in any criminal prosecution, the attorney shall promptly provide written notice to the police department.

D. The City may contract with any person or agency, including volunteers, to care for an animal that is seized and impounded for evidentiary purposes or pursuant to other provisions of this section.

E. The City shall be responsible for the costs incurred for caring for and treating a seized or impounded animal, if any of the following occur:

1. The City Attorney causes the animal to be seized or held for evidentiary purposes.

2. The court determines in a postseizure hearing held under section 8-3.02 That the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of other animals.

3. The owner's interest in the animal is not forfeited pursuant to section 8-3.

F. Except as provided in subsection E, the owner of an animal properly seized and impounded under this section is liable for the cost of caring for and treating the animal. Unless the seizure or impoundment of an animal is for evidentiary purposes, supported by a written notice of intent as required by subsection C, or the court determines at a postseizure hearing that the seizure or impoundment was not justified, the owner shall post with the court a bond in the form of cash or a surety's undertaking to defray some of the costs of caring for and treating the animal. The bond shall be in the amount of two hundred fifty dollars if one or more animals but fewer than ten animals are seized or impounded; five hundred dollars if ten or more animals but fewer than twenty animals are seized or impounded; seven hundred fifty dollars if twenty or more animals but fewer than thirty animals are seized or impounded; and one thousand dollars if thirty or more animals are seized or impounded. The owner shall post the bond within ten days of the date of the notice provided under section 8-3.02A.(1) or within five days after the conclusion of the pre seizure or post seizure hearing, whichever is later, excluding weekends and City holidays. If the owner fails to post the bond within the specified time, the owner shall be deemed to have abandoned the animal. The City may dispose of the abandoned animal as authorized by law for the disposition of other property of the City.

G. Upon forfeiture of an animal, the court shall forfeit the bond to pay the expenses incurred in caring for and treating the animal. If the bond exceeds expenses, the court shall exonerate the bond amount and order the security returned to the owner only to the extent the bond exceeds the expenses incurred in caring for and treating the animal. The court shall order the bond exonerated and the security returned to the owner if at the conclusion of the case the animal is not forfeited under section 8-3.

(Ord. No. G-4388, § 3, passed 10-3-2001, eff. 12-1-2001; Ord. No. G-4417, § 1, passed 3-20-2002, eff. 3-20-2002)

Sec. 8-3.02. Preseizure and postseizure hearings.

A. Whenever a peace officer under section 8-3.01(A)(2) seizes or impounds an animal based on a reasonable belief that very prompt action is required to protect the health or safety of the animal or the health or safety of other animals, the owner or keeper of the animal, may request a postseizure hearing to determine the validity of the seizure or impoundment, or both. The postseizure hearing shall be commenced as follows.

1. The police department or the city prosecutor, prior to the commencement of any criminal proceedings authorized under section 8-3 and within forty-eight hours, excluding weekends and city holidays, of the seizure or impoundment, shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper, if known or ascertainable after reasonable investigation. The notice shall include all of the following:

a. The name, business address, and telephone number of the person providing the notice.

- b. A description of the animal seized, including any identification upon the animal.
 - c. The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.
 - d. A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning to the court an enclosed declaration of ownership or right to keep the animal within ten days, including weekends and city holidays, of the date of the notice. The declaration may be returned by personal delivery or by mail. The declaration will be deemed received at the time it is personally served or, if mailed, upon receipt.
 - e. A statement that the owner is responsible for the cost of caring for and treating an animal that was properly seized and impounded to protect the health or safety of the animal or the health or safety of other animals.
 - f. A statement that the owner is required to post a bond with the court to defray the expenses of caring for and treating an animal that has been properly seized and impounded to protect the health or safety of the animal or the health or safety of other animals.
 - g. A warning that if the owner fails to post the bond within ten days of the seizure or five days after the conclusion of the postseizure hearing, whichever is later, excluding weekends and City holidays, the animal will be deemed abandoned and disposed of by the City.
2. The court shall conduct the postseizure hearing within forty-eight hours of the court's receipt of the request, excluding weekends and City holidays.

3. Failure of the owner or keeper, or the owner's or keeper's agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing.

B. Where there is not a prior judicial determination of probable cause and the need for immediate seizure under section 8-3.01 is not present, the owner or keeper of an animal may request a hearing prior to any seizure or impoundment of the animal. The owner or keeper shall produce the animal at the time of the hearing unless, prior to the hearing, the owner or keeper has made arrangements with the police department to view the animal upon request of the police department, or unless the owner or keeper can provide verification that the animal has been humanely destroyed by a licensed veterinarian, Animal Control Agency or Animal Welfare Organization. The pre-seizure hearing shall be commenced as follows.

1. The police department or the City Prosecutor, prior to the commencement of any criminal proceedings authorized under section 8-3, shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice to the owner or keeper, if known or ascertainable after reasonable investigation, stating the grounds for believing the animal should be seized to protect the health or safety of the animal or the health or safety of other animals. The notice shall include all of the following:

- a. The name, business address, and telephone number of the person providing the notice.
- b. A description of the animal to be seized, including any identification upon the animal.
- c. The authority and purpose for the possible seizure or impoundment.

- d. A statement that, in order to receive a preseizure hearing, the owner or person authorized to keep the animal, or the owner's or keeper's agent, shall request the hearing by signing and returning to the court an enclosed declaration of ownership or right to keep the animal within two days, excluding weekends and City holidays, of the date of the notice.
 - e. A statement that the owner is responsible for the cost of caring for and treating an animal that is properly seized and impounded to protect the health or safety of the animal or the health or safety of other animals.
 - f. A statement that the owner is required to post with the court a bond to defray the expenses of caring for and treating an animal that has been properly seized and impounded to protect the health or safety of the animal or the health or safety of other animals.
 - g. A warning that if the owner fails to post the bond within five days of the seizure, excluding weekends and City holidays, the animal will be deemed abandoned and disposed of by the City.
2. The court shall conduct the preseizure hearing within forty-eight hours of the court's receipt of the request, excluding weekends and City holidays.
 3. Failure of the owner or keeper, or the owner's or keeper's agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a preseizure hearing.
 4. The court, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.

C. In the event of the acquittal or final discharge without conviction of a person who was charged under section 8-3, the court shall, upon demand, direct the release of seized or impounded animals that have not been forfeited upon a showing of proof of ownership. Any questions regarding ownership shall be determined in a separate hearing by the court and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animal for any reason, the court shall order the animal released to the appropriate public agency for lawful disposition. This subsection shall not be construed to cause the release of an animal seized or impounded pursuant to any other local, state or federal law or regulation.

D. A person who violates subsection B by failing to produce the animal at the time of the hearing, make arrangements with and allow the police department to view the animal upon request, or provide verification that the animal has been humanely destroyed is guilty of a class 1 misdemeanor.

(Ord. No. G-4388, § 3, passed 10-3-2001, eff. 12-1-2001; Ord. No. G-4417, § 2, passed 3-20-2002, eff. 3-20-2002)

Sec. 8-3.03. Home slaughter of livestock.

A. It shall be unlawful for any person to kill livestock for the purpose of human or animal consumption on any residential lot or parcel of land.

B. The provisions of subsection A of this section shall not apply to single-family residential lots or parcels of land with an area of ten thousand square feet or more.

C. When not otherwise prohibited, the killing of livestock shall be conducted in a humane manner in accordance with A.R.S. § 3-2016.

(Ord. No. G-4020, § 1, passed 6-11-1997, eff. 7-11-1997; Ord. No. G-4388, § 2, passed 10-3-2001, eff. 12-1-2001)

Editor's note: Formerly § 8-3.01.

Sec. 8-4. Selling, dyeing, or coloring baby chickens, ducklings or young rabbits.

It shall be unlawful for any person to sell, offer for sale, barter or give away baby chickens or ducklings under five weeks of age or rabbits under two months of age in less than one dozen lots as premiums, novelties, prizes, pets or toys, or to color, dye, stain or otherwise change the natural color of baby chickens or duckling or rabbits, or to bring or transport the same into the City; provided, that this section shall not be construed to prohibit the sale or display of baby chickens or ducklings or rabbits in proper facilities that comply with the provisions of the Sanitary Code or other rules and regulations of the Board of Health by breeders and those engaged in the business of selling for commercial breeding and raising purposes.

(Code 1962, § 8-5)

ARTICLE IV. CONFINEMENT OF ANIMALS IN MOTOR VEHICLES*

***Cross references:** Vehicles and traffic, ch. 36.

State law references: Cruelty to animals, A.R.S. § 13-2910.

Sec. 8-21. Confining animals.

No person having charge or custody of an animal, as owner or otherwise, shall place or confine such animal or allow such animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, lack of food or drink, or such other circumstances as may reasonably be expected to cause suffering, disability or death.

(Ord. No. G-1222, § 1)

Sec. 8-22. Responsibility of motor vehicle owner.

No person having dominion or control over a motor vehicle, as owner or otherwise, shall place or confine an animal or allow an animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, lack of food or drink, or such other circumstances as may reasonably be expected to cause suffering, disability, or death.

(Ord. No. G-1222, § 1)

Sec. 8-23. Exceptions.

Nothing in this article shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purpose.

(Ord. No. G-1222, § 1)

Sec. 8-24. Authority of peace officer or humane officer.

A peace officer or a humane officer who finds an animal in a motor vehicle in violation of this article may break and enter the motor vehicle if necessary to remove the animal. The officer removing the animal shall take the animal to an animal shelter or other place of safekeeping and shall in the event the person having custody cannot be otherwise contacted, leave in a prominent place in the motor vehicle a written notice bearing his name and office and the address where the animal may be claimed by the owner thereof. The animal will be surrendered to the owner if the owner claims the animal within ten days from the time the animal was removed from the motor vehicle and pays all reasonable charges that have accrued for the maintenance of the animal. If the owner fails to claim the animal within five days after its removal from the motor vehicle, the person or animal shelter having custody of the animal will make reasonable effort to contact the owner and give notice that the animal is in their custody and may be reclaimed by the owner upon payment of the reasonable maintenance charges. In the event the owner cannot be contacted, or expresses no interest in reclaiming the animal within five days after contact or efforts to contact, the person or animal shelter having custody of the animal may dispose of the animal in any reasonably humane manner.

(Ord. No. G-1222, § 1)

Sec. 8-25. Reserved.

Editor's note: Section 8-25 was repealed; see Ord. No. G-1869, § 1.