# AGENDA

## TUSAYAN TOWN COUNCIL MUNICIPAL CODE WORKSHOP

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Wednesday, October 15, 2014 at 5:00pm

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Tusayan Town Council and to the general public that the Tusayan Town Council will hold a Meeting and Municipal Code workshop open to the public on Wednesday, October 15, 2014 at the Tusayan Town Hall Building. If authorized by a majority vote of the Tusayan Town Council, an executive session may be held immediately after the vote and will not be open to the public. The Council may vote to go into executive session pursuant to A.R.S. § 38-431.03.A.3 for legal advice concerning any matter on the agenda, including those items set forth in the consent and regular agenda sections. The Town Council may change, in its discussion, the order in which any agenda items are discussed during the course of the meeting.

Persons with a disability may request a reasonable accommodation by contacting the Town Manager at (928) 638-9909 as soon as possible.

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| As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you silence it at this time to minimize disruption of today's meeting. |

## TOWN COUNCIL MUNICIPAL CODE WORKSHOP

1. **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

**MAYOR GREG BRYAN**
**VICE MAYOR AL MONTOYA**
**COUNCILMEMBER BILL FITZGERALD**
**COUNCILMEMBER JOHN RUETER**
**COUNCILMEMBER CRAIG SANDERSON**

** One or two Councilmembers may attend by telephone*

3. **DISCUSSION OF DRAFT LANGUAGE FOR THE TUSAYAN MUNICIPAL CODE**

   **Chapter 6 – Animals**

4. **MOTION TO ADJOURN**

**CERTIFICATION OF POSTING OF NOTICE**

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the General Store in Tusayan, Arizona on this _____ day of October, 2014, at _____ pm in accordance with the statement filed by the Tusayan Town Council

_____
Signature of person posting the agenda

# CHAPTER 6
# ANIMALS

**Article 1 Animal Control**
**Article 2 Barking Dogs**
**Article 3 Cruelty to Animals**

## Article 1
## Animal Control

**6.1.1 Animals at Large**
**6.1.2 Definitions**
**6.1.3 Enforcement Provisions**
**6.1.4 Owner Responsibility**
**6.1.5 Penalty**
**6.1.6 Vicious Dogs**

### 6.1.1 Animals at Large

The Town of Tusayan decided to regulate, restrain, and prohibit the running at large of dogs within the incorporated limits of the Town of Tusayan and to impose penalties upon the owner of dogs when such dog is, contrary to the law, running at large within the town.

The owner, or other person acting for the owner of a dog shall at all times keep such dog from being or running at large upon the streets, sidewalks, alleys or public property of the town, unless the dog is restrained by a leash, cord, rope or chain of not more than six (6) feet in length and of sufficient strength to control the action of the dog. This provision also includes land under the control of both State and Federal Government.

The owner or person acting for the owner, of a dog shall at all times keep such dog from being or running at large upon or about the private premises of any person who has not granted permission therefore.

A dog may be running at large while participating in field trials and/or obedience classes, while assisting its owner or trainer in legal hunting or in herding livestock, while assisting a peace officer engaged in law enforcement duties, and while assisting its disabled owner, so long as such dog is under direct and effective voice control of such individual to assure that they do not violate any other provisions of the law and this ordinance.

### 6.1.2 Definitions

A. "AT LARGE" means on or off the premises of an owner and not under the control of the owner, or other person acting for the owner, either by a leash, cord, rope, chain or invisible fencing. Any dog confined shall not be considered running at large if it is confined in the premises by a suitable enclosure.

B. "OWNER" means any person, owning, harboring, keeping, possessing or maintaining a dog within the town limits of Tusayan.

C. "DOG" any animal belonging to the canine family, including wolf-hybrid, wolves, foxes, coyote-hybrid that are receptive to rabies.

D. "STRAY DOG" means any dog four months of age or older running at large that is not wearing a valid Town of Tusayan or Coconino County license tag.

E. "SUITABLE ENCLOSURE" must consist of proper fencing that is maintained and appropriate for the keeping of a dog, proper locking mechanism, proper height, and built in such a way that a dog cannot dig or crawl under the fencing. A suitable enclosure may include an invisible fence that is properly maintained, or a dog run that allows the dog to comfortably move around but does not allow the dog to jump over the top or dig under. If a suitable enclosure is not available, such dog shall be restrained by a leash, cord, rope or chain that is at least ten (10) feet in length and moves in such a way not to tangle the dog and shall be confined within the boundaries of the owner's property.

F. "VICIOUS DOG" means:

1. any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings without provocation or domestic animals, including livestock; or
2. any dog which attacks a human being, domestic animal, or livestock without provocation; or
3. any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.
4. any dog that has been declared to be vicious after a hearing before a justice of the peace, city/town magistrate or hearing officer.

**6.1.3 Enforcement Provisions**

The Town will employ an enforcement agent and provide such personnel and equipment as is necessary to enforce the provisions of this Ordinance.

Any dog, licensed or unlicensed, any stray, or any vicious dog being or running at large may be apprehended and impounded by the enforcement agent. The enforcement agent shall have the right to enter upon private property when it is necessary to do so in order to apprehend any dog that has been running at large, however, such entrance upon private property shall be in a reasonable pursuit of such dog. It is unlawful for any person to interfere with the enforcement agent in the performance of his/her duties.

The enforcement agent may issue citation(s) to the owner, or other person acting for the owner, when the dog is at large. The procedure of the issuance of a notice to appear shall be provided by a peace officer in A.R.S. 13-3903, except the enforcement officer shall not make an arrest before the issue of the notice. The issuance of citation(s) pursuant to this Ordinance shall be subject to the provisions of A.R.S. 13-3899.

**6.1.4 Owner Responsibility**

While the dog is on the owner's property, such dog shall be confined within the owner's property by a suitable enclosure. A suitable enclosure consists of proper fencing that is maintained and appropriate for the keeping of a dog, proper locking mechanism, proper height, and built in such a way that a dog cannot dig or crawl under the fencing. A suitable enclosure may include an invisible fence that is properly maintained, or a dog run that allows the dog to comfortably move around but does not allow the dog to jump over the top or dig under. If a suitable enclosure is not available, such dog shall be restrained by a leash, cord, rope or chain that is at least ten (10) feet in length and moves in such a way not to tangle the dog and shall be confined within the boundaries of the owner's property.

Injury to any person or damage to any property including domestic and wild animals, by a dog while running at large shall be the full responsibility of the dog owner, or persons responsible for the dog when such damages were inflicted.

**6.1.5 Penalty**

The owner, or any other person acting for the owner, found to have been in violation of the provisions of this ordinance is guilty of a class 2 misdemeanor and shall be subject to a fine, plus applicable cost and surcharge as follows: for the first offense, a fine of not less than twenty five dollars ($25) and no more than seven hundred and fifty dollars ($750); for a second offense a fine of not less than fifty dollars ($50) no more than seven hundred and fifty dollars ($750); for the third offense a fine of not less than one hundred dollars ($100) no more than seven hundred and fifty dollars ($750); and for the fourth and subsequent offenses a fine of not more than two hundred dollars ($200) no more than seven hundred and fifty dollars ($750). A.R.S. 13-810 provides that if a defendant fails to pay a fine or restitution, the court may, on motion of the prosecutor, a person entitle to restitution or on its own motion, require the defendant to show cause why his/her default should not be treated as contempt and may issue a summons or warrant of arrest for the defendant's appearance. If the court finds that the defendant has willfully failed to pay, the court can order the defendant put in jail until the fine has been paid or enter an order for garnishment pursuant to A.R.S. 13-812. It the court finds that the default is not willful and that the defendant cannot pay despite sufficient good faith efforts to find the monies, the court has a number of options, including modifying the manner in which the fine or restitution is to be paid.

**6.1.6 Vicious Dogs**

No person owning or harboring or having the care or custody of a vicious dog shall suffer or permit such dog to go unconfined beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained.

No person shall own or harbor any dog for the purpose of fighting or train, torment, badger, bait for use any dog for the purpose of dog fighting or for the purpose of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals.

No person shall suffer or permit a vicious dog to be unconfined. A vicious dog is "unconfined" as the term is used in this section if, while on premises of its owner or harborer, such dog is not securely confined indoors or confined in a securely enclosed and locked pen or dog run area upon the premises described in this ordinance. Such pen or dog run area must be adequate to insure the confinement of such dog upon said premises.

All persons who own a vicious dog are subject to the provisions of A.R.S. 13-1208. If, after having held a hearing, it is determined by a justice of peace, magistrate or hearing officer, that any licensed or unlicensed dog running at large, or any stray dog, is vicious and a threat to human safety, such dog(s) may be immediately destroyed in a humane manner.

## Article 2
## Prohibition of Barking or Unrestrained Barking

**6.2.1Prohibited Conditions**
**6.2.2 Definitions**
**6.2.3 Enforcement**
**6.2.4 Penalty**

### 6.2.1 Prohibited Conditions
In all areas of the Town of Tusayan it shall be unlawful for the owner, or any person having care, custody or control of a dog(s), to permit such dog(s) either willfully or through failure to exercise due care and control, to bark, howl or make any other noise, day or night, in an excessive and unrestrained manner for more than 15 minutes if continuous or more than 30 minutes if intermittent, which disturbs the peace and quiet of any person or persons.

### 6.2.2 Definitions
A. "BARKING DOG" means a dog that barks, howls, or makes any other such noise in an excessive and unrestrained, continual and unprovoked manner which disturbs the peace and quiet of any person or persons.

B. "REPORTING PERSON" means an individual(s) who reports a problem with a barking dog to Animal Control Management.

C. "EXCESSIVE and UNRESTRAINED" means barking, howling or any such noise by a dog which disturbs the peace and quiet of any person or persons for more than 15 minutes if continuous, or more than 30 minutes if intermittent.

D. "ENFORCEMENT AGENT" means that person responsible for the enforcement of this chapter and the rules adopted under this chapter as provided by A.R.S. 11-1001(4).

E. "CITATION" means the notice to appear and complaint as authorized in 13-3903, an Arizona Traffic Ticket and Complaint form may be used to issue a citation.

**6.2.3 Enforcement**

The Town of Tusayan shall employ or contract with an enforcement agent to enforce the provisions of this ordinance. It is unlawful for any person to interfere with the enforcement agent in the performance of his/her duties.

The enforcement agent may issue a citation(s) (notice to appear and complaint) to the owner or to any person having care, custody or control of a dog(s) that is in violation of this ordinance upon witnessing the excessive and unrestrained barking, as defined in this section.

Notwithstanding, the enforcement action outlined in paragraph B, the enforcement agent may issue a citation(s) after investigating a report of a violation of this section by a reporting person. Said investigation will include logs of unreasonable barking of the dog over a four to seven day period and a statement by the reporting party that he/she will be available to testify in any further court proceedings. Said investigation may include a report of excessive and unrestrained barking from at least one other neighboring resident not living with the reporting party.

The procedure of the issuance of a notice to appear and complaint shall be provided in A.R.S. 13-3903 and is subject to the provisions of A.R.S. 13-3899.

**6.2.4 Penalty**

The owner, or any person having care, custody or control of a dog found to have been in violation of the provisions of Section of the Ordinance, is guilty of a class 2 misdemeanor and shall be subject to a fine, plus applicable cost and surcharge as follows: for the first offense, a fine of not less than twenty five dollars ($25) and no more than seven hundred and fifty dollars ($750); for a second offense a fine of not less than fifty dollars ($50) no more than seven hundred and fifty dollars ($750); for the third offense a fine of not less than one hundred dollars ($100) no more than seven hundred and fifty dollars ($750); and for the fourth and subsequent offenses a fine on not less than two hundred dollars ($200) and not more than seven hundred and fifty dollars ($750).

## Article 3
## Cruelty to Animals

**6.3.1Prohibited and Exempt Behaviors**
**6.3.2 Definitions**
**6.3.3 Offenses**
**6.3.4Penalty**

### Section 6.3.1 Prohibited and Exempt Behaviors

A person commits cruelty to animals if the person does any of the following:

A. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment.
B. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's custody or control
C. Intentionally, knowingly or recklessly inflicts unnecessary physical injury to any animal.
D. Recklessly subjects any animal to cruel mistreatment.
E. Intentionally, knowingly or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner.
F. Recklessly interferes with, kills or harms a working or service animal without either legal privilege or consent of the owner.
G. Recklessly allows any dog that is under the person's custody or control to interference with kill or cause physical injury to a service animal.
H. Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is like to result. A peace officer or animal management officer may use reasonable force to open a vehicle to rescue an animal left in the vehicle as prescribed in this subsection 13-2910(D).

This ordinance does not limit prohibit or restrict:

1. The taking of wildlife or other activities permitted by or pursuant to Title 17 of the Arizona Revised Statutes.
2. Activities permitted by or pursuant to Title 3 of the A.R.S. or activities regulated by the Arizona Game and Fish Department of the Arizona Department of Agriculture.
3. Activities regulated by the Arizona Game and Fish Department or the Arizona Department of Agriculture.

### Section 6.3.2 Definitions

A. "ANIMAL" means a mammal, bird, reptile or amphibian.

B. "CRUEL MISTREATMENT" means to torture or otherwise inflict unnecessary serious injury upon an animal or to kill an animal in a manner that causes protracted suffering to the animal.

C. "CRUEL NEGLECT" means to fail to provide an animal with necessary food, water or shelter.

D. "DOMESTIC ANIMAL" means an animal kept as a pet or intended to become a pet and not primarily for economic purposes.

E. "HANDLER" means a law enforcement officer or any other person who has successfully completed a course of training prescribed by the person's of the service animal owner and who used a specifically trained animal under the direction of the person's agency or the service animal owner.

F. "INTENTIONALLY, KNOWINGLY AND RECKLESSLY" are defined as in A.R.S. 13-105(9).

G. "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.

H. "WORK 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.

I. "PROPER FOOD" means food received daily by the domestic animal that is free from contamination and is of sufficient nutritive value to maintain the animal in good health.

J. "PROPER WATER" means potable water that is accessible to the domestic animal at all times, either free-flowing or in a clean receptacle.

K. "PROPER SHELTER" means shelter which is structurally sound and protects the domestic animal from temperature extremes and precipitation, which is of sufficient size to permit the animal to enter, stand, turn around and lie down in a natural manner, which provides adequate ventilation and drainage and which is maintained in a manner which keeps the animal away from feces and minimizes the risk of the animal contracting disease, injury or becoming infested with parasites.

L. "PROPER MEDICAL CARE' means care and medical treatment for debilitating injuries, parasites and diseases, sufficient to maintain the domestic animal in good health and minimize suffering.

**Section 6.3.3 Offenses**

Offenses as authorized pursuant to A.R.S. 11-251(47), including:

A. Whoever overdrives, overloads, overworks, tortures, torments, cruelly beats, mutilates or unlawfully kills a domestic animal, or causes or procures a domestic animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, cruelly beaten, mutilated or killed, and whoever, having charge or custody of a domestic animal, either as owner or otherwise, inflicts cruelty upon it, cruelly drives or works it when unfit for labor, or cruelly abandons it, or carries it or causes it to be carried in upon a vehicle or otherwise,

in a cruel or inhumane manner or knowingly and willfully authorizes or permits it to be subjected to torture, suffering or cruelty of any kind.

B. Domestic animals under human custody or control shall be housed in healthy environments and shall be provided with proper food, water, shelter, medical care, exercise space and ventilation. Any person owning or having care, control or custody of any domestic animal shall insure, that the animal receives daily food that is free of contamination and is of sufficient quantity and nutritive value to maintain the domestic animal in good health; that potable water is accessible to the domestic animal at all times, either free-flowing or in a clean receptacle; that all domestic animals have convenient access to shelter throughout the year. Any such shelter shall be structurally sound and maintained in good repair to protect the domestic animal from injury and from the elements, and of sufficient size to permit the domestic animal to enter, stand, turn around and lie down in a natural manner. Any shelter which does not protect the domestic animal from temperature extremes or precipitation, or which does not provide adequate ventilation or drainage, shall not comply with this section. Any shelter, all bedding and any spaces accessible to the domestic animal shall be maintained in a manner which minimizes the risk of the domestic animal contracting disease, being injured, or becoming infested with parasites.

C. Domestic animals shall receive care and medical treatment for debilitating injuries, parasites and diseases, sufficient to maintain the domestic animal in good health and minimize suffering.

D. Domestic animals shall be given adequate exercise space, either within an enclosure that shall be constructed of material, and in a manner, to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the domestic animal in good condition or on a tie out, consisting of chain, leash, wire cable or similar restraint attached to a swivel or pulley. A tie out shall be not less than ten (10) feet in length, and of sufficient strength to control the actions of the domestic animal, and shall keep the domestic animal confined within the boundaries of the owner's property. Tie outs shall be so located that they cannot become entangled with other objects. Collars uses to reach to a tie out shall not be of a choke type.

E. A peace officer or animal management officer may use reasonable means to rescue an animal if physical injury or death of the animal is likely to result.

F. Any provisions of this ordinance may be waived as dictated by treatment under the direction of a licensed veterinarian.

**Section 6.3.4 Penalty**

A person who violates sections of this ordinance is guilty of a class 1 misdemeanor, punishable by up to six months in jail, three years of probation, and/or a fine of up to $2,500 plus applicable surcharges or any combination thereof, but not less than a fine of $100 for a first offense. A person who violates section of this ordinance is guilty of a class 2 misdemeanor, punishable by up to four months in jail, two years of probation and/or a fine of up to $750, plus applicable surcharges, or any combination thereof, but not less than a fine of $50 for a first offense. No judge may grant probation in lieu of, or otherwise suspend, the imposition of the minimum fine prescribed herein.

As a condition of probation, the justice of the peace may order that the owner shall not be permitted to own or control any animal for a period of up to two years. This shall not be construed to affect, in any way, the imposition of any mandatory minimum penalties herein.

This ordinance does not limit or preclude prosecution of offenses listed herein and more serious offenses of cruelty to animals pursuant to A.R.S. 13-2910, et seq. or other applicable Arizona Revised Statutes (A.R.S.).