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ARIZONA ATTORNEY GENERAL

June 6, 1984

The Honorable Carolyn Walker  
Arizona State Representative  
House Wing, State Capitol  
1700 West Washington  
Phoenix, AZ 85007

Re: 184-078 (R84-026)

Dear Representative Walker:

You have asked whether a county, city or town may enact an ordinance respecting rabies control that includes a ban on the sale of impounded dogs or cats for medical research purposes.

The Legislature enacted Article 8, Chapter 2, Title 24, Arizona Revised Statutes, to establish a statewide program for the prevention and control of rabies. Article 8 prescribes powers and duties of the State Veterinarian, Livestock Sanitary Board, Department of Health Services and county boards of supervisors. Among their duties are the designation of vaccines and periods between vaccinations, the handling and disposition of animals that have been bitten by a rabid animal, the licensing of dogs and kennels, establishment of pounds, impounding and disposing of cats and dogs and the handling of biting dogs and cats.

Two sections of Article 8, A.R.S. § 24-371 and § 24-376, underlie your question. A.R.S. § 24-371<sup>1</sup> deals specifically with the impounding and disposition of stray dogs and cats.

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1. A.R.S. § 24-371 provides:

A. The board of supervisors in each county may provide or authorize a county pound or pounds or enter into a cooperative agreement with a city, a veterinarian or an Arizona incorporated humane society for the establishment and operation of a county pound.

B. Any stray dog shall be impounded. All dogs and cats impounded shall be given proper care and maintenance.

C. Each stray dog or any cat impounded shall be kept and maintained at the county pound for a minimum of seventy-two hours unless claimed by its owner. Any person may purchase such a dog or cat upon expiration of the impoundment period, provided such person pays all pound fees established by the county board of supervisors and complies with the licensing and vaccinating provisions of this article. If such dog or cat is to be used for medical research, no license or vaccination shall be required. The county enforcement agent may destroy impounded sick or injured dogs or cats whenever such destruction is necessary to prevent such dog or cat from suffering or to prevent the spread of disease.

D. Any impounded licensed dog or any cat may be reclaimed by its owner or such owner's agent provided that the person reclaiming the dog or cat furnishes proof of right to do so and pays all pound fees established by the board of supervisors. If the dog or cat is not reclaimed within the impoundment period, the county enforcement agent shall take possession and may place the dog or cat for sale or may dispose of the dog or cat in a humane manner. Any person purchasing such a dog or cat shall pay all pound fees established by the board of supervisors.

Subsections C and D provide that a county enforcement agent shall take possession of an unclaimed impounded animal and sell it or dispose of it. Anyone may purchase a stray animal so offered for sale upon compliance with the licensing and vaccination requirements of Article 8, except that those who purchase animals for medical research need not comply.

Although the Legislature has enacted Article 8 as what appears to be a comprehensive statewide program, it also enacted A.R.S. § 24-376<sup>2</sup> which appears to be intended to encourage incorporated cities and towns and counties to enact and enforce their own rabies control programs.

The Legislature has not said that every facet of a local government's program must be the equivalent of every facet of the statewide program in Article 8; rather the Legislature has said only that if city and town requirements for licensing and vaccination of dogs and county regulation of running at large of dogs are at least as stringent as Article 8, the political subdivisions are exempt from Article 8.

If the Legislature had intended that the provisions of Article 8 which deal specifically with matters other than licensing, vaccination and running at large of dogs (e.g., impoundment and sale of stray animals in A.R.S. § 24-371) were applicable to exempt political subdivisions, A.R.S. § 24-376 or another provision of Article 8 undoubtedly would so provide. For example, the

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2. A.R.S. § 24-376 provides:

A. The provisions of this article [Article 8, Chapter 2, Title 24, Ariz. Rev. Stat.] shall not apply to incorporated cities or towns that impose a license fee and vaccination on dogs by ordinance provided that such ordinance is equal to or more stringent than the provisions of this article.

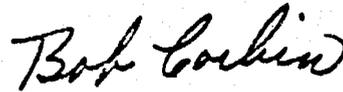
B. The provisions of this article shall not apply to counties which regulate the running at large of dogs in the unincorporated areas of the county by ordinance provided that such ordinance is equal to or more stringent than the provisions of this article.

The Honorable Carolyn Walker  
June 6, 1984  
Page 4

Legislature, in Article 8.1, Chapter 2, Title 24, A.R.S., which prescribes the method of destruction of impounded animals, provided specifically in A.R.S. § 24-381.D that every city, town and county which operates pounds must establish procedures for destruction of animals by the methods described in § 24-381.B and C.

Assuming that the respective political subdivisions enact local ordinances that impose license fees, vaccination or regulation of running at large of dogs at least as stringent as the provisions of Article 8 appertaining thereto, they then will be exempt from Article 8 and may deal with the impoundment and sale of stray animals at their discretion irrespective of Article 8.

Sincerely,



BOB CORBIN  
Attorney General

BC:FWS:lfc