

TITLE

James D. Griffith, Associate Attorney, Mangum, Wall, Stoops & Warden, P.L.L.C.

Dogs are great companions—at home, around town, and on the trail. Even so, dog ownership comes with certain legal responsibilities and potential liability. The basic responsibility of any dog owner is to control his or her dog’s behavior and to prevent direct or indirect injury to others. Animal control laws – often referred to as “leash laws” – seek a balance between a pet owner’s desire to own a pet and preventing harm to others resulting from the pet’s behavior. These leash laws apply as much to trail runners and hikers as they do to others.

This brief article provides an overview of the basic leash laws under the Flagstaff Municipal Code, the Coconino County ordinances, and Forest Service regulations. The underlying theme is an obligation to control one’s dogs, but enforcement of leash laws may differ somewhat from the precise language of the law. By understanding the legal duties that go along with dog ownership, trail runners and others who take their dogs on the trail can enjoy their four-legged companion while respecting the rights of others.

Flagstaff Municipal Code

Flagstaff’s city code includes provisions that prohibit dogs at large and that require extra care by owners of “vicious” dogs. To control dogs at large, dog owners must keep their furry friend on their property and, when taking the dog off of his or her property, must keep the dog under control and “restrained by a chain, leash, rope, or cord of sufficient strength to contain and control such dog.” Flagstaff City Code 6-02-001-0001(A).

An owner of a “vicious” dog, when taking the dog off-premises, must keep the dog under control, securely leashed, and muzzled. *Id.* at -0001(B). A dog is deemed vicious if it bites a human being without provocation, has a known propensity to bite human beings, kills or causes injury to domestic animals, or is declared vicious by a city judge. *Id.* at -0001(C)(1).

What many people may not realize is that a violation of city leash laws is a criminal misdemeanor punishable by a fine. A dog-at-large violation is subject to a minimum \$50 fine, and a vicious-dog violation is subject to a minimum \$200 fine. *Id.* at -0012(A). Judges also have the authority to order the destruction of a vicious dog. *Id.* at -0012(B).

Coconino County Ordinance

The County’s dog ordinance is similar to the Flagstaff Municipal Code although the fines vary. In areas under county jurisdiction, a dog owner may not allow his or her dog to run at large, but may take the dog off of his or her land if the dog is restrained by a “leash, cord, rope or chain of not more than 6 feet in length and of sufficient strength to control the action of the dog.” Coconino County Ordinance 2007-03 § 3.

Owners of a “vicious” dog may take their animal off of the owner’s premises if the “dog is securely leashed and muzzled or otherwise securely restrained.” *Id.* at § 7. Similar to the city

code's definition, a dog is "vicious" under the County ordinance if it (a) has a known propensity for unprovoked attacks or otherwise endangering human beings without provocation, or endangering domestic animals or livestock; (b) has attacked a human being, livestock, or a domestic animal without provocation; (c) is owned or trained for dog-fighting purposes; or (d) has been declared vicious by judge. *Id.* at § 1(6).

Violations of the County leash ordinance are criminal misdemeanors punishable by fines ranging from \$25 to \$750 for a first offense to \$200 to \$750 for a fourth or subsequent offense. *Id.* at § 6. Violations of the County's vicious-dog ordinance are misdemeanors subject to fines ranging from \$100 to \$750 for a first offense to \$300 to \$750 for a third offense. *Id.* at § 8. As with the Flagstaff city code, a judge can order the destruction of a vicious dog. *Id.* at § 9.

Dogs on Forest Service Land

Under federal regulations, the U.S. Forest Service basically follows and enforces state and local leash laws or any federal law that preempts state and local law. 36 C.F.R. § 261.8(d), 261.16(j). Thus, the Flagstaff and Coconino County leash laws discussed above apply on forest land. As stated on the Forest Service's website, "[g]enerally, dogs (pets) are allowed anywhere in the forest provided they are contained . . . or leashed at all times." Coconino Nat'l Forest, U.S. Forest Service, U.S. Dept. of Agriculture, Frequently Asked Questions, *available at* http://www.fs.usda.gov/detail/coconino/home/?cid=fsbdev3_054859#dogs. But the Forest Service has also restricted pets in some areas, all of which seem to be environmentally, historically, or culturally sensitive, or need protection for health and sanitation purposes. *Id.* (see Forest Service's website for a complete list).

Other Laws

In addition to local ordinances and federal regulations, a dog owner can be subject to civil liability resulting from a failure to control his or her dog that causes injury or damage. Under Arizona's dog-bite statute, a dog owner will be held strictly liable for injury to a person caused by the owner's dog. A.R.S. § 11-1025 - 1029. Strict liability means that the injured person does not need to prove fault on the part of the dog owner. Even if the dog-bite statute is found inapplicable, an owner could still be civilly liable under the general law of negligence.

Conclusion

The central theme under all of these laws is appropriate control of one's dog. Although every situation must be evaluated on a case-by-case basis, the notion of "appropriate" control will vary based on whether the dog is well behaved or "vicious" and on the circumstances surrounding the incident in question. A dog may be under appropriate control if the owner lets the dog off leash in the forest and owner and dog do not encounter anyone else, especially if the dog is well trained and normally responds to voice commands. Even so, the safest practice is to always keep your dog on a leash and under control. Following that practice allows the Flagstaff community to maintain the balance between enjoying the companionship of our four-legged friends and respecting the rights of others to be free of personal injury and damage to property, including their pets and livestock.