

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

WHEREAS, the Tribal Council of the White Mountain Apache Tribe is concerned about the effect upon the health and safety of the people of the White Mountain Apache Tribe because of the large numbers of stray dogs, cats and other animals in residential and non-residential areas within the reservation; and

WHEREAS, the Legal Department of the White Mountain Apache Tribe has drafted an Animal Control Ordinance for consideration by the Tribal Council; and

WHEREAS, the Tribal Council concludes that the proposed ordinance should be posted in accordance with the requirements of the Tribal Constitution for a minimum of ten days in each district so that public comment can be obtained in respect to the proposed ordinance to insure that the ordinance meets the needs of the people; and

WHEREAS, the Tribal Council further concludes that the proposed ordinance should be published in the Apache Scout as said ordinance requires registration of dogs and imposes liability upon owners of dogs and other animals.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs the Tribal Council Secretary to post the proposed Animal Control Ordinance in each district for ten days as required by the Tribal Constitution and further to publish said proposed ordinance in the Apache Scout.

The foregoing resolution was on July 14, 1994 duly adopted by a vote of 8 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a, f, i, q, s, t, u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).


Chairman of the Tribal Council


Secretary of the Tribal Council

Acting

JUL 21 1994

ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

BE IT ENACTED by the White Mountain Apache Tribal Council in Council Assembled that Chapter 10 of the Health & Safety Code of the White Mountain Apache Tribe shall be amended as follows:

SECTION 10.1 **DEFINITIONS.** In this Ordinance, unless the context otherwise requires, or unless otherwise defined for a particular purpose herein:

- A. "Animal" means any animal of a species that is susceptible to rabies, except man.
- B. "At large" means being neither confined by rope, pasture, pen, enclosure nor physically restrained by a leash or harness.
- C. "Animal Control Officer" means a civilian appointed by the Chief of Police whose work within the Whiteriver Police Department shall be to enforce applicable provisions of the Health and Safety Code of the White Mountain Apache Tribe.
- D. "Tribal Pound" means any establishment authorized by the Tribal Council for the confinement, maintenance, safekeeping and control of dogs and other animals that come into the custody of the Animal Control Officer in the performance of his official duties.
- E. "Impound" means the act of taking or receiving into custody by the Animal Control Officer of any dog or other animal for the purpose of confinement in a tribal pound in accordance with the provisions of this Ordinance.
- F. "Kennel" means an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors or maintains five or more dogs under controlled conditions.
- G. "Harboring" means the keeping of an animal by the occupant of any premises on which said animal is kept or to which customarily returns daily for food and care for a period of three or more consecutive days.
- H. "Collar" means a band, chain, harness or other suitable device worn around the neck of an animal to which a license can be attached.
- I. "Leash" means a line made of rope, chain or other suitable material not less than one-fourth inch in diameter for the purpose of restraining an animal.

J. "Livestock" means cattle, horses, sheep, goats, swine, mules or burros.

K. "Owner" means any person keeping an animal other than livestock for more than six consecutive days.

L. "Stray dog" means any dog four months of age or older running at large that is not wearing a valid license tag.

M. "Vaccination" means the administration of an anti-rabies vaccine to animals by a veterinarian.

N. "Veterinarian", unless otherwise indicated, means any veterinarian licensed to practice in this state or any veterinarian employed in this state by a governmental agency.

O. "Vicious animal" means any animal of the order carnivora that has a propensity to bite human beings without provocation, or any animal that, while at large, kills or causes injury to domestic animals.

SECTION 10.2 ANIMAL CONTROL OFFICER

A. The position of Animal Control Officer is established by the Tribal Council and replaces the position of "Special Officer" for the purposes of this code.

B. The animal control officer shall enforce the provisions of this code and any other regulations pertaining thereto. He shall be empowered to issue summons, citations and complaints relating to this code.

C. The animal control officer shall be under the employ and control of the Whiteriver Police Department.

SECTION 10.3 REGISTRATION; ISSUANCE OF DOG TAGS

A. Every dog owned within the exterior boundaries of the Fort Apache Indian Reservation shall be registered with the Animal Control Officer by the owner within thirty (30) days of the date that the dog was acquired by the owner. The registry of ownership shall contain the following information: name, breed (if known), sex, color and location of the residence where the animal resides. The name of the owner shall also be included.

B. Upon completion of the registration, a certificate shall be issued to the owner. A metal tag shall be also issued to the owner with a number and date of issue. The tag shall be attached to a collar or harness which shall be worn by the dog at all times while running at large, except as otherwise provided in this ordinance. Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and

payment of a fee established by the Tribal Council. Without the tag, the dog will be considered unregistered and will be dealt with as shown in this code. The number of the tag shall also be recorded in the registry. The period of registration is one year and must be renewed thereafter. The tag is non-transferable. The fee for such a tag is in the fee schedule as approved by the Tribal Council.

C. Proof of vaccination is required before a registration certificate can be issued. This proof and the vaccination is obtained through the Indian Health Service Hospital in Whiteriver, Arizona. If the dog has been previously registered elsewhere, then the appropriate documentation must be provided before the registration can be final.

D. Any person who knowingly fails within fifteen days after written notification from the Animal Control Officer to obtain registration for a dog required to be licensed, counterfeits an official dog tag, removes such tag from any dog for the purpose of intentional and malicious mischief or places a dog tag upon a dog unless the tag was issued for that particular dog is guilty of an offense and is subject to the penalties set forth in Section 10.13 of this Ordinance.

SECTION 10.4 DOGS NOT PERMITTED AT LARGE; WEARING LICENSES

A. Neither a female dog during her breeding or mating season nor a vicious dog shall be permitted at large.

B. Any dog over the age of four months running at large shall wear a collar or harness to which is attached a valid license tag.

C. No person in charge of any dog shall permit such dog in a public park or upon any public school property unless the dog is physically restrained by a leash, enclosed in a car, cage or similar enclosure.

SECTION 10.5 ESTABLISHMENT OF POUNDS; IMPOUNDING AND DISPOSING OF DOGS AND CATS; RECLAIMING IMPOUNDED DOGS AND CATS

A. The Tribal Council may provide or authorize a pound or pounds or enter into a cooperative agreement with a veterinarian or an Arizona incorporated humane society for the establishment and operation of a 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 pound for a minimum of seventy-two hours (72 hours) unless claimed by its owner. Upon such an action, the Animal Control Officer will make every attempt to notify the owner where the animal can be redeemed. 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 Tribal Council and complies with the licensing and vaccinating provisions of this ordinance. If the animal is not redeemed within the seventy-two hour period, then it shall be sold to the public to the highest bidder. A bill of sale shall be tendered to the highest bidder at the time of sale. Should there be no bidder, then the animal shall be destroyed. The Animal Control Officer 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 Tribal Council. If the dog or cat is not reclaimed within the impoundment period, the Animal Control Officer 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 Tribal Council.

SECTION 10.6 HANDLING OF BITING ANIMALS; RESPONSIBILITY FOR REPORTING ANIMAL BITES; AUTHORITY TO DESTROY ANIMALS

A. An unlicensed dog or unvaccinated dog or cat that bites any person shall be confined and quarantined in a pound or upon request of and at the expense of the owner, at a veterinary hospital for a period of not less than seven (7) days. A dog properly licensed and vaccinated pursuant to this ordinance, that bites any person, may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the Animal Control Officer.

B. Any animal other than a dog or cat that bites any person shall be confined and quarantined in a pound, or upon the request of and at the expense of the owner, at a veterinary hospital for a period of not less than fourteen days. If the animal is a caged rodent, it may be confined and quarantined at the home of the owner or where it is harbored or maintained, for the required period of time, with the consent of and in a manner prescribed by the Animal Control Officer.

C. Any wild animal which bites any person may be killed and submitted to the Animal Control Officer or his deputies for transmission to an appropriate diagnostic laboratory.

D. Whenever an animal bites any person, the incident shall be reported to the Animal Control Officer immediately by any person having direct knowledge.

E. The Animal Control Officer may destroy any animal confined and quarantined pursuant to this section prior to the termination of the minimum confinement period for laboratory examination for rabies if:

1. Such animal shows clear clinical signs of rabies, or
2. The owner of such animal consents to its destruction.

F. Any animal subject to licensing under this article found without a tag identifying its owner shall be deemed unowned.

G. The Animal Control Officer shall destroy a vicious animal upon an order of a tribal court judge. A Tribal Court judge may issue an order after notice to the owner, if any, and a hearing.

SECTION 10.7 DISEASED ANIMAL

A. Any animal afflicted with a contagious or infectious disease shall, at all times, be confined by a fence or pen and shall not be removed from such enclosures, even when held by a leash, except for the purpose of being transported to a licensed veterinarian.

B. It shall be unlawful for any animal owner, or other person, knowing that an animal has rabies, or has been exposed to rabies, to remove the animal from the owner's residence or from the Fort Apache Indian Reservation, except under the order of the Animal Control Officer through the Chief of Police.

C. If any owner, Animal Control Officer, or other person knows, or has reason to believe, that an animal has rabies, or has been exposed to rabies, they shall report this to the Chief of Police, who in turn will notify the Indian Health Service.

SECTION 10.8 CONTROL OF VICIOUS ANIMALS

A. Any animal declared vicious by a Judge of the Tribal Court after a hearing about the animal's behavior shall be summarily destroyed by the Animal Control Officer or restrained at the premises of the owner by means of a locked pen, depending upon the decision of the Judge.

B. If a vicious animal is out of the pen, then it must be on a secure leash, under direct control of the owner.

SECTION 10.9 PUBLIC NUISANCE

A. An animal shall be considered a public nuisance under the following conditions:

1. Molests passersby or passing vehicles;
2. Attacks other animals;

3. Barks, howls, crows or creates other animal noises so as to corrupt the peace and quite of people;
4. Is repeatedly at large, especially on school grounds;
5. Overturns or spreads garbage about;
6. Runs through or tears up gardens, landscaping or lawns.

B. Anyone who harbors, owns or controls such an animal is guilty of the offense of "Public Nuisance" as set forth in the Law and Order Code.

SECTION 10.10 UNLAWFUL INTERFERENCE WITH ANIMAL CONTROL OFFICER

A. It is unlawful for any person to interfere, threaten or harass the Animal Control Officer in the performance of his duties.

B. Anyone found guilty of unlawful interference with the Animal Control Officer shall be punished as prescribed in Section 2 of the Law and Order Criminal Code.

SECTION 10.11 REMOVING IMPOUNDED ANIMALS

No person may remove or attempt to remove an animal which has been impounded or which is in the possession of the Animal Control Officer except in accordance with the provisions of this ordinance and the regulations promulgated thereunder.

SECTION 10.12 UNLAWFUL KEEPING OF DOGS

It is unlawful for a person to keep, harbor or maintain a dog within the Fort Apache Indian Reservation except as provided by the terms of this article.

SECTION 10.13 VIOLATION; PENALTIES

A. Any person who fails to comply with the requirements of this ordinance, or violates any of its provisions, is guilty of an offense and can be punished up to and including a fine of sixty (\$60.00) dollars, sixty (60) days in jail, or both.

B. Any civil penalties brought forth in a suit for damages are in addition.

SECTION 10.14 DOGS; LIABILITY

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

SECTION 10.15 FEE SCHEDULE

- A. Initial Registration.....\$5.00
- B. Annual Renewal..... 1.00
- C. Impoundment Fee Per Day..... 1.00
- D. Voluntary Request by Owner
 to Destroy Animal..... No Charge

The foregoing Ordinance No. _____ was on _____, 1994 duly adopted by a vote of _____ for and _____ against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1(a,f,i,q,s,t and u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

Chairman of the Tribal Council

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