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Editor's Note: this article also repealed former Title 5, Section 5-01-510

§ 255-13.1 Dangerous dogs.

5-01-510.010 Purpose.

The purpose of this article is to provide for the health, safety, and general welfare of the people and lands within the external boundaries of the Winnemucca Indian Colony by regulating the licensing, control, and maintenance of dogs.

5-01-510.020 Definitions.

As used in this article, the following terms shall have the meanings indicated:

CONTROLLED

Confined by leash, chain, pen, or other restraint on the owner's premises or to the owner's person.

DANGEROUS DOG

Any dog which:

A. When unprovoked, while not in the control of its owner, chases or approaches a person in a menacing fashion or apparent attitude of attack on public or private property; or

B. When unprovoked and while off its owner's property, approaches a domestic animal in a menacing fashion, and it is clear that the dog is not merely being protective in a particular set of circumstances; or,

C. has bitten a human being or other animal not in its own or a person's defense.

DISPOSAL and DISPOSE

The surrender to an animal rescue organization or local humane society. As a last resort or by order of the court, the killing of a dog in a quick and humane manner, including euthanasia and shooting with a firearm.

DOG

Any canine, regardless of type, age, size, or gender.

DOG POUND or IMPOUNDMENT FACILITY

The facility provided or contracted by the Winnemucca Indian Colony for purposes of impounding dogs. May include any facility or secure place utilized by an animal rescue

organization or local humane society working with the Tribal Police Department when the facility is designated by the Colony for that purpose..

DOMESTIC ANIMAL

Livestock, domesticated dogs, and domesticated cats and other domesticated animals.

HUNTING DOG

Any dog controlled under the definition of "controlled" above except that the owner has trained the dog and releases the dog for the specific purpose of hunting.

KENNEL

An establishment where dogs are bred, trained, or boarded which may or may not be located on private or public property.

LAW ENFORCEMENT OFFICER or OFFICER

Any member of the Bureau of Indian Affairs/ Office of Justice Services tribal police force, or other sworn peace officers acting in their official capacities or any other officer designated by the Colony to assist the police officers with animal control.

MENACING FASHION

Demonstrating an intent to cause injury by one or more of the following actions:

- A.** An attempt to bite a person or another animal in such a fashion to show plainly to a reasonable person an unfriendly intent and put them in fear of attack.
- B.** Growling or barking in an unfriendly manner while approaching, chasing, or making physical contact with a person or a domestic animal.

OWNER

Any person, firm, corporation, organization, or department possessing, harboring or having the care or custody, whether temporarily or permanently, of a dog.

PUBLIC NUISANCE

Any dog or dogs which:

- A.** Molests passersby or obstructs passing vehicles;
- B.** Attacks other animals;
- C.** Trespasses on business property;
- D.** Is repeatedly at large;
- E.** Damages private or public property;
- F.** Barks, whines, or howls in an excessive, continuous, or untimely fashion disrupting the lives or businesses of other residents or businesses.

RUNNING AT LARGE

Not controlled under the definition of "controlled" above.

5-01-510.030. Dog control.

The owner of a dog is required to have his dog controlled at all times. Failure to control a dog will constitute a violation of this article and subject the owner to penalties as set forth herein.

5-01-510.040. Number of dogs limited.

A. No family shall own, harbor, or keep in its possession more than seven dogs on any residentially zoned lot without prior approval of the Tribal Police Department except that a litter of pups or a portion thereof may be kept for not more than three months from birth. If more than one family resides on a residential lot, then only seven dogs shall be allowed on the residential lot unless prior approval is obtained from the Tribal Police Department. For the purpose of this section, the term "family" shall be defined as one or more persons.

B. Hunting dogs shall be excepted from this provision if all other provisions of this section are met.

5-01-510.050 Vaccines required.

All dogs three months old or older must be vaccinated for parvo, distemper, and rabies and or other vaccinations required by the local animal control authorities.

5-01-510.060 Restraining action against dogs.

A. Killing a dog.

(1) Except as otherwise provided for in this article, a person may intentionally kill a dog only if a person is threatened with serious bodily harm by the dog and:

(a) Other restraining actions were tried and failed; or

(b) Immediate action is necessary.

(2) A person may intentionally kill a dog if a domestic animal that is owned or in the custody of the person is threatened with a serious bodily harm by the dog and the dog is on property owned or controlled by the person and:

(a) Other restraining actions were tried and failed; or

(b) Immediate action is necessary.

B. This section does not apply to an officer acting in the lawful performance of his or her duties, or to a veterinarian killing a dog in a proper and humane manner or to a person killing his or her own dog in a proper and humane manner.

5-01-510.070 Owners' liability for damage caused by dogs.

A. Liability for injury.

(1) Without notice. The owner of a dog is liable for the full amount of damages caused by the dog injuring or causing injury to a person, livestock or property. The owner of a dog shall pay a fine to the Tribe not less than \$50 nor more than \$500 if the dog causes injury to a person.

(2) The owner of a dog is liable for two times the full amount of damages caused by the dog injuring or causing injury to a person, livestock or property if the owner was notified or knew that the dog previously injured or caused injury to a person, livestock or property. The owner of a dog shall pay a fine to the Tribe of not less than \$200 nor more than \$1,000 if the dog causes injury to a person, if the owner was notified or knew that the dog previously injured or caused injury to a person.

(3) The owner of a dog that is used by a law enforcement agency shall not be liable for any damages to a crime suspect's property or injury to a crime suspect or forfeiture under this article while the dog is performing acts within the scope and properly within law enforcement functions.

B. Court order to kill a dog.

(1) The Tribe may commence a civil action to obtain a judgment from Tribal Court ordering an officer or other authorized facility to kill a dog. The Court may grant the judgment if the Court finds both of the following:

(a) The dog caused serious injury to a person or livestock on two separate occasions without reasonable cause.

(b) The owner of the dog was notified or knew prior to the second injury that the dog caused the first injury.

(2) Any officer or authorized facility when enforcing a judgment under this subsection shall kill a dog in a proper and humane manner.

(3) No court order is required to dispose of a dog pursuant other sections of this code that provide for disposing or killing of a dog..

5-01-510.080. Instigating fights between animals.

A. No person may instigate, promote, aid or abet the fighting between dogs.

B. No person may own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.

C. Penalties. Any person found to have violated this section shall be fined not less than \$100 nor more than \$500.

5-01-510.090 Cruelty to dogs.

It is unlawful for any person to overload, torture or cruelly beat, or unjustifiably injure, maim, mutilate or kill any dog, whether belonging to himself or another, or deprive any dog of necessary sustenance, food, drink or shelter or willfully instigate, engage in or in any way further an act of cruelty to any dog or any act to produce such cruelty.

5-01-510.100 Licensing.

- A. Any person owning, keeping, harboring, or having custody of any dog over three months of age within the Reservation must obtain a license as herein provided.
- B. Application for licenses shall be made to the Community Officer of the Tribal Court at the tribal offices which shall include the name and address of the applicant, description of the dog, the appropriate fee, and rabies certificate issued by a licensed veterinarian, or anti-rabies clinic.
- C. Application for a license must be made within 30 days after obtaining a dog over three months, except that this requirement will not apply to a nonresident keeping a dog within the Reservation for not longer than 15 days.
- D. Upon acceptance of the license and fee, the Community Officer shall issue a durable tag, stamped with an identifying number and the year of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the dog's collar.
- E. Dogs must wear identification tags at all times when off the premises of the owners.
- F. The Community Officer shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public.
- G. License fees shall be established by the Community Officer and approved by a motion of the Tribal Council. The fee schedule shall be posted for five business days before the fees shall become effective.
- H. A license shall be issued after payment of the applicable fees:
 - (1) Female dog.
 - (2) Male dog.
 - (3) Neutered/spayed dog.
 - (4) Replacement tag.
 - (5) Kennel license.
- I. Licenses shall be effective for one year, from the first day of January to the 31st day of December, and renewable by the Community Officer 10 days prior to expiration date, with no prorated fees.

5-01-510-120 -Seizure and impoundment of dogs running at large.

- A. Any dog which is found running at large with or without the identification tag or dog license which is required pursuant to §5-01-510-110, or determined to be creating a public nuisance, may be seized and impounded by the Tribal Police Department or Community Officer.
- B. Impounded dogs will be held for a minimum of four days before being determined unclaimed, abandoned, or stray and appropriate for disposal or adoption. If at any time the tribal impoundment facility has no room to safely and securely impound a dog, the Tribal Police Department is authorized to dispose of a dog in compliance with this law.

Safe impoundment includes the safety of caretakers as well as the safety of dogs. Safety of the dog includes, but is not limited to, concerns of inclement weather and other conditions that would adversely affect the health condition of the dog. Transfers due to safety do not remove the minimum hold requirement but are cumulative between the tribal and nontribal placement. Owners reclaiming their dogs will be subject to the daily fees set by the animal rescue organization or local humane society, in addition to the fees set by this article.

C. Unclaimed or abandoned dogs may be adopted in lieu of disposal by paying the appropriate fees and complying with the licensing procedures of this Article, or transferred to the control of an animal rescue organization or local humane society. Persons adopting unclaimed or abandoned dogs will have title and ownership of the dog conferred upon them, free of all claims and interest of the previous owner.

D. In addition to, or in lieu of, impounding a dog found at large, a law enforcement officer may issue to the known owner of such dog a citation of ordinance violation.

E. The owner of an impounded dog may also be assessed penalties for violation of this article.

F. Owners may regain possession of their dogs by paying the appropriate fees as determined by the fee schedule, complying with the licensing procedures of this article, and showing proof of licensing and rabies vaccination.

(1) Impoundment fee: \$50 plus the costs of the impoundment.

(2) Euthanasia fee Owners requesting euthanasia will complete a form requesting euthanasia and pay the appropriate fee which will facilitate the disposal of unwanted dogs.

G. Known owners of impounded dogs who do not claim or refuse to claim their dogs after the required minimum days provided in this section will be assessed the appropriate impoundment or euthanasia fees in accordance with the fee schedule in the event that the dog in question is not adopted by another person.

5-01-510.110 Rabies quarantine.

A. In cases of suspected or actual exposure to rabies by dogs and in cases of dog bites, owners will be required to confine the dog in question, by tying up the dog for a period of 10 days. Owners who refuse to comply with the requirement will have the dog in question impounded by the Tribal Police Department or Community Officer for a period of 10 days. The Tribal Police Department or Community Officer is also authorized to impound and quarantine for 10 days any unowned dog suspected or exposed to rabies or responsible for biting any person.

(1) If after observation for such period, any such dog is adjudged free of rabies, the owner may reclaim the dog upon payment of the regular keeping fees and complying

with the licensing requirement, as needed. Unowned or unclaimed dogs will be disposed of in accordance with the procedures outlined above..

(2) In the event that any animal under quarantine or other confinement is diagnosed as being rabid, it shall be disposed of in accordance with the procedure provided in this code.

B. No person shall delay or obstruct the Tribal Police Department in the enforcement of this section.

5-01-510.120 Enforcement.

The enforcement agencies shall be the Tribal Police Department, assisted by the Tribal Community Officer. A law enforcement officer is authorized as follows concerning a dog running at large or creating a nuisance:

A. A law enforcement officer is authorized to capture and impound any dog not controlled or determined to be creating a public nuisance as defined in this article.

B. After capturing and impounding a dog identifiable by tag, the law enforcement agency may contact the owner for pickup of the dog. The owner will pay any fees incurred in the process as identified in this article.

C. If a dog impounded pursuant to this article has no identification, and the owner is unknown to the Officer, and the tribal impoundment facility has no room to safely and securely impound the dog, the Officer is authorized to immediately dispose of the dog in accordance with this article.

D. If an officer reasonably believes that a dog running at large or creating a nuisance is in a wild state, the officer is authorized to capture and impound such dog for immediate disposal, or to dispose of the dog in the wild if necessary, as provided for under this article.

E. If a complaint is made to any enforcing agency, or enforcement officer, the community officer or his agent shall proceed as provided under any applicable section of this Code.

5-01-510.130 Dangerous dogs.

A. Possession of dangerous dog prohibited. No person shall own, keep, possess, or harbor a dangerous dog within the exterior boundaries of the Winnemucca Indian Colony..[1]

B. The officer may determine a dog to be dangerous whenever, upon investigation, an officer finds that the animal meets the definition of "dangerous dog" as defined in this Article.

C. The officer, upon making the determination that a dog is dangerous, shall issue a citation to the owner for owning, harboring, and keeping a dangerous dog. The citation shall be not less than \$100 nor more than \$500.

D. The officer, upon making the determination that a dog is dangerous, shall confiscate the dog immediately, to be held for a period of 48 hours, at which time, if no objection has been filed with the officer, Council, community officer, or Tribal Court Clerk, the dog shall be disposed of as provided in this article.

E. If the owner objects to the declaration of dangerousness, they may file a letter with the Clerk of Court within 48 hours to have the dog held until a court hearing. Upon filing an objection, the owner shall pay a deposit of \$150 for storage of the dog, to be charged at a rate of \$5/day until the court hearing.

5-01-510.140 Penalties for offenses.

With the exception of the penalties already designated in this Code,, other violations of this Code section will result in the following penalties:

A. First violation: a fine of \$100 to be paid to the Tribal Court.

B. Second violation: a fine of \$175 to be paid to the Tribal Court.

C. Third violation: a fine of \$250, and the enforcement agency may, in its discretion, declare the involved dog to be a public nuisance and dispose of it as provided in this Article.

Repealer.

Upon enactment of this article, , "Dogs," the previous section *Title 5, Section 5-01-510* is *repealed and replaced in its entirety.*