

FALLON PAIUTE-SHOSHONE TRIBE



LAW AND ORDER CODE

Title 16

Animal Control

Fallon Paiute-Shoshone Tribe

Law & Order Codes

LAW & ORDER CODE TITLE 16 ANIMAL CONTROL

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**Law and Order Code
TITLE 16
ANIMAL CONTROL**

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TITLE 16 – ANIMAL CONTROL

16-10 CONTROL OF ANIMALS

16-10-010 Purpose and Applicability

The purpose of this Title is to provide for the control of animals; to protect the health, safety and welfare of the inhabitants of the Reservation; and to protect the property and animals of the inhabitants of Reservation from damage and disease. The provisions of this Title apply to animals of all types, except where otherwise stated.

16-10-015 Definitions

The following definitions shall apply to this Title:

- (a) “Owner” shall mean any person over eighteen (18) years of age owning, keeping, having charge of, sheltering, feeding, harboring, or allowing an animal to remain about his/her premises. The parents, or guardian, or legal custodian of any child under the age of eighteen (18) years who owns, keeps, harbors, has custody of, or cares for an animal shall be deemed to be the owner of such animal.
- (b) “Stray animal” shall mean any animal declared to be a public nuisance subject to impoundment if it is running at large, not licensed, has no identification tag, and has no apparent home where it is cared for on a regular basis.
- (c) “Unprovoked” shall mean that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

16-10-020 Enforcement Procedure

(a) Criminal Citations:

- (1) A proceeding to enforce this Title shall be initiated by the issuance of a citation to the alleged offender if the alleged offender is an Indian. The citation shall state the name and address of the person cited, the section number and heading of the provisions of this Title which was allegedly violated, and the time and place of the alleged violation. The citation shall serve as a criminal complaint.
- (2) Except if stated otherwise in this Title, any Indian who violates any of the provisions of this Title may be punished by a fine of up to \$100.00 without imprisonment.
- (3) Any person who violates any of the provisions of this Title more than once within a one year period is guilty of an offense and may be punished by a fine of up to \$500.00 or 10 days in jail or both.

- (4) The provisions of Section 4-30-090 of Title 4, Criminal Procedures, dealing with citations, are applicable to proceedings under this Subsection when the defendant is an Indian charged with a criminal violation.
- (b) Civil Citations:
- (1) A proceeding to enforce this Title against a non-Indian shall be initiated by the issuing a civil citation to the defendant. Issuing of a citation constitutes a civil summons to appear in Tribal Court. A copy of the citation shall be issued to the defendant personally, a copy shall be filed with the Court Clerk and a copy shall be retained by the citing officer. When filed with the Court Clerk, the citation shall serve as a civil complaint.
- (2) Contents - The citation shall contain at least the following:
- (i) State the name and address of the person cited;
 - (ii) The section number and heading of the provisions of this Title which was allegedly violated;
 - (iii) The time and place of the alleged violation;
 - (iv) A notice requiring the defendant to appear in the Tribal Court on a stated date, time and location;
 - (v) A notice that the defendant may post the cash equivalent to the maximum civil forfeiture scheduled for the violation;
 - (vi) A notice that if the defendant fails to appear in Tribal Court his cash, which he posted, will be forfeited; and
 - (vii) A statement of the maximum civil forfeiture for each violation alleged.
- (3) Violation of this Section shall result in a civil forfeiture of:
- (i) First Offense: \$50.00 fine.
 - (ii) Second Offense: \$75.00 fine.
 - (iii) Third and Subsequent Offenses: \$100.00 fine.
- (c) In addition to the penalties which may be imposed under Subsections (a) or (b) above, a Tribal Police Officer may impound any animal that is in violation of the provisions of section 16-10-030, 040, 050, 060, 070, 080, 090, 130 and 140. The Police Officer shall take every reasonable effort to identify the owner or person responsible for the care of any impounded animal, and shall give notice to such person that the animal has been impounded. An owner or person responsible for the care of an animal may redeem any impounded animal by obtaining a valid license and, or inoculations if required, and by payment of a fee of \$10.00 for each day the animal has been impounded. Impounded animals that are not claimed within fourteen (14) days may be given to anyone who is willing to adopt the animal. If no one is willing to adopt the animal, within fourteen (14) days, it may be destroyed in a humane manner or transferred to a no-kill shelter.
- (d) In addition to the penalties imposed by this Section, the Tribal Court may also issue an order that the animal be humanely destroyed based on one or more of the following facts:
- (1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or
 - (2) The owner of the animal has demonstrated an inability or unwillingness to control the animal to prevent injury to persons or other animals.
- If the Tribal Court orders destruction, the order shall require the Tribal Police take the animal into custody for destruction, if such animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Tribal Police and failure to do so shall be a Class C offense.

16-10-030 Confinement or Restraint of Animals

- (a) All animals within the exterior boundaries of the Colony and the Reservation, whether or not inoculated as required by Section 16-10-070, shall be kept at the premises of the home, farm, or business of the person who owns or cares for the animal. No animal shall be allowed outside such premises or allowed to run free, except as specifically provided in this Section 16-10-030.
- (b) Except as stated in Section 16-10-090, an animal may be allowed off of the premises of the owner or person who cares for the animal if the animal is in the presence and under the control of a person, and such control is sufficient to effectively prevent the animal, from biting, molesting, or otherwise disturbing any other animal, person, or property.
- (c) Any animal may be allowed off of the premises of the owner or person who cares for the animal if it is confined in a motor vehicle or motor carrier in a manner which prevents its escape, but which does not constitute a cruel restraint of its ability to breath or move.
- (d) Any person shall have the right to destroy any dog or other animal which is off of the premises of the owner or person caring for the animal, and is injuring or harassing any other dog, cat, or livestock, or is threatening or inflicting harm to any person, or inflicting serious harm to property.

16-10-040 Dangerous or Destructive Animals

No person shall keep, own, or possess any fierce, dangerous, or vicious dog or other animal, unless:

- (a) The animal is penned or tied, when on the premises and physically leashed whenever it is off of the premises of the owner or person caring for the animal; and
- (b) The owner or person caring for the animal posts a notice that can be easily seen by all persons entering his premises, that a fierce, dangerous or vicious animal is on the premises.
- (c) In addition to the requirements imposed by this Section, any dog declared to be a potentially dangerous dog must meet the requirements stated Section 16-10-090.

16-10-050 Animals Which Disturb Others

- (a) No person shall own, keep, or harbor any animal, which causes continued or frequent noise, or noxious or offensive odors, which unreasonably annoys, disturbs or endangers the health or welfare of any person or neighborhood. By way of example and not of limitation, the following acts or actions by an owner or possessor of an animal are hereby declared violations of this Section:
 - 1. Allowing or permitting an animal to bark, whine, howl, crow or cackle in an excessive, continuous or untimely fashion or make other noise in such a manner so as to result in serious annoyance or interference with the reasonable use and enjoyment of neighboring premises;
 - 2. Allowing or permitting an animal onto the property of anyone other than its owner;
 - 3. Maintaining an animal that is diseased and dangerous to the public health; and
 - 4. Maintaining an animal(s) in an environment of unsanitary conditions which results in offensive odors or is dangerous to the animal(s) or to the public health, welfare or safety.

- (b) The owner of a female animal shall cause such animal to be confined in such a manner as to preclude other animals from uncontrolled access to the female when the female is in heat.

16-10-060 Permissible Numbers of Dogs and Cats

- (a) In all areas within the Reservation, each household shall own, keep, or harbor no more than four dogs over four months of age and six cats over four months of age. However within housing subdivisions built by the Tribe's Housing Authority or Housing Department, each household shall own, keep, or harbor no more than three dogs over four months of age and four cats over four months of age. However these limitations shall not change or expand any requirements imposed by any applicable rental agreement or any applicable Tribal Housing Department policy or regulation imposing animal restrictions.
- (b) Any person who is engaged in the business of raising dogs or cats must apply to the Fallon Business Council for a license allowing him to be excepted from the provisions of Subsection (a) above. The Fallon Business Council shall hold a hearing at which time the person applying for the license, and any other interested persons, may present evidence for or against an exception. The Fallon Business Council may grant a license if the person applying for the license demonstrates to the satisfaction of the Council that such business will not unreasonably annoy, disturb, or endanger the health or welfare of any person or the neighborhood. The Business Council's decision shall not be appealable to any other entity. This subsection shall not create a right in any person to obtain or maintain a license.

16-10-070 Inoculation of Dogs and Other Animals

- (a) Any person who owns or keeps a dog or cat shall have such dog or cat vaccinated within thirty (30) business days of ownership and then annually or every three (3) years (depending on vaccine term) against rabies by a licensed veterinarian.
- (b) All dogs within the exterior boundaries of the Reservation shall at all times wear a numbered tag indicating that they have been inoculated as required by the Section 16-10-070(a), and that the inoculation is current.
- (c) All dogs within the exterior boundaries of the Reservation shall be inoculated at least once against distemper under the age of 12 months.
- (d) The Fallon Business Council may, by resolution, adopt other regulations requiring the inoculation of other animals or the further or additional inoculation of dogs.
- (e) The owner or keeper of a dog or cat shall keep and maintain records of all inoculations.

16-10-080 Licensing for All Dogs

- (a) Requirement: Every person must possess a current license for every dog he/she owns, keeps, harbors or possesses on the Reservation. The owner of any dog over the age of three (3) months shall maintain a current and valid license issued by the Tribal Police at no cost to the licensee.
- (b) Every owner shall securely fasten about the neck of the dog, a collar with the license attached thereto. If such dog cannot wear a collar, it shall be implanted with a microchip. It is unlawful for any person to remove any license from any dog not owned by him/her, or to place on any dog a counterfeit, imitation, or altered license.
- (c) It shall be the duty of the owner of any dog to procure a replacement license and pay the replacement license fee (if any) if such license is lost.

- (d) Every person applying for or renewing a license must exhibit a current certificate of rabies vaccination, as required by this Code, if applicable, and issued by a licensed veterinarian.

16-10-090 Licensing and Restrictions on Potentially Dangerous Dogs

- (a) Requirement: All dogs declared to be a potentially dangerous dog within the exterior boundaries of the Reservation must have a special license issued by the Tribe. No household may have more than two dogs that have been declared to be a potentially dangerous dog.
- (b) Procedure:
 - (1) A potentially dangerous dog license shall be issued by the Tribal Police upon proof of the required inoculations and payment of a \$10.00 fee. The license shall consist of a metal tag that may be affixed to the dog's collar.
 - (2) A license shall be valid for one year, and may be renewed each year upon payment of \$5.00.
- (c) A "potentially dangerous dog" shall mean a dog that has:
 - (1) Without provocation caused substantial bodily harm to any person on public or private property; or
 - (2) Without provocation engaged in any attack on any person under circumstances which would indicate danger to personal safety; or
 - (3) Exhibited unusually aggressive behavior, such as an attack on another animal causing serious injury or death; or
 - (4) Bitten one (1) or more persons on two (2) or more occasions; or
 - (5) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, and the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals; or
 - (6) Fresh wounds, scarring, or is observed in a fight, or has other indications which to a reasonable person evidence that the animal has been or will be used, trained or encouraged to fight with another animal; or whose owner has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such animal to be fought with another animal; or
 - (7) When unprovoked, bitten a human or a domestic animal on public or private property; or
 - (8) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public or private property, other than the animal owner's property, in an apparent attitude of attack; or
 - (9) A known history or propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- (d) The Chief of the Tribal Police shall designate any dog as a potentially dangerous dog upon receiving evidence that the dog meets one or more of the criteria stated in Subsection (c). After making such a designation, the Chief of Police shall provide the owner of the dog written notification that the animal has been designated as a potentially dangerous dog. The notice shall state the facts upon which the designation was based, and the conditions imposed upon the owner as stated in Subsection (h). The written notice shall advise the owner that he/she has fourteen (14) days from receipt of the notice to appeal the determination or the imposition of conditions on the dog by filing a request for an appeal hearing with the Tribal Court.

- (e) The Tribal Court shall hold a hearing to review the designation and shall consider all relevant records and testimony, and shall issue an order rejecting or upholding the designation. The Tribal Court's order shall also affirm or modify the conditions imposed by the Chief of Police.
- (f) Notwithstanding the definition of a "potentially dangerous dog" as provided in this Section, no dog may be classified as a potentially dangerous dog if an injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other offense upon premises occupied by the owner or keeper of the dog, or if lawfully on the property, was teasing, tormenting, abusing or assaulting the dog or its owner or family member, or was committing or attempting to commit a crime. No dog may be classified a potentially dangerous dog if the dog was protecting a human being within the immediate vicinity of the dog from an unjustified attack or assault.
- (g) If an owner fails to comply with the conditions stated in the written notice provided under Subsection (e) and fails to request a hearing, the animal shall be seized and the Tribal Court shall determine the disposition of the dog.
- (h) The owner of any dog that has been designated as a potentially dangerous dog must ensure that the dog is restrained by chain or leash not to exceed ten (10) feet in length, and/or muzzled, and under the control of a person eighteen (18) years of age or older at all times it is outdoors and not inside a proper enclosure. A "proper enclosure" shall mean securely confined indoors or in a securely locked pen or kennel with at least a six foot fence so that it is suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. Such enclosure shall not allow the egress of the dog in any manner without human assistance. The owner must post on the front and the rear of the premises with clearly visible warning signs that there is a dangerous animal on the property.
- (i) If any dog previously classified as a potentially dangerous dog, when unprovoked, attacks or bites a human being or a domestic animal, the Tribal Police shall immediately confiscate and impound the animal, and the matter shall be taken before the Tribal Court for disposition of the animal.
- (j) Additional Regulations: The Fallon Business Council shall have the power to issue, by resolution, any additional regulations that may be necessary to the enforcement of this section 16-10-090. The regulations may also impose the requirement that the owner or keeper of the dog obtain liability insurance covering any damage or injury caused by the dog.
- (k) This Section shall not apply to dogs owned or used by the Tribal Police Department.

16-10-100 Cruelty to Animals

- (a) A person commits the offense of Cruelty to Animals by knowingly:
 - (1) Overworking, beating, tormenting, injuring or killing animals;
 - (2) Failing to provide an animal in the person's custody with reasonable amount of proper food, drink, freedom of movement, sanitary conditions, or shelter; or
 - (3) Abandoning any animal in any place where it may suffer injury, hunger or exposure or become a public nuisance.
- (b) Cruelty to Animals is a civil infraction for a non-Indian with the following penalties:

- (1) For a first infraction, a civil forfeiture of not less than \$100.00 and not more than \$300.00.
- (2) For a second and subsequent infraction involving the same animal, a civil forfeiture of not less than \$300.00 and not more than \$500.00.
- (c) Cruelty to Animals is a criminal infraction for an Indian subject to the following:
 - (1) A Class E offense for a first infraction.
 - (2) A Class D offense for a second and subsequent infraction involving the same animal.
- (d) The Tribal Police may seize any animals subject to a violation of this Section. If the Tribal Police know or discover the identity of the owner of a seized animal, then the Tribal Police shall attempt to provide notice of the animal's impoundment. The Tribal Court shall determine the disposition of such animals, which may include but is not limited to returning the animal to the owner with specified conditions, euthanizing in a humane manner, sale at a public auction, or transfer of ownership to an agency or person willing to properly care for the animal. If an animal is sold, the proceeds of the sale shall first be paid to cover the expenses of the impoundment and sale, second to compensation to any person who experienced property or personal damage, third to any penalties imposed against the owner by this Title, and fourth to the owner who provides proof of ownership. If the owner does not claim the remaining amount within one year, the proceeds shall be transferred to the Tribe's general fund.

16-10-110 Civil Actions

In addition to the penalties set forth in section 16-10-020, any person who owns or keeps an animal is liable for any injury or damages caused by that animal. Such damages may be recovered in a civil action. In any action pursuant to this section, it is not necessary to prove that the animal is dangerous or vicious to recover damages.

16-10-120 Surrender of Animals for Quarantine or Confinement

- (a) The owner or keeper of any dog or cat that has been reported to have inflicted a bite on any person or that has been reported as suspected of having or showing the symptoms of rabies, shall on demand by the Tribal Police produce the dog or cat for quarantine/confinement or observation for a period of ten (10) calendar days. Home quarantine is allowed. The animal must be available for observation by a Tribal Police Officer. Refusal to produce or surrender said dog or cat shall be a violation of this Title including but not limited to subjecting the person to the enforcement procedures stated in Section 16-10-020.
- (b) The owner or keeper of any other animal that has been reported to have inflicted a bite on any person and is considered to be capable of transmitting rabies shall produce such animal for testing to a licensed veterinarian.
- (c) The owner or keeper of any dog or cat that has been reported to have been inflicted or bitten by an animal suspected of having or showing suspicious symptoms of rabies shall on demand produce said dog or cat for confinement for a period no less than ninety (90) calendar days if the dog or cat is vaccinated. In this instance, said dog or cat shall be administered a booster rabies shot immediately after incident. If the dog or cat is not vaccinated at the time of having been inflicted or bitten, confinement is required for a period no less than six (6) months or one hundred eighty (180) calendar days and animals will be vaccinated against rabies at least thirty (30) calendar days prior to release. The owner or keeper of any dog or cat that has been reported to have been

inflicted or bitten by another animal suspected of having or showing suspicious symptoms of rabies may opt to have said animal euthanized.

16-10-130 Fighting Animals Prohibited

It shall be a violation of this Title for any person to cause, instigate or encourage any dog or other animal to fight another of its own species or another of a different species, or to maintain a place where any dog or animal is permitted to fight for exhibition, for wager or for sport.

16-10-140 Animals in Vehicles

- a) No person shall leave an animal in a motor vehicle without adequate ventilation, or in such a manner as to expose the animal to extremes of heat and cold.
- b) The Tribal Police may remove and impound an animal from a vehicle if its safety appears to be in immediate danger from heat, cold, or lack of adequate ventilation. The Tribal Police are authorized to take all steps reasonably necessary for the removal of such animal, including but not limited to breaking into the vehicle. Neither the Tribal Police Officers involved, the Fallon Paiute-Shoshone Tribe, nor the Tribal Police Department shall bear any liability for damage.

16-10-150 Strays

- (a) If the Tribal Police have adequate facilities available, they shall impound all stray dogs on the Reservation.
- (b) Every stray dog impounded shall be held by the Tribal Police until the dog's owner comes forth, provides proof of current rabies vaccine, a current license, a reclaim fee, a boarding fee (if applicable), and any other vaccination fee, then such dog shall be released to its owner. The reclaim fee shall be \$10 for the first time a dog is impounded, and \$30 for every subsequent time a dog is impounded. The boarding fee will be the daily costs to the Tribe for the impoundment.
- (c) After fourteen (14) days, any stray dog that has not had an identified owner come forth to claim an ownership right in such dog, the dog will become the property of the Tribe.
- (d) Any dog impounded suspected of having or having been exposed to rabies or showing any other signs of disease shall be held for inspection by a certified veterinarian at the owner's expense.
- (f) Any dog impounded as a result of the owner's arrest, hospitalization, protective shelter, death, or possible abandonment shall be kept under protective custody. The Tribal Police will board such dog for up to fourteen (14) days at the owner's expense. At the time of impound, written notice shall be posted upon the property from which the dog was taken or served upon the owner. If such dog is not reclaimed within fourteen (14) days of date and time of impound, the Tribe shall have legal ownership of such dog.