

MORONGO BAND OF MISSION INDIANS

ORDINANCE 34

ANIMAL CONTROL ORDINANCE

Approved September 21, 2011¹

¹ *See also* “Animal Control Policies and Procedures for Cats and Dogs,” approved on October 25, 2011, Motion No. 102511-14.

MORONGO BAND OF MISSION INDIANS

ANIMAL CONTROL ORDINANCE

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² Although a “CONTENTS” section was not included in the original Ordinance as adopted, it has been added here in order to simplify locating a section.

MORONGO BAND OF MISSION INDIANS

ANIMAL CONTROL ORDINANCE

CHAPTER 1. GENERAL PROVISIONS.

SECTION 1. PURPOSE AND INTENT.

- 1.1.1 The purpose of this Ordinance is to provide for the capture and removal of stray or vicious wildlife or domestic animals on the Morongo Indian Reservation in order to protect the health, safety and welfare of the Reservation community.
- 1.1.2 It is the intent of this Ordinance to create an orderly and effective procedure for the capture and removal of stray or vicious wildlife or domestic animals on the Reservation.

SECTION 2. DEFINITIONS.

- 1.2.1 In construing the provisions of this Ordinance and any regulations adopted pursuant to this Ordinance, the following terms shall have the designated meaning unless a different meaning has been provided or the context clearly requires otherwise:
- (a) “Disposal” shall include, but not be limited to, making the animal available for adoption, donation, and/or euthanizing the animal.
 - (b) “Domestic Animal” means any animal kept as a pet, excluding livestock.
 - (c) “Duly Authorized Agent” means a person or entity authorized by the Tribal Council to take specific actions on the Tribe’s behalf related to animal control on the Reservation.
 - (d) “Impound” means the placement and retention of a stray or vicious animal in the custody of tribal law enforcement and/or the Tribe’s duly authorized agent.
 - (e) “Law Enforcement Officer” means a person duly appointed and authorized by the Tribal Council to enforce tribal laws, including but not limited to tribal, federal, or state law enforcement officers.
 - (f) “Member” or “Tribal Member” means a person who is listed on the membership roll of the Morongo Band of Mission Indians.
 - (g) “Minor” shall mean a person who has not yet attained the age of eighteen (18) years and who is not an emancipated minor.

- (h) “Person” means any natural person or any partnership, corporation, limited liability company, trust or other type of association.
- (i) “Potentially dangerous animal” means any animal that, when unprovoked, habitually snaps, snarls, growls, or otherwise manifests a disposition to bite, attack or injure any person or domestic animal.
- (j) “Provoke” includes teasing, abusing, harassing, assaulting, or tormenting.
- (k) “Reservation” means all lands within the exterior boundaries of the Morongo Indian Reservation, as well as all lands held in trust by the Federal Government for the benefit of the Tribe; all lands held and managed by the Tribe for the use and benefit of the Tribe and its members; and any other lands over which the Tribe may exercise jurisdiction by virtue of agreement or otherwise.
- (l) “Seize” means the taking of an animal by tribal law enforcement and/or the Tribe’s duly authorized agent.
- (m) “Stray Animal” means any animal that is not physically restrained or a homeless animal such as one who has been left on the Reservation.
- (n) “Tribal Council” means the duly elected Tribal Council of the Morongo Band of Mission Indians.
- (o) “Tribal Court” means the Tribal Court of the Morongo Band of Mission Indians, or if such court is not fully functional, the Tribal Council of the Morongo Band shall act as the Tribal Court as provided herein.
- (p) “Tribe” means the Morongo Band of Mission Indians.
- (q) “Vicious Animal” means any animal that has, without provocation, bitten, attacked, threatened, or otherwise caused physical injury to a person or other animal. A domestic animal that attacks as a result of trespass onto its owner’s property shall not be deemed a vicious animal.
- (r) “Wildlife” means any animal, including any mammal, reptile or bird, which has not been domesticated.

SECTION 3. JURISDICTION AND APPLICATION OF LAWS.

- 1.3.1 The provisions of this Ordinance and all rules and regulations adopted hereunder shall apply to the full extent of the jurisdiction of the Tribe, extending to the entire Reservation including all lands within its exterior boundaries.

- 1.3.2 The provisions of this Ordinance shall apply to all persons within the exterior boundaries of the Reservation.
- 1.3.3 Jurisdiction under this Ordinance shall be governed by this section and is not limited by inconsistent provisions of other ordinances of the Tribe unrelated to animal control or by inconsistent court rules.
- 1.3.4 Nothing in this Ordinance or any regulation issued under this Ordinance shall authorize, or purport to authorize, the taking of wildlife in violation of the Endangered Species Act, 16 U.S.C. §1531 *et seq.*; Bald Eagle Protection Act, 16 U.S.C. §668 *et seq.*; Migratory Birds Act, 16 U.S.C. §701 *et seq.*; or other applicable federal laws of general application.
- 1.3.5 Nothing in this Ordinance shall prevent the imposition of criminal penalties or sanctions under applicable federal and/or state law.

CHAPTER 2. ANIMAL CONTROL.

SECTION 1. RESPONSIBILITIES OF OWNERS OF DOMESTIC ANIMALS AND LIVESTOCK.

- 2.1.1 Owners of domestic animal(s) on the Reservation shall take all steps reasonably necessary to care for such animal(s), give it all necessary rabies and other shots, and keep such animal(s) under their supervision and control at all times.
- 2.1.2 Owners of domestic animals, other than cats, must ensure that the animal is physically restrained at all times. An animal is physically restrained where (1) if on the owner's premises, the animal cannot go beyond the exterior boundaries of the owner's premises; (2) the animal is under physical restraint by a leash or other similar device; or (3) the animal is otherwise under the physical control of the owner by some other device or means other than voice control, eye control or signal control.
- 2.1.3 The owner of any domestic animal that has been impounded and/or disposed of pursuant to this Ordinance shall be responsible for the payment of any and all costs and fees associated with the seizure, impoundment and disposal of the animal. Costs and fees shall be assessed as provided in Section 3.3.1.
- 2.1.4 The owner of any domestic animal shall be responsible for any and all harm caused by such animal to the person or property of another. The parents of a minor child shall be deemed the owner of, and responsible for any harm caused by, their child's domestic animal(s).
- 2.1.5 Livestock shall not be allowed to roam or graze freely in the residential or allotted area(s) of the Reservation. All livestock in the residential or allotted area(s) of the Reservation not confined within a stock-tight fence shall be considered as stray animals.

SECTION 2. SEIZURE, IMPOUNDMENT AND CLAIM OF STRAY ANIMALS.

- 2.2.1 Any stray animal found within Reservation boundaries may be seized and impounded by any Law Enforcement Officer and/or the Tribe's Duly Authorized Agent.
- 2.2.2 A stray animal that has been seized and impounded pursuant to this Ordinance shall be held for a period of at least three (3) business days prior to the animal's disposal. During this retention period the animal shall be available to be claimed by its owner. The owner must pay all costs and fees assessed pursuant to this and any other Tribal Ordinance prior to claiming the animal, unless otherwise agreed upon by the Tribal Council and the owner.

SECTION 3. NOTICE TO OWNERS AND DISPOSAL OF SEIZED AND IMPOUNDED ANIMALS.

- 2.3.1 Any stray animal that does not have an identification tag and that has not been claimed by its owner within three (3) business days shall be disposed of by the Tribe and/or the Tribe's Duly Authorized Agent. The animal may be disposed of in any manner authorized under applicable law, including adoption, release to an animal rescue and adoption organization, or euthanasia, unless other means of disposal are identified in any rules or regulations adopted pursuant to this ordinance.
- 2.3.2 No stray animal which has an identification tag and which has been seized and impounded pursuant to the provisions of this Ordinance shall be disposed of without notice to the animal's owner, if the owner's identity is known to the Tribe and/or the Tribe's Duly Authorized Agent. The Tribe shall take reasonable steps to notify the owner prior to disposal. Actual notice to the owner is not required by this Ordinance.

SECTION 4. POTENTIALLY DANGEROUS AND VICIOUS ANIMALS.

- 2.4.1 A potentially dangerous animal, while on the owner's premises shall, at all times, be kept indoors, or in a securely fenced yard from which the animal cannot escape, and into which children cannot trespass.
- 2.4.2 A potentially dangerous animal may be off the owner's premises only if the animal is securely tethered with a rope, chain, or other similar device adequate to restrain the animal and prevent injury to others. Under no circumstances shall a potentially dangerous animal be left unattended when off the owner's premises.
- 2.4.3 Any Vicious Animal, as defined by this Ordinance, shall be seized, impounded, and disposed of by the Tribe and/or the Tribe's Duly Authorized Agent. Such animal may be immediately disposed of upon seizure. There shall be no mandatory retention period, and the owner of the animal shall have no right to claim the animal. This provision shall not apply where the injury inflicted by the animal occurred when the person who was injured was committing a willful trespass or tort upon the animal owner's property, or where the injury occurred as a result of provoking the animal.

SECTION 5. OBSTRUCTION OF TRIBAL LAW ENFORCEMENT OFFICER OR AGENT.

- 2.5.1 No person shall interfere with or obstruct any Law Enforcement Officer or the Tribe's Duly Authorized Agent in the discharge of his/her duties while enforcing the provisions of this Ordinance, or any regulation promulgated pursuant to this Ordinance. Any such interference or obstruction constitutes a violation of this Ordinance.

CHAPTER 3. ENFORCEMENT.

SECTION 1. ACTIONS.

- 3.1.1 The Tribal Court of the Morongo Band of Mission Indians or, in the absence of the Tribal Court, the Tribal Council shall have jurisdiction to hear all actions properly brought under this Ordinance against any person. For purposes of this Ordinance, the Tribal Council shall act in its judicial capacity until such time as a Tribal Court is established and functioning.
- 3.1.2 An action for a violation of this Ordinance shall be commenced by such person as the Tribal Council may designate. A person so designated shall file a complaint according to procedures established by the Tribal Council until such time as the Tribal Court is established, at which time the filing procedures shall be those set forth in the rules of the Tribal Court.
- 3.1.3 Notice of the action shall be given as provided by the Tribal Council until such time as the Tribal Court is established, at which time notice shall be given according to the rules of the Tribal Court.

SECTION 2. IMPLEMENTATION AND ENFORCEMENT.

- 3.2.1 The Tribal Council may adopt such rules or regulations as may be necessary for the proper and effective implementation and enforcement of this Ordinance including, but not limited to, rules or regulations governing or limiting the possession of domestic animals on the Reservation. A violation of any such duly adopted regulation shall be deemed a violation of this Ordinance.
- 3.2.2 The Tribal Council may adopt rules and regulations for the seizure, impoundment and disposal of any stray or vicious animal.
- 3.2.3 The Tribal Council shall provide notice of any proposed regulation to be adopted pursuant to this Ordinance. Notice shall be posted at the offices of the Tribal Administration and other designated areas, and shall state the date, time and place of a hearing on the proposed regulation and include a brief description of the proposed action and the final date on which comments will be accepted. The Tribal Council shall hold a hearing concerning any proposed regulation that is open to the General Membership, at

the designated date, time and place. Both written and oral comments may be accepted at this hearing.

- 3.2.4 The Tribal Council may appoint one or more individuals as Law Enforcement or Duly Authorized Agents to enforce the provisions of this Ordinance, including any regulations adopted pursuant to this Ordinance.
- 3.2.5 The Tribal Council shall provide notice to all residents of the Reservation of this Ordinance and the restrictions on domestic or stray animals provided herein and in any regulations promulgated by the Tribe.
- 3.2.6 The Tribal Council may contract with or otherwise authorize any organization (such as a humane society) to seize, impound, and dispose of stray or vicious animals in accordance with the requirements set forth in this Ordinance. The contractor shall act as the Tribe's Duly Authorized Agent when carrying out the provisions of this Ordinance.

SECTION 3. FEES AND PENALTIES.

- 3.3.1 The owner of any animal that has been seized, impounded, or disposed of pursuant to this Ordinance shall be responsible for the payment of all costs and fees associated with the seizure, impoundment and disposal of the animal. The Tribal Council shall adopt a payment schedule that sets forth such costs and fees. This schedule may be amended from time to time as the costs and fees associated with seizure, impoundment, and disposal of animals change.
- 3.3.2 In addition to costs and fees imposed pursuant to Section 3.3.1 of this Ordinance, the owner of any animal that has been seized, impounded, or disposed of shall be assessed penalties as determined by the Tribal Council. All penalties must be paid prior to redemption of an animal, unless otherwise agreed upon by the Tribe and the owner. This penalty shall not exceed \$1,000.00 per violation.
- 3.3.3 Property owners who allow a renter or lessee of their property to maintain animals on the premises in violation of this Ordinance shall be financially responsible for any fines imposed, or any injury to person or property sustained, as a result of such violation if the tenant fails to comply with the provisions of this Ordinance.
- 3.3.4 The Tribal Court or, in the absence of the Tribal Court, the Tribal Council shall have the authority to require anyone who violates the provisions of this Ordinance to reimburse the Tribe, or the entity or person injured, for injuries to person or property suffered as a result of the violation.
- 3.3.5 If a cost, fee, fine or reimbursement is required to be paid by a Tribal member pursuant to this Ordinance, and that Tribal member fails to pay the amount due for thirty days after a notice is mailed to him/her advising of the amounts due, the Tribe may withhold the amount due from that Tribal member's next per capita payment(s) paid by the Tribe to that Tribal member.

SECTION 4. SEVERABILITY.

- 3.4.1 The provisions of this Ordinance are severable. If any part or provision of this Ordinance is held to be void by a tribal or federal court having jurisdiction to make such determination, the decision of such court shall not affect or impair any remaining provision of the Ordinance.

SECTION 5. EFFECTIVE DATE.

- 3.5.1 This Ordinance shall immediately become effective upon approval by a majority vote of the General Membership of the Morongo Band of Mission Indians.

C E R T I F I C A T I O N

We, the undersigned, duly elected members of the Tribal Council, do hereby certify that the foregoing Revised Ordinance No. 34, "MORONGO BAND OF MISSION INDIANS ANIMAL CONTROL ORDINANCE", was adopted by the members of The Morongo Band of Mission Indians at a duly held general election on September 21, 2011, by a vote of 154 in favor and 63 opposed.

Dated this 25th day of October, 2011.

/s/ Robert Martin

Chairman Robert Martin

/s/ Mary Ann Andreas
Vice Chairwoman Mary Ann Andreas

/s/ Charles Martin
Council Member Charles Martin

/s/ Thomas E. Linton
Council Member Tom Linton

/s/ Damon Sandoval
Council Member Damon Sandoval

/s/ Brian Lugo
Council Member Brian Lugo

/s/ Anne Robinson
Council Member Anne Robinson