

# HOOPA VALLEY INDIAN RESERATION

## ANIMAL CONTROL ORDINANCE

### TITLE 68

#### **I. Purpose and Declaration of Policy**

The Hoopa Valley Tribal Council declares that there is a lack of control over the animal populations within the Hoopa Valley Indian Reservation and this lack of control directly affects the Hoopa Valley Tribe's authority and responsibility to protect persons and property within the Hoopa Valley Indian Reservation. Additionally, the Hoopa Valley Tribal Council declares that it is a privilege for persons to keep and maintain animals within the exterior boundaries of the Hoopa Valley Indian Reservation, and that privilege is subject to the requirements of this Ordinance.

The Hoopa Valley Tribe's Animal Control Ordinance is a necessary step to protect the public and the Hoopa Valley Tribe's natural resources from unregulated animal populations within the Hoopa Valley Indian Reservation. The Ordinance will provide for the control of animals and livestock so as to protect the health, safety, and welfare of persons who reside or are temporarily visiting within the exterior boundaries of the Hoopa Valley Indian Reservation. The Ordinance shall hold those persons accountable for their actions that violate this ordinance in order to ensure the safety of the public, the safety of authorized animal populations, and the protection of the Tribe's resources.

#### **II. Authority**

Article IX, Subsection (I) of the Constitution of the Hoopa Valley Tribe empowers the Hoopa Valley Tribal Council to safeguard and promote the peace, safety, morals and general welfare of the Hoopa Valley Indians by regulating the conduct of trade and the use and disposition of property upon the reservation. It is the intent of this Ordinance to maintain order and protect the health, safety, and welfare of all persons within the exterior boundaries of the Hoopa Valley Indian Reservation and to provide for reasonable and cost effective procedures for the enforcement of this Ordinance.

#### **III. Jurisdiction and Application**

The application and jurisdiction of this Ordinance shall be consistent with Title 1, Section 1.1.04 of the Hoopa Valley Tribal Code regarding jurisdiction of the Judiciary. As of the date of the adoption of this Ordinance, any person found to be in violation of regulations described herein shall be subject to the full extent of the law as defined. Any actions that

began prior to the adoption of the Ordinance that are deemed illegal after such enactment will be required to conform to this law.

#### **IV. Liberal Construction**

This Ordinance shall be liberally construed in favor of the Hoopa Valley Tribal Council in order to give full effect to the objectives and purposes for which it was enacted.

#### **V. Severability**

If any provision of this Ordinance, or its application to any person, legal entity or circumstance is held invalid, the remainder of the Ordinance, or the application of the provision to other persons, legal entities, or circumstances, shall not be affected.

#### **VI. Definitions**

If a term is not defined in this section, it shall be given its ordinary meaning, unless otherwise defined in this Ordinance. Terms used in this Ordinance shall have the following meaning, except where the context clearly indicates or requires a different meaning.

1. ANIMAL. Any vertebrate members of the animal kingdom excluding humans. Unless specifically stated in this Ordinance, the word "animal" as used in this Ordinance shall include the definitions of household pets and livestock.
2. BITE. Any actual puncture, tearing, blunt trauma, or severe bruising of the skin inflicted by the teeth of an animal.
3. CONFINEMENT. Keeping an animal indoors or in an enclosure which prevents the animal's escape or contact with other animals.
4. CRUELTY. Any physical injury inflicted by other than accidental means that causes or creates a substantial risk of death, disability, disfigurement, impairment of bodily functions or other acts which are generally accepted by a reasonable person to be cruel or inhumane.
5. DANGEROUS ANIMAL. Any animal which, without provocation, bites or attacks, or attempts to bite or attack a person more than once.
6. DEPARTMENT. The Hoopa Valley Tribal Police Department or any other Tribal department or entity delegated by the Tribal Council.
7. ENCLOSED LOT. A parcel of land or a portion thereof in private ownership around the perimeter of which a wall or fence has been erected.

8. HOOPA VALLEY INDIAN RESERVATION. The reservation shall extend to all lands within the exterior boundaries of the Hoopa Valley Indian Reservation as established by Executive Order of June 23, 1876, and to such other lands as have been or may hereafter be acquired by or for the Hoopa Valley Indians.
9. HOUSEHOLD PETS. Includes cats, dogs, canaries, birds, of the parrot or psittacinae family, and other kindred animals and birds usually and ordinarily kept as household pets.
10. KENNEL. An approved lot, building, structure, enclosure, or premises wherein or whereon dogs or other animals kept for a specific and narrow purpose not as household pets in numbers above the legal limit specified in this ordinance.
11. LIVESTOCK. Horses, cattle, pigs, sheep, goats, rabbits, and/or fowl or any other animals used for agricultural purposes.
12. NEGLECTED. Animals that are not receiving food, water, shelter, medical care, exercise, or supervision needed for the welfare of the animal.
13. OWNER. A person, association, partnership, firm, corporation, organization, or department who owns, harbors, or keeps, or knowingly permits an animal to be harbored or kept or has an animal in his/her care, or who permits an animal to remain on or about his/her premises. For the purposes of this Ordinance the Hoopa Valley Tribe shall not be deemed to be an owner.
14. PREMISES OF OWNER: The premises of an owner shall be defined as 100 feet from the land or yard adjoining an identifiable house or other structure regularly used by an owner.
15. QUARANTINE. To detain or isolate an animal suspect of contagion.
16. RESTRAINT. Securely tied, leashed, or confined by a secure fence or enclosure or leashed under the control of a person of suitable age and reasonable ability to control the animal.
17. RUNNING AT LARGE. Any animal found within the boundaries of the Hoopa Valley Indian Reservation on public property or on the property of persons other than the person owning or keeping the animal unless the animal is accompanied by some person exercising control thereof through the use of a leash or chain not more than six (6) feet in length; generally an animal free of physical restraint beyond the boundaries of the premises of the owner. Animals running at large in open fields are presumed to not be within the premises of the owner, whether or not an owner holds the property. The animal control officer has no obligation to identify land ownership where animals running at large are seized.

18. STRAY ANIMAL. An animal with no owner identification upon it. Animal Control Officers do not have any obligation to locate the owners of stray animals.
19. UNLICENSED ANIMAL. Any dog or cat for which a registration fee has not been paid for the current year or to which a metal tag or other form of identification and licensing has not been attached to the animal as required under this Ordinance.
20. VACCINATION. Protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by a licensed veterinarian given in an amount sufficient to provide immunity from rabies for a minimum of one (1) year.
21. VICIOUS ANIMAL. Any animal over the age of six (6) months which:
  - a. Unprovoked, inflicts bites or other harm on a human or a domestic animal, either on public or private property; or
  - b. Unprovoked, chases or approaches a person or domestic animal upon the street, sidewalks, or any public or private property in a menacing fashion or apparent attitude of attack; or
  - c. It is known of its propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals on any public or private property.
22. WILD ANIMAL. Any animal, whether or not bred or reared in captivity, which is now or historically has been found in the wild, or in the wild state, within the boundaries of the United States, its territories, or possessions. Generally an animal that, as a matter of common knowledge, is naturally untamable, unpredictable, dangerous, or mischievous. This term includes, but is not limited to, animals such as: bear, coyote, deer, fox, mink, opossum, raccoon, skunk, squirrel, wolf, wild birds.

## **VII. Administration and Enforcement**

1. Tribal Law Enforcement. Administration and enforcement of this ordinance shall be the responsibility of the Hoopa Valley Tribal Police Department, which, as necessary to carrying out its responsibilities under this ordinance shall have the authority to:
  - a. Contract with, operate or cause to be operated animal shelters and/or pounds;
  - b. Contract with, select, train, hire or retain animal control officers to enforce the provisions of this ordinance;
  - c. Investigate complaints of animal delinquency within the Tribe's jurisdiction;
  - d. Issue citations for violations of this ordinance; and
  - e. Subject to the limits imposed by this ordinance, whether explicit or implied, take, confine, and dispose of animals found in violations of this ordinance.

2. Delegation of Authority. As necessary to carry out its responsibilities under this ordinance, the Department may:
  - a. With the approval of the Tribal Council, delegate all or part of its responsibilities under this Ordinance to competent agencies and officers of federal, state, local and other tribal governments or to private persons or organizations; or
  - b. With the approval of the Tribal Council, negotiate contracts or agreements with said agencies, officers, persons, and organizations, or their facilities, whether within or outside the exterior boundaries of the Hoopa Valley Indian Reservation;
  - c. Deputize persons over the age of eighteen (18) years for the purpose of enforcing animal control regulations.
3. Development of Policies and Regulations. The Department may develop regulations and policies to further the implementation of this Ordinance. Any rules and regulations shall require prior approval by resolution of the Hoopa Valley Tribal Council. Such regulations and policies shall not be inconsistent with this Ordinance.

#### **VIII. General Prohibitions**

1. General Prohibition. It shall be unlawful for any person to own, keep possess or maintain an animal in such manner as to constitute a nuisance. The actions of an animal constitute a nuisance when an animal disturbs the rights of, threatens the safety of, or damages a member of the general public; or interferes with the ordinary use and enjoyment of private or public property. Nothing in this Ordinance shall prohibit an enforcement officer from taking necessary actions as provided in this ordinance when he/she reasonably believes an animal constitutes a nuisance as provided in this section but not specifically identified in this Ordinance. By way of example and not of limitation, the following acts or omissions specified in this Ordinance are hereby declared a nuisance and therefore unlawful.
2. Animals Running At Large.
  - a. No owner shall permit their animal, or livestock, to run at large on the Hoopa Valley Indian Reservation.
  - b. Any animal found running at large in violation of this Ordinance shall be subject to immediate seizure and the owner may be subject to applicable penalties and fines.
  - c. All stray animals shall be seized and disposed of through adoption or the destruction of such animals by the Hoopa Valley Tribal Police.

- d. Any animal running at large that cannot be safely seized by the Department may be destroyed.
3. Mandatory Leashing. All animals shall be physically restrained by a means of a leash not less than six feet in length when not on the premises of the owner. An animal may be unleashed on the premises of its owner only if the property is enclosed by a secure fence of sufficient strength and dimensions to prevent the animals escape, or supervised by a person of suitable age and reasonable ability to control the animal.
  4. Disturbances and Harassment
    - a. Unnecessary noise, noxious odors. It is hereby declared to be a nuisance and it shall be unlawful to keep, maintain, or permit on any lot or parcel of land any animal or livestock which by any sound, cry, or noxious odors shall disturb the peace and comfort of any neighborhood or interfere with any person in the reasonable and comfortable enjoyment of life or property.
    - b. Estrus-females in heat. The owner of a female dog, cat, or other non-livestock animal in heat or when in season, shall cause such animal to be penned or enclosed in such a manner as to preclude other animals from attacking such female animal or being attracted to it.
    - c. Chasing vehicles, pedestrians, or bicycles. No person shall permit, suffer, or allow an animal to chase, run after or jump at vehicles, or bicycles lawfully using public streets, avenues, alleys, ways, or public places within the Hoopa Valley Indian Reservation.
    - d. Jumping and barking at pedestrians. No persons shall allow an animal that frequently or habitually snarls or growls at or snaps or jumps upon or threatens persons lawfully upon the public sidewalks, streets, alleys, or public places within the Hoopa Valley Indian Reservation.
  5. Harassing or Attacks on Livestock and Domestic Animals. No owner shall permit their animal to chase, bite, injure, or harass any livestock or other domestic animal or wild animal on the Hoopa Valley Indian Reservation. It shall be the duty of the owner of such animal upon notification of the fact by the owner of such livestock or other domestic animal or by the Department, to keep such animal in proper enclosure.
  6. Animal Killing or Injuring Animals or Livestock. If any animal shall kill or injure any animals, wild animals, or livestock, the owner or keeper of such animal shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured by any court having competent jurisdiction. It shall be unlawful to keep such animal after it is known the animal has killed or injured animals, wild animals, or livestock. It shall be the duty of any person owning or keeping any animals or livestock which shall be found killing or committing injury upon any livestock,

domestic animal, or wild animal to kill such animal within forty-eight hours after being notified of that fact by the owner of such livestock or domestic animal or by the Department. If such owner or keeper of an animal shall fail or neglect to comply with the requirements of this section, it shall be lawful for the Department to impound or dispose of such animal.

7. Directing Animals. No person shall direct, cause, encourage, allow, or otherwise aid or assist any animal to threaten, charge at, intimidate, bite, harass, menace, or attack any person or animal within the Hoopa Valley Indian Reservation. This section does not apply to owners of animals involved in lawful hunting activities.
8. Animals in Vehicles.
  - a. No person shall transport or carry, on any public highway or public roadway, any animal or livestock in a motor vehicle unless that animal or livestock is safely enclosed within the vehicle or protected by a cage, container, or other device that will prevent the animal or livestock from being thrown from, or jumping from, the motor vehicle.
  - b. No person shall leave an animal or any other animal in any unattended vehicle without adequate ventilation or in such a manner as to subject the animal to extreme temperatures which adversely affect the animal's health or welfare.
9. Diseased Animals. No person shall keep or sell any animal which is actually known or reasonably believed to be infected with any communicable disease, or which is afflicted with any painful disease believed by him/her to be incurable, without a permit to do so from the Department. It shall be unlawful to sell an animal that the seller knows, or reasonable should know is diseased.
10. Abandonment. It shall be unlawful for any owner to abandon any animal or animals within the exterior boundaries of the Hoopa Valley Indian Reservation.
11. Limitation on Number of Animals Allowed.
  - a. *Dogs.* Unless authorized by the Department pursuant to Section VIII 11(e) of this Ordinance, no more than four (4) dogs per residence are allowed. Any excess of the number of dogs found may be seized and disposed of under this Ordinance
  - b. *Cats.* Unless authorized by the Department pursuant to Section VIII 11(e) of this Ordinance, no more than four (4) cats per residence are allowed. Any excess of the number of cats found may be seized and disposed of under this ordinance
  - c. *Other Household Pets.* The limitation on the number of other forms of household pets shall be determined on a case by case basis. Persons having excessive numbers of other types of household pets that as a result of such excessive numbers are causing violations of this Ordinance, may be subject to seizure of the violating animals or be required to take actions to stop continuing violation of this Ordinance

- d. *Livestock.* The limitation on the number of livestock shall be determined on a case by case basis. Persons having excessive numbers of livestock that as a result of such excessive numbers are causing violations of this Ordinance may be subject to seizure of all the violating animals or be required to take action as required by the enforcement authority to stop continuing violations of the Ordinance.
- e. *Variance.* Owners that have animals in greater numbers than the numerical restrictions under this section may apply to the Department for a variance. The Department shall draft requirements for granting said variances. Variances under this section shall not be granted for the purposes operating a kennel as defined under this ordinance. Variances shall only granted for those dogs and cats that are household pets. Variances shall not be determined to be associated with any form property right and may be revoked at any time. The Department has the sole discretion to grant or deny an application for a variance. The Department's decision shall be final.

12. Cruelty to animals. The Department shall have the power to intervene to prevent the perpetration of any act of cruelty upon any animal and may seize the animal for its safety until conditions are again safe for the animal. It shall be unlawful by acts or omissions to:

- a. Torture, torment, mutilate, cruelly beat or kill, or seriously overwork an animal; or
- b. Failure to provide necessary food, drink, air, light, space, shelter, or care for an animal in one's custody, or
- c. Abandon an animal in one's custody, or
- d. Transport or confine and animal in a cruel manner, or
- e. Kill, injure, or administer poison to an animal without legal privilege to do so; or
- f. Cause one animal to fight with another.
- g. Other non-physical forms of cruelty whereby a reasonable person would consider the actions to be cruel and inhumane to an animal.

13. Prohibition of keeping wild animals or other animals prohibited under applicable federal law. No person without prior written authorization by the Department shall keep any wild animals in live captivity or any animal that is prohibited from private ownership under applicable federal laws. Any person found to have such animals shall surrender the animal and pay any costs associated with the Department's handling the animal and returning it to the wild or other proper authorities.

## **IX. Impoundment**

1. Small Animal Pound Authorized. A small animal pound is hereby authorized to be established by the Hoopa Valley Tribal Council within the exterior boundaries of the Hoopa Valley Indian Reservation. It shall be located at some convenient place to be fixed by the Hoopa Valley Tribal Council. The small animal pound shall remain under the charge and control of the Animal Control Officer. The Animal Control Officer shall cause all animals to be impounded to be provided with sufficient food and water and shall keep the animal shelter clean and sanitary at all times. The Hoopa Valley Tribal Council at its discretion may establish a permanent small animal pound at any time after the adoption of this Ordinance. The lack of said pound shall not have any effect on the laws established by this Ordinance and they shall be in full effect and enforceable.
2. Animal Control Officer. The Office of Animal Control is within the Police Department and is hereby established as part of the administrative organization of the Tribe. The Animal Control Officer shall be hired by and hold office at the pleasure of the Hoopa Valley Tribal Council receiving such compensation as the Council from time to time may provide for, and shall work under the supervision of the Chief of Police. While engaged in the discharge of his/her duties, the Animal Control Officer shall wear a badge plainly designating his office. He/she shall enforce all laws of the Tribe relating to the care, treatment, and impounding of animals and the prevention of cruelty to animals. He/she shall be sworn in as a police officer and be vested with the power and authority of such an officer for the sole purpose of performing the duties of Animal Control Officer, but he/she shall not be deemed to be a member of the Police Department unless qualified and appointed as such.
3. Pound Employees. All employees of the Tribe working under the supervision and direction of the Animal Control Officer shall possess every power and perform all duties belonging to the office of Animal Control Officer whenever the Animal Control Officer shall designate and authorize any employee to so act; provided, however, no employee shall be so empowered unless he/she has been sworn in as a police officer of the Tribe and has been issued a metallic badge, plainly designating his/her office, to be worn while performing such duties.
4. Right of Entry. In the administration and enforcement of the provisions of this chapter, the Animal Control Officer shall have authority to enter upon any premises upon which any animal is kept or located for the purpose of picking up, seizing, or impounding any animal found running at large, or staked, herded, or grazing thereon, contrary to the provisions of this chapter, or for the purpose of ascertaining whether such animal is registered or licensed as provided in this chapter, or for the purpose of inspecting the premises to ascertain whether any law of the Tribe relating to the enforcement of this Ordinance, is being violated; provided, however, the right of entry shall be exercised only during daylight hours, and no building within the

curtilage of a home shall be entered without the consent of the owner or tenant. If any owner or tenant objects to such entry of said building, the Animal Control Officer shall secure a warrant authorizing him/her to enter and search such building and to arrest any person there present violating, or attempting to violate, any law of the Tribe relating to the enforcement of this Ordinance.

5. Interference with the Animal Control Officer. No person shall resist or interfere with the Animal Control Officer in the performance of his/her official duties, nor shall any person fail or refuse to exhibit the registration of any animal required to be licensed by this chapter when required to do so by the Animal Control Officer. Should a person fail or refuse to exhibit the registration of any animal required to be licensed, the animal may be seized and the Owner shall be required to pay all fees and costs associated with redeeming the animal.

6. Impounding Duties

a. It shall be the duty of the Animal Control Officer to take up, seize, and impound any animal found running at large in or upon any street or upon any unenclosed lot, or found staked out, herded, or grazing upon any street in any manner contrary to the provisions of this chapter. All other Hoopa Valley Tribal police officers on duty shall be required to take up, seize, and immediately deliver to the Animal Control Officer any animals so found running-at-large. If the animals can not be safely seized by the Hoopa Valley Tribal Police officers, the officers shall notify the Animal Control Officer of the violating animal.

b. The Animal Control Officer shall keep a record of each animal impounded, including the date such animal was received, the date and manner of its disposal, and the name and address of the person who redeemed, reclaimed, or purchased the animal from the animal pound, together with the amount of all fees received and collected therefore and the number of any license or the date of any registration exhibited or issued in connection therewith.

7. Notice of Impoundment. If any animal taken up or impounded shall be licensed or registered, and if such tag and number shall be upon the collar of such animal or implant, the Animal Control Officer shall give notice to the owner thereof within 48 hours after the animal shall have been taken up. Such notice shall state that the animal has been taken up and impounded and will be disposed of as provided in this Ordinance. The notice shall be served upon the owner by delivering the same to him/her personally, or by leaving the same with any person at the place of residence of the owner, as stated in the records of the Tribe, or by posting the same in a conspicuous place at the address of such owner, or by United States mail. All of which shall constitute sufficient notice. In addition to service the Department will attempt to contact an owner by phone and the numbers listed in the Department's records. No further notice shall be required if any one of the aforementioned methods are used.

8. Reclaiming Animals. The owner or person entitled to the custody of any animal taken up, seized, or impounded may, at any time before the sale or disposal thereof, redeem such animal by paying to the Animal Control Officer the charges, fines, and fees, including registration fees, accruing up to the time of such redemption. Owners shall be required to pay any accrued charges and fees for the capturing, care, and disposal of the animal whether or not they have redeemed or abandoned the animal.
9. Abandonment of Animals. Any owner entitled to regain custody of an animal pursuant to the provisions of this Ordinance, who fails redeem their animal within the time required for redemption under this Ordinance, shall have abandoned all legal rights and interests in the animal. All impounded stray animals are deemed to have been abandoned.
10. Notice of Sale; Sale of Animals.
  - a. All impounded animals, except dogs, cats, rabbits, birds, and poultry, may be promptly advertised for sale by the Animal Control Officer if not redeemed within three days after being impounded. The Animal Control Officer shall post the following notices of sale, one at the public notice board at the Hoopa Valley Tribe's Neighborhood Facilities, one at the Hoopa Valley Tribal Police Department, and one at the Pound, if the Pound is separate from the Hoopa Valley Tribal Police. The notice shall contain a general description of the animal to be sold, with its marks or brands, if any, and shall note the date, hour, and place of sale.
  - b. The Animal Control Officer may proceed to sell for an amount of money as established, from time to time by motion of the Council, those impounded animals advertised for sale by the Animal Control Officer. The Animal Control Officer shall execute to the purchaser thereof a bill of sale, and thereupon the title of such animal shall vest.
  - c. If the Animal Control Officer determines that it is not in the best interests of the Department to sell the animal or is unable to sell within a reasonable time frame the Animal Control officer may dispose of the animal as appropriate.

11. Disposition of Unredeemed or Infected Animals

- a. The Animal Control Officer shall sell, or order the destruction of, any dog, cat, rabbit, bird, or poultry which is unredeemed within three days after the notice of impoundment shall have been given to the owner or possessor of any such registered or licensed animal. Any person who buys any such animal shall pay the Animal Control Officer the reasonable value thereof, together with the accrued pound fees and the required registration fee therefor. No dog, cat, rabbit, bird, or poultry shall be retained in the animal pound longer than one week, except when under quarantine or upon the written approval of the Chief of Police.

- b. It shall be the duty of the Animal Control Officer to issue and sign a death warrant for, and to order the destruction of, any animal lawfully taken into the custody of the Department which is, in the opinion of the Animal Control Officer, by reason of old age, unfit for use or which is infected with any dangerous or communicable disease, or in any incurably crippled condition or painful disease.
12. Proceeds from sale. Upon the sale of any animal, the balance of the proceeds remaining after the payment of the accrued fees, charges, and demands shall be paid into the Tribal treasury.
13. Impounding fees. The Animal Control Officer shall charge, receive and collect fees and charges for services and impounding animals as shall be established from time to time by motion of the Council. All monies received therefor shall be paid into the Tribal treasury to be credited to the general fund.

**X. Registration of Dogs, Cats, and Kennels**

1. Registration Required, Exceptions

- a. It shall be unlawful for any owner or person having the custody and control of any dog or cat over the age of four months to keep or possess such dog or cat within the exterior boundaries of the Hoopa Valley Indian Reservation unless such animal has been duly vaccinated for rabies, licensed, and registered in accordance with the provisions of this Ordinance.
  
- b. The provisions of Section X(1)(a) shall not be deemed or construed to apply:
  - i. To any dog or cat owned by or in the custody or control of a non-resident of the Hoopa Valley Indian Reservation who is visiting or temporarily residing within the Hoopa Valley Indian Reservation for a period not exceeding 30 days; and
  - ii. To any dog or cat having an unexpired rabies vaccination certificate and an unexpired license or registration certificate issued by another city, county or city, or county in the state, and for a period of 30 days after the expiration of such certificates or until the expiration of the then current dog registration period, whichever first occurs.

2. Registration Fees. An application for a dog or cat license registration shall be made to the Hoopa Valley Tribal Police Department, accompanied by the fee or charge as shall be established from time to time by motion of the Tribal Council.
  
3. Registration Period All registrations provided for in this section shall be valid for a period of twelve (12) months and shall expire twelve (12) months after issuance. The license and registration fees shall be paid in advance. Fees shall not be prorated, and the full amount thereof shall be paid regardless of the time the fee became due. All fees shall become delinquent if not paid within 30 days of the issuance of a valid certificate of canine anti-rabies vaccination or within 60 days after the dog or cat attains the age of four months. A penalty shall be established from time to time by Motion of the Tribal Council which shall be added to the fee which becomes delinquent. Such penalty, as well as the fee, shall be paid before the registration certificate is issued.
  
4. Vaccination; Certificate
  - a. A dog or cat license shall not be issued unless the applicant shows the Department a valid certificate of canine anti-rabies vaccination, which certificate adequately describes the physical features of the dog or cat and the date of the vaccination and which bears the signature of the licensed vaccination.
  - b. The type of vaccine acceptable and the frequency of vaccination shall be determined by the Department.
  
5. License Tags or Implants
  - a. *Dog and cat license tags or implants.* With each registration there shall be issued a license tag or implant bearing the identification number and the date of expiration, and if a metal tag shall bear the words "Hoopa Animal License" plainly inscribed thereon. Such tag shall be securely fixed to a collar, harness, or other device to be worn at all times by the animal for which the registration is issued.
  - b. *Duplicate license tags.* Whenever a license tag, as provided for in this section, issued for the current year, has been lost, taken, or stolen by party unknown to the owner or persons having control of the animal for which the same was issued, such owner or person having control of such animal may, upon the payment of the fee or charge as shall be established from time to time by motion of the Tribal Council and upon making and subscribing to a declaration of such loss of such tag, receive from the Department a duplicate

license tag for the remaining portion of the year for which the original license was issued.

- c. *Unauthorized removal.* It shall be unlawful for any unauthorized person to remove from any animal any collar, harness, or other device to which is attached a license tag for the current year or to remove such tag therefrom.

6. Registration records.

- a. Each registration required by this section shall state the name and residence address of the person to whom issued, the nature of the registration, the amount paid therefor, the date issued, and the date on which the registration shall expire. The registration shall also contain a description of the animal, a digital picture of the animal, the number of the metal tag or implant accompanying the registration certificate, and the date of vaccination.
- b. The Department shall keep a record of the name, physical and mailing address, and phone number of each person to whom a registration certificate or certificate and tag are issued pursuant to the provisions of this subchapter, the name, physical and mailing address and phone number of an alternate contact. All money received for registrations or licenses under the provisions of this chapter shall be paid to the Tribal treasury, to be credited to the general fund.
- c. It is the duty of every owner to immediately notify the Department in writing of any changes to the information that was listed to register an animal. The Department shall not be responsible for any actions that result due to the Owner failing to provide accurate information; additionally the Department has no obligation to look for any other information beyond what is listed in the registration records. The Department relies on the accuracy of the information given on each owner's registration. The information will be used to notify any owner if their animal is violating this ordinance or has been impounded. If the Department does not have correct contact information an animal may be disposed of according to this Ordinance and the Owner may not receive any notice due to inaccurate information.

7. Kennels. Kennels shall not be permitted to operate within the exterior boundaries of the Hoopa Valley Indian Reservation. The Hoopa Valley Tribal Council may by motion authorize the operation of kennels within the Reservation after the adoption of this Ordinance. The motion shall direct the Hoopa Valley Tribal Police to develop regulations to govern the operation of kennels within the Reservation for review and approval by resolution of the Hoopa Valley Tribal Council. After the regulations have been approved, kennels shall be permitted to operate in a manner consistent with such regulations.

- a. Variance: Owners that have animals which are not kept for the purposes of household pets but have greater than the numerical restrictions in Section VIII 11 prior to the Tribal Council authorizing the operation of a kennel and subsequent regulations may apply to the Department for a variance. The Department shall draft requirements for granting said variances. Variances shall not be determined to be associated with any form property right and may be revoked at any time. The Department has the sole discretion to grant or deny an application for a variance. The Department's decision shall be to deny an application for a variance shall be final.

## **XI. Rabies Control**

1. Rabid Animals at Large. It shall be unlawful for any person owning, having an interest in, harboring, or having the care, charge, control, custody, or possession of any animal, knowing that such animal has rabies, to allow or permit such animal to go free and run at large within the Reservation.
  
2. Suspicion of Rabies
  - a. Whenever the owner or person having the custody or possession of any animal shall observe or learn that such animal has shown symptoms of rabies, or has acted in a manner which would lead a reasonable person to suspect that it might have rabies, such owner or person having the custody or possession of such animal shall immediately notify the Department and shall permit the Department to make an inspection or examination of such animal and to quarantine such animal until it shall be established to the satisfaction of the Department that such animal does or does not have rabies. It shall be unlawful for any person to kill an animal infected with rabies or an animal suspected of having rabies without prior authorization by the Department.
  - b. Whenever it shall appear to the Department that there is reason to believe that any animal has rabies, or has been exposed to rabies, the Department shall make an inspection and examination of such animal and shall quarantine such animal until it shall be established to the satisfaction of the Department that such animal does or does not have rabies.
  
3. Quarantine of Animals.
  - a. Whenever it is shown that any animal has bitten any person, the owner or person having custody or possession thereof shall isolate the animal.
  - b. Animals that have bitten a human shall be confined in a manner that will allow observation of the animal for the duration of the isolation period.

- c. Isolation of a biting animal may be allowed on the owner's premises when, in the judgment of the Department, adequate facilities are provided to ensure adequate confinement and when the owner exhibits a responsible attitude that will ensure confinement during the isolation period. A securely fenced yard or caged area are considered adequate for home confinement.
  - d. When, in the judgment of the Department, adequate facilities for confinement may not exist or the owner may be unable or unwilling to properly supervise confinement of the animal, confinement shall occur at a veterinary hospital or a dog kennel, or other adequate location for confinement at the expense of the owner. The owner shall pay any expenses of quarantine prior to the confinement of the animal. If the owner refuses to pay the quarantine expenses, the Department is authorized to euthanize the biting animal for the purpose of laboratory examination for rabies.
  - e. In cases where the owner does not desire to quarantine the biting animal, the owner may authorize euthanasia of the biting animal for the purpose of laboratory examination for rabies.
  - f. Unvaccinated animals subject to rabies, which have been bitten or have been in intimate contact with a known or suspected rabid animal, shall be quarantined for a period determined by the Department or destroyed. Animals quarantined pursuant to this section shall be quarantined to prevent escape or contact with other animal species.
  - g. Whenever any animal shall be bitten by another animal having rabies, the owner or person having custody or possession of the animal so bitten shall, upon being informed thereof, quarantine it and keep it confined for a period to be determined by the Department, and the Department shall have power, in its discretion, to kill or quarantine any animal so bitten in the event the owner or person having custody or possession thereof shall fail to do so immediately or in the event the owner or person having custody or possession thereof is not readily accessible.
4. Disposition of Rabid Animals. If it shall appear to the Department or other qualified Tribal Official, upon examination, that an animal has rabies, he/she shall in its reasonable opinion kill it forthwith.
5. Transporting of Animals to or from Rabies Areas.
- a. No person shall take an animal or permit or encourage an animal to go from a city or town in which rabies exists or has existed within six months previously, or from any place in the country within five miles of which rabies exists or has existed within six months previously, to any county in which rabies does not exist or has not been known to be present within six months.
  - b. No person shall bring an animal into the Hoopa Valley Indian Reservation from a county in which rabies is present or has been known to be present within six months.

#### **XIV. Vicious Dogs**

1. Requirement of Physical Restraint. No person shall keep, own or possess within the boundaries of the Hoopa Valley Indian Reservation any vicious dog unless muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person or confined in a proper enclosure in such a way as to prevent it from biting any human being, livestock, domestic animal, or game animal; nor permit such dog to run at large at any time.
  
2. Registration, Identification, and Insurance of Vicious Dog. It is unlawful for an owner to have a vicious dog on the Reservation without a certificate of registration issued under this section. The Department shall issue a certificate of registration to the owner of a vicious dog if the owner presents to the authority sufficient evidence of:
  - a. A vicious dog shall require a proper enclosure. A proper enclosure is a securely confined, locked pen, kennel, or structure upon the premises of the owner of such dog. Confinement shall be accomplished by means of a substantial fence or similar enclosure, set back at least ten (10) feet from property lines, sidewalks, and streets, and of sufficient strength and height to prevent the dog from escaping therefrom, and shall be locked and secured to prevent entry of young children and other dogs. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot. The pen or enclosure shall be structurally sound and maintained in good repair, and shall have a top, if necessary, to prevent a dog from escaping and shall also provide protection from the elements for the dog.
  - b. The posting of the premises with a clearly visible warning sign that there is a vicious dog on the property. In addition the owner shall conspicuously display a sign with a warning symbol that warns children of the presence of a vicious dog; and
  - c. A surety bond issued by a surety insurer in a form acceptable to the Animal Control Authority in the sum of at least \$100,000.00 payable to any person injured by the vicious dog; or
  - d. A policy of liability insurance such as homeowners insurance in the amount of at least \$100,000.00 insuring the owner for any personal injuries inflicted by the vicious dog.
  
3. Declaration of Vicious Dog. The Department shall identify and classify potentially vicious dogs. The Department may find and declare a dog vicious if it has substantial evidence to believe that the dog falls within the definition set forth in Section VII(21). Substantial evidence may be based upon:
  - a. The written complaint of a person who is willing to testify that he or she witnessed the dog acting in a manner that causes it to fall within the definition of vicious dog;

- b. Dog bite reports filed with the Department or any other governmental agency;
  - c. Actions of the dog witnessed by the Department or any other governmental agency; or
  - d. Other relevant substantial evidence.
4. Written Notice. Upon the Department's determination that substantial evidence exists to believe that a dog is vicious, it may issue a written notice to the owner of the dog addressed to the contact information listed in the Dog's registration records. The notice shall contain the following:
- a. The name and address of the owner of the dog;
  - b. A brief description of the dog;
  - c. A brief statement of why the dog has been found to be vicious dog;
  - d. The requirements for restraint of the dog, as determined by this Ordinance and that these requirements must be complied with within 48 hours;
  - e. The penalties for violation of the requirements for restraint imposed by Tribal Code, including a statement that, if the requirements are not timely met, the Department will issue a citation.
5. Violation. Any dog that has previously been declared a vicious dog is in violation of this ordinance if:
- a. The dog is not validly registered under this Ordinance; or
  - b. The owner does not secure and maintain liability insurance coverage required under this Ordinance
  - c. The dog is not maintained in the proper enclosure; or
  - d. The dog is outside of the dwelling of the owner or outside of the proper enclosure and not under the physical restraint of a responsible person.
  - e. The dog threatens or attacks and inflicts harm on any person, livestock, game, or domestic animal.
6. Enforcement. Any owner who keeps his/her dog in violation of this section will be subject to:
- a. Seizure and possible destruction of the dog by the Department
  - b. Any fines or associated costs with the confiscation and destruction of the animal.

#### **XV. Citations for Violators of this Ordinance.**

Citations will be issued to any owners of animals found to be violating this Ordinance. Citations will not be issued for stray animals because ownership of the animal is not able to be identified.

1. Violations Not Involving Physical Harm to Humans. If the animal is not a stray the following enforcement procedures shall apply:

- a. *First violation of any provision of this Ordinance:* If the animal is not in violation of other sections of this Ordinance the Owner shall be subject to the applicable fines, penalties, plus any assessed shelter and redemption fees and costs.
  - b. *Second violation of any provision of this Ordinance:* The Owner shall be subject to the applicable fines, penalties plus any assessed shelter and redemption fees and costs.
  - c. *Third violation of any provision of this Ordinance:* The Owner shall be subject to the applicable fines, penalties plus any assessed shelter and redemption fees. The animal shall be deemed a repeat offender as of the third violation.
  - d. *Fourth violation of any provision of this Ordinance:* Upon the fourth violation of this Ordinance the Owner shall as a matter of law is determined to be incapable of maintaining the privilege to own an animal within the Hoopa Valley Indian Reservation. The offending animal shall be seized and disposed of through adoption or destruction. The Owner shall be subject to applicable fines, penalties plus any assessed shelter and disposal fees and costs.
2. Violations involving physical harm to humans: If an animal causes physical harm to a human by an unprovoked attack, the animal shall be seized by the Department and destroyed.
  3. Repeat Offenders, Prohibition of Owning Animals. If the Department has issued more than four citations to an Owner for violations of this Ordinance, the Department may determine the Owner incapable of having the privilege of owning animals within the exterior boundaries of the Hoopa Valley Indian Reservation. An Owner shall be prohibited from having animals. Any animals found to be in the possession of the Owner shall be seized and disposed of through adoption or destruction. The owner shall bear all costs associated with such removal.
  4. Administrative Appeal of Citations, Appeal to Tribal Court, No Further Appeals. Any person receiving a citation may either pay the fine and obey the citation or they may appeal the citation to the Chief of Police.
    - a. *Administrative Appeal:* Any appeal must be filed within the time period for redemption of an animal. Any appeals received after the time period for redemption shall be dismissed as moot and any and all appeal rights are terminated after the time for redemption has lapsed.
    - b. *Contents of Appeal:* The appeal shall be in writing and in the form of a memorandum addressed to the Chief of Police listing the citation and the specific evidence of why the citation was not proper. The Chief of Police shall review the memorandum and determine whether or not substantial evidence exists to support the citation in light of the evidence presented in the memorandum. The Chief of Police may request further information from the Owner if necessary. A decision shall be issued to the owner within a reasonable time of a receipt of the appeal.

- c. *Owner must pay redemption fees:* The Department shall not keep animals impounded during the administrative appeal of a citation, unless in the Departments sole discretion it determines that the safety of the animal or the protection of the public so requires impoundment. The Owner of an animal shall pay all necessary redemption costs and fees in order to obtain release of the animal. Any redemption costs and fees may be returned to the Owner if the Chief of Police determines that the citation was not supported by substantial evidence. The Owner shall not be entitled to any other forms of compensation or damages except a refund all or a portion of redemption fees.
- d. *Abandonment:* An owner refusing to pay redemption fees or refusing to pay any fees to keep the animal shall as a matter of law have abandoned the animal according to Section IX(9) of this Ordinance. All administrative appeals shall be dismissed if an owner abandons the animal. Any Owner abandoning his animal shall be responsible for all costs associated with the impoundment and disposal of the animal.
- e. *Animals Not Redeemable:* For those animals that the Department deems unredeemable as a result of a violation of this Ordinance this section applies. No dog may be destroyed or otherwise disposed of if the owner the animal has sought an appeal of the Department's determination, until the appeal has been completed. The Owner of the animal shall be liable for the cost of the care and feeding of the animal pending the outcome of judicial review and shall deposit monthly in advance the cost of such care and feeding as determined by the Department. Failure to make such a deposit shall result in an abandonment of said animal, after giving to the Owner of the animal five days written notice of their failing to make the required deposit in advance. In the event Tribal Court review is favorable to the Owner, all or a portion of the amounts paid for the care and feeding of the animal pending the review may be refunded.
- f. *Appeal to Tribal Court.* The Hoopa Valley Tribal Court shall have the jurisdiction to hear appeals from the administrative decisions of the Chief of Police. The jurisdiction of the Hoopa Valley Tribal Court shall be that as an appellate court and shall only use the record created by the Department to make a decision. The Hoopa Valley Tribal Court's decision is only limited to determining whether or not the citation was proper and deference shall be afforded to Department's administrative decision.
- g. *Decision of the Hoopa Valley Tribal Court.* The Hoopa Valley Tribal Court may affirm the Department's administrative decision and in so doing the Department may collect any costs a prevailing party is authorized to recover under Tribal law. A Hoopa Valley Tribal Court decision that an Owner was determined not in violation of this Ordinance shall authorize the release of an unredeemable animal within a reasonable amount of time and the decision may include the refunding of any previously paid redemption fees or costs to care for unredeemable animals. No other compensation or any form of damages shall be authorized to be issued against the Hoopa Valley Tribe.
- h. *No Jurisdiction for Abandoned Animals.* The Hoopa Valley Tribal Court shall have no jurisdiction to hear appeals from Department decisions when the

animal has been deemed abandoned under this Ordinance. Any appeal shall be dismissed by the Hoopa Valley Tribal Court

- i. *No Further Appeals.* The Hoopa Valley Tribal Court's decision shall be final and there shall be no further right of appeal.

#### **XVI. Liability of Owners, Private Cause of Action.**

Every person owning or keeping an animal within the exterior boundaries of the Hoopa Valley Indian Reservation shall be liable in damages for any injury or damages committed by such animal. Any person or the Tribal Council may file a civil complaint against said owner in the Hoopa Valley Tribal Court for compensation for damages caused by such animals. This section does not authorize any causes of action to be brought against the Hoopa Valley Tribe.

#### **XVII. Sovereign Immunity.**

Nothing in this Ordinance shall be deemed or construed to be a waiver of the sovereign immunity of the Hoopa Valley Tribe, its officials, its entities, or employees acting within their official or individual capacities.

#### **XVIII. Other Applicable Laws.**

Persons found in violation of this Ordinance may also be subject in other courts of competent jurisdiction to applicable federal laws and California penal codes involving the treatment of animals.

## CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council, do hereby certify: that the Hoopa Valley Tribal Council is composed of eight members, of which eight (8) were present, constituting a quorum, at a Regular Meeting thereof, duly and regularly called, noticed, convened, and held this 11<sup>th</sup> day of December 2006; that this Ordinance was adopted at said meeting by a vote of seven (7) for and zero (0) against; and that since its adoptions this Ordinance has not been altered, rescinded, or amended in any way.

DATED THIS ELEVENTH DAY OF DECEMBER, 2006.

  
CLIFFORD LYLE MARSHALL, CHAIRMAN  
HOOPA VALLEY TRIBAL COUNCIL

ATTESTED:   
DARCY A. MILLER, EXECUTIVE SECRETARY  
HOOPA VALLEY TRIBAL COUNCIL