

ORDINANCE NO. _____

**PAUMA-YUIMA BAND OF MISSION INDIANS
CANINE CONTROL ORDINANCE**

The Pauma-Yuima Band of Mission Indians ("Tribe"), acting through its General Council, pursuant to the Tribe's inherent authority and Article 3 Tribe's Articles of Association, duly ratified on June 28, 1968, hereby enacts this Canine Control Ordinance.

**ARTICLE I
PURPOSE AND APPLICABILITY**

A. The purpose of this Ordinance is:

1. To protect the health and safety of all persons on the Pauma-Yuima Indian Reservation.
2. To set forth a set of rules and regulations governing the control of canine animals within the Pauma-Yuima Indian Reservation and to facilitate enforcement of said rules and regulations.
3. To ensure that all canine animals on the Reservation are given sufficient shelter, food, water and treated in a humane manner.

B. This Ordinance is applicable to all canine animals on the Pauma-Yuima Indian Reservation (the "Reservation").

**ARTICLE II
DEFINITIONS**

"Residence" means a single tribal assignment, including those tribal assignments consisting of multiple dwellings.

"Restraint" means physical restraint by cage, leash, fence or other method which will prevent animal from leaving owner or custodian's property or control.

**ARTICLE III
ENFORCEMENT**

A. The General Council hereby vests the authority to enforce this Ordinance in the Business Committee or its designee.

B. Employees of any designee of the Business Committee are specifically authorized to come onto the Reservation and residences thereon to enforce the provisions of this ordinance and

to act as agents of the Tribe in enforcing this Ordinance; provided that they shall not enter living quarters, except in case of emergency or where residence has been abandoned, without first obtaining (1) the consent of an adult occupant, or (2) authorization from a tribal court or the Business Committee.

C. The Business Committee or its designee shall have the authority to designate animal control officers who shall be specifically authorized to enforce the provisions of this Ordinance and to act as agents of the Tribe in enforcing this Ordinance.

D. Animal Control Officers Generally:

1. While performing his/her duty, an animal control officer shall carry identification which indicates his/her status as an animal control officer and an agent of the Tribe for the purposes of enforcing this Ordinance.
2. Except in emergencies, an animal control officer entering upon any residence shall carry sufficient documentation indicating the reasons for the his/her presence.
3. It shall be a violation of this Ordinance for any person to interfere with, molest, hinder, resist or obstruct an animal control officer during the performance of his/her duties.

ARTICLE IV GENERAL PROVISIONS

A. Ownership Restrictions and Registration Requirements

A maximum of two (2) dogs shall be permitted at each residence on the Reservation. All residents of the Reservation must register their dogs with the Tribal Office. Residents who acquire a new dog or puppy must register the animal with the Tribal Office within two (2) weeks from the date the dog or puppy is first brought to the Reservation. As part of the registration, photographs of each dog shall be taken. Thus, the owner or custodian must bring the dog with them at the time of registration.

If there are more than two (2) dogs per residence the owner or custodian will be notified, in writing, by the Tribal Office to reduce the number of dogs to the maximum permitted number of two. The owner or custodian will be given ten (10) days to comply after receiving such notification.

B. Neutering/Spaving

Unless otherwise approved by the Business Committee, or its designee, for breeding purposes, all dogs must be neutered or spayed. For dogs six (6) months old or older, such procedure must be completed within two (2) weeks after the owner acquires the dog. For puppies, such

procedure must be completed on or before the dog attains the age of six (6) months. Proof of such neutering/spaying must be submitted to the Tribal Office.

If the owner or custodian cannot afford to have their dog neutered/spayed, the owner or custodian may contact the Tribal Office and have their dog(s) impounded. Dogs impounded under this provision shall be transferred to Animal Friends of the Valleys, sold, given away, or humanely destroyed.

C. Fines

Violations of this Article IV shall be punishable by a One Hundred Dollar (\$100) fine for each week of noncompliance up to a total of three weeks for each incidence of noncompliance. All fines shall be payable to the Pauma-Yuima Band of Mission Indians, and are in addition to any required fees or deposits payable to the Band pursuant to this Ordinance. If the owner or custodian is still out of compliance with the provisions of this Article IV three weeks after receiving notice of noncompliance, all canine animals will be seized by the Business Committee or its designee and transferred to Animal Friends of the Valleys, sold, given away, or humanely destroyed.

D. Waiver

The restrictions of paragraphs A and B above may be waived when an owner or custodian provides proof that he/she is breeding their dog. All dogs in the breeding process must be confined or restrained to the residence by use of dog kennels or cages. Dogs that are not restrained in accordance with this provision shall be seized by the Tribal Office, or its designee, impounded and/or fined in accordance with the provisions of Article V. Once the breeding process is complete or the Business Committee, or its designee, determines that there is no longer any evidence of breeding, the owner or custodian will be subject to paragraphs A through C of this Article IV.

For purposes of this waiver, breeding includes the actual process of breeding as well as the post-birth period.

ARTICLE V
FAILURE/INABILITY TO PAY FINES

Records of all fines, fees, charges or penalties levied under this Ordinance shall be kept on file in the Tribal office. If a person is unable or unwilling to pay any fine levied under this Ordinance, the individual may work off the fine through community service monitored by the Tribal Office. One hour of community service shall be performed for every Six Dollars (\$6.00) owed under this Ordinance. No individual shall be permitted to participate in the community service program if that individual has been allowed community service for a previous incident occurring within one year.

If the Tribe distributes per capita payments to its members under the approved Tribal Revenue Allocation Plan, any unpaid fines, fees, charges or penalties levied under this Ordinance shall be subtracted from such per capita payments, at a rate not to exceed fifty percent (50%) of each disbursement, until the balance due is paid in full.

ARTICLE VI RESTRAINT AND IMPOUNDMENT

A. Restraint

It shall be a violation of this Ordinance for any person owning or having custody of and control of any canine animal to fail to keep it under restraint at all times, whether it is upon any public or private property or area.

It shall be a violation of this Ordinance for any person owning or having custody and control of any canine animal to stake out or tether the animal in such a manner that would permit or allow the animal to go in or upon any public or private property or area without the express permission of the owner or person in possession and control of the property or area.

Dogs shall be permitted in the public areas of the Reservation, but must be kept on a leash at all times. The person in control of the dog while in public areas of the Reservation or on another's private property shall be responsible for cleaning up after the animal.

Any animal not kept under restraint, or so confined or enclosed, in accordance with this Ordinance is hereby declared to be a menace and a nuisance to the public health and safety.

B. Traps

The Business Committee, or its designee, is authorized to set humane canine traps within the boundaries of the Reservation to capture unrestrained animals. Any animal captured as a result of such traps, shall be treated in accordance with the provisions of this Article VI.

C. Impoundment

Any animal reported or discovered unrestrained in violation of this Ordinance may be seized and impounded by the Tribal Office or its designee. If the violation is a first or second offense, a warning letter shall be issued to the owner or custodian. If the animal is discovered or reported unrestrained a third or fourth time, within one (1) year from the date of the warning letter, the owner or custodian of the animal shall be fined One Hundred Dollars (\$100). If the animal is discovered or reported unrestrained a fifth time within one (1) year from the date of the warning letter the animal will be seized and transferred to Animal Friends of the Valleys, sold, given away, or humanely destroyed. A fifth offense will also result in the owner or custodian being prohibited from keeping a canine animal on his or her residence for two (2) years from the date of the last violation.

Animals seized and impounded pursuant to this Ordinance shall be restrained at the tribal kennel. Any animal impounded will remain so for up to seventy-two (72) hours, unless the animal is reclaimed by the owner or person entitled to custody. Sundays and holidays are not included in the seventy-two (72) hour period. If the owner or custodian does not reclaim the dog, the Tribe may transfer to Animal Friends of the Valleys, sell, give away or humanely destroy any dog not reclaimed.

The owner or custodian of any animal impounded may at any time before the sale or other disposition of the impounded animal reclaim the animal during the Tribal Office business hours upon a payment to the Tribe of any charge or fee or penalty due to the Tribe under the provisions of this ordinance. The fee for release of an impounded animal is Sixteen Dollars (\$16.00) payable to the Pauma Band of Mission Indians via the Tribal Office.

If it is determined by the Business Committee's designee that any animal impounded is, by reason of contagious disease, as determined by a licensed veterinarian or animal control official, a danger to any person or other impounded animals, the animal may be humanely destroyed.

The Tribe is not responsible and bears no liability for an injury suffered or disease contracted by an animal during any period of impoundment.

ARTICLE VII DOG BITES

A. The Tribe may direct the owner or custodian of any canine animal which has bitten any person or other animal to comply with one of following procedures if so required by the Business Committee or its designee.

1. Isolate the biting animal on the premises of the owner or custodian of such animal for a period of time determined by the Tribe.
2. Surrender the biting animal to the tribal kennel or animal control officer for isolation and impoundment for a period of time determined by Business Committee or its designee.
3. Surrender the animal to a licensed veterinarian for isolation for a period of time determined by the Business Committee or its designee and/or veterinarian.

B. If the animal isolated is determined not to be infected with rabies at the end of the period of isolation, the Tribal Office shall notify the owner or custodian, orally or in writing, that the animal may be picked up. Upon such notice, the animal shall be released to the owner or custodian upon the payment of any fee, charge or penalty, including any fee for veterinary services.

C. It shall be a violation of this Ordinance for the owner or custodian of a biting animal to fail to comply with the requirements set forth in this section.

ARTICLE VIII
PROCEDURE WHEN RABIES SUSPECTED

A. The Business Committee, or its designee, will investigate any report of any animal which shows symptoms of rabies or acts in a manner which would lead a reasonable person to believe that the animal may have rabies. Upon determination by the Business Committee or its designee, that an animal may be infected with rabies, the owner or custodian of such animal will be required to comply with one of the following procedures:

1. Surrender the animal to the tribal kennel or a animal control officer for isolation and impoundment for a period determined by the Business Committee or its designee.
2. Surrender the animal to a licensed veterinarian for isolation for a period of time determined by the Business Committee or its designee and/or veterinarian.

B. Any animal isolated will be examined by the Business Committee's designee. If the animal is infected with rabies, the Business Committee or its designee will order in writing that the animal be humanely destroyed. A copy of this order will be given to the owner or custodian of the animal.

C. If the animal isolated is determined not to be infected with rabies at the end of the period of isolation, the Tribal Office shall notify the owner or custodian, orally or in writing, that the animal may be picked up. Upon such notice, the animal shall be released to the owner or custodian upon the payment of any fee, charge or penalty, including any fee for veterinary services.

D. It shall be a violation of this Ordinance for the owner or custodian of an animal which may be infected with rabies to fail to comply with requirements set forth in this section. The owner or custodian of the animal shall be fined One Hundred Dollars (\$100) for any violation of this Article.

ARTICLE IX
DANGEROUS DOGS

A. Within the Pauma-Yuima Indian Reservation there are dangerous dogs that constitute a public menace which should be abated. The provisions of this Article set forth administrative procedures by which a dog found to be a danger to the public safety may become subject to appropriate controls.

B. Definition of Dangerous Dog

Dangerous dog means any dog which:

1. Has bitten or caused serious injury to a person or domestic animal without provocation; or
2. Menaces or attempts to bite or attack any person without provocation, or destroys property; or
3. Engages in an attack which requires a defensive action by any person to prevent bodily injury or property damage when such person is acting in a peaceful and lawful manner; or
4. Engages in or is found to have been trained to engage in exhibitions of fighting;

C. Signs

Any owner or custodian who has knowledge that an animal in his control is a dangerous dog as defined in paragraph B above, shall post a sign on their property sufficient to give notice to all who may enter that a dangerous animal is present on the property.

D. Impoundment

The Business Committee, or its designee, may in its discretion, and upon receipt of a written report from an animal control officer or resident, which shows that a dog engaged in any behavior as defined in this Article IX, Paragraph B, immediately cause the impoundment of any animal reported to have caused the injury or exhibited such dangerous behavior. Impoundment shall be ordered if necessary to prevent immediate injury to person or property, or if it appears that the owner of the dog is either unwilling or incapable of maintaining confinement and control of the dog.

An owner of a dog subject to the provisions of this section shall immediately surrender custody and control of the dog at the request of the Tribal Office or its designee. Failure to do so shall result in a One Hundred Dollar (\$100) fine.

E. Notice and Hearing

Within seventy two (72) hours after impoundment of any dog pursuant to this Article, the Business Committee or its designee will give written notice of the impoundment to the owner, with a summary of the facts justifying impoundment. The notice will be mailed to the owner's last known address giving the date, time and place for hearing on the impoundment, and advising the owner of the right to be present. A copy of the report submitted to the Tribal Office pursuant to Article IX, paragraph C, will accompany the written notice of impoundment.

All hearings subject to this Article shall be conducted by the Business Committee or its designee. Hearings shall be conducted in an informal manner. The owner or custodian of the dog, as well as any party having personal knowledge of the incident shall be given an opportunity to testify at the hearing. A hearing may be continued for a reasonable period of time if the Business Committee, or its designee, deems such continuance to be necessary and proper.

Failure of the owner or custodian to appear at the hearing or any continuance thereof will constitute a default.

At the conclusion of the hearing, or within a reasonable time thereafter, the Business Committee, or its designee, will determine whether or not the impounded dog is a dangerous dog as defined herein, and will issue a written notice of the decision and findings. If the owner has defaulted by failing to appear, the finding will be that the dog is dangerous as defined herein. However, no dog shall be determined to be a dangerous dog if any of the following circumstances are found:

1. Bitten, attacked, or menaced a trespasser while the dog was confined on the property of its owners; or
2. Injured or menaced a person who has tormented or abused it; or
3. Injured or menaced a person while protecting its owner.

F. Appeal

There shall be no right to appeal. The decision of the Business Committee, or its designee, is final.

G. Post Hearing Enforcement

Any dog declared after a hearing to be dangerous, if not already impounded by the Tribe, must be immediately surrendered to the tribal kennel or an animal control officer.

Any dog declared to be dangerous will be humanely destroyed.

Any dog declared, after hearing, not to be dangerous, will be returned to the owner at no cost to the owner or custodian.

H. Costs

If the dog is determined to be dangerous, all costs incurred by the Tribe in impoundment and related expenses under this section, including care and feeding, will be chargeable to the owner of the dog.

ARTICLE X
INJURY TO OTHER ANIMALS

A. If a resident's canine enters the property of another residence on the Reservation and injures or causes the death of a pet, the owner or custodian of the unrestrained canine animal shall be responsible for the loss and shall reimburse the owner or custodian of the injured pet, the reasonable costs incurred as a result of the injury or death, as determined by the Business Committee or its designee. If the injury or death of a pet was caused by an attack of multiple dogs, the owner or custodian of each dog shall be jointly and severally liable for all reasonable costs incurred.

If the Business Committee or its designee determines that the offending animal has previously caused injury or death to another domestic pet, the owner or custodian shall surrender the animal to the Business Committee's designee.

B. Notice of Charges

The Business Committee, or its designee, shall provide to the owner or custodian of the offending dog, within a reasonable period after an alleged attack, a Summary of Charges for which that owner is responsible.

C. Hearing

Any owner or custodian who receives a Summary of Charges under this Article shall have the right to a hearing before the Business Committee, or its designee, on his objection to the proposed charges in accordance with the procedures set forth herein.

A written request for hearing shall be filed with the Business Committee, or its designee, within ten (10) days of the service by mail of the Summary of Charges. Within thirty (30) days of the filing of the request, and on ten (10) days notice to the owner or custodian, the Business Committee or its designee shall hold a hearing on the owner or custodian's objections.

In the event that (a) no Request for Hearing is timely filed or (b) after a hearing in which the Business Committee, or its designee, affirms the validity of the charges, the owner or custodian shall be liable to the owner of the injured pet in the amount stated on the Summary of Charges or any lesser amount as determined by the Business Committee, or its designee.

In determining the validity of the charges, the Business Committee, or its designee, shall consider whether the total charges have been fairly and accurately calculated.

D. Appeal

There shall be no right of appeal. The decision of the Business Committee, or its designee, are final.

E. Fights Between Multiple Unrestrained Animals

In the event that a fight or attack occurs between two unrestrained animals (this includes unrestrained animals outside either owner's property), each owner or custodian shall be solely responsible for any injuries suffered by their animal.

ARTICLE XI
PRIOR ORDINANCES

All prior Canine Control Ordinances are hereby repealed.

ARTICLE XII
SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, its invalidity does not affect other provisions or applications of this Ordinance, and to this end the provisions of this Ordinance are severable.

ARTICLE XIII
SOVEREIGN IMMUNITY

The sovereign immunity of the Tribe is in no manner waived by this Ordinance or by any action by the General Council or any staff of the Tribe acting pursuant to this Ordinance.

ARTICLE XIV
AMENDMENTS

This Ordinance may be amended at any time by the General Council.

ARTICLE XV
EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage.

CERTIFICATION

I, the undersigned, as Secretary of the Pauma-Yuima Band of Mission Indians, do hereby certify that the General Council adopted this Ordinance at a duly called meeting at which a quorum was present by a vote of 27 for, with 2 against, with 6 abstaining.
on this 8 day of August, 2002.


Tribal Secretary

8-8-02
Dated