

**SAN PASQUAL BAND OF MISSION INDIANS
ANIMAL CONTROL ORDINANCE**



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Section I. Purpose.

The purpose of this Ordinance is to provide regulations for the protection, control, and maintenance of dogs and other animals within the boundaries of the San Pasqual Reservation. This Ordinance applies to all owners, possessors, and responsible parties of animals on the Reservation. Land Assignees must ensure that any residents, occupants, or renters on their assignments are made aware of this Ordinance and abide by it. All previous codes, ordinances, and directives with regard to animal control are hereby repealed. Nothing in this ordinance shall apply to the possession or retention of any animal parts, bones, hides, pelts, skins or feathers used for cultural purposes.

Section II. Definitions.

For the purpose of this Ordinance, certain items are defined in this section. When not inconsistent with the context, words in the present tense include the future, words in the singular number include words in the plural number, words in the plural include words in the singular and words in the masculine gender include the feminine gender. The word "shall" is always mandatory and not merely directory.

1. "Adequate Shelter" means a structure which, other than an opening for egress and ingress, is completely enclosed, creating a space within that is equal to the length of the animal in inches as measured from the tip of the nose to the base of the tail, plus six (6) inches expressed in square feet, and creating ample height space.
2. "Animal" means any one (1) or more of a kingdom of living beings (except humans) differing from plants in capacity for spontaneous movement and rapid motor response to stimulation.
3. "Animal Control officer" means any person designated by the Tribe to enforce the provisions of this Ordinance. The Tribe designates all officers of the Department of Public Safety as Animal Control Officers.
4. "Business Committee" is the five (5) member committee established under Article IV of the Tribes' Constitution and By-Laws.
5. "Dangerous Animal" means any wild or exotic mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which, because of its size, vicious nature, or other characteristics, constitutes a danger to human life, other animals, or property. It shall also mean any dog or animal determined by a court or any animal defined in Section XVII. Other characteristics of a dangerous animal in particular a dog include:
 - (a) Without provocation, has bitten a person or a domestic animal;

- (b) Without provocation, chases or approaches people or domestic animals on the streets, sidewalks or any public grounds in a threatening manner or apparent attitude of attack;
 - (c) Has a known propensity, tendency or disposition for unprovoked attack, causing injury and threatening the safety of people or domestic animals;
 - (d) Has inflicted severe injury on a person or domestic animal on public or private property;
 - (e) Any dog declared potentially dangerous, dangerous or vicious in another jurisdiction.
 - (f) NON-DANGEROUS. However, a dangerous animal does not include any of the following:
 - i. An Animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner.
 - ii. An Animal that bites or attacks a person who provokes or torments the Animal.
 - iii. An Animal that is responding in a manner that an ordinary and reasonable person would conclude was designated to protect a person if that person is engaged in a lawful activity or is the subject of an assault.
6. "Domestic Animal" means any various Animals such as cats, dogs, horse or sheep domesticated by humans that are lawfully and commonly kept as pets or so as to live and breed in tame conditions.
 7. "Exotic Animal" means generally the species of Animals which are not native to California or the United States and/or introduced from another country.
 8. "General Council" means the governing body of the Tribe, comprised of all adult, voting members of the Tribe.
 9. "Hybrid" means any Animal which is the offspring of two (2) different varieties or species.
 10. "Livestock" means any cattle, horses, poultry, and similar animals kept for domestic use but not as pets.
 11. "Owner, Possessor or Responsible Party " means any person who has right of property in any Animal, who has an Animal in his care or custody, or who

knowingly permits an Animal to remain on or about any premises occupied by him.

12. "Poisonous" means a substance which, through its chemical action, usually kills, injures or substantially impairs an organism.

13. "Tribal Lands" shall mean:

- (a) All land within the limit's of the Tribe's reservation, including trust land or fee land or owned by the San Pasqual Band of Mission Indians, and rights of way running through the reservation;

Section III. Designation of an Animal Control Officer.

This Ordinance hereby designates all officers of the Department of Public Safety as Animal Control Officers. Additionally, the Tribal Staff may contract with an existing Animal Control Agency to act as the designated Animal Control Officer of the San Pasqual Animal Control office and authorizes them to enter upon Tribal Lands to enforce this Ordinance.

Section IV. Immunity from Liability.

The Animal Control Officer Shall be immune from liability for acts committed on Tribal Lands pursuant to the authority contained in this Ordinance.

Section V. Enforcement Generally.

It shall be the duty of the Animal Control Officer to promptly seize, take up and placed in the pound all dogs and other Animals when necessary, that may be found running at large or unlicensed or being kept or harbored any place within Tribal Land contrary to the provisions of this Ordinance.

Section VI. Procedures for Animal Control Officer.

The Animal Control Officer is authorized to issue notice of violation to any person violating this Ordinance or to file a sworn compliant at Tribal Court.

Section VII. Penalties and Liabilities.

Any person who violates a provision of this Ordinance shall be liable for penalty as follows:

- (1) For a non-injury violation of this Ordinance, a civil remedial money penalty may be adjudged of not less than \$50.00 nor more than \$2000.00.

(2) A Owner, Possessor, or Responsible Party whose animal in violation of this Ordinance causes injury, death, or property damages may be held liable for another person's or tribal costs as follows:

- a. For a person being injured or killed, there may be liability to include costs incurred by the injured person, their family or estate, such as medical expenses, or in the case of a deceased person funeral and other costs.
- b. For an animal being injured or killed, there may be liability to include costs incurred by the owner of the injured or killed animal and/or replacement value of the animal.
- c. For any costs incurred in disposing of the Animal or retention and boarding of the Animal.
- d. For any costs incurred in repair(s) to Tribal or private property damage.
- e. For Court costs as determined by the Judge of the Tribal Court.

Section VIII. Public Nuisance.

Animals impounded by Animal Control Officers shall be held no longer than 48 hours at the Tribal holding facilities. The animal shall then be transferred to the San Diego Humane Society unless the animal is being held for quarantine.

Animals being held and later released to the owner may be subject to a \$15.00 fee for housing and feeding the animal.

No person shall harbor or keep any Animal which is a nuisance in the neighborhood. The Animal Control Officer may seize and impound any animal causing or creating a public nuisance. A violation of this section is hereby declared to be a public nuisance. An animal is considered a public nuisance either by;

- (1) Barking, howling, braying, crowing or making other sounds common to it's species that is excessive or uncontrollable; or
- (2) Failure of the owner, caretaker or possessor to maintain in a clean and sanitary condition, devoid of rodents and vermin, and free from objectionable odors, all structures, pens, coops or yards wherein any Animals are kept or;
- (3) Failure of the owner, caretaker or possessor to keep such Animals confined on such owner's, caretaker's or possessor's premises; or
- (4) Defecating or urinating on private property (other than that of the owner or person having control of the animal);
- (5) Defecating on public property without immediately removing the excrement to a proper receptacle;

- (6) Obstructing or interfering with the reasonable and comfortable use of property by chasing vehicles or molesting passersby;
- (7) Attacking other humans or animals;
- (8) Damaging private or public property;
- (9) Repeatedly run at large;

Section IX. Disposition When Sick or Dead.

- (1) No person shall place dead Animals in rubbish or garbage containers. The owner of any dead horse, cow, dog, cat, or other such large Animal shall within six (6) hours of the death of such Animal notify the department of public works of such death and secure removal of the carcass.
- (2) No person shall deposit, place or throw any dead or fatally sick or injured Animal or part thereof, on any public or private place, or into any reservoir Or into, or on the banks of any stream, lake, pond, sewer, well or other body of water.
- (3) No person shall carry or convey any dead animal through or upon any street, alley or public place unless the same is so covered that no part of it is exposed to view and no odors can emanate from it.

Section X. Livestock.

This ordinance shall apply to livestock.

Section XI. Dogs Running at Large in Public Places.

No dog shall be permitted at any time to be on any road or street, in a public park, public building, or any other public place, except when held securely by a leash of suitable strength and length, by the owner or possessor of the dog or any other responsible person. It is unlawful to allow any dog to be removed from such a leash in such public places. A person shall restrain his dog at all times within a fenced area or on a leash not less than twenty (20) feet in length.

Section XII. Animals and Vehicles.

- (1) No person shall transport or carry any animals in or on a motor vehicle roadway located within the Reservation limits unless the animal is safely enclosed within the vehicle or otherwise safely attached or secured to the vehicle by means of a container, cage or other device which will prevent the

animal from falling from, jumping from or being thrown from the vehicle while the vehicle is in motion.

- (2) No person shall leave any animal in an unattended motor vehicle without adequate ventilation or in such a manner as to subject the animal to extreme temperatures that may adversely affect the health or wellbeing of the animal.
- (3) An Animal Control Officer, police officer or safety officer is authorized to use reasonable force to remove an animal from a vehicle when it appears that the animal's health, safety or welfare is or will be endangered.

Section XIII. Vaccinations Required.

Dogs and cats shall have updated vaccinations as required by the County of San Diego. The owner shall provide the Animal Control Officer with any documents required to show that the vaccinations are current upon request.

Section XIV. Sanitation.

- (1) Yards and exercise runs shall be kept free of dog and cat feces or uneaten food, and shall be maintained in a sanitary condition so as not to be a nuisance because of odor or attraction for flies or vermin.
- (2) No owner or possessor of a dog or cat shall cause, suffer or allow it to defecate upon any Tribal Lands without prior permission of the owner of such property unless the person, owner or possessor shall immediately remove all feces by a sanitary method. The owner or possessor shall possess a container of sufficient size to collect and remove such feces, and shall exhibit any such container if requested by any Animal Control Officer. The collected feces shall be disposed of only upon the property of the owner or possessor of the animal.

Section XV. Quarantine of Biting Animals.

Whenever any Animal bites a person the owner or possessor of such animal shall immediately notify the Animal Control Officer within the first twenty four (24) hours of the bite and make themselves and the animal readily available to the Animal Control Officer. The officer shall order the animal held on the owner's premises or shall have it impounded at the discretion of the Animal Control Officer, for a period of ten (10) days. The Animal shall be examined immediately after it has bitten someone and at the end of such ten-day period. If a Veterinarian is convinced that the Animal is free of Rabies, the Animal shall be released from quarantine or from the pound as the case may be. If the animal dies in the meanwhile, its head shall be sent to the State Department of Health for examination and determination of Rabies.

Section XVI. Prohibited Animals.

It shall be unlawful and a violation of this chapter for any person to possess or maintain within tribal lands the following Animals:

- (1) All Animals, including snakes whose bite or venom is poisonous or deadly to humans.
- (2) Apes: Chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus).
- (3) Baboons (Papoi, Mandrillus).
- (4) Bears (Ursidae).
- (5) Cheetahs (Acinonyx jubatus).
- (6) Crocodilians (Crocodylus) and alligators (Alligatoridae).
- (7) Constrictor Snakes if longer than eight (8) feet or if weighing more than forty (40) pounds, or other poisonous reptiles.
- (8) Coyotes (Canis latrans).
- (9) Elephants (Elephas and loxodonta).
- (10) Gamecocks and other fighting birds.
- (11) Hyenas (Hyaenidae).
- (12) Jaguars (panthera onca).
- (13) Leopards (Panthera pardus).
- (14) Lions (Panthera Leo).
- (15) Lynx (Lynx)
- (16) Ostriches (Sruthio)
- (17) Pumas (Felis concolor); also known as cougars, mountain lions and panthers.
- (18) Wolves (Canis lupus).
- (19) Wolf hybrids.

- (20) Raccoons (*Pryocyon lotor*)
- (21) Skunks (*Mephitis*)
- (22) Tiger (*Felis Tigris*).
- (23) Any dog that is known to be dangerous as defined in section II (4).
- (24) Any Animal that maintenance or possession is prohibited by State or Federal Law
- (25) Any animal that is determined to be dangerous by a court of competent jurisdiction.

Section XVII. Destruction or Removal of Prohibited Animals.

- (1) Upon sworn complaint that an Animal is a dangerous Animal, or one of the Species of exotic or other Animal Prohibited by Section XVI or is otherwise prohibited by this Section, and is currently being illegally possessor maintained, Tribal Court Judge shall issue a summons to the owner or possessor ordering him to appear to show cause why the Animal should not be destroyed or removed from tribal lands.
- (2) Upon filling of a sworn complaint as provided herein, the Tribal Court may order the owner or possessor to immediately turn the Animal over to the Animal Control Officer, a Humane Society, a licensed Veterinarian, or a boarding kennel, at the owners option, to be retained by them until a hearing is held and a decision is made for the disposition of the Animal.
- (3) The expense of the boarding and retention of the prohibited Animal is to be borne by the owner. After a hearing the Court shall issue its findings and opinion as to whether the animal is subject to destruction or removal under this chapter. If so, the Court shall order the destruction of the Animal at the expense of the owner, or in the alternative, at the courts discretion, order the Animal removed from Tribal Lands under terms and conditions which ensure such removal. If the Tribal Court does not order the destruction or removal, the Animal shall be returned to the owner or possessor. The owner or possessor shall be responsible for the costs of boarding the Animal.
- (4) Illegally possessed and/or maintained Animals who have reasonably appear to have become a dangerous Animal are subject to immediate seizure or pickup under this section. The impounded Animal shall be held at a facility designated by the Animal Control Office at the owner's expense. The possessor shall promptly comply with the complaint requirements of subsections (1) and (2) of this section.

Section XVIII. Abandoned Animals.

It is unlawful to abandon any animal on Tribal Lands.

Section XIX. Amendments.

This Ordinance may be amended or repealed by a vote of two-thirds (2/3rds) of General Council members voting at a General Council meeting called for that purpose, a quorum being present.

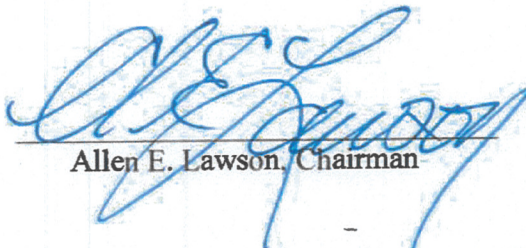
This Ordinance may be amended by the Business Committee as provided for under the Tribe's Constitution and By-Laws for the purpose to clarify language or to be in immediate compliance with changes in federal and state law that effect this Ordinance. Such amendments will be brought before the General Council at the next regular meeting for ratification.

Section XX. Effective Date.

This Ordinance and the rules, regulations, provisions, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect immediately upon a vote of the General Council.

CERTIFICATION

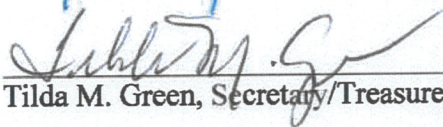
The foregoing Ordinance was adopted by the General Council at a meeting duly called, and at which a quorum of 30 was present, on the 13th day of May, 2017 by a vote of (30) Majority for 0 against 0 abstaining.



Allen E. Lawson, Chairman




Victoria Diaz, Vice Chair



Tilda M. Green, Secretary/Treasurer



David L. Toler, Delegate



Stephen W. Cope, Delegate