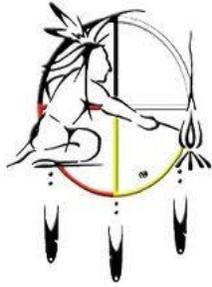


FOREST COUNTY POTAWATOMI ANIMAL CONTROL ORDINANCE

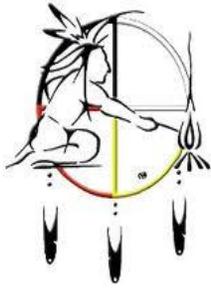
CHAPTER 1-10



FOREST COUNTY POTAWATOMI ANIMAL CONTROL ORDINANCE

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FOREST COUNTY POTAWATOMI ANIMAL CONTROL ORDINANCE

§ 1. General

1.1. Purpose

The purpose of this ordinance is to create effective and efficient manners of enforcing laws related to the control of domestic Animals and to provide protection for the health, safety, and general welfare of all Tribal Members and Non-Members of the Forest County Potawatomi Tribe as well as domestic pets on the Forest County Potawatomi Reservation.

1.2. Authority

The Forest County Potawatomi General Council enacts this ordinance pursuant to its authority granted under the Forest County Potawatomi Tribal Constitution, Article IV, §1(d).

1.3. Effective Date and Title

This ordinance is hereby adopted immediately following the Majority approval by the Forest County Potawatomi General Council and it shall be known as the Forest County Potawatomi Animal Control Ordinance.

1.4. Sovereign Immunity

The Tribe, by adoption of this ordinance, does not waive its sovereign immunity in any respect. Any person acting under good faith of this ordinance shall be immune from any civil liability arising out of such actions.

1.5. Amendment or Repeal

This ordinance may be amended or repealed only by a Majority vote of the Forest County Potawatomi General Council. All rules and regulations heretofore adopted by the Forest County Potawatomi General Council which are in conflict with the provisions of this ordinance are hereby repealed.

1.6. Jurisdiction

The Forest County Potawatomi Tribal Court shall have original jurisdiction over all proceedings under this ordinance.

1.7. Severability and Non-Liability

If any portion or section of this ordinance is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remaining sections of this ordinance shall not be affected.

§ 2. Definitions

For the purpose of this ordinance, the following words and phrases shall have the meanings given to them in this section and by law:

“Abandon” and/or “Abandoned” shall mean any Animal which is left unattended for more than a 24 hour period of time whether licensed or unlicensed.

“Abuse” shall mean to injure, damage, maltreat, to put to a wrong or improper use, or treat an Animal inhumanely.

“Animal,” “Cat,” “Dog,” shall mean any commonly domesticated male or female pet whether feline or canine which is owned or is living on the Reservation, so as to live and breed in a tame condition. A Dog is not a wolf, fox, coyote, dingo, or any hybrid or mixture thereof.

“Animal Control” shall mean any agency or department which represents the Tribe or is contracted for the designation of administering, issuing, and enforcing licenses under the provisions of this ordinance.

“At-Large” shall mean any Animal that is unaccounted for, is not on the Owner’s premises, or not under the control and restraint of the Owner or some other Caretaker, either by leash, enclosure, or voice command.

“Bite” shall mean any puncture wound which is caused by a domestic Animal which is kept as a pet whether unlicensed or licensed on, near, or within the Reservation.

“Dangerous” shall mean any Animal that, while unprovoked or without justification, chases or approaches any person in a menacing matter or behaves in a manner that a reasonable person would classify as a threat.

“Euthanized” shall mean the deliberate death of any Animal through legal administration by a qualified veterinarian.

“Isolation Facility” or “Impoundment” shall mean a place which has been designated by the Tribe to allow for any Animal to be isolated from contact with humans and any other Animals.

“Majority” shall mean fifty percent (50%) plus one (1) of the annually established quorum of the Forest County Potawatomi General Council.

“Member” shall mean any Member of the Forest County Potawatomi Community.

“Neglect” shall mean any act or omission that allows for the significant lack of care for an Animal. The care of a Cat or Dog shall include, but not be limited to, adequate and sanitary shelter, food, and water.

“Neuter” shall mean a surgical procedure performed by a qualified veterinarian so as to render the Animal permanently incapable of reproduction.

“Non-Member” shall mean any other person who is not a Member of the Forest County Potawatomi Community.

“Nuisance” shall mean any Animal if it: is at large, causes a threat to any Member or Non-Member, damages public property or any other Member’s or Non-Member’s property, barks excessively, or attacks or causes Nuisances to other domestic or wild Animals within the Reservation.

“Owner” or “Caretaker” shall mean any Member or Non-Member having the right by licensure to custody of an Animal.

"Rabies Vaccination" shall mean an injection given by a qualified veterinarian or through a public clinic which is an anti-rabid vaccine given to Animals in order to prevent rabies infection.

“Service Animal” shall mean any Animal that is specifically licensed, trained, and labeled to assist disabled Members or Non-Members.

"Stray" shall mean any Dog or Cat which has been Abandoned, has no licensing identification, or does not have a known Owner.

“Tribal Court” shall mean the Forest County Potawatomi Community Tribal Court.

“Tribal Lands” shall mean any lands that have title and ownership held in trust by the United States Federal Government for the benefit of Forest County Potawatomi Community and any other land which is part of the Forest County Potawatomi Reservation.

“Tribe” or “Tribal” shall mean the Forest County Potawatomi Community.

“Vicious” shall mean any Animal that has, on at least two (2) or more reported occasions when unprovoked, bitten, injured, killed or attacked a person or other Animal whether on public property or private property. “Vicious” shall also mean any Animal which is trained or used in fighting against other Animals. No Animal shall be declared Vicious if death, injury or damage to a person or other Animal occurred as a result of trespassing upon premises occupied by the Owner of the Animal, if the Animal was protecting or defending a person from attack or assault, or as a result of the Animal being teased, tormented, Abused, or assaulted by any person.

§ 3. Administration

3.1. Establishment of Animal Control Officer

The Tribe hereby establishes the position of Animal Control Officer. The Tribe shall set minimum competency and ethical standards for the Animal Control Officer and develop policies, procedures, and forms to administer this ordinance.

3.2. Enforcement by Others

No Member or Non-Member may enforce this ordinance other than the Animal Control Officer, his/her designee, or law enforcement.

3.3. Imposition of Fines/License Revocation

Failure to comply with any section of this ordinance may result in license revocation or fines for the violator. The Tribal Prosecutor shall be authorized to bring the necessary action in Tribal Court pursuant to the Debts Owed to the Tribe Ordinance, or for Non-Members, seek enforcement pursuant to full faith and credit, tax intercept, or an action for ejectment.

§ 4. License and Vaccinations

4.1. Licensing

- (A) All Dogs and Cats of any breed which are over six (6) months of age must be licensed by June 1 of the licensing year, unless notified by the Animal Control Officer to proceed immediately. The license year shall be effective from January 1-December 31 of each year, and must be renewed each year for each Animal. The fee for licenses shall be established by the Animal Control Officer from time to time, but shall only become effective upon the approval of the Executive Council. Licenses are not transferrable. Failure to comply with these requirements may subject the violator to a fine.
- (B) All Owners or Caretakers shall provide the following for licensing purposes: name of Dog or Cat, breed (if known), color(s), sex, date of birth, and whether Cat or Dog is spayed or Neutered. This information shall be documented on all licenses and paperwork pertaining to any Animal.
- (C) The Owner or Caretaker shall provide his/her name, physical/ mailing address, and phone number, as well as the domicile of the Animal. A Dog or Cat observed without a tag attached to its collar shall be presumed to be unlicensed and may be seized, impounded, or restrained by any police or Animal Control Officer, and the Owner may be fined.
- (D) The Owner or Caretaker shall be issued a license card which will document facts pertaining to the Animal and a metal tag with a number which also shows the name and breed of Animal as well as the date of issue upon it. The Tribe may

utilize other types of identification for Animals as needed. A duplicate identification tag may be available for an additional fee.

- (E) No Member or Non-Member shall transfer the identification tag from one Animal to another. Transferring an identification tag from one Animal to another may subject the violator to sanctions and/or fines within the limits of this ordinance and other applicable laws within the Reservation.
- (F) Animals specifically trained to assist disabled Members or Non-Members shall be exempt from licensing fees, but the Owner must show proof of such duty and the Animal must be labeled as a Service Animal.
- (G) Tribal elders and Non-Member senior citizens (65 years of age or older) will be given a special licensing discount of half price, but only if such person's Dog or Cat is Neutered.

4.2. Rabies and other Vaccinations

All Owners or Caretakers must keep their Animals' vaccinations current against rabies, distemper, and other diseases as may be required from time to time by the Tribe. Failure to comply with these requirements may subject the violator to sanctions and/or fines.

§ 5. Control of Animals

5.1. Running At-Large

- (A) Animals shall not be At-Large and must be kept on a leash, within the domiciled premises or within a reachable distance of their Owners or Caretakers.
- (B) It shall not be a defense that a kennel, pen, leash, fence, or other form of enclosure or restraint broke or failed. Kennels, leashes, fences and any other types of enclosures must be in good repair and in working order as to maintain an acceptable living arrangement for domesticated pets. Failure to comply with these requirements may subject the violator to sanctions and/or fines if on a continual basis. Discretion is left up to the Animal Control Officer regarding sanctions and fines.
- (C) Animals that are considered Dangerous must not roam free and must be either chained to a leash at its domicile or kept in a kennel or other enclosure at all times unless the entire yard for the property is fenced off from other properties and roads.

5.2. Temporary Control of Animal

- (A) Any Member or Non-Member that accepts the responsibility and liability to care for an Owner's Animal on a temporary basis shall be subject to this ordinance.

- (B) It shall not be a defense of any temporary Animal Caretaker to assert that they were not aware of the provisions and liabilities of this ordinance. Discretion is left up to the Animal Control Officers regarding issuance of fines.

5.3. Hunting

- (A) An Animal that is engaged in a legal hunting activity, including training, is not considered to be At-Large if the Animal is supervised by a Member or Non-Member and the Animal is on land that is open to hunting or on land which the Owner or Caretaker obtained permission to hunt or train.
- (B) Owners and Caretakers are liable for compliance with the ordinance and any damages or injuries caused while using their Animal for hunting or training.
- (C) It is not a defense to a violation of this ordinance for an Owner or Caretaker to allege that their Animal ran away or was lost while hunting, as the Owner or Caretaker accepting responsibility and liability for an Animal must always be in control of any Animal.

§ 6. Animal Shelter/Rabies Quarantine

6.1. Animal Shelter

The Tribe may provide or enter into a cooperative agreement with a veterinarian or another community to shelter or quarantine an Animal.

6.2. Impoundment to Shelter or Quarantine

Any Animal found to be Abandoned, At-Large, Vicious, Neglected, or Abused may be taken to the nearest Isolation Facility or shelter and/or quarantined by the Animal Control Officer, their designee or law enforcement without notice to the Owner. Determination(s) of Viciousness, Neglect and Abuse shall be based upon observation by the Animal Control Officer, his/her designee, law enforcement, or by other credible witnesses with firsthand knowledge of the facts giving rise to such a determination. If an Owner or Caretaker is found to have Abandoned, Neglected, or Abused an Animal, a civil complaint may be filed with Tribal Court to recover the costs of temporary sheltering, quarantine, other Impoundment, or to collect any applicable fines.

6.3. Notice to Owner or Caretaker for Retrieval of an Animal

- (A) The Animal Control Officer shall make reasonable efforts to notify the Owner or Caretaker within 24 hours of Impoundment.
- (B) The Owner or Caretaker shall be required to retrieve the Animal within 24 hours of notification. If Viciousness, Abuse, or Neglect is asserted, the Animal may be impounded until a probable cause hearing by the Tribal Court, which shall occur no later than three (3) working days from the date of Impoundment. If

Viciousness, Abuse, or Neglect was not found, the Owner or Caretaker may retrieve his/her Cat or Dog with proper identification and licensing paperwork and may be subject to a fee or shelter fees.

- (C) The Animal Control Officer shall send notice to the Owner or Caretaker that an Animal not claimed within seven (7) days from the date of receiving a notice of Impoundment, may be available for adoption. Any Abandoned Animal which is adopted becomes the new Owner's Animal and the new Owner is subject to all rights and licensing fees or rules and stipulations which apply to Animal ownership.

6.4. Release to Owner or Caretaker

An Animal may be released to its Owner or Caretaker if:

- (A) the Owner or Caretaker pays all shelter/quarantine fees, fines, and related expenses;
- (B) the Owner or Caretaker presents evidence that the Animal is licensed and has current vaccinations; and
- (C) there are no current orders of the Tribal Court keeping the Animal impounded.

6.5. Release to Non-Owner

The Animal Control Officer may release an impounded Animal to a Member or Non-Member other than the Owner or Caretaker if:

- (A) the Animal is not claimed by its Owner or Caretaker within seven (7) days after notice of Impoundment was given;
- (B) all reasonable efforts were made to notify the Owner or Caretaker and the Owner or Caretaker has not claimed the Animal;
- (C) the Owner or Caretaker to whom the Animal is released is at least 18 years of age and his/her name, address, and telephone number are documented; and
- (D) the Owner or Caretaker adheres to any other requirements agreed upon by a cooperating Animal shelter or veterinarian and the Tribe.

6.6. Rabies Quarantine

- (A) The Animal Control Officer may immediately seize an Animal and deliver the Animal to an Isolation Facility for quarantine if the Animal Control Officer has reason to believe:

- (1) that the Animal, without provocation, has broken the skin of a Member or Non-Member and/or caused serious injury or death of a Member or Non-Member or another Animal;
 - (2) that the Animal is suspected of being rabid; or
 - (3) that the Animal has been in contact with a rabid Animal.
- (B) The Animal Control Officer may allow for the Animal to be quarantined on the premises of the Owner if the Animal has a current Rabies Vaccination.
- (C) If an Animal, upon the conclusion of the quarantine observation period, is adjudged free of rabies, the Owner or Caretaker may reclaim the Animal upon payment of the regular keeping fees and complying with the ordinance licensing and vaccinating requirements.
- (D) If a veterinarian determines that an Animal, while under quarantine is exhibiting symptoms of rabies, the veterinarian shall Euthanize and dispose of the Animal after written notification to the Owner or Caretaker.

6.7. Euthanization

- (A) Any Animal that causes serious injury to, or the death of, a Member or Non-Member shall be Euthanized if the Tribal Court finds probable cause to determine that the Animal is Vicious or that the gravity of the injuries (or death) is such that public safety requires euthanization.
- (B) If the Animal Control Officer determines, based upon direct observation of the Animal in question, that the Animal poses an immediate threat of serious injury or death to a human or other Animal, the Officer may immediately euthanize the Animal in question.
- (C) In the absence of a probable cause hearing in Tribal Court, any Animal that causes serious injury to, or the death of, another Animal may be Euthanized at the discretion of the Animal Control Officer based on the circumstances of the attack.

6.8. Records

The Animal Control Officer shall keep a record of each Animal impounded at an Isolation Facility, the location where impounded, a description of the Animal and the dates of Impoundment. In the event that the Animal is released, the record shall include the Owner or Caretaker's name, address, phone number and date of release and a written response of release to the Owner or Caretaker shall be mailed to the last known address of the Owner or Caretaker. Records shall be maintained on file for a period of five (5) years from original filing date.

§ 7. Interference with Animal Control Officer

It shall be unlawful to interfere, threaten, or harass the Animal Control Officer or his/her designee in the performance of their duties.

§ 8. Household Limit

It shall be unlawful for a household within the Forest County Potawatomi Reservation to keep more than five (5) Animals at one particular time.

§ 9. Animal Waste

It shall be unlawful to leave Animal waste in improved public areas, another Member's property or a Non-Member's property. An Owner or Caretaker shall properly dispose of Animal waste by utilizing the Tribe's waste utilities and must comply with all laws prohibiting leaving Animal waste in plain sight. Any Owner or Caretaker who does not clear Animal waste deposited by their own Animals or the Animals over which they act as a Caretaker may be subject to a sanction and/or fine.

§ 10. Other Animals

- (A) It shall be unlawful to keep any other mammal, bird, fish, or other creature that is not generally accepted as a household pet. Wild, endangered, poisonous, and constricting Animals are not pets and Owners or Caretakers of these Animals may be subject to sanctions and/or fines Tribal Court, and may also be subject to a criminal prosecution in state or federal court, if applicable.
- (B) It shall be unlawful to keep any other Animal unless it is vaccinated in accordance with current veterinary standards for that species.

§ 11. Abandonment

It shall be unlawful for any Owner or Caretaker to Abandon an Animal for an extended period of time. If an Animal is found to have been Abandoned, it will be subject to the rules and procedures contained in this ordinance, as well as any other procedures implemented by Animal Control Officers, upon review and approval by the Executive Council.

§ 12. Penalties

12.1. No License/No Current Vaccination:

- (A) First Violation: minimum of \$25.00 forfeiture;
- (B) Second Violation: minimum of \$175.00 forfeiture;
- (C) Third and Successive Violations: minimum of \$275.00 forfeiture;

- (D) All fees assessed shall be as determined by the Animal Control Officer, pursuant to policies reviewed and approved by the Executive Council regarding shelter costs, removal, and disposal of Animal, waste cleanup fees, Nuisance fees and any other fees associated with non-compliance with this ordinance.

12.2. Animal At-Large/Leaving Animal Waste/Abandonment

Each violation of these types shall be per household, not per Animal.

- (A) First Violation: minimum of \$150.00 forfeiture;
- (B) Second Violation: minimum of \$250.00 forfeiture;
- (C) Third and Successive Violations: minimum of \$350.00 forfeiture;

All fees assessed shall be as determined by the Animal Control Officer, pursuant to policies reviewed and approved by the Executive Council regarding shelter costs, removal, disposal of Animal, waste cleanup fees, Nuisance fees, and any other fees associated with any non-compliance with this ordinance regarding domestic Animals throughout the Reservation.

12.3. Animal Bite (Breaking the Skin or Causing other Serious Injury)

- (A) First Violation: minimum of \$400.00 forfeiture and/or Euthanize in severe instances;
- (B) Second Violation: minimum of \$1200.00 forfeiture and/or Euthanize in severe instances;
- (C) Third Violation: Euthanize.

12.4. Other Violations

Other violations of this ordinance: All fees assessed are at the discretion of the Animal Control Officer per policies reviewed and approved by the Executive Council regarding shelter costs, removal of Animal, and disposal of Animal, waste cleanup fees, Nuisance fees and any other fees associated with any non-compliance regarding domestic Animals throughout the Reservation.

12.5. Use of Penalties Fees and Costs Collected:

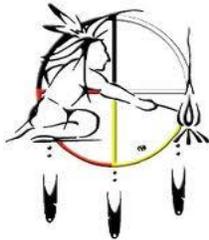
- (A) all fees and penalties collected under this ordinance shall be deposited with the Animal Control Office budget to be used in supporting and funding the objectives of this ordinance;

- (B) all costs for services which include but is not limited to: kenneling, boarding, transporting, veterinary exams and so forth, shall be used to pay for the services utilized.

§ 13. Monetary Enforcement

Monetary forfeiture judgments under this ordinance are Tribal Court judgments and shall be enforced in accordance with the Debts Owed to the Tribe and Revenue Allocation Ordinances. If the judgment is against an employee of the Forest County Potawatomi Community, the court may order a garnishment of wages. The Tribal Prosecutor may also seek enforcement action against Non-Members pursuant to §3.3 of this ordinance.

Legislative History for Forest County Potawatomi Animal Control Ordinance:



Recommended by the Ordinance Department (08/03/2011)
Approved by Executive Council (08/08/2011)
Approved by General Council (05/12/2018)