

RESOLUTION NO. 91 -16
OF THE GOVERNING BODY OF THE
YAVAPAI-APACHE NATION

A Resolution Amending Chapter 11 of the Yavapai-Apache Code - The Yavapai-Apache Nation Animal Control and Licensing Code

- WHEREAS:** The Yavapai-Apache Tribal Council (“Council”) is authorized to represent the Yavapai-Apache Nation (“Nation”) and act on all matters that concern the health and welfare of the Nation, and to make decisions not inconsistent with or contrary to the Constitution of the Yavapai-Apache Nation (“Constitution”) as provided under Article V(a) of the Constitution; and
- WHEREAS:** The Council, as the legislative body of the Nation, is authorized to enact laws, ordinances and resolutions incidental to the exercise of its legislative powers as provided under Article V(v) of the Constitution; and
- WHEREAS:** The Council is authorized to enact laws regulating animals which are in the control of persons within the jurisdiction of the Tribe as provided under Article V(m) of the Constitution; and
- WHEREAS:** On September 28, 1994, the Council adopted Resolution No. 69-04 enacting the Yavapai-Apache Code which improperly designated the “Animal Control Code” as Chapter 9 instead of its correct designation as Chapter 11; and
- WHEREAS:** On May 16, 2013, the Council adopted Resolution No. 87-13 redesignating the Animal Control Code as Chapter 11 of the Yavapai-Apache Code and recognizing the title of the Code as the “Animal Control and Licensing Code”; and
- WHEREAS:** The Council has determined to amend the Animal Control and Licensing Code to clarify definitions and potential penalties and for other purposes as specified in the amended Animal Control and Licensing Code attached to this Resolution as Exhibit A; and
- WHEREAS:** The Council has reviewed the proposed amended Animal Control and Licensing Code in the form attached to this Resolution as *Exhibit A* and incorporated herein by reference and deems it in the Nation’s best interest to adopt the same.
- NOW THEREFORE BE IT RESOLVED** that the Yavapai-Apache Tribal Council, in Council assembled, at which a quorum is present, hereby adopts as the law of the Nation amendments to the Animal Control and Licensing Code, as set forth in the amended Chapter 11 attached to this Resolution as *Exhibit A*, effective immediately.

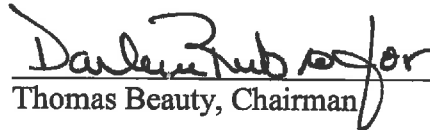
BE IT FURTHER RESOLVED that the amended Chapter 11 supersedes all prior enactments of Chapter 11 and any other enactments inconsistent with the amended Chapter 11 attached to this Resolution as *Exhibit A*.

BE IT FURTHER RESOLVED that the amended Chapter 11, the Animal Control and Licensing Code, shall be filed with the Secretary of the Nation, Yavapai-Apache Nation Police Department, the Nation's Human Resources Office, the Clerk of the Court, and the Office of the Attorney General.


BE IT FINALLY RESOLVED that the Chairman and Vice-Chairwoman, or either of them, are hereby authorized to take such further action as deemed necessary to carry out the purposes and intent of this Resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was adopted by an affirmative vote of the Tribal Council, with a quorum in attendance, presented for approval on May 5 2016, by a vote of 9 6 in favor, 1 opposed and 2 abstaining, pursuant to the authority contained under the Constitution of the Yavapai-Apache Nation as cited above.


Thomas Beauty, Chairman

ATTEST:


Karla Reimer, Council Secretary

Approved as to Form:



Office of the Attorney General

EXHIBIT A

Chapter 11 – Animal Control and Licensing Code

May 5, 2016

CHAPTER 11 YAVAPAI-APACHE NATION ANIMAL CONTROL
AND LICENSING CODE

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Definitions

- A. **Contractual Fee** means: all Costs associated with the animal being placed into the pound. This cost is based on a contract between the Nation and the holding facility (the "pound"). Currently the cost is \$70 per animal but is subject to change under the Pound Contract.
- B. **Facility Fee** means: all Cost associated with taking the animal out of the pound. This amount is set exclusively by the pound. This includes holding fees, if the animal's owner requests the animal be held, pending any judicial review under this Code.
- C. **Nation's Lands** means: all lands of the Yavapai-Apache Nation located within the jurisdiction of the Nation as defined under Article I of the Constitution of the Yavapai-Apache Nation.

- D. **Owner** means: any person, including any legal entity, owning, harboring, keeping, or having charge, care, custody or control of any animal, or in the case of any person under 18 years of age, that person, or in the case of any pers, for any period of time. Owner includes any Head of Household as defined herein under Section 11.110.B.

11.101 Animal Control Officer

- A. The Yavapai-Apache Nation (“Nation”), acting through its governing body, the Tribal Council (“Council”), hereby establishes the Office of Animal Control and vests the Office, acting through the Animal Control Officer (“ACO”) with the authorities and responsibilities set out in this Code.
- B. The Office of Animal Control shall be administered by the Animal Control Officer (“ACO”) who shall enforce this Code as authorized herein and may issue citations and commence a civil action or proceeding before the Yavapai-Apache Nation Tribal Court (“Tribal Court”) as is necessary for prosecution of any violation of this Code. Any law enforcement officer of the Nation may also enforce this Code.
- C. It is unlawful for any person to interfere with the ACO or a law enforcement officer in the performance of their duties under this Code and the laws of the Nation.

11.102 Dogs at Large

- A. **Dog at Large:** Every person owning or having charge, care, custody or control of any dog shall keep such dog exclusively upon his or her own premises; provided however, that the dog may be off such premises if it is under the control of a competent person and restrained by a chain, leash, rope or cord of sufficient strength to contain and control such dog. Any dog found off of said premises and not under the control of a competent person as described above shall be considered a “Dog at Large” and subject to impoundment under Section 11.104 below.
- B. Dogs shall not be considered “at large” under the following circumstances:
1. While participating in field trials, obedience classes, or kennel club events where such trials classes, or events have been approved by the Nation.
 2. While being utilized or trained for legal hunting or control of livestock.
 3. While assisting a law enforcement officer engaged in law enforcement duties.
 4. While acting as a service dog assisting blind, deaf, or physically handicapped persons, so long as such dogs are under direct and effective voice control of such individual to assure that they do not

violate any provision of law.

11.103 Licensing of Dogs; Rabies Vaccinations

- A. Each dog four (4) months of age or over that is kept, sheltered, or maintained within the Nation's lands for at least thirty (30) consecutive days must be licensed by the Nation. Fees for licenses shall be established by a resolution of the Council, and the Nation shall provide durable dog tags showing the license number and expiration date. Licenses are available through the ACO.
- B. Before a license is issued, the owner or individual having charge, care or custody of a dog must present a rabies vaccination certificate signed by a licensed veterinarian stating the owner's name and address and giving the dog's description, date of vaccination, type, manufacturer, and serial number of the vaccine and the date that revaccination is due.
- C. Each licensed dog must wear the dog tag attached securely around its neck whenever it is off its owner's premises.

11.104 Impoundment

- A. Every dog found at large, under 11.102 of this Code, may be impounded at a pound facility authorized by the Yavapai-Apache Nation Police Department. The owner or person having charge, care, custody or control of the dog shall be responsible for all costs and fees associated with the impoundment, including the Contractual Fee and the Facility Fee assessed by the pound facility.
- B. Unlicensed dogs shall be kept and maintained in the pound for a maximum of three (3) days (72 hours) and may, during that time, be claimed by the owner, or any individual authorized in writing by the owner. The owner or individual claiming the dog is responsible for payment of the Contractual and Facility Fees and must be in compliance with the licensing provisions of this Code within seventy-two (72) hours of reclaiming the dog. If a dog is not claimed within seventy-two (72) hours of impoundment, the pound may place the dog up for adoption or may euthanize the dog in a humane manner according to the policies and procedures of the pound.
- C. Any impounded licensed dog may be claimed provided that the owner or individual authorized in writing by the owner, claiming the dog furnishes a copy of the dog's license and pays all Contractual and Facility Fees. If the dog is not claimed within seventy-two (72) hours of impoundment, the pound may place the dog up for adoption or may euthanize the dog in a humane manner according to the policies and procedures of the pound.
- D. Dogs and animals of any kind suspected of rabies and/or animals of any kind which have bitten any person shall be impounded and quarantined not less than ten (10) days to determine whether the dog/animal is infected with

rabies. At the expiration of the impoundment/quarantine period, if the animal is found free of rabies, the animal may be claimed, and if not claimed within seventy-two hours following expiration of the impoundment/quarantine, the animal may be adopted or euthanized as provided above. Any animal found to be infected with rabies shall be euthanized.

- E. Impounded animals may be claimed from the pound by the owner, or individual authorized in writing by the owner, after any required time limit has lapsed. However, "vicious" dogs, as defined by Section 11.111 of this Code, shall not be returned to, kept, sheltered or maintained within the Nation's Lands. The animal's owner is responsible for paying all fees associated with the impoundment at the time the animal is claimed.
- F. If a dog cannot safely be impounded due to its dangerous, vicious or fierce propensities, or if the dog poses an immediate risk to the health and safety of the community, as determined in the sole discretion of the ACO or other law enforcement officer, it may be destroyed by the ACO or other law enforcement officer in order to protect the health and safety of the community.

11.105 Waste Removal Required

- A. It shall be unlawful for the owner or person having charge, custody, or control of any animal to fail to immediately remove and dispose of, in a sanitary manner, any solid waste deposited by such animal on public or private property. This section shall not apply to blind persons with guidedogs.
- B. The owner or person having charge, custody, or control of any animal who causes physical injury to a person or another animal, is responsible for any costs associated with clean-up of blood, or other bodily fluids. If there is a public health risk associated with the blood or bodily fluid, the owner or person having charge, custody or control of the animal, is responsible for any costs associated with Hazmat clean-up.
- C. Dead animal disposal is the responsibility of the animal's owner. The staff of the Office of Animal Control will not routinely pick up and dispose of dead animals for owners. Exceptions may be made in extreme cases after approval from a supervisor. If the ACO or tribal law enforcement officer, acting in their official capacity, destroys an animal, the owner is responsible for any costs associated with clean-up and/or disposal of the animal carcass.

11.106 Prohibited Acts

- A. **Dog Fighting:** No person shall own or harbor any dog for the purpose of dog fighting or training of a dog to attack or cause injury to any domestic animal.
- B. **Animal Neglect:** It is unlawful for any person owning or having charge, care, custody or control of any domesticated animal, including poultry and livestock, within the lands of the Nation to not properly care for said animal.

1. Proper care consists of providing the animal with sufficient food and water, maintaining the animal in good health, providing the animal with shelter from the elements, keeping pens and enclosures clean and sanitary, generally free of fecal matter and other matter that may attract flies, rodents or cause an offensive odor that may disturb the comfort or peace of any person.
 2. Upon determination by a law enforcement officer or ACO that any animal is neglected, endangered, or abandoned, the officer or ACO shall issue a citation to the responsible person, or if no person is present, shall post notice of citation in a conspicuous place near the location of the subject animal.
 3. After issuing or posting the notice, the officer shall institute immediate process to have the animal impounded for remedial and restorative treatment.
 4. All expenses of remedial and restorative treatment for the animal shall be the responsibility of and paid by the animal's owner. Such expenses, if unpaid, shall be collected by the Nation as provided under Section 11. 112.H of this Code.
- C. Excessive noise: It is unlawful for any person owning or having care, custody or control of any domesticated animal to permit said animal to bark, bay, howl, or make other noise, day or night, in such an unreasonable manner as to disturb the peace and quiet or any person or persons.
- D. Animal cruelty: A person commits animal cruelty if the person does any of the following:
1. Intentionally, knowingly or recklessly cruelly beats, tortures, torments, mutilates or unlawfully kills an animal.
 2. Intentionally, knowingly or recklessly causes, permits or authorizes the cruel beating, torturing, mutilation or unlawful killing of an animal.
 3. Intentionally, knowingly or recklessly fails to provide medical attention necessary to prevent protracted suffering to any animal under the person's charge, care, custody or control.
 4. Intentionally, knowingly, or recklessly leaves an animal unattended and confined in a motor vehicle under circumstances where physical injury or death of the animal is likely to result.

11.107 Animals at Large

Any person who keeps or causes to be kept any horse, mule, cattle, burro, goat, sheep, swine (including potbellied pigs), or other livestock or poultry, shall keep such animals in a pen or similar enclosure to prevent the animal

from being at large within the land of the Nation. Any such animal found at large may be impounded, with the cost for care to be paid by the owners or responsible parties, and a citation for animal at large may be issued.

11.108 Resident Animal Limit

- A. There shall be no more than two (2) animals, meaning 2 dogs or 2 cats or 1 dog and 1 cat, kept at a single residence within the lands of the Nation. This does not include poultry or rabbits.
- B. If an individual's dog or cat has a litter of puppies or kittens the individual has twelve (12) weeks to wean and re-home the puppies or kittens, after which, the individual shall be considered in violation of this section.
- C. If an individual exceeds the two (2) animal limit, the individual will be cited and given two (2) weeks to comply with the animal limit.
- D. Failure to comply with the resident animal limit shall result in a fine [See Section 11.112 (F)] and impoundment of animals that exceed said limit.

11.109 Protection of Animals by the Nation

- A. Any law enforcement officer of the Nation, the ACO, or other designated Nation law enforcement officer, in carrying out enforcement activities under this Code, is authorized to use whatever force is reasonable and necessary to remove any animal from a vehicle or other enclosed space whenever it appears that the animal's life or health is endangered by extreme temperatures or lack of ventilation within a vehicle or enclosed space.
- B. No law enforcement officer, any ACO, or other designated Nation enforcement officer shall be liable for damages to property caused by the use of reasonable force to remove an animal from such a vehicle or other enclosed space under such circumstances described in Section 11.109(A).
- C. Any law enforcement officer, ACO, or other designated Nation enforcement officer is authorized to remove and impound any animal in plain view and suffering from life threatening circumstances. The owner of any animal so removed or impounded under the provision of this Code or other applicable Tribal law shall be liable for any Contractual Fees and/or Facility Fees.

11.110 Authority to Enforce and Impound

- A. Authority to enforce: The ACO or any law enforcement officer of the Nation is hereby authorized and empowered to enforce the provisions of this Code and to issue citations and commence a civil action or proceeding before the Tribal Court as necessary for prosecution of any violation of this Code. The ACO shall have primary responsibility for the enforcement of this Code.

B. The designated Head of Household or Homeowner of Record may be cited as the owner of all animals being harbored or kept at that residence for purposes of enforcing this Code, and is subject to liability for payment of all Contractual Fees, Facility Fees, and any fines and penalties or other costs assessed under this Code. This section applies to non-Indians, non-tribal members, house guests, or any other individual present in the home for any period of time.

C. Authority to Impound

1. If the ACO, or any law enforcement officer of the Nation, has issued a citation for a violation of this Policy, and reasonably believes that the violation will continue, the officer is authorized and empowered to remove and impound the animal.
2. The owner of any animal removed and impounded under the provisions of this policy shall be liable for payment of any Contractual Fees and / or Facility Fees, or veterinary fees incurred in connections therewith.
3. Whether at large or not, every animal that bites so as to penetrate the skin, and every animal that appears to be infected with rabies shall be impounded in accordance with the provisions of Section 11.104 of this Code.
4. All impounded dogs shall be held in the pound unless transferred to a veterinary hospital at the request and expense of the owner.

D. Compliance with Orders of the Tribal Court

1. If an animal owner refuses or is unable to comply with a properly-issued court order, the Nation's law enforcement officers and ACO shall have the authority to impound the subject animal upon the expiration of any time limit granted by the Court for the owner to comply with the court order. Upon impoundment, the owner of the animal is subject to the time frames set forth in Section 11.104 above.
2. If the Court order does not specify any time limit, the animal shall be subject to immediate impoundment.
3. The possession by a law enforcement officer or ACO of a copy of the court order shall be deemed an effective order of impoundment.
4. The Contractual Fee, Facility Fee, and any fines or other penalties imposed under this Code below shall be the responsibility of and paid by the animal's owner.

11.111 Vicious Animals

- A. It is unlawful for any person to keep, shelter, control, maintain, or otherwise have under control any "vicious" animal, as defined below.
- B. This article shall not apply to zoos, wild animal parks, or animal shelters, or to persons who are in compliance with an order of the Tribal Court, issued under this Section.
- C. Definitions: a vicious animal means:
 - 1. An animal that bites a person without provocation. This is a strict liability statute and the Nation shall not be required to prove that the owner had prior knowledge of the animal's propensity to bite; or
 - 2. An animal that displays or has a tendency, disposition or propensity to bite, attack, chase or charge or attempt to cause injury, bite, attack, bare its teeth, chase or charge a person in a threatening manner; or
 - 3. An animal that kills or causes injury to domestic animals; or
 - 4. An animal that has been declared vicious by the Tribal Court.
- D. An ACO or law enforcement officer, upon their determination that an animal within the lands of the Nation is vicious, shall impound the vicious animal immediately to preserve the health and safety of any person or other animal. The Officer's determination of viciousness and the resulting impoundment shall be effective immediately but shall be subject to judicial review under Section 11.111(F) below.
- E. The owner of an animal who is cited for a violation of this Section, 11.111(A), shall immediately produce that animal for inspection or impoundment upon the request of the ACO or a Law Enforcement Officer of the Nation.
- F. Upon the expiration of the impoundment period, the owner of the vicious animal may reclaim their animal from the impound facility, however the animal will not be allowed back onto the lands of the Nation until the Tribal Court has made a final determination of whether the animal is vicious as defined by this Code.
- G. If the Tribal Court determines that an animal is vicious as defined by this Code, the owner of said animal shall be ordered by the Court to do one or more of the following:
 - 1. Remove the animal permanently from the lands of the Nation; or
 - 2. Humanely euthanize the animal.

11.112 Violations; Penalties

A violation of this Code is a civil offense. Any owner, Head of Household, or individual having charge, care or custody of an animal found by Tribal Court to be in violation of this Code shall be subject to civil liability for payment of the following minimum fines, in addition to any contractual Fees and/or Facility Fees and other costs arising under this Code:

- A. A violation of Section 11.102(A), Dog at Large, 11.103(A), Licensing of Dogs, and 11.103(B), Rabies Vaccinations, is punishable by a fine of not less than one hundred dollars (\$100).
- B. A violation of Section 11.105(A), Required Waste Removal, is punishable by a fine of not less than one hundred dollars (\$100).
- C. A violation of Section 11.106(A), Dog Fighting, (B), Animal Neglect, and (D), Animal Cruelty, is punishable by a fine not less than five hundred dollars (\$500) and up to one thousand dollars (\$1,000). Note: Animal Cruelty may be charged as a separate criminal offense under the YAN Criminal Code, Title 5, Chapter 8, Section 820, at the discretion of the Nation.
- D. A violation of Section 11.106(C), Excessive Noise, is punishable by a fine of not less than one hundred dollars (\$100).
- E. A violation of Section 11.107, Animals at Large, is punishable by a fine of not less than one hundred dollars (\$100).
- F. A violation of Section 11.108(A) and (B), Resident Animal Limit, is punishable by a fine of not less than one hundred dollars (\$100).
- G. A violation of Section 11.111(A), Vicious Animals, is punishable by a fine of not less than five hundred dollars (\$500) and up to one thousand dollars (\$1,000), and must comply with the provisions of 11.111(G) above.
- H. Any unpaid fees, fines, penalties or other unpaid funds owed to the Nation under this Code shall be considered a debt owed to the Nation and shall be deducted in full by the Nation's Treasurer from any distribution made by the Nation to the person owing the debt, including per capita distributions and/or holiday bonuses and paid into the Nation's general fund.
- I. In addition to ordering the payment of all fees, fines, penalties, and court costs arising under this Code, the Tribal Court shall have discretion to impose any additional financial penalties, including, but not limited to, restitution for a victim's medical expenses and clean-up costs associated with animal bites or animal disposal, and any restitution owing to any person whose property or animal was injured or killed or damaged. The award of restitution under this Section of the Code shall not foreclose the right of any person to bring a separate civil action seeking damages, however any amount of restitution

awarded under this Code shall be offset against any damages awarded in the separate civil case.

11.113 Repetitive Offenders

- A. Offenses involving the same owner that occur within twelve (12) months of a prior, similar offense shall result in the minimum fine for that offense being doubled, in addition to any costs and fees incurred by the Nation if the animal is impounded. Note that the subject animal does not have to be the same animal involved in the prior similar offense.

- B. Offenses involving the same owner that occur within twenty-four (24) months of two prior similar offenses shall result in the impoundment of all animals within the ownership, care, and custody of the owner. The owner shall be prohibited from having any animals for a period of two (2) years. Owner shall pay all costs of the impoundment and disposition of the impounded animal(s).