

**OMAHA TRIBAL CODE (2013)**

**TITLE 9. ANIMAL CONTROL**

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## TITLE 9. ANIMAL CONTROL

Source: Omaha Tribal Council Ordinance No. 88-93 (10-31-88) and as updated by Tribal Resolution 24-15

### CHAPTER 1. REGISTRATION

#### SECTION 9-1-1. Registration Required.

Any person who shall own, keep, or harbor within the Omaha Reservation a dog or other domesticated animal kept as a pet, over the age of six (6) months, shall within thirty (30) days after acquisition of such animal, make application for license with Animal Control and present evidence that the animal has been vaccinated for rabies within the preceding twelve (12) months. Such registration must be renewed annually during the twelfth succeeding month, and evidence of current vaccination must be presented at the time of registration.

#### SECTION 9-1-2. Where Registration to be Made.

Registration of dogs and other domesticated animals kept as pets will be at the Animal Control office of the Carl T. Curtis Health Center, Macy, Nebraska.

#### SECTION 9-1-3. Registration to Be Displayed.

Each dog shall wear a tag showing vaccination certification at all times on a collar provided for such purpose by the owner.

### CHAPTER 2. PROHIBITED ACTIONS.

#### SECTION 9-2-1. Prohibited Actions.

The following actions are prohibited:

- (a) To purposefully harbor any domesticated animal, with or without proper registration, if the animal is found to be infected with rabies or mange;
- (b) To keep an animal in unsanitary conditions;
- (c) To treat animals in a cruel or inhumane manner, such as teasing, beating, overworking, short-tethering, or providing inadequate care or shelter.
- (d) To allow any domesticated animal to run uncontrolled or at large within the exterior boundaries of the Omaha Reservation;
- (e) To allow domesticated animals to block the public right of way, access to utilities, or emergency entrances;
- (f) To have custody within the exterior boundaries of the Omaha reservation any domestic animal not properly registered with Animal Control;
- (g) To own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to unprovoked attacks upon human beings or domestic animals.
- (h) To breed any domesticated animal for profit or notoriety without a license.
- (i) to own, keep, or harbor more than eight (8) domestic animals over the age of 16 weeks,
- (j) To harbor, own, or keep any Vicious Dog.

Any violation of these prohibited actions are punishable of a fine in a reasonable amount to be set at the discretion of Animal Control and posted at their facilities and the Tribal Building of

no less than \$50.00 for a first offense, no less than \$100 for a second offense, no less than \$150 for a third offense. The officer responding can, in their discretion, offer a discretionary warning to the owner or keeper of the animal before issuing a fine. Any persons or households that accumulate three (3) violations in less than a year may, at the discretion of Animal Control, have their animals registration revoked and they can be immediately banned from further domestic animal ownership within the exterior boundaries of the reservation.

**SECTION 9-2-2. Definition of Vicious or Dangerous Dog.**

(a) A Vicious Dog is defined as:

(1) Any dog which seriously bites, inflicts injury, assaults, or otherwise physically attacks a human being or domestic animal without provocation on public or private property; or

(2) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

(b) A Dangerous Dog is defined as:

(1) Any dog on private or public property, which when unprovoked, approaches any person in a terrorizing manner or an apparent attitude of attack.

(2) Any dog on private or public property, which when unprovoked, approached any domesticated or farm animal in a terrorizing manner or an apparent attitude of attack.

(3) Any animal that has been cited more than twice for running at large under 9-2-1(d)

(c) Notwithstanding the definition of a Vicious/Dangerous Dog above, no dog may be declared vicious/dangerous under Section 9-3-1 of this Title if an injury or damage is sustained by a person who, at the time that injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. No dog may be declared vicious under Section 9-3-1 of this Title if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

**CHAPTER 3. DETERMINATION OF A VICIOUS OR DANGEROUS DOG**

**SECTION 9-3-1. Hearing and Investigation.**

In the event that the Enforcement Officer has cause to believe, or a community member has reasonably alleged that a dog is vicious or dangerous, the enforcement officer is empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious or dangerous. All parties involved in an animal control incident shall be interviewed by the Enforcement officer to gather all pertinent information. The Enforcement Officer, or immediate supervisor, or the Chief of Police, or his designee, shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the dog that the hearing will be held, at which time he or she may have the opportunity to present evidence why the dog should not be declared vicious or dangerous. The hearing shall be held promptly within no less than five (5) business days nor more than ten (10) business days after service of notice upon the owner or keeper of the dog. The hearing shall be informal and shall be open to the public.

**SECTION 9-3-2. Notice of Determination; Opportunity to Contest Determination.**

After the hearing, the owner or keeper of the dog shall be notified in writing of the determination. If a determination is made that the dog is vicious or dangerous, the owner or keeper shall comply with the provisions of this Title in accordance with a time schedule established by the Enforcement Officer, but in no case more than thirty (30) days subsequent to the date of the determination. If the owner or keeper of the dog contests the determination, they may, within five (5) business days of that determination, bring a petition in the Tribal Court praying that the court conduct its own hearing on whether or not the dog should be declared vicious or dangerous. After service of notice upon the Enforcement Officer, the Tribal Court shall conduct a

hearing de novo and make its own determination as to viciousness or dangerousness. The hearing shall be conducted within five (5) business days of the service of the notice upon the Enforcement Officer or law enforcement officer involved. The issue shall be decided upon the preponderance of the evidence. If the Tribal Court rules the dog to be vicious or dangerous, the court may establish a time schedule to ensure compliance with this Title, but in no case more than thirty (30) days subsequent to the date of the Tribal Court's determination.

**SECTION 9-3-3. Owner's Presence at Hearing Not Required.**

The Chief Enforcement Officer or The Tribal Court may decide all issues for or against the owner or keeper of the dog regardless of the fact that the owner or keeper fails to appear at hearing after being provided notice.

**SECTION 9-3-4. Finality of Determination.**

The determination of the Tribal Court shall be final and conclusive upon all parties thereto. However, any Enforcement Officer shall have the right to declare a dog to be vicious for any subsequent actions of the dog.

**SECTION 9-3-5. Seizure and Impoundment of Vicious Dog Pending Hearing.**

In the event that the Enforcement Officer has cause to believe that the dog in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, the Enforcement Officer may seize and impound the dog pending the aforesaid hearing. The owner or keeper of such animal shall be liable to the Tribe for the costs and expenses of keeping the dog. Animal Control shall establish and publicly post a reasonable schedule of those costs and expenses.

**CHAPTER 4. IMPOUNDING**

**SECTION 9-4-1. When Impounding Required.**

It shall be the duty of all enforcement officers to capture (where possible), secure and remove to the Tribal Animal Shelter any dog habitually running loose, not properly registered, or any domesticated animal found in violation of any provisions of this Title. Each animal so impounded shall be kept in the shelter and notice of impounding shall be given to the owner/keeper. If Animal Control is unable to locate or determine the owner/keeper of the animal notice shall be given by publication. The publication notice shall include a description of the animal and the location it was confiscated. The notice of publication shall be placed in a public venue such as the Tribal Building, Tribal Court, and the Post office located in Macy, NE and Walthill NE Any dog so impounded shall be held in a shelter that shall be well lit, dry and clean.

**SECTION 9-4-2. Fees to Be Paid by Owner After Impoundment.**

An owner may retrieve his dog from impoundment only after fees have been paid. A reasonable kennel fee per day shall be charged for each day so impounded. A reasonable impound fee shall also be charged for each dog so impounded. A reasonable fee shall also be charged for registration, vaccination for rabies, or for other types of general care provided for any such dog so impounded.

**SECTION 9-4-3. Unclaimed Dogs.**

- a) If any dog is not claimed within ten (10) business days after notification of the owner or publication of notice of impoundment, then the dog may be adopted or it may be destroyed in a humane manner.
- b) Any owner or keep who deliberately fails to claim their animal from animal control shall be prohibited from registering or owning any future domestic animals without first paying a rehabilitation fee of \$100 and taking a one hour "Responsible Pet Ownership" class to be provided yearly by Animal Control.

**SECTION 9-4-4. Disposition of Destroyed Dogs.**

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All dogs that are destroyed shall be buried according to the policies set out for burying dead animals, and burials will be supervised by the office of the Sanitarian.

## **CHAPTER 5. LICENSING OF DANGEROUS DOGS**

### **SECTION 9-5-1. Requirements for Licensing.**

- a) No Vicious Dog, as defined in Section 9-2-2 hereof or determined under Section 9-3-1 hereof, shall be licensed for any licensing period.
- b) No Dangerous Dog as defined in Section 9-2-2 hereof or determined under Section 9-3-1 hereof, shall be licensed for any licensing period unless the owner or keeper of that Dangerous Dog shall meet the following requirements:
  - (1) The owner or keeper shall attend a "Responsible Pet Owner" class online or in person and provide proof of attendance.
  - (2) The owner or keeper shall display a sign on his or her premises warning that there is a Dangerous Dog on the premises. The sign shall be visible and capable of being read from the public street. The owner or keeper shall, have an outdoor enclosure for the Dangerous Dog. "Enclosure" means a fence or structure of at least six feet (6') in height, forming or causing a barrier suitable to prevent the entry of young children, and suitable to confine a Dangerous Dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of the Dangerous Dog. The Enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the Enclosure. The enclosure must be inspected and certified as appropriate by an Animal Control Enforcement officer before use.
  - (3) The owner or keeper shall notify the licensing authority and the Enforcement Officer within twenty-four (24) hours if a Dangerous Dog is on the loose, is unconfined, has attacked another animal or has attacked a human being, or has died or has been sold or given away. If a Dangerous Dog has been sold or given away, the owner or keeper shall also provide the Animal Control with the name, address, and telephone number of the new owner of the Dangerous Dog.

## **CHAPTER 6. CONTROL OF Dangerous DOGS**

### **SECTION 9-6-1. Enclosure Required.**

- (a) All Dangerous Dogs shall be confined in Enclosures. It shall be unlawful for any owner or keeper to maintain a Dangerous Dog upon any premises that does not have a locked Enclosure.
- (b) It shall be unlawful for any owner or keeper to allow any Dangerous Dog to be outside of the dwelling of the owner or keeper or outside of the Enclosure unless it is necessary for the owner or keeper to provide necessary exercise and training, obtain veterinary care for the Dangerous Dog, or to sell or give away the Dangerous Dog, or to comply with commands or directions of an Enforcement Officer with respect to the Dangerous Dog, or to comply with the provisions of this Title. In such event, the Dangerous Dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three feet (3') in length, and shall be under the direct control and supervision of the owner or keeper of the Dangerous Dog.

### **SECTION 9-6-2. Liability for Harm Caused by Vicious Dogs and Dangerous Dogs; Presumption of Nuisance.**

If any Vicious/Dangerous Dog shall, when unprovoked, kill, wound, or assist in killing or wounding any sheep, lamb, cattle, horse, hog, swine, fowl or other domestic animal, belonging to or in the possession

of any person, or shall, when unprovoked, attack, assault, bite or otherwise injure any human being or assist in attacking, assaulting, biting or otherwise injuring any human being while out of or within the Enclosure of the owner or keeper of the Vicious/Dangerous Dog, or while otherwise, on or off the property of the owner or keeper, whether or not the Vicious/Dangerous Dog was on a leash and securely muzzled or whether the Vicious/Dangerous Dog escaped without fault of the owner or keeper, the owner or keeper of this dog shall be liable to the person aggrieved as aforesaid, for all damage sustained, to be recovered in a civil action, with costs of suit. There is a rebuttable presumption that the owning, keeping or harboring of a Vicious/Dangerous Dog in violation of this Title is a nuisance. It shall not be necessary, in order to sustain any such action, to prove that the owner or keeper of the Vicious/Dangerous Dog knew that the Vicious/Dangerous Dog possessed the propensity to cause such damage or that the Vicious/Dangerous Dog had a vicious or dangerous nature.

**SECTION 9-6-3. Confiscation and Destruction of Vicious Dogs.**

Any dog ruled as Vicious shall be confiscated by an Enforcement Officer and destroyed in an expeditious and humane manner after hearing and any appeal outlined in 9-3 has been had on the matter. In addition, the owner or keeper shall pay a one thousand dollar (\$1,000) confiscation and destruction fine.

**SECTION 9-6-4. Fine, Confiscation, and Destruction for Harm Caused to Animals.**

If any dog shall, when unprovoked, kill, wound or worry or assist in killing or wounding any domestic animal or farm animal, the owner or keeper of the dog shall pay a five hundred dollar (\$500) fine per dead or wounded animal. The Enforcement Officer must declare the dog vicious. This fine is in addition to any legal remedies that the injured party may possess.

**SECTION 9-6-5. Fine, Confiscation, and Destruction for Harm Caused to Humans**

If any dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner or keeper shall pay a one thousand dollar (\$1,000) fine per attack. The Enforcement Officer must declare the dog Vicious. This fine is in addition to any civil legal remedies that the injured party may possess.

**SECTION 9-6-6. Right to Contest Allegations of Violation.**

If the owner or keeper of a dog impounded or fined for an alleged violation of this Title shall believe that there shall not have been such a violation, such owner or keeper may petition the Tribal Court for redress. The petition must be received by the court on or before the due date of the fine issued. The Court shall set a hearing date no more than ten (10) business day after receipt of the petition. The Tribal Court may set a reasonable fee for the filing of this petition. If the Tribal Court finds that there has not have been a violation of this Title, the dog may be released to the custody of the owner or keeper upon payment of the expense of keeping the dog and any and all other fines or fees levied.

**CHAPTER 7. ENFORCEMENT**

**SECTION 9-7-1. Who Shall Enforce.**

This Title shall be enforced by the Tribal Police, Game Warden, Animal Control and persons delegated from time to time by the Omaha Tribal Council. Such persons shall be referred to herein as Enforcement Officers.

**SECTION 9-7-2. Liability of Owner.**

The owner may be held responsible in a civil action for any damages done by their animal, whether or not the animal is registered, and such owner may be required to pay the costs of damages and the costs of action in Tribal Court.

**SECTION 9-7-3. Enforcement Officer.**

(a) An Enforcement Officer is hereby empowered to make whatever reasonable inquiry is deemed necessary to ensure compliance with the provision of this Title, and any such Enforcement Officer is hereby empowered to seize and impound any dog whose owner or keeper fails to comply with the provision hereof.

(b) In event that the owner or keeper of the dog refuses to surrender the animal to the Enforcement Officer, the Enforcement Officer may request a police officer to obtain a search warrant from a member of the Tribal Court and to seize the dog upon execution of the warrant.

**SECTION 9-7-4. Complaint and Hearing.**

Any person who may have a complaint under this Title shall file such information with the Clerk of the Tribal Court. Thereafter notification of hearing shall be issued along with a copy of the complaint and the date of the hearing. Service shall be made through U.S. mail or personally by a process server or court officers.

**SECTION 9-7-5. Interference with Animal Control**

It shall be unlawful for any person to hinder, delay, or interfere with any enforcement officer who is performing any duty enjoined upon them by the provisions of this Title or break open or in any manner directly aid, counsel, or advise breaking into the animal shelter or any vehicle used for the collecting or conveying of animals to the shelter. Interference with Animal Control is a Class C offense as described in Title 5 Section 5-3-6(b)(3) of this Code and is punishable by a fine of \$200 and up to three (3) months imprisonment.

**CHAPTER 8. SEVERABILITY**

**SECTION 9-8-1. Provisions of Title Severable.**

If any provision of this Title, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Title and the application of those provisions to other persons and circumstances shall not be affected thereby.