



WHITE MOUNTAIN APACHE TRIBE

A Sovereign Tribal Nation

(Approving Posting of Ordinance No. 293, Amending Chapter Ten of the Health and Safety Code of the White Mountain Apache Tribe)

- WHEREAS,** pursuant to Article IV, Section 1(q) of the Tribal Constitution, the Tribal Council may enact ordinances that concern the welfare of the Tribe, to manage all economic affairs and enterprises of the Tribe, and to regulate subordinate organizations for economic and other purposes; and
- WHEREAS,** the Office of the Attorney General has this day proposed revisions to Chapter Ten (10) of the Health and Safety Code, in its entirety, as set forth in Ordinance No. 293 attached hereto; and
- WHEREAS,** pursuant to Article XV of the Constitution of the White Mountain Apache Tribe, the proposed amendments shall be posted in each district for at least ten (10) days before final action by the Council; and
- WHEREAS,** the Council has reviewed Ordinance, No. 293 carefully, and considered the recommendations and the implications thereof in great detail and finds the posting of Ordinance No. 293 to be in the best interest of the Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that proposed Ordinance 293, which amends Chapter Ten (10) of the Health and Safety Code, in its entirety, attached hereto, is hereby recommended for posting by the Tribal Council.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe, as follows:

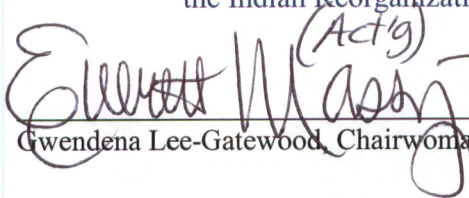
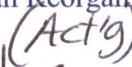
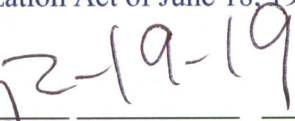
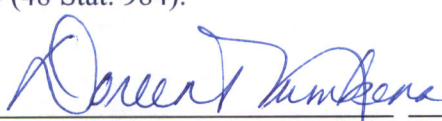
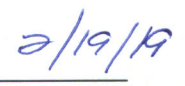
1. The Tribal Council Secretary is hereby authorized and directed to post this resolution and Ordinance No. 293, in each district for at least ten (10) days before final action by the Council. In addition, notices of the proposed ordinance shall be sent in the form of a press release to KNNB-FM and the Apache Scout.
2. Any and all comments concerning Ordinance No. 293 proposed herein may be sent to the attention of the Tribal Council Secretary, White Mountain Apache Tribe, P. O. Box 700, Whiteriver, AZ 85941.
3. Upon completion of the posting period, the Tribal Council Secretary is further directed to submit proof of posting to the Tribal Council and the Attorney General's Office and to report any public comments to the Tribal Council, and schedule a meeting thereof for final action. Proof of posting should include start and end date of posting period, and locations of posting.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event this Resolution directly conflicts with the Tribal Constitution, Tribal Ordinances, or any material facts concerning the issues presented are later found to be false, this Resolution shall be deemed null and void and have no legal effect.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that in the event that this Resolution conflicts with a prior Resolution or Policy, this Resolution shall supersede and govern over the conflicting subject matter.

BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Chairwoman, or in her absence, the Vice-Chairman, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

The foregoing resolution was on **FEBRUARY 7, 2019** duly adopted by a vote of **EIGHT** for, **ZERO** against, and **ONE** abstention by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it under the enumerated powers listed in Article IV, Section 1 of the WMAT Constitution, so ratified on September 30, 1993, and federally recognized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984).

				
Gwendena Lee-Gatewood, Chairwoman		Date	Doreen T. Numkena, Tribal Secretary	Date

**ORDINANCE OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

BE IT ENACTED BY THE COUNCIL OF THE WHITE MOUNTAIN APACHE TRIBE Ordinance No. 293, amending White Mountain Apache Health and Safety Code Chapter 10, as follows:

SECTION 10.1 FINDINGS, PURPOSE AND APPLICABILITY

A. Findings. Unhealthy animals, animals not vaccinated or treated against illness or ticks, and uncontrolled roaming of animals on the Reservation pose a threat to public health. Complaints have also been received about neglected and homeless animals. Preventing the spread of diseases transmitted by animals, controlling the animal population, and preventing neglect or abuse of small animals are public health issues that are important to the White Mountain Apache Tribe.

B. Purpose. The purpose of this Chapter is to preserve the public's health, peace, and safety by preventing and controlling the spread of disease transmittable from animals to humans, preventing the abuse and neglect of animals, preventing the over-population and roaming of animals, and to foster a culture that promotes our role as care-takers of the animals on the Reservation.

C. Applicability. This Chapter applies to all persons and animals within the exterior boundaries of the Fort Apache Indian Reservation.

SECTION 10.2 EFFECTIVE DATE; CONSTRUCTION

A. Effective Date. The provisions of this Chapter supersede any or all other rules, regulations, or customs applied or used which governed Animal Control and are effective date approved by council. Proceedings for any citations pending will continue under the provisions of this Chapter.

B. Construction. In construing this Chapter, words in the present tense include the future and past tenses; words in the singular number include the plural, and words in the plural number include the singular; and words of the masculine or neuter gender include feminine gender, and words of the feminine or neuter gender include masculine gender. All violations written under this Chapter are civil offenses, but more serious offenses may be prosecuted pursuant to the WMAT Criminal Code.

SECTION 10.3 DEFINITIONS

A. Subject to additional definitions contained in subsequent parts of this Chapter or unless otherwise specified, the following definitions apply, unless the context otherwise requires:

1. **"Abandon"** means to desert or give up an animal without having secured another owner for the animal or by failing to provide the elements of basic care for a period of five (5) consecutive days.
2. **"Animal"** means any small mammal including dogs, dog hybrids, cats, rabbits, and ferrets.
3. **"Animal Control Officer"** means any person employed by the Division of Health Programs or their designee.
4. **"At large"** means any animal on or off its owner's premises that is neither confined by an enclosure, nor physically restrained on a leash under control of an able bodied person or securely anchored. Animal may be unrestrained on owner's property if supervised and under direct voice control of a person 14 years of age or older.
5. **"Court days"** is days when the court is in session.
6. **"Cruel mistreatment"** means to torture or cause to torture; to inflict or cause to inflict cruel, malicious, or unnecessary beating, mutilation, torment or pain; to inflict or cause to inflict unnecessary serious physical injury; to kill or cause to kill an animal without legal justification; or to kill or cause to kill an animal in a manner that causes protracted suffering of the animal.

7. **“Cruel neglect”** means to fail to provide an animal with necessary food, water, exercise, shelter, or subject the animal to unsanitary conditions.
8. **“Designated Enforcement Officer”** may include an official from Division of Health Programs, local Police Department, Game and Fish Rangers, or any other person that may be designated by the Animal Control Officer or Division of Health Programs.
9. **“Emotional Support Animal”** are animals trained to provide comfort or affection to their handler and must have a training certificate.
10. **“Express consent”** is verbal or written consent.
11. **“Forfeit or forfeiture”** means to lose all rights of ownership to an animal.
12. **“Handler”** is person responsible for an emotional support, service, therapy, public safety, or working animal.
13. **“Household”** is one residence or dwelling unit occupied by one or multiple occupants.
14. **“Impound”** means taking or receiving an animal into custody to confine it.
15. **“Kennel”** any location that has 5 or more animals of the same species.
16. **“Leash”** means to restrict the activity or free movement of any animal by a rope, cord, or similar device. Leash for walking while held by a person may not be greater than 6 feet in length. Leash used for tethering an animal outdoors may not allow the animal to cross a property line.
17. **“Livestock”** means any horse, cattle, sheep, goats, pigs, mules and donkeys on the Reservation.
18. **“Own”** means:
 - To have a property right in an animal; or
 - To keep, harbor, or maintain an animal; or
 - To have an animal in one’s care including feeding or watering; or
 - To be or act as a custodian of an animal; or
 - To knowingly allow an animal to stay on any premises occupied by the Owner. Ownership is a question of fact to be determined by the Animal Control Officer.
19. **“Owner”** means any person who owns an animal.
20. **“Person”** means a natural person, Indian or non-Indian, and where relevant, a corporation, partnership, or unincorporated association.
21. **“Poultry”** means any domesticated fowl (e.g., chickens, ducks, geese, turkeys, peacocks, guinea fowl).
22. **“Pound”** means any establishment authorized for the confinement, maintenance, safekeeping, and control of animals that are impounded.
23. **“Provocation”** or **“provoked”** includes intentional or unintentional acts that could reasonably be expected to cause, incite, or encourage an animal to immediately bite the person.
24. **“Public Health Official”** means an official from the Indian Health Service or Division of Health Programs cooperating with the Animal Control Officer on animal diseases that can be transmitted to humans, including but not limited to, Rocky Mountain spotted fever, rabies virus, leptospirosis, onchocerciasis or any other disease not listed or that may emerge in the future.
25. **“Public Safety Animal”** is an animal that is trained or in training to become a search and rescue, cadaver detecting, law enforcement, drug detecting, or explosive detecting animal.
26. **“Quarantine”** means restriction of the activities of an animal that has been exposed, or is suspected of being exposed, to a communicable disease during a period of communicability or incubation.
27. **“Reservation”** means the area within the exterior of the boundaries of the Fort Apache Indian Reservation.
28. **“Rabies”** means a rhabdovirus of the genus *Lyssavirus*.
29. **“Rabies quarantine area”** means any area in which a state of emergency has been declared to exist due to the occurrence or potential occurrence of rabies in animals in or adjacent to this area.
30. **“Rocky Mountain Spotted Fever”** is a tick-borne illness of the genus *Rickettsia*.
31. **“Service Animal”** is animal specifically trained to assist a person with a disability including guiding, mobility assistance, hearing, autism service, psychiatric service, or medical alert, including but not limited to, diabetic, allergy, or seizure.
32. **“Therapy Animal”** therapy animals are dogs that go with a handler into settings such as schools, hospitals, and nursing facilities to provide affection or comfort.
33. **“Working Animal”** is an animal that is trained or in training to become a hunting, retrieving, or herding.

A. **Division of Health Programs.** The Animal Control Program and employees will be housed within and supervised by the Division of Health Programs.

B. **Advisory Board.** An Advisory Board will be established to provide input concerning operations of the program, including an annual review of the programmatic goals and objectives along with the ordinance. The advisory board shall include a representative appointed by the director of the following programs: Game and Fish Department, WMAT Police Department, Rocky Mountain Spotted Fever Prevention Program, Community Health Representatives, Tribal Council, Housing Authority and any other funding sources. A minimum of five (5) voting members must sit on the board and a maximum of nine (9). They shall meet when necessary but at minimum four times per year.

SECTION 10.5 INTERFERENCE WITH AN ENFORCEMENT OFFICER

A. It is a violation of this ordinance for any person to interfere with an Animal Control Officer, Public Health Official, or Designated Enforcement Officer in the performance of their duty while the officer is carrying out provisions of this ordinance.

SECTION 10.6 ANIMAL CONTROL OFFICER

A. **Authority.** The Animal Control Officer is responsible for the execution and enforcement of this Chapter.

B. **Powers and Responsibilities.** In addition to powers and responsibilities authorized elsewhere in this Chapter, the Animal Control Officer has the following powers and responsibilities:

1. To investigate violations or suspected violations of this Chapter, including entering private property, but only with probable cause, to investigate a violation or possible violation of this Code;
2. To enter onto private property without probable cause to apprehend an animal that is at large. Such entrance upon private property shall be in reasonable pursuit of the animal and shall not include a right of entry into a domicile or enclosure unless it is at the invitation of a resident or occupant;
3. To enter grooming, boarding, kennel, or veterinarian/clinic operations for the purpose of inspecting conditions, disease prevention and sanitation, or cruelty;
4. To issue civil citations based on probable cause that a violation of this Chapter has been committed or to issue orders, warnings, or recommendations directing owners to take certain preventative or corrective measures;
5. To prosecute citations in the Tribal Court and to testify in said prosecutions;
6. To supervise the operation of the pound;
7. To institute, as necessary, educational programs to acquaint the residents of the community with the provisions of this Chapter;
8. To work as a lay vaccinator to administer vaccinations to animals and to issue rabies certificates for such animals but only after the development of an veterinarian reviewed and advisory board approved lay vaccinator program;
9. To provide reasonable veterinary medical resources to owners when available;
10. Assist the Police Department in investigations of criminal animal offenses;
11. To issue licensing and permits as indicated by this Chapter; and
12. To perform such other appropriate activities related to the enforcement of this Chapter or other duties as are assigned to the Animal Control Officer by ordinance, by his or her supervisor, animal control advisory board, or by the Tribal Council.

C. **General Liability of Animal Control Officers.** No Animal Control Officer or Enforcement Officer will be held liable for the death or injury to any animal that occurs during an attempt to capture, incapacitate or euthanize the animal; while responding to an emergency situation; or while attempting to ensure his or her own safety or the safety of others.

SECTION 10.7 VETERINARIANS AND LAY VACCINATION PROGRAMS

- A. Permissible Practice; Acceptable Vaccine Certificates
1. Veterinarians licensed by any State Board in the United States will be allowed to practice within the Reservation.
 2. Vaccines may be administered by a licensed, certified, or registered Veterinary Technician under the supervision of a licensed Veterinarian within the Reservation.
 3. At such a time that the Animal Control Officer or other Animal Control staffing complete a lay vaccinator program, vaccines can be administered by the program without the supervision of a licensed Veterinarian within the Reservation.
- B. All Veterinarians, technicians or lay vaccinators operating within the Reservation must receive a permit to operate from the Animal Control Officer.
- C. All Veterinarians or lay vaccinators operating within the Reservation must provide copies of a vaccine certificates to the animal owner and the Animal Control Officer. Rabies tags stating at minimum the year the vaccine was administered must be provided to the owner.

SECTION 10.8 CARE OF ANIMALS

- A. Minimum Level of Care. Owners must provide all of the following:
1. Enough food of sufficient nutritive value to maintain the animal in good health. The food provided must be free from harmful contamination.
 2. Clean drinkable water accessible to the animal at all times, whether free-flowing or in a clean receptacle;
 3. Medical treatment;
 4. Tick prevention treatment to protect animal and public health;
 5. When confined, the animal must be confined in an enclosure that provides access to natural or artificial shelter protecting the animal from temperature extremes. The enclosure must provide ventilation and must be of a size that minimizes the risk of the animal contracting disease, being injured, or becoming infested with parasites or ticks; and space to exercise must be provided.

SECTION 10.9 LIMITATIONS ON THE NUMBER OF ANIMALS

- A. **Household.** A homeowner and/or head of household may not allow more animals than the owners can care for as defined in section 1.10 of this code. A homeowner and/or head of household that exceeds this limit is in violation of section 1.12 of this code.
- B. **Kennel.** Any location that has 5 or more animals of the same species over the age of 6 months, must obtain a permit to operate a kennel pursuant to section 1.16 A of this code. .

SECTION 10.10 CRUELTY TO ANIMALS

- A. **Prohibited Act.** A person is guilty of a cruelty offense under this section who commits any of the following without legal justification or authority:
1. Intentionally, knowingly or recklessly subjects any animal under the person's custody or control to cruel neglect or abandonment;
 2. Intentionally, knowingly or recklessly subjects any animal to cruel mistreatment;
 3. Intentionally, knowingly or recklessly fails to provide adequate care or medical attention necessary to prevent protracted suffering to any animal under the person's custody or control;
 4. Intentionally, knowingly, or recklessly harms or intended to kill any animal under the custody or control of another person without either legal privilege or consent of the owner;
 5. Intentionally, knowingly, or recklessly kills any animal under the custody or control of another person without either legal privilege or consent of the owner;

6. Intentionally, knowingly or recklessly leaves an animal unattended and confined in a motor vehicle and physical injury to or death of the animal is likely to result;
7. Intentionally, knowingly, or recklessly allows any animal that is under the person's custody or control to interfere with, kill, or cause physical injury to another animal, poultry and livestock;
8. Intentionally, knowingly, or recklessly transports or causes an animal to be transported in a cruel or inhumane manner or in a manner that causes unnecessary injury or pain;
9. Owns, breeds, harbors, or controls animals for the purpose of using such animals for fighting other animals or attacking humans. This paragraph does not apply to Public Safety Animals and Working Animals. A person is guilty of animal fighting by knowingly:
 - a. Owning, possessing, keeping or training any animal if the person knows or has reason to know that the animal will engage in an exhibition of fighting with another animal, poultry or livestock.
 - b. For amusement or gain, causing any animal or poultry to fight, which causes injury, with another animal, poultry or livestock.
 - c. Permitting any act in violation of sections 1.12i.i or 1.12.i.ii to be done on any premises under the person's charge or control.
 - d. Being present at any place or building where preparations are being made for an exhibition of the fighting of animals, or being present at such exhibition.

SECTION 10.11 ANIMALS AT LARGE

- A. No Roaming Permitted. No dog shall be permitted to roam at large.
- B. Definition. A dog is roaming when it is not:
 1. Securely tied or in a fence so that the animal is confined entirely to the owner's property; or
 2. Temporarily enclosed in a humane manner within a vehicle, a cage, or similar enclosure.
- C. Cats may be at large on their owner's property so they do not become a nuisance as defined in section 1.17 B of this code.
- D. The Animal Control Officer can impound any animals found at large and charge applicable fees for violation of this code or for animal care while impounded. Each day the animal is found roaming at large constitutes a separate offense.
- E. Exception. Public Safety and Working Animals are not roaming if they are under the control or supervision of a handler and handlers have obtained a Working Animal permit from the Animal Control Officer.

SECTION 10.12 SPAY AND NEUTER

All dogs and cats greater than six (6) months old that are not spayed and neutered are subject to increased fees for licensing.

SECTION 10.13 LICENSING

- A. False or Misleading Statement or Information. An owner shall not make false or misleading statements or provide false or misleading information during any stage of the licensing process.
- B. License Required. All animals six (6) months of age or older must be licensed. Licenses shall be issued by the Animal Control Officer or designee.
 1. Any animal subject to licensing under this Section must be licensed within fourteen (14) days of the date the animal is acquired by the owner or brought onto the Reservation.
 2. An animal subject to licensing under this Section that is on the Reservation for fourteen (14) days or less is exempt from the licensing requirement of this Section, but the owner must present a current rabies

vaccination if requested by the Animal Control Officer or Public Health Official. Any owner who is not able to present this documentation may be ordered to immediately remove the animal from the Reservation.

3. Animals belonging to non-tribal members at government or school district housing, recreational vehicle parks and campgrounds, or any other residence are also subject to licensure requirements.

C. Requirements for License. Before a license may be issued, the owner must:

1. Pay any applicable license fees; and
2. Present a rabies vaccination certificate to the Animal Control Officer proving that the animal has been vaccinated with a vaccine licensed by the United States Department of Agriculture as recommended in the current *Compendium of Animal Rabies Control* prepared by the National Association of State Public Health Veterinarians. The certificate must be signed by a veterinarian, veterinarian technician or, after the development of a sustainable lay vaccination program as determined by the advisory board, by the Animal Control Officer. The certificate must state:
 - a. owner's name
 - b. address
 - c. animal's description,
 - d. date of vaccination,
 - e. vaccine type,
 - f. vaccine manufacturer,
 - g. lot number and/or serial number,
 - h. date that revaccination is due, and
 - i. Name, address, and license number (if applicable) of the person administering.

D. Form of License. Each license issued shall consist of a license receipt and tag.

1. The license receipt shall state:

- a. the license fee paid,
- b. owner name,
- c. address mailing & physical,
- d. telephone number of the owner,
- e. the date of payment,
- f. the date the license was issued and expires,
- g. the serial number,
- h. animal name,
- i. description of the animal that would permit confident identification of the animal, including color, sex, name, and breed of the animal, and whether the animal has been neutered or spayed.

Only tags issued by the Animal Control Officer or designee will be accepted. The tag shall have an entity identifier and an expiration date.

E. Presentation of License. Failure to Present. Upon request by the Animal Control Officer, an owner must promptly present its animal's license receipt. In addition to any other penalties or remedies under this Chapter, the Animal Control Officer may also order impoundment and the proper disposition of the animal if the owner fails to produce such a license receipt. Each day an owner fails to present a license receipt constitutes a separate offence.

F. Wearing of Tag by Animal. Every dog or cat must wear its tag on a securely attached collar, halter, or similar device whenever the animal is off the owner's premises. Any dog or cat found without a tag while off

its owner's premises shall be considered unlicensed. The burden of proof that the dog or cat is licensed or not required to wear a tag is on the owner.

G. Expiration; Renewal. All licenses issued under this Chapter will expire on May 1 of the year the license is issued. A renewal will be issued upon completion of any required forms and payment of any required renewal fee. Extensions for renewal of an expired license may be given at the sole discretion of the Animal Control Officer but are not to exceed thirty (30) days.

H. Replacement License. An owner may get a license receipt or tag replaced after the owner submits an application and pays any applicable replacement fee. The expiration date for the replacement shall be the same date as for the item being replaced.

SECTION 10.14 PERMITTING

A. Kennel Permits. Any person owning five or more animals of the same species over six (6) months of age must have a kennel permit issued by the Animal Control Officer. Owners must pay applicable fees for a kennel permit. The Animal Control Officer may deny a kennel permit if the owner is in violation of any parts of this code or permit agreement.

B. Working Animal Permits. Owners of trained or in training Working Animals that must be "at large" to perform necessary work must possess a Working Animal Permit. The Animal Control Officer may deny a Working Animal Permit if there is not sufficient proof that the animal is a trained or training to become a Working Animal. A permitted Working Animal is only allowed at large while working. If the Animal is not at work, then all other provisions of this code apply. If collar and licensing tag is not worn by these dogs due to potential interference with their work, they shall be microchipped.

C. Service Animals. Trained/certified service animals shall be exempt only from provisions of this code that may prevent performance of duties.

D. Boarding and Grooming Facilities. Any boarding or grooming facilities operating on the Reservation is subject to any business license required by the Business Code and additionally, must have a permit to operate from the Animal Control Officer. The facility must pay all applicable fees.

E. Veterinarians and Clinics. Veterinarians and Clinics on the Reservation that are "not for profit" with 501C3 status must obtain a free permit from the Animal Control Officer to operate. Veterinarians and Clinics that are a "for profit" organization must obtain a permit from the Animal Control Officer and pay applicable fees.

SECTION 10.15 VICIOUS ANIMALS; PUBLIC NUISANCE; FERAL ANIMALS

A. Definition of Vicious. Public Safety and Hunting Animals are exempt from the provisions of this section when engaged in any legal pursuit, hunt or training procedure. Dogs that have been classified as vicious may not be used for hunting purposes. An animal is vicious if, without provocation, it is an animal that:

1. Has attacked, bitten, seriously injured, or killed a person or other domestic animal not in pursuit during a hunt; or

2. Has, on five or more separate occasions in a one (1) year period, engaged in behavior off of the owners property that required a person or another animal to take defensive action in order to avoid serious injury; or
3. Continues to exhibit behavior that previously resulted in the animal being found vicious by the Tribal Court; or
4. Demonstrates a tendency to continually expose humans or other animals to the potential of rabies, as recorded through the rabies quarantine program administered by the Animal Control Officer.

B. Definition of Public Nuisance. An animal is a public nuisance if it:

1. Harasses any passing person or animal or chases any passing vehicle; or
2. Attacks other animals; or
3. Barks, howls, or creates other animal noises so as to disturb the peace and quiet of any person after dusk or before dawn; or
4. Roams repeatedly at large; or
5. Overturns or spreads garbage or other property about; or
6. Runs through, tears up, or eats lawns, gardens, crops, or landscaping; or
7. Creates a substantial and continuous disturbance or annoyance to a person or to his or her property or animals.

C. Definition of a Feral Animal. An animal is considered feral if it has done any of the following:

1. Is greater than ¼ mile from any occupied structure, or
2. Not collared or microchipped and is roaming at large, or
3. Exhibits packing behavior with other dogs.

D. Animal Control or Enforcement Officers may kill an animal at large that poses an immediate threat to human or animal health and safety and or property.

E. Confinement Before Judgment. Any animal cited as vicious or as a public nuisance may be ordered confined or impounded, at the owners expense, by the Animal Control Officer until the Tribal Court enters its judgment. The owner shall pay all impound fees even if the Court finds them **not responsible** for the offense.

F. Disposition of Animal. The Tribal Court may order that the animal be released without conditions, released under conditions ordered by the Court, or destroyed immediately, or destroyed at the end of a required rabies quarantine as outlined under Sections 1.18 and Section 1.25.

G. Sign. The owner of an animal deemed vicious by the Tribal Court shall, in addition to any other conditions ordered by the Court, post a sign in a prominent and unobstructed place on the owner's premises, using the letters greater than 2-inches on contrasting background "Vicious Dog." The posting of a sign does not relieve an owner from liability for a citation under Section 1.18 or from civil liability.

SECTION 10.16 WHEN AN ANIMAL BITES A PERSON

A. When an animal bites, the most current *Manual for Rabies Control and Bite Management* produced by Arizona Department of Health Services and all subsequent editions will be utilized to define quarantine terms.

B. Notice. Whenever an animal bites any person or other wildlife, the incident must be reported to the Animal Control Officer and Public Health Official immediately by any person having direct knowledge of the incident, including, but not limited to member of the public, employees or staff of schools or medical facilities, and Law Enforcement Officers.

C. Citation. The Animal Control Officer may cite the owner of the biting animal, irrespective of whether the animal was known to be vicious prior to the attack. Proof that the person bitten provoked the attack is considered a defense.

D. Destruction of an Animal That Has Bitten. No person except the Animal Control Officer shall destroy any animal that has bitten a person or another animal, except that:

1. Any person who destroys any animal while the animal is attacking a person or another animal in an effort to stop said attack shall not be civilly or criminally liable for destroying the animal; or
2. A wild animal that bites any person or domestic animal shall be captured or killed and reported to the Animal Control Officer and the Game and Fish Department within 24 hours.
3. Any person who destroys an animal shall make every attempt to preserve brain matter for rabies testing (e.g., do not shoot the animal in the head).

E. Quarantine; Impoundment; Observation. The Animal Control Officer or Public Health Official shall order any domestic animal that bites a human, regardless of circumstances, so as to cause an abrasion of the skin to be:

1. Confined and quarantined at the property of the owner or at some other appropriate location on the Reservation, including a pound, should one be established, or at a veterinary hospital approved by the Animal Control Officer; and
2. Impounded for a period of time as recommended by the *Manual for Rabies Control and Bite Management* and determined by the Animal Control Officer or Public Health Official.
3. Public Safety and Service Animals will be observed for a period of time as recommended by the *Manual for Rabies Control and Bite Management* and determined by the Animal Control Officer or Public Health Official.

F. If quarantined at the property of the owner or at a veterinary hospital, the owner shall make the animal available for inspection upon request by the Animal Control Officer or Public Health Official.

G. If an animal becomes sick and/or dies while being confined or quarantined, the owner or handler shall immediately contact the Animal Control Officer or Public Health Official to determine the proper disposition of the animal. Failure to notify is in violation of this code and the owner or handler may be liable for the endangerment of the bite victim.

H. Liability for an Animal Bite. The owner of an animal that bites without provocation while the person is on public property, or lawfully on private property, including the property of the owner of the animal, shall be liable for any damages suffered by the person bitten, regardless of the former viciousness of the animal or the owner's knowledge of such viciousness.

I. Mandatory Quarantine for Unlawful Entrance or Provocation. The owner of the animal that bites a person unlawfully present on the owner's property or bites due to provocation must regardless of circumstances abide by quarantine.

J. Public Safety Animals. Handlers of Public Safety Animals that bite in pursuit of a suspect at the handlers command are not liable.

SECTION 10.17 DESTRUCTION OF ANIMALS

A. Humane Method. Any animal destroyed under the provisions of this Chapter must be destroyed as humanely as possible.

B. Injured or Diseased Animals. An animal that is clearly suffering from serious injury, is in great pain and not likely to survive or an animal that has evidence of any infectious or contagious disease that is a danger to other animals or humans may be destroyed by the Animal Control Officer or by his/her designee, after reasonable efforts to notify the owner have been made.

SECTION 10.18 ABANDONMENT; DUMPING

A. It is unlawful to release, dump, or abandon live animals anywhere within the exterior boundaries of the Reservation.

B. In the event a community pound is established it shall be illegal to abandon or dump any animal at the pound without completing the appropriate surrender paperwork.

SECTION 10.19 RESPONSIBILITY FOR REMOVAL OF CARCASS

An owner of an animal is responsible for removing and appropriately disposing of all animal carcasses, no matter where the carcass is located, and all expenses associated with the removal and disposal. If the owner buries the animal on their property it shall be no less than three (3) feet deep. Dead animal carcass can be disposed of at the landfill for a fee in a designated area.

SECTION 10.20 DISEASED ANIMALS

Any animal afflicted with a contagious or infectious disease must be confined by a fence or pen at all times and may not be removed from its enclosure, even when held by a leash, halter, or other secure device, except for the purpose of being transported to and from a licensed veterinarian.

SECTION 10.21 ANIMALS NOT PERMITTED

A. Animals not permitted (or allowed) on the Reservation will be ordered off the Reservation or seized and disposed of. The following animals are not to be owned, harbored as pets, or domesticated on the Reservation:

1. Unvaccinated. Any animals older than three (3) months of age without a current rabies vaccination certificate.
2. Unlicensed. Any animal not licensed in accordance with section 1.15 of this code.
3. Exotic Animals or Wildlife. Exotic Animals or Wildlife include any animal not naturally tamed or gentle, an animal which is of a wild nature or disposition, or an animal that is capable of killing or inflicting serious injury upon human beings and having known tendencies, individually or as a species, to do so. Exotic Animals or Wildlife also includes, but is not limited to, raptors, pythons, anacondas, boa constrictors, venomous snakes and spiders, bears, wolves, lions, tigers, panthers, bobcats, ring tail cats, ocelots, coyotes, coatimundi, porcupines, raccoons, primates, alligators, crocodiles, piranhas, wild turtles and tortoises, or others. No Person shall possess any exotic animal or wildlife harbored as pets.

SECTION 10.22 COMMUNITY POUND; IMPOUNDMENT

The Division of Health Programs may establish a community pound or enter into a cooperative agreement with another jurisdiction or a veterinarian for the establishment of a community pound. At such time as a community pound is established by the Division of Health Programs, the following provisions shall apply:

A. Animals That May be Impounded. The following animals, licensed or unlicensed, shall be impounded and the owner cited:

1. Any animal not adequately cared for under Section 1.10
2. Any animal subject to cruelty under Section 1.12;
3. Any animal required to be vaccinated under Section 1.15 that is not so vaccinated;
4. Any animal found at large under Section 1.13;
5. Any animal found abandoned or dumped under Section 1.20;
6. Any diseased animal not confined in accordance with Section 1.22;
7. An animal that bites a person under Section 1.18;
8. An animal that is vicious, public nuisance, or feral under Section 1.17;
9. Any animal that appears to be infected with rabies pursuant to Section 1.25;
10. Any animal not properly confined during rabies quarantine pursuant to Section 1.18.
11. Any animal in the care of an individual taken into custody for Law Enforcement purposes, if it appears that no other person is available to care for the animal;

12. Any animal in the care of an individual with an incapacitating medical issue that renders them incapable of caring for the animal and no other person is available to care for the animal.

B. Voluntary impoundment/surrender. At the discretion of the Animal Control Officer, owners may voluntarily impound/surrender their animals. The Animal Control Officer can deny an owner impound/surrender if they lack space or the ability to care for the animal.

C. Notification. The Animal Control Officer shall upon impoundment make reasonable efforts to notify the owner, if known, and shall inform the owner of the conditions whereby the owner may regain custody of the animal. It is the owner's responsibility to assure that the contact information is current at all times.

D. Impound fees. An impoundment fee shall be charged for each day that an animal is impounded. An animal will not be released to its owner until all impound fees have been paid and proof of current license has been provided.

E. Length of Impoundment. Any animal that is impounded and not claimed within three (3) business days of initial impoundment may be placed up for adoption or destroyed. A person who buys or adopts an animal may not take possession of the animal until the fees associated with its veterinary care, permitting, sale or adoption are paid and the person obtains a license for the animal.

1. Owners that have claimed impounded animals have three (3) business days to arrange for pickup.
2. Owners or designee may pick up impounded animals during normal business hours.

F. Exception to Length of Impoundment. At any time deemed necessary by the Animal Control Officer strays may be collected and placed up for adoption or destroyed during round-ups. If the Animal Control Officer deems that a stray round-up shall occur notice will be posted at a minimum of three (3) weeks in advance.

G. Impoundment Awaiting Court. Any animal awaiting a court decision regarding aggression, bite, or cruelty will be held until the court date. If the owner does not appear, the animal may be adopted or destroyed. If the animal in question poses a significant health risk to the population of the pound due to disease or illness, the animal may be destroyed. If the court orders the animal be returned to the owner, the owner shall pay all associated fees before the animal is released.

H. Care During Impoundment. All impounded animals shall be given care and maintenance. Any sick or injured animals that are impounded may be destroyed, after reasonable efforts to notify the owner have been made, to prevent the animal from suffering or to prevent the spread of disease.

I. Release From Impound. No animal will be released from impound to the owner or designee until the animal is compliant with this code. This includes spay/neuter or appropriate kennel permits and rabies vaccination. An animal's owner is responsible for all costs associated with impound including, but not limited to, food and board, veterinary care, transport, licensing, or permitting. A good faith effort will be made to return the animal to the owner.

SECTION 10.23 RABIES AND OTHER DISEASE CONTROL

A. Rabies Vaccination

1. It shall be unlawful for any person to own any dog, cat, or ferret six (6) months or older unless such animal is vaccinated with a vaccine licensed by the U.S. Department of Agriculture as recommended in the current *Compendium of Animal Rabies Control*, prepared by the National Association of State Public Health Veterinarians, Inc.
2. The owner of an animal shall furnish the current certificate of vaccination upon request by the Animal Control Officer or Public Health Official.
3. After issuance of a notice of violation of this code the owner will have ten (10) business days to have the animal vaccinated. If the owner has not complied within ten (10) business days a citation will be issued. Each day after the first ten (10) business days that the animal has not been vaccinated will be a separate offense.

B. Certificate and collar tag.

1. The animal shall wear the issued rabies tag on its collar certifying that the animal in question has been vaccinated and shall be issued to the owner at the time of vaccination. The collar tag shall be securely affixed to the dog's, cat's, or ferret's collar and shall be worn at all times when the animal is not confined within the owner's or custodian's property. The owner must present the certificate to the Animal Control Officer or Public Health Official upon request. Proof of rabies vaccination in the form of a written certificate must be produced when requested.
2. A certificate of rabies vaccination issued under this Section shall mean a veterinary clinic computer printout or handwritten invoice signed by a veterinarian or Animal Control Officer, either of which must state all of the following:
 - a. The owner's name, telephone number and email (if available), and physical address;
 - b. The species of such animal;
 - c. The sex, age, size, breed, color and name of animal;
 - d. The date of vaccination;
 - e. The first three (3) letters of the vaccine producer's name and the serial (lot) number;
 - f. The duration of vaccination; and
 - g. The veterinarian's license number and signature or the lay vaccinator's signature.
3. Such certificate shall certify that the dog, cat, or ferret has been properly vaccinated with animal rabies vaccine.
4. All veterinarians, organizations, or clinics doing business on the Reservation shall provide a copy of any issued certificate of rabies vaccination to the Animal Control Officer or Public Health Official.

C. Declaration of Rabies Emergency. When sufficient evidence exists to believe that a rabid or potentially rabid animal is at large within the Reservation, the Animal Control Officer or Public Health Official may undertake any actions necessary to immediately contain and prevent the spread of rabies within the Reservation. This will require the immediate cooperation of other tribal agencies to abate the emergency situation. Tribal Council may pass an emergency Tribal Council Resolution which shall require owners and custodians of dogs, cats, and ferrets to keep the same confined upon their premises unless under leash and under the control of the owner or custodian so as not to subject their animals to contact with the rabid animal.

D. Wildlife and Rabies. Under this code all wildlife that is capable of transmitting rabies that is not available for testing shall be considered rabid.

E. Duty to Report, Rabies Exposure. It shall be the duty of any person who has knowledge of the existence of a rabid or suspected rabid wild animal or of a domestic animal or person exposed to such animal to immediately report the existence and whereabouts of such animal to the Public Health Official or Animal Control Officer.

F. Duty to Report, Domestic Animal Exposure to Wildlife. It shall be the duty of any person who has knowledge of a domestic animal, vaccinated or not against rabies, that has interacted with wildlife capable of transmitting rabies immediately report the existence and whereabouts of the domestic animal to the Public Health Official or Animal Control Officer.

G. Notice to Owner; Duty to Respond; Access to Animal.

1. Notice to Owner. The Animal Control Officer or Public Health Official shall notify the owner of the rabid or suspected rabid animal, or of an animal suspected of having itself been exposed to wildlife, of the report.
2. Testimony of the Animal Control Officer as to the manner of service of the notice shall constitute prima facie proof that notification was made.
3. If notice is made in writing, the owner shall immediately and in no more than twenty-four (24) hours, contact the Animal Control Officer or Public Health Official about the notice. Failure to contact is a citable offense and each subsequent day's failure to make the required contact with the Animal Control Officer or Public Health Official after written notice is made shall be considered a separate offense by the owner.

4. The owner of any animal reported to have exposed a person or other animal shall be given the Animal Control Officer or Public Health Official prompt access to the animal at any time as may be necessary for verification of quarantine or as may be required to prevent the spread of rabies and thereby safeguard human life. Upon order by the Animal Control Officer, the owner shall immediately hand over said animal or agree to at home quarantine with terms determined by the *Manual for Rabies Control and Bite Management* and/or terms of the Animal Control Officer.
5. It shall be unlawful for any person to evade or elude the Animal Control Officer or Public Health Official or to dispose of, conceal, harbor, or remove from the Reservation any animal to keep the animal from being quarantined, destroyed, or confined in accordance with this Code.

H. Quarantine. Any animal that has bitten or scratched a human or is determined by the Animal Control Officer or Public Health Official to be a threat to the spread of rabies may be ordered quarantined.

1. Quarantine means restriction of the activities of an animal which has been exposed or is suspected of being exposed to a communicable disease during a period of communicability or incubation to prevent further disease transmission. Such quarantines shall meet the criteria set forth by the Animal Control Officer or Public Health Officer in accordance with the current guidelines in the *Manual for Rabies Control and Bite Management*.
2. Strict Isolation or absolute quarantine means the restriction of contact between exposed subjects and other animals and/or humans for a period of time not longer than the longest usual incubation of the disease.
3. Until such a time that a rabies vaccination is approved for dog hybrids with wolves or coyotes the following provisions apply:
 - a. dog hybrids that are vaccinated and bite a human or are exposed to rabid or potentially rabid wildlife
 - b. may not be subject to the same quarantine procedures as a domestic dog/cat; and may be euthanized by the order of the Animal Control Officer or Public Health Official.

I. Quarantine Under Owner's Control.

1. Any animal so quarantined shall be kept so as to be available for inspection by the Animal Control Officer or Public Health Official and such quarantined animal shall not be removed, released, or destroyed without the express consent of the Animal Control Officer or Public Health Official.
2. In the event an animal in such quarantine needs to be relocated, the owner or person undertaking the relocation shall notify the Animal Control Officer or Public Health Official prior to the relocation occurring.
3. Allowing quarantine under the owner's control will be allowed at the discretion of the Animal Control Officer or Public Health Official. Upon order by the Animal Control Officer, the owner shall immediately hand over said animal.
4. Such animal shall be confined for a period of no less than ten (10) days and not to exceed six (6) months.

J. Quarantine Under Impoundment.

1. If the Animal Control Officer determines that such animal cannot be safely and appropriately confined under the owner's control, the animal may, at the discretion of the Animal Control Officer, be quarantined by containment at a veterinary facility or by impoundment at the community pound.
 - a. If the animal is ordered impounded or to be contained at a veterinary facility or community pound, the owner shall be responsible for all veterinary, impoundment or containment fees, whether or not the animal is determined to be rabid.
 - b. Such animal shall be confined for a period of no less than ten (10) days and not to exceed six (6) months.

K. Destruction of Rabid Animal. Any animal quarantined or impounded under section 1.25 of this code provisions may be destroyed prior to the termination of the confinement period upon the order of the Animal Control Officer or

Public Health Official for laboratory examination for rabies if such animal shows clear clinical signs of rabies or the owner consents in writing to its destruction.

L. **Animal Dying During Quarantine.** If an animal dies while being quarantined pursuant to this Section and the animal is known to have exposed another animal or person to rabies at any time during a period of fourteen (14) days before the beginning of the quarantine period through the time of death, it shall be the duty of the person with such knowledge to immediately contact the Animal Control Officer or Public Health Official for the testing and/or disposal of the body.

SECTION 10.24 COMMENCEMENT OF ACTION (1.26, 1.27, 1.28)

A civil case for violation of this ordinance is commenced by issuance of a civil citation.

A. A citation issued pursuant to this ordinance may be served by delivering a copy of the citation to the person charged with the violation or by any means authorized by the White Mountain Apache Tribe Rules of Civil Procedure for serving a complaint.

B. The original civil citation shall be filed in Tribal Court within ten (10) court days of the time the citation was issued. An Animal Control Officer or Designated Enforcement Officer may issue civil citations.

SECTION 10.25 PROCEEDINGS

A. A person served with a civil citation shall:

1. Appear at the time and place designated by Tribal Court.
2. Admit or deny the allegations of the citations
 - a. Allegations not denied at the time of appearance are deemed admitted.
 - b. If allegations are admitted, the court shall enter judgment for the Tribe and shall impose a civil fine. The person may admit the allegations with an explanation, and then the court shall enter judgment for the Tribe and impose a civil fine. In determining the civil fine, the court may consider the explanation submitted.
3. If allegations are denied, the court shall set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the Tribe is required to prove the violation charged by a preponderance of evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel the person shall notify the court at least ten (10) days before the hearing date. Hearings may be recorded. If the court finds in favor of the person, the court shall enter an order dismissing the allegation. If the court finds in favor of the Tribe, the court shall enter judgment for the Tribe and impose a civil fine.
4. If a person served with a civil citations alleging a violation of this ordinance fails to appear at the time directed to appear or at the time set for a hearing by the court, the allegations in the citation are deemed admitted, and the court shall enter judgment for the Tribe and impose a civil fine.

SECTION 10.26 CIVIL PENALTIES

A. In addition to, and notwithstanding any impoundment fees, permit fees, or fines any person who violates or fails to comply with provisions of this ordinance shall be subject to the following civil fines as outlines in the fine and fee schedule developed by the advisory board and approved by the Division of Health Programs. Fines may increase based on subsequent violations committed within one year of a previous violation. At no time shall the fine be less than the schedule but not to exceed \$1000.00 per violation.

B. Once a person has received either a notice of violation or a citation from an Animal Control Officer or Designated Enforcement Officer for a violation of or failure to comply with this ordinance, each day that person continues to violate or fails to comply constitutes a separate civil violation.

C. Punitive Damages. Any person adjudged to have engages in a pattern or practice of violating this code may be liable for punitive damages. The Court may assess punitive damages for each violation of which the pattern or practices is found to consist.

D. The recommended amount of fees and/or range of fines to be levied and collected under this Chapter shall be determined, from time to time, by the advisory board and approved by the Division of Health Programs Director.

SECTION 10.27 ACCOUNTS; FINES & FEES

A. Remittance of fines. Monies collected pursuant to this ordinance shall be remitted to the Animal Control Program account. All fees and fines collected under this Code will be used to defray the expense of administrating the provisions of this Code. The Division of Health Programs shall approve the expenditure of the money collected from fees and/or fines for the operation of the Animal Control Program.

B. Payment of the Fee. Payment of any applicable fee in this Section must be made within thirty (30) days of judgment. Additional Court processing fees shall be imposed by the Court and payable by the defendant.

C. Fees. All fees and fines collected by the Court pursuant to this Code shall be paid on a monthly basis to an account designated for Animal Control and managed by the Division of Health Programs. All Court processing fees collected shall be payable to the Court.

D. Failure to Pay Fines / Fees: In addition to fines & fees imposed by the Court, failure to pay shall result in immediate animal forfeiture and impoundment. The defendant shall lose all rights to own any animal on the Reservation until the payment is made in full.

E. Report of Disposition: The Court shall supply the disposition of the all cases in pursuit of this Code immediately after the hearing to the Animal Control Program.