

BISHOP PAIUTE TRIBE

BISHOP PAIUTE RESERVATION

BISHOP, CALIFORNIA

DOG CONTROL ORDINANCE NO. 2009-02

ADOPTED June 24, 2009

Bishop Paiute Tribe
Bishop Paiute Tribal Ordinance No. 2009-02
Regulating the Vaccination and Control of Dogs

TABLE OF CONTENTS

Section 1.	Title	1
Section 2.	Findings and Purpose	1
Section 3.	Applicability and Jurisdiction	1
Section 4.	Delinitions	1
Section 5.	Animal Control Officer	2
Section 6.	Animal Control Equipment..	3
Section 7.	Resisting, Hindering or Obstructing Animal Control Officer	3
Section 8.	Vaccination Required	3
Section 9.	Identification Tag	3
Section 10.	Impoundment	4
Section 11	Vicious Dog	4
Section 12	Fines and Penalties	4
Section 13	Complaints	5
Section 14	Notice of Hearing	5
Section 15	Hearing	6
Section 16	Failure of Owner to Appear at Hearing	6
Section 17	Finality of Determination	6
Section 18	Severability	6
Section 19	Rules, Regulations, Policy and Procedures	6
Section 20	Amendments	6
Section 21	Effective Date	7
Section 22	Sovereign Immunity	7

Bishop Paiute Tribe

Bishop Tribal Ordinance No. 2009-02 Regulating the Vaccination and Control of Dogs

Section 1.0 Title

This ordinance shall be known as the "Bishop Tribal Ordinance 2009-02 Regulating the Vaccination and Control of Dogs. The short title shall be the "Dog Control Ordinance".

Section 2.0 Findings and Purpose

- 2.1 The Bishop Tribal Council as the duly elected governing body of the Bishop Paiute Tribe finds as follows:
- a) Unvaccinated, uncontrolled, and vicious dogs pose a significant threat to public health, safety, general welfare and property on the Bishop Paiute Reservation, due to the potential for rabies infection, injury, and possible death from dog attacks on humans, livestock, and other animals.
 - b) The dog population, if uncontrolled and not properly managed, will increase the likelihood and propensity for dogs to become public nuisances.
- 2.2 The Tribal Council has determined a need to require that all dogs be vaccinated against rabies and to establish methods for controlling dogs in order to ensure public health, safety, and protection of residents and property on the Bishop Paiute Reservation.

Section 3.0 Applicability

This ordinance is applicable to all dogs, owners of dogs, whether Tribal members or not, and animal impound and shelter facilities within the exterior boundaries of the Bishop Paiute Reservation. Ordinances No.3 of July 29, 1981 and No. 6 of November 7, 1990 are hereby rescinded and are hereafter null & void and of no effect.

Section 4.0 Definitions

- 4.1 "Animal Control Officer" means that person or designated representative employed by the Bishop Paiute Tribe to administer and enforce this Ordinance.
- 4.2 "Current rabies vaccination" means an anti-rabies vaccination that is effective for the calendar year, or portion of the calendar year, for which an identification tag is requested.
- 4.3 "Dog owner" or "Owner" means any person or entity that owns, keeps, or harbors a dog.
- 4.4 "Domestic animals" means all animals kept by the owner for pleasure and companionship, which include but are not limited to (i.e. dog, cat, rabbit, birds).
- 4.5 "Identification tag" means a tag issued pursuant to this Ordinance to a dog to be affixed to the dog's collar indicating that the dog has a current rabies vaccination.
- 4.6 "Impound" means taking into custody a dog and placing it in a tribal or other public animal impound or shelter facility or animal control department or with a provider of animal control services.

- 4.7 "Livestock" means any animal kept by the owner for profit or personal use (i.e. cows, horses, chickens, sheep, goats, etc., and shall include fowls).
- 4.8 "Reservation" means the lands designated as the Bishop Paiute Indian Reservation.
- 4.9 "Stray dog" means any dog on Reservation properly, not wearing a current identification tag or running at large in public or on the premises or properties of another person, without the consent of the property owner.
- 4.10 "Tribe" means the Bishop Paiute Tribe.
- 4.11 "Tribal Council" means the duly elected five-member governing body of the Bishop Paiute Tribe.
- 4.12 "Tribal Court" means the Bishop Paiute Tribal Court.
- 4.13 "Vicious dog" means any dog that displays a menacing temper and ferocity and, when unprovoked, bites a person, causing injury or death.

Section 5.0 Animal Control Officer:

- 5.1 There is hereby established the tribal Animal Control Officer (ACO) position for the purpose of enforcing this ordinance. The Animal Control Officer is hereby delegated the authority and discretion to:
- a) conduct investigations and issue citations and other notices, as appropriate, to dog owners for violations of this ordinance and of any rules, regulations or policies relating thereto.
 - b) enter, as necessary, upon all Reservation lands and perform such duties as are necessary and lawful under this ordinance to enforce the provisions of this ordinance.
 - c) seize, capture, transport and transfer dogs to impoundment facilities, whether located on or off the reservation, in accordance with this ordinance and any rules, regulations and policies relating thereto.
 - d) execute on behalf of the Tribe and unknown owners of dogs all administrative forms necessary for the seizure, capture, transport and disposition of dogs and enforcement of this ordinance.
 - e) destroy or otherwise have humanely put to death any dog when in the judgment of the Animal Control Officer such action is deemed justified and appropriate pursuant to this ordinance
 - f) when acting in the course and scope of his duties, carry on his person and in his vehicle, firearms or weapons of a type and caliber approved by the Bishop Tribal Council.
 - g) issue notices of and give testimony at hearings on any matter relating to and conducted in accordance with this ordinance.
 - h) enforce the requirements of this ordinance and decisions issued by the Tribal Court.

- 5.2 In performing his duties, the Animal Control Officer shall carry on his person an identification card or official tribally issued badge indicating his position. Such identification must be displayed to any person upon request.

Section 6.0 Animal Control Equipment

In the performance of his duties, the Animal Control Officer shall have authority to employ the use of firearms, as authorized by the Tribal Council, and such other equipment commonly used and necessary for animal control purposes. See 5.1 t) above.

Section 7.0 Resisting, Hindering or Obstructing Animal Control Officer

It is unlawful for any person to resist, hinder, or obstruct the Animal Control Officer in the exercise of his duties.

Section 8.0 Vaccination Required

- 8.1 All dogs over the age of four (4) months are required to be vaccinated against rabies at the dog owner's expense.
- 8.2 The required vaccination shall be performed by any licensed veterinarian or any clinic that is operated under the supervision of a licensed veterinarian.
- 8.3 Written certification of anti-rabies vaccination shall be obtained by the owner at the time the vaccination is performed
- 8.4 All dogs shall be re-vaccinated every three (3) years.

Section 9.0 Identification Tag

- 9.1 All dogs, except those under four (4) months of age, that have received an anti-rabies vaccination are required to wear an identification tag issued by the Animal Control Officer.
- 9.2 Upon presentation of proof of a current anti-rabies vaccination and payment of applicable fees, the dog may be issued an identification tag, which shall be securely fastened to the dog's collar. The tag shall display an identification number that shall be recorded and referenced to the dog owner's mailing or physical address. The tag must be worn at all times by the dog for which the tag is issued.
- 9.3 A replacement tag may be issued for a lost or mutilated tag for the same cost as the tag last issued to the dog, provided all vaccination requirements have been met and all applicable fees paid.
- 9.4 A fee shall be established by the Tribal Council for issuance of an identification tag. Such fee shall be subject to revision.

Section 10.0 Impoundment

- 10.1 Any dog not wearing a valid identification tag will be considered a stray dog and subject to capture and impoundment.
- 10.2 A dog may be impounded at any designated facility for that purpose, whether located on or off the Reservation. The Animal Control Officer shall notify the dog's owner, if known, within three (3) days of impoundment. The owner of the dog shall be subject to all applicable rules, regulations, policies, fees and expenses of the facility at which the dog is impounded.
- 10.3 The owner of the dog shall have ten (10) business days, from the time that notification of impoundment is given to the owner, to reclaim the dog. After the ten-day period and if not reclaimed, the dog may be adopted by a new owner or otherwise disposed of in accordance with the rules, regulations, and policies of the impound facility.
- 10.4 A dog that is reclaimed or given to a new owner must be confirmed to have a current anti-rabies vaccination and valid identification tag within ten days of release from impoundment.
- 10.5 All impound fees and expenses for a dog must be paid by the owner or new owner before the dog is released from impoundment.
- 10.6 A fee schedule for impound services may be established by the Tribal Council for tribally owned impound facilities located on the Reservation. Such fee schedule shall be subject to revision.

Section 11.0 Vicious Dog

- 11.1 When, in the judgment of the Animal Control Officer, a dog behaves in such a manner that because of his temper and ferocity said dog is deemed a vicious dog and by his actions a menace or injurious to the public, the Animal Control Officer may at his discretion:
 - a) require that the owner shall immediately and at all times keep the dog securely fastened to a chain or securely confined within the private property of the owner in such a manner as to prevent the dog from having the opportunity to bite a person or other animal. In such event, the Animal Control Officer shall post on the premises, wherein the dog is kept, a conspicuous sign stating that a vicious dog is present on the premises. Removal of the sign by any person other than the Animal Control Officer shall be a violation of this ordinance; or,
 - b) impound the dog for a minimum of ten (1 0) days at a facility for such purpose and thereafter have said dog disposed of: including destroying the dog, in accordance with facility policy; or,
 - c) take immediate action against the dog, including destroying the dog, to cease the dog's menacing activities without a hearing.

Section 12.0 Fines and Penalties

- 12.1 Except as provided in Section 12.2, a violation of any provision of this ordinance is punishable by a fine of not more than twenty-five dollars (\$25) for a first offense, and by a fine of not more

than fifty dollars (\$50) for a second or subsequent offense. Each violation shall constitute a separate in fraction.

- 12.2 Violation of any provision of this ordinance that results in serious injury or death to livestock, as defined, is punishable by a fine of not more than five hundred dollars (\$500). As used in this section, "serious injury" means injury of a degree of severity that the injured animal must be destroyed or injury that results in the fair market value of the animal being reduced to a level at which it may not be profitably sold.
- 12.3 In the event that a dog owner fails or refuses to comply with an order/judgment of the hearing officer, whether for the payment of sums awarded under Section 18, the Tribal Court has in addition to any other available remedies and is given further grant of authority to order one or more of the following penalties within its discretion in order to obtain compliance with its orders/judgments:
- a) order the suspension of selective Tribal services identified and limited to DMV exemption, enrollment card verification, and sales tax certification within the discretion of the Tribal Court.
 - b) order the suspension of eligibility to receive Tribal per capita and State of California Special Distributions or, in the alternative, the use of such Tribal per capita and State distributions to satisfy any and all outstanding orders/judgments of the Tribal Court.

Once the dog owner is in compliance with the appropriate Tribal Court order/judgment, the Tribal Court will order that any and all of the above remedies as set out above shall no longer be in effect and that the dog owner will be reinstated for Tribal services, Tribal programs or Tribal per capita payments if otherwise eligible.

Section 13.0 Complaints

Any person, , who believes that a dog or dog owner has violated any provision of this Ordinance, may file a written complaint with the Clerk for the Tribal Court who shall provide the Animal Control Officer with a copy of the complaint for purposes of investigation. All complaints must contain the name, address and telephone number of the person making the complaint and must be signed by such person. No special form is required for the complaint. However, all complaints should contain a detailed and concise description (names, dates, locations, dog owner, etc.) of the incident being reported. The complaint must also state that the person filing the complaint is willing to provide testimony at any hearing conducted as a result of the complaint. The Animal Control Officer shall file all citations with the Clerk for the Tribal Court.

Section 14.0 Notice of Hearing

- 14.1 The tribal Animal Control Officer is responsible for investigating all dog complaints. An investigative report must be completed no later than seven (7) calendar days following the filing of a complaint. The investigative report must be signed by the Animal Control Officer and a copy provided to the person who tiled the complaint as well the dog owner, if known.
- 14.2 If, following an investigation, the Animal Control Officer is satisfied that there is cause to proceed with the complaint, the Clerk for the Tribal Court shall schedule a hearing on the

complaint. The hearing must be scheduled at the earliest available court date that will provide at the minimum ten (10) calendar days notice to all parties.

The notice shall state the date, time and location of the hearing and must be either personally served on the dog owner or by posting a notice in a conspicuous place on the dog owner's residence, provided however that service by posting shall only be used when the authorized official cannot determine the last known address of the person or by mailing the notice by certified mail, return receipt requested, to the responsible person at his or her last known address. A copy of the complaint, as well as any other information the Animal Control Officer relied upon in making his investigative report, shall be provided to the dog owner upon request, prior to the hearing.

Section 15.0 Hearing

The hearing will be held at such date, time and location as determined and noticed by the Tribal Court the hearing will be open to the public. All hearings will be held without a jury. The dog owner, the complainant, and the tribal Animal Control Officer, will have an opportunity to present their case. The Tribal Court may admit all relevant evidence, including former complaints, incident reports and affidavits of witnesses, limit the scope of discovery, and determine the time to produce records or witnesses. The dog owner may be represented by counsel at the owner's expense. The Tribal Court's decision shall be based on the preponderance of evidence and shall be issued within five (5) working days after the hearing is completed. The Tribal Court shall clearly state the factual basis for the decision. The decision, in addition to a fine, may also include a directive that the dog be destroyed if found to be vicious.

Section 16.0 Failure of Owner to Appear at Hearing

The failure of the dog owner or his/her designated representative to appear at the hearing shall not serve to delay or invalidate in any way the hearing process or procedure or any final decision issued by the Tribal Court.

Section 17.0 Finality of Determination

The decision of the Tribal Court shall be final and conclusive onto all parties. There shall be no appellate review of the final decision.

Section 18.0 Severability

If any provision of this ordinance or the application thereof to any person, entity or circumstance is held to be invalid, the remainder of the ordinance shall not be affected.

Section 19.0 Rules, Regulations, Policy and Procedures

The Bishop Tribal Council may establish such other rules, regulations, policy and procedures as are consistent with this ordinance and necessary for effective administration and enforcement of this ordinance.

Section 20.0 Amendments

This Ordinance and the procedures promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or special meeting.

Section 21.0 Effective Date

This Ordinance shall be effective from the date of its approval by the Tribal Council.

Section 22.0 Sovereign Immunity

Nothing in this Ordinance shall be construed as a waiver of immunity from suit for monetary damages, injunctive or declaratory relief and specifically does not waive the sovereign immunity of the Bishop Paiute Tribe, Bishop Tribal Council, or any officer, employee or agent thereof as relates to any subject matter contained in this Ordinance.

CERTIFICATION

The foregoing Ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the 24th day of June ,2009 with a quorum present and voting 4 AYES, 4 NAYS, 0 ABSTAINING, and 0 ABSENT and the Tribal Council Chairman not voting.


ORDINANCE NO. 2009-02

BISHOP TRIBAL COUNCIL:

ATTEST:



Tribal Council Chairman



Tribal Secretary

Date: 14 . June 2009

Date: 24 Jun 2009