

**TITLE 8 – REGULATORY CODE
PART VI – PUBLIC SAFETY
CHAPTER 6-1 – ANIMAL CONTROL**

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Legislative History: Enacted and Established July 28, 1982 by Resolution No. C-31-82, Ordinance No. 5 as part of Law & Order Code.

Amended on October 4, 1990 by Resolution No. C10-2-90.

Amended on March 17, 1990 by Resolution No. C3-90-90.

Adopted revised Law & Order Code, Ord. No. 5 on May 24, 1990 by Resolution No. C5-103-90.

Amended on January 10, 1990 by Resolution No, C1-67-90.

Adopted tribal codes and rescinded all other conflicting codes on May 26, 1992 by Resolution No. C5-42-92.

May 26, 1994 adopted amendments to Tribal Law & Order Code, Ord. No. 5 providing for changes to Title 1, Chapter 6 Animal Control Code, Resolution No. C5-34-94

May 2, 2002 adopted the Animal Control Code (Title 1C, Chapter 1) & repealing existing Animal Control Ordinance, Resolution C05-09-02.

Adopted January 28, 2003 as Pascua Yaqui Code and rescinded all prior code by Resolution No. C01-04-03.

Recodified on August 9, 2006 by Resolution No. C08-313-06.

Section 10 Animal Control (8 PYTC § 6-1-10)

(A) Scope:

This chapter shall apply to all matters involving control of animals on lands within the jurisdiction of the Pascua Yaqui Tribe.

(B) Animal Control Officer:

The position of Animal Control Officer is hereby established. The Animal Control Officer shall be an employee of the Tribe, and shall enforce the provisions of this chapter under the supervision of the Chief of Police.

(C) Directive:

By August 1, 2002 the Chief of Police shall present to the Tribal Council a written plan for the establishment of a permanent Tribal Pound facility. The plan shall include: a feasibility study addressing the start-up costs, operating costs, equipment, logistics, location, public safety and health issues, and potential liabilities of an on-Reservation Tribal Pound. The Chief of Police shall develop the Plan in consultation with the Directors of the Procurement Department and the Health Department. Such facility shall be operated by the Tribe, and located within the bounds of the Reservation, and shall be the primary impoundment and housing facility for impounded animals.

(D) Enforcement:

The Animal Control Officer shall enforce the provisions of this chapter and any other regulations pertaining thereto, and shall be empowered to issue summons, citations, and complaints relating to this chapter.

Section 20 Definitions (8 PYTC § 6-1-20)

- (A) “Abandon” means to willfully cause or allow an animal to remain at large with no intent to reclaim or provide necessary food, water, shelter, or medical care.
- (B) “Animal” means any animal of a species that is susceptible to rabies, except humans.
- (C) “Animal Control Officer” means the enforcement officer employed by the Law Enforcement Services Department who is empowered by and is responsible for enforcing this chapter.
- (D) “At large” means being neither confined by rope, pasture, pen, enclosure, nor physically restrained by a leash or harness.
- (E) “Animal Breeder” means any owner, who provides the means for, or assists, the procreation of animals for commercial or other pecuniary gain.
- (F) “Collar” means a band, chain, harness, or other suitable device worn around the neck of an animal to which a license can be attached.
- (G) “Harboring” means the keeping of an animal by the occupant of any premises on which the animal is kept or to which the animal customarily returns daily for food and care for a period of three or more consecutive days.
- (H) “Impound” means the act of taking or receiving into custody by the Animal Control Officer of any dog or other animal for the purpose of confinement in accordance with the provisions of this chapter.
- (I) “Indian” means an enrolled member of a federally recognized Tribe.
- (J) “Kennel” means an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors, or maintains five or more dogs under controlled conditions.
- (K) “Leash” means a line made of rope, chain, or other suitable material not less than one-fourth inch in diameter for the purpose of restraining an animal.
- (L) “Livestock” means cattle, horses, sheep, goats, swine, mules, or burros.
- (M) “Owner” means any person keeping an animal other than livestock for more than six consecutive days, any assignee of a home on the New Pascua Reservation where dogs are registered, or any person named in said registration as the owner.
- (N) “Rabies Quarantine Area” means any area in which a state of emergency has been declared to exist due to the occurrence of rabies in animals in or adjacent to said area.
- (O) “Stray Animal” means any animal kept by a person as a pet or as livestock for sale or consumption which is running at large.
- (P) “Stray Dog” means any dog four months of age or older running at large that is not wearing a valid license tag.
- (Q) “Tribal Pound” means any establishment for the confinement, maintenance, safekeeping and control of dogs and other animals that become the custody of the Animal Control Officer in the performance of his official duties.

- (R) “Vaccination” means the administration of vaccine to an animal by a veterinarian, or other personnel licensed by the Tribe, including the Animal Control Officer.
- (S) “Veterinarian” means, unless otherwise indicated, any veterinarian licensed and under contract with the Tribe.
- (T) “Vicious Animal” means any individual animal of the scientific order carnivore that has a propensity to bite human beings without provocation, or any individual animal that, while at large, kills or causes injury to domestic animals.
- (U) “Wild Animal” means any animal not domesticated or kept as a pet, running freely or out of control. A wild animal may also be a vicious animal.

Section 30 Registration; Issuance of Dog Tags (8 PYTC § 6-1-30)

- (A) Registration Requirement:

Every dog harbored on lands in the territorial jurisdiction of the Pascua Yaqui Tribe shall be registered with the Animal Control Officer by the owner within ten days of the date that the dog was acquired by the owner.

- (B) Registration Information:

The registry of dog ownership shall contain the following information: name of dog, breed (if known), sex, color, and whether the animal is spayed or neutered. The name of the owner, phone number, and location of the residence where the animal resides shall also be included.

- (C) Registration Identification:

Upon completion of the registration, a certificate shall be issued to the owner. A metal tag shall also be issued to the owner with a registry number and date of issue imprinted thereon. The valid license tag shall be attached to a collar or harness which shall be worn by the dog at all times.

- (D) Registration Renewal, Transfer, and Fees:

Whenever a dog tag is lost, a duplicate tag shall be issued upon application by the owner and payment of a fee established by the Animal Control Officer. Without the tag, the dog will be considered unregistered. The number of the tag shall also be recorded in the registry. The period of registration is one year and must be renewed thereafter. The tag is non-transferable. The registration fee shall be set forth in the fee schedule at the end of this chapter.

- (E) Proof of Vaccination:

Proof of vaccination is required before a registration certificate can be issued. Proof of vaccination is obtained through any licensed veterinarian, the Animal Control Officer of the Tribe, a governmental animal control agency or the Humane Society. If the dog has been previously registered elsewhere, the appropriate documentation must be provided before the registration can be final.

- (F) Failure to Register:

Any person who knowingly fails within 15 days after written notification from the Animal Control Officer to obtain registration, or counterfeits an official dog tag, or places a dog tag upon an unregistered dog is guilty of a civil offense.

Section 40 Establishment and Procedures of Tribe's Pound (8 PYTC § 6-1-40)

(A) Establishment of pounds:

The Tribe shall establish a pound for the temporary housing of animals captured at large. The Chairman, or his designee, is authorized to enter into a cooperative agreement with a veterinarian, humane society, or private commercial kennel for its establishment and/or operation. The pound shall be operated in accordance with the provisions of this chapter and such other rules and regulations as the Animal Control Officer shall promulgate. Nothing in this section shall be intended to preclude the Tribe from establishing the pound on Reservation lands.

(B) Impoundment Period:

Each animal impounded shall be kept and maintained at the pound for a maximum of ten days unless claimed by its owner. After three days any person may adopt any animal. See Section 40(F), below.

(C) Stray Animals:

Any stray animal shall be impounded and given proper care and maintenance. Prior to impounding a stray dog without tags, the Animal Control Officer shall attempt to ascertain ownership information from the registry; unowned dogs shall be given vaccinations and shall be registered prior to impoundment.

(D) Registered dogs or cats:

Dogs captured at large bearing Tribe registrations tags shall be impounded at the Tribe's Pound. The Animal Control Officer will make daily attempts to notify the owner as to where the animal can be reclaimed. The Animal Control Officer shall also investigate the dogs' vaccination history. Should the dog need to update its vaccinations, the Animal Control Officer shall do so at the owner's expense.

(E) Reclaiming impounded animals:

Any impounded licensed dog or cat may be reclaimed by its owner or such owner's agent provided that the person reclaiming the dog or cat furnishes proof of right to do so and pays all fees. If the dog or cat is not reclaimed within the first five days of the impoundment period, the Animal Control Officer shall make the dog or cat available for adoption and may place the dog or cat for adoption in accordance with Section 40(F).

(F) Adoption Procedures:

Any person may adopt any impounded dog or cat after the first three days of the impoundment period, provided that no previous owner has attempted to reclaim the animal, and such person pays the adoption fees as established in accordance with Section 90(D), and complies with the licensing and vaccination provisions. The Animal Control Officer shall issue a certificate of ownership to the new owner upon adoption of the animal.

(G) Destruction of Unclaimed Animals:

Should the ten days impoundment period expire without reclamation by the owner or adoption of the animal, then the animal shall be destroyed using the most humane methods reasonably available.

(H) Destruction of Suffering Animals:

The Animal Control Officer may destroy impounded sick or injured dogs or cats whenever necessary to prevent such dog or cat from suffering or to prevent the spread of disease, provided such action is taken using the most humane method reasonably available.

Section 50 Responsibilities of Owners and Other Persons (8 PYTC § 6-1-50)

(A) Unlawful keeping of dogs:

It is unlawful for a person to keep, harbor or maintain a dog in the territorial jurisdiction of the Tribe except as provided by this chapter.

(B) Dogs not permitted at large:

No dogs shall be permitted to run freely at large on the Pascua Pueblo Yaqui Reservation. All dogs found roaming shall be impounded by the Animal Control Officer, and the registered owner of the dog shall be responsible for such fees as the Animal Control Officer may set forth in accordance with Section 90(D).

(C) Restraint required in public place:

No person in charge of any dog shall permit such dog in public unless the dog is physically restrained by a leash, enclosed in a car, cage or similar enclosure. Violation of this section shall be civil liability, with a fine of \$25 for the first offense in a 12 month period, \$50 for the second offense in a 12 month period, and thereafter \$100 per offense where an owner has more than two offenses in a 12 month period; plus fees for capture and impoundment in accordance with the fee schedule established by the Animal Control Officer.

(D) Untagged Animals:

An animal subject to licensing under this chapter found without a tag identifying its owner may be presumed unowned.

(E) Failure to Provide for Animals:

It shall be a criminal offense for any owner, through either neglect or malice, to fail to provide adequate food, water, shelter, or medical care for an animal. The Animal Control Officer shall be allowed to remove such animals from the owners' custody, and such owner shall be responsible for all fees incurred as a result, including costs of medical treatment.

(F) Harm to Animals Prohibited:

Any person who, with malicious intent, strikes, beats, maims, or treats inhumanely any animal, shall be guilty of a criminal offense. It shall be an affirmative defense if such animal is attacking a human being.

(G) Abandonment Prohibited:

Any person who abandons an animal within the Reservation shall be guilty of an offense under this chapter, punishable by a fine of at least \$500, plus all fees and costs incurred in the capture and impoundment of the animal.

(H) Breeding Prohibited Without Permit:

Owners acting as Animal Breeders must obtain a permit, free of charge, from the Animal Control Officer. Such permits are held subject to inspections of the premises for health and safety

purposes by the Animal Control Officer, and such other rules and regulations as the Animal Control Officer may promulgate under this chapter.

(I) Breeding of Dogs for Fighting Purposes:

Any owner who breeds, harbors, owns, or controls animals for the primary purpose of using such animals for fighting other animals or attacking humans shall be guilty of a criminal offense.

(J) Responsibility to Prevent Public Nuisance: Anyone who harbors, owns, or controls an animal that:

- (1) molests passerby or passing vehicles;
- (2) attacks other animals;
- (3) unreasonably barks, howls, crows, or creates other animal noises so as to disturb the peace and quiet of people;
- (4) is repeatedly at large, especially on school grounds;
- (5) overturns or spreads garbage about on property other than that of the registered owner; or
- (6) Disturbs or destroys gardens, landscaping or lawns is considered to be maintaining a public nuisance and is guilty of the offense of "Maintaining a Public Nuisance" as set forth in 4 PYTC § 1-650.

(K) Unlawful interference with Animal Control Officer:

It is unlawful for any person to interfere, threaten or harass the Animal Control Officer in the performance of his duties. Anyone found guilty of unlawful interference with the Animal Control Officer shall be punished as prescribed in 4 PYTC § 1-710.

(L) Removing impounded animals:

No person may remove or attempt to remove an animal which has been impounded or which is in the possession of the Animal Control Officer except according to this chapter. Such removal or attempt shall constitute a civil offense.

(M) Dead Animals:

Owners of dead animals shall dispose of the carcasses by burial, or by arranging with the Animal Control Office for removal of the carcass, within 24 hours of the death of the animal.

(N) Refusal to dispose of dead animals:

When the owner refuses to comply with this section, such disposal shall be made by the Animal Control Officer or Police or an appropriate health officer and the cost of such disposal shall be assessed to the owner of the carcass.

(O) Dogs; liability:

Injury to any person or damage to any property by a dog while at large shall be the full responsibility of the dog owner or person or persons responsible for the dog when such damages were inflicted, regardless of a dog's prior propensity or lack thereof to commit such injury.

Section 60 Handling of Biting Animals; Responsibility for Reporting Animal Bites; Authority to Destroy Animals (8 PYTC § 6-1-60)

(A) Quarantine of dogs and cats:

An unlicensed dog or unvaccinated dog or cat that bites any person shall be confined and quarantined in a pound or, upon request of and at the expense of the owner, at a veterinary hospital for a period of not less than seven days. A dog licensed and vaccinated under this chapter that bits any person may be confined and quarantined at the home of the owner or wherever the dog is harbored and maintained with the consent of and in a manner prescribed by the Animal Control Officer. Otherwise, licensed and vaccinated dogs shall be confined and quarantined in a pound or, upon request of and at the expense of the owner, at a veterinary hospital for the required term of days.

(B) Quarantine of other Animals:

Any animal other than a dog or cat that bites any person shall be confined and quarantined in a pound, or, upon request of and at the expense of the owner, at a veterinary hospital for a period of not less than 14 days. If the animal is a caged rodent, it may be confined and quarantined at the home of the owner or where it is harbored or maintained, for the required period of time, with the consent of and in a manner prescribed by the Animal Control Officer.

(C) Wild Animals:

Any wild animal that bites any person may be killed and submitted to the Animal Control Officer for transport to an appropriate diagnostic laboratory.

(D) Reporting of animal bites:

Whenever an animal bites any person, the incident shall be reported to the Animal Control Officer immediately by any person having direct knowledge. Failure to report the incident shall constitute a civil offense.

(E) Destruction of Quarantined Animals:

The Animal Control Officer may destroy any animal confined and quarantined under this section prior to the termination of the minimum confinement period for laboratory examination for rabies if:

- (1) such animal shows clear clinical signs of rabies, or
- (2) the owner of such animal consents to its destruction

(F) Destruction of Vicious Animals:

The Animal Control Officer shall destroy a vicious animal upon an order of the Chief Judge of the trial court of the Pascua Yaqui Tribe. The Chief Judge may issue an order only after notice to the owner, if any, and a hearing, to determine whether destruction is necessary.

(G) Destruction of Attacking Animals:

Any person who destroys any animal while the animal is in the act of attacking a human being shall not be liable, civilly or criminally, for destroying the animal.

Section 70 Diseased Animal (8 PYTC § 6-1-70)

- (A) Contagious or infectious diseases:

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

- (B) Rabid animals:

If any owner, Animal Control Officer, or other person knows, or has reason to believe, that an animal has rabies, or has been exposed to rabies, they shall report this to the Animal Control Officer or Tribal Police for appropriate action under this chapter.

- (C) Removal of rabid animals:

It shall be unlawful for any animal owner, or other person, knowing that an animal has rabies, or has been exposed to rabies, to remove the animal from the owner's residence in the territorial jurisdiction of the Tribe, except under the order of the Animal Control Officer. 4 PYTC § 1-710.

Section 80 Control of Vicious Animals (8 PYTC § 6-1-80)

- (A) Offense. It is unlawful for any person to keep, control, and harbor or otherwise have under control any animal or dog which is vicious or destructive. The owner of any animal that:

- (1) bites, attempts to bite, endangers or otherwise injures or causes injury to human beings or other animals; or
- (2) destroys, damages, or causes damage to the property of another, is guilty of a civil offense.

- (B) Law Enforcement. This section shall not apply to police dogs belonging to a law enforcement agency.

- (C) Affirmative defenses. It shall be an affirmative defense to the provisions of this section, if:

- (1) there is provocation, such as those acts contemplated in Section 50(F); or
- (2) the animal is a police dog under the command of its trainer who is acting within the scope of official police authority

Section 90 Miscellaneous (8 PYTC § 6-1-90)

- (A) Rabies, quarantine areas:

The Tribal Chairman may declare rabies quarantine areas on lands in the territorial jurisdiction of the Tribe.

- (1) When a rabies quarantine area has been declared, the Chairman of the Pascua Yaqui Tribe shall institute an emergency program for the control of rabies within the area.
- (2) In a rabies quarantine area, no dog shall be permitted at large. Each dog shall be confined within an enclosure on his owner's property, or securely tied so that the dog is confined entirely on the owner's property, or on a leash not to exceed five feet in length and directly under the control of an able bodied person over the age of 16 years when not on the owner's property.

(B) Civil penalty:

Any person, Indian or non-Indian, who violates the provisions of this chapter, shall be subject to civil penalty and/or exclusion and removal from the territorial jurisdiction of the Tribe.

(C) Violation; criminal penalties:

Any person, Indian or non-Indian, who is found to be guilty of a criminal offense under this chapter can be punished up to and including a fine of no more than \$500, up to 60 days in jail, or both. Any non-Indian who refuses to consent to the criminal jurisdiction of the courts of the Pascua Yaqui Tribe for the purpose of enforcement of the provisions of this chapter, shall be excluded from the Reservation for a period not to exceed five years. A criminal prosecution under this chapter shall not preclude a private civil action for damages.

(D) Fee schedule:

Within 90 days of adoption of this chapter, the Animal Control Officer shall set a reasonable fee schedule for the registration and renewals of registrations, impoundment of animals, and any other fees provided for in this code. Such fee schedule shall be made available to the residents of the Reservation and codified within this section of this chapter.

DISPOSITION TABLE

Former Section	New Section
Title 1, Sec. 1C-1	Section 10
Title 1, Sec. 1C-1-200	Section 20
Title 1, Sec. 1C-1-300	Section 30
Title 1, Sec. 1C-1-400	Section 40
Title 1, Sec. 1C-1-500	Section 50
Title 1, Sec. 1C-1-600	Section 60
Title 1, Sec. 1C-1-700	Section 70
Title 1, Sec. 1C-1-800	Section 80
Title 1, Sec. 1C-1-900	Section 90