

TITLE 32
LUMMI NATION CODE OF LAWS
ANIMAL CONTROL CODE

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**TITLE 32
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Chapter 32.01 General Provisions

32.01.001 Jurisdiction

The provisions of this Title and all rules and regulations under it shall apply within the exterior boundaries of the Lummi Reservation and within the exterior boundaries all lands held in trust for the Lummi Nation by the United States regardless of location.

32.01.010 Purpose

The purpose of this Title is to provide regulations to protect the health and safety of the community; to control animal behavior both on and off the property of the animal's owner or keeper; to encourage humane treatment of animals; and to delineate the responsibilities of animal owners and keepers within the jurisdiction of the Lummi Nation.

32.01.020 Definitions

As used in this Chapter, except clearly apparent from the context, the following words and terms shall have the following meanings:

- (a) "Allow" means to permit by neglecting to restrain or prevent.
- (b) "Animal" shall have its customary common meaning and shall include dogs and cats where applicable.
- (c) "Animal control authority" means the agency or department appointed by the Chief of Police and Law and Justice Commission and approved by the Lummi Indian Business Council (LIBC).
- (d) "Animal control officer" means a Lummi Nation Police Officer or employees of animal control authority.
- (e) "Animal shelter" means any facility operated by the animal control authority or its contractors or agents for the purpose of impounding or caring for animals held under the authority of this Chapter or State law.
- (f) "Barking" means frequent or habitual howling, yelping, or barking that unreasonably annoys or disturbs other persons in the

vicinity.

(g) "Dangerous animal" means any animal that according to the records of Lummi Nation Police Department or the Animal Control Authority:

- (1) has inflicted severe injury on a human being without provocation on public or private property;
- (2) has killed an animal without provocation while off the owner's property; or
- (3) is potentially dangerous, where the owner has received notice of the behavior, and the animal again aggressively bites, attacks, or endangers the safety of humans or animals.

(h) "Guard Dog" means any member of the dog family (canidae) which has been trained or represented as trained to protect person and/or property by virtue of exhibiting hostile propensities and aggressiveness to unauthorized persons.

(i) "Harboring" or "Keeping" means performing any of the acts of providing care, shelter, protection, refuge or nourishment in such a manner as to control the animal's actions, or the animal(s) is treated as living at one's house by the resident(s).

(j) "Leash" means a cord, strap, or chain of sufficient strength so that the animal is controlled by the person accompanying it.

(k) "Livestock" means an animal commonly raised on a farm.

(l) "Owner" means any person having an interest or right or possession to any animal or any person having control, custody or possession of any animal, or by reason of the animal being seen residing consistently at a location, shall be presumed to be the owner.

(m) "Person" means any individual, partnership, firm, corporation, association trust estate or other legal entity

(n) "Potentially dangerous animal" means any animal that:

(1) when unprovoked bites a person or animal either on public or private property;

(2) chases or approaches a human upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack;

(3) has a known propensity, tendency, or disposition to attack unprovoked, or to cause injury or otherwise to threaten the safety of humans or animals; or

(4) appears to be stricken with an infectious disease.

(o) "Premises" means all the real property under one ownership inside the inner line of a sidewalk or, if there is no sidewalk, inside of the curb, ditch, or shoulder marking the edge of the used public right-of-way. "Premises" also means the inside of a closed motor vehicle.

(p) "Running at large" means to be off the premises of the animal's owner and not under the control of the owner or competent person authorized by the owner either by leash or verbal and/or signal control.

(q) "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

(r) "Trust land" means all lands held in trust for the Lummi Nation by the United States regardless of location.

(s) "Under control" means that the owner, by means of a fencing, leash or other means, restrains the animal to the owner's premises or immediate proximity, preventing the animal from trespassing upon property or annoying or chasing other persons, animals, or vehicles, of any sort.

32.01.030 Transfer or Sale of Unaltered Dogs & Cats Prohibited

It is a violation of this Chapter to sell or give away unaltered dogs or cats, over six (6) months of age, in any public place or to auction or raffle unaltered dog and cats as prizes or gifts.

32.01.040 Transfer or Sale of Breeding Animals or Stock

It shall not be unlawful for any person to sell or otherwise trade in the transfer of animals when such animals are breeding or stock animals and the person making the transfer is engaged in such business.

32.01.050 Animal Ownership Limitations

It is a violation of this Chapter for any household to own, harbor or possess more than two (2) dogs over the age of six (6) months or four (4) cats over the age of six (6) months without first obtaining a LIBC business license. For the purpose of this Section, any household owning, harboring or possessing dogs or cats in greater numbers than specified herein are conclusively presumed to be operating a kennel.

32.01.060 Animal Control Fee Schedule

The Law and Justice Commission shall from time to time develop an Animal Control Fee Schedule at such rates as determined appropriate by the Commission for any fee specified under this Title. Any fee schedule developed shall be approved by the LIBC.

32.01.070 Exceptions

The provisions of this Chapter shall not apply to any animal kept by any law enforcement agency for law enforcement purposes.

32.01.080 Severability

If any section, subsection, sentence, clause or phrase of this Ordinance or any amendment thereto or its application to any person or circumstance, is held invalid, the remainder or application to other persons or circumstances shall not be affected.

32.01.090 Creation of Special Relationship Denied

Nothing in this Code shall be intended or construed to create any liability on the part of the Lummi Nation or LIBC, its officers, employees, or contractors. It is not the purpose or intent of this Code to create on the part of the Lummi Nation any special duties to or relationships with specific individuals.

32.01.100 Other Remedies Available

Nothing in this Title is intended or should be construed to limit any remedies in law or equity available to an injured party.

Chapter 32.02 Licensing and Registration

32.02.010 Licenses Tags Required

(a) All dogs and cats six (6) months of age and over that are kept, harbored or maintained within the boundaries of the Lummi Reservation or trust lands shall be registered and issued a license tag. The license tag shall be worn on the collar of each dog or cat at all times. Any lost registration tags must be immediately replaced by a new tag upon payment of the replacement fees.

(b) All dogs or cats who are not registered and displaying the license tag shall be considered unlicensed animals.

32.02.020 Contents of License Registration Application - Procedure

(a) Registration applications for a pet license shall be on forms provided by Lummi Nation Police Department and shall consist of the animal owner’s name and address, a description of the animal by species, breed, sex, color, weight and name of animal and a certification of rabies vaccination. A license tag shall be issued at the time of registration. The Lummi Nation Police Department shall maintain a record of all license tags issued.

(b) In addition to the registration application for a license tag, all persons using dogs as guard dogs shall register the dogs with Lummi Nation Police Department. A guard dog license shall be valid for one (1) year from the date of issue. The fee for a guard dog license shall be as provided in the Animal Control Fee Schedule.

32.02.030 License Fees

The licensing of dogs and cats as required by this Code shall be for a fee as set forth in the Animal Control Fee Schedule.

32.03 Animals at Large

32.03.010 Impoundment – Generally

An animal may be taken into the care and

custody of the Animal Control Authority in any of the following situations:

(a) When an animal is running at large within the boundaries of the Lummi Reservation or trust lands. This Section shall not apply to areas designated by the Lummi Nation for off-leash training or exercise;

(b) If a dog or cat has no current license tag, and is not in the presence of its owner, keeper or other authorized person;

(c) If any animal is on the private property of another and the caretaker of the private property requests in writing that the animal be removed; provided that the owner or keeper of the animal(s) cannot be located in a timely manner or is unknown. Such written request shall state the reason why removal is requested;

(d) If an animal is on public property without prior written authorization from the LIBC or a duly authorized agent of the LIBC with the power to grant such permission.

(e) When an animal has been declared “potentially dangerous” or “dangerous” and the animal is again at large, or has otherwise violated the restrictions placed upon it;

(f) When the animal’s owner or keeper is incapable or unable to continue to care for it because of incarceration, severe illness, death, house fire, or other emergency circumstances and an agent for the owner cannot be readily located;

(g) When an animal has bitten a person, breaking or puncturing the skin.

After impoundment, the Animal Control Authority shall notify the owner or keeper, if known, of its impoundment, using reasonable means. If the animal’s owner is unknown or cannot be located, the information and description of the animal shall be available at Lummi Nation Police Department during regular business hours.

32.03.020 Impoundment – Redemption

(a) All owners or keepers claiming impounded animals of any kind shall provide identification and shall sign a statement that verifies they are the owner, keeper, or authorized agent of the owner. Names, street

or road addresses, city, and phone numbers will be required.

(b) For every animal impounded pursuant to this Chapter, there shall be paid to the Animal Control Authority, by any person desiring to redeem such animal, the total fees as listed in the Animal Control Fee Schedule before the animal is released from impoundment.

(c) In addition to the impoundment fee, the Animal Control Authority may require payment of a reasonable amount per day for boarding the animal. This amount shall be set in accordance with the boarding fee provided by the Animal Control Authority.

(d) No animal shall be released without written proof of rabies vaccination or a written agreement by the owner agreeing to vaccinate the animal at the owner's cost.

(e) No animal shall be released without a proper license as provided in this Title.

(f) Any unaltered dog or cat impounded more than once in a twelve (12) month period shall be spayed or neutered by the Animal Control Authority prior to the release of the animal unless the owner pays an increase of forty percent (40%) of the fee stated in the impoundment fee schedule. The cost of the spay or neuter shall be charged to the owner upon redemption but shall be deducted from the impoundment fees otherwise required.

(g) Fees provided for in this Section can be waived or reduced at the discretion of the director of the Animal Control Authority or by order of court, if it can be determined that the owner did not otherwise violate the terms of this Chapter.

32.03.030 Impoundment – Disposition

(a) Any animal who is not redeemed by its owner within five (5) days after the impoundment may be humanely destroyed by an approved method, or may be placed for adoption with a new owner, provided that the new owner agrees in writing to surgically sterilize the animal within one (1) month of maturity and agrees the animal will not be used, sold, or donated for experimental purposes, and provides proper licensing.

(b) Disposition of Sick or Injured Animal. When in the judgment of a licensed

veterinarian or the Animal Control Authority, an animal that has been impounded should be destroyed for humane reasons, the animal may be destroyed before the expiration of the required holding period. Such cases must be documented in writing by the Animal Control Authority.

32.03.040 Entry of Premises

An animal enforcement officer or law enforcement officer shall not enter the residence of an owner without permission or a warrant, except for the following condition: An animal control officer, or law enforcement officer in hot pursuit of an animal known to be a dangerous or a potentially dangerous animal or reasonably suspected of being dangerous to persons other than wrongful trespassers upon the owner's premises may enter the premises of the owner and demand possession of such animal and if, after request, the owner or keeper of the animal refuses to deliver the animal to the officer and the officer cannot with reasonable safety catch the animal, he may then obtain a warrant authorizing the seizure and impoundment of the animal.

32.03.050 Destruction of Animals That Have Bitten Twice

Any animal which has bitten a human twice in unprovoked situations may be humanely destroyed by order of the Court after the end of the ten (10) day quarantine and observation period. The ten (10) day quarantine and observation period may be waived if proof of vaccination is submitted. If the animal is killed or dies prior to the completion of the required quarantine period, the animal head may be submitted for rabies analysis or other testing as may be required.

32.03.060 Off Leash Area

The Law and Justice Commission may from time to time designate an area as an "Off Leash Area." Animals found within this area when the animal's owner or keeper is also present are not required to be under physical restraints to prevent the animal from running at large.

32.03.070 Vicious Animals at Large

(a) Lummi Nation Police Department is authorized to kill any animal that the officer observes attacking or threatening immediate bodily injury to any person.

(b) Any person may protect or defend themselves or another from attack or imminent bodily injury or may protect their own property or the property of another from an attacking vicious animal by use of reasonable force necessary to abate the current threat.

Chapter 32.04 Rabies Control

32.04.010 Rabies Vaccination Required

All dogs and cats six (6) month or age or older shall be vaccinated against rabies. All vaccinations shall be performed in accordance with standards published by the National Association of State Public Health Veterinarians, Inc.

32.04.020 Control of Rabid or Potential Rabid Animals

Any animal which bites and breaks the skin of any person shall be quarantined for a ten (10) day period to determine if the animal is infected with a disease. The place of quarantine shall be established by the Animal Control Authority, and the Animal Control Authority may, in its discretion, allow the owner and/or keeper of the animal to maintain the quarantine.

32.04.030 Quarantine Procedure

(a) Any animal that has bitten a human and broken the skin, regardless of provocation or previous inoculation for diseases, shall be contained for a period of not less than ten (10) days, in such a manner that it is segregated from any other animals and from coming into contact with other animals and humans except for the caretaker.

(b) The animal may be quarantined at an animal shelter or a veterinarian or boarding kennel of the owner’s choice, provided that the costs to board the animal shall be borne by the owner if quarantined in a location other than the owner’s residence. If the owner is unable or unwilling to confine the animal and unwilling to bear the costs of confinement, the

Tribal Court shall be empowered to have the Animal Control Authority remove the animal from the owners premises and have the animal immediately euthanized. The animal’s head shall be removed and submitted to the county health officer or directly to an appropriate laboratory for analysis.

(c) If a stray and unwanted animal has inflicted a bite upon a human it may be immediately euthanized and the animal head shall be removed and submitted to an appropriate laboratory for analysis.

(d) Should an animal manifest any unusual behavior or develop symptoms of illness or die during the observation period, the owner, veterinarian or Animal Control Authority shall immediately notify Lummi Nation Police Department of that condition.

(e) In all cases where a stray animal that has bitten a person or caused an abrasion or puncture of the skin, is slain by any person or dies by other means, and a period of ten (10) days has not elapsed since the day of the bite, it shall be the duty of any person slaying such animal to immediately notify Lummi Nation Police Department and deliver intact the head of such animal to Lummi Nation Police Department for laboratory analysis as may be required.

(f) It shall be the duty of every medical doctor, hospital, or other applicable health official to report all animal bites that break the skin, regardless of provocation factors or previous inoculation record of the animal. Such report shall be made to Lummi Nation Police Department, as promptly as possible so that quarantine procedures can be instituted in a timely fashion.

(g) It shall be the duty of the Animal Control Authority to report the rabies laboratory results and/or quarantine findings immediately after the ten (10) day period, to the medical provider treating the animal bite victim so that appropriate post-exposure rabies treatment can be initiated in a timely manner.

32.04.040 Destruction of Infected Animals

Any animal bitten by an animal found to be rabid by appropriate laboratory tests shall be destroyed .

Chapter 32.05 Infractions

32.05.010 Abatement Costs – Liability of Owner

In addition to any penalty provided in this Chapter or by law, any person whose animal is maintained in violation of this Chapter may be assessed any costs or expenses incurred by the Tribe or its agents.

32.05.020 Presumptions

For the purpose of this Title, when it shall have been established by competent evidence that an animal, including livestock, was at large, a rebuttable presumption shall arise that the owner or person in charge of the animal or livestock permitted them to run at large. In any case where it is shown to the Court that an animal, including livestock, has been at large for five (5) consecutive days, it shall be conclusively presumed that the owner has permitted them to run at large.

32.05.030 Civil Infractions

Except as specified elsewhere within this Title, any violation of the following provisions or other requirement of this Code shall constitute an infraction and shall subject the violator to a fine not to exceed two hundred and fifty dollars (\$250):

(a) It is unlawful to keep or harbor a dog or cat over six (6) months of age within the Lummi Nation without a dog or cat license issued by Lummi Nation Police Department.

(b) It is unlawful for any person other than the owner or keeper, his agent, or a Lummi Nation Police Officer to remove the license tag from any dog or cat.

(c) It is unlawful for the owner or keeper of any dogs to cause, permit, or allow such animal to roam, run, stray, or to be away from the premises of such owner unless the animal is under control by a leash or verbal and/or signal control.

(d) It is unlawful for the owner or keeper of any animal to fail to remove fecal matter deposited by their animal on public property or public easement or private property of others before the owner leaves the immediate area where the fecal matter was deposited.

(e) It is unlawful for the owner or keeper of any animal to allow fecal material to accumulate on the property of the owner or keeper for a period of time greater than one (1) week.

(f) It is unlawful for the owner or keeper of any animal to allow fecal material to contaminate or otherwise pollute the waters of the Lummi Nation.

(g) It is unlawful for the owner or keeper of any animal to permit such animal to enter a place where food is stored, prepared, served or sold to the public provided, this Section shall not apply to animals trained to aid the handicapped.

(h) It is unlawful to harbor or keep an animal which by frequent or habitual howls, barks, or other loud noises, unreasonably annoys or disturbs another resident in the immediate neighborhood.

(i) It is unlawful for the owner or keeper of any animal to allow such animal to chase cars, motorcycles, bicycles or any other vehicle.

(j) It is unlawful for the owner or keeper of any animal to allow such animal to habitually bark at, snap, bite, jump upon or threaten persons lawfully on the public sidewalks, streets, alleys, or public places.

(k) It is unlawful for any person other than the owner or person authorized by the owner of an animal to release an animal from any confinement, vehicle or restraint unless such release is necessary for the immediate health and safety of the animal. This Section shall not apply to law enforcement personnel and animal control officers.

(l) It is unlawful for any person to permit livestock to run at large within the exterior boundaries of the Lummi Reservation or trust lands.

(m) It is unlawful for any person to dump or otherwise release any animal within the exterior boundaries of the Lummi Reservation or trust lands.

(n) It is unlawful for any person to maintain, control or otherwise treat any animal in an inhumane manner.

(o) Whenever, by this Code or by other ordinances or enactments of the LIBC, an act

or omission is deemed an offense involving the subject matter of this Code but no specific penalty is imposed, upon a finding of responsibility by the Court for such an offense, the responsible person shall be issued a fine under this Section.

32.05.040 Criminal Violations

Any violation of the following provisions shall constitute a criminal offence and upon conviction shall subject the violator to imprisonment for a period not to exceed ninety (90) days and/or a fine not to exceed five hundred dollars (\$500) plus court costs.

(a) It is unlawful for an owner or keeper to refuse to quarantine or permit the quarantine of any animal as required by this Chapter.

(b) It is unlawful for the owner of any animal, when notified that such animal has bitten any person or has so injured any person as to cause abrasion or puncture of the skin and is subject to quarantine, to sell, kill, or give away such animal to be taken beyond the limits of the Lummi Nation, except to an animal control authority, county health officer, or Washington State Public Health Laboratory for rabies examination.

(c) It is unlawful for the owner of any animal who has bitten any person or has injured any person so as to cause abrasion or puncture of the skin, to fail to notify the Animal Control Authority of the bite and location of the animal immediately upon knowledge of the incident.

(d) It is unlawful for an owner or other person harboring or keeping an animal to permit the animal to create a nuisance by failing to control the animal such that it endangers or damages the safety, health, comfort or property of his neighbors or the community.

32.05.050 Other Criminal Violations

In addition to any penalties set forth in this Section, an animal's owner may also be issued a citation for Disobedience to Lawful Orders of Court for the failure to follow any order issued by the Court for the care or control of such animal.

32.05.060 Animal Control Petition

Any person may file a verified petition under the penalty of perjury for animal control in the Tribal Court. Such an action is civil in nature and shall be governed by Title 3 except as may be modified by the provision of this Title. Any petition filed must contain the following information or state that the information is unknown:

- (a) Description of the animal;
- (b) Location where the animal is found;
- (c) A description of the acts or events giving rise to the claim for which the petitioner is seeking relief. If the petition seeks to have the animal declared a dangerous or potentially dangerous animal the petition must state specific facts giving rise to such a claim;
- (d) The animal's owner and address;
- (e) Whether the animal has a license tag and if so the license number if known;
- (f) The relief requested from the Court.

32.05.070 Hearing – Animal Control Order – Temporary Order

(a) Upon receipt of a petition for animal control, the Court shall schedule a hearing within ten (10) business days. Upon the basis of the facts and evidence presented at the hearing the Court may:

- (1) require that the animal be licensed;
- (2) declare the animal a potentially dangerous animal or a dangerous animal;
- (3) place restrictions on the animal's care and housing including requirements that the animal be restrained or otherwise prevented from posing a threat to the community;
- (4) order the animal destroyed in a humane manner;
- (5) order any other relief reasonably calculated to protect the safety and health of the community.

(b) The petitioner may request ex parte relief from the Court. Under appropriate circumstances and based upon evidence and testimony presented, the Court may order restrictions upon any animal that is the subject of a Petition for Animal Control. Any

restrictions placed at an ex parte hearing must be reasonably calculated to prevent imminent harm to an individual(s) or to the health and safety of the community including but not limited to impounding the animal pending a hearing on the petition.

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