

RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION

- WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS, Article I of the Constitution of the Three Affiliated Tribes expressly provides that the jurisdiction of the Three Affiliated Tribes shall extend to all persons and all lands within the exterior boundaries of the Fort Berthold Reservation; and
- WHEREAS, Article VI, Section 3 of the Constitution of the Three Affiliated Tribes specifically grants to the Tribal Business Council all necessary sovereign authority - legislative and judicial - for the purpose of exercising the jurisdiction granted by the people of the Three Affiliated Tribes in Article I of the Constitution; and
- WHEREAS, Article VI, Section 5(1) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to adopt laws regulating the procedures of agencies and officials of the Three Affiliated Tribes; and
- WHEREAS, In 1970, via Resolution Number 70-15, the Tribal Business Council of the Three Affiliated Tribes enacted the Fort Berthold Dog Registration and Rabies Control Ordinance, which regulatory law has never been consistently and comprehensively enforced and has become outdated and incapable of reasonable implementation and enforcement; and
- WHEREAS, The absence of any meaningful regulation of dogs on the Fort Berthold Reservation has recently culminated in a significant percentage of the dog population in various Reservation communities constituting a serious public nuisance, as evidenced by a critical number of dogs habitually running at large, disturbing the peace, biting children, and attacking and injuring other domestic animals; and

WHEREAS, It has been the intent of the Tribal Business Council that a new, more comprehensive regulatory law be developed by the Tribal Legal Department for review and ultimate approval by the Council, wherein both dogs and cats would be subject to regulation, and rabies and other diseases would be subject to prevention and control; and

WHEREAS, It is the considered judgment of the Tribal Business Council that the Reservation cat population is not currently posing any significant problem adverse to the health and welfare of the residents of the Reservation and that the dog problem, on the other hand, is so critical that all of the attention and efforts of the Tribes should be directed toward controlling that problem initially; and

WHEREAS, The Tribal Business Council has had the opportunity to review and comment on the draft of a new ordinance on three separate occasions and approves the attached draft of the statutory provisions titled "Animal Control and Protection";

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby formally enacts the attached statutory provisions titled "Animal Control and Protection" and designates said provisions as Chapter 3 of Title VIII of the Fort Berthold Tribal Code.

BE IT FURTHER RESOLVED, That the attached statutory provisions titled "Animal Control and Protection" shall become effective immediately, with the exception of their application to cats, which application shall become effective at a future date as determined by the Tribal Business Council by subsequent resolution.

BE IT FURTHER RESOLVED, That the Fort Berthold Dog Registration and Rabies Control Ordinance is hereby repealed in all respects and the attached statutory provisions titled "Animal Control and Protection" shall supersede and replace any and all other conflicting or inconsistent provisions included in the body of law of the Three Affiliated Tribes.

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a

TITLE VIII

CHAPTER 3

ANIMAL CONTROL AND PROTECTION

SUBCHAPTER 3-01

GENERAL PROVISIONS

3-01-01. **Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Unaltered dog or cat" means an unneutered male dog or cat or an unspayed female dog or cat.
2. "Animal" means every living animal exclusive of the human race.
3. "Cruelty" or "torture" means every act, omission or form of neglect, whereby unnecessary or unjustifiable pain, suffering or death is caused or permitted.
4. "Dangerous animals" means animals which, because of their poisonous bite or sting, their size, or their propensity to viciousness or aggressiveness, would constitute a hazard or threat to the safety of the residents of the Reservation.
5. "Dog" or "cat" means both the female and male of the species.
6. "Person" means any individual member of the Three Affiliated Tribes or any formal association of such individuals, whether organized for profit or for nonprofit purposes.
7. "Owner" means any person owning, keeping or harboring a dog, cat, or other animal.
8. "At large" means the animal is off the premises of the owner and is not securely confined in a vehicle or other enclosure or effectively restrained with a chain, leash or cord not more than six (6) feet in length.
9. "Tribes" means the government of the Three Affiliated Tribes.
10. "Tribal judge" means a judge of the Fort Berthold Tribal District Court.

11. "Reservation" means the Fort Berthold Indian Reservation.

3-01-02. **Restrictions on Keeping Animals.**

1. It is unlawful to keep dangerous animals.
2. It is unlawful to keep animals which have been bred or trained for fighting for sport or exhibition.

Upon conviction for a violation of this section, the tribal judge shall, in addition to any other penalty authorized by law, order that the animal in question be seized and surrendered to the humane society or other animal placement organization or to an animal warden for the purpose of placement outside the Reservation or humane destruction.

3-01-03. **Cruelty to Animals.** It is unlawful for any person to:

1. Overwork, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate or kill any animal, or cruelly work any animal when unfit for labor.
2. Fail to provide any animal in his charge or under his control with necessary food, water or shelter.
3. Keep any animal in any enclosure without providing for exercise or wholesome change of air.
4. Abandon any animal or cause such act to be done.
5. Unjustifiably administer or expose any known poisonous substance or noxious drug, whether mixed with food or not, which may be eaten by any domestic animal.
6. Carry or transport any live animal in any vehicle, cage, railroad car, or by any other means that does not permit adequate ventilation and space for the reasonable comfort of the animal, or carry or transport an animal in any other cruel manner.
7. Willfully frighten, shoot at, wound, kill, capture, ensnare, net trap or in any other manner molest or injure any song bird or insectivorous bird; or in any manner to molest or injure the nest eggs or young of any such bird; or to have in possession the nest eggs, young or body of such bird, except as authorized by an animal warden.

This section does not apply to the eradication, by lawful and safe methods, of bats and rodents, including rats, mice, gophers and moles.

3-01-04. **Breaking into the Pound : Interfering with Impoundment**. It is unlawful for any person to:

1. Damage, injure or break open any pound, or to aid or assist, abet or advise any person to do so.
2. Let out or rescue, or to aid or assist, abet or advise in letting out or rescuing, any animal which may be impounded.
3. Take, or to aid or assist, abet or advise any person to take, from any other person any animal being taken or driven to any pound.

Upon conviction for a violation of this section, a maximum fine in the amount of five hundred dollars (\$500.00), a maximum period of incarceration of thirty (30) days, or both, may be imposed by the tribal judge.

In addition, the judge may order restitution for damages resulting from the commission of the offense for which the person has been convicted. Prior to imposing restitution, the judge shall satisfy the applicable requirements prescribed in Section 800.8 of Chapter 2 of Title III of the Fort Berthold Tribal Code.

3-01-05. **Penalty for Violation of Chapter**. Except as provided in section 3-01-04, the penalty for a violation of any provision in this chapter shall be constituted by a fine in the maximum amount of five hundred dollars (\$500.00).

SUBCHAPTER 3-02

RABIES CONTROL

3-02-01. **Reports; Isolation or Destruction of Animals**.

1. Any person who has knowledge that a person or animal has been bitten or injured by a dog or other animal infected or suspected of being infected with rabies, or knowledge of a case of rabies or suspected rabies in animals, shall report that fact to the Indian Health Service Sanitarian within a period of twenty-four (24) hours from the time such knowledge was first gained.

2. Any domestic animal that bites a person or any domestic animal suspected of having rabies must be confined and observed for a period of ten (10) days and evaluated by a licensed veterinarian, at the owner's expense, at the beginning of confinement, at the first sign of any illness during confinement, and prior to release from confinement. If an animal warden or veterinarian so determines, the warden or veterinarian may order that the animal be impounded and evaluated. If the animal shows clinical signs of rabies during the period of isolation, it must be humanely destroyed immediately in a manner that preserves the brain intact, and the brain tissue must be examined for rabies.

3. Any stray or unwanted domestic animal or wild animal that bites a person must be humanely destroyed in a manner that preserves the brain intact, and the brain tissue must be examined for rabies. A domestic animal will be presumed to be stray or unwanted if the owner has failed to claim the animal within three (3) days of the seizure of the animal.

4. Any domestic vaccinated animal that is bitten or scratched by a rabid animal or exposed to a suspected rabid animal in a manner that reasonably indicates that a bite or scratch may have occurred, must be revaccinated immediately and observed by the owner for ninety (90) days. If the animal shows clinical signs of rabies during the period of observation, it must be humanely destroyed immediately in a manner that preserves the brain intact, and the brain tissue must be examined for rabies.

5. Any domestic unvaccinated animal that is bitten or scratched by a rabid animal or exposed to a suspected rabid animal in a manner that reasonably indicates that a bite or scratch may have occurred, must be destroyed immediately or, at the owner's expense, must be placed in strict isolation under the observation of a licensed veterinarian for six (6) months and vaccinated one month prior to being released. If the animal shows clinical signs of rabies during the period of isolation, it must be humanely destroyed immediately in a manner that preserves the brain intact, and the brain tissue must be examined for rabies.

6. Specimens collected for examination for rabies must be packaged and forwarded as required by applicable health regulations.

7. If whether or not an animal has been vaccinated for rabies is unknown, an animal warden will comply with an order from a medical authority to destroy the animal and preserve the brain intact.

3-02-02. **Duty of Owner to Surrender Animal.** The owner or other person in charge of an animal, upon demand by a police officer or animal warden, must surrender any animal which has bitten a person or domestic animal, or which is suspected as having been exposed to rabies, to the appropriate entity, as directed by the officer or warden. All expenses of any required period of isolation or observation must be paid by the owner before the animal may be returned to the owner. It is unlawful for the owner or other person in charge of an animal to fail or refuse to surrender any animal as required by this section. Notwithstanding any

other provision of this chapter, any animal which has bitten a person or domestic animal, or which is suspected of having rabies, may be seized by a police officer or animal warden.

SUBCHAPTER 3-03

LICENSING AND CONTROL OF DOGS AND CATS

3-03-01. **License Required.** It is unlawful for any person within the Reservation to keep, maintain, or have in custody or under control any dog or cat over the age of six (6) months which is not licensed and inoculated against rabies.

3-03-02. **License Application, Fee, and Renewal.**

1. Any person desiring to keep, maintain, or have in custody or under control any dog or cat over the age of six (6) months shall make application to the Tribes for a license. The application must be in writing, stating the name, sex, color and breed or other distinguishing characteristics of the animal and the name and address of the applicant. The license must be renewed for so long as the animal is kept within the Reservation by payment of the annual fee established in this section.

2. Before any license may be issued, the applicant shall furnish a certificate of vaccination issued by a licensed veterinarian evidencing that the dog or cat for which the license is desired has been vaccinated against rabies. The term of the license issued may not exceed the duration of the rabies vaccination.

3. A license fee of \$5.00 per year must be paid at the time any dog or cat is first licensed. The license is valid for the duration of the rabies vaccination in conjunction with which it is obtained. Licenses must be renewed for so long as the animal is kept within the Reservation. The fee for transferring a license, if an animal is sold or given to another, is \$5.00. The license fee for any period less than one year is \$5.00.

4. A refund may not be made on any license fee because of the death of an animal or because the owner of the animal leaves the Reservation before the expiration of the license period.

5. In addition to the basic annual license fee, there is a fee of \$10.00 per year for any unaltered dog or cat. An applicant who wishes to avoid payment of the additional \$10.00 fee for an unaltered dog or cat shall, upon application for a license, furnish a

certificate signed by a licensed veterinarian evidencing that the animal for which the license is desired has been spayed or neutered. The certification is valid for the life of the animal.

6. A license issued under this section shall expire on the date on which the last rabies vaccination for the animal expires.

7. The Tribes shall design the license certificate and suitable license tag. The license tag shall designate the name "Fort Berthold Reservation" and the year for which issued, in addition to any other wording or identification as, from time to time, may be deemed practical or appropriate.

3-03-03. **Tag Issuance.** The issuance and use of license tags is governed by the following provisions:

1. It is the duty of the Tribes, at the time of the issuance of a license under this section, to furnish and deliver to the applicant for the license a tag for the animal for which the license is issued, upon which tag must be stamped or engraved the number of the license, in addition to the information specified in subsection 7 of section 3-03-02.

2. It is the duty of the owner of the animal licensed to place a collar around the neck of the animal, on which collar must be securely fastened the tag furnished by the Tribes.

3. In the event of the loss of any tag issued under this section, the Tribes may issue a duplicate tag upon payment of the sum of \$3.00, upon application being made therefor and satisfactory proof that such tag has been lost.

4. A license tag may not be transferred from one animal to another.

3-03-04. **Running at Large Prohibited ; Wastes.**

1. It is unlawful for any owner or keeper of a dog or a cat to allow the animal to be at large within the corporate limits of any city or within any established community or residential area situated within the Reservation. No intent or knowledge of the owner or keeper of the dog or the cat is necessary to prove a violation of this provision.

Any person charged with an offense under this provision shall have the option of posting and forfeiting the following amounts as applicable, in lieu of personally appearing before the tribal judge:

First offense: \$100 bond plus, if applicable, assessed impound and care fees.

Second offense: \$200 bond plus, if applicable, assessed impound and care fees.

Third offense: \$300 bond plus, if applicable, assessed impound and care fees.

Fourth and all subsequent offenses: \$500 bond plus, if applicable, assessed impound and care fees.

2. Every owner or person having control of a dog or cat shall collect and properly dispose of the solid waste eliminated by the dog or cat within the corporate limits of any city or within any established community or residential area situated within the Reservation.

3-03-05. **Impoundment.** The impoundment and disposition of impounded dogs and cats is governed by the following provisions:

1. Any dog found at large may be seized and impounded by any police officer or animal warden.

2. Any cat found at large may be seized and impounded by any police officer or animal warden, upon reasonable cause to believe that the cat is without proper care and control, is lost or abandoned, or is a public nuisance, as defined in section 3-03-06.

3. The owner of any impounded dog or cat, if the owner's identity and location can be ascertained by reasonable means, shall, within twenty-four (24) hours following impoundment, be notified that the dog or cat has been impounded. The notice must be in writing, and shall inform the owner that, if the dog or cat is not redeemed within three (3) days following notice, the dog or cat will be put up for adoption or disposed of; provided, however, that the owner may, within three (3) days following notice, request, in writing, a hearing before the tribal judge, in which case the dog or cat may not be disposed of pending the hearing. Following the hearing, the tribal judge may order that the dog or cat be returned to the owner or otherwise disposed of, and shall order payment of expenses and costs accordingly.

4. A fee of \$35.00 must be assessed whenever any dog is impounded under this chapter. A fee of \$35.00 must be assessed whenever any cat, which is required to be licensed, is impounded, if the cat is not licensed. A fee of \$15.00 must be assessed whenever any cat under the age of six (6) months, or any cat over the age of six (6) months which is licensed, is impounded. An additional fee of \$6.00 or the actual cost, whichever is greater, must be charged for each day, or fraction thereof, of impoundment for feeding and caring for such dog or cat.

5. The owner of any impounded dog or cat which has not been vaccinated in accordance with this chapter, upon satisfactory proof of ownership, may redeem the dog or cat upon

payment of all fees and expenses and shall be allowed twenty-four (24) hours following redemption to have such dog or cat vaccinated. If the owner fails to procure, and submit to a police officer or animal warden, a certificate of vaccination within twenty-four (24) hours following redemption of the animal, the dog or cat shall again be seized and impounded.

6. If the owner of any impounded dog or cat fails to redeem the animal within three (3) days after notice to the owner located through reasonable means, any other person may, upon complying with the provisions of this chapter, redeem the dog or cat and be the lawful owner of the animal thereafter. No person may act as the agent or on behalf of the owner to redeem a dog or cat after the three-day period, in order to avoid the impound and care fees.

7. Any impounded dogs or cats (a) for which an owner cannot be located and which are not claimed within three (3) days following impoundment, or (b) which have not been redeemed or purchased as authorized by this chapter within three (3) days of such impoundment or, if the owner is known, within three (3) days after notice to the owner, may be disposed of in a humane manner, unless a written request for a hearing has been filed with the tribal judge by any person in accordance with the procedures set forth in subsection 3 of this section.

3-03-06. Public Nuisance.

1. Any dog or cat that has committed any of the following acts shall be deemed a public nuisance:

- a. Is habitually at large.
- b. Habitually annoys, barks at or chases people or vehicles.
- c. Habitually disturbs the peace by barking, howling or fighting.
- d. Bites any person off the premises of the owner or any person lawfully on the premises of the owner.
- e. Habitually attacks and injures, without provocation, any domestic animal, bird, or other animal protected by law.

2. Upon complaint made by an animal warden before the tribal judge and (a) notice to the owner of the animal or, if the owner is unknown, after ten (10) days notice by publication and (b) a hearing, the tribal judge, upon a finding that a dog or cat is a public nuisance, shall:

- a. order the confinement of such animal within a building or secure enclosure, said animal not to be removed from such building or enclosure without being effectively restrained by chain or leash not exceeding six (6) feet in length and/or properly muzzled; or

- b. order the seizure and surrender of such animal to the humane society or other animal placement organization or to an animal warden for the purpose of placement outside the Reservation or humane destruction; or
- c. issue such other order as may be necessary to abate the nuisance.

The tribal judge may assess costs and expenses to the owner or keeper of the dog or cat.

3-03-07. **Prohibited Dogs.**

1. As used in this section, the term “prohibited dog” means (a) any dog of the breed known as American Pit Bull Terrier, as described or registered by the American Dog Breeders Association, (b) any dog that is not registered with the American Kennel Club or the United Kennel Club of the breed either known as bull terrier, Staffordshire bull terrier, or American Staffordshire, or (c) any dog of mixed breed including one or more of the above breeds.

2. Except as permitted in subsection 3 of this section, it is unlawful for any person to own, keep or harbor any prohibited dog within the Reservation.

3. A dog of a breed described in subsection 1 of this section owned, kept, or harbored by a person residing within the Reservation on the date this chapter takes effect may be kept within the Reservation for the life of the animal, provided that each of the following requirements is met:

a. The dog must be licensed and inoculated as required by section 3-03-01. Furthermore, the owner or keeper of the dog must, no later than sixty (60) days from the effective date of this chapter, register the dog, as a dog subject to the special requirements of this section, with the tribal licensing officer.

b. Any offspring of the dog must be permanently removed from the Reservation within twelve (12) weeks of birth.

c. The dog must be kept indoors or within a secure kennel or fenced enclosure or harnessed and leashed at all times. The kennel or fenced enclosure must be enclosed with secure walls and a roof. The kennel or fenced enclosure must have minimum dimensions of ten (10) feet by five (5) feet, and must be constructed in such a manner as to prevent escape by the dog and to prevent access by young children. All gates must be locked at all times when the kennel or fenced enclosure is not in use.

d. Whenever the dog is outdoors and not securely confined within a kennel or fenced enclosure, the dog must be effectively restrained with an unbreakable harness and unbreakable chain, leash or cord not more than four (4) feet in length.

e. Upon conviction for a violation of this section, the tribal judge shall, in addition to any other penalty authorized by law, order that the dog in question be seized and surrendered to the humane society or other animal placement organization or to an animal warden for the purpose of placement outside the Reservation or humane destruction.

Special Meeting thereof duly called, noticed, convened, and held on the 16th day of May, 1997; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 6 members, 0 members opposed, 0 members abstained, 1 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 16th day of May, 1997.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:



Chairman, Tribal Business Council