

TITLE 10. HEALTH, SAFETY, AND WELFARE

Chapter 10.9

ANIMAL CONTROL

Sections:

10.9.1	Purpose.
10.9.2	Dangerous Animals Banned.
10.9.3	Neglect of Dogs or Other Animals Prohibited.
10.9.4	Definitions.
10.9.5	Penalties.
10.9.6	Defenses.
10.9.7	Seizure of Dangerous Animals.
10.9.8	Adjudication.

10.9.1. Purpose. The purpose of this chapter is to protect human health and safety and to prevent injury to property and cruelty to animals. It is the intent of this chapter to control animals within the Port Madison Indian Reservation to achieve this purpose.

The Suquamish Tribal Council finds in order to protect the public health, safety, and welfare that possession of dangerous animals should be prohibited on the Port Madison Indian Reservation. The interests of persons possessing dangerous animals on the Port Madison Indian Reservation is outweighed by the necessity to protect the public from unprovoked attack by such animals. The public interest will best be served by outlawing dangerous animals on the Port Madison Indian Reservation. In addition the Suquamish Tribal Council finds that owners should be required to restrain all domestic animals in their possession. (Res. 2005-193, passed Oct. 24, 2005)

10.9.2. Dangerous Animals Banned. No person shall allow any dangerous animals as defined in §10.9.4 to be present within the exterior boundaries of the Port Madison Indian Reservation at any time. (Res. 2005-193, passed Oct. 24, 2005)

10.9.3. Neglect of Dogs or Other Animals Prohibited. No person shall allow a dog or other animal owned by such person or in his or her lawful custody to roam at large or wander through populated areas. (Res. 2005-193, passed Oct. 24, 2005)

10.9.4. Definitions. When the words listed in this section appear in this chapter, they shall have the following meaning unless a different meaning is clearly intended.

(a) "Dangerous animal" means an animal that meets the definition of a vicious animal, a fighting animal, or an attack animal except that law enforcement K-9 animals shall be excluded from this definition.

(b) "Vicious animal" means:

(1) Any animal that bites a person or another animal;

(2) Any animal that demonstrates any behavior that would lead a reasonable person to believe the animal may attack or bite a person or another animal without provocation;

(3) Any animal with a known propensity, tendency, or disposition to attack without provocation or to cause injury to or to otherwise endanger the safety of human beings or domestic animals; or

(4) Any rabid animal.

(c) "Fighting animal" means an animal that has been trained or prepared to fight with other animals or whose owner actually allows and/or encourages it to fight with other animals or to kill other animals, whether or not the animal has actually fought.

(d) "Attack animal" means one that has been trained to attack humans or animals on command, without physical provocation on the part of the person or animal attacked. (Res. 2005-193, passed Oct. 24, 2005)

10.9.5. Penalties. (a) Any person found by a preponderance of the evidence to have violated §10.9.2 shall be subject to a civil penalty of up to one thousand dollars (\$1,000). The defendant shall be required to appear in court for a preliminary hearing (i.e., mandatory appearance).

(b) Any person found by a preponderance of the evidence to have violated §10.9.3 shall be subject to a civil penalty of up to five hundred dollars (\$500). The defendant shall not be required to appear in court for a preliminary hearing.

(c) The Tribal Court shall order any animal determined to be dangerous to be destroyed. The Tribal Court may make any other arrangements it deems appropriate with respect to animals that have been adjudicated to have been neglected.

(d) The owner of any animal determined to be a dangerous animal, as defined in §10.9.4, or any owner adjudicated to have neglected any animal shall pay all costs for storage or destruction or disposal of the animal and will also be held liable for any and all damages caused by the animal. (Res. 2005-193, passed Oct. 24, 2005)

10.9.6. Defenses. (a) It is a defense to an alleged violation of this chapter only if, at the time of the incident:

(1) The animal was lawfully restrained or contained on its own property or controlled by a leash held by the owner or the owner's designee; AND

(2) The animal has bitten an animal or person in defense of itself, the owner or designee, another member of the family household, or family livestock.

(b) Proof of provocation of the dangerous animal by the victim may not be used as a defense to the allegation of possessing a dangerous animal but may only be used to mitigate the penalty imposed, except that provocation may not be used for mitigation purposes if the victim is a child under ten (10) years of age at the time of the attack. (Res. 2005-193, passed Oct. 24, 2005)

10.9.7. Seizure of Dangerous Animals. (a) Any police officer having reasonable grounds to believe an animal may meet the definition of dangerous animal may immediately impound the animal. If the animal attempts to attack or bite any person during the impound process or if it is loose and cannot be captured immediately, it may be immediately destroyed by gunfire by a commissioned tribal police officer, in order to protect the community. The owner shall still be subject to all penalties of this chapter.

(b) Any animal that has been identified by the tribal police as a dangerous animal and removed from the Port Madison Indian Reservation shall not be returned to the Port Madison Indian Reservation until the matter has been adjudicated in accordance with this chapter. Any animal so excluded that is returned to the Port Madison Indian Reservation before such court adjudication will be immediately impounded again and will be destroyed. The owner shall still be subject to all penalties of this chapter. It shall be no defense that the animal is in a vehicle and is just “visiting” or “passing through” the tribal community.

(c) Any person having reasonable grounds to believe an animal may meet the definition of dangerous animal may lawfully kill such animal when reasonably necessary to protect his or her own person or the public safety. (Res. 2005-193, passed Oct. 24, 2005)

10.9.8. Adjudication. (a) Civil Citation. (1) A Suquamish police officer may issue a civil citation for a civil violation of this chapter or any regulations adopted thereunder when the offense is committed in the officer’s presence or when the officer otherwise has probable cause to believe that an offense has been committed. The citation shall be on a form approved by the Tribe and shall include the following:

- (A) The name of the offender.
- (B) The date, time, and location of the incident.
- (C) The section of this chapter which has been violated.
- (D) Whether or not a court appearance is mandatory.

(E) The monetary penalty for the offense unless the defendant is required to appear in court.

(F) A space for the defendant to sign, promising to appear for the court date, if required. If the defendant refuses to sign the citation, the officer shall write "refused" in the space provided. A person who refuses to sign a citation is presumed to have notice of its contents.

(G) Instructions to the defendant, when an appearance is not required, that he or she can either pay the penalty, request a hearing to explain the circumstances surrounding the violation, or request a hearing to contest the charge.

(H) Notice to the defendant when an appearance is not required that the fine must be paid or a hearing requested within seven (7) days of receiving the citation.

(2) Nothing in this section shall preclude the Tribe from instituting proceedings by filing a civil complaint.

(b) Mandatory Court Appearance. When a defendant is required to appear for a preliminary hearing, he or she shall appear at the time and date stated on the notice of infraction or summons, unless a continuance is granted.

At the preliminary hearing, the defendant shall:

(1) Admit liability and pay the fine; or

(2) Admit liability but request a mitigation hearing; or

(3) Deny liability and request a hearing to contest the charge.

(c) Resolution without Court Appearance. When a civil violation has occurred and the defendant is not required to appear in Tribal Court for a preliminary hearing, he or she shall within seven (7) days of receiving a notice of infraction:

(1) Admit liability and pay the fine; or

(2) Admit liability and request a mitigation hearing to explain the circumstances surrounding the offense; or

(3) Deny liability and request a hearing to contest the charge.

No further proceedings shall be initiated against any person who pays the fine pursuant to §10.9.8(c)(1).

(d) Mitigation Hearing. At the mitigation hearing, the defendant shall have the burden of proof. The defendant may present evidence of mitigating circumstances and ask the Court to reduce the monetary penalty.

(e) Hearing to Contest the Charge. At a hearing to contest a civil charge, the Tribe shall have the burden of proving by a preponderance of the evidence that the defendant committed the offense.

If the Tribe does not meet its burden:

(1) The case shall be dismissed with prejudice; and

(2) The defendant may present evidence of mitigating factors.

(f) Failure to Appear for Hearing or to Pay Fine. (1) Any person who does not appear for a hearing or who fails to pay a fine within seven (7) days of receiving a citation under this chapter shall be deemed to have admitted committing the charged offense. The Court shall enter a default judgment against the offender if it finds that:

(A) A notice of infraction was issued;

(B) The offender was informed of the date and time of the hearing or of his or her duty to pay the fine or request a hearing; and

(C) The offender did not appear at the appointed time and place, did not pay the fine, or did not request a hearing within seven (7) days of receiving a citation.

(2) The Tribe may institute a civil proceeding to collect the fine and up to an additional one hundred and fifty dollar (\$150) penalty.

(g) No Right to Appointed Counsel. No person shall be entitled to appointed counsel when the charged offense is a civil infraction.

(h) No Right to Jury Trial for Civil Offense. No person shall be entitled to a jury trial when the charged offense is a civil infraction. (Res. 2005-193, passed Oct. 24, 2005)