

CHAPTER 25

AGRICULTURE AND ANIMALS

§1 The use of a knife or other cutting instrument in harvesting Fiddlehead Ferns or Cinnamon Fern (*Osmund Cinnamoea*) is prohibited.

§2 No persons other than a member of the Penobscot Nation or a spouse of such member shall take or harvest Fiddleheads without obtaining a permit from the Penobscot Nation.

§2-A Permit Fee. The permit fee shall be \$10 to pick for one day, not to exceed one (1) bushel of Fiddleheads.

§2-B Non-member Spouse. Any non-member spouse who is accompanied by their family will be permitted to harvest commercially to supplement the Indian family's income.

§2-C Permit Waiver. The Fiddlehead permit fee shall be waived for persons over the age of sixty (60).

§2-D Free Permits. An Indian person of the Passamaquoddy, Maliseet, and MicMac Tribes shall be issued a free permit to pick one (1) bushel of Fiddleheads per permit per season. It will be up to the Indian to prove their membership in any one of the three (3) mentioned Tribes.

§2-E Landowner Permit. Tribal Wardens may issue a complimentary Fiddlehead permit without fee to landowners providing access to the Penobscot River for Tribal employees and members of the Penobscot Nation.

§3 Registration and Licensing of Dogs

§3-A Police Dept. to be furnished with list of dogs. The Governor of the Penobscot Nation shall make or cause to be made a list of all dogs belonging to any member of said Tribe, and all other persons owning or caring for dogs residing on said Penobscot Nation.

§3-B Dogs to be licensed; fee and general provisions. Each member of the Penobscot Nation and all other persons residing on the Penobscot Reservation who own, keep or have in their possession a dog more than 4 months old, shall annually before the first day of April, cause such dog or dogs to be registered, numbered, described, and licensed. The owner of such licensed dog shall keep around its neck a collar distinctly marked with the owner's name and the dog's registration number. No dog shall be licensed until the owner of said dog shows proof of rabies inoculation within the last two years. A license fee of prevailing prices shall be charged for each female/male dog unless a certificate issued by a licensed veterinarian is presented which states such female dog was incapable of bearing young by spaying or such male dog is incapable of siring by castration. A previous license or record that such dog has been spayed/castrated shall be accepted in lieu of such certificate. When such certificate or record accompanies the application a fee of prevailing prices shall then be paid on such spayed/castrated dog. Any member of said

Tribe and all other persons residing on said reservation who becomes owner or keeper of a dog which is not duly licensed after the first day of April, shall cause it to be registered, numbered, described and licensed as provided.

§3-C License Fee; How Expended. Said police department shall issue said license and receive the money therefore. The money shall be turned into the Department Fund to be used for Departmental purposes in accordance with guidelines established by the Public Safety Committee.

§3-D Barking or Howling Dog. No person shall own, keep or harbor any dog which by loud, frequent or habitual barking, howling or yelping shall disturb the peace of any person.

§3-E Dogs Not to Run At Large. It shall be unlawful for an owner or keeper of a dog, licensed or unlicensed, to allow such dog to run at large, except when used for hunting bears, raccoons, rabbits, or birds. The owner or keeper of any dog found running at large shall be subject to the penalties provided in this chapter.

“At Large” means off the premises of the owner or keeper and not under control of any person whose personal presence and attention would reasonably control the conduct of such dog.

“Owner” means any person or persons, firm, partnership, association, or corporation owning, keeping or harboring a dog.

“Keeper” means any person or persons, firm, partnership, association, or corporation who has the care, custody, management or possession of a dog.

“Dangerous Dog” shall mean a dog which shall cause reasonable fear of bodily injury to any person by attacking or threatening to attack such person.

“Dog” shall mean both male and female.

§3-F Stealing or Killing Dog. Whoever steal or confines and secretes any dog, or willfully or negligently injures or willfully or negligently kills any such dog except as provided in Section 3-G and unless such killing be justifiable in the protection of persons, property, or game shall be subject to the general penalties provision and shall be liable to the owner in a civil action for the full value of the dog.

§3-G Killing for Assault. Any person may lawfully kill a dog which suddenly assaults him or another person when peacefully walking, riding, jogging or running.

§3-H Dog Killed for Hunting or Worrying Certain Animals. It shall be unlawful for any dog to hunt, chase, kill or wound or pursue any moose, caribou or deer at any time or any other wild animal in closed season.

- A. Any officer may kill any dog which he finds hunting, chasing, killing, wounding or pursuing a moose, caribou, deer or eld at any time or any other wild animal in closed season, or any dog which he finds worrying, wounding, or killing any domestic animal when said dog is outside of the enclosure or immediate care of its owner or keeper.

B. Any owner of livestock or poultry or any member of his family or any person to whom is entrusted the custody of any livestock or poultry shall have the right to kill any dog attacking any of said livestock or poultry. Any person having evidence of any dog hunting or chasing moose, caribou or deer, or of any dog kept and used for that purpose or of any dog worrying, wounding or killing any livestock or poultry, when said dog is outside of the enclosure or immediate care of its owner or keeper may present evidence to the Clerk of the Tribal Court. Said clerk shall have the power to issue a warrant against said owner of said dog ordering him to appear before said court and show cause why said dog should not be killed. Upon hearing the evidence in said case, said court may order said dog killed.

§3-I Disposal. Any police officer, animal control officer or game warden working for the Penobscot Nation shall seize, impound or restrain any dog hound in violation of any part of this section and shall deliver such dog to any person or shelter authorized to board dogs at the expense of the owner of such dog. It is specifically provided that any dog that bites a person shall be seized and impounded and that such dog cannot return to the Penobscot Indian Reservation. Such dogs shall be handled as strays or abandoned dogs.

§3-J Violations. In addition to seizing and impounding the dog, the officer having jurisdiction may bring suit against the owner of a dog which is found in violation of this chapter, and such owner shall be subject to a civil forfeiture of not less than \$25 and not more than \$100 for the first offense.

§3-K Complaints, Damages and Costs. Whoever is assaulted by a dog when peaceably walking or riding or finds a dog outside the premises of its keeper and the said dog is not safely muzzled, may, within 4 days thereafter, make a written complaint before the Tribal Court that he believes or has reason to believe that said dog is dangerous and vicious.

Whereupon said court shall order said owner or keeper to appear and answer to said complaint by serving said owner or keeper of said dog with a copy of said complaint and order a reasonable time before the day set for the hearing thereon. If, upon hearing, the court is satisfied that the complaint is true, it shall order the dog to be killed or order said owner or keeper of said dog to muzzle said dog, restrain said dog, or confine said dog to the premises of said owner or keeper and the owner or keeper shall pay the costs. If the order of said court is not complied with within, the time fixed by such order, the court making said order may upon application by the complainant or other person, issue his warrant directed to the Tribal Police commanding such officer forthwith to kill said dog and to make return of his doings on said warrant to the court issuing the same within 14 days from date thereof. The officer shall receive from the Nation \$2 for execution of said warrant, together with his fees for travel, and the owner or keeper shall be ordered to pay the costs of such supplementary proceedings. If a dog whose owner or keeper refuses, or neglects to comply with said Order, wounds any person by a sudden assault, or wounds or kills any domestic animal, the owner or keeper shall pay the person injured triple damages and costs, to be recovered by a civil action.

§3-L Rabies.

- (a) Upon positive diagnosis of rabies in any animal within Penobscot Indian Territory. Chief/Vice-Chief, shall proclaim and invoke an area wide quarantine for a period of thirty (30) days, and upon the invoking of such quarantine, no animal shall be taken into the area or be permitted to be in the area during such period of quarantine.
- (b) During such period of rabies quarantine as herein described, every animal bitten by an animal adjudged to be rabid shall be forthwith destroyed or, at the owner's expense and option, shall be treated for rabies infected by a licensed veterinarian, or held thirty (30) days under quarantine by the owner in the same manner as other animals are quarantined.
- (c) In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended by the Governor/Lt. Governor for an additional six (6) months.
- (d) The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the director of public safety or Indian Health Services.
- (e) The director(s) shall direct the disposition of any animal found to be infected with rabies.
- (f) No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefore by the director(s):

§3-M Appointment of Dog Officer; duty.

- (a) The Chief shall designate one (1) animal control officer to be the dog officer of Penobscot Indian Territory.
- (b) The animal control officer shall enforce the state and tribal laws regarding dogs.

§3-N License for newly acquired dog. Any person becoming the owner or keeper of a dog six months old or older after the first day of April, not duly licensed as required by this article, shall, within ten (10) days after he becomes the owner or keeper of such dog, cause the dog to be described and licensed as required by this section.

§3-P Tribal health officer to investigate bites. The tribal health officer shall investigate all dog bites referred to him by the police department.

§3-Q Required action of owner upon learning of his dog biting a person.

- (a) It shall be unlawful for the owner or person keeping or harboring any dog, when notified that such dog has bitten any person or has caused a skin abrasion to any person, to sell or give away such dog or to permit or allow such dog to be taken beyond the Penobscot Indian Territory limits, except under the care of a licensed veterinarian. If such dog is sold or given away

before notification, then such pertinent information as to the new owner of the dog shall be released to the police or animal control officer.

- (b) It shall be the duty of such owner or keeper upon receiving notice of the character aforesaid, to immediately place such dog under confinement for a period of at least fourteen (14) days, or to deliver such dog to the police department. The director(s) and the tribal health officer shall be notified immediately by the person in charge of the death of any dog while under confinement.
- (c) It shall be unlawful for the owner or person keeping or harboring any dog when notified that such dog has bitten any person or has so injured any person as to cause abrasion of the skin to destroy such animal without permission from tribal health officer.

§3-R Impoundment of bitten dogs. Any dog which shall have been bitten by another dog having or suspected of having rabies shall be immediately impounded for observation as provided in this article.

§3-S Authority to transfer title to unclaimed dogs. The tribe may transfer title of all dogs held by it at its animal shelter after the legal detention period has expired and the animal has not been claimed by its owner.

§3-T Disposal of dog at owner's request; fee. At the owner's request, which shall be in writing, dogs may be disposed of, by the tribe for situations not provided for in this article upon payment of a fee for costs by the owner to the tribe.

§3-U When dogs may be killed; disposition of carcass, brain. If any dangerous, fierce, or vicious dog cannot be sagely taken up and impounded, such dog may be slain by any policeman or duly authorized animal control officer. In all cases where any dog which has bitten a person or caused an abrasion of the skin of any person, is slain by any policeman whether by any policeman whether by order of the court or otherwise and a period of less than fifteen (15) days has elapsed since the day on which such dog bit any person or caused an abrasion of the skin of any person, it shall be the duty of the policeman slaying such dog to forthwith deliver the carcass and brain to the Director of Public Safety who shall forward the brain intact to the Director of Indian Health Services.

§3-V Number of dogs limited.

- (a) It shall be unlawful for any person to keep or harbor within more than three (3) dogs over four (4) months old in or about any premises, house, barn or other buildings, or in or about all buildings on anyone (1) premises occupied as aforesaid is hereby declared to be a nuisance.
- (b) The payment of a license fee on dogs shall not be construed to allow the keeping of more than three (3) dogs, as aforesaid, on anyone (1) premises.
- (c) This limitation shall not apply to any person, group of persons, or corporations engaged in the commercial business of breeding, buying, selling, or boarding of dogs or operating a veterinary hospital, or those persons who own sporting

and/or racing dogs. Provided, however, dogs are kept in accordance with this chapter.

§3-W Dangerous dogs a nuisance; restraint required.

- (a) Any dangerous dog is hereby declared to be a nuisance.
- (b) The owner of any dangerous dog shall keep the seine confined in a secure enclosure or on a chain or lease controlled by the owner at all times and shall not permit such dog to be at large within the Penobscot Indian Territory.

§3-X Bitches in heat. The owner of any bitch in heat shall keep the same confined and protected at all times and shall not permit such dog to be at large within premises other than those of the owner.

§3-Y Removal of canine fecal matter All dog owners and keepers are required to immediately and properly dispose of their dog's solid waste deposited on any property, public or private, not owned or possessed by that person. Violations of this law will subject the person to a fine as set forth in section 3-J.

HISTORICAL NOTES

At a General Meeting held August 13, 1986, amendments and additions were made to the Dog Ordinance of the Penobscot Nation. At this meeting, §3-B was amended, former §3-B “Each member of the Penobscot Nation and all other persons residing on the Penobscot Reservation who own, keep to have in their possession a dog more than 4 months old, shall annually before the first day of April, cause such dog or dogs to be registered, numbered, described and licensed. The owner of such licensed dog shall keep around its neck a collar distinctly marked with the owner’s name and the dog’s registration number. No dog shall be licensed until the owner of said dog shows proof of rabies inoculation within the last two years. A license fee of \$7.50 shall be charged for each female/male dog unless a certificate issued by a licensed veterinarian is presented which states such female dog was made incapable of siring by castration. A previous license or record that such dog has been spayed/castrated shall be accepted in lieu of such certificate, when such certificate or record accompanies the application a fee of \$5 shall then be paid on such spayed/castrated dog. Any member of said Tribe and all other persons residing on said reservation who becomes owner or keeper of a dog which is not duly licensed after the first day of April, shall cause it to be registered, numbered, described and licensed as provided.” Additions made to §3-E. Sections 3-L “Rabies”; 3-M “Appointment of Dog Officer; duty”; 3-N “License for newly acquired dog”; 3-P “Tribal health officer to investigate bites”; 3-Q “Required action of owner upon learning of his dog biting a person”; 3-R “Impoundment of bitten dogs”; 3-T “Disposal of dog at owner’s request; fee”; 3-U “When dogs may be killed; disposition of carcass, brain”; 3-V “Number of dogs limited”; 3-W “Dangerous dogs a nuisance; restraint required” and 3-X “Bitches in heat” were added at this time.

At a General Meeting held November 26, 1991, amendments were made to the Dog Ordinance of the Penobscot Nation. At this meeting, §3-E was amended, former §3-E “It shall be unlawful for any dog, licensed or unlicensed to run at large except when used for hunting bears, raccoons and birds. ‘At large’ means off the premises of the owner and not under control of any person by means of personal presence and attention as will reasonably control the conduct of such dog. ‘Owner’ means any person, or persons, firm, association, or corporation owning, keeping or harboring a dog. ‘Dangerous Dog’ shall mean a dog which shall cause reasonable fear or bodily injury to any person by attacking or threatening to attack such person. ‘Dog’ shall mean both male and female.”

At a General Meeting held May 07, 2011, amendments were mad to the Dog Ordinance of the Penobscot Nation. At this meeting §3-I Disposal was amended adding language: “at the expense of the owner of such dog. It is specifically provided that any dog that bites a person shall be seized and impounded and that such dog cannot return to the Penobscot Indian Reservation.” Also added: §3-Y Removal of canine fecal matter All dog owners and keepers are required to immediately and properly dispose of their dog's solid waste deposited on any property, public or private, not owned or possessed by that person. Violations of this law will subject the person to a fine as set forth in section 3-J.

CAT ORDINANCE

4.A. Excessive Number Prohibited.

It shall be unlawful to own, keep or harbor more than five cats that are six months of age or older on any premises. Only one litter of offspring may be kept on the premises until the age of six months. Any person violating this section in addition to being fined as provided in this ordinance may also have their cats impounded by the Penobscot Nation Public Safety Department (hereafter the “Department”) at their expense as provided in Section E below. “Owner” means an adult person or temporary or permanent custodian possessing, harboring, keeping, sheltering or having control or custody of a cat or any person having any financial interest, right, or property in the cat and also includes any person who knowingly permits a cat(s) to remain on or about any premises occupied by that person. The “Owner” is also deemed to include the title owner of any premises where such cats are located as well as any tenant, guest or invitee living in such premises.

4.B. Public Nuisance Prohibited.

It shall be unlawful for any person to own, keep possess or maintain a cat in such a manner so as to constitute a public nuisance. Any person violating this section in addition to being fined as provided in this ordinance may also have their cats impounded as provided in Section E below. The actions of a cat constitutes a public nuisance when that animal disturbs the rights of, threatens the safety of, or damages a member of the general public or interferes with the ordinary use and enjoyment of their property. Additionally, the following shall be deemed a nuisance.

- (1) Any cat that causes damages to the property of anyone other than the owner;
- (2) Any cat that is a vicious animal in that it may cause injury to any person/s animal or property or may be a hazard to public safety.
- (3) Any cat which defecates on any public sidewalk, park or building or on any private property without the consent of the owner or such property, unless the person owning, having a proprietary interest in, harboring, or having care, charge, control, custody, or possession of such animal shall remove any such defecation to a proper trash receptacle.
- (4) Any cat that cases unsanitary condition in enclosures or surroundings.
- (5) Any cat which defecates on any public sidewalk, park or building or on any private property without the consent of the owner of such property, unless the person owning, having a proprietary interest in, harboring, or having care, charge, control, custody, or possession of such animal shall remove any such defecation to a proper trash receptacle.
- (6) Whine, calls or makes other disturbing noises in an excessive, continuous, or untimely fashion.
- (7) Attacks other domestic animals.
- (8) Is determined by the Chief of Police to be offensive or dangerous to the public health, safety or welfare.

4.C. Registration

All cats six months of age or older must be registered annually with the Department. Such registration is valid for only one year. The Department shall issue tags as proof of registration. In order to register a cat, the owner must show proof of up-to-date rabies, feline panleukopenia (FPV), feline viral rhinotracheitis (FHV-1) and feline calivirus (FCV) and feline leukemia (FelV) vaccination plus a certificate of spay or neuter by a licensed veterinarian and pay a fee to the Department. The fee will be determined by the Department. The certificate of spay or neuter will be waived for those individuals who receive a special permit from the Department for the purpose of breeding pedigree cats.

4.D. Impoundment.

(a) Any unregistered cat found running at large shall be impounded by the Department and confined in a humane manner. "Running at large" is defined as off the premises or outside the vehicle of the owner of the car. Immediately upon impounding a cat, the Department shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Cats not claimed by their owners within a period of seven (7) days shall become the property of the Nation and may be transferred to local animal shelters or euthanized as the Department determines.

(b) When an unregistered cat is found running at large and its ownership is verified by the Department, the authority may exercise the option of serving the owner with a notice of violation in lieu of impounding the animal.

(c) In the event that the Department finds cats to be suffering, it shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when necessary to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

(d) Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

(e) All costs associated with the impoundment, including but not limited to impound fees and boarding fees shall be the responsibility of the owner. These costs shall be paid in full prior to reclaiming the cat. If the owner fails to reclaim the cat, the owner shall still be responsible for those costs. The Department may request that the Tribal Court order payment of reimbursement by the owner for the expense of any such impoundment.

4.E. Penalties.

Any person found guilty of violating any provision of this ordinance shall, upon the first conviction, be subject to the payment of a fine of not less than \$50.00, upon the conviction of a second offense occurring within a one-year period shall be fined a sum not less than \$75.00, and upon the third and subsequent offenses committed with a one-year period shall be fined an

amount no less than \$100.00 nor more than \$1000.00. None of the fines shall be suspended by the Tribal Court.

4.F. Enforcement.

It shall be the duty of the officers of the Penobscot Nation Police Department to enforce the regulations established by this Ordinance.