

## CHAPTER 85 – ANIMAL CONTROL

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### Chapter 85.04

### ANIMAL CONTROL

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**SECTION 85.04.010 Definitions:** For purposes of this chapter, the following definitions apply:

“Animal” for the purpose of this ordinance, animal shall mean dog or cat.

“Animal control area” means the all Tribal lands.

“Animal control officer” means a person appointed to enforce animal control and who is under contract with the Ely Shoshone Tribe and County of White Pine or City of Ely.

“Animal shelter” means a facility designated or recognized by the Ely Shoshone Tribe for the purpose of impounding and caring for animals.

“At large” means a dog or cat shall be deemed to be at large when off the property of the owner and not under restraint.

“Cat” means any domesticated animal of the feline family of either sex.

“Dangerous” dog or cat means a dog or cat that without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat or serious injury or death to one or more persons or domestic animals.

“Dog” means any domesticated animal of the canine family of either sex. The term “dog” does not include wolves or wolf hybrids.

“Feral cat” means a cat that it has no apparent owner or identification; and appears to be unsocialized, unmanageable or demonstrates characteristics normally associated with wild or undomesticated.

“High Density Residential” means the purpose of high density residential is to provide a permanent area for multi family dwellings from 2 to 4 units.

“Household” means any domicile for persons, regardless of the number of persons residing there.

“Humane manner” means the care of an animal to include, but not be limited to, adequate heat, ventilation and sanitary shelter, wholesome food and water, consistent with the normal requirements and feedings habits of the animal’s size, species, and breed.

“Kennel” means any enclosure, premises, building, structure, lot or area where three (3) or more dogs of a recognized type or registered breed over four (4) months of age are kept, harbored or maintained for breeding; for showing in recognized dog shows, field or obedience trials; for working or hunting; or for improving the variety or breed in

temperament or conformation with a view to exhibition in shows or trials or for use as working dogs or hunting dogs.

Kennel includes any enclosure, premises, building, structure, lot or area where three or more dogs over four months of age are kept, harbored, or maintained for commercial purposes.

“Livestock guarding dogs” means dogs kept for the primary purpose of protecting livestock from predatory attacks.

“Low Density Residential” means the purpose of low density residential is to provide a permanent area for single family dwellings including accessory buildings, family gardening, and the raising of pets such as horses, cows, sheep, etc. Low density residential district can include small acreages of lands from 2 to 5 acres on the fringes of the corporate area where residential uses may be harmoniously integrated with the raising of pets, such as a specified number of horses, cows, sheep, etc.

“Medium Density Residential” means the purpose of medium density residential is to provide a permanent area for single family dwellings which may include attached garage or small accessory buildings.

“Neutered dog” means a dog, whether male or female, which has been surgically rendered incapable of producing offspring, as evidenced by a signed statement to that effect by a licensed veterinarian.

“Nuisance” means a dog or cat shall be considered a nuisance if it: Damages, soils, defiles, or defecates on private property other than the owner’s or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, “dangerous,” or offensive conditions; causes a disturbance by excessive barking or other noise making; or chases vehicles, or molests, attacks, or interferes sons or other domestic animals on public property.

“Nonneutered dog” means a dog, whether male or female, which has not been surgically rendered incapable of producing offspring.

“Owner” means any person keeping, harboring or having charge or control of, or permitting any dog to habitually remain on or be lodged or fed within such person’s house, yard or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises dogs owned by others for a period of less than thirty days.

“Ranch Agricultural Residential” means the purpose of ranch agricultural residential is to provide areas on the fringe of the corporate area where residential uses may be harmoniously integrated with agricultural pursuits and family style farms. The ranch agricultural residential area will be a permanent area for single family dwellings including accessory buildings, small or family farms, and agricultural development for commercial or personal use.

“Restraint” means a dog or cat shall be considered under restraint if it is within the real property limits of its owner or secured by a leash or lead or under the control of a responsible person.

“Running at large”. Except as otherwise specifically provided “running at large” shall mean:

- (a) Within the animal control area as described in all Tribal lands; and
- (b) Off the premises of the owner or custodian of the animal; and

- (c) Not accompanied by or under the immediate control of the owner or the custodian of the animal.

“Service animal” means any animal that has been trained to assist persons with any handicap or disability, such as seeing eye dogs, hearing assist, physically impaired assisting, etc.

“Service animal” “seeing eye dog” and “dog for the hearing impaired” means a dog which has been properly trained, and is actually being used by a blind person or hearing impaired person for the purpose of aiding him or her. These terms include a dog being trained for such purposes.

“Tribal Police” means any officer appointed by the Ely Shoshone Tribal Council assigned with the duty to enforce and uphold the law within the boundaries of the Ely Shoshone Reservation.

**SECTION 85.04.015 Authorization.** The Law Enforcement Department of the Ely Shoshone Tribe (hereinafter referred to as “Tribal Police”), is hereby authorized and directed to carry out the provisions of this Ordinance.

**SECTION 85.04.020 Enforcement – Contractual arrangements.** The Ely Shoshone Tribal Council may enter into a contractual arrangement with another governmental entity, person, business entity, or agency, to facilitate and assist in the implementation and enforcement of this animal control chapter.

**SECTION 85.04.030 Interference.** No person shall interfere with, hinder, or molest any Animal Control Officer or Tribal Police Officer in the performance of any duty as herein provided.

Any person violating this section shall be deemed guilty of a **Category D offense**.

**SECTION 85.04.040 Registration.** Residents of the Ely Shoshone Reservation on Heritage Drive, Arrowhead Circle, JV Walker, Shoshone Circle, Pine Street and any other future roads on all Tribal lands shall be required to register dogs or cats with the Ely Shoshone Tribal Law Enforcement within 30 days upon approval of the subject ordinance.

An owner applying for a dog or cat license shall make application upon a form to be provided by the Ely Shoshone Tribe Law Enforcement Department, which application shall state:

1. Owner’s name, physical residence address and Post Office Box;
2. The name(s), breed, color, sex, and age of each dog or cat owned and kept by him/her, and the date he/she acquired such dog or cat;
3. If dog(s) used for business, the nature of the business, date business established and a copy of the business license.

At the time of application for a dog or cat license, the owner must present to the Ely Shoshone tribe Law Enforcement official a certificate from a licensed veterinarian showing that the dog(s) or cat(s) have been inoculated for the prevention of rabies.

**SECTION 85.04.0453 Number of dog or cat restriction for High Density Residential areas.** Only 2 animals (meaning dog or cat) over the age of four months are allowed per household in any area zoned high density residential, or multi family dwelling units. Authority to enforce this section is granted to any Tribal Police Officer and/or designated animal control officer. A violation of this section is a **Category E offense**.

**SECTION 85.04.0454 Number of dog or cat restriction for Medium Density Residential areas.** Only 3 dogs over the age of four months are allowed per household in any area zoned medium density residential, or single family dwelling units. Authority to enforce this section is granted to any Tribal Police Officer and/or designated animal control officer. A violation of this section is a **Category E offense**.

**SECTION 85.04.0455 Number of animal restriction for Low Density Residential areas.** The following uses are permitted on lots consisting of ½ acre to 5 acres or more for animal raising as an incidental use. Authority to enforce this section is granted to any Tribal Police Officer and/or designated animal control officer. A violation of this section is a **Category E offense**. Number restriction is for animal raising per ½ acre for each of the following:

- a) One cow
- b) Two horses
- c) Two goats
- d) Two sheep
- e) Two lamas or alpacas
- f) Two swine
- g) Thirty poultry
- h) Seven rabbits over the age of 4 months

**SECTION 85.04.0456 Number of animal restriction for Ranch Agricultural Residential areas.** The following uses are permitted on lots consisting of more than 5 acres for family farms for the purpose of animal raising as an incidental or commercial ranching operations. Authority to enforce this section is granted to any Tribal Police Officer and/or designated animal control officer. A violation of this section is a **Category E offense**. Number restriction is for animal raising per ½ acre for each of the following:

- a) One cow
- b) Two horses
- c) Two goats
- d) Two sheep
- e) Two lamas or alpacas
- f) Two swine
- g) Thirty poultry
- h) Seven rabbits over the age of 4 months

**SECTION 85.04.045 Number of dog restriction and foster home.**

- a) Only 3 dogs over the age of four months are allowed per household in any area zoned residential with lots of two and one-half acres or less, and the authority to enforce this section is granted to any Tribal Police officer and designated animal control officer. A violation of this subsection is a **Category E offense**. No dogs may be kept or harbored on any property unless the owner or responsible party of such dogs resides on that property. The above limitations do not apply to dogs being used for the purpose of herding livestock or the protection of livestock against predators on farm or ranch property, or kennels or animal hospitals operated by a licensed veterinarian or persons caring for a friend's dog for a period not longer than thirty days in any one calendar year.
- b) If a dog or cat owner, or responsible party, is selected by either the Tribal Police, animal control officer, or any other established non-profit organization that is established to prevent the needless killing of dogs or cats to foster a dog or cat or dogs or cat(s), that person may house no more than one (1) additional dog, not to exceed four (4) dogs (4) cats, for a period not to exceed sixty (60) days. Upon conclusion of any sixty (60) day period, that dog or cat owner or responsible party, in order to exceed the three (3) dog or cat maximum for an additional period of foster care, as authorized herein, must wait fifteen (15) days before beginning another sixty (60) day foster period with another or the same dog or cat. Additionally, should any neighbor complain to the Tribal Police regarding any violation of any of the provisions of this ordinance, that person's ability to act as a foster owner of an additional dog or cat above the limit of three will be rescinded for a minimum of one year or until that person moves to another location within the Ely Shoshone Reservation.

1. In order to properly monitor foster care providers of dogs or cats, the Tribal Police and animal control officer shall maintain a current list of any foster care providers, including the type of dog(s) or cat(s) for which care is being provided along with a description of the dog or cat(s) or dogs, the date the foster care began, and the date for which foster care for a particular dog or cat will expire. For dogs or cats fostered through an established non-profit organization established to prevent the needless killing of dogs, that organization will provide a current list of any foster care providers they are utilizing, including the type of dog(s) or cat(s) for which care is being provided along with a description of the dog or dogs or cat(s), the date the foster care began, and the date for which foster care for a particular dog will expire, to the Tribal Police and animal control officer.

2. Any foster care provider shall be responsible for any violations of this chapter and liable for any damages caused by the dog(s) or cat(s) as if they were the owner of said foster dog(s).

**SECTION 85.04.047 Cats, number of cats permitted, cats at large.**

- a) Except as otherwise provided, no person shall keep more than four (4) cats over four months of age, at any place, or on any premises, or in any one residence, located within the boundaries of the Ely Shoshone Reservation.

- b) Unless otherwise directed by the Animal Control Officer or Tribal Police, and subject to the provisions of Subsection (c), any cat running at large wearing a current license tag as required by this Title may be returned to its owner by the Animal Control Officer or Tribal Police if the cat:
  - 1) Is captured within one mile radius of the owner's residence;
  - 2) Has not previously been returned to its owner pursuant to this Subsection within the past six months; and
  - 3) The owner is home and willing to take possession of the cat, and the cat can be secured at the residence of the owner.
- c) Any cat running at large may be impounded by the Animal Control Officer or Tribal Police at the designated Animal Control Facility if the cat:
  - 1) Does not qualify to be returned to its owner pursuant to Subsection (a);
  - 2) Is afflicted or suspected of being afflicted with rabies;
  - 3) Has a history of biting;
  - 4) Is a vicious animal; or
  - 5) Is sick or injured and the owner cannot be personally contacted or is unable to take immediate possession of the cat.
- d) Upon proof of ownership, the owner shall be able to remove the cat from impoundment upon payment of an impound fee.
- e) If any such animal is licensed and the license tag has been lost, the same shall, before the release of the animal, be replaced at the expense of the owner.
- f) If such cat is unlicensed, its release shall be conditioned upon the delivery of a certificate of vaccination to the Tribal Police, and the payment to said Animal Control Officer or Tribal Police of the license fee in accordance with the provisions of this Title, whereupon such owner so reclaiming such cat shall be entitled to a license and numbered license tag.
- g) If the cat is unvaccinated, the owner shall also be required to have the cat vaccinated prior to release.

**SECTION 85.04.048 Feral cats.** In order to encourage the stabilization of the feral cat population within the boundaries of the Ely Shoshone Reservation, the Ely Shoshone Tribe may, at its own expense, do the following with respect to a feral cat:

- a) Trap the animal in a humane manner;
- b) Release the cat either:
  - 1) To an Animal Control Officer for adoption or other disposition in accordance with law, or
  - 2) To a responsible person who is willing to:
    - (i) On a regular and ongoing basis, provide the cat with food, water, shelter and, when necessary, medical care;
    - (ii) Maintain a record of the cat's sterilization and vaccination; and
    - (iii) Revaccinate the cat for rabies in accordance with the provisions of the Chapter and provide other vaccinations as may be required by the Health Officer according to veterinarian recommendation.
- c) The Animal Control Officer or Tribal Police may impound any feral cat if:

- 1) The cat poses a threat to public safety or health by reason of a disease or condition which may be transmitted to other animals or humans;
- 2) The cat becomes a public nuisance as described in this chapter.

**SECTION 85.04.050 Search and Seizure.**

- a) The Tribal Police, for just cause, shall have the right to enter upon any property on the Reservation, in order to examine or capture any animal thereon on therein; provided, however, that the Tribal Police shall not have the right to enter a house or structure which is in use as a residence without having first secured a search warrant therefore.
- b) No person shall resist, obstruct or interfere with the Tribal Police, while engaged in the performance of their duty under this Ordinance.

**SECTION 85.04.060 Vaccination.**

- a) A person having care or custody of a dog or cat over the age of six months shall cause such dog or cat to be vaccinated with rabies vaccine. Such vaccination must occur within 30 days from the date of the first caring or having custody of the dog or cat on the Reservation.
- b) A person having care or custody of a dog on the Reservation which has been vaccinated by live virus vaccine shall cause such dog to be re-vaccinated within two years of the prior vaccination.
- c) A person having care or custody of a dog on the Reservation which has been vaccinated with tissue phenolized vaccine shall cause such dog to be re-vaccinated within one year of the prior vaccination.
- d) A person having care or custody of a cat on the Reservation which has been vaccinated shall cause such cat to be re-vaccinated within two years of the prior vaccination.

**SECTION 85.04.070 Restraint of animals – running at large.**

- a) A person having care or custody of any animal shall generally keep such animal upon their premises and under their control. They shall keep such animal properly restrained on and within their premises by a fence or other adequate means so that it will not leave or escape therefrom.
- b) No person shall keep an animal upon or within their premises unless its living area is kept clean and free from offensive odors, animal wastes, rodents, flies, and other unhealthy conditions.
- c) A dog found running at large shall be impounded by the Tribal Police or a contractual authorized agency. The Tribal Police may bring a dog so impounded to an Animal Control facility or dog pound. If the ownership of the dog is proven to the Tribal Police within days, the owner may recover it upon payment of all fees incurred by the Tribe for the impoundment, plus the penalty provided for in this Ordinance for a knowing violation of this Section.
- d) No person shall knowingly permit a dog under their custody and control to run at large on the Reservation. A dog on a public street, or way, or any other public place shall be restrained by a leash.



- e) This section shall not apply to service animals used as seeing eye dogs, hearing assisting, physically impaired assist, or any person with handicaps. Whenever an assist dog is found to be running at large and is captured, the appropriate law officer for the Tribe involved shall take such dog and return it to its owner. In such instance, no citation shall be issued and no fine shall be levied and no criminal complaint shall be issued.

**SECTION 85.04.080 Biting or injury.**

- a) The Tribal Police shall investigate any report of an animal biting, attempting to bite, injure or attempt to injure any person or animal on the Reservation. If after investigation, the Tribal Police determine that any animal has bitten, attempted to bite, injure or attempted to injure any person or animal on the Reservation, the person having care or custody of such animal shall be notified by the Tribal Police.
- b) If the Tribal Police investigation reveals that the animal has attacked, bitten or otherwise injured a person without provocation, the animal can be deemed vicious or dangerous, and notification shall be made to the owner or person having care or custody of the animal in accordance with Section 85.04.090.
- c) If the Tribal Police investigation reveals that the animal has attacked, bitten or otherwise injured a person under the age of eight (8) years of age, regardless of the circumstances, or the provisions of Section 85.04.090, then the animal may be seized by the Tribal Police and humanely destroyed at the owner's expense.

**SECTION 85.04.090 Responsibility of parent and head of household.**

- a) The responsibility for compliance with the provisions of this chapter shall rest upon the head of the household at which a dog or cat is being kept or harbored, whether or not the ownership of such dog or cat is claimed by the other person residing in the household. A husband or wife, or two or more adults living together, may be jointly or separately charged as heads of the household where a dog is kept or harbored if the requirements of this chapter are not complied with.
- b) It shall not be a defense to an alleged violation of this chapter that the true and registered owner of a dog or cat is of such minor age as to prohibit answer in court, and upon such occurrence, the parent or guardian of such minor owner shall be required to appear instead and assume full responsibility for the actions or omissions of their minor. The parent, guardian, or custodian of any child under eighteen years of age who owns, keeps, harbors, or has custody of an animal shall be deemed to be the owner of such animal.

**SECTION 85.04.100 Vicious or dangerous animal.**

- a) It is the responsibility of a person having care or custody of any animal on the Reservation to make himself aware of the propensities of any animal in their care or custody. An animal is known by the person having care or custody to possess vicious or dangerous propensities if:

1. It is the type, kind of species of animal that is generally known to bite or injure people or other animals.
  2. It is not of a species generally known to bite or injure people or other animals but the particular animal has bitten, attempted to bite, injured or attempted to injure a person or animal and such fact was personally observed by the person having care and custody, or the person having care and custody has been informed of such facts by other person.
- b) At no time shall such animal leave the private property confines of the person having care or custody of the animal unless it is muzzled, leashed, and under the effective control of an adult.
  - c) The private property shall be adequately and properly posted with conspicuous warning signs.
  - d) The animal shall be kept, confined or housed within an enclosure:
    1. That is adequate to ensure the animal's retention and comfort and of a size to permit the animal to stand upright.
    2. that is high enough so that the animal cannot bite, harm, or injure anyone by overreaching the top of the fence or other enclosure.
  - e) The animal shall be kept upon the private property in a manner that will prevent it from biting or injuring any person lawfully upon the property who is not provoking or teasing the animal.
  - f) Such an animal (already identified as vicious or dangerous) shall not attack, bite or other wise injure any person, under any circumstances.

**SECTION 85.04.105 Guard dogs.** It is unlawful to place or maintain guard dogs in any area for the protection of persons or property unless the following conditions are met:

- a) The dogs shall be confined to a secure, enclosed, and dog tight area adequate to ensure that they will not escape; and
- b) Warning signs shall be conspicuously posted on the property indicating the presence of guard dogs and shall plainly show a telephone number where some person responsible for controlling the guard dogs can be reached at all times.
- c) Owner of guard dogs shall make application upon a form to be provided by the Ely Shoshone Tribe Law Enforcement Department, which application shall state:
  1. Owner's name, physical residence address and P.O. Box;
  2. The name(s), breed, color, sex and age of each dog owned and kept by him/her, and the date he/she acquired such dog;
  3. If dog(s) used for business, the nature of the business, date business established and a copy of the business license;
  4. At the time of application for a dog license, the owner must present to the Ely Shoshone Tribe Law Enforcement official a certificate from a licensed veterinarian showing that the dog(s) has been inoculated for the prevention of rabies.

**SECTION 85.04.107 Livestock guarding dogs.** Livestock guarding dogs shall be exempt from nuisance regulations when performing duties protecting livestock on premises owned or controlled by the owner.

**SECTION 85.04.110 Suspicion of rabies: Rabid animals.**

- a) The Tribal Police shall impound, or have impounded, any animal suspected of having rabies or known to have been bitten by any animal having or suspected of having rabies. The Tribal Police shall immediately have a veterinarian determined whether such animal has rabies.
- b) If the ownership of such animal is proven to the Tribal Police within 48 hours, the owner may recover it upon payment of all fees incurred by the Tribe for such impoundment and veterinary services, plus the penalty provided for in this Ordinance. If the ownership of such animal is not proven within 48 hours and payment made within 7 days of the impoundment, the animal may be destroyed.

**SECTION 85.04.120 Endangering animals; torture.**

- a) No person shall endanger an animal on the Ely Shoshone Reservation. Endangering an animal includes but is not limited to the following:
  - 1. Depriving an animal under the control or custody of a person of food, fresh potable drinking water, shelter from the elements or other substance;
  - 2. Possessing custody or control of an animal and abandoning it in a public or private place for the purpose of indefinitely giving up custody or control thereof;
  - 3. Poisoning;
  - 4. Transporting or enclosing an animal upon any vehicle in a manner that is not an ordinary and accepted practice, or which constitutes cruel or inhumane treatment; and
  - 5. Confining an animal in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of the animal due to heat, cold, lack of food or such other circumstances as may reasonably be expected to cause suffering, disability or death; or
  - 6. Refereeing, officiating, encouraging or participating in an effort to have animals fight or attempt to injure an animal or person.
  - 7. No person shall torture or cruelly beat, unjustifiably injure, maim, mutilate or kill any animal.

**SECTION 85.04.130 Animals which disturb neighborhood.**

- a) It is unlawful for the owner or person responsible to cause, allow, permit, either willfully or by failure to exercise due care any animal with by habitual howling, yelping, barking or other noise disturbs or annoys any person or neighborhood to an unreasonable degree, taken to be continuous noise for a period of ten (10) or more minutes or intermittent noise for a period of thirty (30) or more minutes. Any person who has a dog(s) that act in such a manner shall, upon proper notice by a complaint served by a duly appointed officer of the law, directing him/her to

quiet said dog(s) and fail to do so, be in violation of this ordinance and subject to the penalties under this ordinance.

- b) Anyone found guilty of such offense is guilty of a **Category E offense** and shall be fined in accordance with Ely Shoshone Tribe Code Section 193.130 for each offense.

**SECTION 85.04.140 Enclosures to be kept in sanitary condition.** All animals, whether kept inside, or in a pen, tied, fastened, leashed, or enclosed by a fence shall be kept in a sanitary manner. The person responsible for the animals shall regularly and as often as necessary, maintain cleanliness in all animal areas, to prevent odor or health and sanitation problems in the community.

**SECTION 85.04.150 Animals used for business.** It is unlawful for an individual to have more than 3 dogs unless such animals are used for a business purpose. No more than 7 dogs if used for business.

- a) Pens or other enclosures for each dog must be four (4) feet in height and square footage as follows:

<b>Number of Dogs</b>	<b>Square Footage</b>
1	64
2	96
3	144
4	196

Over 4, an additional 24 square feet for each dog

Upon date of acceptance of this ordinance, pen enclosure sizes as specified under Section 85.04.150(a) shall apply only to new business operators who are utilizing dogs as a business.

- b) The pens or other enclosures shall include a soundly constructed, safely positioned and properly maintained doghouse. No person shall confine or allow his or her animal to remain outside without access to appropriate shelter from the elements.
- c) All animals shall have fresh, potable drinking water and be provided with food that is nutritional for the species in adequate amounts to maintain good health.
- d) All animals, whether kept inside, or in pen, or enclosed by a fence shall be kept in a sanitary manner. The person responsible for the animals shall regularly and as often as necessary, maintain cleanliness in all animal area, to prevent odor or health and sanitation problems in the community.
- e) It is unlawful for the owner or person responsible to cause, allow, permit, either willfully or by failure to exercise due to care any animal which by habitual howling, yelping, barking or other noise disturbs or annoys any person or neighborhood to be unreasonable degree, taken to be continuous noise for a period of ten (10) or more minutes or intermittent noise for a period of thirty (30) or more minutes. Any person who has a dog(s) that act in such a manner shall, upon proper notice by a complaint served by a duly appointed officer of the law, directing him/her to quiet said dog(s) and fail to

do so, be in violation of this ordinance and subject to the penalties under this ordinance.

**SECTION 85.04.160 Duty of motorist.** A driver of any motor vehicle on the Reservation shall immediately, upon striking, running down, injuring or maiming any animal, give such aid as they are reasonably able to render. Such driver shall immediately notify the Tribal Police, and the owner, if the owner can be identified and found. Such driver may give aid by taking the animal to a veterinarian or veterinary hospital, if such action is reasonable under the circumstances.

**SECTION 85.04.170 Implied consent.** A person having care or custody of any animal on the Reservation shall be deemed consent to the jurisdiction of the Ely Shoshone Tribal Court for violations of this ordinance.

**SECTION 85.04.180 Violations; enforcement generally through civil citation.**

- a) the failure to comply with any provision of this Ordinance shall constitute a violation. A violation gives rise to civil cause of action by the Ely Shoshone Tribe, with penalties in accordance with Section 85.04.190 of this Ordinance.
- b) Proceedings by the Tribe under this Ordinance shall be initiated only through the issuance of a citation. A citation constitutes a civil summons to appear in the Tribal Court. The Police Officer issuing a citation shall file a copy thereof with the Tribal Court Clerk. The citation so filed shall constitute a civil complaint. The Police Officer shall retain a copy of the citation.
- c) A violation is a civil regulatory infraction against the Ely Shoshone Tribe. When the Tribal Court Judge determines that a person has committed a violation under this Ordinance, the Tribal Judge may order the imposition of a fine as a civil penalty, as provided in this ordinance.

**SECTION 85.04.190 Penalty.** Penalties for violations under this Ordinance are as follows:

- a) For a violation of Section 85.04.160 is guilty of a **Category E offense** and subject to a fine of not less than \$20.00 nor more than \$50.00;
- b) For a violation of Section 85.04.070 is guilty of a **Category E offense** and subject to a fine as follows:
  1. First offense – no penalty;
  2. Second offense or other further offense is subject to a fine of not less than \$20.00 nor more than \$50.00;
- c) For a violation of Section 85.04.120 is guilty of a **Category E offense** is subject to a fine of not less than \$20.00 nor more than \$100.00;
- d) For a violation of Section 85.04.160 is guilty of a **Category E offense** is subject to a fine of not less than \$20.00 nor more than \$50.00;
- e) For a violation of Section 85.04.100 b) through e); a guilty of a **Category E offense** and subject to a fine of not less than \$20.00 and no more than \$100.00;
- f) For a violation of Section 85.04.100 (subsection f) is guilty of a **Category A, B, C, D, or E offense in accordance with ESTC Criminal Code 193.130**

- depending on severity of the attack, bite, or injury of a person; and the animal may be seized by the Tribal Police, or authorized representative, and humanely destroyed at the owner's expense or both;
- g) For a violation of Section 85.04.080 (biting or injury), the owner or person having care or custody of the animal shall be responsible and ordered to pay all medical costs associated with the bite or injury;
  - h) For a violation of Section 85.04.040 – a warning will be issued. After 5 days from warning, the offending person or responsible party, is guilty of a **Category E offense** and subject to a fine of not less than \$20.00 nor more than \$50.00 per dog if not registered. Within 5 days after court hearing and no registration issued, the dog(s) may be impounded and removed from the reservation until registered;
  - i) For a violation of Section 85.04.130 and Section 85.04.150. The owner of any dog(s) who fails to abide by Section 85.04.130 and Section 85.04.150 of this ordinance is guilty of a **Category E offense** and shall forfeit not less than Ten dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) for the first violation of said Ordinance. For a second and third offense, the owner is guilty of a **Category E offense** and shall forfeit not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00). Any such animal is declared to be a nuisance and may be seized and impounded if the disturbance reoccurs after the animal's owner, or responsible party, has received three violations within six months from the Law Enforcement Officer. After five violations within one year, the animal(s) must be removed from the Ely Shoshone Reservation;
  - j) For a violation of Section 85.04.140 is guilty of a **Category E offense** and subject to a fine of not less than \$20.00 nor more than \$50.00. After five violations within six months, the dog(s) must be removed from the Ely Shoshone Reservation.

**SECTION 85.04.200 Reclamation of impounded dogs.** The owner, or custodian, of the dog /cat or animal so impounded, may reclaim said dog /cat or animal upon the payment of the penalties, if any, for said dog or animal to the Tribe, and all costs and charges incurred for impounding and maintenance of such dog(s) cat(s) by the City or Ely, or private entity.

**SECTION 85.04.210 Impounding animals other than dogs.** The Tribal Police, or their designated representative/animal control officer, is authorized to enter into any agreements necessary to impound, capture, control, transport, care for, feed, and maintain large animals such as horses, cows, sheep, or any other large animal that cannot be maintained in the animal shelter when it becomes necessary to take the animal into custody or impound the same pursuant to this chapter. All expenses thus incurred (including veterinary expenses) are to be charged to the owner or owners of the animal upon redemption, or the owner shall be ordered to pay the same as restitution upon conviction of a violation of this chapter.

**SECTION 85.04.220 Amendments.** Pursuant to Article VI, Section 1(m) of the Constitution and By-Laws of the Ely Shoshone Tribe, the Tribal Council may enact all ordinances and resolutions which shall be necessary and property for carrying into effect the foregoing powers and may at any time amend this Ordinance at any meeting at which a quorum is present.

**SECTION 85.04.230 Additional remedies.**

- a) In addition to the penalties provided for in this chapter, the Tribal Police may take appropriate action to collect all sums due, including bringing suit in Tribal Court to obtain a judgment for all sums due, including but not limited to penalties and fines.
- b) The Tribal Police may seek an injunction to prohibit any person from violating this chapter.

**SECTION 85.04.240 Late payment penalty.** Whenever a fee, cost, charge or fine required by this chapter is not paid when due, in addition to any late fees specifically mentioned a penalty shall be added to the fee in an amount equal to ten percent of the total amount due for each month or part thereof during which the fee, cost, charge, fine, and accumulated penalty remains unpaid. The total amount of accumulated penalty shall not exceed one hundred percent of the original fine.

## Chapter 85.12

### IMPORTATION – TRANSPORTATION – POSSESSION

<a href="#">Section 85.12.010</a>	<b>Intent</b>
<a href="#">Section 85.12.020</a>	<b>Permit required</b>
<a href="#">Section 85.12.030</a>	<b>Violation</b>
<a href="#">Section 85.12.040</a>	<b>Rights and duties</b>

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#### **SECTION 85.12.010 Intent.**

- a) It is unlawful for any person within the Ely Shoshone Reservation to import, transport, or possesses wild dogs, or any species related to coyote, coyote hybrids, foxes, wolves and wolf hybrids.
- b) It is unlawful for any person within the Ely Shoshone Reservation to import, transport, or possess any exotic carnivorous cats, or any species related to carnivorous cats such as cougar, lion, and bobcat.
- c) It is unlawful for any person within the Ely Shoshone Reservation to import, transport, or possess any animal of an exotic nature, and/or non domesticated animal that may have the propensity to harm persons.

**SECTION 85.12.020 Permit required.** A person may import, transport, or possess any animal described in Section 85.12.010 if a permit for any such animal has been secured from the Division of Wildlife of the State of Nevada or from the United States pursuant to applicable state and federal law.

**SECTION 85.12.030 Violation.** Any person who willfully imports, transports, or possesses any animal described in Section 85.12.010 hereof without a permit or license, shall be guilty of a **Category E offense**.

**SECTION 85.12.040 Rights and duties.** In addition to all other rights and duties described in Title 8 of the Ely Shoshone Tribal Code, the Tribal Prosecutor may file in the Tribal Court an action for injunctive relief, against any person within the Ely Shoshone Reservation who is found in possession of, or is found to be maintaining, any animal which the Tribal Police, or animal control officer, reasonably believes to be diseased or which poses a risk to the health and safety of any person or group of persons within the boundaries of the Ely Shoshone Reservation.