

## **RINCON BAND OF LUISENO MISSION INDIANS CANINE CONTROL ORDINANCE**

The Rincon Band of Luiseno Mission Indians ("Tribe"), acting through its Business Committee pursuant to the Tribe's inherent authority and Section 6 of the Tribe's Articles of Association, hereby enacts this Canine Control Ordinance.

### **ARTICLE I PURPOSE AND APPLICABILITY**

A. The purpose of this Ordinance is:

1. To protect the health and safety of all persons on the Rincon Indian Reservation (Reservation).
2. To set forth a set of rules and regulations governing the control of canine animals within the Reservation and to facilitate enforcement of said rules and regulations.
3. To ensure that all canine animals on the Reservation are given sufficient shelter, food, water and treated in a humane manner.

B. This Ordinance is applicable to all canine animals on the Reservation.

### **ARTICLE II DEFINITIONS**

"Agent" means a person or organization designated in writing by the Rincon Tribal Council (Business Committee) to enforce the provisions of this ordinance.

"Reservation" means all lands within the exterior boundaries of the Rincon Indian Reservation.

"Residence" means a single allotment, tribal assignment, or fee parcel, including those tribal assignments consisting of multiple dwellings.

"Restraint" means physical restraint by cage, leash, fence or other method that will prevent animals from leaving owner or custodian's property or control.

### **ARTICLE III ENFORCEMENT**

A. The Rincon Business Committee has the authority to enforce this Ordinance.

B. Agents of the Business Committee are specifically authorized to come onto the Reservation and residences thereon to enforce the provisions of this ordinance; provided that they shall not enter living quarters, except in case of emergency or where residence has been abandoned, without first obtaining (1) the consent of an adult occupant, or (2) authorization from the Business Committee.

C. The Business Committee shall have the authority to designate animal control officers who shall be specifically authorized to enforce the provisions of this Ordinance and to act as agents of the Tribe in enforcing this Ordinance.

D. Animal Control Officers Generally:

1. While performing his/her duty, an animal control officer shall carry identification indicating his/her status as an animal control officer and an agent of the Tribe for the purposes of enforcing this Ordinance.
2. Except in emergencies, an animal control officer entering upon any residence shall carry sufficient documentation indicating the reasons for his/her presence.
3. It shall be a violation of this Ordinance for any person to interfere with, molest, hinder, resist or obstruct an animal control officer during the performance of his/her duties. Such violations are punishable by a \$100 fine per incident.

#### ARTICLE IV GENERAL PROVISIONS

##### A. Ownership Restrictions and Registration Requirements

All residents within the exterior boundaries of the Rincon Reservation must license their dogs with the Tribal Office. Residents who acquire a new dog or puppy must register the animal with the Tribal Office within two (2) weeks from the date the dog or puppy is first brought to the Reservation. As part of the registration, photographs of each dog shall be taken. Thus, the owner or custodian must bring the dog with them at the time of registration.

The Tribe will pay the license fee for members; non-members will be charged a fee.

##### B. Neutering/Spaying /Vaccination

Unless approved in writing by the Business Committee, or its designee for breeding purposes, all dogs must be neutered or spayed. For dogs six (6) months old or older, such procedure must be completed within two (2) weeks after the owner acquires the dog. For puppies, such procedure must be completed on or before the dog attains the age of six (6) months. A certificate from a licensed veterinarian attesting to such neutering/spaying must be submitted to the Tribal Office. If the owner or custodian cannot afford to have their dog neutered/spayed, the owner or custodian may contact the Tribal Office and have their dog(s) impounded. Dogs impounded under this provision shall be transferred to animal control officers and disposed of according to state law.

Owners must present a certificate of vaccination issued by a licensed veterinarian for each dog showing it has been vaccinated against rabies and distemper. The Tribe will pay the vaccination fee for tribal members.

##### C. Fines

Violations of this Article IV shall be punishable by a One Hundred Dollar (\$100) fine for each week of noncompliance up to a total of three weeks for each incidence of noncompliance. All fines shall be payable to the Tribe, and are in addition to any required fees, deposits, or court costs payable to the Tribe pursuant to this Ordinance.

All court fees and collection costs will be reimbursed by the violator to the Tribe. If the owner or custodian is still out of compliance with the provisions of this Article IV three weeks after receiving notice of noncompliance, all the owner's canine animals will be seized by the Business Committee or its Agent and disposed of in accordance with state law.

#### D. Waiver

The restrictions of paragraphs A and B above may be waived when an owner or custodian provides proof that he/she is breeding their dog. All dogs in the breeding process must be confined or restrained to the residence by use of dog kennels or cages. Dogs that are not restrained in accordance with this provision shall be seized by the Tribal Office, or its designee, impounded and/or fined in accordance with the provisions of Article V. Once the breeding process is complete or the Business Committee, or its designee, determines that there is no longer any evidence of breeding, the owner or custodian will be subject to paragraphs A through C of this Article IV.

For purposes of this waiver, breeding includes the actual process of breeding as well as the post-birth period.

### ARTICLE V FAILURE TO PAY FINES, FEES, COSTS, PENALTIES, AND EXPENSES

Records of all fines, fees, charges or penalties levied under this Ordinance shall be kept on file in the Tribal office. If the Tribe distributes per capita payments to its members under the approved Tribal Revenue Allocation Plan, any unpaid fines, fees, charges, court costs or penalties levied under this Ordinance shall be subtracted from such per capita payments, at a rate not to exceed one hundred percent (100%) of each disbursement, until the balance due is paid in full.

### ARTICLE VI RESTRAINT AND IMPOUNDMENT

#### A. Restraint

It shall be a violation of this Ordinance for any person owning or having custody of and control of any canine animal to fail to keep it on his/her property at all times. Any animal not kept under restraint, or so confined or enclosed, in accordance with this Ordinance is hereby declared to be a menace and a nuisance to the public health and safety.

It shall be a violation of this Ordinance for any person owning or having custody and control of any canine animal to stake out or tether the animal in such a manner that would permit or allow the animal to go in or upon any public or private property or area without the express permission of the owner or person in possession and control of the property or area.

The person in control of the dog while in public areas of the Reservation or on another's private property shall be responsible for cleaning up after the animal.

The Business Committee or its designee is authorized to set humane canine traps within the boundaries of the Reservation to capture unrestrained animals. Any animal captured as a result of such traps, shall be treated in accordance with the provisions of this Article VI.

### C. Impoundment

Any animal reported or discovered unrestrained in violation of this Ordinance may be seized and impounded by the Business Committee or its designee. If the violation is a first or second offense, a warning letter shall be issued to the owner or custodian. If the animal is discovered or reported unrestrained a third time within one (1) year from the date of the first warning letter, the owner or custodian of the animal shall be fined One Hundred Dollars (\$100). If the animal is discovered or reported unrestrained a fourth time within one (1) year from the date of the first warning letter, the animal will be seized, impounded, and disposed of in accordance with state law. A fourth offense will also result in the owner or custodian being prohibited from keeping a canine animal on his or her residence for two (2) years from the date of the last violation and will result in the owner and/or custodian being assessed the cost of seizure, transfer, and disposal.

If it is determined by the Business Committee or its Agent that any animal impounded is, by reason of contagious disease, as determined by a licensed veterinarian or animal control official, a danger to any person or other impounded animals, the animal may be disposed of in accordance with state law.

The Tribe is not responsible and bears no liability for an injury suffered or disease contracted by an animal during any period of impoundment.

### ARTICLE VII DOG BITES

A. The Tribe may direct the owner or custodian of any canine animal that has bitten any person or other animal to comply with one of following procedures if so required by the Business Committee or its Agent.

1. Surrender the biting animal to a designated Agent for isolation and impoundment for a period of time determined by the Business Committee or its Agent, at the owner's expense.

2. Surrender the animal to a licensed veterinarian for isolation for a period of time determined by the Business Committee or veterinarian at the owner's expense.

B. If the animal isolated is determined not to be infected with rabies at the end of the period of isolation, the designated Agent or veterinarian shall notify the owner or custodian and the Business Committee, orally or in writing, that the animal may be picked up. Upon such notice, the animal shall be released to the owner or custodian upon the payment of any fee, charge or penalty, including any fee for veterinary services.

C. It shall be a violation of this Ordinance for the owner or custodian of a biting animal to fail to comply with the requirements set forth in this section. The owner or custodian shall be fined one-hundred dollars (\$100) for each day of noncompliance with this Article.

### ARTICLE VIII PROCEDURE WHEN RABIES SUSPECTED

A. The Business Committee or its Agent will investigate any report of any animal that shows symptoms of rabies or acts in a manner that would lead a reasonable person to believe that the animal may have rabies. Upon determination by the Business Committee or its Agent, that an animal may be infected with rabies, the owner or

custodian of such animal will be required to comply with one of the following procedures:

1. Surrender the animal to the Business Committee's designated agent for isolation and impoundment for a period determined by the Business Committee or its Agent.

2. Surrender the animal to a licensed veterinarian for isolation for a period of time determined by the Business Committee or the veterinarian.

B. Any animal isolated will be examined by the Business Committee's Agent. If the animal is infected with rabies, the Business Committee or its designee will order in writing that the animal be disposed of in accordance with state law. A copy of this order will be given to the owner or custodian of the animal.

C. If the animal isolated is determined not to be infected with rabies at the end of the period of isolation, The Business Committee or its Agent shall notify the owner or custodian, orally or in writing, that the animal may be picked up. Upon such notice, the animal shall be released to the owner or custodian upon the payment of any fee, charge or penalty, including any fee for veterinary services.

D. It shall be a violation of this Ordinance for the owner or custodian of an animal that may be infected with rabies to fail to comply with requirements set forth in this article. The owner or custodian of the animal shall be fined One Hundred Dollars (\$100) per day for any violation of this Article.

#### ARTICLE IX DANGEROUS DOGS

A. Within the Reservation there are dangerous dogs that constitute a public menace that should be abated. The provisions of this Article set forth administrative procedures by which a dog found to be a danger to the public safety may become subject to appropriate controls.

#### B. Definition of Dangerous Dog

Dangerous dog means any dog which:

1. Has bitten or caused serious injury to a person or domestic animal without provocation; or

2. Menaces or attempts to bite or attack any person without provocation, or destroys property; or

3. Engages in an attack which requires a defensive action by any person to prevent bodily injury or property damage when such person is acting in a peaceful and lawful manner; or

4. Engages in or is found to have been trained to engage in exhibitions of fighting;

#### C. Signs

Any owner or custodian who has knowledge that an animal in his control is a dangerous dog as defined in paragraph B above, shall post a sign on their property

sufficient to give notice to all who may enter that a dangerous animal is present on the property.

#### D. Impoundment

The Business Committee, or its Agent may in their discretion and upon receipt of a written report from an animal control officer or resident which shows that a dog engaged in any behavior as defined in this Article IX, Paragraph B, immediately cause the impoundment of any animal reported to have caused the injury or exhibited such dangerous behavior. Impoundment shall be ordered if necessary to prevent immediate injury to person or property, or if it appears that the owner of the dog is either unwilling or incapable of maintaining confinement and control of the dog.

An owner of a dog subject to the provisions of this section shall immediately surrender custody and control of the dog at the request of the Tribal Office or its designee. Failure to do so shall result in a One Hundred Dollar (\$100) per day fine.

#### E. Notice and Hearing

As soon as possible after impoundment of any dog pursuant to this Article, the Business Committee or its Agent will give written notice of the impoundment to the owner, with a summary of the facts justifying impoundment. The notice will be mailed to the owner's last known address giving the date, time and place for hearing on the impoundment, and advising the owner of the right to be present. A copy of the report submitted to the Tribal Office pursuant to Article IX, paragraph D, will accompany the written notice of impoundment.

All hearings subject to this Article shall be conducted by the Business Committee or its Agent. Hearings shall be conducted in an informal manner. The owner or custodian of the dog, as well as any party having personal knowledge of the incident shall be given an opportunity to testify at the hearing. A hearing may be continued for a reasonable period of time if the Business Committee, or its Agent if such continuance appears to be necessary and proper.

Failure of the owner or custodian to appear at the hearing or any continuance thereof will constitute a default.

At the conclusion of the hearing, or within a reasonable time thereafter, the Business Committee, or its Agent will determine whether or not the impounded dog is a dangerous dog as defined herein, and will issue a written notice of the decision and findings. If the owner has defaulted by failing to appear, the finding will be that the dog is dangerous as defined herein. However, no dog shall be determined to be a dangerous dog if the dog was found to have:

1. Bitten, attacked, or menaced a trespasser while the dog was confined on the property of its owners; or
2. Injured or menaced a person who has tormented or abused it; or
3. Injured or menaced a person while protecting its owner.

#### F. Appeal

There shall be no right to appeal. The decision of the Business Committee, or its Agent is final.

#### G. Post Hearing Enforcement

Any dog declared after a hearing to be dangerous, if not already impounded, must be immediately surrendered to the Business Committee or its Agent and disposed of in accordance with state law.

Any dog declared, after hearing, not to be dangerous, will be returned to the owner at no cost to the owner or custodian if they were in compliance with the requirements of this ordinance. An owner not in compliance with the requirements of this ordinance will be assessed the total costs of impoundment.

If the dog is determined to be dangerous, all costs incurred by the Tribe in impoundment and related expenses under this section, including care and feeding, will be charged to the owner of the dog.

### ARTICLE X INJURY TO OTHER ANIMALS

A. If a resident's canine enters the property of another residence on the Reservation and injures or causes the death of a pet, the owner or custodian of the unrestrained canine animal shall be responsible for the loss and shall reimburse the owner or custodian of the injured pet, the reasonable costs incurred as a result of the injury or death, as determined by the Business Committee or its Agent. If the injury or death of a pet was caused by an attack of multiple dogs, the owner or custodian of each dog shall be jointly and severally liable for all reasonable costs incurred. If the Business Committee or its Agent determines that the offending animal has previously caused injury or death to another domestic pet, the owner or custodian shall surrender the animal to the Business Committee's Agent and be responsible for restitution to the injured party.

#### B. Notice of Charges

The Business Committee, or its Agent, shall provide to the owner or custodian of the offending dog, within a reasonable period after an alleged attack, a Summary of Charges for which that owner is responsible.

#### C. Hearing

Any owner or custodian who receives a Summary of Charges under this Article shall have the right to a hearing before the Business Committee, or its Agent, on his objection to the proposed charges in accordance with the procedures set forth herein.

A written request for hearing shall be filed with the Business Committee, or its Agent, within ten (10) business days of the service by mail of the Summary of Charges. Within a reasonable time after the filing of the request, and on ten (10) days notice to the owner or custodian, the Business Committee or its Agent shall hold a hearing on the owner or custodian's objections.

In the event that (a) no Request for Hearing is timely filed or (b) after a hearing in which the Business Committee, or its designee, affirms the validity of the charges, the owner

or custodian shall be liable to the owner of the injured pet in the amount stated on the Summary of Charges or any lesser amount.

D. Appeal

There shall be no right of appeal. The decision of the Business Committee or its Agent is final.

E. Fights Between Multiple Unrestrained Animals

In the event that a fight or attack occurs between two unrestrained animals (this includes unrestrained animals outside either owner's property), each owner or custodian shall be solely responsible for any injuries suffered by their animal.

ARTICLE XI PRIOR ORDINANCES

All prior Canine Control Ordinances are hereby repealed.

ARTICLE XII SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, its invalidity does not affect other provisions or applications of this Ordinance, and to this end the provisions of this Ordinance are severable.

ARTICLE XIII SOVEREIGN IMMUNITY

The sovereign immunity of the Tribe is in no manner waived by this Ordinance or by any action of the Business Committee or any staff of the Tribe acting pursuant to this Ordinance.

ARTICLE XIV AMENDMENTS

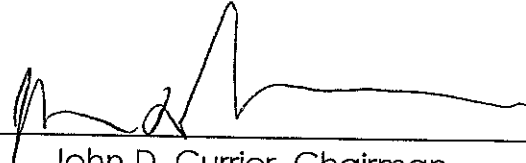
This Ordinance may be amended at any time by the Rincon Business Committee in accordance with its Articles of Association.

ARTICLE XV EFFECTIVE DATE

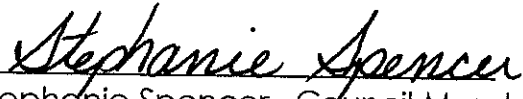
This Ordinance shall take effect immediately upon passage.

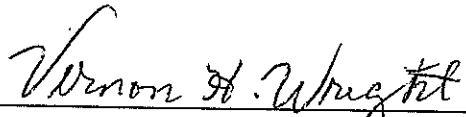
CERTIFICATION

This is to certify that the above ordinance was adopted at a regularly scheduled meeting of the Rincon Tribal Business Committee on December 13, 2002 with a vote of 0 no, 4 yes, 1 absent, and 0 abstaining.

  
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John D. Currier, Chairman

  
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Bo Mazzetti, Vice Chairman

  
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Stephanie Spencer, Council Member

  
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Vernon Wright, Council member