

RESOLUTION NUMBER **TMBC467-07-23** OF THE DULY ELECTED AND CERTIFIED GOVERNING BODY OF
THE TURTLE MOUNTAIN BAND OF CHIPPEWA

WHEREAS, the Turtle Mountain Band of Chippewa Indians, hereinafter referred to as the Tribe, is an unincorporated Band of Indians acting under a revised Constitution and bylaws approved by the Secretary of the Interior on June 16, 1959, and amendments thereto approved; and

WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and Bylaws empowers the Tribal Council with the authority to represent the Band and to negotiate with the Federal, State and local governments and with private persons; and

WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and Bylaws requires a 30-day comment period to the adoption of any ordinances or amendments to the Tribal Code, whether proposed by resolution or otherwise. Adoption must occur through a roll call vote of the Tribal Council at a publicly held meeting; and

WHEREAS, the Tribe proposed revisions to Title 10-Rabies Control to provide clarity to some provisions and add provisions; and

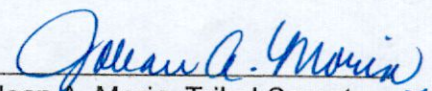
WHEREAS, the proposed revisions to Title 10 were placed out for public comment and no comments were received; now

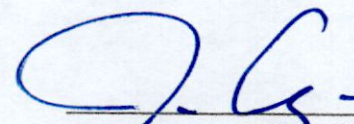
THEREFORE BE IT RESOLVED that the Tribe is approving proposed amendments to Title 10 and the moving of Title 10 to Title 35 in its entirety and place in the proper codified version.

CERTIFICATION

I, the undersigned Tribal Secretary of the Turtle Mountain Band of Chippewa Indians, do hereby certify that the Tribal Council is composed of **nine (9) members** of whom **six (6)** constituting a quorum were present at a meeting duly called, convened and held on the **6th day of July, 2023** that the foregoing resolution was adopted by an affirmative vote of **five (5) in favor** – Representatives Blaine “Slugger” Davis, Ron Trottier Sr., Kenneth Malaterre, Jon Jon Keplin and Lynn Gourneau; three (3) absent- Representatives Craig Lunday, Elmer Davis Jr. and Chad Counts; none (0) opposed; with the Tribal Chairman not voting.

SIGNED INTO LAW/Dated this 10th day of July, 2023
 VETOED/Dated this _____ day of _____, 2023


Jolean A. Morin, Tribal Secretary 7/10/23


Jamie Azure, Tribal Chairman

TITLE 10
ANIMAL REGULATION AND TREATMENT
~~AND RABIES CONTROL CHAPTER~~

10.01
Definitions and General Provisions

10.0101 **Purpose.**

The purpose of this Title is to provide regulations to protect the health and safety of the Turtle Mountain Band of Chippewa Indians (TMBCI) community; to control animal behavior both on and off the property of the animal's owner or keeper; to encourage humane treatment of animals; to establish rabies control procedures; and to delineate the responsibilities of animal owners and keepers within the territory and jurisdiction of the Turtle Mountain Band of Chippewa Indians.

10.0102 **Jurisdiction.**

The provisions of Title 10, and all rules and regulations under it, shall apply within the territory and jurisdiction of the Turtle Mountain Band of Chippewa Indians defined by the Constitution.

10.0103 **Exceptions.**

The provisions of Title 10 shall not apply to any animal kept by any law enforcement agency for law enforcement purposes.

10.0104 **Severability.**

If any section, subsection, sentence, clause or phrase of this Title 10, or any amendment thereto or its application to any person or circumstance, is held invalid, the remainder or application to other persons or circumstances shall not be affected.

10.0105 **Definitions.**

1. **Animal defined.**

"ANIMAL" means any living animal, other than ~~dogs humans.~~ which may be affected by rabies.

2. **Animal Control Department defined.**

"ANIMAL CONTROL DEPARTMENT" means the department established by the TMBCI Tribal Council to enforce this Title 10 and shall be part of the Department of Natural Resources and subject to the Director's supervision, as listed in Title 35.

3. **Animal Control Officer defined.**

"ANIMAL CONTROL OFFICER" means the employees of the Animal Control Department.

4. **Animal Shelter defined.**

"ANIMAL SHELTER" means any tribally approved facility operated by the Animal Control Department or its contractors or agents for the purpose of impounding or caring for animals found running at large in violation and being held under the authority of this Title 10 and Code and any other applicable Tribal law.

5. ~~10.0104~~ **At Large defined.**

Any dog or animal shall be deemed to be at large when it is off the property of its owner and not under restraint by a competent person.

6. **Cat defined.**

An animal which is a small domesticated carnivore, Felis catus, bred in a number of varieties.

7. **Dangerous Animal or Dog defined:**

- a. Any individual animal or dog, having without provocation and off of the owner's property, which when either unmuzzled, unleashed, or unattended by its owner or custodian, in a vicious or terrorizing manner, chases, confronts, or approaches any person in an apparent attitude of attack upon roadways, streets, sidewalks, private property of others, or any public grounds or places in such a fashion that would put an average person in fear of attack;
- b. Having been trained for fighting or attack and is being handled, kept or maintained in manner that causes or should cause an owner to know that it potentially poses a threat to public health and safety; or
- c. Presenting an unacceptably high risk of serious injury, even before causing harm; or
- d. Having acted in any manner that causes or should cause an owner to know that the animal is a threat to public health and safety.
- e. Has attacked or killed other animals or livestock outside of the boundary of the residence the animal's owner.
- f. any individual animal or dog which, when unprovoked, on two separate occasions within a 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or custodian of the dog.
- g. any individual animal or dog, which, when unprovoked, bites a person or otherwise engages in aggressive behavior causing injury.
- h. any individual dog which, when unprovoked, has killed, seriously bitten, inflicted injury, or otherwise caused injury to a domestic animal off the property of the owner or custodian of the animal or dog.

8. **Dangerous or Vicious Dog/Animal pen/kennel defined.**

A structure that is constructed with secure sides and a secure top attached to the sides. All structures used to confine dangerous animals or dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two (2) feet, or have cinder block or fencing on the interior edges to prevent the animal from digging out. The interior area of the structure must be five (5) foot by ten (10) foot for a total of fifty (50) square feet. It must contain within the interior a four-sided shelter with a floor or insulation break from the ground and protects against wind and rain. The shelter (house) must be large enough for the animal or dog to enter and lie down without having to contort or bend its neck in order to sleep.

9. **Dangerous or Vicious animals defined.**

- a. Any animal which, because of their poisonous bite or sting, their size, or their propensity to viciousness or aggressiveness would constitute a hazard or threat to the safety of the TMBCI community;
- b. Any animal, when unprovoked, inflicts bite(s) on any human or domestic animal either on private or public property;

- c. Any animal that has a documented history with the TMBCI Animal Control Department or the BIA/TMBCI law enforcement of biting or attacking any human or domestic animal;
- d. Any animal that has a known propensity, tendency, or disposition to attack, to cause injury, or otherwise threaten or endanger the safety of humans or domestic animals; or
- e. Any animal that is not properly vaccinated.

10. ~~10.0102~~ **Dog defined.**

"DOG" shall mean an animal which is a domesticated canid, *Canis familiaris*, bred in many varieties. Does not include hybrids which include *Canis lupus* (wolf) and other wild canids and are any canine animal three (3) months of age and over.

11. **Dog pen/kennel defined.**

A structure for the purpose of keeping and caring for dogs. The interior area of the structure must be a minimum of five (5) feet by ten (10) feet equaling a total of fifty (50) square feet. The structure must contain within its interior a four-sided shelter (house) for the animal with a floor or insulation break from the ground protects against wind and rain. The shelter (house) must be large enough for the dog to enter and lie down without having to contort or bend its neck in order to sleep.

12. ~~10.0109~~ **Dog Pound defined.**

A tribally approved premise and shelter for the purpose of impounding and caring for all animals found running at large in violation of this Title 10 and Code.

13. **Livestock defined.**

"LIVESTOCK" means an animal commonly raised on a farm including, but not limited to; cattle, horses, sheep, goats, swine, mules or burros or other domesticated animals other than cats or dogs.

14. ~~10.0103~~ **Owner defined.**

"OWNER" means any Indian or Non-Indian having a right to property in, or who keeps or harbors, or who has in his or her care, or acts as custodian, or who knowingly permits a dog or animal to remain on or about any premises occupied by him or her.

15. **Poultry defined.**

"Poultry" means farm-raised birds, such as the following:

- Chickens;
- Turkeys;
- Ducks;
- Geese;
- Guinea fowl.

16. **Production Method defined.**

"PRODUCTION METHOD" means how the animals are being raised.

17. ~~10.0107~~ **Rabies Vaccination defined.**

"RABIES VACCINATION" shall mean the injection subcutaneously or otherwise of canine antirabic vaccine approved by the North Dakota State Department of agriculture or by the Department of Health, Education and Welfare, Public Health Service, received from a licensed veterinarian or at a public clinic which may be established for this purpose by the Turtle Mountain Tribal Council and approved by the Service Unit Director, United States Public Health Service, Division of Indian Health, Belcourt, North Dakota.

18. ~~10.0105~~ **Restrained defined.**

An animal or dog is under restraint within the meaning of this Title 10 if it is controlled by at least a "heel" command beside a competent person, and obedient to that person's voice command, or within the property limits of the owner or keeper.

19. ~~10.0108~~ **Service Unit Director defined.**

"SERVICE UNIT DIRECTOR" shall mean the Medical Officer in Charge of the United States Public Health Service, Division of Indian Health, Belcourt, North Dakota.

20. **Shelter defined.**

"SHELTER" means any man-made structure or natural feature that provides protection from the elements, such as a barn, shed, or lean-to and trees, bushes, or topographical features.

21. ~~10.0106~~ **Stray/Unclaimed defined.**

"STRAY" or "UNCLAIMED" shall mean any dog or animal not having a known owner or custodian.

22. **Vicious Dog defined.**

- a. Any dog that engages in or has been found to have been trained to engage in exhibitions of fighting.
- b. Any individual dog that when unprovoked inflicts bites, attacks or otherwise inflicts injury on a human being or other animal either on public or private property.
- c. Any individual dog with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals.
- d. Any individual dog that has a trait or characteristic and a generally known reputation for viciousness, dangerousness or unprovoked attacks upon human beings or other animals, unless handled in a particular manner or with special equipment.
- e. Any individual dog which attacks a human being or domestic animal without provocation.
- f. Any individual dog previously determined to be and currently listed as a "dangerous dog" which, after its owner has been notified of this determination, continues the behavior described in the "dangerous dog" definition of this Chapter and this section.
- g. No dog shall be deemed "vicious" if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it or is a professionally trained dog for law enforcement or guard duties. Vicious dogs shall not be classified in a manner that is specific as to a breed.

23. **Under Control defined.**

"UNDER CONTROL" means that the owner, by means of a fencing, leash or other means, restrains the animal to the owner's premises or immediate proximity, preventing the animal from trespassing upon property or annoying or chasing other persons, animals, or vehicles, of any sort.

10.0106

Keeping of Dangerous Animal(s) within the territory and jurisdiction of the Turtle Mountain Band of Chippewa Indians. ~~Keeping of Pit Bull, Rottweiler and Doberman Pinscher dogs within the boundaries of the Turtle Mountain Indian reservation.~~

1. **Purpose.** In order to protect the health, safety and welfare of members of the Turtle Mountain Band of Chippewa Indians, the Tribe does hereby enacted herein ~~the following provisions under Title 10, Animal and Rabies Control, Chapter 10.01;~~

2. ~~Pit Bull, Rottweiler, Doberman Pinscher dogs: Keeping prohibited.~~ **Dangerous Animal(s): Keeping prohibited.** It shall be unlawful to keep, harbor, own or in any way possess within the boundaries territory and jurisdiction of the Turtle Mountain Band of Chippewa Indians Reservation any **Dangerous Animal, unless said Dangerous Animal or dog** ~~Pit Bull, Rottweiler, Doberman Pinscher dog unless Pit Bull, Rottweiler, and Doberman Pinscher dogs~~ are registered with the Tribal Vector's Office, then **they** may be kept within the boundaries of the reservation subject to the standards and requirements set forth in Section 10.0106(2) and (3) of this ordinance.
- a. ~~"PIT BULL DOG" is defined as follows:~~
- ~~(1) The bull terrier breed of dog;~~
 - ~~(2) Staffordshire Bull Terrier breed of dog;~~
 - ~~(3) The American Pit Bull Terrier breed of dog;~~
 - ~~(4) The American Staffordshire Terrier breed of dog;~~
 - ~~(5) Dogs of mixed breed or of other breeds than above listed which breed and mixed breed is known as pit bulls, pit bull dogs or pit bull terriers;~~
 - ~~(6) Any dog which has the appearance or characteristics of being predominantly of the breeds of Bull Terriers, Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, any other breed commonly known as Pit Bull Terriers; or~~
 - ~~(7) A combination of any of these breeds.~~
- b. ~~"ROTTWEILER DOG" is defined as follows:~~
- ~~(1) Dogs of mixed breed or of other breeds than above listed, which breed or mixed breed is known as a Rottweiler,~~
 - ~~(2) Any dog which has the appearance or characteristics of being predominantly of the breeds of Rottweiler dogs, or a combination of any of breeds related to Rottweiler dogs,~~
- c. ~~"DOBERMAN PINSCHER DOG" is defined as follows:~~
- ~~(1) Dogs of mixed breed or of other breeds than above listed, which breed or mixed breed is known as a Doberman Pinscher,~~
 - ~~(2) Any dog which has the appearance or characteristics of being predominantly of the breeds of Doberman Pinscher dogs, or combination of any of the breeds related to Doberman Pinscher dogs.~~
3. **Keeping of registered Pit Bulls, Rottweilers or Doberman Pinschers Dangerous Animal or Dogs** The provisions of Section 10.0106(2) of this ordinance are not applicable to owners, keepers or harborers of **Dangerous Animal** ~~Pit Bull, Rottweiler and Doberman Pinscher dogs~~ registered with the Tribal Vector's Office. The keeping of such dogs, however, shall be subject to the following standards:
- a. **Leash and muzzle.** No person shall permit a registered **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dog~~ to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dog~~ to be kept on a chain, rope or other type of leash outside its kennel or pen, unless ~~a~~ **by an adult person is in with the physical capabilities to control and restrain of the leash the animal or dog on a leash.** Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all **Dangerous Animals and dogs** ~~Pit Bull, Rottweiler or Doberman Pinscher dogs~~ on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- b. **Confinement.** All registered **Dangerous Animals or Dogs** ~~Pit Bull, Rottweiler and Doberman Pinscher dogs~~ shall be securely confined indoors, or in a securely enclosed and locked pen or kennel, **as described in herein** except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered **Dangerous Animal or Dogs** ~~Pit Bull, Rottweiler or Doberman Pinscher~~

dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dogs~~ must comply with all **TMBCI** zoning and building regulations ~~of the reservation~~. All such structures must be adequately lighted and ventilated, and kept in a clean and sanitary condition.

- c. **Confinement indoors.** No **Dangerous Animal or dog** ~~Pit Bull, Rottweiler or Doberman Pinscher dog~~ may be kept on a porch, patio or in any part of a house or structure that would allow the **animal or dog** to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open, or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.
- d. **Signs.** All owners, keepers or harborers of registered **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dogs~~ within the **territory and jurisdiction of TMBCI reservation boundaries** shall within ten (10) days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "BEWARE OF DOG " OR "**BEWARE OF DANGEROUS ANIMAL.**" In addition, a similar sign is required to be posted on the kennel or pen of such animal.
- e. **Insurance.** All owners, keepers or harborers of registered **Dangerous Animals or Dogs** ~~Pit Bull, Rottweiler or Doberman Pinscher dogs~~ must within ten (10) days of the effective date of this ordinance provide proof to the Tribal Vector's Office of public liability insurance in a single incident amount of fifty thousand dollars (\$50,000.00) for bodily injury to or death of any person or persons, or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the Tribal Vector's Office.
- f. **Identification photographs.** All owners, keepers or harborers of registered **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dogs~~ must within ten (10) days of the effective date of this ordinance provide to the Tribal Vector's Office two (2) color photographs of the registered animal clearly showing the color and approximate size of the animal.
- g. **Reporting requirements.** All owners, keepers or harborers of registered **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dogs~~ must within ten (10) days of the incident, report the following information in writing to the Tribal Vector's Office as required hereinafter:
 - (1) the removal from the reservation or death of registered **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dog~~;
 - (2) the birth of offspring of registered **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dog~~;
 - (3) the new address of registered **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dog~~ owner should the owner move within the **territory and jurisdiction of TMBCI reservation boundaries**.
- h. **Sale or transfer of ownership prohibited.** No person shall sell, barter or in any other way dispose of a **Dangerous Animal or Dog** ~~Pit Bull, Rottweiler or Doberman Pinscher~~ registered with the Tribal Vector's Office to any person within the reservation, unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog provided that the registered owner of a **Dangerous Animal or Dog** ~~Pit Bull, Rottweiler or Doberman Pinscher~~ may sell or otherwise dispose of a registered **animal or dog** or the offspring of

such dog to persons who do not reside within the **territory and jurisdiction of TMBCI reservation** boundaries.

- i. **Animals born of registered animal or dogs.** All offspring born of **Dangerous Animal or Dog** ~~Pit Bull, Rottweiler or Doberman Pinscher~~ dogs registered with the Tribal Vector's Office must be removed from the **territory and jurisdiction of TMBCI reservation** within six (6) weeks of the birth of such animal.
- j. **Irrebuttable presumptions.** There shall be an irrebuttable presumption that any dog registered with the Tribal Vector's Office as a **Dangerous Animal** ~~Pit Bull, Rottweiler or Doberman Pinscher dog, or any of these breeds~~ prohibited by Section **10.0102(2)** of this ordinance is in fact a dog subject to the requirements of this ordinance.
- k. **Failure to comply.** It shall be unlawful for the owner, keeper or harbinger of a **Dangerous Animals or Dogs** ~~Pit Bull, Rottweiler or Doberman Pinscher dog~~ registered with the Tribal Vector's Office to fail to comply with the requirements and conditions set forth in this ordinance. Any dog found to be the subject of a violation of this ordinance shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the **territory and jurisdiction of TMBCI reservation**.
- l. **Violations and penalties for Dangerous Animal.**
 1. Any person violating or permitting the violation of any provision of this ordinance shall, upon conviction in Tribal Court, be fined a sum not more than five hundred dollars (\$500). In addition to the fine imposed, the Court may sentence the defendant to imprisonment for a period not to exceed thirty (30) days.
 2. In addition, the Court shall order the registration of the subject **Dangerous Animals or Dogs** ~~Pit Bull, Rottweiler or Doberman Pinscher~~ revoked and the dog removed from the **territory and jurisdiction of TMBCI reservation**.
 3. Should the defendant refuse to remove the dog from the **territory and jurisdiction of TMBCI reservation**, the Tribal Judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this ordinance continues shall be deemed a SEPARATE OFFENSE.
 4. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.
 5. **Other conditions of ownership and penalties for violations stemming from a Dangerous Animal finding include that the animal be:**
 - a. properly licensed, micro-chipped for tracking, and vaccinated;
 - b. kept indoors or in a security fenced yard or enclosure when on the owner's property;
 - c. muzzled and restrained by a substantial leash and only under the control of an adult capable of restraining and controlling it if off the owner's premises;
 - d. complete an obedience course;
 - e. be spayed or neutered; and
 - f. that dog may be required to wear a bright fluorescent yellow collar that identifies it as a potentially dangerous animal.

6. Owner shall pay all charges for services performed by law enforcement or conservation officers pursuant to this section;
 7. Owner shall be liable for the full amount of damages caused by the dog injuring or causing injury to a person, livestock, or property;
 8. A Tribal Court Judge may impose such other reasonable conditions as are deemed necessary to protect the public safety and welfare.
- m. **Dangerous Animal or Dog Situation.** A law enforcement officer, when called to or coming upon the scene of a Dangerous Animal or Dog situation, may take action deemed necessary under the set of circumstances presented, to protect the public safety and welfare, the safety of him or herself and the safety of domestic animals and property, including taking the animal or dog into custody or placing the animal or dog in quarantine, or disposing of the animal dog in a humane manner if the animal or dog cannot be controlled by the law enforcement officer or an owner or custodian on the scene. Any costs related to the quarantine will be charged to the owner or custodian.
 - n. **Dangerous Animal or Dog Control.** Any dangerous animal or dog(s) must be kept under control at all times by its owner. Any dangerous animal or dog(s) found running at large may be destroyed without attempting to impound said animal(s).
 - o. **Dangerous Animal or animal Database.** The TMBCI Animal Control Department shall maintain a central database for determinations of Dangerous Animals and Dogs.

10.0107

Keeping of Vicious Dogs within the territory and jurisdiction of the Turtle Mountain Band of Chippewa Indians.

1. **Purpose.** In order to protect the health, safety and welfare of members of the Turtle Mountain Band of Chippewa Indians, the Tribe does hereby enact the following provisions under Title 10, Chapter 10.01;
2. **Vicious Dogs: Keeping prohibited.** It shall be unlawful to keep, harbor, own or in any way possess within the territory and jurisdiction of the Turtle Mountain Band of Chippewa Indians Reservation any Vicious Dogs, unless said Vicious Dog(s) are registered with the Tribal Vector's Office, then they may be kept within the territory and jurisdiction of TMBCI subject to the standards and requirements set forth in Section 10.0102(2) and (3) of this ordinance.
3. **Keeping of Vicious Dogs.** The provisions of Section 10.0102(2) of this ordinance are not applicable to owners, keepers or harborers of Vicious Dogs registered with the Tribal Vector's Office. The keeping of such dogs, however, shall be subject to the conditions set forth in Section 10.0102(3) of this ordinance.
4. **Conditions of ownership.** Other conditions of ownership and penalties for violations stemming from a Vicious Dog finding include that the dog be:
 - a. require a special enclosure to contain the dog;
 - b. order that the owner give written notice of the vicious dog to the postal service and all utility companies;
 - c. may prohibit the owner from owning, possessing, controlling, or having custody of any dog for a period of up to three (3) years;
 - d. failure of owner to comply with any of these conditions constitutes a basis for law enforcement to cite owner under any applicable TMBCI Tribal Code Ordinance.

5. **Vicious Dog Situation.** A law enforcement officer, when called to or coming upon the scene of a vicious dog situation, may take action deemed necessary under the set of circumstances presented, to protect the public safety and welfare, the safety of him or herself and the safety of domestic animals and property, including taking the dog into custody pending notification to owner, or disposing of the dog in a humane manner if the dog cannot be controlled by the law enforcement officer or an owner or custodian on the scene. Any costs related to the quarantine or disposal will be charged to the owner or custodian.
6. **Vicious Dog Control.** Any vicious dog(s) must be kept under control at all times by its owner. Any vicious dog(s) found running at large may be destroyed without attempting to impound said animal(s).
7. **Vicious Dog Database.** The TMBCI Animal Control Department shall maintain a central database for determinations of Vicious Dogs.

10.0108

Keeping of Dangerous or Vicious Animals within the territory and jurisdiction of the Turtle Mountain Band of Chippewa Indians.

1. **Purpose.** In order to protect the health, safety and welfare of members of the Turtle Mountain Band of Chippewa Indians, the Tribe does hereby enact the following provisions under Title 10, Animal and Rabies Control, Chapter 10.01;
2. **Dangerous/Vicious Animals: Keeping prohibited.** It shall be unlawful to keep, harbor, own or in any way possess within the territory and jurisdiction of the Turtle Mountain Band of Chippewa Indians Reservation any Dangerous or Vicious Animals, unless said Dangerous or Vicious Animal(s) are registered with the Tribal Vector's Office, then they may be kept within the territory and jurisdiction of TMBCI subject to the standards and requirements set forth in Section 10.0102(2) and (3), and Section 10.0103(4)(5)(6) and (7) of this ordinance.
3. **Keeping of Dangerous or Vicious Animals.** The provisions of Section 10.0102(2) of this ordinance are not applicable to owners, keepers or harborers of Dangerous or Vicious Animals registered with the Tribal Vector's Office. The keeping of such animals, however, shall be subject to the conditions set forth in Section 10.0102(3) and Section 10.0103(4)(5)(6) and (7) of this ordinance.
4. **Confinement.** All registered Dangerous or Vicious Animals shall follow the confinement guidelines set forth in Section 10.0102(3)(b) of this ordinance. Such pen, kennel or structure of confinement shall be suitable and applicable to the specific type and species of the Dangerous or Vicious Animal(s).
5. **Dangerous or Vicious Animal Control.** Any dangerous or vicious animal(s) must be kept under control at all times by its owner. Any dangerous or vicious animal(s) found running at large may be destroyed without attempting to impound said animal(s).
6. **Penalties.** Any person violating or permitting the violation of any provision of this ordinance shall, upon conviction in TMBCI Tribal Court, be fined a sum not more than five hundred dollars (\$500). In addition to the fine imposed, the Court may sentence the defendant to imprisonment for a period not to exceed thirty (30) days.
7. In addition, the TMBCI Tribal Court shall order the removal of said dangerous or vicious animal(s) from the territory and jurisdiction of TMBCI.
8. Should the defendant refuse to remove the dangerous or vicious animal(s) from the territory and jurisdiction of TMBCI, the TMBCI Tribal Judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal(s). Each day that a violation of this ordinance continues shall be deemed a SEPARATE OFFENSE.

10.0109 **Negligent Control of a Dangerous or Vicious Dog(s) or other Dangerous or Vicious Animal(s) and penalties.**

Any individual who owns a dangerous or vicious dog(s) or other dangerous or vicious animal(s) who fails to control the animal through restraint or other means and such animal causes:

1. Injury to another person shall be guilty of: a Class 3 Offense and shall be responsible for restitution;
2. Serious Bodily Injury to another person shall be guilty of a Class 4 Offense and shall be responsible for restitution.
3. Injury to another person's property shall be guilty of a Class 2 Offense and shall be responsible for restitution;
4. The death of another person's animal or livestock shall be guilty of a Class 3 offense and shall be responsible for the restitution for the market value of the animal or livestock.

Chapter 10.02
Animal Control Department

10.0201 **Establishment of Animal Control Department.**

The Turtle Mountain Band of Chippewa Indians (TMBCI) hereby creates the TMBCI Animal Control Department (TMBCI Animal Control Department), within the TMBCI Department of Natural Resources.

1. It shall be the duty of all employees assigned to the TMBCI Animal Control Department to serve the public by the enforcement of the Title 10, and other applicable Tribal laws.
2. The TMBCI Animal Control Department shall be supervised by the TMBCI Department of Natural Resources Director.

10.0202 **General powers and duties of the Animal Control Department.**

The TMBCI Animal Control Department is responsible for the prevention, detection, and enforcement of the TMBCI's animal control ordinances, while safeguarding lives and property in the performance of their duties.

10.0202.01 **Animal Control Officer Authorities and Duties.**

The TMBCI hereby creates a position of Animal Control Officer. The TMBCI Animal Control Department, Animal Control Officer(s) shall have duties and responsibilities that include, but are not limited to:

1. Make such rules and regulations and establish such services, as it deems necessary to carry out the provisions and purposes of the Title 10, subject to the approval of the Tribal Council;
2. Enforces the procedures and regulations set forth in the Title 10;
3. The apprehension of stray animals;
4. The apprehension of dangerous and/or vicious dogs and/or animals;
5. Responds to calls from the public, law enforcement agencies, or other tribal entities concerning injured, stray, sick, or dangerous animals and violations of the Title 10;

6. Picks up and transports animals to a tribally approved shelter for impounding, disposal, or rabies investigation, or to the veterinarian as appropriate.
7. Prepares reports, completes records and various forms such as daily activity sheets, receipts for fees received, citations, quarantine and investigative reports.
8. Provides information to the public regarding licensing, vaccinations, euthanasia, rabies control, pet-owner responsibilities, spaying, neutering, and adoptions;
9. Conducts investigations, inquiries or hearings as necessary to enforce the Title 10.;
10. Appear in court to testify and present evidence regarding violations of the Title 10;
11. Issue tribal citations or warnings to violators of the Title 10;
12. Assist with the removal of nuisance and/or dangerous wildlife when appropriate;
13. Exercise such additional powers and duties as are necessary to fully carry out the provisions of the Title 10.

CHAPTER 10.03
Registration of Dogs

10.0301 Dogs to be registered.

No dogs shall be kept, harbored or maintained within the boundaries of the Turtle Mountain Jurisdiction unless such dog has been registered by the owner with the Tribal ~~Secretary-Treasurer~~ **Vector** of the Turtle Mountain Tribal Council at Belcourt, North Dakota.

10.0302 Rabies certificate of vaccination required.

The Tribal ~~Secretary-Treasurer~~ **Vector** shall issue a Certificate of Registration and registration tag for each dog within the Turtle Mountain Jurisdiction, provided that the owner exhibits a certificate signed by a licensed veterinarian evidencing that the dog described in the registration application has been vaccinated against rabies within a period of one (1) year preceding the date of the application, and provided further that the owner shall pay to the Tribal ~~Secretary-Treasurer~~ **Vector** a registration fee of ~~one~~ **twenty** dollars (\$20) for each dog registered.

10.0303 Information required on certificate of registration; Registration, tags issued and disposition of fees.

Each certificate of registration shall set forth the name and address of the owner, the dog's name, color, breed and sex, the date of rabies vaccination, the name and address of the licensed veterinarian, and the registration number. Each registration tag shall set forth the registration and registration tags issued and shall deposit and maintain a separate record of all fees collected thereof in a special "Rabies Control Program" Tribal account for use in the defrayment of the expenses connected with the administration of this Title 10 ~~and Code~~.

10.0304 Expiration of registration certificate and tags.

Registration certificates and tags issued under this Title 10 ~~and Code~~ shall expire at midnight on the last day of the registration year. For the purpose of this Title 10 ~~and Code~~, the registration year shall begin September 1 and end on August 31. Applications for renewals may be made for the ensuing registration year during the months of July and August and upon payment of the fee required in Section 10.0202 of this Title 10 ~~and Code~~.

10.0305 Attaching registration tag without proper registering.

No ~~Indian~~ person shall attach registration tags to a dog unless such dog has been properly registered with the ~~Secretary-Treasurer~~ **Vector** of the Turtle Mountain Tribe.

10.0306 **Refusal or failure to register or pay impoundment fee.**

The refusal or failure of the owner of any dog to pay the registration fee or any impoundment expenses within three (3) days after written notice thereof, by the Tribal ~~Secretary-Treasurer~~ **Vector** shall be deemed an abandonment of such dog by the Court. Written notice shall be by certified mail, return receipt requested.

CHAPTER 10.04

Restraint, Impoundment of Unclaimed Dogs, and Destruction of Dogs

10.0401 **Restraint of animals off its owner's property.**

Restraint of an animal shall be required if it wanders or leaves the owners property. Such restraint shall be a leash or other tether not to exceed 20 feet and be no less than 10 feet. Any tether must stop at least 5 feet from any public walk way or right of way. Tethers must be mounted to a swivel or secured in a fashion that prevents the tether from wrapping around the securing device or mount.

10.0402 **Violations and penalties of Restraint of animals off its owner's property.**

1. Any violation of this section shall be subject to a forfeiture or not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
2. Each and every day that such violation continues shall be considered a separate offense.
3. Any violation of this section may result in law enforcement immediately impounding the dangerous animal and a new dangerous animal investigation shall occur.

10.0403 **Animal or Dogs to be seized and impounded; Notification of owner; Unclaimed dogs.**

1. No ~~animal or~~ dog without a current registration tag, no dog of a fierce, dangerous or vicious nature, no female dog in heat, and no ~~animal or~~ dog which becomes a nuisance to others when trespassing upon streets, public places or premises of others shall be permitted to run at large within the ~~territory and jurisdiction of TMBCI Turtle Mountain Jurisdiction~~. The ~~TMBCI Animal Control Department, the BIA/TMBCI law enforcement police~~ or any persons specifically appointed for such purposes are hereby authorized to seize and impound such ~~animals or~~ dogs in a tribally designated and maintained impoundment, and the owner, if known, shall be promptly notified. Unless an ~~animal or~~ dog is redeemed by its owner within ~~three (3)~~ **five (5)** days after such notice, or, if the owner is unknown, ~~within three (3)~~ **five (5)** days after its impoundment, it shall be considered unclaimed.
2. If at the expiration of the said time period from the date of the notice to the owner or from the first posting of such notice, such animal or dog has not have been redeemed, it may be destroyed or given to an adoptive home.
3. Any animal or dog suffering from rabies, or infected with hydrophobia, mange or other infectious or dangerous disease, SHALL NOT be released, but may be immediately destroyed without any waiting period requirement.

10.0404 **Requirement before release; Disposition of service fees.**

No dog will be released from impoundment to its owner without payment of a service fee of ~~three~~ **fifty** dollars (\$50) and presentation of a registration certificate for the current registration year. Service fees

shall be deposited in a special "Rabies Control Program" Tribal account and shall be used to defray the expenses connected with the administration of this Title 10.

10.0405 Dogs to be destroyed in humane and sanitary manner.

All unclaimed dogs will be destroyed in a humane and sanitary manner by the police or by a person designated for such purpose by the Tribal Council.

10.0406 Designating tribal employees and Law Enforcement to be authorized to destroy any unclaimed dog.

Tribal employees specifically appointed to such purpose and certified in use of firearms by the Chief of Police and Law Enforcement Officials shall be authorized to destroy any unclaimed dog or known to be of vicious nature, within the city limits by shooting said animal with a firearm, with the stipulation that the firing of a firearm is only in extreme emergencies and is a life threatening situation.

CHAPTER 10.05

Control of Rabies Infected Domestic Animals

10.0501 Care and control of dog or animal known to have bitten a person.

1. Any dog or other animal known to have bitten a person so as to cause abrasion of the skin or which appears to be infected by rabies, shall be ~~closely confined~~ **securely quarantined** by the owner by means of **holding in an enclosed structure with the ability to be locked** ~~a substantial metal chain~~ for a period of ten (10) days or as may be recommended by the Service Unit Director **or TMBCI Animal Control Department**. **Within said structure, the animal must be tethered in a way to prevent it from escaping such structure when the door is open for feeding and watering.** During the ten (10) ~~days~~ **day quarantine** period, the dog or other animal shall be placed under the observation of the Sanitarian of the Public Health Service. **At the discretion of the Animal Control Department, such quarantine may be on the premises of the owner, in a tribally designated and maintained shelter or impoundment, or at the owner's option and expense, in a veterinary hospital of the owner's choice. In the case of stray animals, or in the case of animals whose ownership is not known, such quarantine shall be at the shelter designated by the TMBCI Tribal Chairman and Tribal Council.**
2. The owner, upon demand made by a representative from the TMBCI Animal Control Department, the BIA/TMBCI law enforcement, or any persons specifically appointed for such purposes, shall forthwith surrender any dog or animal which has bitten a human or which is suspected as having been exposed to rabies, for supervised quarantine, which expense shall be borne by the owner, and may be reclaimed by the owner if adjudged free of rabies, upon payment of fees and upon complying with the licensing provisions.
3. When a dog or animal under quarantine has been diagnosed as being rabid, and dies while under such observation, the TMBCI Animal Control Department shall immediately send the head of such animal to the NDSU Veterinary Diagnostics Lab for pathological examination, and shall notify the proper public health officer of reports of human contacts, and the diagnosis made of the suspected animal.
4. No person shall kill, or cause to be killed, any rabid animal, rabid dog, or any animal suspected of having been exposed to rabies, or any animal biting a human, except as herein provided, nor remove same from the territory and jurisdiction of TMBCI without the written permission of the TMBCI Animal Control Department.
5. The carcass of any dead dog exposed to rabies shall, upon demand, be surrendered to the TMBCI Animal Control Department.

6. The TMBCI Animal Control Department shall direct the disposition of any dog or animal found to be infected with rabies.
7. No person shall fail or refuse to surrender any dog for quarantine or destruction, as required herein, when demand is made therefor by a representative from the TMBCI Animal Control Department.

10.0502 Failure of owner to confine dog or other animal.

If the owner fails to confine such dog or other animal, or if the owner is not known, the Public Health Service Sanitarian, the police, or other tribally designated person shall **transport** ~~remove~~ the dog or other animal to a veterinary hospital or other location as designated by the Service Unit Director or **TMBCI Animal Control Officer**, and **either be** placed under observation or **euthanized**, dependent on the Public Health Service Sanitarian's recommendation. If euthanized, the body of the dog or other animal will be **transported to the NDSU Veterinary Diagnostics Lab for pathological examination**. The owner shall in such cases be required to reimburse the special Tribal "Rabies Control Program" account for necessary expenses connected with the **transport, euthanasia, testing, and/or confinement**. Confinement expenses for stray dogs or other animal shall be paid out of the same special Tribal account.

10.0503 Quarantine of animals; Authority to establish period and location.

Whenever a diagnosis of rabies is confirmed in any animal from the **territory and jurisdiction of TMBCI Turtle Mountain Jurisdiction**, the ~~Chairman of the Tribal Council~~ **TMBCI Tribal Chairman** may establish a quarantine of domestic animals and shall define the area under quarantine. Unless sooner rescinded by the ~~Chairman of the Tribal Council~~ **TMBCI Tribal Chairman**, such quarantine shall remain in effect for a minimum of sixty (60) days after the diagnosis of the last known case of animal rabies within the quarantine area.

10.0504 Animals to be confined; Responsibility of owners.

No animal subject to the quarantine shall be removed from the quarantine area without written permission of the ~~Chairman of the Tribal Council~~ **TMBCI Tribal Chairman**. Owners of domestic animals within a quarantine area shall confine the animals to the owner's premises **by means of an enclosed structure with the ability to be locked**. **Within said structure, the animal must be tethered in a way to prevent it from escaping the structure when the door is open for feeding and watering** ~~or maintain them under leash~~.

10.0505 Requirement for vaccination of animals.

The ~~Chairman of the Tribal Council~~ **TMBCI Tribal Chairman** may, on recommendations of the Service Unit Director, require the vaccination of any or all domestic animals within the ~~Turtle Mountain Jurisdiction~~ **territory and jurisdiction of TMBCI**, during the period of quarantine.

CHAPTER 10.06

Penalties

10.0601 Penalties for violation of this Title 10.

Any person who willfully or knowingly violates any provision of ~~Chapter Title 10.04~~ **Chapter Title 10.04** of this Code shall be deemed guilty of an offense and upon conviction thereof, shall be sentenced to pay a **minimum** fine ~~not to exceed~~ **two hundred fifty dollars (\$250) and not to exceed one thousand dollars (\$1,000)**, or sentenced ~~to~~ **labor** ~~not to exceed twenty five (25)~~ **forty-five** days or to both such fine and imprisonment with costs.

CHAPTER 10.07

Public Nuisance

10.0701

Public Nuisance.

1. Every animal or group of animals that commit any of the following acts is deemed to be a public nuisance:
 - a. At large on more than one occasion.
 - b. Chases any person or vehicle.
 - c. Disturbs the peace by barking, howling, fighting, or makes any unprovoked noise which is so loud that it disturbs a person of normal sensibilities and which such person does in writing state that they will so testify if called upon to testify about such matter under oath.
 - d. Bites any person off the premises of the owner or any person lawfully on the premises of the owner.
 - e. Attacks and injures, without provocation, any domestic animal or bird or other animal protected by law.
 - f. Habitually approaches any person, off of or lawfully on the premises of the owner, in a vicious or terrorizing manner or in an apparent attitude of attack.
 - g. Habitually damages public or private property by its activities or with its excrement.
2. Upon complaint made before the TMBCI Tribal Judge, and notice to its owner, or, if the owner is unknown, after ten days' notice by publication and a hearing, the TMBCI Tribal Judge, upon a finding that a dog or cat is a public nuisance, may:
 - a. Order the confinement of such animal within a building or secure enclosure, said animal not to be removed from such building or enclosure without being effectively restrained by chain or leash not exceeding six feet in length and/or properly muzzled; or
 - b. Order the surrender of such animal to the humane society or other animal placement organization or TMBCI Animal Control Department for purposes of placement outside the territory and jurisdiction of TMBCI for humane destruction; or
 - c. Issue such other order as may be necessary to abate the nuisance.
3. The TMBCI Tribal Judge may assess costs and expenses to the owner or keeper of the dog or cat.

**Chapter 10.08
TREATMENT OF ANIMALS**

10.0801

Animal Neglect.

1. For purposes of this chapter, "neglect" with respect to dogs and cats, means the failure to provide an animal with:
 - a. Food and water, as appropriate for the species, the breed, and the animal's age and physical condition;
 - b. Shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition;
 - c. Necessary medical attention; and
 - d. An environment that is:
 - (1) Ventilated in a manner appropriate for the species, the breed, and the animal's age and physical condition;
 - (2) Cleaned in a manner appropriate for the species, the breed, and the animal's age and physical condition; and
 - (3) Free of conditions likely to cause injury or death to an animal of that species, breed, age, and physical condition.

2. For purposes of this chapter, "neglect" with respect to all animals other than those included in subsection 2, means the failure to provide:
 - a. Food and water that is:
 - (1) Appropriate for the species and the breed; and
 - (2) Sufficient to sustain the animal's health;
 - b. Minimal protection from adverse weather conditions, as appropriate for the species and the breed; and
 - c. Medical attention in the event of an injury or illness, as appropriate for the species and the breed.
3. The following do not constitute violations of this section:
 - a. Any usual and customary practice in:
 - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
 - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
 - (3) The sport of rodeo;
 - (4) Animal racing;
 - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
 - (6) Fishing, hunting, and trapping;
 - (7) Wildlife management;
 - (8) The culinary arts;
 - (9) Lawful research and educational activities; and
 - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
 - b. The humane or swift destruction of an animal for cause; and
 - c. Services provided by or under the direction of a licensed veterinarian.
4. Any person that willfully engages in animal neglect is guilty of a Class 2 Offense.

10.0802 **Animal Abuse.**

1. For purposes of this chapter, "animal abuse" means any act or omission that results in physical injury to an animal or that causes the death of an animal, but does not include any act that falls within the definition of animal cruelty, as set forth in section 10.0703.
2. The following do not constitute violations of this section:
 - a. Any usual and customary practice in:
 - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
 - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
 - (3) The sport of rodeo;
 - (4) Animal racing;
 - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
 - (6) Fishing, hunting, and trapping;
 - (7) Wildlife management;

- (8) The culinary arts;
 - (9) Lawful research and educational activities; and
 - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
- b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;
 - c. The humane or swift destruction of an animal for cause; and
 - d. Services provided by or under the direction of a licensed veterinarian.
3. Any person that willfully engages in animal abuse is guilty of a Class 2 Offense for a first or a second offense and a Class 3 Offense for a third or subsequent offense occurring within ten years

10.0803

Animal Cruelty.

Reference **TMBCI Tribal Code 26.1104 Cruelty to Animals.**

It shall be unlawful for any person and a Class [3] three offense to purposely or knowingly:

- 1. Fail to provide necessary food, care, or shelter for an animal in one's custody;
- 2. Leave an animal locked in a vehicle;
- 3. Abandon an animal in one's custody;
- 4. Kill, torture, injure, or administer poison to an animal without legal license to do so; or
 - a. Conviction under this section will result of the confiscation of the cruelly treated animal(s) belonging to the accused, and it shall be proper if convicted, for the court in its discretion to order a final determination of the custody of the confiscated animal(s).
 - b. If the animal is to be destroyed, the manner employed will not be unnecessarily cruel and the expense of a veterinarian shall be imposed upon the original owner.
 - c. Any person who shall torture or cruelly mistreat any animal, or fail to take proper care of any domesticated animal, shall be guilty of a Class [3] three offense.
 - d. A person who is convicted of 26.1104 shall be responsible for the cost of impoundment of an animal(s) and will be responsible for the animal(s) food during impoundment during its confinement.
 - e. The Tribal Court shall order, if an animal(s) is impounded under 26.1104, be spayed or neutered, be registered and given rabies vaccinations. The cost of the medical procedures will be paid to the Turtle Mountain Animal Control/Pound if the original owner is found not guilty or a new owner purchases the animal(s).
- 5. The following do not constitute violations of this section:
 - a. Any usual and customary practice in:
 - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
 - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
 - (3) The sport of rodeo;
 - (4) Animal racing;
 - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
 - (6) Fishing, hunting, and trapping;

- (7) Wildlife management;
- (8) The culinary arts;
- (9) Lawful research and educational activities; and
- (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;

- b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;
- c. The humane or swift destruction of an animal for cause; and
- d. Services provided by or under the direction of a licensed veterinarian.

10.0803.01 Cruelty to Livestock.

Reference **TMBCI Tribal Code 26.1104.01 Cruelty to Livestock.**

1. Any person(s) shall be guilty of a Class [3] three offense who does not supply the livestock animal a sufficient quantity of wholesome food and water when causing or confining the livestock animal.
2. This section also provides that any officer of the department of health, environmental control, animal control or law enforcement may lawfully destroy, or cause to be destroyed, any animal found abandoned and not properly cared for, appearing to be infectiously diseased, injured past recovery for any useful purpose.

10.0803.02 Warrant to seize the animal(s).

Reference **TMBCI Tribal Code 26.1104.02 Warrant to seize the animal(s).**

1. On a showing of probable cause to the Tribal Court to believe that the animal has been or is being cruelly treated, the court shall issue the warrant, forthwith, and set a time within [10] ten days of the date of issuance of the warrant for a show cause hearing to determine whether the animal has been cruelly treated.
2. The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the livestock of the time and place of the hearing.

10.0803.03 Order of sale or return of animal(s).

Reference **TMBCI Tribal Code 26.1104.03 Order of sale or return of animal(s).**

1. Each interested party is entitled to an opportunity to present evidence at the hearing.
2. A finding in Tribal Court that the owner of an animal is guilty of an offense under Section 26.1408, involving the animal as prima facie evidence at a hearing that the animal has been cruelly treated shall be guilty of a Class [4] four offense.
3. If the court finds that the owner has cruelly treated the animal and that the animal is farm livestock, the owner shall be denied ownership and the court shall order a sale of the animal by public notice, order the animal given to a society for the protection of animals, or order the animal humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.
4. The former owner of a cruelly treated animal or the owner's representative will not be accepted.
5. If the animal is unable to sell, the court may give the Animal to a society for the protection of animals.

6. The court shall order the animal returned to the owner if the court does not find that the animal has cruelly treated the animal.
7. Proceeds from the sale of the animal shall be applied first to the expenses incurred in caring for the animal during impoundment and the sale of the animal shall pay any excess proceeds to the court ordering the sale.
8. An owner of an animal ordered to be sold at public auction as provided in this subchapter may appeal the order.
9. While an appeal under this section is pending, the animal will not be sold, destroyed, or given away.

10.0803.04 **Livestock running at large.**

Reference **TMBCI Tribal Code 26.1104.04** **Livestock running at large.**

1. It shall be unlawful and a Class [3] three offense for any owner or person having the control of any such animal to permit the animal to run at large on the jurisdiction of the Turtle Mountain Reservation.
2. Any person who shall knowingly and negligently permit the running at large of any livestock shall be guilty of a Class [4] four offense and shall be responsible for restitution to the person(s) injured and/or the property damages sustained by the wronged person.

10.0804 **Misbranding in the Livestock Industry.**

Reference **TMBCI Tribal Code 26.1408** **Misbranding in the Livestock Industry.**

1. Any person who shall knowingly and willfully misbrands or alters any brand or mark on any livestock of another person shall be guilty of a Class [3] offense.
2. Any person who knowingly buys and sells livestock that has been misbranded or alters any brand or mark shall be guilty of a Class [4] four offense and shall be responsible for restitution to the original owner.

10.0804.01 **Dog Fighting.**

Reference **TMBCI Tribal Code 26.1408.01** **Dog Fighting.**

1. Any person who is guilty of the following shall be guilty of a Class [4] four offense:
 - a. causes an animal to fight; or
 - b. trains an animal under circumstances showing an intent to have the dog fight; or
 - c. lets an animal fight, or be trained to fight, on premises under one's control; or d. owns or keeps an animal trained to fight on premises used for fighting.
2. Any person who attends, pays an admission fee or makes a bet at a dog fight is guilty of a Class [3] three offense.

10.0805 **Animal abandonment.**

1. For purposes of this chapter, "abandonment" means the relinquishment of a person's custody or control, with no intention of reclaiming that custody or control, and without placing the animal into the custody or control of another person that is able to provide care for the animal and who knowingly and willingly accepts that responsibility. The term includes:
 - a. The desertion of an animal; and

- b. The failure to retrieve an animal within forty-eight hours after the agreed-upon conclusion of a boarding contract or other service contract.
2. The following do not constitute violations of this section:
 - a. Any usual and customary practice in:
 - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
 - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
 - (3) The sport of rodeo;
 - (4) Animal racing;
 - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
 - (6) Fishing, hunting, and trapping;
 - (7) Wildlife management;
 - (8) The culinary arts;
 - (9) Lawful research and educational activities; and
 - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
 - b. The humane or swift destruction of an animal for cause; and
 - c. Services provided by or under the direction of a licensed veterinarian.
3. For purposes of this section, "care" means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.
4. Any person that willfully engages in the abandonment of an animal is guilty of a Class 2 Offense.

10.0806

Abandoned animal.

1. A law enforcement officer may take custody of an animal if the officer has reasonable cause to believe that the animal has been abandoned in violation of this chapter.
2.
 - a. Upon taking custody of an animal in accordance with this section, the law enforcement officer shall:
 - (1) Provide care for the animal, either directly or through a contractual arrangement with another person; and
 - (2) (a) Notify the owner, if known to the officer; or
(b) If the owner is not known to the officer, provide notice of the animal's custody, indicate that if the owner does not lay claim to the animal within five days, the animal will be sold, placed for adoption, or humanely destroyed, at the direction of the law enforcement officer, and include the officer's contact information.
 - b. For purposes of this subdivision, notice may be provided by:
 - (1) Publication in the official newspaper of TMBCI;
 - (2) Any electronic means; or
 - (3) Posting a description and a photograph at the local law enforcement center.
3. If the owner is identified within the five-day period, the law enforcement officer shall return the animal to the owner only if:

- a. The owner demonstrates that the animal was not abandoned in violation of this chapter; and
 - b. The owner pays for all costs associated with the animal's care while in custody, including any costs of notifications under this section.
4. If the law enforcement officer refuses to return the animal to its owner, the owner may petition the TMBCI Tribal Court for an order directing its return. In ruling on a petition under this subsection, TMBCI Tribal Court may direct that the animal be sold, placed for adoption, humanely destroyed, or returned to its owner with or without conditions.
 5. If the owner does not lay claim to the animal within five days, the law enforcement officer shall sell the animal, place it for adoption, or humanely destroy it.
 6. Any proceeds from the sale or adoption of an animal under this section must be deposited in the TMBCI general fund.
 7. Notwithstanding the requirements of this section, if upon examining an animal taken into custody by a law enforcement officer in accordance with this section a licensed veterinarian determines that the animal's condition justifies its destruction, the veterinarian shall humanely destroy the animal. The law enforcement agency shall reimburse the veterinarian for the cost of the animal's destruction.
 8. For purposes of this section, "care" means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.

10.0807 **Veterinarian.**

If upon examining an animal a licensed veterinarian determines that there is reasonable cause to believe an animal has been neglected, abused, treated cruelly, or subjected to any act or omission in violation of this chapter, the veterinarian may retain custody of the animal and shall immediately notify law enforcement officials regarding the determination.

10.0808 **Unattended animal in motor vehicle.**

1. An individual may not leave an animal unattended in a motor vehicle without ensuring that the animal's health and safety is not endangered.
2. A law enforcement officer may use reasonable means to enter a motor vehicle and remove an animal left in violation of this section.
3. An individual who violates this section is guilty of a Class 1 Offense.

10.0809 **Immunity from liability.**

A veterinarian is immune from civil or criminal liability if the veterinarian, on the veterinarian's own initiative or at the request of a law enforcement officer or other governmental entity, renders emergency treatment to a sick or injured animal under this chapter. Immunity under this section does not apply in the case of negligence.

10.0810 **Multiple animals. Enhancement of offense.**

If a violation of this chapter involves multiple animals, whether of the same species or not, the violation is deemed to be a singular offense for purposes of enhancement.

Chapter 10.09
Livestock and Poultry Care

10.0901 **Providing food and water.**

A person responsible for caring for livestock or poultry must provide the animals access to food and water that can reasonably be expected to maintain the health of animals of that species, breed, sex, and age, raised using the applicable production method.

10.0902 **Providing shelter.**

A person responsible for caring for livestock or poultry must provide the animals access to sufficient shelter from the weather when it can reasonably be expected to be necessary to maintain the health of animals of that species, breed, sex, and age, raised using the applicable production method.

10.0903 **Protection from injury or disease.**

1. A person responsible for caring for livestock or poultry must take reasonable measures to protect the animals from an injury or disease that can reasonably be expected to seriously endanger the life or health of animals of that species, breed, sex, and age, raised using the applicable production method.
2. A person responsible for caring for livestock or poultry with an injury or disease that seriously endangers the life or health of the animal must either:
 - a. provide treatment that can reasonably be expected to be sufficient for animals of that species, breed, sex, and age, raised using the applicable production method; or
 - b. euthanize the animal.

10.0904 **Environment.**

A person responsible for caring for livestock or poultry must provide the animals with an environment that can reasonably be expected to maintain the health of animals of that species, breed, sex, and age, raised using the applicable production method, such environment shall consider the necessary space for maintenance of animal size and breed.

10.0905 **Handling, restraining, or transporting livestock or poultry.**

A person handling, restraining, or transporting livestock or poultry must use methods and equipment that can reasonably be expected to prevent an injury that would endanger the life or health of animals of that species, breed, sex, and age, raised using the applicable production method.