

Ordinance 42-22

An Ordinance amending Title 11 – Environment, Natural Resources, Animals and Plants to amend the name of Chapter 4, to cleanup language, add sections for dangerous dogs and dog houses, and add language to the section regarding abandoned dogs in subchapter 1 of chapter 4, and enact a subchapter, Animal Protection Code, under chapter 4.

The District II Representative introduced the following Bill on the 27th day of April, 2022.

IT IS ENACTED BY THE BAND ASSEMBLY OF THE NON-REMOVABLE MILLE LACS BAND OF OJIBWE:

Section 1. Amending the Name of Chapter 4 of Title 11.

Chapter 4 shall be named Animals.

Section 2. Amending Subchapter 1 of Chapter 4 of Title 11.

SUBCHAPTER 1

DOG PROTECTION

Section

3001. Definitions.

3002. Registration, Rabies Vaccination Requirement.

3003. Dangerous Dogs.

3004. Confiscation and Disposal of Dangerous Dogs and Other Dogs.

3005. Fines.

3006. Abandoned Dogs; Duty of Officers.

3007. Dog Houses.

3008. Civil Causes of Action.

3009. Jurisdiction.

3010. Sovereign Immunity.

3011. Severability.

§ 3001. Definitions.

The following terms are defined for the purpose of this subchapter:

- (a) **“Abandoned”** means when a dog does not have proper shelter from cold, hot, or inclement weather or not properly fed and watered, or provided with suitable food and water in circumstances that threaten the life of the animal, such as being dumped or dropped off.
- (b) **“Animal shelter”** means a facility, whether organized under the Band or a private entity, that houses, disposes of, and puts up for adoption abandoned, homeless, and lost animals.
- (c) **“Band”** means the Non-Removable Mille Lacs Band of Ojibwe.
- (d) **“Band Lands”** means lands owned by or held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band of Ojibwe Indians, or one or more members of the Mille Lacs Band of Ojibwe Indians, and subject to the jurisdiction of the Mille Lacs Band.
- (e) **“Bodily injury”** means injury to any person that involves physical pain and suffering, scarring or disfigurement, or bone fracture.
- (f) **“Designated animal welfare agency”** means a private entity, such as an animal shelter, rehabilitation center, or rescue center, which assists the Band in removing, rescuing, and finding care and a home for an animal, pet, or service dog.
- (g) **“Dog”** means any animal within the canine family, wild or domesticated.
- (h) **“Dangerous Dog”** means any dog that:
 - (1) has without provocation inflicted bodily injury on any person;
 - (2) has without provocation killed or seriously injured a domestic animal while outside the dog owner’s property line;
 - (3) has been determined to be “potentially dangerous” dog as defined in this Subchapter and, after the dog’s owner is given notice that the dog is “potentially dangerous,” bites, attacks or threatens the safety of humans or other domestic animals; or
 - (4) has a contagious or infectious disease that humans or other domestic animals may contract is exposed to that animal.
- (i) **“Dog Enclosure”** means any securely confined house or residence, or a securely enclosed and locked pen or structure suitable to prevent a dog from escaping so as to provide humans or other animals with protection from the dog.
- (j) **“Owner”** means any person(s) possessing, harboring, keeping, having an ownership interest in, or having custody or control of the dog.

- (k) **“Potentially Dangerous Dog”** means any dog that:
- (1) is not registered with the Band’s Department of Public Safety; or
 - (2) is not tagged with a current Rabies tag showing vaccination against rabies; or
 - (3) when unprovoked, chases or approaches a person on any property in an aggressive manner; or
 - (4) has a known propensity or disposition, as indicated by sworn statements from at least two adults, to attack or threaten the safety of humans or domestic animals; or
 - (5) is running loose anywhere on Band lands.
- (l) **“Provocation”** means conduct or actions that tend to arouse rage, resentment or fury in another person or animal.
- (m) **“Tribal Enforcement Officer”** means a Band Department of Natural Resources conservation officer, Tribal Police Officer or designated employee within tribal law enforcement, or designated animal welfare agency.

§ 3002. Registration, Rabies Vaccination Requirement.

- (a) **Requirement.** All dogs present on Band Lands must be registered with Tribal Law Enforcement and be microchipped within fourteen (14) calendar days after such dog is first present on Band lands.
- (b) **Issuance of Certificate.** The Department of Public Safety shall issue a certificate of registration to the owner and maintain a copy of such certificate of registration.
- (c) **Rabies Vaccination.** All dogs present on Band lands, which are over six (6) months of age, must be vaccinated against rabies each and every year. The owner must show proof of vaccination to the Department of Public Safety at the time they register their dog(s) or bring such proof into the Department of Public Safety office within fourteen (14) calendar days of registration. All dogs on Band lands must be collared and tagged with a current rabies Tag. Owners must show proof of rabies vaccination to the Department of Public Safety on an annual basis or be subject to fines and other penalties as provided in this subchapter.

§ 3003. Dangerous Dogs.

A dog may not be declared dangerous based on a threat, injury, or damage sustained by a person who, at the time of such threat, injury, or damage, was:

- (a) committing a willful trespass or other unlawful conduct upon the premises occupied by the owner of the dog;
- (b) intentionally provoking, tormenting, abusing, or assaulting the dog; or
- (c) committing or attempting to commit a crime.

§ 3004. Confiscation and Disposal of Dangerous Dogs and Other Dogs.

- (a) A tribal enforcement officer may confiscate and take to the nearest animal shelter any dog on Band lands if the officer has reasonable cause to believe:
 - (1) the dog is running loose;
 - (2) the dog is not being maintained in a proper dog enclosure;
 - (3) the dog is outside a proper dog enclosure and is not under the physical restraint of a responsible and able person;
 - (4) the dog is not maintained in a proper dog enclosure, the dog is outside the owner's property line, and the officer has reasonable cause to believe that the dog will commit an aggressive act which is imminent and will be dangerous to the public;
 - (5) the dog is noticeably diseased, injured, or maimed; or
 - (6) the dog is chasing deer or livestock.
- (b) If, in a proceeding in the Court of Central Jurisdiction against the registered owner of a dog confiscated under subsection (a) of this section, it is found by a preponderance of the evidence that the dog is a dangerous dog within the meaning of this subchapter, the Court may order the dog destroyed, order the owner to reimburse the Band for the cost of confiscating, maintaining, and destroying the dog, and may impose a fine not to exceed \$500. If, in such a proceeding, the dog is not found to be a dangerous dog, the Court may order the dog returned to the registered owner under appropriate conditions and, if it is found by a preponderance of the evidence that the confiscation was proper under this subchapter, the Court may order the registered owner to reimburse the Band for the cost of confiscating, maintaining, and returning the dog and may impose a fine not to exceed \$250.

- (c) If there is not registered owner of a dog confiscated under subsection (a) of this section, the dog may be taken to the nearest animal shelter or otherwise disposed of by the tribal enforcement officer.
- (d) **Posted Signs.** Any person subject to the jurisdiction of the Band who keeps a potentially dangerous dog on Band lands must post a “Beware of Dog” sign on the dog enclosure in which the dog is maintained and/or on the property on which the dog is maintained, which sign is clearly visible to the public.

§ 3005. Fines.

- (a) Any person subject to the jurisdiction of the Band who fails to register a dog with the Department of Public Safety or provide proof of rabies vaccination to the Department of Public Safety as required by this subchapter shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, an order shall be issued and a fine shall be imposed, as follows:
 - (1) first offense, an order to register and/or tag the dog(s) shall be issued;
 - (2) second offense, an order to register and/or tag the dog(s) shall be issued and a fine in the amount of \$50.00 shall be imposed;
 - (3) third offense, an order to remove the dog(s) from Band lands shall be issued and a fine in the amount of \$100.00 shall be imposed.
- (b) Any person subject to the jurisdiction of the Band who fails to post a “Beware of Dog” sign in violation of § 3004(d) of this Chapter shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, an order shall be issued and a fine shall be imposed, as follows:
 - (1) first offense, an order to post the sign shall be issued and a fine in the amount of \$50.00 shall be imposed;
 - (2) second offense, an order to post the sign shall be issued and a fine in the amount of \$100.00 shall be imposed;
 - (3) third offense, an order to remove the dog(s) from Band lands shall be issued and a fine in the amount of \$150.00 shall be imposed.
- (c) **Liability for Medical Expenses.** Any person subject to the jurisdiction of the Band whose dog, while on Band lands, bites any person without provocation and inflicts bodily injury, shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, a fine in the maximum amount of \$350.00 shall be imposed and the victim’s medical costs shall be assessed against such person. If, by a preponderance of the evidence, such person is found guilty of a second such charge involving the same dog, a fine in the maximum amount of

\$700.00 shall be imposed, an order to destroy the dog shall be issued, and the victim's medical costs and the costs of destroying the dog shall be assessed against such person.

§ 3006. Abandoned Dogs; Duty of Officers.

- (a) **Abandonment.** It is unlawful for any person subject to the jurisdiction of the Band to abandon a dog on Band lands. Any person subject to the jurisdiction of the Band found, by a preponderance of the evidence, to have abandoned a dog on Band lands shall be guilty of a civil misdemeanor subject to a minimum fine of \$50. Such fine may not exceed \$500. Tribal law enforcement shall first issue a verbal warning, a written warning, and then shall issue a fine.

- (b) **Delivery to shelter.** Any tribal enforcement officer or animal control officer may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal, or wandering the roads, parking areas, or other public areas without a collar or visible current rabies tag. When necessary, a tribal enforcement officer or animal control officer may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in § 3026(c) of this chapter, and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be found, or does not, within ten (10) calendar days after notice, redeem the animal by paying the expenses authorized by this subsection, the animal may be disposed of or released as provided in § 3026 of this chapter.

- (c) **Disposal of animals.** Upon a proper determination by a licensed veterinarian, any animal taken into custody pursuant to subsection (b) may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of § 3025 of this chapter.

- (d) **Expenses.** The expenses of the delivery to an animal shelter, any and all animal shelter costs, including the fee of the licensed veterinarian, the expenses of keeping or disposing of any animal taken into custody pursuant to this section, and all other expenses reasonably incident to the section shall be paid from the general fund, as appropriated by the Band Assembly. If the person alleged to have violated this section is found guilty of the violation, the Band, animal shelter, or designated animal welfare agency shall have judgment against the guilty person for the amount of the expenses.

§ 3007. Dog Houses.

- (a) **In general.** A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall, at a minimum, provide the dog with shelter and bedding.
- (b) **Shelter specifications.** The shelter shall include a moisture-proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture-proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31, the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.
- (c) **Shade.** Shade from the direct rays of the sun, during the months of May to October shall be provided.
- (d) **Farm dogs.** In lieu of the requirements of subsections (b) and (c), a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.
- (e) **Zoning.** All shelters required by this section shall be subject to all building or zoning regulations of the Band and any city, township, county, or state, if applicable.
- (f) **Penalty.** Whoever violates the provisions of this section is guilty of a petty misdemeanor.

§ 3008. Civil Causes of Action.

Nothing in this subchapter shall prevent an individual from pursuing a civil cause of action for injuries sustained from a dog bite or attack.

§ 3009. Jurisdiction.

The Court of Central Jurisdiction shall have jurisdiction over all actions pertaining to this subchapter.

§ 3010. Sovereign Immunity.

Nothing in this subchapter shall be construed as a waiver of sovereign immunity of the Band.

§ 3011. Severability.

If the Court of Central Jurisdiction adjudges any provision of this subchapter to be invalid, such judgment shall not affect any other provisions of this subchapter not specifically included in the judgment.

Section 3. Amending Chapter 4 of Title 11 to Add a Subchapter - Animal Protection.

SUBCHAPTER 2

ANIMAL PROTECTION

Section

3021. Purpose.

3022. Definitions.

3023. Tribal Law Enforcement Policies.

3024. Overworking or Mistreating Animals; Penalty.

3025. Immunity.

3026. Investigation of Cruelty Complaints.

3027. Expenses of Investigation.

3028. Disposal or Release of Seized Animals.

3029. Poisoning Animals.

3030. Animal with Infectious Disease.

3031. Abandonment; Duty of Officers.

3032. Animals Fights and Possession of Fighting Animals.

§ 3021. Purpose.

The purpose of this subchapter is to respect, honor, and protect animals in a manner that is consistent with Band culture and tradition. Any ambiguity in this subchapter shall be construed according to the cultural and traditional principles of the Anishinabe people.

§ 3022. Definitions.

Unless otherwise provided in this section, all words in this chapter shall be construed according to their ordinary meaning. The following terms are defined for purposes of this chapter.

- (a) “Abandon” means when an animal does not have proper shelter from cold, hot, or inclement weather or not properly fed and watered, or provided with suitable food and water in circumstances that threaten the life of the animal.
- (b) “Animal” means every living creature except members of the human race.

- (c) **“Animal control officer”** means an officer employed by or under contract with an agency of the Band, state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.
- (d) **“Animal shelter”** means a facility, whether organized under the Band or a private entity, that houses, disposes of, and puts up for adoption abandoned, homeless, and lost animals.
- (e) **“Court”** means the Court of Central Jurisdiction.
- (f) **“Cruelty” or “Torture”** means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.
- (g) **“Designated animal welfare agency”** means a private entity, such as an animal shelter, rehabilitation center, or rescue center, which assists the Band in removing, rescuing, and finding care and a home for an animal, pet, or service dog.
- (h) **“Emotional harm”** means mental injury which results in an animal to be distrustful, withdrawn, hostile, vicious, depressed, or reclusive, caused by deliberately inflicting stress by terrorizing, excessive verbal punishment, isolation, or intimidation.
- (i) **“Great bodily harm”** means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm to a service animal or a pet.
- (j) **“Pet”** means any animal owned, possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another as a pet or companion, or any stray pet or stray companion animal.
- (k) **“Service animal”** means an animal trained to assist a person with a disability.
- (l) **“Substantial bodily harm”** means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member to a service animal or a pet.
- (m) **“Temporary abandonment”** means allowing any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three (3) hours after receiving notice of the animal's condition.
- (n) **“Tribal Enforcement Officer”** means a Band Department of Natural Resources conservation officer, Tribal Police Officer or designated employee within tribal law enforcement, or designated animal welfare agency.

§ 3023. Tribal Law Enforcement Policies.

Tribal law enforcement shall promulgate policies to carry out the intent of this chapter, which shall be ratified by the Band Assembly.

§ 3024. Overworking or Mistreating Animals; Penalty.

- (a) **Torture.** No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.
- (b) **Nourishment; shelter.** No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.
- (c) **Enclosure.** No person shall keep any animal in any enclosure without providing wholesome exercise and change of air.
- (d) **Cruelty.** No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.
- (e) **Improper Confinement.** No person shall improperly confine an animal unless the confinement is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the confinement is at least four times the length of the confined animal, with the exception of domesticated animals, such as cats and dogs, which shall have proper confinement based on their size relative to their confinement of a kennel. Improper confinement also includes confining an animal in an unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. The provisions of this subsection do not apply to captive wildlife.
- (f) **Harming a service animal.** No person shall intentionally and without justification do either of the following to a service animal while it is providing service or while it is in the custody of the person it serves: (1) cause bodily harm to the animal; or (2) otherwise render the animal unable to perform its duties.
- (g) **Penalty.**
 - (1) Except as otherwise provided in this subsection, a person who fails to comply with any provision of this section may be issued a fine not less than \$500.00.

- (2) A person who intentionally violates subsection (a) or (e) where the violation results in emotional harm or substantial bodily harm to a pet may be issued a fine of not more than \$1,000.00.
- (3) A person convicted of violating paragraph (2) within five years of a previous conviction for violating this section may be issued a fine of not more than \$3,000.00.
- (4) A person who intentionally violates subsection (a) or (e) where the violation results in death or great bodily harm to a pet may be issued a fine of not more than \$3,000.00.
- (5) A person who violates subsection (f) where the violation renders the service animal unable to perform its duties may be issued a fine of not more than \$3,000.00.
- (6) A person who violates subsection (f) where the violation results in substantial bodily harm to a service animal may be issued a fine of not more than \$3,000.00.
- (7) A person who intentionally violates subsection (a) or (e) where the violation results in emotional harm or substantial bodily harm to a pet, and the act is done to threaten, intimidate, or terrorize another person, may be issued a fine of not more than \$3,000.00.
- (8) A person who violates subsection (f) where the violation results in death or great bodily harm to a service animal may be issued a fine of not more than \$5,000.00.
- (9) A person who intentionally violates subsection (a) or (e) where the violation results in death or great bodily harm to a pet, and the act is done to threaten, intimidate, or terrorize another person, may be issued a fine of not more than \$5,000.00.

(h) **Harm to service animals; mandatory restitution and civil remedies.**

- (1) The court shall order a person convicted of violating subsection (f) to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.
- (2) This section does not preclude a person from seeking any available civil remedies for an act that violates subsection (f).

- (i) **Restrictions.** If a person is convicted of violating this section, the court shall require that pets that have not been seized by a tribal enforcement officer and are in the custody or control of the person must be turned over to a tribal enforcement officer unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of a pet, and may impose other conditions the court considers appropriate, including, but not limited to:
- (1) imposing a probation period during which the person may not have ownership, custody, or control of a pet;
 - (2) requiring periodic visits of the person by a tribal police officer;
 - (3) requiring performance by the person of community service; and
 - (4) requiring the person to receive psychological, behavioral, or other counseling.

§ 3025. Immunity.

- (a) **Veterinarian.** A licensed veterinarian acting in good faith and in the normal course of business is immune from civil and criminal liability in any action arising in connection with the report of a suspected incident of animal cruelty.
- (b) **Tribal Enforcement Officer.** A tribal enforcement officer and any volunteer or third-party entity contracting with the tribal police department, who is acting in good faith and in the normal course of business, is immune from civil and criminal liability in any action arising in connection with the report of a suspected incident arising under §§ 3024, 3031.
- (c) **Good Samaritan.** A person may take reasonable steps that are necessary to remove an animal from a motor vehicle if the person holds a reasonable belief that the animal's safety is in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. A person who removes an animal from a vehicle shall not be charged with criminal liability or civil liability for actions taken if the person:
- (1) determines the vehicle is locked or there is otherwise no reasonable manner for the animal to be removed from the vehicle;

- (2) has a good faith belief that forcible entry into the vehicle is necessary because the animal is in imminent danger of suffering harm if it is not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one;
- (3) has contacted a tribal enforcement officer or local law enforcement, the fire department, or the "911" emergency service prior to forcibly entering the vehicle;
- (4) remains with the animal in a safe location, out of the elements but reasonably close to the vehicle, until a peace or animal control officer or another emergency responder arrives;
- (5) used no more force to enter the vehicle and remove the animal from the vehicle than was necessary under the circumstances; and
- (6) immediately turns the animal over to a tribal enforcement officer or another emergency responder who responds to the scene.

§ 3026. Investigation of Cruelty Complaints.

- (a) **Reporting.** Any person who has reason to believe that a violation of this subchapter has taken place or is taking place may apply to the court alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this subchapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to a tribal police officer. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a licensed veterinarian accompany the officer.
- (b) **Police investigation.** The tribal police officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with Band law. The warrant must

be executed and returned to the court which issued the warrant within ten (10) business days after its date; after the expiration of that time, unless executed, the warrant is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer.

- (c) **Disposal of animals.** Upon a proper determination by a licensed veterinarian, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of or released as provided in § 3028. The authority taking custody of the animals may recover all costs incurred under this section.

§ 3027. Expenses of Investigation.

The expenses of the investigation authorized by § 3026, including the fee of the licensed veterinarian, the expenses of keeping or disposing of any animal taken into custody pursuant to an investigation, and all other expenses reasonably incident to the investigation shall be paid from the general fund, as appropriated by the Band Assembly. If the person alleged to have violated § 3022 is found guilty of the violation, the Band, animal shelter, or designated animal welfare agency shall have judgment against the guilty person for the amount of the expenses.

§ 3028. Disposal or Release of Seized Animals.

- (a) **General rule.** An animal taken into custody under this subchapter may be humanely disposed of or released to an animal shelter ten (10) calendar days after the animal is taken into custody, provided that the procedures in subsection (c) are followed. An animal raised for food or fiber products may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.
- (b) **Security.** A person claiming an interest in an animal in custody under subsection (a) may prevent disposal of or release of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten (10) days of the seizure.
- (c) **Notice; right to hearing.**
- (1) The authority taking custody of an animal under this subchapter shall give notice of this section by delivering or mailing it to a person claiming an interest in the animal, by posting a copy of it at the place where the animal was taken into custody, or by delivering or mailing it to a person residing on the property. The notice must include:

- (i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;
 - (ii) a statement that a person claiming an interest in the animal may post security as provided in subsection (b) to prevent disposal of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten (10) calendar days of the date of the notice will result in disposal of the animal; and
 - (iii) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.
- (2) Upon request of a person claiming an interest in the animal, which request must be made within ten (10) calendar days of the date of seizure, a hearing must be held within five (5) business days of the request, to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under this subchapter, the hearing must be conducted by the judge who issued the warrant.
- (3) The judge may authorize the return of the animal, if the court finds:
- (i) the animal is physically fit; and
 - (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal.
- (4) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that the court finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the Band and the person claiming an interest in the animal before return of the animal to the person.

§ 3029. Poisoning Animals.

Any person who unjustifiably administers any poisonous, or noxious drug or substance to any animal, or procures or permits it to be done, or unjustifiably exposes that drug or substance with intent that the drug be taken by any animal, whether the animal is the property of the person or another, is guilty of a civil misdemeanor and shall be issued a fine of \$2,000.00.

§ 3030. Animal with Infectious Disease.

An owner or person having charge of any animal who knows the animal has any infectious or contagious disease, or knows the animal has recently been exposed to an infectious or contagious disease, who sells or barter the animal, or knowingly permits the animal to run at large or come into contact with any other animal, or with another person without that person's knowledge and permission shall be guilty of a civil misdemeanor and shall be issued a fine of \$500.00.

§ 3031. Abandonment; Duty of Officers.

- (a) **Abandonment.** For all other animals not specified in subchapter 1 of this chapter, it is unlawful to abandon or temporarily abandon an animal. Any person subject to the jurisdiction of the Band found, by a preponderance of the evidence, to have abandoned an animal on Band lands shall be guilty of a civil misdemeanor and shall be subject to a minimum fine of \$50.00. Such fine may not exceed \$500.00. Tribal law enforcement shall first issue a verbal warning, a written warning, and then shall issue a fine.
- (b) **Delivery to shelter.** Any tribal enforcement officer may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal. When necessary, a tribal enforcement officer may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in § 3026(c), and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be found, or does not, within ten (10) calendar days after notice, redeem the animal by paying the expenses authorized by this subsection, the animal may be disposed of or released as provided in § 3028.
- (c) **Disposal of animals.** Upon a proper determination by a licensed veterinarian, any animal taken into custody pursuant to subsection (b) may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of § 3027.
- (d) **Expenses.** The expenses of the delivery to an animal shelter, any and all animal shelter costs, including the fee of the licensed veterinarian, the expenses of keeping or disposing of any animal taken into custody pursuant to this section, and all other expenses reasonably incident to the section shall be paid from the general fund, as appropriated by the Band Assembly. If the person alleged to have violated this section is found guilty of the violation, the Band, animal shelter, or designated

animal welfare agency shall have judgment against the guilty person for the amount of the expenses.

§ 3032. Animals Fights and Possession of Fighting Animals.

(a) Penalty for animal fighting; attending animal fight.

- (1) Whoever does any of the following is guilty of a civil misdemeanor and shall be issued a fine of \$5,000.00:
 - (i) promotes, engages in, or is employed in the activity of cockfighting, dogfighting, or violent pitting of one pet against another of the same or a different kind;
 - (ii) receives money for the admission of a person to a place used, or about to be used, for that activity;
 - (iii) willfully permits a person to enter or use for that activity premises of which the permitting person is the owner, agent, or occupant; or
 - (iv) uses, trains, or possesses a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.
- (2) Whoever purchases a ticket of admission or otherwise gains admission to the activity of cockfighting, dogfighting, or violent pitting of one pet against another of the same or a different kind is guilty of a civil misdemeanor and shall be issued a fine of \$1,000.00.
- (3) Whoever possesses any device or substance with intent to use or permit the use of the device or substance to enhance an animal's ability to fight is guilty of a civil misdemeanor and shall be issued a fine of \$1,000.00.
- (4) This subsection shall not apply to the taking of a wild animal by hunting.

(b) Presumption of training a fighting dog.

- (1) There is a rebuttable presumption that a dog has been trained or is being trained to fight if:
 - (i) the dog exhibits fresh wounds, scarring, or other indications that the dog has been or will be used for fighting; and
 - (ii) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.

(2) This presumption may be rebutted by a preponderance of the evidence.

(c) **Presumption of training fighting birds.**

(1) There is a rebuttable presumption that a bird has been trained or is being trained to fight if:

(i) the bird exhibits fresh wounds, scarring, or other indications that the bird has been or will be used for fighting; or

(ii) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare birds to be fought.

(2) This presumption may be rebutted by a preponderance of the evidence.

(d) **Tribal enforcement officer duties.** Animals described in subsection (b) and (c) are dangerous weapons and constitute an immediate danger to the safety of humans. A tribal enforcement officer may remove, shelter, and care for an animal found in the circumstances described in subsection (b) and (c). If necessary, a tribal enforcement officer may deliver the animal to another person to be sheltered and cared for. In all cases, the tribal enforcement officer must immediately notify the owner, if known, as provided in subsection (e). The tribal enforcement officer or other person assuming care of the animal shall have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten (10) calendar days after notice, redeem the animal by paying the expenses authorized by this subsection, the animal may be disposed of or released as provided in subsection (e).

(e) **Disposal or Release.**

(1) An animal taken into custody under subsection (d) may be humanely disposed of or released to an animal shelter at the discretion of the jurisdiction having custody of the animal ten (10) calendar days after the animal is taken into custody, if the procedures in paragraph (3) are followed.

(2) The owner of an animal taken into custody under subsection (d) may prevent disposal of or release of the animal by posting security in an amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within ten (10) calendar days of the seizure. If, however, a hearing is scheduled within ten (10) calendar days of the seizure, the security amount must be posted prior to the hearing.

(3) The authority taking custody of an animal under subsection (d) must give notice of this section by delivering or mailing it to the owner of the animal, posting a copy of it at the place where the animal is taken into custody, or delivering it to a person residing on the property. The notice must include:

- (i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, and telephone number of a contact person who knows where the animal is kept;
 - (ii) a statement that the owner of the animal may post security to prevent disposal of or release of the animal and may request a hearing concerning the seizure and impoundment and that failure to do so within ten (10) calendar days of the date of the notice will result in disposal of or release of the animal; and
 - (iii) a statement that all actual costs of the care, keeping, and disposal of or release of the animal are the responsibility of the owner of the animal, except to the extent that the court finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.
- (4) The owner may request a hearing within ten (10) calendar days of the date of the seizure. If requested, a hearing must be held within five (5) business days of the request to determine the validity of the impoundment.
- (5) The judge may authorize the return of the animal if the judge finds that:
- (i) the animal is physically fit;
 - (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal; and
 - (iii) the animal has not been used for violent pitting or fighting.
- (6) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that the court finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the Band and the person claiming an interest in the animal before the return of the animal to the person.

(f) **Photographs.**

- (1) Photographs of animals seized during an investigation are competent evidence if the photographs are admissible into evidence under all the rules of law governing the admissibility of photographs into evidence. A satisfactorily identified photographic record is as admissible in evidence as the animal itself.

(2) A photograph must be accompanied by a written description of the animal seized, the name of the owner of the animal seized, the date of the photograph, and the name, address, organization, and signature of the photographer.

(g) **Veterinary investigative report.**

(1) A report completed by a licensed veterinarian following an examination of an animal seized during an investigation is competent evidence. A satisfactorily identified veterinary investigative report is as admissible in evidence as the animal itself.

(2) The veterinary investigative report may contain a written description of the animal seized, the medical evaluation of the physical findings, the prognosis for recovery, and the date of the examination and must contain the name, address, veterinary clinic, and signature of the veterinarian performing the examination.

Effective Date. This bill shall become effective on June 1, 2022.

**Ordinance 42-22
(Band Assembly Bill 20-01-42-22)**

Introduced to the Band Assembly on this
Twenty-seventh day of April in the year
Two thousand twenty-two.

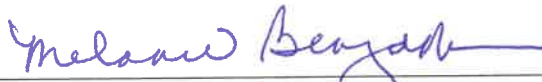
Passed by the Band Assembly on this
Twenty-seventh day of April in the year
Two thousand twenty-two.



Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: April 30, 2022



Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND

