



9470 Main St.  
Upper Lake, CA 95485

Correspondence  
P.O. Box 516  
Upper Lake, CA 95485

P 707.275.0737 | F 707.275.0757  
www.hpultribe-NSN.gov

**Resolution # 23-02-10-07**  
YEAR MONTH DAY SEQUENCE

**“Approval of the Habematolel Pomo of Upper Lake  
Animals, Fish, and Fowl Ordinance on Tribal Lands**

**WHEREAS,** Habematolel Pomo of Upper Lake (“The Tribe”) was not lawfully terminated pursuant to the provisions of the Act of August 18, 1958, P.L. 85-671, 72 Stat. 619, as amended by the Act of August 11, 1964, P.L. 88-419, 78 Stat. 390 (“The Rancheria Act”), and is a federally recognized, sovereign Native American Tribe as confirmed by the judgment in Upper Lake Pomo Association, et al., vs. Cecil Andrus, et al., No. C-75-0181-SW; **AND**

**WHEREAS,** distributees and their lineal dependent Members, now living, listed on the partial summary judgment in the Upper Lake Pomo Association, et al., vs. Cecil Andrus et al., No. C-75-0181 SW, entered May 15, 1979, are those that comprise the General Membership of the Tribe (“The General Membership (GM)”), and are legally entitled to receive services and work within the formal organization of the Tribe; **AND**

**WHEREAS,** the Habematolel Pomo of Upper Lake is a federally recognized gaming Tribe by the U.S. Department of Interior, Bureau of Indian Affairs (BIA) located in Lake County, California having 171 adult voting Tribal Members; **AND**

**WHEREAS,** the Habematolel Pomo of Upper Lake, is a sovereign Tribe, possessing inherent powers of the Tribal self-government and self-determination; **AND**

**WHEREAS,** on May 12, 2004, the Tribe certified and adopted its Constitution with the United States Department of Interior, Bureau of Indian Affairs (BIA), Pacific Regional Office (PRO) through a Secretarial Election; **AND**

**WHEREAS,** on October 15, 2019, the Tribe certified and adopted its amended Constitution, through another Secretarial Election, which actions were recognized by the United States Department of Interior, Bureau of Indian Affairs, Pacific Regional office on November 5, 2019 (“Constitution”); **AND**

**WHEREAS,** as per the Tribe's Constitution under Article IV – Governing Body Section 1. The Executive Council is the governing body of the Tribe and are known as the Executive Council (EC). The Executive Council (EC) consists of seven (7) Members elected at large from the eligible voters of the Tribe; **AND**

**WHEREAS,** the Habematolel Pomo of Upper Lake, Executive Council is empowered by its Constitution to negotiate and conduct agreements with Federal, State and Local government, which may effect the Tribe; **AND**

**WHEREAS,** in the Tribe's Constitution Article X – Powers Section 1. (A), it authorizes the Tribe's Executive Council to exercise its power to act in all matters that concerns the general welfare of the Tribe, and to make decisions consistent with this Constitution; **AND**

**WHEREAS,** the Executive Council of the Tribe has the authority pursuant to Article X, Section 1. (K) of the Tribe's Constitution to manage, lease, contract and otherwise deal with tribal assets and community resources, and to take such actions as are necessary to carry into effect such authority; **AND**

**WHEREAS,** in the Tribe's Constitution Article X – Powers Section 1. (L) it authorizes the Tribe's Executive Council to charter, and regulate enterprises, associations, and corporations formed by members of the Tribe for business or charitable purposes and to authorize formation of corporations under Federal Law for economic, charitable or public purpose;" **AND**

**WHEREAS,** in the Tribe's Constitution Article X – Powers Section 1. (P), it authorizes the Tribe to exercise its power to adopt Resolutions, Ordinances, set Codes, etc.; **AND**

**WHEREAS,** there is a need to exercise reasonable control over the animal, fish and fowl populations within Tribal Lands so that all persons residing within Tribal lands, or visiting Tribal Lands, may do so without fear of harm from or harassment by animals, fish or fowl; **AND**

**WHEREAS,** the Executive Council deems it necessary to enact a Habematolel Pomo of Upper Lake Animals, Fish and Fowl Ordinance. The purpose of said ordinance establishes the specific measures that shall be utilized by the Tribe in exercising such reasonable control over animal, fish, and fowl in these geographic areas; **AND**

**WHEREAS,** this Animals, Fish and Fowl Ordinance is replacing the Dog/Canine Ordinance/Animal Control; **AND**

**THEREFORE, BE IT RESOLVED** the Tribe's Executive Council approves to adopt the Habematolel Pomo of Upper Lake Animals, Fish and Fowl Ordinance on Tribal Lands; **AND**

**BE IT FINALLY RESOLVED** that Resolution No. 23-02-10-07 entitled  
“**APPROVAL OF THE HABEMATOLEL POMO OF UPPER LAKE  
ANIMALS, FISH AND FOWL ORDINANCE ON TRIBAL LANDS,**”  
supersedes and replaces all prior Resolutions, or portions thereof, which  
are in conflict with the provisions herein.

\*\*\*\*\*

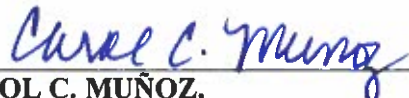
**CERTIFICATION**

As a duly-elected official of the Habematolel Pomo of Upper Lake, I do hereby certify  
that, at a meeting duly called, noticed and convened on the 10<sup>TH</sup> day of **FEBRUARY**,  
2023, at which time a quorum of 7 participated, the foregoing Resolution was duly  
adopted by a vote of 6 **FOR**, 0 **AGAINST**, 1 **ABSTAINED**, and said Resolution  
has not been rescinded or amended in any form.

**DATED SIGNED:** February 10, 2023

**ATTEST:**

  
\_\_\_\_\_  
**SHERRY TREPPA,**  
Executive Council (EC) Chairperson

  
\_\_\_\_\_  
**CAROL C. MUÑOZ,**  
Executive Council (EC) Secretary





**HABEMATOLEL POMO OF UPPER LAKE**

**TITLE 3. PUBLIC PEACE AND SAFETY**

**CHAPTER 3.1 ANIMALS, FISH AND FOWL  
ORDINANCE**

**TABLE OF CONTENTS**

ARTICLE 1. TITLE .....4

ARTICLE 2. PURPOSE.....4

ARTICLE 3. JURISDICTION .....4

ARTICLE 4. DEFINITIONS.....4

    SECTION 4.1. DEFINED TERMS .....4

ARTICLE 5. ADMINISTRATION AND ENFORCEMENT.....8

    SECTION 5.1. TRIBAL ENFORCEMENT & COOPERATION .....8

    SECTION 5.2. DELEGATION OF AUTHORITY .....9

    SECTION 5.3. POLICY AND REGULATION DEVELOPMENT .....9

    SECTION 5.4. EXTERNAL ANIMAL CONTROL LAWS .....9

ARTICLE 6. ANIMAL CARE.....9

    SECTION 6.1. GENERAL PROHIBITIONS .....9

    SECTION 6.2. STRAY ANIMALS, ANIMALS RUNNING AT LARGE, AND  
    ABANDONMENT .....10

    SECTION 6.3. MANDATORY LEASHING .....10

    SECTION 6.4. SPAYING/NEUTERING .....10

    SECTION 6.5. DISTURBANCES, HARASSMENT, NUISANCE AND VICIOUS  
    ANIMALS .....11

    SECTION 6.6. TRANSPORTATION OF ANIMALS .....14

    SECTION 6.7. LIMITATION ON NUMBER OF ANIMALS ALLOWED .....14

    SECTION 6.8. CRUELTY TO ANIMALS .....15

    SECTION 6.9. WILD AND PROHIBITED ANIMALS .....15

ARTICLE 7. IMPOUNDMENT .....15

    SECTION 7.1. SMALL ANIMAL POUND .....15

    SECTION 7.2. IMPOUNDING DUTIES .....15

    SECTION 7.3. NOTICE OF IMPOUNDMENT.....16

    SECTION 7.4. RECLAIMING IMPOUNDED ANIMALS .....16

    SECTION 7.5. ABANDONMENT OF STRAY AND IMPOUNDED ANIMALS .....17

    SECTION 7.6. NOTICE OF SALE & SALE OF IMPOUNDED ANIMALS .....17

    SECTION 7.7. DISPOSITION OF UNREDEEMED OR INFECTED ANIMALS .....17

    SECTION 7.8. PROCEEDS FROM SALE.....18

ARTICLE 8. REGISTRATION OF DOGS, CATS AND KENNELS .....18

    SECTION 8.1. REQUIRED REGISTRATION AND EXPECTATIONS.....18

    SECTION 8.2. REGISTRATION PROCESS AND FEES .....18

SECTION 8.3. LICENSE TAGS AND IMPLANTS .....18

SECTION 8.4. KENNELS .....19

ARTICLE 9. RABIES CONTROL .....19

SECTION 9.1. RABID ANIMALS AT LARGE .....19

SECTION 9.2. SUSPICION OF RABIES .....19

SECTION 9.3. QUARANTINE OF ANIMALS .....19

SECTION 9.4. DISPOSITION OF RABID ANIMALS .....20

SECTION 9.5. TRANSPORTATION OF ANIMALS TO OR FROM RABIES AREAS  
.....20

ARTICLE 10. CITATION FOR VIOLATIONS OF THIS CHAPTER .....21

SECTION 10.1. VIOLATIONS NOT INVOLVING PHYSICAL HARM TO HUMANS  
.....21

SECTION 10.2. VIOLATIONS INVOLVING PHYSICAL HARM TO HUMANS .....21

SECTION 10.3. REPEAT OFFENDERS, PROHIBITION OF OWNING ANIMALS ..21

SECTION 10.4. APPEAL OF CITATIONS TO TRIBAL COURT, NO FURTHER  
APPEALS .....21

ARTICLE 11. MISCELLANEOUS TERMS.....23

SECTION 11.1. LIBERAL CONSTRUCTION.....23

SECTION 11.2. LIABILITY OF OWNERS AND PRIVATE CAUSES OF ACTION .23

ARTICLE 12. OTHER PROVISIONS.....23

SECTION 12.1. SOVEREIGN IMMUNITY .....23

SECTION 12.2. AMENDMENTS .....23

SECTION 12.3. SEVERABILITY .....23

SECTION 12.4. EFFECTIVE DATE.....23

TITLE II – FISH AND GAME REGULATIONS (RESERVED) .....24

TITLE III - WILD ANIMALS (RESERVED) .....24

CERTIFICATION .....25

## ARTICLE 1. TITLE

This Chapter shall be titled the Habematolel Pomo of Upper Lake Animals, Fish and Fowl Ordinance and may be cited as the HPUL Animals, Fish and Fowl Ordinance. This Chapter shall be codified as Chapter 1 of Title 3 of the Habematolel Pomo of Upper Lake Book of Codes.

## ARTICLE 2. PURPOSE

The purpose of this Chapter is to declare that there is a need to exercise reasonable control over the animal populations within Tribal Lands so that all persons residing within Tribal lands, visiting Tribal Lands, residing adjacent to Tribal Lands or visiting persons adjacent to Tribal Lands may do so without fear of harm from or harassment by animals. This Chapter establishes the specific measures that shall be utilized by the Tribe in exercising such reasonable control over animals in these geographic areas.

## ARTICLE 3. JURISDICTION

The Habematolel Pomo of Upper Lake Tribal Court shall have authority to adjudicate cases of maintaining order and protecting the health, safety and welfare of all Persons on Tribal Lands (defined below), as well as persons who are near Tribal Lands and may come into contact with animals owned by persons residing on or visiting Tribal Lands. If no Tribal Court is in operation, the Executive Council, or its express designee, shall act as the Tribal Court for all references within this Chapter. It is further the intent of this Chapter to provide for reasonable and cost-effective procedures for the enforcement of this Chapter.

## ARTICLE 4. DEFINITIONS

### SECTION 4.1. DEFINED TERMS

For purposes of this Chapter, the following terms shall have the meanings ascribed below:

- (A) **“Animal”** Any vertebrate member of the animal kingdom, excluding humans. Unless specifically stated in this Chapter, the word Animal as used herein shall include the definitions of household pets and livestock, as well as every specific type of Animal defined herein.
- (B) **“Assistance Dog”** Any dog specially trained as guide dog, signal dog, or service dog, and recognized as such under applicable law.
- (C) **“At Large”** Any Animal, except Working Animals, when off the Premises of the Owner and not under Restraint of Leash and physical control by a responsible party.
- (D) **“Bite”** Any actual puncture, tearing, blunt trauma or bruising of the skin caused by the teeth of an Animal.

- (E) **“Cat”** Means a domestic cat (*Felis Catus*).
- (F) **“Chapter”** shall mean this Chapter 3.1 Animals, Fish and Fowl Ordinance.
- (G) **“Department”** The Tribal Public Safety Department, including its personnel and any other entity or persons acting under proper delegation of authority to enforce this Chapter or acting under authority to enforce external animal control laws and procedures.
- (H) **“Domestic Animal”** Any cow, horse, mule, burro, sheep, goat, pig, or bird or any other valuable animal or fowl commonly confined and maintained by man for domestic or commercial purposes (excepting pets).
- (I) **“Executive Council”** shall mean the governing body of the Habematolel Pomo of Upper Lake.
- (J) **“Household Pet”** Any Cat, dog, bird of the canary, parrot or psittacine family, and other kindred animals and birds usually and ordinarily kept as household pets.
- (K) **“Kennel”** Any lot, building, structure, enclosure, or premises whereupon five (5) or more dogs over the age of four (4) months are kept and/or maintained, regardless of their housing arrangements.
- (L) **“Lawful Fence”** Any fence which is strong, substantial, and sufficient to prevent the ingress or egress of the Animals it is meant to contain within its boundaries.
- (M) **“Leash”** Any rope, leather strap, chain, or other material not exceeding six (6) feet in length, being held in the hand of any capable person, for the purpose of controlling the animal.
- (N) **“Livestock”** Horses, cattle, pigs, sheep, goats, rabbits, fowl and any other Animals used for agricultural purposes.
- (O) **“Neglected”** Animals that are not receiving food, water, shelter, medical care, exercise or supervision at the level necessary for the welfare of the Animal.
- (P) **“Nuisance Animal”** An animal, about which the Department or similar external body has had three (3) or more separate complaints within a six-month period where a verified violation of this Chapter has occurred and the owner has received a Notice of Violation, citation or similar notice for each of the said violations from any agency with jurisdiction over such matters, yet failed to correct the nuisance.
- (Q) **“Owner”** Any Person, firm, or corporation having interest in or having control, custody, or possession of an animal, provided however, that any occupant of premises upon which an animal is found shall be deemed prima facie the owner of said animal for the purposes of this article unless said occupant either presents said animal to the Animal Control Director for inspection or permits the Animal Control Director to take custody of said



animal.

- (R) **“Ordinance”** This Animals, Fish and Fowl Ordinance.
- (S) **“Person”** Any individual, firm, partnership, corporation or unincorporated association.
- (T) **“Premises of Owner”** The premises of an Owner shall be defined as 100 feet from the land or yard adjoining an identifiable house or other structure inhabited by an Owner.
- (U) **“Proper Care”** shall mean:
  - (1) The provision of food that is free of contamination and of sufficient quality and nutritive value to meet the known normal daily requirements for the condition and size of the animal.
  - (2) The provision of water receptacles which are kept clean and have fresh water provided at all times.
  - (3) The removal of excrement from primary enclosures at least once a day, or as often as necessary to prevent contamination of the animals contained therein and to reduce disease hazards and odors.
  - (4) The maintenance of premises in a clean condition and in good repair in order to protect the animals from injury.
- (V) **“Quarantine”** To detain or isolate an animal suspect of contagion or in context where restricted movement for a specific and limited period of time is necessary to protect public safety.
- (W) **“Reservation”** shall mean all lands within the exterior boundaries of the Habematolel Pomo of Upper Lake Reservation located in Lake County, California and all lands owned by the Tribe both fee and non-fee land and lands held in trust for individuals and all lands considered “Indian lands” under federal, state or tribal law.
- (X) **“Restraint”** To securely tie, leash, or confine by a secure fence or enclosure, or leash under the control of a person of suitable age to exercise sound judgment and ability to control the animal.
- (Y) **“Stray Animal”** An animal with no owner identification upon it. The Department has no obligation to locate the owner(s) of stray animals and may immediately turn them over to a pound or similar entity.
- (Z) **“Title”** Title 3 Public Peace and Safety Chapter.
- (AA) **“Tribe/Tribal”** The Habematolel Pomo of Upper Lake, a federally recognized Indian tribe.
- (BB) **“Tribal Court”** shall mean the Habematolel Tribal Court established pursuant to Tribal ordinance. If a Tribal Court is not in operation, the Executive Council or their designee shall operate as the Tribal Court.

- (CC) **“Tribal Entity”** Any entity, organization, or subdivision recognized by the Tribe.
- (DD) **“Tribal Employee”** Any person acting in his or her official capacity as an employee of any Tribal Entity.
- (EE) **“Tribal Lands”** All land recognized by the Habematolel Pomo of Upper Lake to be utilized by Tribal Members and descendants of the Tribe within the boundaries of the “Old Upper Lake Rancheria,” as well as any land that is either owned by the Tribe or held in trust, by the United States Government, for the benefit of the Tribe.
- (FF) **“Tribal Member”** shall mean an enrolled member of the Habematolel Pomo of Upper Lake.
- (GG) **“Unlicensed Animal”** Any dog or cat for which a registration fee has not been paid for the current year to the proper authorities, or to which a metal tag or other form of identification and licensing has not been attached to the animal as required under this Chapter.
- (HH) **“Vaccination”** Protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by a licensed veterinarian given in an amount sufficient to provide immunity from rabies for a minimum of one (1) year.
- (II) **“Vicious Animal”** Any animal over the age of six (6) months which: (i) Unprovoked, inflicts bites or other harm on a human or a domestic animal, whether on public or private property within Tribal Lands; or (ii) Unprovoked, chases or approaches a person or domestic animal upon the street, sidewalks, or any public or private property within Tribal Lands in a menacing fashion or apparent attitude of attack; or (iii) is known of its propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals on any public or private property within Tribal Lands.
- (JJ) **“Wild Animal”** Any animal which is by its natural state wild and not considered a pet, like a dog or cat. Also excluded are “Domestic Animals.”
- (KK) **“Working Animal”** Any dog employed by a law enforcement agency during duty hours or training, any specifically trained guide dog or service dog performing their specifically trained tasks, any dog currently active in a search and rescue team for purposes of training or rescue, specifically trained herding dogs or hunting dogs being used for their specific purpose.

## **ARTICLE 5. ADMINISTRATION AND ENFORCEMENT**

### **SECTION 5.1. TRIBAL ENFORCEMENT & COOPERATION**

- (A) Administration and enforcement of this Chapter shall be the responsibility of the Habematolel Pomo of Upper Lake Public Safety Department, which, as necessary to carrying out its responsibilities under this Chapter shall have the authority to:
- (1) Contract with, operate or cause to be operated animal shelters and/or pounds, provided that any contract with a non-Tribal Person or Entity shall be reviewed and approved by the Tribe's Executive Council prior to execution.
  - (2) Contract with, select, train, hire and/or retain animal control officers and other professionals to enforce the provisions of this Chapter, provided that any contract with a non-Tribal Person or Entity shall be reviewed and approved by the Tribe's Executive Council prior to execution.
  - (3) Contract with, select, train, hire and/or retain animal control officers and other professionals to investigate complaints of any alleged violation of this Chapter, provided that any contract with a non-Tribal Person or Entity shall be reviewed and approved by the Tribe's Executive Counsel prior to execution.
  - (4) Subject to the terms stated herein, contract with, select, train, hire and/or retain animal control officers and other professionals to issue citations for violations of this Chapter, provided that any contract with a non-Tribal Person or Entity shall be reviewed and approved by the Tribe's Executive Counsel prior to execution.
  - (5) Subject to the terms stated herein, contract with, select, train, hire, and/or retain animal control officers and other professionals to take, confine and ultimately dispose of Animals found in violation of this Chapter, provided that any contract with a non-Tribal Person or Entity shall be reviewed and approved by the Tribe's Executive Counsel prior to execution; and
- (B) Right of Entry. In the administration and enforcement of the provisions of this Chapter, the Department shall have authority to enter upon any premises within Tribal Lands upon which any animal is kept or located for the purpose of picking up, seizing, or impounding any animal found running at large, or staked, herded, or grazing thereon, contrary to the provisions of this Chapter, or for the purpose of ascertaining whether such animal is registered or licensed as provided in this Chapter, or for the purpose of inspecting the premises to ascertain whether any law of the Tribe relating to the enforcement of this Chapter, is being violated; provided, however, the right of entry shall be exercised only during daylight hours, and no building within the curtilage of a home shall be entered without the consent of the owner or tenant.
- (C) Interference with Department Enforcement Efforts. No person shall resist or interfere

with the Department in the performance of its official duties, nor shall any person fail or refuse to exhibit the registration of any animal required to be licensed by this Chapter when required to do so by the Department. Should a person fail or refuse to exhibit the registration of any animal required to be licensed, the animal may be seized, and the Owner shall be required to pay all fees and costs associated with redeeming the animal.

## **SECTION 5.2. DELEGATION OF AUTHORITY**

As necessary to carry out its responsibilities under this Chapter, the Tribe's Public Safety Department may:

- (1) With the approval of the Executive Council, delegate all or part of its responsibilities under this Ordinance to competent agencies and officers of federal, state, local or other tribal governments, or to private persons or organizations; and
- (2) With the approval of the Executive Council, negotiate contracts or agreements with said agencies, officers, persons, and organizations, or their facilities, whether within or outside Tribal Lands; and
- (3) Engage Persons over the age of eighteen (18) years for the purpose of enforcing animal control regulations.

## **SECTION 5.3. POLICY AND REGULATION DEVELOPMENT**

The Tribe's Public Safety Department may develop regulations and policies to implement the terms of this Chapter. Any such regulations and policies shall require prior approval by resolution of the Tribe's Executive Council, and shall be consistent with this Chapter and the Tribe's Constitution. To the extent the Department has delegated any duties to any other person or entity pursuant to, Section 5.2, and to the extent the Department is developing regulations and policies that affect those duties that have been delegated, it shall consult with the delegee through the development and implementation of such policies.

## **SECTION 5.4. EXTERNAL ANIMAL CONTROL LAWS**

Persons subject to this Chapter may also be subject to applicable federal, state and municipal laws, including penal codes, involving the treatment and care of animals, as well as enforcement actions by various external (non-Tribal) authorities in other non-Tribal venues and courts of competent jurisdiction, including by operation of agreements and memoranda of understanding between the Tribe and such external authorities.

# **ARTICLE 6. ANIMAL CARE**

## **SECTION 6.1. GENERAL PROHIBITIONS**

- (A) It shall be a violation of this Chapter, subject to the penalty stated below, for any person to own, keep, possess or maintain an animal in such a manner as to constitute a nuisance. An animal is a nuisance when it disturbs the rights of, threatens the safety of, or damages any person, or interferes with the ordinary use and enjoyment of Tribal Lands. Nuisance may occur by various acts, including but not limited to acts of aggression (even if they do

not result in bites or other physical harm but only cause emotional distress), barking, howling, or making other noise with such frequency and in such a manner as to disturb the peace of any Tribal Lands or land adjacent to the same.

- (B) Nothing in this Chapter shall inhibit Department personnel from taking necessary actions as provided in this Chapter when such Department personnel reasonably believe an animal constitutes a nuisance as defined above, as well as when an animal or its owner is otherwise not complying with this Chapter.

## **SECTION 6.2. STRAY ANIMALS, ANIMALS RUNNING AT LARGE, AND ABANDONMENT**

- (A) No owner shall permit their animal, or livestock, to run at large on Tribal Lands.
- (B) Any animal found running at large in violation of this Chapter shall be subject to immediate seizure by the Department and the owner may be subject to applicable penalties.
- (C) All stray animals shall be seized by the Department, which shall in turn transfer such animals to the Lake County Animal Control Department for handling in accordance with its governing procedures and laws.
- (D) Any animal running at large that cannot be safely seized by the Department may be destroyed if believed to pose a threat to public safety, including the safety of persons, livestock, and other animals.
- (E) It shall be unlawful for any Tribal Member to abandon any animal or livestock in any location, whether on or off of Tribal Lands. It shall also be unlawful for any person to abandon any animal or livestock on any Tribal Lands.

## **SECTION 6.3. MANDATORY LEASHING**

- (A) All animals shall be physically restrained by a leash when not on the premises of the owner.
- (B) An animal may be unleashed on the premises of its owner only if: (1) the property is enclosed by a fence or other enclosure of sufficient design, dimensions, and strength so as to prevent the animal's escape; or (2) the animal remains actively supervised by a person of appropriate age and ability to control the animal without interruption.

## **SECTION 6.4. SPAYING/NEUTERING**

- (A) Mandatory Spaying/Neutering: No Person shall own, harbor, or keep within the Tribal Lands, a dog or cat over the age of four (4) months, which has not been spayed or neutered unless the dog or cat is exempt from the provisions of this section pursuant to

subsection (B) of this section, below. Any person intentionally providing care, custody, and control over a dog or cat for more than thirty (30) days shall be deemed the owner of such dog or cat and shall comply with this subsection.

- (B) **Exceptions to Mandatory Spaying/Neutering:** The following animals are exempt from the provisions of subsection (A), above:
- (1) Dogs employed by Law Enforcement Agencies or Public Safety Departments.
  - (2) Certified Search and Rescue Dogs.
  - (3) Certified Assistance Dogs: Guide, Signal, Service.
  - (4) Animals whose health prohibits such a procedure (Veterinarian verified).
  - (5) Dogs appropriately trained and used for herding/hunting (AC verified).
  - (6) Dogs or cats registered with AKC, UKC, or other recognized organizations.
  - (7) Dogs or cats boarded in a licensed kennel or business, for the purposes of training or resale.
- (C) **Spaying/Neutering Program.** Lake County has established a spay and neuter program to help control the population of unwanted dogs. Any dog licensed in Lake County and owned by a permanent resident of Lake County, including Tribal Members living on Tribal Land, is eligible to participate in this program. Under this program, owners may receive a partial reimbursement, from the County, for the owner's costs of a spay or neuter surgery if that owner provides the Lake County Animal Control Director a certificate of spay or neuter and a copy of the receipt showing related charges, within thirty (30) days of the operation. The reimbursement amount is determined by the County, and is currently one-half of the actual surgical fee up to \$60.00.

## **SECTION 6.5. DISTURBANCES, HARASSMENT, NUISANCE AND VICIOUS ANIMALS**

- (A) **Unnecessary Noise & Noxious Odors.** It is hereby declared to be a public nuisance and it is therefore unlawful to keep, maintain, or permit on any lot or parcel of land any animal or livestock which by any sound, cry, or noxious odors shall disturb the peace and comfort of any person on, or adjacent to, Tribal Land, or interfere with any person in the reasonable and comfortable enjoyment of life or property on, or adjacent to, Tribal Land.
- (B) **Female Animals in Heat.** The owner of a female dog, cat, or any other non-livestock animal in heat or when in season, shall cause such animal to be penned or enclosed in such a manner as to preclude other animals from attacking such female animal or being attracted to it.
- (C) **Animals Chasing Vehicles, Pedestrians, Bicycles, Etc.** No person shall permit, encourage, or allow an animal to chase, run after or jump at vehicles, or bicycles lawfully using any portion of Tribal Lands, including but not limited to streets or gathering places within the Tribal Lands.
- (D) **Jumping and Barking at Pedestrians and Others.** No person shall allow an animal that frequently or habitually snarls or growls at or snaps or jumps upon or threatens persons to

enter upon any Tribal Lands beyond that person's premises.

- (E) Harassment of, and Attacks Upon, Livestock and Other Animals. No owner shall permit their animal to chase, bite, injure, or harass any livestock or other domestic animal or wild animal on, or adjacent to, Tribal Lands. It shall be the duty of the owner of such animal upon notification of the fact by the owner of such livestock or other domestic animal or by the Department, to keep such animal in proper enclosure.
- (F) Injury and Killing of Animals and Livestock by Other Animals. If any animal shall kill or injure any animals, wild animals, or livestock, the owner or keeper of such animal shall be liable for all damages that may be sustained thereby, to be recovered by the party so injured by any court having competent jurisdiction. It shall be unlawful to keep such animal after it is known the animal has killed or injured animals, wild animals, or livestock. It shall be the duty of any person owning or keeping any animals or domestic animal, or wild animal to kill such animal in a humane and safe manner within forty-eight hours after being notified of that fact by the owner of such livestock or domestic animal or by the Department. If such owner or keeper of an animal shall fail or neglects to comply with the requirements of this section, it shall be lawful for the Department to impound or dispose of such animal.
- (G) Directing and Provoking Animals. No person shall direct, cause, encourage, allow, or otherwise aid or assist any animal to threaten, charge at, intimidate, bite, harass, menace, or attack any person or animal, or engage in any activity otherwise prohibited by this Chapter, on or adjacent to Tribal Lands. This prohibition does not apply to owners of animals involved in lawful hunting activities.
- (H) Vicious Dogs. The following provisions apply to Vicious Dogs, as that term is defined above:
  - (1) Declaration of Vicious Dog. The Department shall identify and classify potentially vicious dogs. The Department may find and declare a dog vicious if it has substantial evidence to believe that the dog falls within the definition set forth above. Substantial evidence may be based upon: (i) the written complaint of a person who is willing to testify that he or she witnessed the dog acting in a manner that causes it to fall within the definition of vicious dog; (ii) dog bite reports filed with the Department or any other governmental agency; (iii) actions of the dog witnessed by the Department or any other governmental agency; or (iv) Other relevant substantial evidence.
  - (2) Written Notice. Upon the Department's determination that substantial evidence exists to believe that a dog is vicious, it may issue a written notice to the owner of the dog addressed to the contact information listed in the Dog's registration records. The notice shall contain the following: (i) the name and address of the owner of the dog; (ii) a brief description of the dog; (iii) a brief statement of why the dog has been found to be vicious dog; (iv) the requirements for restraint of the dog, as determined by this Chapter; (v) that these requirements must be complied with within 48 hours; (vi) the penalties for violation of the requirements for restraint imposed by this Chapter, including a statement that, if the requirements are not timely met, the Department will issue a citation and may impound and confiscate the Vicious Dog.

- (3) Requirement of Physical Restraint. No person shall keep, own or possess within Tribal Lands any vicious dog unless muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person or confined in a proper enclosure in such a way as to prevent it from biting any human being, livestock, domestic animal, or game animal; nor permit such dog to run at large at any time.
- (4) Registration, Identification, and Insurance of Vicious Dog. It is unlawful for an owner to have a vicious dog on the Reservation without a certificate of registration issued under this section. The Department shall issue a certificate of registration to the owner of a vicious dog if the owner presents to the authority sufficient evidence of:
- (i) A proper enclosure, which is a securely confined, locked pen, kennel, or structure upon the premises of the owner of such dog. Confinement shall be accomplished by means of a substantial fence or similar enclosure, set back at least ten (10) feet from property lines, sidewalks, and streets, and of sufficient strength and height to prevent the dog from escaping therefrom, and shall be locked and secured to prevent entry of young children and other dogs. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot. The pen or enclosure shall be structurally sound and maintained in good repair, and shall have a top, if necessary, to prevent a dog from escaping and shall also provide protection from the elements for the dog.
  - (ii) The posting of the premises with a clearly visible warning sign that there is a vicious dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that warns children of the presence of a vicious dog; and
  - (iii) A surety bond issued by a surety insurer in a form acceptable to the Department in the sum of at least \$100,000.00 payable to any person injured by the vicious dog; or
  - (iv) A policy of liability insurance such as homeowner's insurance in the amount of at least \$100,000.00 insuring the owner for any personal injuries inflicted by the vicious dog.
- (5) Violation. Any dog that has previously been declared a vicious dog is in violation of this ordinance if:
- (i) The dog is not validly registered under this Chapter.
  - (ii) The owner does not secure and maintain liability insurance coverage required under this Chapter.
  - (iii) The dog is not maintained in the proper enclosure.
  - (iv) The dog is outside of the dwelling of the owner or outside of the proper enclosure and not under the physical restraint of a responsible person; or
  - (v) The dog threatens or attacks and inflicts harm on any person, livestock, game, or domestic animal.
- (6) Enforcement: Any owner who keeps his or her dog in violation of this subsection will be subject to:



- (i) Seizure and possible destruction of the dog by the Department.
- (ii) Any fines and costs associated with the confiscation and destruction of the dog; and
- (iii) Personal liability for any injury caused by the dog.

#### **SECTION 6.6. TRANSPORTATION OF ANIMALS**

- (A) No person shall transport or carry, on any public highway or public roadway within Tribal Lands, any animal, or livestock in a motor vehicle unless that animal or livestock is safely enclosed within the vehicle or protected by a cage, container, or other device that will prevent the animal or livestock from being thrown from, or jumping from, the motor vehicle.
- (B) No person shall leave an animal or any other animal in any unattended vehicle on Tribal Lands without adequate ventilation or in such a manner as to subject the animal to extreme temperatures which adversely affect the animal's health or welfare.

#### **SECTION 6.7. LIMITATION ON NUMBER OF ANIMALS ALLOWED**

- (A) Dogs. Unless authorized by the Department pursuant to the provisions of this Chapter, no more than four (4) dogs per residence on Tribal Lands are allowed. Any excess of the number of dogs found may be seized and disposed of under this Chapter.
- (B) Cats. Unless authorized by the Department pursuant to the provisions of this Chapter, no more than four (4) cats per residence on Tribal Lands are allowed. Any excess of the number of dogs found may be seized and disposed of under this Chapter.
- (C) Other Household Pets. The limitation on the number of other forms of household pets shall be determined on a case by case basis in keeping with the spirit of this Chapter, and taking into consideration they type(s) of pet(s), the space available at the residence, and other factors to ensure no nuisance results. Persons having excessive numbers of other types of household pets that as a result of such excessive numbers are causing violations of this Chapter, may be subject to seizure of the violating animals or be required to take actions to stop continuing violation of this Chapter.
- (D) Livestock. The limitation on the number of livestock shall be determined on a case by case basis in keeping with the spirit of this Chapter, and taking into consideration the type(s) of livestock, the space available at the residence, and other factors to ensure no nuisance results. Persons having excessive livestock that as a result of such excessive numbers are causing violations of this Chapter, may be subject to seizure of the violating livestock or be required to take actions to stop continuing violation of this Chapter.
- (E) Variance. Owners that have animals in greater numbers than the numerical restrictions under this section may apply to the Department for a variance. The Department shall draft requirements for granting said variances. Variances under this section shall not be granted for the purposes of operating a kennel as defined under this ordinance. Variances

shall only be granted for those dogs and cats that are household pets. Variances shall not be determined to be associated with any form of property right and may be revoked at any time. The Department has the sole discretion to grant or deny an application for a variance. The Department's decision shall be final.

#### **SECTION 6.8. CRUELTY TO ANIMALS**

The Department shall have the power to intervene to prevent the perpetration of any act of cruelty upon any animal by any Tribal Member and by any person on Tribal Lands, and may seize the animal for its safety until conditions are again safe for the animal. It shall be unlawful by acts or omissions to:

- (A) Torture, torment, mutilate, cruelly beat, or kill, or seriously overwork an animal.
- (B) Failure to provide necessary food, drink, air, light, space, shelter, or care for an animal in one's custody.
- (C) Abandon an animal in one's custody.
- (D) Transport or confine an animal in a cruel manner.
- (E) Kill, injure, or administer poison to an animal without legal privilege to do so.
- (F) Cause one animal to fight with another; or
- (G) Other non-physical forms of cruelty whereby a reasonable person would consider the actions to be cruel and inhumane to an animal.

#### **SECTION 6.9. WILD AND PROHIBITED ANIMALS**

No person without prior written authorization by the Department shall keep any wild animals in live captivity or any animal that is prohibited from private ownership under applicable federal laws. Any person found to have such animals shall surrender the animal and pay any costs associated with the Department's handling of the animal and returning it to the wild or other proper authorities.

### **ARTICLE 7. IMPOUNDMENT**

#### **SECTION 7.1. SMALL ANIMAL POUND**

Until such time as the Tribe may establish its own facility to house and handle impounded animals, the Department shall contract with the Lake County Animal Control Department for the performance of all pound-related duties, including housing, veterinary care, return, adoption and euthanasia.

#### **SECTION 7.2. IMPOUNDING DUTIES**

- (A) It shall be the duty of the Department to take up, seize, and impound any animal found running at large in or upon any street or upon any unenclosed lot on Tribal Lands, or found staked out, herded, or grazing upon any Tribal Lands in any manner contrary to the

provisions of this Chapter. If the animals cannot be safely seized by the Department, the Department shall notify the Lake County Animal Control Officer of the violating animal and related details.

- (B) The Department shall keep a record of each animal impounded, including the date such animal was impounded and it shall coordinate with the proper authorities to maintain its own independent documentation regarding the date and manner of its disposal, and the name and address of the person who redeemed, reclaimed, or purchased the animal from the animal pound, together with the amount of all fees received and collected therefore and the number of any license or the date of any registration exhibited or issued in connection therewith.

### **SECTION 7.3. NOTICE OF IMPOUNDMENT**

If any animal taken up or impounded is licensed or registered, and if such tag and number shall be upon the collar of such animal or implant, the Department shall give notice to the owner of that Animal within 48 hours after the animal has been picked up as follows.

- (A) This notice shall state that the animal has been picked up by the Department and impounded, and that the animal will be disposed of as provided in this Chapter.
- (B) The Department shall personally serve the notice to the owner, or by leaving the same with any adult and competent person at the owner's residence, as stated in the records of the Tribe, or by posting the same in a conspicuous place at that address. All of which shall constitute sufficient notice.
- (C) In addition to service the Department will attempt to contact the owner by phone and the numbers listed in the Tribe's records.
- (D) No further notice shall be required if any one of the aforementioned methods are used. Additional methods of notice may be used, but only to supplement and not instead of the above-listed methods.

### **SECTION 7.4. RECLAIMING IMPOUNDED ANIMALS**

The owner or person entitled to the custody of any animal picked up, seized, or impounded may, at any time before the sale or disposal thereof, reclaim his or her animal by paying to the Department the charges, fines, and fees, including registration fees, accruing up to the time of such redemption. Such amounts must be paid to the Department before the owner may attempt to reclaim the animal from the Lake County Animal Control pound.

Owners shall be required to pay any accrued charges and fees for the capturing, care, and disposal of the animal whether or not they have redeemed or abandoned the animal, including through deductions from funds disbursed by the Tribe to Tribal Members.

### **SECTION 7.5. ABANDONMENT OF STRAY AND IMPOUNDED ANIMALS**

Any owner entitled to regain custody of an animal pursuant to the provisions of this Chapter, who fails to redeem their animal within the time required for redemption under this Chapter, shall have abandoned all legal rights and interests in the animal.

All impounded stray animals are deemed to have been abandoned.

### **SECTION 7.6. NOTICE OF SALE & SALE OF IMPOUNDED ANIMALS**

(A) All impounded animals, except registered dogs, registered cats, rabbits, birds, and poultry, may be promptly advertised for sale by the Department or its designee if not redeemed within three days after being impounded. The Department shall post the following notices of sale: (1) one at the public notice board at the Tribal Administration Office; (2) one on the Tribe's webpage, at a location determined by the Department for such purposes but accessible by all Tribal Members; (3) one at the Lake County Animal Control Pound.

The notice shall contain a general description of the animal to be sold, with its marks or brands, if any, and shall note the date, hour, and place of sale.

(B) The Department may proceed to sell for an amount of money as established, from time to time by motion of the Executive Council, those impounded animals advertised for sale by the Department. The Department shall execute to the purchaser thereof a bill of sale, and thereupon the title of such animal shall immediately vest.

(C) If the Department determines that it is not in the best interests of the Department to sell the animal or is unable to sell within a reasonable time frame it may dispose of the animal as appropriate.

### **SECTION 7.7. DISPOSITION OF UNREDEEMED OR INFECTED ANIMALS**

(A) The Department shall sell, offer for adoption, or order the destruction of, any registered dog, registered cat, rabbit, bird, or poultry which is unredeemed within five (5) business days after the notice of impoundment has been given to the owner or possessor of any such registered or licensed animal in the manner specified above. Any person who buys or adopts any such animal shall pay the Department the reasonable value thereof, together with the accrued pound fees and the required registration fee thereof. No dog, cat, rabbit, bird, or poultry shall be retained in the animal pound longer than one week, except when under quarantine or upon the written approval of the Department.

(B) It shall be the duty of the Department to issue and sign a death warrant for, and to order the destruction of, any animal lawfully taken into the custody of the Department which is, in the opinion of the Department: (1) by reason of old age, unfit for use; or (2) which is infected with any dangerous or communicable disease, or in any incurably crippled condition or painful disease.

## **SECTION 7.8. PROCEEDS FROM SALE**

Upon the sale of any animal, the balance of the proceeds remaining after the payment of the accrued fees, charges, and demands shall be paid into the Tribe's treasury.

## **ARTICLE 8. REGISTRATION OF DOGS, CATS, AND KENNELS**

### **SECTION 8.1. REQUIRED REGISTRATION AND EXPECTATIONS**

- (A) It shall be unlawful for any owner or person having the custody and control of any dog or cat over the age of four months to keep or possess such dog or cat within Tribal Lands unless such animal has been duly vaccinated for rabies, licensed, and registered with the Lake County Animal Control department, in accordance with the provisions of this Chapter and any requirements established by that authority.
- (B) The registration and other requirements stated immediately above shall not apply to:
  - (1) Any dog or cat owned by or in the custody or control of a non-resident of Tribal Lands who is visiting or temporarily residing within Tribal Lands for a period not exceeding 30 days; or
  - (2) Any dog or cat having an unexpired rabies vaccination certificate and an unexpired license or registration certificate issued by another tribe, city, or county in the state, and for a period of 30 days after the expiration of such certificates or until the expiration of the then current dog registration period, whichever first occurs.

### **SECTION 8.2. REGISTRATION PROCESS AND FEES**

Owners of dogs or cats on Tribal Lands must, unless exempted, register their animals with Lake County Animal Control by timely complying with all requirements established by that entity.

This includes, but is not limited to:

- (A) The submission of related application materials.
- (B) The payment of any related registration fees, as established by that entity; and
- (C) Obtaining required vaccines and submitting certificates showing the same

### **SECTION 8.3. LICENSE TAGS AND IMPLANTS**

- (A) Dog and cat license tags or implants. Lake County Animal Control will issue, with each registration, a license tag or implant bearing the identification number and the date of expiration. The owner of that animal shall securely fix that tag to a collar, harness, or other device to be worn at all times by the animal for which the registration is issued.
- (B) Duplicate license tags. Whenever a license tag, as provided for in this section, issued for the current year, has been lost, taken, or stolen by party unknown to the owner or persons having control of the animal for which the same was issued, such owner or person having control of such animal must seek duplicate license tag for the remaining portion of the year for which the original license was issued.
- (C) Unauthorized removal. It shall be unlawful for any unauthorized person to remove from

any animal any collar, harness, or other device to which is attached a license tag for the current year or to remove such tag therefrom.

- (D) Any person who resides on Tribal Lands and requires assistance with this process due to limited transportation or other factors may contact the Tribal Administration to coordinate reasonable assistance.

#### **SECTION 8.4. KENNELS**

Any person wishing to operate a Kennel on Tribal Lands must comply with all requirements established by Lake County Animal Control, including but not limited to annual registration, inspections, etc.

### **ARTICLE 9. RABIES CONTROL**

#### **SECTION 9.1. RABID ANIMALS AT LARGE**

It is unlawful for any person owning, having an interest in, boarding, or having the care, charge control custody or possession of any animal knowing that such animal has rabies to allow or permit such animal to roam at large on Tribal Lands.

#### **SECTION 9.2. SUSPICION OF RABIES**

- (A) Whenever the owner or person having the custody or possession of any animal shall observe or learn that such animal has shown symptoms of rabies, or has acted in a manner which would lead a reasonable person to suspect that it might have rabies, such owner or person having the custody or possession of such animal shall immediately notify the Department and shall permit the Department to make an inspection or examination of such animal and to quarantine such animal until it shall be established to the satisfaction of the Department that such animal does or does not have rabies. It shall be unlawful for any person to kill an animal infected with rabies or an animal suspected of having rabies without prior authorization by the Department.
- (B) Whenever it shall appear to the Department that there is reason to believe that any animal has rabies, or has been exposed to rabies, the Department shall make an inspection and examination of such animal and shall quarantine such animal until it shall be established to the satisfaction of the Department that such animal does or does not have rabies.

#### **SECTION 9.3. QUARANTINE OF ANIMALS**

- (A) Whenever it is shown that any animal has bitten any person, the owner or person having custody or possession thereof shall isolate the animal.
- (B) Animals that have bitten a human shall be confined in a manner that will allow observation of the animal for the duration of the isolation period.
- (C) Isolation of a biting animal may be allowed on the owner's premises when, in the

judgment of the Department, adequate facilities are provided to ensure adequate confinement and when the owner exhibits a responsible attitude that will ensure confinement during the isolation period. A securely fenced yard or caged area are considered adequate for home confinement.

- (D) When, in the judgment of the Department, adequate facilities for confinement may not exist or the owner may be unable or unwilling to properly supervise confinement of the animal, confinement shall occur at a veterinary hospital or a dog kennel, or other adequate location for confinement at the expense of the owner. The owner shall pay any expenses of quarantine prior to the confinement of the animal. If the owner refuses to pay the quarantine expenses, the Department is authorized to euthanize the biting animal for the purpose of laboratory examination for rabies.
- (E) In cases where the owner does not desire to quarantine the biting animal, the owner may authorize euthanasia of the biting animal for the purpose of laboratory examination for rabies.
- (F) Unvaccinated animals subject to rabies, which have been bitten or have been in intimate contact with a known or suspected rabid animal, shall be quarantined for a period determined by the Department, or destroyed. Animals quarantined pursuant to this section shall be quarantined to prevent escape or contact with other animal species.
- (G) Whenever any animal shall be bitten by another animal having rabies, the owner or person having custody or possession of the animal so bitten shall, upon being informed thereof, quarantine it and keep it confined for a period to be determined by the Department, and the Department shall have power, in, its discretion, to kill or quarantine any animal so bitten in the event the owner or person having custody or possession thereof shall fail to do so immediately or in the event the owner or person having custody or possession thereof is not readily accessible.

#### **SECTION 9.4. DISPOSITION OF RABID ANIMALS**

If it appears to the Department or other qualified official, upon examination, that an animal has rabies, the Department shall euthanize or otherwise kill the animal as quickly and as humanely as possible.

#### **SECTION 9.5. TRANSPORTATION OF ANIMALS TO OR FROM RABIES AREAS**

- (A) No person shall take an animal or permit or encourage an animal to go from a city or town in which rabies exists or has existed within six months previously, or from any place in the country within five miles of which rabies exists or has existed within six months previously, to any county in which rabies does not exist or has not been known to be present within six months.
- (B) No person shall bring an animal into Tribal Lands from a county in which rabies is present or has been known to be present within six months.

## **ARTICLE 10. CITATION FOR VIOLATIONS OF THIS CHAPTER**

Citations will be issued by the Department (under authority of the Executive Council) to any owners of animals found to be violating this Chapter. Citations will not be issued for stray animals because ownership of the animal is not able to be identified.

### **SECTION 10.1. VIOLATIONS NOT INVOLVING PHYSICAL HARM TO HUMANS**

If the animal is not a stray the following enforcement procedures shall apply:

- (A) First violation of any provision of this Ordinance: If the animal is not in violation of other sections of this Ordinance the Owner shall be subject to the applicable fines, penalties, plus any assessed shelter and redemption fees and costs.
- (B) Second violation of any provision of this Ordinance: The Owner shall be subject to the applicable fines, penalties plus any assessed shelter and redemption fees and costs.
- (C) Third violation of any provision of this Ordinance: The Owner shall be subject to the applicable fines, penalties plus any assessed shelter and redemption fees. The animal shall be deemed a repeat offender as of the third violation of any provision of this Chapter.
- (D) Fourth violation of any provision of this Ordinance: Upon the fourth violation of this Ordinance the Owner shall as a matter of law is determined to be incapable of maintaining the privilege to own an animal within the Tribal Lands. The offending animal shall be seized and disposed of through adoption or destruction. The Owner shall be subject to applicable fines, penalties plus any assessed shelter and disposal fees and costs.

### **SECTION 10.2. VIOLATIONS INVOLVING PHYSICAL HARM TO HUMANS**

If an animal causes physical harm to a human by an unprovoked attack, the animal shall be seized by the Department and destroyed.

### **SECTION 10.3. REPEAT OFFENDERS, PROHIBITION OF OWNING ANIMALS**

If the Department has issued more than four citations to an Owner for violations of this Ordinance, the Department may determine the Owner incapable of having the privilege of owning animals within the Tribal Lands. An Owner shall be prohibited from having animals. Any animals found to be in the possession of the Owner shall be seized and disposed of through adoption or destruction. The owner shall bear all costs associated with such removal.

### **SECTION 10.4. APPEAL OF CITATIONS TO TRIBAL COURT, NO FURTHER APPEALS**

Any person receiving a citation may either pay the fine and obey the citation or they may appeal the citation to the Tribal Court. In the absence of a sitting Tribal Court, an appeal may be submitted to the Executive Council.

- (A) Timing. Any appeal must be filed within the time period for redemption of an animal.



Any appeals received after the time period for redemption shall be dismissed as moot and any and all appeal rights are terminated after the time for redemption has lapsed.

- (B) Contents of Appeal: The appeal shall be in writing and in the form of a memorandum addressed to Tribal Court listing the citation and the specific evidence of why the citation was not proper. The Tribal Court shall review the memorandum and determine whether or not substantial evidence exists to support the citation in light of the evidence presented in the memorandum. The Tribal Court may request further information from the Owner or Department if necessary. A written decision shall be issued to the owner within a reasonable time of receipt of the appeal.
- (C) Owner must pay redemption fees: The Department shall not keep animals impounded during the administrative appeal of a citation, unless in the Department's sole discretion it determines that the safety of the animal or the protection of the public so requires impoundment. The Owner of an animal shall pay all necessary redemption costs and fees in order to obtain release of the animal. Any redemption costs and fees may be returned to the Owner if the Tribal Court determines that the citation was not supported by substantial evidence. The Owner shall not be entitled to any other form of compensation or damages except a refund of all or a portion of redemption fees.
- (D) Abandonment: An owner refusing to pay redemption fees or refusing to pay any fees to keep the animal shall as a matter of law have abandoned the animal. All appeals shall be dismissed if an owner abandons the animal. Any Owner abandoning his or her animal shall be responsible for all costs associated with the impoundment and disposal of the animal, including by payment through the withholding of Tribal fund disbursements.
- (E) Animals Not Redeemable: For those animals that the Department deems unredeemable as a result of a violation of this Ordinance this section applies. No dog may be destroyed or otherwise disposed of if the owner of the animal has sought an appeal of the Department's determination, until the appeal has been completed. The Owner of the animal shall be liable for the cost of the care and feeding of the animal pending the outcome of judicial review and shall deposit monthly in advance the cost of such care and feeding as determined by the Department. Failure to make such a deposit shall result in an abandonment of said animal, after giving to the Owner of the animal five days written notice of their failing to make the required deposit in advance. In the event Tribal Court review is favorable to the Owner, all or a portion of the amounts paid for the care and feeding of the animal pending the review may be refunded.
- (F) The decision of the Tribal Court is final, and there are no further appeals.
- (G) No Jurisdiction for Abandoned Animals. The Tribal Court shall have no jurisdiction to hear appeals from Department decisions when the animal has been deemed abandoned as described in this Chapter. Any appeal shall be dismissed by the Tribal Court.

## **ARTICLE 11. MISCELLANEOUS TERMS**

### **SECTION 11.1. LIBERAL CONSTRUCTION**

This Chapter shall be liberally construed in favor of any Person or Entity seeking to enforce any of its terms in order to give full effect of the objects and purposes for which it was enacted.

### **SECTION 11.2. LIABILITY OF OWNERS AND PRIVATE CAUSES OF ACTION**

Every person owning or keeping an animal within the boundaries of the Tribal Lands shall be liable for damages for any injury or damages committed by such animal, whether or not such injury or damages occur on Tribal Lands. Any Person or Tribal Entity may file a civil complaint against such an owner in any court of competent jurisdiction for compensation for damages caused by such animals. This section does not authorize any cause(s) of action to be brought against the Habematolel Pomo of Upper Lake Tribe, its Executive Council or any Tribal Employee acting in his or her official capacity.

## **ARTICLE 12. OTHER PROVISIONS**

### **SECTION 12.1. SOVEREIGN IMMUNITY**

Nothing in the provisions of this Chapter constitutes consent by the Habematolel Pomo of Upper Lake or its sub-organizations to be sued in any court. Neither this Chapter nor any action (or inaction) taken by the Habematolel Pomo of Upper Lake or its sub-organizations pursuant to this Chapter represents a waiver of the Tribe's sovereign immunity for any purpose.

### **SECTION 12.2. AMENDMENTS**

This Chapter, or any section herein, may be amended by a majority vote of the Executive Council.

### **SECTION 12.3. SEVERABILITY**

If any part of this Chapter is found void and without legal effect, the remainder of the Chapter shall continue to remain in full force and effect, as though such part had not been contained therein.

### **SECTION 12.4. EFFECTIVE DATE**

This Chapter shall take effect on the date it is approved by the Executive Council.

**TITLE II – FISH AND GAME REGULATIONS (RESERVED)**

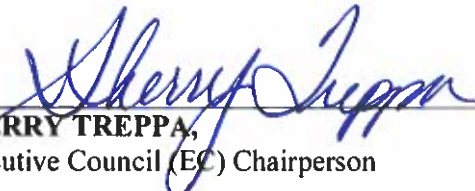
**TITLE III – WILD ANIMALS  
(RESERVED)**

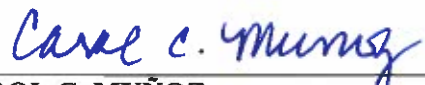
**CERTIFICATION**

As a duly-elected official of the Habematolel Pomo of Upper Lake, I do hereby certify that, at a meeting duly called, noticed, and convened on the 10th day of February, 2023, at which time a quorum of 7 was present, this Chapter 3.1 Animals, Fish and Fowl Ordinance was duly adopted by a vote of 6 FOR, 0 AGAINST, 1 ABSTAINED, and said Chapter has not been rescinded or amended in any form.

**DATED SIGNED:** February 10, 2023

**ATTEST:**

  
\_\_\_\_\_  
**SHERRY TREPPA,**  
Executive Council (EC) Chairperson

  
\_\_\_\_\_  
**CAROL C. MUÑOZ,**  
Executive Council (EC) Secretary

