# TITLE XXI

# ENVIRONMENTAL CODE

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## CHAPTER 1. SOLID WASTE

### §21-1-1 Purpose

The purpose of this Chapter is to protect the health, safety and well-being of the members of the Tribe; to protect and preserve the resources and environment of the Mississippi Choctaw Indian Reservation; and to maintain the aesthetic appearance of the Mississippi Choctaw Indian Reservation.

### §21-1-2 Applicability

This Chapter shall be liberally construed and applied to ensure its purpose as expressed above. Upon the effective date of this Chapter, it shall be unlawful for any person within the boundaries of the Mississippi Choctaw Indian Reservation to collect, store or dispose of solid waste unless it is in conformity with the provisions of this Chapter

### §21-1-3 General Policy

The owner, agent, occupant, permittee or lessee of any residential site, agricultural site, commercial establishment or industrial entity shall be responsible for the sanitary condition of such site. No person shall place, deposit or allow to be placed or deposited on Tribal land any solid waste, except in the manner prescribed in this Chapter.

### §21-1-4 Recycling Policy

It is the policy of the Tribe not only to ensure the proper disposal of solid waste, but to reduce the amount of solid waste generated by implementing source reduction and recycling initiatives.

### §21-1-5 Conflict with Other Ordinances

This Chapter shall not repeal, annul or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this Chapter imposes a greater restriction upon the management of solid waste, the stricter standard shall apply.

### §21-1-6 Other Wastes

The generation, storage, collection, transportation or disposal of wastes not defined as solid waste herein shall be governed by any applicable Tribal, federal or state laws and regulations.

### §21-1-7 Definitions

(1) "Agricultural Land" means land reserved for cultivation, pasture and related agricultural activities;

(2) "Bulky Waste" means stoves, refrigerators, water heaters, washing machines, dryers, automobile parts, furniture, mattresses, carpets, scrap metal, fencing, yard or leaf waste and similar items;

(3) "Commercial Establishment" means any structure, either public or private, fixed or mobile, that is adapted for the transaction of business; for rendering of services for amusement, recreation or for display; for the sale or storage of goods, wares or merchandise; for the performance of work or labor; commercial lodging or eating facilities; or all structures and premises used for business purposes;

(4) "Construction Debris" means waste building materials resulting from construction, remodeling, repair or demolition operations;

(5) "Disposal Facility" means landfill, transfer station or incineration plant which accepts municipal solid waste;

(6) "Garbage" means all solid and semi-solid putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, which shall include all substances from all public and private entities and from all residences;

(7) "Hazardous Waste." Any chemical compound, mixture, substance or article which is designated by the United States Environmental Protection Agency as requiring special handling to avoid illness or injury to persons or damage to property.

(8) "Industrial Entity" means any structure, either public or private, that is adapted for the manufacturing, servicing, long-term storage, processing or shipping of products or materials;

(9) "Inert Fill" means clean soil material, rocks, bricks and cured concrete which are not mixed with other solid wastes or liquor waste;

(10) "Land Clearing Debris" means solid waste resulting from the clearing of land consisting solely of brush, stumps, soil material and rocks;

(11) "Municipal Solid Waste" means solid waste emanating from normal domestic and commercial sources;

(12) "Occupant" means the individual(s), firm, corporation or Tribal entity that has the use of or occupies any public or private building that may be residential, commercial or industrial;

(13) "Open Dump" means unauthorized site where waste has been deposited;

(14) "Premises" means a specified piece or tract of land including any structures that may be on it;

(15) "Refuse" means nonputrescible solid wastes, such as paper, cardboard, tin cans, wood, glass, crockery, metal and similar materials;

(16) "Residence" means any structure which is used for housing and living quarters; and

(17) "Solid Waste" means useless, unwanted or discarded solid material including by way of example, and not be limited to, garbage, scrap materials, junk, refuse, inert fill material,

land clearing debris and yard waste, but which shall not include septic tank sludge or agricultural wastes.

## §21-1-8 Temporary Storage

The owner or occupant of any residence, commercial establishment, industrial entity or other premises shall be responsible for the sanitary storage of all solid wastes accumulated on such premises.

Dumpsters may be supplied by the Tribal government for use at Tribal offices and by Tribal entities. No unauthorized use of any dumpster supplied by the Tribal government shall be permitted. Dumpsters provided by the owner or occupant of any residence, commercial establishment or industrial entity shall be the sole responsibility of the provider and user. The Choctaw Housing Authority shall publish regulations regarding the use of dumpsters for commercial establishments and industrial entities.

## §21-1-9 Collection and Disposal

The owners and occupants of all residences, commercial enterprises, industrial entities and other premises are responsible for the pick up and disposal of solid waste from said premises.

The Tribe may elect to provide service for a fee to the owners and occupants of commercial enterprises and industrial entities. If not so provided or if not accepted, such commercial enterprises or industrial entities shall provide their own service which meets the requirements of this Chapter.

The Tribe shall provide collection and disposal services for residences. In order to provide this service in the most effective manner for each community, the Tribe may:

(1) enter into agreements with solid waste collection contractors;

(2) enter into agreements with county governments or other units of government for the collection, transportation and disposal of solid waste generated on the Mississippi Choctaw Indian Reservation; or

(3) authorize the Choctaw Housing Authority to do any or all of the following:

  (a) provide collection, transportation and disposal service directly;

  (b) collect established fees for collection and disposal services rendered;

  (c) issue regulations governing the storage, collection and disposal of solid waste generated by commercial establishments and industrial entities; and /or

  (d) issue such other regulations as may be necessary for the proper and orderly collection, transportation and disposal of solid waste.

Solid waste shall be collected at sufficiently frequent intervals to prevent nuisances as determined by the Choctaw Housing Authority, but in no event shall collection occur less often than once a week.

The Choctaw Housing Authority shall publish regulations for the disposal of bulky waste, construction debris and land clearing debris.

## §21-1-9 Preparation for Collection

Solid waste from residences shall be placed on the roadside on the designated collection day in enclosed plastic bags or in plastic bags in containers.

The Choctaw Housing Authority shall publish regulations regarding acceptable and unacceptable waste for roadside pick up.

The Choctaw Housing Authority shall publish regulations for the disposal of hazardous wastes which shall be approved by the Tribal Council.

All solid waste acceptable for pick-up shall be separated from hazardous waste and other unacceptable waste prior to roadside pick-up.

## §21-1-10 Rates for Service

Rates for the collection, transportation and disposal of garbage and refuse from residences, commercial establishments, industrial entities, Tribal entities and other premises may be established by the Tribe.

## §21-1-11 Accumulation of Garbage/Refuse

It shall be unlawful for any person, commercial establishment, industrial entity or Tribal entity to cause or permit the accumulation of any garbage, refuse or other solid waste upon its premises or on any other land on the Mississippi Choctaw Indian Reservation.

It shall be unlawful for any person to throw or deposit or cause to be thrown or deposited any solid waste on any street, road or public lands, nor shall any person throw or deposit any solid waste in any stream or other body of water within the borders of the Mississippi Choctaw Indian Reservation.

## §21-1-12 Method of Disposal

There shall be no disposal of solid waste on the Mississippi Choctaw Indian Reservation except at such places designated and approved by the Tribal Council.

It shall be a violation of this Chapter to burn garbage or other refuse, except that clean wood, yard waste and brush may be burned in a solid container such as a fifty-five (55) gallon drum.

## §21-1-13 Illegal Dumping

Any unauthorized use of a dumpster shall be considered illegal dumping and a violation of this Chapter.

It shall be a violation of this Chapter for an individual to deposit any waste in any open dump site.

## §21-1-14 Enforcement

The Choctaw Environmental Program shall be authorized to investigate and verify any reported violations of this Chapter.

## §21-1-15 Sanctions

The Choctaw Housing Authority is hereby authorized by the Tribal Council to impose sanctions and penalties for non-payment of established fees, subject to approval by the Tribal Council. Such sanctions and penalties may include:

(1) assessment of late charges and penalties based on a schedule adopted by regulation of the Choctaw Housing Authority; and

(2) termination of water service.

## §21-1-16 Criminal Penalties

Any violation of a provision of this Chapter shall be a Class C offense and violation of more than one provision may result in multiple charges.

## §21-1-17 Civil Penalties

(1) Any person found by the Choctaw Tribal Court to be violating any provisions of this Chapter or any rule or regulation or written order of the Choctaw Housing Authority shall be subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation. Each day upon which such violation occurs shall be deemed a separate and additional violation.

(2) In lieu of or in addition to the penalty provided in subsection (1) of this section, the Choctaw Environmental Program shall have the power to institute and maintain in the name of the Mississippi Band of Choctaw Indians any and all proceedings necessary and appropriate to enforce the provisions of this Chapter and any rules and regulations in force pursuant thereto in the Choctaw Tribal Court. The Choctaw Environmental Program may obtain mandatory or prohibitory injunctive relief, either temporary or permanent.

(3) Any person creating or responsible for creating an immediate necessity for remedial or clean-up action involving solid waste shall be liable for the cost of such remedial or clean-up action and the Choctaw Environmental Program may recover cost of same by civil action brought in Tribal Court. This penalty may be recovered in lieu of or in addition to the penalties provided in subsections (1) and (2) of this section.

## CHAPTER 2. MISSISSIPPI CHOCTAW ANIMAL CONTROL CODE

### 21-2-1 Purpose

The purpose of this Animal Control Code is to provide for the control of animals located or found on the Choctaw Reservation; to protect the health, safety and welfare of the inhabitants of the Reservation; to protect the property and livestock of the inhabitants of the Reservation from damage or disease originating from animals.

### 21-2-2 Definitions

(1) Animal means domestic pet (dogs, cats and other pets), livestock and exotic creatures, housed on tribal property and depending on human interaction to survive. According to common practice, animals are considered the property of the homeowner or the renter/lessee, as applicable.

(2) Animal Control Officer means any individual employed, contracted with or appointed by the Tribe for the purpose of aiding the enforcement of this chapter, including Choctaw Police Officers and Wildlife Rangers while acting in that role.

(3) Animal Shelter means any facility operated by the Tribe, other governmental agency or private entity for the purpose of housing and caring for animals held under the authority of this chapter.

(4) Dangerous dogs are those that are determined by the Animal Control Officer to pose a threat to humans or other animals. If a dog is deemed a Dangerous Dog, the Animal Control Officer will make an initial determination as to which one of the following three categories applies:

(a) Vicious: Has bitten a human being and caused serious bodily injury.

(b) Confirmed Dangerous: Has bitten a human being, but in doing so, did not inflict serious bodily injury. Further, a rebuttable presumption exists that a bite inflicted by a dog which weighs ten pounds or less does not qualify as a serious bodily injury. The Animal Control Officer shall conclude whether facts exist which overcome this presumption.

(c) Qualified Dangerous: has approached a human and conducted itself in an aggressive manner which would put a reasonable person in fear of bodily injury being inflicted.

(5) Dog (canine) or cat (feline) means animals which are three months of age or older. Puppies or kittens refer to animals under the age of three months, respectively.

(6) Dog Under Restraint shall mean any canine secured by a leash, chain, rope, tether or cable; securely and humanely confined within a vehicle, or in a cage or tethered in the open bed of a pickup truck; confined within a house, fence, crate, pen or other enclosure; or controlled by the voice command of a responsible person when in presence of the dog.

(7) Exotic means any specialty animal (e.g., reptiles, amphibians, birds, spiders, rodents or fish) owned by a resident within the boundaries of a Choctaw community.

(8) Licensed Veterinarians means all veterinarians actively engaged in the practice of that profession, who are duly registered and licensed as such by the State of Mississippi or the Tribe, and who are authorized to vaccinate animals against rabies and to execute certificates of vaccination.

(9) Livestock means any domesticated farm animal (e.g., cattle, horses, goats, pigs, poultry and sheep) owned by a resident within the boundaries of a Choctaw community.

(10) Medical Director means the Chief Medical Officer, or his/her designee, of the Choctaw Health Center. This individual serves as liaison with Tribal Administration.

(11) Owner means any person possessing, harboring, keeping or having control or custody of any animal within the boundaries of the Choctaw Reservation. For cases of residences, the homeowner, or lessee/renter, as applicable, is considered the owner of the animal, unless another occupant admits ownership. Further, any individual voluntarily feeding a stray animal for more than ten (10) consecutive days without contacting Choctaw Animal Control will be considered the owner.

(12) Public Nuisance Animal means any animal to which any of the following conditions apply:

(a) are off the premises of the owner and not under command of the owner;

(b) causes damage to the property of anyone other than its owner;

(c) are classified as Dangerous Dogs under Section 21-2-2(4);

(d) causes unsanitary conditions of enclosures or surroundings as determined by the Animal Control Officer;

(e) is a diseased animals dangerous to human and animal health as determined by the Animal Control Officer;

(f) makes prolonged and disturbing noises interfering with the peace of quietude of the neighboring property during the traditional quiet hours (10:00 p.m. – 6:00 a.m.); or

(g) has been determined to be a stray by the Animal Control Officer.

(13) Public Safety Director means Director, or his/her designee, of the Department of Public Safety. This individual serves as liaison with Tribal Administration.

(14) Stray, for purposes of dogs, means any unregistered and unattended dog off the premises of its owner.

(15) Tribal Health Director means the Director, or his/her designee, of the Choctaw Health Center. This individual serves as liaison with Tribal Administration.

(16) Tribal Environmental Health Services Director means the Director of the Choctaw Environmental Health Office, or his/her designee, of the Choctaw Health Center. This individual serves as liaison between the Mississippi State Health Department and Indian Health Services when necessary.

(17) Tribe, Tribal, Choctaw or MBCI means the Mississippi Band of Choctaw Indians.

(18) Unprovoked means that the victim had been conducting himself or herself peacefully and lawfully prior to being bitten, otherwise attacked or chased in a menacing fashion.

(19) Zoonotic disease means an infectious disease that can spread naturally between animals and humans. These illnesses are caused by pathogens such as viruses, bacteria, parasites and fungi.

**21-2-3 Animal Control Officers**

(1) Each Animal Control Officer shall have law enforcement power to enforce the provisions of this chapter within the boundaries of the Choctaw Reservation.

(2) Each Animal Control Officer shall meet all training requirements established by the Tribal Chief or as otherwise provided pursuant to the Tribal Code.

(3) By virtue of this chapter, each Animal Control Officer shall have authority to issue civil citations to persons engaged in activities that are violations of the provisions in this chapter.

**21-2-4 Vaccination of Animals**

(1) Requirement: Every owner of any animal (capable of being vaccinated for rabies) within the boundaries of the Choctaw Reservation shall have such animal vaccinated against rabies by a licensed veterinarian of his choice. However, no animal needs to be vaccinated where:

(a) A licensed veterinarian has examined the animal and certified that, at such time, vaccination would endanger its health because of its age, infirmity, debility, illness or other medical consideration; and

(b) Such exception certificate is presented to the Animal Control Officer within five (5) days of such examination. However, the animal shall be vaccinated against rabies as soon as its health and age permit. Unvaccinated animals shall be confined to a kennel on the owner's property or a veterinary facility, or on a leash held by the owner.

(2) Evidence of vaccination. Upon vaccination, the veterinarian shall furnish the owner with a metal tag with the serial number of the vaccination and the year in which the animal was inoculated stamped therein. The veterinarian shall also issue a certificate of vaccination.

(3) The owner of the animal shall ensure that the animal wears the tag and the collar with the serial number of the vaccination and the year in which the animal was inoculated stamped thereon and shall see that the collar and tag are worn by the animal at all times, unless this requirement is waived pursuant Section 21-2-5(3-4). If no tag is available, the dog's owner must be able to produce proof of rabies vaccination.

(4) While not considered a violation, routine vaccination for Bordetella, Distemper, Parvo and Leptospirosis are encouraged by the Choctaw Animal Control Program to promote ownership responsibility and to aid in minimizing zoonotic diseases on the Reservation. Additional shots, excluding rabies, can be purchased and administered subcutaneously, beneath the skin, by a knowledgeable individual.

(5) Penalty: Any owner found in violation of this section is subject to the penalties prescribed in Section 21-2-23.

**21-2-5 Registration of Domestic Animals, Livestock and Exotic Animals**

(1) Except for those exempted by another provision in this chapter, every domestic animal, livestock and exotic animal that would have access to the outdoors shall be registered. The owner shall inform the Animal Control Officer of any change of address to which the animal will be relocated, if within the Reservation.

(2) The Animal Control Officer shall issue a certificate of registration to the owner of each animal. Dogs and cats must also have a valid certification of vaccination.

(3) Dogs exempt from wearing a vaccination tag: Hunting dogs, while engaged in a hunt; show dogs during the event; or dogs engaged in obedience or K-9 training, while under the command or presence of the owner, trainer or other responsible custodian directly related to the hunting, show or training activities, respectively, are exempt from wearing the vaccination tag, but only if tattooed. A dog having an identifying tattoo registered with the Animal Control Officer is also exempt from the requirement of wearing a vaccination tag.

(4) Dogs exempt from registration: The registration provisions of this chapter shall not apply to dogs used as part of entertainment acts when properly controlled; to dogs remaining on the Reservation for a period of less than thirty days; or to purebreds brought onto the Reservation for the purposes of training, provided, however, that nothing in this section shall prohibit the demand for proof of vaccination done in another jurisdiction; and failure to provide said proof on demand shall require said dog to be vaccinated under the provisions of this chapter.

(5) Pets traveling with entertainment acts (e.g., midway carnivals or invited celebrity guests) must inform the Animal Control Office of the type of animal and the manner of housing of said animal. Contract negotiations with such groups must include a stipulation of notice and no exceptions are to be made regarding the pit-bull ban (Title III – Criminal Offenses, Section 3-6-25) unless amended.

(6) Penalty: Any owner who violates any provision of this section is subject to the penalties prescribed in section 21-2-23.

**21-2-6 Rabies Control**

(1) Duty to report: It shall be the duty of the owner or of any person knowing of an animal with or showing suspicious symptoms of rabies or any unusual behavior to report same within twelve hours to the Animal Control Office. The Animal Control Officers shall inform the Environmental Health Services Director.

(2) Duties of the Animal Control Officer:

(a) The Animal Control Officer shall enforce the applicable Tribal, Federal and State statutes and the applicable rules.

(b) Whenever the Animal Control Officer is informed that an animal has bitten a person to the point of breaking the skin, and is showing suspicious symptoms, or otherwise suspected of having rabies or other infectious or contagious disease listed in this chapter; the Animal Control Officer may capture such animal alive, if possible, and quarantine it under observation for a period of at least ten days from the date of bite.

(c) The quarantine shall be in the animal shelter designated by the Tribe or, at the owner's request and with approval of the Animal Control Officer, in a licensed veterinary hospital. Quarantined animals shall be released only upon approval of the Animal Control Officer. The owner shall bear the cost of the care, feeding and maintenance of a quarantined animal.

(d) If a quarantined animal dies, the Animal Control Officer is to immediately contact the Environmental Health Services Director at the Choctaw Health Center, as well as the bite victim. The owner of the animal shall be notified by the operators of the quarantine facility, and the head of the animal shall be forwarded to one of the Mississippi State Board of Health laboratories for pathological examination. The Tribal Health Director and the Director of Public Safety are to be notified as well.

(e) In the event rabies exist in any given area to the extent that circumstances indicate necessity of quarantine, and if such quarantine is ordered by the Tribal Chief, the following requirements shall be enforced by the Animal Control Officer in the area of quarantine:

(i) All animals, vaccinated as well as unvaccinated, must be confined to their owner's premises and will be permitted to be away from the premises only when under proper restraint as required in section 21-2-8. Confinement to owners' premises may be by fence, cage or chain attached to a stake or animal run.

(ii) All animals found not under proper restraint are to be impounded. Animals may be released to their owners or agents acting upon behalf of owners payment of impounding fees. The Animal Control Officer will notify owners in person, by telephone or by Certified Mail-Return Receipt Requested, of the date upon which the animal can be released. If

an owner fails to pay for the impound fee within ten days of Animal Control Shelter receiving the return receipt for Certified Mail, the animal shall be deemed an unclaimed animal.

(iii) No animals shall be released from the animal shelter except to owners or agents acting on behalf of owners. Unvaccinated animals which have been impounded will not be released to their owners or agents acting on behalf of the owners until said animals have been vaccinated or until arrangements have been made with the Animal Control Officer to vaccinate the animal. Animals will not be available for adoption during the quarantine period.

(f) The owner of any animal which was vaccinated with the approved anti-rabies vaccine within the preceding twelve months or exempt from vaccination via Section 21-2-4(1)(a), may have such animal quarantined and confined in a place other than the places specified in subsection (2)(c) of this section upon receiving approval of the Animal Control Office. However, if at any time during the quarantine, it is determined by the Animal Control Officer that the quarantine is not being properly maintained to ensure isolation of the dog, this exemption shall be void, and the dog shall be impounded at the owner's expense, consistent with subsection (2)(c) of this section. Any animal subject to quarantine shall not be vaccinated before the quarantine period has expired.

(g) Penalty: Any person found in violation of this section is subject to the penalties prescribed in section 21-2-23.

(3) Duties of the Environmental Health Services Director:

(a) The Environmental Health Services Director, located at the Choctaw Health Center, shall serve as liaison between the Choctaw Animal Control Program and the Mississippi State Health Department in the case of a death or positive diagnosis of a human contracting a zoonotic disease as related to human-animal contact. It shall be the duty of the Environmental Health Services Director to collect and make reports as required, to provide consultation services and to advise in matters relating to public health, and to investigate reports of known or suspected cases which might be a concern to public health.

(b) The Environmental Health Services Director, or his/her designee, shall serve as liaison between the Choctaw Animal Control Program and the Choctaw Health Center. In the case where a public health issue is positively identified causing a quarantine on a large scale beyond a single animal, the Health Services Director, Medical Director and the Director of Public Safety, or their designee(s), shall be responsible for communicating with Tribal Administration.

**21-2-7 Public Health Issues**

(1) Reports of animals infected with or showing symptoms of, any zoonotic diseases or reports of unsanitary conditions in animal holding areas must be made to Environmental Health Services for consultation with the Environmental Health Services Director.

(2) Duties of the Animal Control Officer and/or Wildlife Ranger:

(a) In cases of an animal showing symptoms of a zoonotic disease or information received from other partnering agencies regarding a concern of disease in the area, the Animal Control Officer or Wildlife Ranger must report the information to the Tribal Environmental Health Director; as well as advise the Director of Choctaw Wildlife and Parks who will advise the Director of Public Safety.

(b) In cases of unsanitary animal holding areas, especially those in residential subdivisions or near Tribal waterways, the Animal Control Officer or Wildlife Ranger shall report the location if seepage of fecal matter or refuse has encroached to a point dangerously close to the living quarters.

(c) The Animal Control Officer and Wildlife Ranger shall enforce this Code as necessary through outreach, citation, and/or arrest.

(3) Duties of the Environmental Health Services Director:

(a) In the case of a positive test for a zoonotic disease case or upon receipt of confirming information from partnering agencies, the Environmental Health Services Director will serve as liaison to the Mississippi State Health Department, the Health Director of the Choctaw Health Center and Tribal Administration.

(b) In the case of unsanitary animal holdings, the Environmental Health Services Director will assist with consultation with the Choctaw Animal Control Program in response to public outreach and in remediating areas, as necessary.

**21-2-8 Restraint of Animals While on Property of Owner**

(1) Required: It shall be the duty of every owner of any animal to ensure that:

(a) The animal is kept restrained or restrained;

(b) Reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner, possessor or custodian; and

(c) The animal is:

(i) Securely and humanely confined within an adequately sized house, building, fence, crate, pen or other enclosure; or

(ii) Humanely secured by chain, cable and trolley, rope or tether of sufficient strength to prevent escape; or

(iii) Leashed or otherwise controlled by a responsible person or is obedient to voice commands of a person present with the animal at any time it is not secured as provided in Section 21-2-8. The ability to control the

animal by voice command must be demonstrated as an effective restraint if requested.

(d) Warning signs, such as "Beware of Dog," "Warning: Aggressive Dog," or similar variations, must be displayed in open view should an animal on the property be playfully hyperactive, territorial, protective, or with young. An owner is deemed to be aware of his/her animal's temperament and is responsible for informing others with such signs.

(2) Dangerous Dogs: In addition to the requirements in subsection (1) of section 21-2-8, an owner who maintains any dangerous dog must ensure that such dangerous dog is humanely confined inside a pen or kennel of adequate size. The pen or kennel must have secured sides and a secure top attached to all sides, and the sides must be either buried two feet into the ground, sunk within a concrete pad or securely attached to a wire bottom. The gate of the kennel must be locked.

(a) The persons having the enforcement duty under this chapter may enter the premises where the dangerous dog is kept for the purpose of inspection of the kennel or pen to ascertain whether such complies with the provisions of this chapter. Such inspection shall be made only after twenty four hours notice to the occupant of the premises.

(b) Penalty: Any owner in violation of this section is subject to the penalties prescribed in section 21-2-23.

**21-2-9 Restraint of Animals While Off Property of Owner**

(1) Required: It shall be the duty of the owner of any animal or anyone having an animal in his or her possession to keep the animal under restraint and control at all times while the animal is off the real property limits of the owner. For the purposes of this section, an animal is deemed under control when it is:

(a) Securely confined within a vehicle, parked or in motion, during weather conditions where such confinement is not dangerous to the health and well-being of the animal;

(b) Crated or humanely tethered in the open bed of a pickup truck; or

(c) The animal is:

(i) Securely and humanely confined within a house, fence, crate, pen or other enclosure that is adequately sized with the property owner's consent;

(ii) Humanely secured by a chain, cable and trolley, rope or tether of sufficient strength to prevent escape, and with the property owner's consent;

(iii) Leashed or otherwise controlled by a responsible person or is obedient to the commands of person present with the animal at any time secured

as provided by Section 21-2-8. The voice command must be demonstrated as an effective restraint if requested.

(2) No person owning, harboring or having the care of a dangerous dog shall suffer or permit such dog to go beyond the premises of such person unless the dog is securely leashed and muzzled, except that a dangerous dog shall not be required to be muzzled upon prior approval of the Animal Control Officer. Such dogs may not be leashed to inanimate objects (e.g., trees, buildings, etc.) and the muzzle must be sufficient to prevent the dog from biting persons or other animals. It is the responsibility of the owner, possessor or custodian to inform others of the dangerous nature of the dog.

(3) Further, no person owning, harboring or having the care of a dangerous dog shall bring it (even if leashed or muzzled) into a public facility or area if it is engaging in aggressive behavior which would cause a reasonable person to feel threatened or intimidated by the dog's conduct. Bringing a dog acting in that manner into a public facility of area shall constitute Failure to Restrain.

(4) Penalty: Any person found in violation of this section is subject to the penalties prescribed in section 21-2-23.

**21-2-10 Animal Restrictions in Public Areas**

(1) Leash requirement for dogs: All dogs must be on a leash not exceeding six feet in length. Dogs at Lake Pushmataha may be unleashed providing the owner, possessor or custodian has verbal control of the animal and the dog does not cause a nuisance to others visiting the lake. Campers must adhere to the quiet hours (10:00 pm through 6:00 am) requirement in the agreement authorizing camping at Lake Pushmataha.

(2) Prohibited animals: The following animals are not permitted in public places unless part of an educational or other approved organized event:

(a) Livestock animals;

(b) Wild or exotic animals, including, but not limited to, pet reptiles; or

(c) Any animal behaving in a dangerous or potentially dangerous manner or any dog that has been classified under any category of Dangerous Dogs identified in this chapter.

(3) Animals left in vehicles: Animals are not to be left in vehicles for any extended period of time. Animals found in extreme weather (hot and cold) will be removed by Animal Control, Wildlife or Law Enforcement by reasonable means to facilitate removal of the animal from the vehicle. The person removing the animal and the agency with which he or she is employed shall be immune from civil liability for reasonable damages caused by the removal. The animal will be provided shelter through Choctaw Animal Control or taken to

a local veterinarian for emergency care. Payment of fines for impoundment, citations, board and veterinary care will be the responsibility of the animal owner.

**21-2-11 Impoundment**

(1) Animals subject to impoundment:

(a) Any animal unrestrained in violation of Sections 21-2-8 or 21-2-9 or unregistered in violation of Section 21-2-5 may be impounded by the Animal Control Officer.

(b) Any animal creating a public nuisance as defined in this chapter may be impounded by the Animal Control Officer, except that hunting dogs are exempt from the terms of subsections (a) through (f) of the definition of the term "public nuisance animal" in section 21-2-2(12) when engaged in a hunt or not under restraint as a result of a hunt during legally declared hunting seasons, as designated by the Tribal Council.

(c) Any animal, whether vaccinated or not, reasonably believed to have bitten any person, may be seized and impounded by the Animal Control Officer for such period of time as the Tribal Environmental Health Services Director may require. If the Tribal Environmental Health Services Director has reasonable grounds to believe that an animal has rabies or some other communicable disease, he or she may order the immediate euthanasia of such animal, and such shall be immediately caried out by the Animal Control Officer or his/her designee in a humane manner.

(2) Redemption and disposition of impounded animal:

(a) If an animal bears a collar identifying the owner or other indicators of ownership exists, the Animal Control Officer shall notify the owner or keeper of said animal by the most expedient means (e.g., in person, telephone call, posted written notice at his or her residence or by Certified Mail-Return Receipt Requested) of the animal's impoundment. With the exception of a Dangerous Dog as defined in Section 21-2-2(4) or any animal suffering from an infectious disease or other severe illness, the owner shall have ten days to retrieve the animal upon receiving notice of impoundment. In the case of Certified Mail, this ten-day period begins on the date that the Return Receipt is received by the Animal Control Officer. At the end of the applicable ten-day period, if no owner has claimed the animal and paid all accrued fines pursuant to Section 21-2-23(1)(e), the animal shall be deemed an unclaimed animal as provided in subsection (3) of Section 21-2-11.

(3) Disposition of impounded animals: Any unclaimed animal, unless otherwise specified in this section, shall become the property of the Tribe, and may be humanely destroyed, transferred to a humane society or placed in the custody of some person deemed to be a

responsible and suitable owner who will agree to comply with the provisions of this chapter.

(4) Only those days on which the impounding facility is open for normal operations shall count toward the ten-day period in this subsection.

(5) The ten-day waiting period may be waived for any animal suffering from an infectious disease or for a severely ill animal.

(6) Fees: Animal control shelters shall charge impoundment fees, plus the reasonable costs incurred for the animal's care, feeding and maintenance. Impoundment fees shall be established by recommendation by the Tribal Chief in cooperation with the animal shelters and approved by resolution of the Tribal Council. See 21-2-23(1)(e).

(7) Animal shelter: The Tribe may enter into a pact, agreement or contract with other shelter organizations (e.g., no-kill shelters, breed-specific shelters, etc.) and municipalities to provide additional opportunities for adoption placement.

**21-2-12 Dangerous Dog**

(1) If an alleged adult victim (or a parent/guardian on behalf of a minor victim) files a complaint with the Animal Control Officer attesting that an unprovoked dog has bitten him or her or acted in an aggressive nature that would put a reasonable person in fear of being bitten, or if the Animal Control Officer has other reason to believe that a dog may qualify as a Dangerous Dog as defined in this chapter, the Animal Control Officer shall make an initial determination as to whether there is sufficient cause to classify the dog as being within one of the three categories of Dangerous Dogs as defined in Section 21-2-2(4).

(2) If the Animal Control Officer makes an initial determination that a dog qualifies as a Dangerous Dog, the dog shall be impounded at the Animal Control Shelter or at housing provided by a veterinarian if insufficient space exists at the Animal Control Shelter.

(3) If the Animal Control Officer makes an initial determination that the dog qualifies as a Dangerous Dog and can determine ownership, he or she shall inform the owner in person, by telephone conversation or by Certified Mail-Return Receipt Requested.

(4) Within ten business days after the verbal communication with the owner or delivery of the Certified Mail (as noted on the Return Receipt) of the Dangerous Dog classification, the owner may file a written request for a hearing in Tribal Civil Court to appeal the classification. The owner must provide the Animal Control Shelter with a copy of this written request on the same day that it is filed with the court clerk.

(5) If the owner of a dog classified as Vicious does not within the ten-day tine period provide the Animal Control Shelter with a copy of the written request for appeal of the classification in the Tribal Civil Court, the dog will be humanely destroyed. Further, if the Tribal Civil Court affirms the classification by the Animal Control Officer of a dog as being Vicious, the dog shall be humanely destroyed as soon as possible.

(6) If the owner of a dog classified as Confirmed Dangerous does not within the ten-day period provide the Animal Control Shelter with a copy of the written request for appeal, the dog will be deemed an unclaimed animal pursuant to Section 21-2-11(3), unless:

(a) The Humane Society or another animal shelter takes possession of the dog; or

(b) The owner or another responsible person who is willing to take the dog:

(i) Establishes proof of appropriate housing for the dog in compliance with Section 21-2-8(2); and

(ii) Retrieves the dog from impoundment upon payment of all outstanding fines pursuant to Section 21-2-23(1)(e).

(7) If the owner of a dog classified as Qualified Dangerous does not within the ten-day period provide the Animal Control Shelter with a copy of the written request for appeal, the dog will be deemed an unclaimed animal pursuant to Section 21-2-11(3), unless:

(a) The Humane Society or another animal shelter takes possession of the dog; or

(b) The owner or another responsible person who is willing to take the dog:

(i) Executes an acknowledgement, at the request of the Animal Control Officer, describing the appropriate housing mandated to be in compliance with Section 21-2-8; and

(ii) Retrieves the dog from impoundment upon payment of all outstanding fines pursuant to Section 21-2-23(1)(e).

(8) If the owner of a dog classified as Vicious cannot be determined by the Animal Control Officer, the dog shall be humanely destroyed after being impounded for ten days.

(9) If the owner of a dog classified as Confirmed or Qualified cannot be determined by the Animal Control Officer, the dog shall be humanely destroyed after being impounded for ten days, unless:

(a) The Humane Society or another animal shelter takes possession of the dog; or

(b) A responsible person complies with the requirements imposed on an owner in this section for retrieval of a dog, depending on whether the dog is classified as Confirmed Dangerous or Qualified Dangerous.

(10) If the Tribal Environmental Health Services Director, as authorized pursuant to Section 21-2-11(1)(c), directs that the dog not be deemed an unclaimed animal at the end of the ten-day period, however, the dog shall be housed at the Animal Control Shelter as directed by the Tribal Environmental Health Services Director until he or she deems the dog to be an unclaimed animal.

(11) Duty to prosecute appeal: In those cases where an appeal has been filed regarding the classification of a dog as a Dangerous Dog, the dog will be humanely destroyed after it has been impounded for thirty business days unless the Tribal Civil Court enters an order:

(a) Finding that the dog does not qualify as a Dangerous Dog;

(b) Restraining the Animal Control Officer from proceeding with euthanasia; or

(c) Concluding that the dog qualifies as being a member of a less dangerous category of Dangerous Dog. In the event that this recategorization is ordered, the owner then has ten days from the entry of judgement to comply with subsection 21-2-12(6)(a-b) or subsection 21-2-12(7)(a-b), as applicable. Otherwise, the dog is deemed an unclaimed animal pursuant to Section 21-2-11(3).

(12) No dog that is the subject of a dangerous dog investigation may be relocated to another residence or ownership transferred pending the outcome of the investigation or any hearings related to the determination of a dangerous dog classification.

(13) No dog that is confined in compliance with the requirements mandated in Section 21-2-8(2) shall be classified as Dangerous Dog if the alleged adult victim (i.e., eighteen years or older) released the dog from the locked enclosure, or entered the locked enclosure, without the permission of the owner.

(14) If a dog is euthanized as provided by this section, the Animal Control Officer may bring a civil suit against the owner within thirty days of the euthanasia to collect those fines imposed against the owner pursuant to Section 21-2-23(1)(e), plus the reasonable costs incurred for the animal's care, feeding and maintenance.

**21-2-13 Warning Signs**

(1) All owners of any dog trained to attack or deemed to be a dangerous dog shall display in a prominent place on their premises, and at each entrance or exit to the area where such dog is confined, a sign easily readable by the public using the words "Beware of Dog" or similar language.

(2) Any owner found in violation of this section is subject to the penalties prescribed in section 21-2-23.

**21-2-14 Female Domesticated Animal in Heat**

(1) The owner of female domesticated animals shall confine any animal when they are in heat in such a manner as to make said animals inaccessible to any male domesticated animal, except for intentional breeding purposes. Intentional breeding involves the sale of more than one litter of puppies per year. Intentional breeding practices are discouraged and spay/neuter practices are encouraged for the health of the animal.

(2) Any owner who violates this provision, either willfully or through failure to exercise due care and control, is subject to the penalties prescribed in section 21-2-23.

**21-2-15 Duty and Responsibility of Animal Owners**

(1) It shall be the duty of every owner of any animal, or anyone having any animal in his or her possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property and animals from injuries or damages which might result from his or her animal's behavior, regardless of whether such behavior is motivated by mischievousness, playfulness or ferocity.

(2) Quantity restrictions may be made by leasing and rental contracts.

(3) Domestic livestock can be housed according to following specifications of free space: one half acre per pig, sheep or goat and one acre per horse or cow; at a distance of one hundred yards from any other dwelling. Due to lack of sufficient space, at no time will domestic livestock be housed within a residential subdivision.

(4) Animal owners may be subject to criminal penalties under the Cruelty to Animals statute (Section 3-4-9). Endangering an animal includes, but is not limited, to the following:

(a) Depriving an animal under the control or custody of a person of food, fresh potable drinking water, clean and sanitary adequately sized shelter from the elements or other substances, medical attention and/or necessary veterinary care to include annual inoculations, and failure to place notice of dogs' aggressive and/or playful tendencies;

(b) Possessing custody or control of an animal and abandoning it in a public or private place for the purpose of indefinitely giving up custody or control thereof;

(c) Knowingly poisoning, misusing any chemicals or leaving access to chemicals;

(d) Transporting or enclosing an animal in any vehicle in a manner that is not ordinary and accepted practice, or which constitutes cruel or inhumane treatment;

(e) Confining an animal in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of the animal due to heat, cold, lack of food or such other circumstances as may reasonably be expected to cause suffering, disability or death;

(f) Refereeing, officiating, encouraging or participating in an effort to have animals fight or attempt to injure an animal or person;

(g) No person shall torture or cruelly beat, unjustifiably injure, maim, mutilate or kill any animal with that intent.

(5) Any homeowner found in violation of this section is subject to the penalties prescribed in Section 21-2-23.

**21-2-16 Nuisance Animal**

Any owner whose animal is determined to be a public nuisance is subject to the penalties prescribed in Section 21-2-23. Public nuisance will be determined on a case-by-case basis and will be enforced if an animal:

(1) Is off the premises for than three occurrences within a seven-day period after the first response of Animal Control;

(2) Has damaged neighboring properties;

(3) Makes prolonged and disturbing noises, during quiet hours (10:00 p.m. until 5:00 a.m.) interfering with the peace of the neighborhood; or

(4) Causes unsanitary conditions to the surroundings.

**21-2-17 Disposal of Live Animals**

(1) A live animal may not be disposed of by conveying it to any school, college, university, firm, association, laboratory or corporation for experimentation or research purposes, or to any person providing, selling or supplying animals to any school, college, university, person, firm, association or corporation for experimentation or vivisection purposes.

(2) Any person that disposes of live animals on Tribal lands with the intent to abandon such animal in order to avoid ownership will be subject to the criminal penalties prescribed in Section 3-4-9.

(3) Any person who violates any provision of this section is subject to penalties prescribed in Section 21-2-23.

### 21-2-18 Disposal of Dead Animals

(1) An owner of any animal, upon the death of such animal, shall immediately dispose of the carcass by burying it at least three feet below the surface of the ground and at least fifty feet from any water source, or by any other authorized method of disposal, such as incineration. Arrangements and costs for incineration will be up to the owner of the animal.

(2) Disposal of an animal found dead at a residence, regardless of whether the homeowner is the owner or the animal, is the responsibility of the homeowner. Exceptions are only made for elderly or disabled individuals when no other capable individuals are present in that household. Disposal of an animal found dead at a Tribal school, business, program or agency may be handled by the Animal Control Office and disposed of in a designated disposal pit.

(3) It is unlawful to dispose of the carcass of any animal by dumping such carcass on Tribal property. Carcasses from hunting/fishing endeavors must be discarded in a designated disposal pit that is covered after each season.

### 21-2-19 Reporting of Animal Injured by Motorist

If an animal is hit, run over, injured or maimed, the motorist shall immediately notify the Choctaw Animal Control Program or the Choctaw Wildlife and Parks Department; and the owner, if an owner can be identified and found.

### 21-2-20 Choctaw Indian Fair Policy on Animals

(1) The Choctaw Indian Fair shall adhere to the enforcement of Tribal Code regulations which prohibit the entry of animals onto the Reservations that have not been preapproved by the Fair Committee and have not been registered with, or proof of health certificates or vaccinations provided to, the Choctaw Animal Control Program and/or the Choctaw Police Department.

(2) Preapproved animals must be supervised and appropriately restrained or crated. Preapproved animal owners must timely remove stool droppings and otherwise clean up after their animals; must keep their animals away from food areas; and must toilet their animals in areas where there is no foot traffic or in areas designated by the Fair Committee, Choctaw Wildlife and Parks or the Choctaw Police Department.

(3) No animals should be left in hot vehicles. Animals found in hot vehicles will be removed and provided shelter by Animal Control or taken to a local veterinarian for emergency care. Payment of fines for impoundment and citations, as well as any payment of veterinary care, will be the responsibility of the animal's owner.

(4) The Choctaw Indian Fair further exercises the right to prohibit the presence of any other kind of animal, including non-domesticated, wild animals or reptiles, onto the fairground without preapproval of the Fair Committee or Tribal officials. Exceptions will be made when animals are included in preapproved activities, such as an exhibition or entertainment. Persons found with unapproved animals will be asked to leave immediately. Persons who fail to promptly comply with this dictate may be charged with violations for disturbance of the peace and may be barred from the fairgrounds.

**21-2-21 Interference with Animal Control Officer or Animal Shelter Personnel**

(1) No person shall interfere with, hinder, resist or obstruct the Animal Control Officer or Animal Shelter personnel in the lawful performance of their duties as set forth in this chapter.

(2) No person shall, without authority, release, remove or attempt to release or remove any animal from the custody of the Animal Control Officer or Animal Shelter personnel.

(3) No person shall tear down, burn, deface, destroy or otherwise injure an animal shelter or enclosure maintained by Animal Shelter personnel.

(4) Any person found in violation of this Section shall be subject to the penalties prescribed in Section 21-2-23.

**21-2-22 Methods of Enforcement and Investigations**

(1) Procedures:

(a) An Animal Control Officer who has probable cause to believe that a person has committed an act in violation of this article shall do one or more of the following:

(i) Issue a notice of violation to the person who is in violation of this article. Such notice of violation shall state the date and time of the issuance of the notice, the name and address of the person in violation, the date of the offense, the offense committed, a description of the animal involved, and a demand that the offense be abated within a specified period of time after the issuance of the notice. If the person fails to timely abate the offense, then the Animal Control Officer may issue a citation to the person; and/or

(ii) Impound the animal involved: The Animal Control Officer, or his/her designee, is authorized to enter into any agreements necessary to impound, capture, control, transport, care for, feed and maintain large animals such as domestic livestock that cannot be maintained in the Animal Shelter when necessary to take the animal into custody. All expenses thus incurred (including veterinary expenses) are to be charged to the owner of the animal upon redemption, or the owners shall be ordered to pay the same as restitution upon conviction of a violation. Such animals may be redeemed as provided in Section 21-2-11; and/or

(iii) Issue a citation to the person who is in violation of this chapter.

(2) Investigations. The Animal Control Officer:

(a) may request the owner of an animal to exhibit the animal, and, if applicable, the registration certificate of such animal.

(b) shall keep the following records:

i. Accurate and detailed records of the registration, impoundment and disposition of all animals coming into his or her custody;

ii. Accurate and detailed records of all reported bite cases and investigations for a period of three years;

iii. Accurate and detailed records of all money collected and expended in the operation of the functions of his or her office; and

iv. Accurate records of all rabies certificates.

**21-2-23 Penalties**

(1) Civil Penalties:

(a) Imposition of Civil Penalty: A civil penalty may be imposed for any violation of this chapter. A schedule of fines shall be approved by the Tribal Council.

(b) Issuance of a Civil Citation: An Animal Control Officer may issue civil citations to persons engaged in activities prohibited under this chapter.

(c) Filing of Civil Action: Within thirty days of the issuance of any citation under this chapter, the Animal Control Officer shall cause to be filed in the Tribal Civil Court, a civil complaint for damages against the violator to seek assessment of a civil fine and other relief.

(d) Payment of Civil Fines: At any point prior to the entry of judgment in a civil proceeding initiated under this chapter, a violator may pay the civil fine to the Animal Control Program.

(e) Schedule of Fines (per animal):

| | | |
|---|---|---|
| i. | Failure to Restrain Animal | $50.00 |
| ii. | Failure to Vaccinate Animal | $50.00 |
| iii. | Failure to Register Animal | $50.00 |
| iv. | Failure to Post Warning Signs | $25.00 |
| v. | Failure to Remove an Animal | $250.00 |
| vi. | Disposal of Live Animals | $100.00 |
| vii. | Disposal of Dead Animals | $50.00 |
| viii. | Violation of Fair Policy | $50.00 |
| ix. | Leaving Animal in a Vehicle | $100.00 |
| x. | Failure to Report | $25.00 |
| xi. | Impoundment Fee (first day) | $25.00 |
| xii. | Impoundment Fee (each additional day) | $5.00 |

(2) Criminal Penalties.

Civil Liabilities do not negate Criminal liabilities pursuant to Title III of the Code.