

## **Title XVIII - Livestock**

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## **Chapter 1. Livestock Trespass**

### **Sec. 101. Definitions.**

As used in this Chapter:

- (a) "Secretary" means the Tribal Secretary.
- (b) "Livestock Officer" means the officer appointed by the Executive Board to carry out and enforce this Chapter and includes any other persons acting under his/her authority or otherwise designated by the Executive Board to carry out and enforce this Chapter.
- (c) "Trespassing livestock" means any bovine animal, horse, mule, sheep, swine or goat, running without a properly approved use arrangement on trust Indian land, whether fenced or unfenced, within the exterior bounds of the Reservation, that falls within one or more of the following classes:
  - (1) The owner of the trespassing livestock is unknown in the locality where the livestock is found, or the owner is known but cannot with reasonable diligence be found;
  - (2) The trespassing livestock is unbranded or unmarked, except unweaned animals running with their mothers who bear a brand or mark;
  - (3) The trespassing livestock is branded with two (2) or more brands and

the ownership is disputed;

(4) The owner of the trespassing livestock is known but does not have a properly approved use arrangement.

(d) "Service" or "to serve" as used in this ordinance means one or the other of the following:

(1) Delivery to the designated person by handing such person a true and correct copy of a notice or other paper, or by leaving a copy at his/her dwelling house or usual place of abode, with a person of suitable age and discretion then residing therein;

(2) Delivery by certified mail, return receipt requested, to the address, if known, or to the last known address, of the designated person Service shall be made by a person at least eighteen (18) years of age and proof of such service shall be made by such person by filing with the Livestock Officer a statement certifying the date, time, place and manner of service.

#### **Sec. 102. Impoundment.**

The Livestock Officer may impound trespassing livestock that falls into one or more classes of Section 101(c). Before taking such action, the Livestock Officer shall inspect the trespassing livestock for brands and other evidence or ownership, and shall make a diligent effort to learn or determine the ownership of such trespassing livestock. In his/her discretion, the Livestock Officer may hold such trespassing livestock for not more than ten (10) days after his/her inspection to enable him/her to complete his/her investigation of ownership. If the owner is found, the Livestock Officer shall serve the owner with notice as provided in Section 103 and shall proceed in accordance with Section 103. If the owner is not found, the trespassing livestock shall be sold in accordance with the provisions of this Chapter.

#### **Sec. 103. Impoundment and notice where the owner of trespassing livestock is known.**

If the owner of the trespassing livestock is known, after impoundment, the Livestock Officer shall serve the owner in the manner provided in Section 101(d) with written notice of such impoundment. The notice shall describe the livestock impounded, including any brands or marks, the dates and place of trespass, and the date and place of impoundment. A copy of this Chapter shall accompany the notice and the notice shall specify that the owner may redeem the trespassing livestock upon payment of the accrued costs and expenses as hereinafter defined, not more than ten (10) days after the date of service of the notice, and that otherwise the trespassing livestock will be sold in accordance with the provisions of this Chapter. The owner may redeem the trespassing livestock within the time allowed upon payment of the costs of feed and care incurred by the Tribes, and all other costs and expenses incurred under authority of this Chapter, including the costs of the time spent by the Livestock Officer as measured by the compensation paid by the Tribes to the Livestock Officer, plus the reasonable reimbursement expenses incurred by the Livestock Officer.

#### **Sec. 104. Sale of trespassing livestock.**

If there is an unsettled dispute as to the identify of the rightful owner, or if the rightful owner of trespassing livestock is not found, or, when found, refuses or fails within the time allowed, to pay the costs and charges specified in Section 103, the Livestock Officer either shall send the trespassing livestock to the nearest available open market or licensed sales ring where the Montana brand inspection is maintained, and shall direct that such livestock be there sold, or, at the option of the Livestock Officer, the Livestock Officer shall sell the trespassing livestock at public sale to the highest bidder. The Secretary shall execute and deliver a bill of sale from the Tribes to the purchaser

of such trespassing livestock. The bill of sale shall identify this Chapter and shall recite that it is issued under authority of this Chapter.

**Sec. 105. Disposition of proceeds of sale.**

From the proceeds of any sale under Section 104, the Tribes shall be reimbursed for all costs and expenses as defined in Section 103, incurred in carrying out the provisions of this Chapter. Any remaining balance shall be deposited in a Montana bank or savings and loan institution, in the name of the Tribes, in a special interest-bearing account identified as "Assiniboine and Sioux Tribes, Trespassing Livestock Account". Should the proceeds of any sale under this Chapter be insufficient to pay all costs and expenses incurred under this Chapter, the deficit shall be paid by the Tribes.

**Sec. 106. Payment to owner upon proof of ownership.**

The remaining balance from the sale of trespassing livestock on deposit in accordance with Section 105 of this Chapter, together with accrued interest, shall be paid to the rightful owner of such trespassing livestock, provided satisfactory proof of claim for such payment is made within one (1) year from the date of sale; otherwise, such balance, together with accrued interest thereon, shall be paid into the general account of the Tribes and any and all claims against such balance shall stand extinguished. If more than one (1) person claims to be the rightful owner, no payment shall be made except upon resolution of the dispute by the claimants or by adjudication by any court of competent jurisdiction.

**Sec. 107. Destruction of diseased trespassing livestock.**

The Livestock Officer is hereby authorized to destroy any trespassing livestock certified by a licensed veterinarian to have any infections, contagious, or communicable disease, and that such destruction is necessary to prevent the spread of disease. Neither the Tribes, the Livestock Officer, nor any other tribal employee or agent shall be liable for destroying such trespassing livestock.

**Sec. 108. Liability for death or loss of trespassing livestock.**

Neither the Tribes, the Livestock Officer, nor any other tribal employee or agent shall be liable for the loss of any trespassing livestock by reason of the death of such trespassing livestock while in the possession of the Tribes, the Livestock Officer, or any other employee or agent of the Tribes.

**Sec. 109. Reports of Livestock Officer.**

The Livestock Officer shall file a report with the Secretary every thirty (30) days of all trespassing livestock as to which action has been taken under this Chapter. The report shall describe the livestock, identify any brands or other marks, and set out the status of the action under this Chapter. The reports shall be open to the public for inspection.

## **Chapter 2. Livestock-At-Large on Highways**

**Sec. 201. Definitions.**

The definitions of Section 101 of this Title shall apply to this Chapter. In addition, for the purposes of this Chapter:

- (a) "Non-private roads" means any public (state, county or Bureau of Indian Affairs) roads that are located within the Reservation.
- (b) "Livestock-at-large" means any bovine animal, horse, mule, sheep, swine or

goat that falls within one (1) or more of the classes set out in Section 101(c)(1)-(3) and is found running on or beside any non-private road or any unfenced land abutting any such road, or on any berm or shoulder abutting any such road, except that livestock fixed to a post or picket from one (1) hour after sunrise to one (1) hour before sundown shall not be included within this definition.

**Sec. 202. Impoundment where the owner is not known.**

The Livestock Officer may impound livestock-at-large. Before taking such action, the Livestock Officer shall inspect the livestock-at-large for brands and other evidence of ownership, and shall make a diligent effort to learn or determine the ownership of such livestock. In his/her discretion, the Livestock Officer may hold such livestock-at-large for not more than ten (10) days after his/her inspection to enable him/her to complete his/her investigation of ownership. If the owner is found, the Livestock Officer shall serve the owner with notice as provided in Section 203 and 204 of this Chapter and shall proceed in accordance with Sections 203 and 204. If the owner is not found, the livestock-at-large shall be sold in accordance with the provisions of this Chapter.

**Sec. 203. Notice of initial violations where owner of livestock-at-large is known .**

Where the owner of livestock-at-large is known and no prior notice of violation has been served on the owner, the Livestock Officer shall serve a notice of initial violation on the owner. The notice shall set forth the date(s) and place(s) at which the livestock was found at large and shall inform the owner that impoundment pursuant to Section 204 shall occur if the violation reoccurs. The owner shall also be notified that in the event of a recurring violation no further notice shall be served on the owner prior to impoundment.

**Sec. 204. Impoundment and notice where the owner of livestock-at-large is known .**

If the owner of the livestock-at-large is known, and except as provided in Section 203, after impoundment the Livestock Officer shall serve the owner with written notice of such impoundment. The notice shall describe the livestock impounded, including any brands or marks, the dates and place at which the livestock-at-large was found, and the date and place of impoundment. A copy of this Chapter shall accompany the notice and the notice shall specify that the owner may redeem the livestock-at-large upon payment of the accrued costs and expenses as hereinafter defined, not more than ten (10) days after the date of service of the notice; otherwise, the livestock-at-large will be sold in accordance with the provisions of this Chapter. The owner may redeem the impounded livestock-at-large within the time allowed upon payment of the costs of feed and care incurred by the Tribes, and all other costs and expenses incurred under authority of this Chapter, including the costs of the time spent by the Livestock Officer, plus the reasonable expenses incurred by the Livestock Officer.

**Sec. 205. Sale of livestock-at-large.**

If there is an unsettled dispute as to the identity of the rightful owner, or if the rightful owner of livestock-at-large is not found, or when found, refuses or fails within the time allowed to pay the costs and charges specified in Section 204 of this Chapter, the Livestock Officer either shall send the livestock-at-large to the nearest available open market or licensed sales ring where the Montana brand inspection is maintained and shall direct that such livestock be there sold, or, at the option of the Livestock Officer, the Livestock Officer shall sell the livestock-at-large at public sale to the highest responsible bidder. The Secretary shall execute and deliver a bill of sale form the Tribes to the purchaser of such livestock.

**Sec. 206. Disposition of proceeds of sale.**

From the proceeds of any sale under Section 205 of this Chapter, the Tribes shall be reimbursed for all costs and expenses as defined in Section 204 in carrying out the provisions of this Chapter. Any remaining balance shall be deposited in a Montana bank or savings and loan institution, in the name of the Tribes, in a special account identified as "Assiniboine and Sioux Tribes, Livestock-at-Large Account". Should the proceeds of any sale under this Chapter be insufficient to pay all costs and expenses incurred under this Chapter, the deficit shall be paid by the Tribes.

**Sec. 207. Payment to owner upon proof of ownership.**

The remaining balance from the sale of livestock-at-large on deposit in accordance with Section 206 of this Chapter, together with accrued interest, shall be paid to the rightful owner of such livestock, provided satisfactory proof of claim for such payment is made within one (1) year from the date of sale; otherwise, such balance, together with accrued interest thereon, shall be paid into the general account of the Tribes and any and all claims against such balance shall stand extinguished. If more than one person claims to be the rightful owner, no payment shall be made except upon resolution of the dispute by the claimants or by adjudication by any court of competent jurisdiction.

**Sec. 208. Destruction of diseased livestock-at-large.**

The Livestock Officer is hereby authorized to destroy any livestock-at-large that a licensed veterinarian certifies to have any infectious, contagious, or communicable disease, and certifies that such destruction is necessary to prevent the spread of disease. Neither the Tribes, the Livestock Officer, nor any other tribal employee or agent shall be liable for destroying such livestock.

**Sec. 209. Liability for death or loss of livestock-at-large.**

Neither the Tribes, the Livestock Officer, nor any other tribal employee or agent shall be liable for the loss of any livestock-at-large by reason of the death of such livestock while in the possession of the Tribes, the Livestock Officer, or any other employee or agent of the Tribes.

**Sec. 210. Reports of Livestock Officer.**

The Livestock Officer shall file a report with the Secretary every thirty (30) days of all livestock-at-large as to which action has been taken under this Chapter. The report shall describe the livestock, identify any brands or other marks, and set out the status of the action under this Chapter. The reports shall be open to the public for inspection.

**Sec. 211. Notice of this Chapter.**

As a convenience to the public, this Chapter shall be conspicuously posted in the Fort Peck Indian Agency, the Tribal Office building, and in such other public places as the Executive Board of the Tribes may direct. A classified advertisement shall be published in the local newspapers of general publication, describing the nature and purpose of the Chapter, specifying that copies of the Chapter are available on request at the Fort Peck Indian Agency and the Tribal Office, and identifying the places where the full text of the Chapter is posted. Nothing stated in this Section and no action or failure to act under this Section shall affect the validity of this Chapter.

**Sec. 212. Effective date.**

This Chapter shall become effective upon expiration of the period for rescission by the Secretary of the Interior under Article XIII, Section 2 of the Constitution.

