

HOPI TRIBAL COUNCIL
RESOLUTION
H-087-2016

WHEREAS, the Constitution and By-Laws of the Hopi Tribe, ARTICLE VI-POWERS OF THE TRIBAL COUNCIL, SECTION 1 (a) authorizes the Hopi Tribal Council, "To represent and speak for the Hopi Tribe in all matters for the welfare of the Tribe..."; and

WHEREAS, pursuant to Ordinance 43, "The Hopi Tribal Council has determined that it shall be the policy of the Hopi Tribe to protect, conserve, and prudently manage all its natural resources which include livestock grazing resources on the Hopi Reservation"; and

WHEREAS, Ordinance 43, under Section 106. C. "provides the procedures for the allocation of grazing privileges [permits] for Hopi Tribal members...in a fair and impartial manner that protects the range resources"; and

WHEREAS, on February 24, 2014, the Hopi Tribal Council approved H-008-2014, which approved grazing permits for livestock grazing on Land Management District Six; and

WHEREAS, on August 4, 2015, the Hopi Tribal Council rescinded H-008-2014 and approved H-082-2015, which halted the permitting process on livestock grazing Hopi Land Management District Six and recognized the Mongwits' and Villages' inherent sovereign aboriginal rights and authority over their land under their respective village's jurisdiction; and

WHEREAS, on November 25, 2015 the Hopi Tribal Council further approved H-116-2015 which directed the Department of Natural Resources to conduct consultation with

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the villages, village Mongwit, ranchers, farmers and livestock associations members regarding amending Ordinance 43 within 90 days; and

WHEREAS, the Department of Natural Resources and the Office of Range Management has completed the directives given to them under H-116-2015 and is requesting the Hopi Tribal Council rescind H-082-2015 to allow the grazing permit process to proceed on Land Management District Six; and

WHEREAS, the Office of Range Management has listened to the issues and concerns of the District Six ranchers and has revised Ordinance 43, Section 106, C. and Section 109., to ensure the issuance of grazing permits to ranchers on Land Management District Six and to have an appeals process to address issues that may arise; and

WHEREAS, the Office of Range Management has received requests from ranchers on Land Management District Six to move to the Hopi Partitioned Lands where Animal Units are available; and

WHEREAS, the Office of Range Management recommends that grazing permits issued for Land Management District Six under Resolution H-008-2014 be re-adjusted in Animal Units to allow new grazing permits to be issued under the amendments made to Section 106 of Ordinance 43; and

WHEREAS, the new grazing permits shall be made retroactive to 2014, to cover the grazing period from 2014-2018.

NOW THEREFORE BE IT RESOLVED by the Hopi Tribal Council that it hereby rescinds Resolution H-082-2015 in order to allow for the permitting of Land Management

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District Six to continue under the amended Ordinance 43, Section 106. C. and Section 109.

BE IT FURTHER RESOLVED that the Hopi Tribal Council hereby approves the amendment to Ordinance 43, Section 106. C. for issuing of grazing permits and Section 109, to address appeals, for Land Management District Six. (Attachment A)

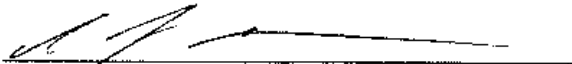
BE IT FURTHER RESOLVED that the Hopi Tribal Council hereby approves the list of District Six ranchers requesting to move to the Hopi Partitioned Lands to continue ranching. (Attachment B)

BE IT FINALLY RESOLVED that grazing permits issued within Land Management District Six shall be retroactive from 2014 to cover the 5 year grazing period of 2014-2018.


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CERTIFICATION

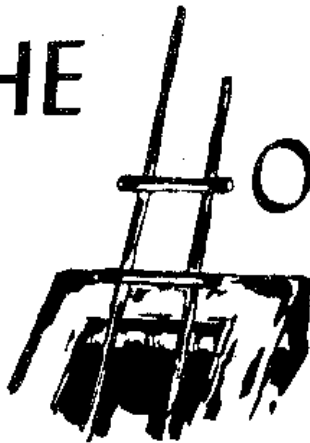
The Hopi Tribal Council duly adopted the foregoing Resolution on August 23, 2016 at a meeting at which a quorum was present with a vote of 15 in favor, 2 opposed, 1 abstaining (Vice Chairman presiding and not voting) pursuant to the authority vested in the Hopi Tribal Council by ARTICLE VI-POWERS OF THE TRIBAL COUNCIL, SECTION 1 (a) of the Hopi Tribal Constitution and By-Laws of the Hopi Tribe of Arizona, as ratified by the Tribe on October 24, 1936, and approved by the Secretary of Interior on December 19, 1936, pursuant to Section 16 of the Act of June 18, 1934. Said Resolution is effective as of the date of adoption and does not require Secretarial approval.


Alfred Lomahquahu, Jr., Vice Chairman
Hopi Tribal Council

ATTEST:


Vernita Selestewa, Tribal Secretary
Hopi Tribal Council

THE HOPI TRIBE



Herman G. Honanie
CHAIRMAN

Alfred Lomahquahu, Jr.
VICE-CHAIRMAN

MEMORANDUM

TO: Priscilla Pavatea, Director
Office of Range Management /Land Operations

FROM: *Vernita Selestewa*
Vernita Selestewa, Tribal Secretary
Hopi Tribal Council

DATE: August 25, 2016

SUBJECT: APPROVAL TO RESCIND H-082-2016- A.I. #103-2016/H-087-2016

The Hopi Tribal Council on August 23, 2016 by motion and majority vote approved the above mentioned Action Item and Resolution.

By passage of this Resolution the Hopi Tribal Council hereby rescinds Resolution H-082-2015 in order to allow for permitting of Land Management District Six and hereby approves the amendment to Ordinance 43, Section 106. C for issuing of grazing permits and Section 109, to address appeals for Land Management District Six and also approves the list of District Six ranchers requesting to move to the Hopi Partitioned Lands to continue ranching. The grazing permits issued within Land Management District Six shall be retroactive from 2014 to cover the 5 year grazing period of 2014 – 2018.

Should you have any questions, you may contact me at extension 3131.

c: Office of the Chairman
Office of the Vice Chairman
Office of the Treasurer
Office of Financial Management
Office of Executive Director
Department of Natural Resources
Office of Tribal Operations
Office of General Counsel
File

Hopi Tribal
Grazing Regulations

ORDINANCE #43

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Section 101. Definitions

The following definitions shall apply to the following words when used in this Ordinance:

- A. **Accommodation Agreement:** The agreement between the Hopi Tribe and certain Navajos residing on the HPL pursuant to which those Navajos are allowed to continue residing on the HPL for a 75-year period.
- B. **Accommodation Agreement Signatory:** Any Navajo over the age of eighteen (18), who has signed an Accommodation Agreement and who resides on the HPL at the homesite designated in that Accommodation Agreement.
- C. **Accommodation Permit:** A revocable privilege granted by the Tribal Council in writing to an Accommodation Agreement signatory to enter on and utilize forage by domestic livestock on a specified tract or tracts of land.
- D. **Allocate:** To apportion grazing privileges, including the determination of who may graze livestock, the number and kind of livestock that may be grazed, and the place or places such livestock may be grazed.
- E. **Area Director:** The officer in charge of the Phoenix Bureau of Indian Affairs Area Office (or his successor and/or his authorized representative) to whom has been delegated the authority of the Assistant Secretary of the United States Department of the Interior, Bureau of Indian Affairs, to act in all matters pertaining to the Hopi Reservation.
- F. **BIA:** Bureau of Indian Affairs.
- G. **BIA enumeration:** The list of persons living on, and improvements located within, the former Joint Use Area obtained by interviews by the Project Officer's staff.
- H. **BIA Interim Permit:** A grazing permit for a limited amount of animal units issued by the BIA pursuant to 25 C.F.R. § 168 to Navajo tribal members who have not signed the AA but have maintained a permanent residence on the HPL and a livestock inventory since the BIA enumeration, who are listed on that enumeration, and who were grazing on the HPL as of April 18, 1979. The termination date of the all BIA Interim Permits is February 1, 2000.
- I. **Body Condition Score:** A system of correlating visual appearance with body fat in which animals are scored on a ten point scale with one being extreme emaciation and ten being grossly obese.
- J. **Carrying capacity:** The maximum stocking rate possible without inducing damage to vegetation or related resources.

- K. CEO: Chief Executive Officer/Chairman of the Hopi Tribe.
- L. Certified Livestock Inspector: Any Hopi Ranger.
- M. Cull: Livestock that are of no current or potential use to the owner or that are dangerous or produce poor quality offspring are considered culls as identified pursuant to section 105.C.1.
- N. ORM: Hopi Tribe Office of Range Management, established pursuant to Hopi Resolution H-49-89.
- O. Disaster: An event of nature that damages the range or otherwise interferes with grazing.
- P. Disease: An abnormal state of body condition; Infectious Disease - Sickness caused by a bacterium, virus or parasite; and Non-infectious Disease - Abnormal function of a body system or metabolism (examples: calving problems, skeletal abnormalities, digestive tract problems and poisons).
- Q. Fresh brand: A brand or mark that has not yet started to peel or that can otherwise be identified as having been recently placed on the animal.
- R. Grazing Permit: A revocable privilege granted by the Tribal Council in writing to Hopi tribal members and Accommodation Agreement Signatories to enter on and utilize forage by domestic livestock on a specified tract OK tracts of land. The term as used herein shall include written authorizations issued to enable the crossing or trailing of domestic livestock across specified tracts or range units,
- S. Hopi Rangers: Hopi tribal employees within HRES commissioned as law enforcement officers by the CEO upon satisfactory completion of a training program approved by HRES.
- T. Hopi Reservation: All lands exclusively reserved for, held in trust for, granted to, partitioned to, or otherwise conveyed to or held for the Hopi Tribe by the United States Government, including but not limited to Land Management District Six, the HPL and all lands partitioned or otherwise awarded to the Tribe through the 1934 Act litigation.
- U. Hopi Tribe: The Hopi Indian Tribe.
- V. HPL: The Hopi Partitioned Lands, i.e., that land outside Land Management District Six and within the 1882 Executive Order Reservation that has been partitioned to the Hopi Tribe pursuant to the Settlement Act, plus all lands that have been or that may hereafter be partitioned to the Hopi Tribe and made a part of the Reservation pursuant to Sections 8 and 10(b) of the Settlement Act, 25 U.S.C. 55 640d-7 and -

9(b).

- W. HRES: Hopi Resources Enforcement Services, established pursuant to Hopi Tribal Resolution H-49-89.
- X. In-Breeding: To breed by mating animals of the same or closely related stocks.
- Y. Land Management District Six: That portion of the Hopi Reservation within the 1882 Executive Order reservation known and referred to as Land Management District Six as defined in Paragraph One of the Judgment in Healing v. Jones, 210 F. Supp. 125 (1962), affd, 373 U.S. 758 (1963).
- Z. Livestock: Domesticated animals (horses, cattle, sheep, goats, mules, and burros) potentially utilizing range resources.
- AA. Livestock inventory: The list, as developed by the Project Officer in 1976-77, and thereafter amended, of livestock owned by persons having customary grazing use in the former Joint Use Area.
- BB. Livestock producer: Any person who raises, breeds, feeds, or owns livestock. CC. Owner: Any person who owns livestock.
- DD. Owner's agent: An individual, authorized in writing by an owner to act on the owner's behalf concerning specified livestock.
- EE. Person: A person, corporation, partnership, trust, estate, association, cooperative association, or any other business unit or group of people.
- FF. AUYL: Animal Units Year Long, unit of measurement reflecting the amount of forage consumed by livestock during a one-year period. Equivalents shall be:
 - 1 AUYL = 4 Sheep/Goat (4 SUYL)
 - 1 AUYL = 1 Cow/Cattle
 - AUYL = 1.25 Horse/BurroWhen an unweaned animal under 6 months of age is running with its mother, only the mother shall be counted in calculating animal units of grazing.
- GG. Range unit: A tract of range land designated as a management unit.
- HH. Secretary: The Secretary of Interior or his designee.
- II. Settlement Act: Public Law 93-531, as amended by Public Law 96-305, codified at 25 U.S.C. §§640d-1 et seq.

- JJ. Stocking Rate: The number of livestock that the Tribal Council has determined can be grazed on each range unit under prevailing conditions consistent with sustained yield principles of range management.
- KK. Superintendent: The Superintendent of the Hopi Agency of the Bureau of Indian Affairs. In the event that the Secretary of the Interior shall designate some other BIA official to perform livestock supervision functions for the HPL, then any references to Superintendent shall mean the official so designated.
- LL. Trespass: Livestock are in trespass on the Hopi Reservation: (1) whenever they are on Hopi lands without a valid grazing or accommodation permit or in violation of the terms and conditions of such permit; (2) after their identification by HRES as culls and the lapse of the time period for their removal provided in Section 105.C. of this Ordinance; (3) whenever their owner cannot be determined; or (4) whenever they are not branded or marked as required by Section 103 of this Ordinance.
- MM. Tribal Council: The governing body of the Hopi Indian Tribe.
- NN. Tribal member: An individual who is an enrolled member of the Hopi Tribe, as determined by the Hopi Tribal Enrollment Department.
- OO. Registered: Herd-bulls having pedigrees certified and listed by authorized breeders' association, along with breed registry papers. All sires shall be registered with ORM.
- PP. Dual Grazing Privilege: No permittee shall have concurrent grazing permits on HPL or District Six range units.

Section 102. General

A. Scope:

This Ordinance shall apply to the entire Hopi Reservation.

B. Purposes and Objectives:

The Tribal Council has determined that it shall be a policy of the Hopi Tribe to protect, conserve, and prudently manage all its natural resources, Livestock grazing resources on the Hopi Reservation are hereby identified as a valuable natural resource in need of such protection, conservation and management.

This Ordinance shall govern the allocation of grazing and accommodation permits to, and the use of the Hopi Reservation for grazing purposes by tribal members and Accommodation Agreement signatories, and shall otherwise control the presence of livestock on the Hopi Reservation. The purposes of this Ordinance include but are

not limited to:

1. Protection of the livestock industry from theft and from contagious and infectious diseases and non-infectious diseases.
2. Protection of the public from diseased and unwholesome meat products from livestock.
3. Conservation and improvement of range land, forage, and water resource.
4. Protection of the interests and rights of the Hopi Tribe from encroachment.
5. Provision for an equitable distribution of tribal grazing resources to tribal members and accommodation permittees, consistent with recognized principles of good range management.
6. Administration of grazing privileges in a fair and impartial manner that will provide the greatest sustained benefit to the Hopi Tribe and Hopi tribal members.
7. Provision for a livestock permit system for Accommodation Agreement signatories.
8. Recognition of existing BIA interim permits until those permit holders relocate or until the BIA interim permit is canceled.

C. Consent to Jurisdiction

1. The Hopi Tribe, in exercising its sovereignty and recognizing the Secretary's trust responsibility and authority, shall control the presence of livestock on the Hopi Reservation, as herein provided.
2. Any person who, after the effective date of this Ordinance, owns, controls, or transports livestock on the Reservation shall be deemed to have consented to all the terms of this Ordinance and to the jurisdiction of the Hopi Tribe to enforce this Ordinance.

Section 103. Livestock Identification

A. General

1. Purpose: Markings and identification of livestock are required to identify the owner of the animal, to effect good range management, and to discourage the theft of animals.
2. Livestock identification required: Horses, mules and burros over one (1) year old and other livestock over six (6) months old shall be branded, marked,

tattooed, or otherwise identified in a manner to enable the determination of the ownership of the animal

3. Branding Requirements: All livestock on the Reservation shall be branded as described in Section 103.B. ORM may issue a written exception to this requirement for a specified animal, where sufficient documentation or other means of identification are available so that such exception will not cause confusion over ownership or grazing privileges.

B. Brands

1. Sheep and Goats: Sheep and goats shall bear a paint brand and earmarks or other markings which are recorded on the owner's grazing permit.
2. Other Livestock: Livestock other than sheep and goats shall bear a tribal brand and personal brand, both of which brands shall be fire brands.
 - a. Tribal Brand: The tribal brand (H6), which shall conform to specifications promulgated by ORM, shall be placed high on the left hip.
 - b. Personal Brand: Personal brands may be placed on either side of the animal and shall be registered with the Hopi Tribe.
 - c. Type of Brands: All brands or markings identifying ownership shall be clear and readable.
 - d. Existing Brands: ORM may accept as sufficient under this Ordinance existing brands on livestock permitted in any given range unit on the Hopi Reservation as of the date by which this Ordinance becomes enforceable as to that range unit, provided that all livestock acquired or born after such date shall comply with Section 103.B.2.a.
3. Earmarks: No livestock shall be earmarked by the cutting off of more than one-half of one ear.
4. Ownership of Brands and Marks:
 - a. Eligible Brands and Marks: No two persons may own the same brands and marks or ones so similar as to be confusing or difficult to distinguish when placed on an animal.
 - b. Ownership: Brands and marks shall belong to the person in whose name the brands and marks are earlier recorded with ORM.
 - c. Transfer: Ownership of brands and marks may be transferred by sale, will or gift; but such transfer of ownership shall become effective only

after the transfer is recorded with ORM.

5. Recording of Brands and Marks:

- a. Record System: ORM shall establish and maintain a system of recording brands and marks.
- b. Records: Brand records shall include:
 - (1) a facsimile of the brands and marks;
 - (2) the location of brands and marks;
 - (3) the kind(s) of livestock that will bear the brands and marks;
 - (4) the name, mailing address, and residence of the person in whose name the brands and marks are being recorded; and
 - (5) the date when presented for recording.
- c. Mailing Address: The brand owner has the responsibility to inform in writing ORM of any change of mailing address within thirty (30) days of such change.
- d. Re-recording: To remain valid, brands must be re-recorded every ten (10) years with ORM.
 - (1) ORM shall mail a notice to the brand owner no more than thirty (30) days after a brand record expires, informing the brand owner that, unless that brand is re-recorded within thirty (30) days, it shall be considered abandoned and no longer of record.
 - (2) Sixty (60) days after a brand record expires, that brand shall be considered abandoned and no longer of record.
- e. Fees: The following fees shall be paid by the livestock owner upon recording, amending, transferring, or re-recording brands, marks and Inspection:
 - (1) New brand recording \$5.00
 - (2) Amending recorded brands \$2.00
 - (3) Transferring recorded brands \$10.00
 - (4) Re-recording brands \$5.00

(5) Inspection \$1.00

SECTION 104. Inspections

A. General

1. Purpose: Livestock inspections are required to control the movement of livestock for the purpose of preventing theft and the spread of disease among livestock.
2. Inspections Required: Livestock must be inspected by a Certified Livestock Inspector and an Inspection Certificate (which shall state clearly the origin and destination of the livestock) must be obtained before:
 - a. sale or other transfer of ownership to a person on or off the Hopi Reservation.
 - b. movement of livestock by motor vehicle (except horses covered by special hauling permits).
 - c. driving animals across a range unit boundary on the Reservation or across an exterior boundary of the Reservation.
 - d. slaughtering livestock for purposes of use of the meat for processing and distribution.
 - e. sale of the products of slaughtered livestock must be stamped, to show ownership, on the hind quarter, side, shoulder, neck, and shank of both sides of the carcass with the official stamp of a Hopi Ranger.
3. Inspection Otherwise Required: Livestock producers who slaughter livestock for the purpose of using the meat for food for themselves, their immediate family, or employees shall be required to have the livestock inspected before slaughter; and the whole hide of all livestock so slaughtered, except swine, shall be hung in a conspicuous place on the premises of such livestock producer and kept there until the hide has been inspected and marked or tagged by a Hopi Ranger. The meat from the livestock so slaughtered shall not be removed from the premises of such livestock producer without being stamped upon the hind quarter, side, shoulder, neck, and shank of both sides of the carcass with the official stamp of a Hopi Ranger.
4. Special Hauling Permits: Upon proper application to ORM, the owner of a horse will be given a special hauling permit that is valid for the lifetime of that horse.

B. Inspection Procedures

1. Method, Time, and Place of Inspections:

The owner shall make arrangements with HRES for a time and place of inspection. All inspections shall be made during daylight hours by a Certified Livestock Inspector, who shall be assisted by a licensed veterinarian when inspections involve health-related matters.

2. Points of Inspection:

- a. Ownership Identification: the Certified Livestock Inspector shall determine the ownership of the livestock according to the brands and other identifying marks placed on the livestock by comparing them to brand and mark registrations and other official documents showing ownership of the livestock.
- b. Health: The Certified Livestock Inspector shall indicate on the inspection certificate any signs of disease noted. At his or her discretion the Certified Livestock Inspector may require an examination by a licensed veterinarian who may issue a health certificate and may mark diseased animals with paint or by other means. All livestock entering upon or traveling through the Hopi Reservation from outside the Hopi Reservation must be accompanied by a health certificate issued by a licensed veterinarian.

3. Certificate of Inspection and Special Hauling Permits:

- a. Authority to Issue: Certified Livestock Inspectors shall have authority to issue valid certificates of inspection and special hauling permits.
- b. Conflict of Interest: No Certified Livestock Inspector shall issue an inspection certificate for his own livestock or the livestock of his spouse, siblings, aunts, uncles, his or her spouse's parents, his children or their spouses.
- c. Copies and Records: Inspection certificates and special hauling permits shall be made in quadruplicate. The original of the inspection certificate or a special hauling permit shall be filed with ORM. The owner or his agent shall receive a copy and the buyer or his agent shall receive a copy. The Tribal Treasurer shall receive a copy.
- d. Information on Certificates: Inspection certificates and special hauling permits shall be issued on forms approved by ORM which shall be substantially similar to those in use by the State of Arizona. Inspection certificates and special hauling permits shall be clearly identified as being from the Hopi Tribe.

Section 105. Protection and Improvement of Herd Quality

A. Purpose:

The purpose of this section is to protect and to enhance the health, productivity, and quality of livestock; to protect the health and welfare of the Hopi Tribe; and to derive the maximum benefit for the Hopi Tribe from the optimal use of the Hopi Tribe's range resources. Such purposes are to be accompanied through the identification and treatment or destruction of diseased livestock, the identification and removal of cull livestock, and the control of sires.

B. Diseased Livestock:

1. Authority: When necessary to protect the health and safety of persons or livestock on the Hopi Reservation, HRES:
 - a. shall mark and impound and quarantine livestock diagnosed by a licensed veterinarian as having any diseases to prevent the spread of disease;
 - b. may treat or destroy diseased livestock for their diagnosed disease in accordance with the instructions of a licensed veterinarian.
2. The Hopi Tribe, its employees, agents, or authorized enforcement officers shall not be liable for any action taken under this Section 105.B.

C. Cull Livestock:

1. Identification of culled livestock: Livestock that are of no current value or potential use to the owner or that are dangerous or produce poor quality offspring are considered culls. Whether livestock are culls may depend on the purpose for which the livestock are being kept. All cull livestock shall be removed from the range within thirty (30) days of their identification as culls by HRES, except livestock that meet the criteria described in Section 105.C. 1. (f), (h), and (e) below, which livestock shall be removed from the range immediately upon identification by HRES marked as cull livestock. HRES shall mark all livestock identified as culls. Livestock meeting the following criteria shall generally be considered as cull livestock:
 - a. Nonproductive animals (e.g., barren cows).
 - b. Unbroken horses/mules/burros three (3) year or older.
 - c. Steers over one (1) year old, except those designated for cultural

purposes and included within the owner's permitted allocation.

- d. Horses/Mules/Burros two (2) year or older not meeting quality standards pursuant to Section 105.
 - e. Bulls or rams one (1) year or older not meeting quality standards pursuant to Section 105.
 - f. Untrainable or dangerous animals.
 - g. Aged animals having poor teeth and in poor physical condition (body condition score of 3 or less),
 - h. Animals with a chronic infectious or chronic debilitating disease and that are in poor physical condition (body condition score of 3 or less).
 - i. Animals producing offspring with birth defects (e.g., dwarfism, etc.).
2. Livestock identified by HRES as cull and not removed from the range within the time period provided in Section 105.C.1. of this Ordinance are subject to impoundment and sale, as provided in Section 108 of this Ordinance.

D. Sires:

1. Quality: All herd-bulls shall be registered with an established Breed Association and shall have copies of the registration on file with the ORM.
 - a. It is mandatory that cattle owners provide a sire for his/her cattle.
 - b. All sires to be used for breeding of cattle within the exterior boundaries of the Hopi Lands must have been purchased outside of the exterior boundaries of the Hopi Lands.
 - c. Sires may be traded or sold within the exterior boundaries of the Hopi Lands after they are initially purchased outside of the exterior boundaries of the Hopi Lands up to the point they (sires) have outlived their usefulness.
2. Sire Pastures: Sires shall be kept penned or in sire pasture except during breeding season when they shall have access to specified pasture(s) only. Stud horses shall be controlled at all times.
3. Breeding Seasons: Breeding seasons shall be as follows:

Sheep/Goats: October 15 - January 15

Cattle: May 01 -September 01

Horses: No set breeding season

4. Breeders per sire: Owners whose livestock are breeding shall provide sires in at least the following ratios.
 - a. Sheep/Goats: 1 ram per every 30 breeders
 - b. Cattle: 1 bull per every 20 breeders
 - c. In-Breeding: In-breeding of livestock is prohibited.

SECTION 106. Grazing Control:

A. Purpose:

The purpose of this section is to provide procedures for the allocation of grazing privileges for Hopi Tribal members and Accommodation Agreement signatories in a fair and impartial manner that protects the range resource and the recognition of existing BIA interim permits **to the extent that they are judicially determined to exist.**

B. Range Units, Carrying Capacity, and Stocking Rate:

1. Range Units

Range units shall be established, and may be modified, by ORM subject to the approval of the Tribal Council, in a manner that will best meet the requirements of Hopi needs and proper land use.

2. Carrying capacities and stocking rates on each range unit shall be established by ORM, subject to the approval of the Tribal Council. Carrying capacities and stocking rates so established should take into consideration the implementation of the Hopi Tribe's objectives and program requiring grazeable land to support wildlife and other non- livestock uses. Stocking rates should be reviewed on a continuing basis and adjusted as conditions warrant.

3. ORM shall, on a regular basis and at least annually, inform the Tribal council of the names, permit numbers, permitted livestock, brands, range units, and other information regarding permits issued under this Ordinance.

4. Field fences: any farming anticipated outside of the “traditional clan holdings or established village holdings”, described in, Article VII, Section I of the Constitution and Bylaws of the Hopi Tribe, **and located within established grazing units** shall be fenced with 5 strands of barbed wire.

- a. any farming area within the traditional clan holdings shall not be required to be fenced.
- b. no livestock shall be grazed within the traditional clan holdings.

C. Hopi Grazing Permits

1. Eligibility:

- a. Hopi Tribal Members: An applicant must be
 - (1) an enrolled member of Hopi Tribe or eligible for membership in the Hopi Tribe, or both as determined by the Hopi Tribe's Enrollment Department;
 - (2) eighteen (18) years of age or older and/or a head of household; and
 - (3) have no outstanding fees or penalties arising out of Section 108(C) of this Ordinance.
- b. Exceptions to the requirement in Section 106.C.1.a.(1) may be made only in case of bona fide tribal enterprises, organized by and for the benefit of Hopi Tribal members, upon request of the applicant and approval of the Tribal Council.
- c. Exceptions to the requirement in Section 106.C.1.a. (2) may be made in the case of divorce, inheritance, or other special circumstance upon the request of the applicant and approval of the Tribal Council.

2. Maximum number of livestock for each range unit: The total number of AUYL for all lawful grazing within a range unit shall not exceed the stocking rate for that range unit established by ORM and the Tribal Council.

3. Stock Reduction Procedures:

a. **HPL:** When stock reduction is necessary to bring the total AUYL to the stocking rate for any range unit, such reduction shall be managed by ORM and HRES so that it affects each grazing permittee's allocated AUYL.

Example: Range Unit A has a stocking rate of 75 AUYL. The livestock count shows a total of 100 AUYL grazing in the range unit. Each grazing permittee in that range unit must reduce the number of his or her livestock by 25%, rounded to the nearest whole number.

b. District Six: When stock reduction is necessary to bring the total AUYL to the stocking rate for any range unit, such reduction (%) shall be determined by ORM and presented to the ranchers to help determine where the reduction will be implemented. The ORM and HRES shall manage such reduction.

4. Allocation:

- a. The maximum allocation to an individual shall depend upon the stocking rate of each range unit, upon existing **grazing** permits, and upon the number of persons in each priority class as defined in Section 106.C.4.b. of this Ordinance.
- b. Priorities for issuing grazing permits shall be as follows:
 - (1) Land Management District Six:

First Priority: Hopi livestock producers grazing livestock on District Six as of the date of enactment of this ordinance by the Tribal Council in proportion to the number of livestock then grazed, excluding cull livestock.

Second Priority: **Enrolled Hopi tribal members currently grazing livestock on Land Management District Six.**

Third Priority: **Enrolled Hopi tribal members who would like to graze livestock on Land Management District Six.**

- (2) HPL:

First Priority: Hopi relocatees, certified eligible for relocation benefits by the Office of Navajo-Hopi Indian Relocation, who have moved onto the HPL.

Second Priority: Hopi livestock producers who have continuously grazed livestock outside Land Management District Six since before partition and now do not have a recognized claim or who have a disputed claim to grazing privileges on Land Management District Six.

Third Priority: Hopi livestock producers who volunteer to move from a range unit in Land Management District Six in order to lessen the need for reduction in their range unit.

Fourth Priority: Hopi Tribal members who **have established** residence on the HPL.

Fifth Priority: Other Hopi livestock producers currently running livestock.

Sixth Priority: All other eligible Hopis who desire to graze livestock on the HPL.

Seventh Priority: Accommodation Agreement Signatories who have complied with the Accommodation Agreement.

c. Allocation Procedures and Processes:

(1) Land Management District Six

- a. Upon approval of the amendments to Section 106, C., the ORM shall work with the ranchers within each range unit to help determine who shall be issued grazing permits and the number of Animal Units for the initial 5 year grazing period. The ORM will present to the Hopi Tribal Council the names and allocations for each range unit.
- b. Thereafter, for every 5 year grazing period, the ORM shall work with the permittees within each Range Unit to determine who will be issued grazing permits and the number of Animal Units to be recommended to the Hopi Tribal Council for approval.
- c. Upon availability of Animal Units (renewal) within a Range Unit, the ORM will notify, by certified letter, the permittees within the Range Unit. The ORM shall set a meeting date to go over the conditions of the range unit and provide assistance to the permittees on how best to use the available AU.
 1. By October 30, before each 5 year grazing period, the ranchers within their respective Range Units shall notify ORM as to how the available Animal Units are to be allocated among the ranchers. This notification must include the following:
 - a) Range Unit
 - b) Name and address of permittee
 - c) Number of AU allocated and how the allocation will be split between horses, cattle and sheep.
 2. Within 30 days of receiving the notification of allocations from the range units, the ORM shall prepare a grazing permit for each permittee included in the notification. The permittee will be notified by certified mail, and will be issued the grazing permit following the payment of all fees owed by the individual under Section 108. C.
 3. Grazing permits shall be issued for a period of five (5) years. Adjustments can be made to grazing permits by following Section 106 of this Ordinance.

4. Appeals: Any rancher who is aggrieved by the decision of the range unit ranchers and ORM may appeal to the Hopi Tribal Courts under Ordinance 43, Section 109.

(2) Hopi Partitioned Lands (Hopi Tribal Members)

a. Notice of Availability and Applications: Annually, or more frequently if needed, ORM shall prominently post at Hopi Reservation post offices, trading posts, village community buildings, and tribal administration buildings and shall publish in a newspaper of general circulation on the Hopi Reservation, a public notice of the number and location of the AUYL available for allocation. All interested Tribal members shall apply for available AUYL within fifteen (15) days after notice is posted. Each application shall be on forms provided by the ORM and must be postmarked on or before the deadline. For the first allocation only, following enactment of this Ordinance, ORM shall accept as valid all then-pending applications for grazing permits, receipts of which has been acknowledged in writing by the ORM as of the date of enactment of this Ordinance.

b. Hearing Notice: Thirty (30) days after notice of availability is posted, ORM shall publish a list of all applicants, the number of AUYL requested, the kind of livestock for which grazing permits are requested, and the range units requested. A hearing (“Permit Hearing”) shall be held within forty-five (45) days of the posting of the notice of availability. All applicants shall be furnished written notice of the time and place of the Permit Hearing and notice shall be posted of date, time and place of hearings at public places, on the local radio station and newspaper.

c. Hearing Board Composition: The Permit Hearing shall be conducted by a Hearing Board composed of the following members convened by Director of ORM:

Members

- a) Representatives from the Livestock Associations active (5) on the Hopi Reservation
- b) Hopi Tribal member (non-livestock owner), selected by the Hearing Board

Ex-officio

- a) Director of ORM
- b) Range Conservationist from ORM
- c) HRES Chief Ranger

The Hearing Board shall select its own chairperson from its membership.

- a. Hearing: The Hearing Board shall hear all witnesses at the Permit Hearing. Hearings shall be public and a verbatim record of the proceedings kept.
 - b. Approval or Denial: Within **thirty (30)** days of the close of the Permit Hearing, the Hearing Board shall approve or deny all or part of any application or modification thereto, stating its reasons therefor. The Director of ORM may extend **this** period up to two successive 10-day intervals upon good cause shown. **Applicants shall be notified by certified letter of the Hearing Boards decision.**
 - c. Appeal: An applicant may appeal the decision of the Hearing Board pursuant to Section 109 of this Ordinance.
 - d. Issuance of Grazing Permit
After the Hopi Tribal Council has approved **the recommendation by the Hearing Board**, the actual **grazing** permits shall be prepared and **issued** by ORM to the appropriate tribal member (**permits must be signed in person**) within 10 days following the payment of all fees owed by the individual.
5. Grazing Permit Fees: Permit fees shall be set by resolution of the Tribal Council. In the absence of a Tribal Council resolution establishing a permit fee, the fee shall be zero. Obligation for the annual **grazing** permit fee is incurred upon approval of the grazing permit; the fee does not represent a land rental or forage fee. All fees must be paid as provided in Section 107 of this Ordinance before a permit may be issued.
6. Tenure of Grazing Permits: Permits shall be valid for five (5) years, unless the Tribal Council, under **consultation with the ORM** determines that a shorter period is appropriate for a particular situation.
7. Renewal of Grazing Permits: ORM shall notify **all grazing** permittees by mail of the impending expiration of their permits not less than ninety (90) days before the date of expiration.
- a. **District Six**: Persons so notified shall consult with their range unit ranchers to set a date and time to meet with the ORM to determine who will be issued grazing permits and the number of animal units. Failure to meet with the ORM before the beginning of the new grazing period will result in no permits issued for the range unit.

- b. HPL. Persons so notified may apply for renewals of such permits not more than ninety (90) days or less than sixty (60) days prior to the expiration of such permits. Renewal applications shall be made on forms provided by ORM and shall be acted upon by the Hearing Board in the same manner as new applications.
- 8. Mailing Address: The grazing permittee has the responsibility to inform the ORM in writing of any change of mailing address within thirty (30) days of such change.
- 9. Transfer of Grazing Permits:
 - a. District Six: a grazing permit may be transferred by the ORM upon majority approval of the permittees with the range unit.
 - b. HPL: a grazing permit may be transferred by the ORM, upon approval by the Hearing Board, to another person who meets eligibility requirements as set forth in this Section 106.C.1.
- 10. Revocation
 - a. HPL: shall adhere to Section 108.C. 1 and 2 of Ordinance 43.
 - b. District Six: grazing permit violations shall be reviewed by the ORM and presented to the majority of the range unit permittees to implementing Section 108. C.1 and 2 of Ordinance 43.
- 11. Livestock Count & Roundups
 - a. Reporting Ownership:

Every grazing permittee shall make a true report of livestock ownership when requested to do so by the ORM or the Superintendent. Failure to do so can result in the cancellation of the grazing permit under Section 108. C.3.
 - b. Roundups:
 - 1. Consent: Grazing permittees shall cooperate in any roundup of their livestock by the Hopi Tribe or the Superintendent. Such roundups shall take place whenever required in accordance with good range management practices and principles of animal husbandry as determined by ORM or the Superintendent.
 - 2. Participation: Grazing permittees shall assist in roundups of their livestock when required to do so by ORM or the Superintendent. Grazing Permittees/ranchers

shall be informed by the ORM on time, date, and manner of roundup.

3. Should the grazing permittee or his/her agent fail to participate in the roundup of his or her livestock as required by the ORM or the Superintendent, the ORM shall have the authority to roundup and count the grazing permittee's/ranchers livestock at that person's expense. Grazing permit shall be subject to cancellation under Section 108. C. 3.

D. Accommodation and BIA Interim Permits:

1. Issuing Authority:

- a. All accommodation permits will be issued by ORM on an annual basis.
- b. All BIA interim permits will continue to be issued by the BIA until the permit holder relocates, or the BIA interim permits are canceled.

2. Eligibility:

- a. All Accommodation Agreement signatories are eligible for an accommodation permit under this Ordinance unless they have outstanding fees or civil penalties arising out of Section 108(C) of this Ordinance.
- b. Prior to the issuance of an accommodation permit under this Ordinance, ORM will verify the eligibility of each applicant.
- c. Current holders of BIA interim permits are eligible, pursuant to the terms of 25 C.F.R. § 168, to continue holding those permits until the holder relocates or the BIA interim permits are canceled. No person who is not already a holder of a BIA interim permit is eligible for one.

3. Maximum Number of Livestock for Each Range Unit: The total number of SUYL for all lawful grazing, accommodation, and BIA interim permits within a range unit shall not exceed the stocking rate for that range unit established by ORM and the Tribal Council.

4. Stock Reduction Procedures: When stock reduction is necessary to bring the total AUYL to the stocking rate for any range unit, such reduction shall be managed by ORM and HRES so that it affects each grazing, accommodation, and BIA interim permittee's allocated SUYL in equal proportions as a percentage of each of their total allocated SUYL. For example, if the stocking rate for a given range unit is 75 SUYL but allotted grazing is 100 SUYL, each grazing permittee, accommodation permittee, and BIA interim permittee in that range unit

must reduce the number of his or her livestock by 25%, rounded to the nearest whole number.

5. Allocation:
 - a. The total number of SUYL for all accommodation permits up to 2800 SUYL. This 2800 SUYL is available to be allocated among all Accommodation Agreement signatories, pursuant to Section 106.D.6.
 - b. Upon a request by an Accommodation Agreement signatory, but in any event no more frequently than annually, ORM will review the total allocation of up to 2800 SUYL to accommodation permits to determine if permit numbers should be changed. ORM'S decision is subject to the approval of the Tribal Council. In conducting its review, ORM must consider the carrying capacity of the land, the condition of the land, whether other requests have been made and what the competing land use needs are. In the event that ORM determines and the Tribal Council approves an increase, the extra SUYL shall be allocated pursuant to Section 106.D.6.
6. Allocation Procedures: The allocation or accommodation permits among Accommodation Agreement permit holders as follows:
 - a. By November 1 preceding any grazing year, the Navajo Nation, or its designee, shall notify ORM as to how up to 2800 SUYL is to be allocated among Accommodation Agreement permittees. This notification must include the name and address of:
 - 1) each Accommodation Agreement signatory who is to be allocated SUYL, and
 - 2) each person who continues to hold a BIA interim permit. In addition, the notification must include the number of SUYL allocated to the permit holder, and how the individual allocation is to be split among sheep, goats, horses, and cows.
 - c. Within 30 days of receiving the notification of allocation of accommodation permits from the Navajo Nation, or its designee, ORM shall prepare individual accommodation permits for the Accommodation Agreement signatories who have been included in the notification. The permit is to be delivered to the Accommodation Agreement signatory once the permit fee is paid pursuant to Section 106.D.7. The BIA shall renew the BIA interim permits in a similar time frame.
 - b. The accommodation permit issued by ORM will be effective as of

January 1 of the grazing year for which the allocation was made. It is to be on a form developed by ORM which should include in it the number of SUYL the Accommodation Agreement signatory has been allocated and the area within a particular range unit where the grazing is to occur. Where possible, the location of the grazing will be in a range unit or portion thereof near the homesite of the Accommodation Agreement signatory. BIA interim permits shall continue to be issued pursuant to 25 C.F.R. S 168 and this Ordinance.

7. **Fees:** Each Accommodation Agreement signatory who holds an accommodation permit and each holder of a BIA interim permit must pay an annual permit fee to the Hopi Tribe. The fee is to be established by ORM and is to be equal to the annual permit fee required for a grazing permit. It shall initially be set at \$25.00 per horse, \$7.50 per cow, and \$1.87 per sheep. Obligation for the annual permit fee is incurred upon the preparation of the accommodation permit; the fee does not represent a land rental or forage fee. All fees must be paid as provided in Section 107 of this Ordinance before a permit may be delivered to the Accommodation Agreement signatory. After ORM has received the notification of allocation and prepared the individual accommodation permits, ORM shall deliver the actual permit to the appropriate Accommodation Agreement signatory within ten (10) days following the payment of all fees owed by the individual. BIA interim permits are not effective until the annual permit fee is paid.
8. **Tenure of Permits:** Accommodation and BIA interim permits shall be valid for one (1) year.
9. **Renewals:** No accommodation permit may be renewed unless the Accommodation Agreement signatory is reallocated the same SUYL for the following year by the Navajo Nation, or its designee, pursuant to Section 106.D.6.a. BIA interim permits can be renewed by the BIA until the holder either relocates or the BIA interim permit is canceled.
10. **Mailing Address:** Each accommodation permittee and each person holding a BIA interim permit has the responsibility to inform ORM in writing of any change of mailing address within thirty (30) days of such change.
11. **Transfer:** Upon approval in writing by the OM, an accommodation permit may be transferred by ORM to another Accommodation Agreement signatory who resides at the homesite of the original permit holder. Such transfer will be valid only for the remainder of the permit period. BIA interim permits are not transferable.

E. **Livestock Counting Roundups:**

1. Reporting Ownership: Every grazing permittee shall make a true report of livestock ownership when requested to do so by ORM or the Superintendent.
2. Roundups:
 - a. Consent: Grazing permittees shall cooperate in any roundup of their livestock by the Hopi Tribe or Superintendent. Such roundups shall take place whenever required in accordance with good range management practices and principles of animal husbandry as determined by ORM or the Superintendent.
 - b. Participation: permittees shall assist in roundups of their livestock when required to do so by ORM or the superintendent. Grazing permittees shall make appropriate arrangements for the time, date, and manner of any roundup with ORM or the Superintendent. In the event a grazing permittee or his or her agent fails to participate in the roundup of his or her livestock as required by ORM or the Superintendent, ORM or the Superintendent shall have the authority to round up and to count the grazing permittee's livestock at that person's expense.

SECTION 107. Range Management Fund, Range Improvements, and Fees

A. Range Management Fund:

1. Establishment: A Hopi Tribal Range Management Fund is hereby established.
2. Funding: The Range Management Fund will be comprised of proceeds received from:
 - a. Grazing permit, accommodation permit, and BIA interim permit fees;
 - b. Civil penalties assessed pursuant to Section 108(C)(1)(b);
 - c. Gifts, grants and contracts; and
 - d. Such allocations of tribal revenues as the Tribal Council, in its discretion, may make from time to time.
3. Use of Fund: Expenditures may be allocated from the Range Management Fund for construction, repair, operation, maintenance of range or water improvements. The funds can also be used to pay the expenses of the hearing board and a presenting officer to enforce the provisions of this Ordinance before the Hopi Tribal Courts.
4. Authorization: Expenditures from the fund shall be administered and managed by the Office of Range Management (ORM). Annual Expenditure reports will

be submitted to Tribal Council for their review.

- B. A Hopi Resource Enforcement Services (HRES) Revolving Account is hereby established and if not expended will be carried over to the next fiscal year.
1. Funding: The HRES Revolving Account will be comprised of proceeds from:
 - a. Inspection Fees and Charges;
 - b. Revenues from sales of livestock (Bovines, Ovines, Equines, etc.) owed to the Tribe; and
 - c. Impoundment and boarding fees pursuant to Section 108(C)(1)(a).
 2. Use of Fund: The HRES Revolving Account shall be used for the care and maintenance of impounded livestock that were impounded pursuant to this Ordinance. The funds may be used to purchase equipment and supplies necessary to properly care for the impounded livestock or livestock otherwise in the care of HRES.
 3. Authorization: Expenditures from the HRES Revolving Account shall be administered and managed by the HRES. Annual Expenditure reports will be submitted to Tribal Council for their review.

C. Fees:

All fees and penalties due under this Ordinance shall be paid to the Hopi Tribe for deposit into the Hopi Range Management Fund or the HRES Revolving Account as described in Section 107.A.

D. Construction or Removal of Range Improvements:

To prevent conflicting uses of land and to provide for the efficient and planned use of range improvements and for coordinated range management, written authorization from ORM for the construction or removal of fences, dams, pipelines, water wells, or other range improvements shall be required prior to commencement of any such construction or removal, whether such construction or removal is undertaken by a person acting privately or under authority of the Hopi Tribe.

Such authorization shall be in addition to, and not in lieu of, any other authorization, permission, or consent from any person or entity, including the Hopi Tribal Council or any committee, department, or other governmental unit thereunder, required by Tribal law, custom, or practice.

1. Guidelines and construction specifications for construction or removal of fences, dams, pipelines, water wells, or other range improvements will be set promulgate by ORM.

SECTION 108. Enforcement

A. Enforcement Personnel:

1. Authority: The Manager of the Department of Natural Resources shall be responsible for ensuring that the provisions of this Ordinance are enforced.
2. Hopi Agency Personnel: Personnel of the Hopi Agency of the BIA Law Enforcement Services commissioned as law enforcement officers ("BIA Police") shall have the authority to enforce this Ordinance in cooperation with the Hopi Tribe.
3. Tribal Personnel: HRES, and Hopi Rangers acting thereunder, shall have the authority to enforce this Ordinance in cooperation with the BIA Law Enforcement Services.

B. Impoundments:

Livestock on the Hopi Reservation range may be impounded to enforce the provisions of this Ordinance.

1. Protective Impoundments: The following livestock may be impounded immediately and without notice.
 - a. Diseased Livestock: Livestock with a contagious, infectious disease or life threatening conditions.
 - b. Sires: Herd-bulls on range lands in violation of this Ordinance (Out of breeding season).
 - c. Uninspected Livestock: Livestock being transported if the person controlling the livestock cannot produce a valid certificate of inspection or special hauling permit.
 - d. Unbranded Livestock ("Slicks") : Unbranded horses over one (1) year of age, and any other unbranded animal over six (6) months old.
 - e. Area Closed to Grazing: Livestock in an area closed to grazing for conservation, farming, or other purposes.
 - f. Causing Damages: Livestock in fields or causing damage or having caused damage to private or public property on Hopi Reservation lands, not including normal grazing on range lands.
 - g. Danger: Any animal endangering itself or causing danger to other animals or to any person.

Livestock improperly impounded shall be returned promptly and without charge to the owner.

- b. Proper Impoundments: For proper impoundments, the owner may redeem the livestock any time before the time set for the sale upon submitting to ORM proof of ownership and paying:
 - (1) all expenses incurred in gathering and impounding the livestock.
 - (2) two dollars (\$2.00) per day per head for sheep or goats and eight dollars (\$8.00) per day per head for all other livestock for care, feeding or pasturing the livestock;
 - (3) penalties assessed pursuant to Section 108.C. of this Ordinance;
 - (4) the value of any damages caused;
 - (5) the replacement value of all forage consumed while the livestock were in trespass;
- c. Livestock impounded pursuant to §108(B)(1)(a) Diseased Livestock and §108(B)(1)(h) Abused and Neglected shall not be redeemable. The animals impounded pursuant to those subsections shall be deemed forfeited and the Hopi Department of Natural Resources may dispose or sell the animals.

5. Judicial Review:

- a. Upon the filing of a Complaint, the Tribal Court may temporarily restrain a sale of livestock identified in the complaint if it appears that the sale may be unauthorized under this Ordinance. The Tribal Court shall promptly hear the case and may order the sale permanently enjoined and the livestock returned to the owner upon finding that no cause existed for impoundment, or that the owner has attempted properly to redeem the livestock, or that there has not been substantial, good faith compliance by the Tribe with the procedures relating to impoundment by the Tribe.
- b. The Tribal Court shall not have authority to award damages against the Tribe or anyone acting under color of this Ordinance as the result of any action taken under authority of this Ordinance, except that the Tribal Court may order repaid any expenses, penalties, damages, or other amounts collected from livestock owners if such collection is determined by the Tribal Court to have been improper under all the circumstances of the case.

6. Sale: Livestock not redeemed before the time fixed for their sale be sold at a public sale conducted by ORM to the highest bidder provided his bid is at or above the minimum amount set by ORM. A bidder at a public sale must be present to bid and must pay for an animal purchased at the time of the sale in cash, money order, cashier's check, or certified check. If a bid at or above the minimum is not received, the livestock may be sold at private sale at or above the minimum amount, re-offered at public sale, condemned and destroyed, or otherwise disposed of. When livestock are sold pursuant to this provision, the Hopi Tribe shall furnish the buyer a bill of sale or other written instrument as evidence of the sale.
7. Proceeds of Sale:
 - a. The proceeds of any sale of livestock as provided herein shall be applied as follows:
 - (1) To the payment of all expenses incurred in gathering, impoundments, care and feeding or pasturing the livestock.
 - (2) To the payment of any penalties or damages assessed pursuant to Section 108.C of this Ordinance.
 - (3) To the payment of costs, including reasonable attorneys' fees and court costs, associated with the impoundment and/or redemption as imposed at the discretion of the Hopi Tribal Court.
 - b. The owner, if known, shall be notified of any remaining proceeds and any remaining amount shall be disbursed to the owner of said livestock upon his submitting proof of ownership. If any proceeds remaining after payment of the first three items noted above are not claimed within one (1) year from the date of sale, such remaining proceeds will be credited to the Hopi Tribal Range Management Fund.

C. Violations and Civil Penalties

1. Monetary Penalties:

- a. Livestock Trespass: Owners of trespassing livestock shall pay the following civil penalties:
 - (1) Sheep and Goats: \$12 per head impoundment fee; \$2.00 per head per day boarding fee;
 - (2) Other Livestock: \$48.50 per head impoundment fee; \$8.00 per head per day boarding fee.

- b. Other violations: The following acts are prohibited, and, if a person is determined to have committed any of such acts, he or she may be subjected to a civil penalty of up to five hundred dollars (\$500), in addition to any other civil or criminal liability imposed by law:
- (1) To knowingly refuse to brand and/or mark livestock in accordance with this Ordinance.
 - (2) To brand and/or mark livestock with brands and/or marks not recorded with the Hopi Tribe.
 - (3) To knowingly misbrand or alter the brand and/or mark on the livestock of another.
 - (4) To transport or move livestock in violation of this Ordinance without a valid certificate of inspection or special hauling permit.
 - (5) To sell or slaughter livestock without notifying HRES and obtaining a certification of inspection for those livestock as described in Section 104 of this Ordinance.
 - (6) To alter or counterfeit a certificate of inspection, special hauling permit, or grazing, accommodation, or BIA interim permit, or copy thereof.
 - (7) To remove an animal and substitute another or to add other animals to a group of livestock for which a certificate of inspection has been issued and to present that certificate of inspection for the substituted or added livestock.
 - (8) To knowingly refuse to dip, spray, destroy, quarantine, vaccinate, or otherwise treat any animal when so directed by a veterinarian approved and by the Hopi Tribe.
 - (9) To knowingly make a false report of livestock ownership or to refuse to make a true report of livestock ownership.
 - (10) To interfere with or obstruct a roundup being carried out under the supervision of the Hopi Tribe or the Secretary under authority of this Ordinance.
 - (11) To construct or remove range improvements in violation of Section 107.8. of this Ordinance.
 - (12) Subject to the provisions of Section 108.B.S.b. of this Ordinance,

to knowingly or through gross negligence injure, disturb, destroy, or slaughter any livestock or other domestic animals or property not his or her own.

- (13) To knowingly or through gross negligence cut, break, stretch, pry open, destroy, or otherwise injure the fence of another, of the Hopi Tribe, or of the United States Government, or to knowingly dig or excavate under such fence or to leave a posted gate open.
- (14) To knowingly or through gross negligence punch, drill, or shoot holes in the water tank or otherwise knowingly prevent the normal operation of livestock watering system of another, of the Hopi Tribe, or of the United States Government.
- (15) To knowingly or through gross negligence contaminate public farming, livestock and wildlife water supplies.
- (16) To knowingly or through gross negligence damage range lands or forage through any means.
- (17) To knowingly or through gross negligence abuse or neglect their livestock and/or to let their livestock fall below the body condition score of 3.(18) To knowingly not provide a sire for his/her breeding livestock as required by Section 105(D) of this Ordinance.
- (19) To knowingly not cooperate with a required roundup under Section 106.E of this Ordinance.

2. Tribal Court Jurisdiction to Enforce Monetary Penalties

(a) Jurisdiction: The Hopi Tribal Courts shall have jurisdiction to hear civil complaints arising out of Subsections (C)(1) and (C)(2) of this section.

(b) Citation:

(1) Any violation of Subsections (C)(1) or (C)(2) of this section shall be initiated by the issuance of a citation by an enforcement officer or BIA Law Enforcement.

(2) A citation shall contain the following:

- i. The section(s) of the ordinance violated,
- ii. The fine(s) or fee(s) assessed

m. Notice: This citation is a determination that you have violated Hopi Ordinance 43. It will become a final determination unless you contest the violation by filing a written complaint in Hopi Tribal Court within ten (10) days of the issuance of this citation. You must attach a copy of your Hopi or BIA permit to the complaint. You have a right to legal counsel at your own expense and a right to subpoena witnesses to testify on your behalf.

(3) The issuance of the citation is prima facie evidence of the violation(s) representing that the violation has occurred.

- (c) Complaint: Any person may challenge the grazing citation by filing a written complaint in Hopi Tribal Court objecting to the citation within ten (10) days of the issuance of the citation. A copy of their Hopi or BIA permit must be attached to their complaint. In addition, the Manager of Natural Resources must be served with the complaint within ten (10) days of the filing of the complaint.
- (d) Hearing: The court must set a hearing within thirty (30) days of the filing of the complaint unless the parties agree to continue the matter for good cause. In no event shall the hearing be set beyond ninety (90) days after the filing of the complaint. The Court shall provide to the Manager of Natural Resources Notice of the date and time set for the hearing.
- (e) Orders and Judgments: The court upon hearing the evidence may dismiss the citation or affirm its determination and order the complainant to pay the assessed fines.
- (f) Rights: A permit holder or accommodation permit holder has the following rights:
 - (1) The right to be represented by legal counsel at their own expense.
 - (2) The right to present evidence and witnesses. If a witness will not voluntarily appear, then the complainant has the right to request a subpoena from the court to ensure the witnesses appearance.
- (g) Each party is responsible for their own costs and attorneys' fees. The court shall not issue an award of costs or attorneys' fees to either party.
- (h) There is no right of appeal to challenge the determination of the Tribal Court except as to the jurisdiction of the court or as to the

interpretation of the Ordinance.

3. Cancellation of Permits:

a. Grazing Permits: A grazing permit issued under this Ordinance may be canceled by the Hearing Board for any one or more of the following reasons:

- (1) the permittee is more than thirty (30) days delinquent in payment of any fees required under this Ordinance;
- (2) the permittee has relinquished membership in the Hopi Tribe;
- (3) the permittee is violating conditions as specified in the grazing permit;
- (4) the permittee is deceased with no application filed by heirs within sixty (60) days following death;
- (5) the permittee has committed three (3) or more trespass violations;
- (6) the permittee has failed to utilize the permit within one (1) grazing season;
- (7) the permittee has failed to cooperate with a required roundup under Section 106.E of this Ordinance;
- (8) the permittee has committed a violation of Section 108.C.1b. of this section.

b. Accommodation Permits: An accommodation permit issued under this Ordinance may be canceled by the Hearing Board for any one or more of the following reasons:

- (1) the accommodation permittee is more than thirty (30) days delinquent in payment of any fees required under this Ordinance;
- (2) the accommodation permittee is violating conditions as specified in his or her accommodation permit;
- (3) the accommodation permittee has committed three (3) or more trespass violations;
- (4) the accommodation permittee has failed to utilize the permit within one (1) grazing season;

- (5) the accommodation permittee has failed to cooperate with a required roundup under Section 106.E of this Ordinance; or
 - (6) the accommodation permittee has committed a violation of Section 108.C.1.b of this section.
 - (7) the accommodation permittee is deceased with no application filed by heirs within sixty (60) days following death;
- c. BIA Interim Permits: A BIA interim permit may be canceled by the BIA for any reason stated in 25 C.F.R. S 168.9. The termination date of all BIA Interim Permits is February 1, 2000.

4. Procedure for cancellation of grazing permit:

- a. The Hearing Board following its hearing as specified below, may cancel a grazing permit for any one or more of the reasons specified in subsection 108.C.
- b. Upon receiving written complaint from HRES, an enforcement officer, or any other person of conditions that could serve as the basis for cancellation of a grazing permit, the Hearing Board shall notify the permittee by certified mail
 - (1) that such a Complaint has been received, stating the substance of the Complaint and the name of the complaining party;
 - (2) that a hearing will be held at a stated date, time, and place to consider the complaint and whether the person's grazing permit should be canceled; and
 - (3) that the person so notified may appear and be present at the hearing and may present evidence in opposition to the Complaint.
- c. Following such a hearing on a complaint, the Hearing Board may:
 - (1) cancel a grazing or permit in whole or
 - (2) impose conditions on the permittee that in part, or are related to the Complaint and that, if not complied with, will result in cancellation of the permit. The Hearing Board's decision shall be accompanied by a statement of reasons therefore.

SECTION 109. Appeals of the Hearing Board

- A. Except as otherwise provided in this Ordinance, any Tribal member or Accommodation Permit holder who is aggrieved by a final administrative decision of the Hearing Board **or District Six ranchers within a given range unit** arising under this Ordinance may file an appeal with the Hopi Tribal Court objecting to such administrative decision. Such appeal shall be filed within twenty (20) days of the administrative decision.
- B. Any action brought pursuant to this section shall be an appeal on the administrative record only, including the record of any proceedings before the Hearing Board **or the District Six ranchers within a given range unit**.
- C. Record on Appeal: the Hopi Tribal Court shall issue an order to the Hearing Board **or to the District Six ranchers within a given range unit** to convey its record of the hearing including any recordings and other records at the hearing at issue. The Hearing Board **or District Six ranchers** shall have ten (10) days in which to convey its records.
- D. The Tribal Court shall have jurisdiction to affirm, reverse or remand the Hearing Board's **or District Six ranchers within the specified range unit** decision for further proceedings consistent with the Court's finding.
- E. There is no right of appeal to challenge the determination of the Tribal Court except as to the jurisdiction of the court or as to the interpretation of the Ordinance.

SECTION 110. Sovereign Immunity

Except as specifically provided in Section 109.B. nothing in this Ordinance shall be construed as a waiver whole or in part, of the sovereign immunity of the Hopi Tribe.

SECTION 111. Severability

If any provision of this Ordinance should be held invalid by the Hopi Tribal Court or a United States court Of Competent jurisdiction, the remainder of this Ordinance shall Continue in full force and effect.

SECTION 112. Relationship to Previous Ordinances

This ordinance supersedes and replaces the following ordinances or portions of ordinances and any other ordinances that are in conflict with this Ordinance:

Ordinance 19 enacted March 1, 1973

Ordinance 22 enacted July 10, 1972

Ordinance 24 enacted June 07, 1974

Ordinance 21 enacted July 10, 1974

Sections 3.3.29

Sections 3.3.32

Sections 3.3.53

Sections 3.3.60

Sections 3.3.68

Sections 3.3.72

Sections 3.3.76

SECTION 113. Computation of Time

All time periods set forth herein shall be computed according to the provisions of Rule 3, Hopi Indian Rules of Civil Procedure.

SECTION 114. Review

This Ordinance shall be reviewed annually by the Hopi Tribal Council

SECTION 115. Amendments

This Ordinance shall be amended by resolution of the Hopi Tribal Council

ADDENDUM TO ORDINANCE NO 43 (ORIGINAL)

HOPI TRIBAL COUNCIL
RESOLUTION
H-051-98

WHEREAS, Ordinance #43, Ordinance for the Control of Livestock and Grazing on the Hopi Reservation as amended, states that one of the purposes of the Ordinance is the “protection of the livestock industry from theft and from contagious and infectious disease . . .” This purpose is to be accomplished through “identification and treatment or destruction of diseased livestock, the identification and removal of cull livestock and the control of sires”; and

WHEREAS, the Hopi Potkwaniat of 1995 sets a goal “to prevent and eradicate animal diseases on the Hopi lands” with a specific objective “to develop and implement appropriate prevention programs to eradicate animal borne disease”; and

WHEREAS, data from the 1997 Cattle count demonstrate how vulnerable our isolated herd is to introduced disease and how a disease like Bovine Virus Diarrhea can spread across the whole reservation; and


WHEREAS, the Hopi Veterinary Services has consulted with the individual livestock producers and with the livestock associations on the Hopi Reservation and has received support for the policy;

NOW THEREFORE BE IT **RESOLVED** that the **Hopi** Tribal Council hereby approves the Livestock Disease Control Policy in support of Ordinance #43.

HOPI TRIBAL COUNCIL
RESOLUTION
H-051-98


CERTIFICATION

The foregoing resolution **was** duly adopted by the Hopi Tribal Council on May 05, 1998, at a meeting at which a quorum was present with a vote of 10 in favor, 0 opposed, 1 abstaining (Vice Chairman presiding and not voting) pursuant to the authority vested in the Hopi Tribal Council by ARTICLE VI-POWERS OF THE TRIBAL COUNCIL, SECTION 1 (a) of the Hopi Tribal Constitution and By-Laws of the Hopi Tribe of Arizona, as ratified by the Tribe on October **24, 1936**, and approved by the Secretary of Interior on December **19, 1936**, pursuant to Section **16** of the Act of June 18, **1934**. Said resolution is effective as of the date of adoption and does not require Secretarial approval.



Phillip R. Quochoytewa, Sr., Vice Chairman
Hopi Tribal Council

ATTEST:



Mary A. Felter, Tribal Secretary
Hopi Tribal Council

HOPILIVESTOCK DISEASE CONTROL POLICY

1. Incoming livestock shall be isolated for two weeks to be observed for infectious disease; diagnostic test for specific diseases, deemed necessary by the Tribal Veterinarian, must be completed during the quarantine period.
2. All incoming cattle of any sex or age must test negative for BVD persistent infection before being released on the range.
3. Cattle moved from one range unit to another must be tested negative for BVD persistent infection before they are introduced into the new range unit.
4. No bulls shall be allowed on the range who have ever serviced cows outside the Hopi Reservation.
5. Other tests and quarantine may be required by the Tribal Veterinarian when necessary to protect the health of the Hopi livestock,
6. The Hopi Veterinary Service shall be notified of new purchases so that arrangements can be made for diagnostic tests.
7. Only Hopi Resource Enforcement Services or Hopi Veterinary Services can release animals from quarantine.
8. Animals released on the range not in compliance with this policy will be subject to immediate impoundment.
9. Special arrangements shall be made with the Hopi Veterinary Service for off-reservation quarantine and testing.