

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ANIMAL CONTROL ORDINANCE

ORDINANCE #04/00, AMENDED

Adopted pursuant to Resolution #1263/00 of the Fond du Lac
Reservation Business Committee on August 22, 2000.

Amended pursuant to Resolution #1194/09 of the Fond du Lac
Reservation Business Committee on May 19, 2009.

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CHAPTER 1
AUTHORITY AND PURPOSE

Section 101 Authority

This Ordinance is enacted pursuant to the inherent sovereign authority of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band of Lake Superior Chippewa, as recognized under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476, Section 201(2) of the Indian Civil Rights Act of 1968, 25 U.S.C. § 1301(2), Article VI of the Revised Constitution of the Minnesota Chippewa Tribe, and under the common law of the United States of America.

Section 102 Findings, Purpose and Scope

The Reservation Business Committee finds that it is necessary and in the best interests of the Fond du Lac Band to establish standards for the care of domestic animals, and procedures for the seizure, custody and disposal of stray domestic animals within the Fond du Lac Reservation. The Reservation Business Committee accordingly enacts this Ordinance for the purpose of protecting the health, welfare and safety of the residents of the Fond du Lac Reservation from threats presented by stray or unattended domestic animals. The standards established and authority granted under this Ordinance shall apply to any stray or unattended domestic animal on lands within the Fond du Lac Reservation which are subject to the territorial authority of the Fond du Lac Band, and to any premises located on such lands.

Section 103 Reservation of Rights

Nothing in this Ordinance, nor any action hereunder, shall operate as a waiver of the sovereign immunity of the Fond du Lac Band or as a consent to jurisdiction by any court or agency for any matter arising under law or equity with respect to the subject matter herein.

CHAPTER 2
DEFINITIONS & INTERPRETATION

Section 201 Definitions

The following definitions shall apply in the meanings and interpretation of the provisions of this Ordinance:

- a. **"Abandoned dog"** shall mean any dog which is under no visible care or control of a person.

- b. **"Band lands"** or **"Lands of the Fond du Lac Band"** means, for the purposes of this Ordinance:
 - (1) Any lands which are held in trust or other restricted status by the United States for the benefit of the Fond du Lac Band or its members;
 - (2) Any lands which are held in trust or other restricted status by the United States for the benefit of the Minnesota Chippewa Tribe or its members which lie within the boundaries of the Fond du Lac Reservation; and
 - (3) Any lands which are held in fee by the Fond du Lac Band or any political subdivision of the Band.

- c. **"Bodily injury"** shall mean any injury that involves physical pain and suffering, scarring or disfigurement, or bone fracture to any person.

- d. **"Dangerous dog"** shall mean any dog that:
 - (1) Without provocation, has inflicted bodily injury upon any person;
 - (2) Without provocation, has killed or seriously injured another domestic animal while outside the dog owner's property;
 - (3) If, after the dog has bitten, attacked or threatened the safety of humans or other domestic animals, the dog's owner has been given written notice from a law enforcement officer that the dog is "potentially dangerous"; or

- (4) Has a contagious or infectious disease that humans or other domestic animals may contract if exposed to the dog.

A dog shall not be declared dangerous if the threat, injury or damage was sustained by a person who (i) at the time was committing a trespass or other unlawful conduct on the owner's property; or (ii) was intentionally provoking, tormenting, abusing or assaulting the dog.

- e. **"Dog"** shall mean any animal within the canine family, whether wild or domesticated.
- f. **"Dog enclosure"** shall mean any securely confined house or residence, or a securely enclosed and locked pen or structure suitable to prevent the dog from escaping so as to protect humans or other domestic animals from the dog.
- g. **"Domestic animal"** shall mean any animal which is kept by its owner as a pet or for recreational purposes.
- h. **"Fond du Lac Band"** or **"Band"** means the Fond du Lac Band of Lake Superior Chippewa.
- i. **"Law Enforcement Officer"** means any law enforcement officer authorized to enforce the actions arising out of the operation of this Ordinance, including any police, conservation, or animal control officer of the Fond du Lac Band.
- j. **"Minnesota Chippewa Tribe"** means the federally recognized Indian tribe comprising the Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs and White Earth bands of Chippewa.
- k. **"Owner"** shall mean any person possessing, harboring, keeping, having an ownership interest in, or having custody or control of a domestic animal.
- l. **"Potentially dangerous dog"** shall mean any dog that:
- (1) is not registered with the Fond du Lac Law Enforcement Division; or
 - (2) is not tagged with a current Rabies tag showing vaccination against rabies; or
 - (3) when unprovoked, chases or approaches a person on any property in an aggressive manner; or

- (4) has a known propensity or disposition, as indicated by sworn statements from at least two adults, to attack or threaten the safety of humans or domestic animals; or
- (5) is running loose anywhere on Band Lands.
- (m) "Provocation" shall mean conduct which arouses, moves, causes or irritates. Such conduct or actions tend to arouse rage, resentment or fury in another person or animal.
- (n) "Reservation Business Committee" means the duly elected governing body of the Fond du Lac Band.
- (o) "Tribal Court" means the Court of the Fond du Lac Band.

Section 202 Interpretation

The provisions of this Ordinance shall, to the greatest extent possible, be interpreted and implemented in a manner which is consistent with other applicable laws, regulations and procedures of the Fond du Lac Band as established by the Reservation Business Committee.

CHAPTER 3
PROHIBITIONS AND REQUIREMENTS

Section 301 Running at Large Prohibited

No domestic animal shall be permitted to run at large on lands of the Fond du Lac Band.

Section 302 Domestic Animals under the Immediate Control of Owner or Custodian

The restriction imposed by Section 301 shall not prohibit the appearance of any domestic animal upon the streets or public property of the Fond du Lac Reservation when such animal is on a leash or is otherwise under the immediate control of the owner or custodian. For the purposes of this section, "immediate control" shall mean that the owner or custodian has actual physical restraint over the animal such that the animal presents no threat or interference to persons or property.

Section 303 Nuisances

The owner or custodian of any domestic animal shall prevent that animal from committing any act which constitutes a nuisance. It is a nuisance for any animal to habitually or frequently bark or cry at night, to frequent school grounds, parks, to chase vehicles, to molest or annoy any person away from the property of his owner or custodian, or to damage, defile or destroy public or private property. Failure of the owner or custodian of a domestic animal to prevent the animal committing such a nuisance is a violation of the Ordinance.

Section 304 Registration of Dogs

All dogs must be registered with the Fond du Lac Law Enforcement Division within 14 days that such dog is brought upon Band Lands. The Law Enforcement Division shall issue a tag and Certificate of Registration to the Owner and maintain a copy of such Certificate of Registration.

Section 305 Rabies Vaccination

All dogs present on Band lands over six (6) months of age must be vaccinated against rabies each year. An owner must show proof of rabies vaccination to a law enforcement officer upon request or be subject to fines and other penalty of law.

Section 306 Prohibiting Abandonment of Dogs

- a. It is unlawful for any person to abandon a dog on Band Lands.
- b. Any dog that is abandoned is subject to confiscation and impoundment under Section 402.
- c. If a law enforcement officer views a dog wandering the roads, parking areas or other public areas without a current registration tag, he/she may presume that the dog is abandoned.

CHAPTER 4
ENFORCEMENT

Section 401 Enforcement Authority

The provisions of this Ordinance may be enforced by any law enforcement officer of the Fond du Lac Band, or by any other person who is duly authorized by Resolution of the Reservation Business Committee.

Section 402 Impoundment

- a. An individual who is authorized in accordance with Section 401 may impound any domestic animal found to be running at large on lands of the Fond du Lac Band. The owner of such animal, if known, shall be provided with written notice of the impounding. If the owner is unknown, notice of the impoundment shall be posted at the Fond du Lac Reservation Business Committee offices and Fond du Lac Housing Division offices, and shall also state that if the animal is not claimed within five (5) days of posting the notice, it will be given away to a responsible owner or painlessly killed and disposed of.
- b. A dog may be confiscated and impounded under this section if:
- (1) The dog is running loose on Band lands;
 - (2) The dog is not maintained in a proper enclosure;
 - (3) The dog is outside the proper enclosure and the dog is not under the physical restraint of the owner or other responsible person;
 - (4) The officer has probable cause to believe that the dog is dangerous and imminently aggressive;
 - (5) The dog is noticeably diseased; or
 - (6) The dog is running loose and chasing deer or livestock.
- c. An impounded animal shall be placed in a licensed kennel or other suitable and humane custody during the notice period. Any expenses for feeding the animal incurred prior to reclaiming of the animal shall be the responsibility of the owner.

- d. If an impounded animal is not reclaimed within the time specified and all fees and charges are unpaid, the animal shall be given to a responsible owner or shall be painlessly killed and disposed of. In addition, proof of current vaccinations, including distemper, hepatitis, leptospirosis, parvovirus and rabies, must be provided or the veterinarian will vaccinate and the owner is responsible for all applicable fees. The owner of the animal, if known, has the right to redeem the animal upon paying the cost of impounding and feeding the animal.
- e. If an impounded animal is not reclaimed within the time specified and all fees and charges are unpaid, the animal shall be given away to a responsible owner or shall be painlessly killed and disposed of.

Section 403 Jurisdiction of Fond du Lac Tribal Court

The Fond du Lac Tribal Court shall exercise exclusive jurisdiction over violations of this Ordinance. The Tribal Court shall hear all such actions in accordance with the Fond du Lac Civil Code, FDL Ord. #04/92, as amended, except where the specific provisions of this Ordinance require otherwise.

Section 404 Notice to Appear

When an individual is cited for any violation of this Ordinance, the Band officer shall prepare written notice to appear in Fond du Lac Tribal Court. The citation shall have the effect of, and shall serve as, a summons and complaint. The citation must be signed by the Band officer, and shall include the individual's name and address, the specific offense charged and the date, and the time and place that he or she is to appear in Court, if known. The officer shall retain the original of the notice, and deliver a copy thereof marked "summons" to the person cited.

Section 405 Failure to Appear

Any individual who has been duly served in accordance with this Ordinance and fails to appear before the Tribal Court without just cause shall be subject to a default judgment, provided that he or she is found guilty of the charge upon which he or she was originally cited.

Section 406 Penalties

- a. Failure to register or Maintain Proof of Rabies Vaccination. Any person who fails to register a dog with the Band as required under Section 304, or provide proof of rabies vaccination as required under Section 305 shall be guilty of

a civil misdemeanor. If, by a preponderance of the evidence, the Band Member is found guilty of such charge, a fine shall be assigned to such violation as follows:

- (1) First offense: an order to register and/or tag the dog(s) shall be issued;
 - (2) Second offense: an order to register and/or tag the dog(s) and a fine in the amount of \$25.00 shall be issued;
 - (3) Third offense, an order to remove the dog(s) from Band Lands and a fine in the amount of \$50.00 shall be issued.
- b. Abandonment of a Dog. Any person found guilty of abandonment of a dog on Band Lands shall be subject to a fine not to exceed \$500, and shall be liable for all costs of confiscation, impoundment, and destruction of the animal.
- c. Bodily injury caused by a Dog. Any owner of a dog that bites, without provocation, any person inflicting bodily injury, shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, the owner is found guilty of such charge, a fine in the maximum amount of \$250.00 shall be issued. If the same dog, without provocation, bites another person or the same person for a second time, the dog shall be destroyed and a maximum fine of \$500.00 shall be issued against the owner.
- d. Other violations. Any person who is convicted of any other violation of this Ordinance shall be punished by a fine of not more than \$50.00, and any subsequent violations within a one-year period shall be punished by a fine of \$100.00.

Section 407 Liability for Medical Expenses

In addition to the fines prescribed under this Chapter, any person who is found guilty of a violation of this Ordinance shall also be responsible for the payment of any documented medical expenses resulting from such violation.

Section 408 Other Civil Causes of Action

Nothing in this Ordinance shall prevent a private civil cause of action by any individual who has incurred injury or damages resulting from a violation of this Ordinance.


CHAPTER 5
AMENDMENT

Section 501 Amendment

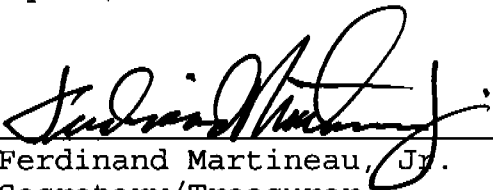
The provisions of this Ordinance may be amended by resolution of the Reservation Business Committee.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #04/00 was duly presented and adopted by Resolution #1263/00 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on August 22, 2000 on the Fond du Lac Reservation; and subsequently amended by Resolution #1194/09 dated May 19, 2009.



Karen R. Diver
Chairwoman



Ferdinand Martineau, Jr.
Secretary/Treasurer