

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.

Amended pursuant to Resolution #1199/18 of the Fond du Lac Reservation Business Committee on July 17, 2018.

CONTENTS

CHAPTER 1	AUTHORITY AND PURPOSE	1
CHAPTER 2	DEFINITIONS AND INTERPRETATION	2
CHAPTER 3	PROHIBITIONS	4
CHAPTER 4	ENFORCEMENT	6
CHAPTER 5	AMENDMENT	10
CERTIFICATION		10

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ANIMAL CONTROL ORDINANCE

ORDINANCE #04/00, AMENDED

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 its members.

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

- d. **“Dog”** shall mean any animal within the canine family, whether wild or domesticated.

- e. **“Domestic animal enclosure”** shall mean any securely confined house or residence, a securely enclosed and locked pen or structure, or a fenceless boundary system suitable to prevent a domestic animal from escaping so as to protect humans or other domestic animals from the domestic animal.

- f. **“Domestic animal”** shall mean any animal which is kept by its owner as a pet or for recreational purposes.

- g. **“Fond du Lac Band”** or **“Band”** means the Fond du Lac Band of Lake Superior Chippewa.

- h. **“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.
- i. **“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.
- j. **“Owner”** shall mean any person possessing, harboring, keeping, having an ownership interest in, or having custody or control of a domestic animal.
- k. **“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.
- l. **“Reservation Business Committee”** means the duly elected governing body of the Fond du Lac Band.
- m. **“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, to attack another domestic animal, 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 after 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 **Proof of Vaccinations**

All dogs present on Band lands over six (6) months of age must have current rabies and distemper vaccinations. 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 Domestic Animals

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

Section 307 Bodily Injury Caused by Domestic Animal

If a domestic animal, without provocation, causes bodily injury to any person who is acting peaceably in any place where the person may lawfully be, the owner of the dog shall be guilty of a civil offense.

Section 308 Failure to Comply with Removal Order

If the Tribal Court has ordered the owner to remove the domestic animal from Band lands or keep the animal confined to the owner's house at all times, it shall be unlawful for the animal to be present on Band lands except inside the owner's house.

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 domestic animal may be confiscated and impounded under this section if:
 - (1) The domestic animal is running loose on Band lands;
 - (2) The domestic animal is not maintained in a proper enclosure;
 - (3) The domestic animal is outside the proper enclosure and the domestic animal is not under the physical restraint of the owner or other responsible person;
 - (4) The Tribal Court has ordered the owner to remove the domestic animal from Band lands or keep the animal confined to the owner's house at all times and the animal is found on Band lands in a location other than inside the owner's house;
 - (5) The domestic animal, without provocation, causes bodily injury to any person who is acting peaceably in any place where the person may lawfully be;
 - (6) The domestic animal is noticeably diseased; or
 - (7) The domestic animal 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 and other care 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. Violations must be established by a preponderance of the evidence.

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. The following penalties shall apply to violations of this ordinance:

Section Violated	Offense Description	Offense Number	Fine	Additional Penalties
301	Running at Large	1	\$50	
		2	\$100	
		3	\$200	Order for Removal from Band Lands
302	Immediate Control	1	\$50	
		2+	\$100	
303	Nuisance	1	\$50	
		2	\$100	
		3	\$200	Order for Removal from Band Lands
304	Registration of Dogs	1	\$50	
		2+	\$100	
305	Proof of Vaccinations	1	\$25	
		2	\$50	Order for Removal from Band Lands
306	Abandonment	1+	\$500	Given Away to a Responsible Owner
307	Bodily Injury	1	\$250	
		2	\$500	Order for Removal from Band Lands
308	Failure to Comply with Removal Order	1	\$500	Given Away to a Responsible Owner

b. Impoundment. The above-listed penalties are in addition to any impoundment that may occur and the associated expenses.

c. Order for Removal from Band Lands. If the penalty table in paragraph a indicates that there will be an “Order for Removal from Band Lands,” the Tribal Court shall order the owner to remove the domestic animal from Band lands or keep the animal confined to the owner’s house at all times.

d. Given Away to a Responsible Owner. If the penalty table in paragraph a indicates that the domestic animal will be “Given Away to a Responsible Owner,” then the Tribal Court shall order that the domestic animal be impounded and that the domestic animal will be given away to a responsible owner or painlessly killed and disposed of.

e. Court Costs. If there is a plea or judgment of guilty for a violation of this Ordinance, the Tribal Court shall impose court costs of \$25, in addition to the fine imposed. If a single case involves multiple offenses, the Tribal Court shall assess court costs only one time in that case.

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

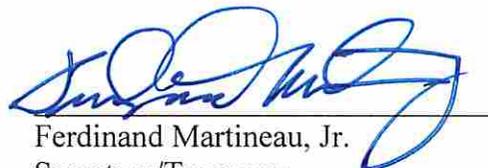
The provisions of this Ordinance may be amended by resolution of the Reservation Business Committee.

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, and by Resolution #1199/18 dated July 17, 2018.



Kevin R. Dupuis, Sr.
Chairman



Ferdinand Martineau, Jr.
Secretary/Treasurer