

TRIBAL CODE

CHAPTER 50

ANIMAL CONTROL ORDINANCE

CONTENTS:

CHAPTER I: GENERAL PROVISIONS

- 50.101 Purpose.
- 50.102 Authority.
- 50.103 Effective Date.
- 50.104 Repealer.
- 50.105 Interpretation.
- 50.106 Severability and Non-Liability.
- 50.107 Applicability.
- 50.108 Definitions.

CHAPTER II: ANIMAL CONTROL OFFICER

- 50.201 Appointment.
- 50.202 Duties.
- 50.203 Enforcement by Other Officers.

CHAPTER III: CONTROL OF ANIMALS

- 50.301 Running at Large.
- 50.302 License and Tag Required.
- 50.303 Rabies Vaccination and Tag Required.
- 50.304 Quarantine of Animal.
- 50.305 Killing of Animals.
- 50.306 Owner's Liability for Damages.
- 50.307 Restriction on Certain Breeds of Dogs.
- 50.308 Vicious animals

CHAPTER IV: IMPOUNDMENT

- 50.401 Impoundment Authorized.
- 50.402 Pound Designated.

50.403 Notification of Owner.

50.404 Records.

50.405 Release to Owner.

50.406 Release to Non-Owner.

50.407 Sacrifice of Animal.

CHAPTER V: ANIMAL CARE

50.501 Liability of Animal Care.

CHAPTER VI: ENFORCEMENT AND PENALTIES

50.601 Penalties.

50.602 Parties to a Violation.

50.603 Jurisdiction.

HISTORY NOTE:

Current Ordinance:

Adopted by the Tribal Council March 16, 1987, Resolution No. 70(87).

Approved by referendum vote March 26, 1987.

Approved by the Secretary of the Interior June 25, 1987.

Effective June 25, 1987.

Amendments:

Resolution No. 28(91), amended January 28, 1991, Sections 50.406(1) and 50.407 impoundment period from seven (7) days to three (3) days.

Resolution No. 234(95), amended June 12, 1995.

Resolution No. 219(96), amended June 10, 1996, amendment to banish certain breeds from reservation, Section 50.307(1)(2)(3).

Resolution 12(00), January 10, 2000, amend by adding Section 50.501(7)(8) Liability for animal care.

Resolution 125(07), June 18, 2007, amendment to add Section 50.307(d) and (e) and Section 50.308.

Prior Ordinance:

An Ordinance for the Control of Dogs adopted February 16, 1976, Resolution No. 21(76), repealed by sec. 50.104 of the current ordinance.

TRIBAL CODE

CHAPTER 50

ANIMAL CONTROL ORDINANCE

CHAPTER I: GENERAL PROVISIONS

50.101 Purpose.

The purpose of this ordinance is to provide for the health, safety, and welfare of reservation residents by regulating and controlling animals on the reservation and providing for protection from rabid animals.

50.102 Authority.

This ordinance is adopted pursuant to Article VI, Section 1 (a), (j), (l), and (u) of the Tribal Constitution.

50.103 Effective Date.

This ordinance shall take effect upon approval by the Secretary of the Interior as provided in Article VI, Section 2 of the Tribal Constitution.

50.104 Repealer.

(1) The "Ordinance for Animal Control" adopted by Resolution No. 21(76) is hereby repealed in its entirety.

(2) When this ordinance conflicts with or imposes greater restrictions than those contained in other tribal ordinances, codes, or resolutions, the provisions of this ordinance shall govern.

50.105 Interpretation.

In its interpretation and application the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Tribe and shall not be deemed as a limitation upon or a repeal of any other tribal law or power.

50.106 Severability and Non-Liability.

(1) If any section, provision, or portion of this ordinance is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

(2) The Tribe declares that there is no liability on the part of the Tribe, its agencies, agents or employees for any damages which may occur as a result of reliance upon or conformance with this ordinance. The Tribe by the adoption of this ordinance does not waive its sovereign immunity in any respect.

50.107 Applicability.

(1) This ordinance applies to all animals found on Indian lands or owned by a member or non-member Indian within the reservation.

(2) [REPEALED]

50.108 Definitions.

As used in this ordinance:

(1) "Animal" means any dog or cat.

(2) "Animal Control Advisory Board" means the Lac du Flambeau Animal Control Committee.

(3) "Animal Control Officer" means Lac du Flambeau Conservation Wardens or any appointed individual.

(4) "At large" means any animal, that:

(a) Is not physically restrained, on private property (including motorized vehicles) with the permission of the property owner, in a manner that physically prevents that animal from leaving that property or reaching any public areas; or,

(b) When not in compliance with subsection 1, is not restrained by a leash, tether or other physical control device not to exceed six (6) feet in length and under physical control of a person.

(5) "Collar" means a band, strip or chain placed around the neck of an animal.

(6) "Designated Veterinary Animal Hospital" means the contracted facility used for impoundment of animals in violation of this ordinance.

(7) "Indian land" means any land the title to which is held in trust by the United States for the benefit of the Tribe (i.e., tribal trust land) or a member (i.e., allotted land), and any land owned by the Tribe or a member.

(8) "Member" means a person enrolled in the Tribe or a Tribal child as defined in the Child Welfare Code, Section 31.102(12).

(9) "Owner" includes any person, firm, association or corporation owning, keeping, harboring or controlling an animal.

(10) "Reservation" means the area within the external boundaries of the Lac du Flambeau Indian Reservation.

(11) "Town" means the Town of Lac du Flambeau.

(12) "Tribal Court" means the Lac du Flambeau Tribal Court.

CHAPTER II: ANIMAL CONTROL OFFICER

50.201 Appointment.

The Lac du Flambeau Conservation Wardens or any appointed individual shall be the Animal Control Officers as adopted by Tribal Council Resolution.

50.202 Duties.

The primary responsibility for enforcing the provisions of this ordinance shall rest with the Animal Control Officer. The Animal Control Officer shall perform the following duties:

(1) Seize and transport for impoundment animals found in violation of this ordinance.

(2) Issue citations to owners for violations of this ordinance.

(3) Inform the public of the importance of animal control and of getting their pets tagged and vaccinated.

(4) Upon agreement with the Town enforce the Town Animal Control Ordinance.

(5) Release animals to owner only if:

(a) The owner presents evidence that the animal is licensed with the Town or Tribe and that the animal is vaccinated against rabies.

(6) Report activities of the Animal Control Program to the Animal Control Advisory Board on a quarterly basis.

(7) Perform any other duties necessary or incidental to the implementation of this ordinance.

50.203 Enforcement by Other Officers.

Any Tribal Law Enforcement Officer may enforce the provisions of this ordinance and seize animals for impoundment. In addition, any law enforcement officer empowered to enforce the laws of the State of Wisconsin is hereby empowered to enforce the provisions of this ordinance and seize animals for impoundment.

CHAPTER III: CONTROL OF ANIMALS

50.301 Running at Large.

It shall be unlawful for any owner to permit or allow an animal to run at large on the reservation.

50.302 License and Tag Required.

It shall be unlawful for any owner to own, keep, harbor, or maintain a dog on the reservation without a license issued by the Town or Tribe and without having a valid license tag affixed to a collar which is kept on the animal whenever it is outdoors unless the animal is securely confined in a fenced area.

50.303 Rabies Vaccination and Tag Required.

(1) The owner of a dog or cat shall have the animal vaccinated against rabies by a veterinarian or at a rabies clinic within 30 day after the animal reaches four (4) months of age and revaccinated within one year after the initial vaccination. The owner of an animal shall have the animal revaccinated against rabies before the date that the immunization expires as stated on the certificate of vaccination or, if no date is specified, within two (2) years after the previous vaccination.

(2) Any person vaccinating an animal subject to this ordinance shall comply with the provisions of Wis. Stat. Section 95.21 regarding certificates of rabies vaccination and shall deliver to the owner a rabies vaccination tag in conformity herewith. The owner shall attach the rabies vaccination tag to the collar of the animal, which shall be worn as provided in Section 50.302.

50.304 Quarantine of Animal.

(1) The Animal Control Officer or a Law Enforcement Officer shall order an animal quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the animal is a wild animal or, though domesticated, cannot be captured, the officer may kill the animal. The officer may kill a domesticated animal only as a last resort or with the consent of the owner.

(2) An officer who orders an animal to be quarantined shall deliver the animal or shall order the animal delivered for isolation and quarantine to the Designated Veterinary Animal Hospital. This shall be done as soon as possible, but no later than 24 hours after the original order is issued. The officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies.

(3) An animal which has been quarantined shall be held, observed, and released or destroyed in accordance with the provision of Wis. Stat. Section 95.21 (5).

(4) An officer may order killed or may kill an animal if the owner violates the provisions of this section.

50.305 Killing of Animals.

(1) Except as otherwise provided in this ordinance, a person may intentionally kill an animal of another only if the person is threatened with serious bodily harm by the animal and;

(a) Other restraining actions were tried and failed; or

(b) Immediate action is necessary.

(2) Except as otherwise provided in this ordinance, a person may intentionally kill an animal of another if a domestic animal that is owned or in the custody of the person is threatened with serious bodily harm by the animal and the animal is on the property owned or controlled by the person and;

- (a) Other restraining actions were tried and failed; or
- (b) Immediate action is necessary.

(3) The Tribe may commence a civil action to obtain a judgment from the Tribal Court ordering an officer to kill an animal. The Court may grant the judgment if the court finds both of the following:

- (a) The animal caused serious injury to a person or livestock on two separate occasions off the owner's property, without reasonable cause; and
- (b) The owner of the animal was notified or knew, prior to the second injury, that the animal caused the first injury.

Any officer enforcing a judgment under this subsection shall kill an animal in a proper and humane manner.

50.306 Owner's Liability for Damages.

(1) The owner of an animal may be liable for the full amount of damages caused by the animal injuring or causing injury to a person, livestock or property.

(2) The owner of an animal may be liable for two times the full amount of damages caused by the animal injuring or causing injury to a person, livestock, or property, if the owner was notified or knew that the animal previously injured or caused injury to a person, livestock or property.

50.307 Restriction on Certain Breeds of Dogs.

(1) It shall be unlawful for any person to own, keep, harbor or maintain any of the following breeds, or mixes of breeds, within the exterior boundaries of the reservation.

- (a) Doberman pinscher.
- (b) Pit bull.
- (c) Rottweiler.
- (d) American Bulldog.
- (e) Akita.

(2) The Tribe may commence a civil action to obtain a judgment from the Tribal Court ordering an officer to kill a prohibited breed of dog if said dog is found running at large within the exterior boundaries of the reservation.

(3) An officer may kill a prohibited breed of dog without a court order if the following conditions exist:

(a) The dog is running at large and does not have identifying tags that would allow the officer to verify that the dog is registered and has the required shots for a dog.

(b) The dog cannot be taken into custody safely by the officer.

(c) The dog can be killed in such a fashion as to not endanger the safety of persons or property.

50.308 Vicious Animals.

(1) Definition: Any animal that when unprovoked inflicts bites, injures, kills, or attacks a human being or domestic animal. Notwithstanding this definition of a “vicious animal”:

(a) No animal may be declared vicious if death, injury or damage is sustained by a person who, at the time was committing a trespass of the land or criminal trespass of the dwelling upon the premises occupied by the owner of the animal, or was teasing, tormenting, abusing or assaulting the animal;

(b) No animal may be declared vicious if death, injury or damage was sustained by a domestic animal which at the time was teasing, tormenting, abusing or assaulting the animal;

(c) No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an attack or assault;

(d) No animal may be declared vicious for acts committed by the animal while being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.

(2) When an animal has been declared vicious the owner shall comply with the following:

- (a) While on the owner's property a vicious animal must be:
 - (i) securely confined indoors; or,
 - (ii) in a securely enclosed and locked pen or structure, suitable to prevent the entry of children and designed to prevent the animal from escaping; or,
 - (iii) securely leashed or chained to an immovable object with the owner or caretaker being physically present.
- (b) While off the owner's property a vicious animal must be muzzled or restrained by a substantial chain or leash not exceeding four feet in length and under the control of a person reasonably able to exercise control over the vicious animal.
- (c) Owners of vicious animals shall display near all entrances to the premises signs in letters not less than 2 inches high stating: "WARNING-VICIOUS ANIMAL". A similar sign is required to be posted on the kennel, pen or restraining structure.
- (d) No person may sell or transfer possession of a vicious animal to another person without first notifying the person to whom the vicious animal is being sold or transferred of the fact that the animal is a vicious animal.
- (e) The animal control officer after conducting an investigation is empowered to declare an animal vicious. The owner of the animal declared vicious shall be served personally or by certified mail an official declaration that the animal has been found vicious. Any animal owner aggrieved by the official declaration may petition the Tribal Court for review of the official declaration. Upon receipt of the petition the Tribal Court shall schedule and conduct a hearing.
- (f) Where appropriate the animal control officer or any law enforcement officer may proceed under Section 50.305 of the Tribal Code.

CHAPTER IV: IMPOUNDMENT

50.401 Impoundment Authorized.

Any animal found running at large and any untagged animal found in violation of this ordinance may be captured and impounded by the Animal Control Officer or any other officer in accordance with this ordinance.

50.402 Pound Designation.

The Animal Control Officer can impound an animal in the Designated Veterinary Animal Hospital.

50.403 Notification of Owner.

The Animal Control Officer or the Designated Veterinary Animal Hospital shall attempt to notify the owner of an impounded animal personally or by mail as soon as possible following impoundment if the owner is known or can be ascertained with reasonable effort.

50.404 Records.

The Animal Control Officer or the Designated Veterinary Animal Hospital shall keep a record of each animal impounded, giving a description of the animal, the dates of its impoundment, and the disposition of the animal. If the animal is released to a person the record shall include the name, address, and date of release of the animal. This record shall be a public record.

50.405 Release to Owner.

The Designated Veterinary Animal Hospital may release an impounded animal to its owner or a representative of the owner only if:

- (1) The owner or representative gives his name and address; and
- (2) The owner or representative presents evidence that the impoundment fee of \$5.00/day has been paid to the Town or the Tribe, and that the animal (excluding cats) is licensed by the Town or Tribe; and
- (3) The owner or representative pays the necessary fees accumulated from impoundment at the Designated Veterinary Animal Hospital (i.e., vaccination fees, and boarding fees).

50.406 Release to Non-Owner.

The Designated Veterinary Animal Hospital may release an impounded animal to a person other than the animal's owner only if:

(1) The animal is not claimed by its owner within three (3) days after the animal is impounded; and

(2) The person to whom the animal is released gives his or her name and address; and

(3) The person to whom the animal is released pays the required adoption fees as determined by the Designated Veterinary Animal Hospital.

50.407 Sacrifice of Animal.

Any animal which is not released to its owner or to a non-owner within three (3) days of its impoundment is deemed and unclaimed animal. The Designated Veterinary Animal Hospital may extend the impoundment period if release of the animal to a person other than the owner appears likely. The Designated Veterinary Animal Hospital may dispose of an unclaimed animal in a proper and humane manner.

CHAPTER V: ANIMAL CARE

50.501 Liability for Animal Care

(1) No owner shall fail to provide their animal(s) with sufficient good and wholesome food and potable water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(2) No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate or permit any dogfight, or other combat between animals, or between animals and humans.

(3) No owner shall abandon any animal in or upon any sidewalks, street, alley, road, public right-of-way, park or other public property, in or upon the property of another person, or in the Designated Veterinary Animal Hospital.

(4) No owner shall permit a dog in heat (estrus) to be accessible to a male dog not in the person's ownership except for intentional breeding purposes.

(5) Any person who, as the operator of a motor vehicle, strikes a domestic animal, shall stop at once and shall attempt to report such injury or death, to the animal's owner.

(6) No person shall knowingly place food of any description containing poisonous or other injurious ingredients in any area reasonably likely to be accessible to any animals except rodents.

(7) No person shall permit any animal to cause a disturbance at any time of the day or night, by repeated barking, screeching, howling, braying or other like sounds which may be heard beyond the boundaries of the owner's property.

(8) No person shall seize, molest or tease any animal while on the property of its owner or while held or led on a leash by its owner, or to decoy or entice any animal out of an enclosure or off the property of its owner. However, an Animal Control Officer and other Law Enforcement Officers may seize, decoy or entice an animal out of an enclosure or off the property of its owner who is in violation of this ordinance.

CHAPTER VI: ENFORCEMENT AND PENALTIES

50.601 Penalties.

(1) Any person who violates, and any owner of an animal found in violation of Sections 50.301, 50.302, or 50.501 hereof, shall be liable for penalty as follows:

(a) For the first offense, a civil remedial money penalty of not less than \$25.00 nor more than \$100.00.

(b) For subsequent offenses, a civil remedial money penalty of not less than \$50.00 nor more than \$200.00.

(2) The owner of an animal who violates Section 50.303 by failure to have a dog vaccinated against rabies as required under 95.21 (2)(a) shall be liable for a civil remedial money penalty of not less than \$50.00 nor more than \$100.00.

(3) The owner of an animal which has caused injury or damage in violation of Section 50.306 (1) shall be liable for a civil remedial money penalty of not less than \$50.00 nor more than \$100.00.

(4) The owner of an animal which has caused injury or damage in violation of Section 50.306 (2) shall be liable for a civil remedial money penalty of not less than \$100.00 nor more than \$500.00.

(5) Any person who violates, and the owner of any animal found in violation of, any other provision of this ordinance shall be liable for a civil remedial money penalty of not less than \$20.00 nor more than \$500.00.

(6) Court costs in the amount of \$10.00 shall be assessed for each violation.

50.602 Parties to a Violation.

(1) Whoever is concerned in the commission of a violation of this ordinance is a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of a violation.

(2) A person is concerned in the commission of a violation if the person:

- (a) Directly commits the violation;
- (b) Aids and abets the commission of it;
- (c) Is a party to a conspiracy with another to commit it or advises, hires, or counsels or otherwise procures another or to commit it; or
- (d) Is the owner of an animal found in violation hereof.

50.603 Jurisdiction.

Jurisdiction is hereby conferred upon the Tribal Court over matters related to the violation of this ordinance.