



## **Prairie Island Indian Community Dog and Animal Control Ordinance<sup>1</sup>**

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<sup>1</sup> Note of Adoption and Amendment: The Tribal Council adopted this ordinance on January 5, 2011, by Resolution Number 11-01-05-03. The Tribal Council reformatted the ordinance on August 9, 2023, by Resolution Number 23-8-9-148, to increase the usability of this ordinance and of tribal law.

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**Section 1. Short Title.** This Ordinance shall be known and may be cited as the Prairie Island Indian Dog and Animal Control Ordinance.

**Section 2. Statement of Purpose, Findings, and Authority.**

- a. Purpose. The Prairie Island Indian Community Council recognizes that the Reservation has a large population of dogs. To contain and control the dog population, the Community Council enacts this ordinance to contain and control the dog population, and to protect the safety of individuals and their property within the jurisdiction of the Prairie Island Indian Community. In furtherance of this law, the Prairie Island Indian Community encourages Community Members to have their dogs either spayed or neutered at the earliest appropriate age of the dog.
- b. Findings. [reserved].
- c. Authority. The Community Council enacts this ordinance as an exercise of its Article V, Sections 1(i) power to promote the peace, safety, morals, and general welfare of the Community by regulating the conduct of trade and the use and disposition of property upon the reservation, and its Article V, Sections 1(j) power to provide for the maintenance of law and order upon the Reservation.

**Section 3. Definitions.**

- a. “Abandoned” means an instance when any person leaves, drops off, or completely gives up the control and care of any dog with the intent to abandon the dog.
- b. “At large” means any dog off the Owner's premises and not under control of a person by leash, cord, chain, or otherwise.
- c. “Authorized Personnel” means the chief of police, any full or part-time law enforcement officer employed by the Prairie Island Indian Community, the Community Council, their designees, and other personnel assisting in the enforcement of this Ordinance. This term does not include security officers employed at Treasure

Island Resort & Casino or other business enterprises operated by the Prairie Island Indian Community.

- d. “Bodily injury” means injury that involves physical pain and suffering to any person, scarring or disfigurement of a person, or a bone fracture.
- e. “Dog” means any animal within the canine family, wild or domesticated.
- f. “Dangerous Dog” means
  - 1. Any dog that has:
    - A. Without provocation, inflicted substantial bodily harm on a being on public or private property;
    - B. Killed a domestic animal without provocation while off the Owner’s property;
    - C. Been found to be potentially dangerous, and after the Owner has notice that the dog is potentially dangerous, the dog bites, attacks or endangers the safety of humans or domestic animals; or
    - D. A contagious or infectious disease that humans or other domestic animals may contract if exposed to that dog.
  - 2. Exception. A dog may not be declared dangerous if the threat, injury or damage was sustained by a person who:
    - A. At the time was committing a willful trespass or other unlawful conduct upon the premises occupied by the Owner of the dog;
    - B. Was intentionally provoking, tormenting, abusing, or assaulting the dog; or
    - C. Was committing or attempting to commit a crime.
- g. “Dog Enclosure” means 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 provide humans or other animals with protection from the dog.
- h. “Owner” means a person owning, keeping, harboring or acting as custodian of a dog. All adult occupants of the property where the dog resides or is kept are considered an Owner or Owners.
- i. “PIPD” means the Prairie Island Indian Community Police Department.
- j. “Potentially Dangerous Dog” means any dog that:
  - 1. Is not tagged with a current rabies tag showing vaccination against rabies; or
  - 2. When unprovoked, inflicts bites on a human or domestic animal on public or private property; or

3. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog Owner's property, in an apparent mode of attack; or
  4. Has a known propensity, tendency, or disposition, as indicated by sworn statements from at least two adults, to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals; or
  5. Is running loose anywhere on Tribal Lands.
- k. "Provocation" means an act that an adult could reasonably expect may cause a dog to attack or bite.
  - l. "Community Council" means the constitutionally authorized governing body of the Community.
  - m. "Tribal Court" means the Prairie Island Mdewakanton Dakota Community Tribal Court.
  - n. "Tribal Lands" mean (a) lands owned by the Prairie Island Indian Community; and (b) lands owned by the United States of America in trust for the Prairie Island Indian Community, and subject to the jurisdiction of the Prairie Island Indian Community.
  - o. "Stray" (used as a noun) shall mean any unlicensed and unattended dog, which appears to not have an Owner.

**Section 4. Applicability** [reserved]

**Section 5. Animal Health Standards.** The Owner of an animal kept on Tribal Lands must comply with the following standards.

- a. An animal kept outdoors or in an unheated enclosure must be provided with adequate shelter and bedding to protect it from the sun, rain, snow, and temperatures below 50 degrees Fahrenheit.
- b. The shelter must include a moisture proof and windproof structure of suitable size to allow the animal to stand in an upright position and to lie down stretched out so that no part of its body need touch the sides of the structure. The structure must be made of durable material sufficient to allow retention of body heat with a solid floor raised at least two inches from the ground and an entrance covered by a flexible windproof material or self-closing swinging door. The structure must be provided with sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets or the equivalent to provide insulation and protection against cold and dampness and to promote retention of body heat. The structure must be structurally sound and maintained in good repair.
- c. In lieu of the requirements of paragraphs 1 and 2 above, an animal may be provided with access to a barn with a sufficient quantity of loose hay or bedding and protection against cold and dampness.

- d. If an animal is confined by a chain, the chain must be so attached that it cannot become entangled with the chains of other animals or other objects. A chain must be of a size adequate to restrain the animal involved and must be attached to the animal by means of a well-fitted collar. The collar must be large enough to allow free breathing but small enough to avoid being easily pulled over the animal's head. A chain must be at least three times the length of the animal as measured from the tip of his nose to the base of his tail.
- e. A female dog in season must be confined indoors or in a secure enclosure so that she will not be in contact, except for intentional breeding purposes, with another dog or create a nuisance by attracting other animals who engage in continued barking, yelping or howling.
- f. An animal must be provided with sufficient food and water to meet adequate nutritional requirements.
- g. Failure to comply with the provisions of this Section constitutes a Level 2 Offense.

**Section 6. Animal Maintenance Standards.** An Owner of an animal kept on Tribal Lands must comply with the standards below. Before commencing an action to enforce compliance with these standards, enforcement personnel must give an Owner notice of a violation and a reasonable opportunity to comply with these standards.

- a. An Owner must maintain an animal and the area where it is kept so that no odor that offends the senses of a reasonable person is detected, for more than one day, off the property where the animal is kept.
- b. An Owner must maintain the property where the animal is kept so that there is no erosion, and no drainage of water contaminated by the animal, onto adjacent properties or into wetlands.
- c. The Owner must manage the feces and other bodily wastes from the animal in a timely and sanitary manner that prevents health risks and prevents odors that are prohibited under subsection 5(a).
- d. Failure to comply with the provisions of this Section constitutes a Level 2 Offense.

**Section 7. Rabies Vaccination Requirement.**

- a. All dogs present on Tribal lands, over six (6) months of age, must be vaccinated against rabies each and every year. The Owner must give proof by providing a rabies vaccination certificate signed by a licensed veterinarian upon request of the PIPD. All dogs on Tribal Lands must be collared and tagged with a current rabies tag.
- b. Failure to comply with the provisions of this Section constitutes a Level 4 Offense.

## **Section 8. Rabies.**

- a. A dog displaying symptoms of being rabid may be seized at any place or time and will be confined in an approved impound facility at the expense of the Owner, until found to be free from rabies.
- b. If a dog appears to be diseased, vicious, dangerous, or rabid and/or has been exposed to rabies, and the dog cannot be impounded without serious risk of personal injury, the dog or other animal may be killed, if reasonably necessary for the safety of a person or persons.
- c. When a dog has bitten a person and the skin has been broken or the services of a doctor are required, the Owner or custodian of the biting animal and the person bitten or his/her parent or guardian must report the incident to the PIPD within 24 hours of the bite. The dog must be confined for a period of not less than 10 days in a veterinary hospital or on the Owner's premises, as determined by the PIPD. The PIPD may refuse to permit confinement on the Owner's premises if the animal has previously been found repeatedly at large or if the animal does not have a currently effective rabies inoculation. If confinement on the Owner's premises is permitted, the animal may not be allowed off the premises or in contact with people or other animals during the confinement period, except for medical purposes. If the Owner fails to comply with these restrictions, the PIPD may enter onto the property, seize the animal, and remove it to a veterinary hospital. The Owner is responsible for all costs of confinement incurred under this Section. As a condition of releasing a confined animal, the PIPD may require that the Owner take the animal for an examination by a veterinarian and may require the Owner to follow any recommendations from the veterinarian regarding the animal's training or behavior. Failure to comply with the provisions of this Section constitutes a Level 4 Offense.

## **Section 9. Confinement in Motor Vehicle.**

- a. A person must not cause or allow a dog to be placed or confined in a motor vehicle without adequate ventilation when the atmospheric temperature, humidity, and sun rays can be reasonably expected to cause suffering, disability or death. Evidence that the animal is suffering from heat stress is prima facie evidence of a violation of this Section.
- b. The PIPD, if they find a dog in a motor vehicle in violation of this Section, may break and enter into the vehicle if necessary to remove the animal. Neither the PIPD nor the Tribe will be liable for vehicle damage that result in this instance. If necessary, an animal removed must be taken immediately to the animal impounding facility to be evaluated by a licensed veterinarian. PIPD must leave within the vehicle a written notice giving their name and position and the address where the animal may be redeemed. The Owner of the animal is responsible for all medical and housing expenses incurred.

- c. Failure to comply with the provisions of this Section constitutes a Level 4 Offense.

**Section 10. Dangerous and Potentially Dangerous Animals.**

- a. Determination of Potentially Dangerous Dogs. The PIPD shall review all cases involving bites or any other cases involving behavior considered to be potentially dangerous or dangerous. After review of cases involving bites or other behaviors, the PIPD may determine that a dog is Potentially Dangerous, if the officer believes, based upon the officer's professional judgment, that a dog has:
  - 1. When unprovoked, inflicted bites on a human being or domestic animal on public or private property;
  - 2. When unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or on any public or private property, other than the Owner's property, in an apparent attitude of attack; or
  - 3. A known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
- b. Dangerous animals. A person who owns, keeps, possesses, or acts as a custodian for a dangerous animal as defined by state law must comply with the requirements of Minn. Stat. § 347.50 through §347.54. Failure to comply with the provisions of these statutes constitutes a Level 4 Offense.
- c. Potentially dangerous animals.
  - 1. A person, who owns, keeps, possesses, or acts as a custodian for a potentially dangerous animal must:
    - A. Maintain the animal under restraint by use of a leash not exceeding six feet in length at all times when the animal is off the Owner's premises; and
    - B. When the animal is on the Owner's premises, confine the animal within a fenced enclosure sufficient to keep the animal from leaving the enclosure, or maintain the animal on a leash or chain not exceeding six feet in length.
  - 2. Failure to comply with the provisions of this Section constitutes a Level 4 Offense.
- d. Notice of determination. Upon a determination by the PIPD that a dog is either dangerous or potentially dangerous as defined by state law or this Ordinance, the PIPD must provide notice of this determination to the animal's Owner by serving the Owner personally or by registered mail. The notice must describe the animal deemed to be dangerous or potentially dangerous and must identify the person making the determination. The notice must inform the Owner of the right to appeal the officer's determination to the Tribal Court within 10 days after receipt of the notice. Immediately upon receipt of the notice the Owner must comply with the state law

requirements for muzzling an animal designated to be dangerous and confining it in an enclosure.

- e. Hearing. If the Owner timely appeals the determination that the animal is dangerous or potentially dangerous, the Tribal Court will hold a hearing on this appeal within 15 days after receipt of the appeal. Pending the outcome of the appeal, the Owner must comply with the state law requirements for muzzling an animal and confining it in an enclosure. The Tribal Court must make written findings of fact and reach a conclusion whether the animal is dangerous or potentially dangerous as defined by state law or this Ordinance. The findings and conclusions must be made within 10 business days after the hearing and must be served on the Owner personally or by registered mail.
- f. Stopping an attack. If the PIPD witnesses an attack by a dog upon a person or another animal, the PIPD may take whatever means it deems appropriate to bring the attack to an end and prevent further injury to the victim.
- g. Notification of changes. The Owner of an animal designated as dangerous or potentially dangerous must notify the PIPD in writing if the animal has died, is to be relocated from its current address, or is to be given or sold to another person. The notification must be given in writing at least 14 days before the change of address or ownership, or within 14 days after the animal's death. The notification must include the current Owner's name and address, any relocation address, and the name and address of any new Owner. Failure to comply with the provisions of this Section constitutes a Level 2 Offense.
- h. Posted Signs. Any Community member who keeps a potentially dangerous dog must post a "Beware of Dog" sign on the Dog Enclosure and/or property so as to be clearly visible to the public. Failure to comply with the provisions of this Section constitutes a Level 3 Offense.

### **Section 11. Confiscation of Dogs.**

- a. Dangerous Dogs. The PIPD shall pick up or confiscate any dog on Tribal Lands if:
  - 1. The dog is running loose;
  - 2. The dog is not maintained in the proper enclosure; or
  - 3. The dog is outside the proper enclosure and is not under the physical restraint of a responsible and able person;
  - 4. The dog is not maintained in a proper enclosure, is outside of the Owner's property line, and the PIPD has probable cause to believe that an aggressive act is eminent and the dog is dangerous to the public;
  - 5. The dog is noticeably diseased; or
  - 6. The dog is running loose and chasing deer or livestock.



- b. Dogs at Large. The PIPD shall pick up or confiscate a dog on Tribal Lands if the dog is determined to be “At Large.”
- c. Repeat Offenders. The PIPD shall confiscate a dog of an Owner who is convicted of a third offense under this Ordinance within any 6 month period.

**Section 12. Interference with Authorized Personnel.** It shall be unlawful for any unauthorized person to take, or attempt to take, from the PIPD any dog taken in compliance with this Ordinance, or in any matter to interfere with or hinder such officer in the discharge of duties under this Ordinance. Failure to comply with the provisions of this Section constitutes a Level 4 Offense.

**Section 13. Barking Dog.** It shall be unlawful for any person to own, keep, have in possession, or harbor any dog which by frequent and habitual howling, yelping, barking, or otherwise, produces objectionable noise that unreasonably disturbs the peace, quiet, or repose of a person or persons of ordinary sensibility. Objectionable noise is any type of noise emitted by a dog that is excessive or continuous. Failure to comply with this Section constitutes a Level 1 Offense.

**Section 14. Fines/Penalties.**

- a. The Community Council has developed the fine schedule below which specifies fixed monetary fines to be paid by persons who wish to plead guilty to a violation of this Ordinance and to pay a fine without a Court trial. The fine schedule may be amended once a year and a complete fine schedule must be made available for public inspection by any person subject to this Ordinance. All fines collected under this Ordinance shall be payable directly to the clerk of the Tribal Court. No officer of the PIPD may accept payment of a fine under this Ordinance.
- b. Any Community Member who violates this Ordinance shall be subject to the following penalties associated with the following fine categories:
  - 1. Level One offense, a citation ordering the Owner to comply with the Ordinance and pay a civil fine in the amount of \$100.00, plus restitution of any costs incurred for enforcement of this Ordinance.
  - 2. Level Two offense, a citation ordering the Owner to comply with the Ordinance and pay a civil fine in the amount of \$200.00, plus restitution of any costs incurred for enforcement of this Ordinance.
  - 3. Level Three offense, a citation ordering the Owner to remove the dog(s) from Tribal Lands and pay a civil fine in the amount of \$600.00, plus restitution of any costs incurred for enforcement of this Ordinance.
  - 4. Level Four offense, a citation ordering the Owner to remove the dog(s) from Tribal Lands and pay a \$1,000 civil fine plus restitution of any costs incurred for enforcement of this Ordinance.

- c. Unless otherwise provided in this Ordinance, any person subject to this Ordinance who is convicted of a third offense under this Ordinance within any six-month period will have the dollar amount of their civil fine doubled.

**Section 15. Citations.**

- a. Authority/Form. Citations may be issued by the PIPD for violations of this Ordinance. Such citations will be in the form and have the effect of a summons and complaint. The PIPD shall develop a ticket form for citations issued under this Ordinance. Each tribal citation issued shall provide the following information:
  - 1. The time, date, and nature of the violation;
  - 2. The name of the person cited;
  - 3. The name or identification of the complainant; and
  - 4. Information on how to respond to the citation.
- b. Process. A copy of each citation issued pursuant to this Ordinance shall be promptly submitted to the clerk of the Tribal Court with the court date noted on the citation. The recipient of the citation then has until the court date to respond. Where a specific fine is established for a violation of this Ordinance, the recipient of the citation may mark the citation with a plea of guilty and pay the associated fine, in which case the recipient of the citation does not need to appear on the court date. The recipient of the citation has the option to mark the citation with a plea of not guilty and return it to the Tribal Court before the court date noted on the citation, and in this instance the recipient of the citation must appear at the Tribal Court on the court date noted on the citation. All trials will be before the judge without a jury. The failure of a recipient of a citation to respond to the citation within the specified time shall constitute a plea of guilty and a waiver of the right to trial, unless the recipient of the citation can show that the failure to respond is due to circumstances beyond her or his control. If the recipient of the citation does not appear before the court if so required, the court in its discretion may: (1) refer the matter to Goodhue County if the citation involves a dangerous dog offense; and/or (2) impose civil remedies, including but not limited to banishment from Tribal Lands.
- c. Appeals. Appeals from the Tribal Court's decisions or orders shall be made to the Tribal Appellate Court pursuant to the Tribal Appellate Court Rules of Civil Procedure. The Respondent shall have the right to an expedited hearing. The appeal shall be limited to a review of the proceedings of the Tribal Court and shall not be a de novo hearing.
- d. Records.
  - 1. The Tribal Court shall keep a full record of every case in which a person is convicted of a violation of any part of this Ordinance; and

2. No record of the conviction of any person under this Ordinance shall be admissible as evidence in any court in any civil action, nor shall such record impair the credibility of such persons as a witness in any legal proceeding.

**Section 16. Jurisdiction.** The Tribal Court shall have jurisdiction to enforce the provisions of this Ordinance and to impose the penalties provided for therein upon the presentation of a citation from the PIPD. The prosecution of a complaint may be carried out by an officer of the PIPD notwithstanding whether such person is an attorney and notwithstanding whether such person has been admitted to appear before the Tribal Court, or by a prosecutor assigned by the Community Council. If a fine levied by the Tribal Court under this Ordinance against an enrolled member of the Community is not paid within 30 days, the Tribal Court shall have the authority to order garnishment of the member's per capita distributions for the amount of the fine. If the fine levied by the Tribal Court under this Ordinance against an enrolled member who is a minor is not paid within 30 days, the Tribal Court shall have the authority to order the garnishment of the per capita distributions of the minor's parent or legal guardian for the amount of the fine, if such parent or legal guardian is an enrolled member of the Community.

**Section 17. Liability for Medical Expenses.** If a dog(s) bites, without provocation, any person inflicting bodily injury, the Owner shall be responsible to pay all associated medical costs.

**Section 18. Abandoned Dogs.**

- a. It is unlawful for any person to abandon a dog or dogs on Tribal Lands.
- b. Any dog that is abandoned may be taken to the nearest animal shelter or otherwise disposed of by the PIPD.
- c. Any person found guilty of abandonment of a dog(s) on Tribal Lands shall be billed for all removal costs and/or all costs for destruction of the animal.
- d. Failure to comply with the provisions of this Section constitutes a Level 4 Offense.

**Section 19. Civil Causes of Action.** Nothing in this Ordinance shall prevent an individual from pursuing a civil cause of action for injuries sustained from a dog bite or attack.

**Section 20. Records. [reserved]**

**Section 21. Miscellaneous Provisions.**

- a. Sovereign Immunity. Nothing in this Ordinance shall be construed as a waiver of sovereign immunity of the Prairie Island Indian Community.
- b. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance, or the application of the provision to other persons or circumstances is not affected.

- c. Effective Date. This Ordinance shall become effective the day following adoption by the Community Council.