

## Ordinance 28-03

An Ordinance providing for the safety of the Mille Lacs Band of Ojibwe Indians in regard to the dog population on Band lands through the amendment of the Domestic Animals Act.

The District I Representative introduced the following Bill on the 11<sup>th</sup> day of June, 2003.

### 11 MLBSA CHAPTER 4 DOMESTIC ANIMALS Subchapter 1

#### DOG ORDINANCE

The prior 11 MLBSA Chapter 4, Sections 3001 through 3009 is hereby repealed in its entirety and replaced by this Ordinance.

**PREAMBLE:** The Mille Lacs Band of Ojibwe Indians recognizes that there is a large population of dogs on Band Lands, which pose a risk to public safety. The Band Assembly hereby enacts a Dog Ordinance to contain the dog population and to protect public safety on Band Lands. In furtherance of this law, the Mille Lacs Band of Ojibwe Indians encourages Band Members and other persons residing on Band Lands to have their dogs either spayed or neutered at the earliest appropriate age of the animal.

#### § 3001. Definitions.

For the purpose of this Ordinance:

- (a) **Abandoned** means a dog which has been dumped, dropped off, or the control and care of which has been given up by any person with the intent to abandon the dog.
- (b) **Band Lands** means lands owned by or held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band of Ojibwe Indians, or one or more members of the Mille Lacs Band of Ojibwe Indians, and subject to the jurisdiction of the Mille Lacs Band.
- (c) **Bodily injury** means injury to any person that involves physical pain and suffering, scarring or disfigurement, or bone fracture.
- (d) **Dog** means any animal within the canine family, wild or domesticated.
- (e)(1) **Dangerous Dog** means any dog that:
  - (A) has without provocation inflicted bodily injury on any person; or
  - (B) has without provocation killed or seriously injured a domestic animal while outside the dog owner's property line; or
  - (C) has been determined to be "potentially dangerous" dog as defined in this Ordinance and, after the dog's owner is given notice that the dog is

“potentially dangerous,” bites, attacks or threatens the safety of humans or other domestic animals; or

- (D) has a contagious or infectious disease that humans or other domestic animals may contract is exposed to that animal.

(2) A dog may not be declared dangerous based on a threat, injury or damage sustained by a person who, at the time of such threat, injury or damage, was:

- (A) committing a willful trespass or other unlawful conduct upon the premises occupied by the owner of the dog; or  
(B) intentionally provoking, tormenting, abusing, or assaulting the dog; or  
(C) committing or attempting to commit a crime.

**(f) Dog Enclosure** means any securely confined house or residence, or a securely enclosed and locked pen or structure suitable to prevent a dog from escaping so as to provide humans or other animals with protection from the dog.

**(g) Owner** means any person(s) possessing, harboring, keeping, having an ownership interest in, or having custody or control of the dog.

**(h) Potentially Dangerous Dog** means any dog that:

- (1) is not registered with the Mille Lacs Band Department of Public Safety; 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.

**(i) Provocation** means conduct or actions that tend to arouse rage, resentment or fury in another person or animal.

**(j) Tribal Enforcement Officer** means any Mille Lacs Band Department of Natural Resources warden or Tribal Police Officer, or any person designated as the Mille Lacs Band dog catcher.

### **§ 3002. Registration, Rabies Vaccination Requirement.**

**(a) Requirement.** All dogs present on Band Lands must be registered with the Mille Lacs Band Department of Public Safety within 14 days after such dog is first present on Band Lands.

**(b) Issuance of Certificate.** The Mille Lacs Band Department of Public Safety shall issue a Certificate of Registration to the Owner and maintain a copy of such Certificate of Registration.

**(c) Rabies Vaccination.** All dogs present on Band Lands, which are over six (6) months of age, must be vaccinated against Rabies each and every year. The Owner must show

proof of vaccination to the Department of Public Safety at the time they register their dog(s) or bring such proof into the Department of Public Safety office within 14 days of registration. All dogs on Band Lands must be collared and tagged with a current Rabies Tag. Owners must show proof of rabies vaccination to the Department of Public Safety on an annual basis or be subject to fines and other penalties as provided in this Ordinance.

**§ 3003. Confiscation and Disposition of Dangerous Dogs and Other Dogs.**

(a) A Tribal Enforcement Officer may confiscate and take to the nearest Animal Shelter any dog on Band Lands if the officer has reasonable cause to believe:

- (1) the dog is running loose; or
- (2) the dog is not being maintained in a proper dog enclosure; or
- (3) the dog is outside a proper dog enclosure and is not under the physical restraint of a responsible and able person; or
- (4) the dog is not maintained in a proper dog enclosure, the dog is outside the owner's property line, and the officer has reasonable cause to believe that the dog will commit an aggressive act which is imminent and will be dangerous to the public; or
- (5) the dog is noticeably diseased, injured or maimed; or
- (6) the dog is chasing deer or livestock.

(b) If, in a proceeding in the Mille Lacs Band Court of Central Jurisdiction against the registered owner of a dog confiscated under paragraph (a) of this section, it is found by a preponderance of the evidence that the dog is a dangerous dog within the meaning of this Ordinance, the Court may order the dog destroyed, order the Owner to reimburse the Band for the cost of confiscating, maintaining and destroying the dog, and may impose a fine not to exceed \$500. If, in such a proceeding, the dog is not found to be a dangerous dog, the Court may order the dog returned to the registered owner under appropriate conditions and, if it is found by a preponderance of the evidence that the confiscation was proper under this Ordinance, the Court may order the registered owner to reimburse the Band for the cost of confiscating, maintaining and returning the dog and may impose a fine not to exceed \$250.

(c) If there is not registered owner of a dog confiscated under paragraph (a) of this section, the dog may be taken to the nearest Animal Shelter or otherwise disposed of by the Tribal Enforcement Officer.

(d) **Posted Signs.** Any person subject to the jurisdiction of the Mille Lacs Band who keeps a potentially dangerous dog on Band Lands must post a "Beware of Dog" sign on the Dog Enclosure in which the dog is maintained and/or on the property on which the dog is maintained, which sign is clearly visible to the public.

**§ 3004. Fines.**

(a) Any person subject to the jurisdiction of the Mille Lacs Band who fails to register a dog with the Mille Lacs Band Department of Public Safety or provide proof of rabies vaccination to the Department of Public Safety as required by this Ordinance shall be

guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, an Order shall be issued and a fine shall be imposed, 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) shall be issued and a fine in the amount of \$25.00 shall be imposed;
- (3) third offense, an Order to remove the dog(s) from Band Lands shall be issued and a fine in the amount of \$50.00 shall be imposed.

**(b)** Any person subject to the jurisdiction of the Mille Lacs Band who fails to post a "Beware of Dog" sign in violation of § 3003(d) of this Ordinance shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, an Order shall be issued and a fine shall be imposed, as follows:

- (1) first offense, an Order to post the sign shall be issued and a fine in the amount of \$25.00 shall be imposed;
- (2) second offense, an Order to post the sign shall be issued and a fine in the amount of \$50.00 shall be imposed;
- (3) third offense, an Order to remove the dog(s) from Band Lands shall be issued and a fine in the amount of \$75.00 shall be imposed.

**(c) Liability for Medical Expenses.** Any person subject to the jurisdiction of the Mille Lacs Band whose dog, while on Band Lands, bites any person without provocation and inflicts bodily injury, shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, a fine in the maximum amount of \$250.00 shall be imposed and the victim's medical costs shall be assessed against such person. If, by a preponderance of the evidence, such person is found guilty of a second such charge involving the same dog, a fine in the maximum amount of \$500 shall be imposed, an Order to destroy the dog shall be issued, and the victim's medical costs and the costs of destroying the dog shall be assessed against such person.

#### **§ 3005. Abandoned Dogs.**

**(a)** It is unlawful for any person subject to the jurisdiction of the Mille Lacs Band to abandon a dog or dogs on Band Lands.

**(b)** Any dog that is abandoned on Band Lands may be taken to the nearest Animal Shelter or otherwise disposed of by the Tribal Enforcement Officer.

**(c)** If a Tribal Enforcement Officer views a dog wandering the roads, parking areas, or other public areas on Band Lands, without a collar and/or a visible current rabies tag, the officer may presume that the dog is abandoned.

**(d)** Any person subject to the jurisdiction of the Mille Lacs Band found, by a preponderance of the evidence, to have abandoned a dog(s) on Band Lands shall be guilty of a civil misdemeanor, shall be billed for all removal costs and/or all costs for destruction of the animal, and shall be subject to a maximum fine of \$500.

**§ 3006. Civil Causes of Action.**

Nothing in this chapter shall prevent an individual from pursuing a civil cause of action for injuries sustained from a dog bite or attack.

**§ 3007. Jurisdiction.**

The Mille Lacs Band Court of Central Jurisdiction shall have jurisdiction over all actions pertaining to this Ordinance.

**§ 3008. Sovereign Immunity.**

Nothing in this chapter shall be construed as a waiver of sovereign immunity of the Mille Lacs Band of Ojibwe Indians.

**§ 3009. Severability.**

If the Court of Central Jurisdiction adjudges any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in the judgment.

Ordinance 28-03

Introduced to the Band Assembly on this  
Eleventh day of June in the year  
Two Thousand Three.

Passed by the Band Assembly on this  
Eleventh day of June in the year  
Two Thousand Three.

Herb Weyaus  
Herb Weyaus, Speaker of the Assembly

APPROVED

Date: June 12, 2003

Melanie Benjamin  
Melanie Benjamin, Chief Executive

Date: \_\_\_\_\_

\_\_\_\_\_  
Vetoed

FILED

Date: June 23, 2003

John Swimmer  
John Swimmer, Solicitor General

OFFICIAL SEAL OF THE BAND