



# Upper Sioux Community Animal Control Ordinance 2009

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## Section 1.1. Declaration of Policy and History.

It is the policy of the Upper Sioux Community to protect the safety and welfare of persons within the Upper Sioux Community ("Community"). The Upper Sioux Community therefore adopts the following regulations for domestic animals.

## Section 1.2. Definitions.

- A. "The Upper Sioux Community" or "Community" shall mean all land that is owned or held in trust by the United States for the benefit of the Upper Sioux Community.
- B. "Owner" shall mean any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody or control of a domestic animal.
- C. "Domestic animal" shall mean all dogs, cats and other animals commonly referred to as pets.
- D. "Proper Enclosure" means confined indoors or in an enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog.
- E. "Dangerous Dog" shall mean any dog that has:
  - 1) without provocation, inflicted substantial body harm on a human being on public or private property;
  - 2) killed a domestic animal without provocation while off the owner's property; or
  - 3) been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.
- F. "Potentially Dangerous Dog" shall mean any dog that:

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- 1) 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 attitude of attack; or

### **Section 1.3. Domestic Animal Requirements / Running At Large.**

#### **1.3 (a) Physical Control of Domestic Animals**

An owner of a domestic animal shall keep the domestic animal under some form of control when the animal is not within the boundaries of the owner's land assignment or home site. It is required that the owner of any domestic animal shall not permit such animal to run at large off of the owner's land assignment or home site without permission and cause a nuisance.

Any domestic animal shall be deemed to be running at large with the permission of the owner unless:

- a) the animal is on a leash or under the control of an accompanying person of suitable age and discretion; or
- b) the animal is effectively and humanely confined within a motor vehicle, building or enclosure.

#### **1.3 (b) Owning Dangerous Dogs**

No person may own a dangerous dog unless the dog is registered with the USC Chief of Police. The USC Police Department may develop further regulations regarding the care and custody of dangerous or potentially dangerous animals.

#### **1.3 (c) Licensure**

Licenses are required for all domestic animals residing within the Upper Sioux Community. The USC Police Department will provide a non-expiring license for each animal. The license is free of charge and *is not transferrable from owner or animal*.

#### **1.3 (d) Vaccinations**

All domestic animals residing within the Upper Sioux Community shall have current core vaccinations. Core vaccines are considered vital based on risk of exposure, severity of disease or transmissibility to humans. *Canine parvovirus, distemper, canine hepatitis and rabies are considered core vaccines.* Owners of domestic animals will be required to show proof of vaccination when obtaining USC animal licenses and when reclaiming an impounded animal.

### **Section 1.4. Certain Animals Declared Nuisance.**

Any domestic animal which (i) habitually barks, whimpers or cries for extended or unreasonable periods of time, (ii) damages plantings or structures or other personal property, (iii) deposits fecal matter on public or private property of others, and/or (iv) threatens the safety or well being of others is hereby declared to be a nuisance. It shall be responsibility of the owner to take immediate corrective action when notified that his/her domestic animal is creating a nuisance.

### **Section 1.5. Penalties for Violation/Impoundment.**

#### *1.5 (a) Penalties*

Any domestic animal owner whose animal is declared to be a nuisance shall be subject to the following penalties:

- A. For a conviction of a first offense, a civil fine of twenty-five (\$25.00) dollars.
- B. For a second conviction within two years of a first conviction, a civil fine of seventy-five (\$75.00) dollars.
- C. For three or more convictions within three years of a first conviction, a civil fine of one hundred (\$100.00) dollars for each subsequent violation.

#### *1.5 (b) Impoundment*

Any domestic animal who is declared to be a nuisance may be impounded by a USC Police Officer. Such police officer shall give notice to the animal's owner if such owner is known. All animals impounded shall be kept with humane treatment and with sufficient food and water for at least five (5) days. The owner of the animal may reclaim the animal after complying with this ordinance and the payment of any associated impounds fee. Any animal which is not claimed within the foregoing time period may be sold to anyone desiring to purchase the animal. Any animal which is not claimed by the owner or sold shall be humanely destroyed not less than seven (7) days after the animal is impounded.

### **Section 1.6. Jurisdiction of Upper Sioux Community Tribal Court.**

The Upper Sioux Community Tribal Court shall have jurisdiction to enforce the monetary penalties of this Ordinance upon a presentation of a written complaint by the Board of Trustees ("Board") or persons or agencies designated by the Board.

Prosecution of the complaint may be carried out by the Board, or by a person or an agency designated by the Board notwithstanding whether such person or agency representative is an attorney and notwithstanding whether such person or agency representative has been admitted to practice law before the Tribal Court.

### **Section 1.7. Applicability.**

This Ordinance shall apply to members and non-members who reside on the Upper Sioux Community reservation.

This Ordinance does not change the occupancy terms of those members who reside within the Housing Development Subdivision of the Upper Sioux Community and who are under terms of the Lease to Own Occupancy Agreement guard dog use restriction (Section 8.7(d)) with the Upper Sioux Community Housing Program, as their regulations are prohibitive of "Dangerous dogs" or "Guard Dog" Breeds.

### **Section 1.8. Exception.**

Dogs may not be declared dangerous if the threat, injury or damage was sustained by a person:

- 1) who was committing at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- 2) who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused or assaulted the dog; or
- 3) who was committing or attempting to commit a crime.

### **Section 1.9. Severability.**

If any part of this Ordinance is found to be invalid by a court of competent jurisdiction, it shall be severed and the remaining parts of the Ordinance shall remain in full force and effect.

### **Section 1.10. Effective Date.**

This Ordinance shall become effective immediately upon passage of the Governing Resolution adopting this document.

### **Section 1.11. Sovereign Immunity.**

The enactment of this Ordinance shall not be construed in any manner as a waiver of the Upper Sioux Community's tribal sovereignty.

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## CERTIFICATION

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We, the undersigned members of the tribal council known as the Board of Trustees, do hereby certify that the foregoing *Upper Sioux Community Animal Control Ordinance 2009* was duly approved, adopted on 24 February 2009 by a vote of \_\_\_ For, \_\_\_ Against, \_\_\_ Abstentions and \_\_\_ Absent.

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Kevin Jenvold, Chairman

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Travis J. Leenerts, Vice Chair

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Elitta Gouge', Tribal Secretary

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Sharon Odegard, Tribal Treasurer

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N. Scott Larsen, Member at Large

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