



**MENOMINEE NATION
THE MENOMINEE TRIBAL LEGISLATURE
TRIBAL ORDINANCE 24-18
AMENDMENT TO THE CODE OF MENOMINEE
INDIAN TRIBE OF WISCONSIN
CHAPTER 290 – “CRIMINAL CODE”**

FINAL APPROVAL:

BE IT ORDAINED BY THE LEGISLATURE OF THE MENOMINEE INDIAN TRIBE OF WISCONSIN:

Tribal Ordinance 24-18 is hereby enacted. Tribal Ordinance 24-18 hereby creates a new Article XIX "Uncontrolled dangerous dog" in Chapter 290, "Criminal Code" of the Code of the Menominee Indian Tribe of Wisconsin, as attached hereto and incorporated herein as if fully reproduced here.

CERTIFICATION

We, the undersigned Officers of the Menominee Tribal Legislature, do hereby certify that the foregoing amendment to Menominee Indian Tribe of Wisconsin General Code creating a new Article XIX "Uncontrolled dangerous dog" in Chapter 290, "Criminal Code", was **DULY ADOPTED** at a regular meeting of the Tribal Legislature held May 2, 2024, at which a quorum was present, by a vote of **6** for, **0** opposed, **1** abstention, and **1** absent.

The undersigned also certify that the foregoing added Article of the Code of the Menominee Indian Tribe of Wisconsin has been posted in accordance with the Menominee Constitution and Bylaws.

A blue ink signature of Gena Kakkak, written in a cursive style, positioned above a horizontal line.

**GENA KAKKAK, CHAIRWOMAN
MENOMINEE INDIAN TRIBE OF WISCONSIN**

A blue ink signature of Spencer F. Gauthier, written in a cursive style, positioned above a horizontal line.

**SPENCER F. GAUTHIER, SECRETARY
MENOMINEE INDIAN TRIBE OF WISCONSIN**

DATE: MAY 2, 2024



MEMORANDUM

To: Menominee Tribal Legislature

From: Assistant Tribal Attorney Forrest Gauthier and
Lyn John Paralegal II — Legislation and Policy Emphasis

Date: April 22, 2024

Re: A. Ordinance No. 24-16 — Amendment to Chapter 255 Animals (Article I Dogs)
B. Ordinance No. 24-18 — New Article XIX in Chapter 290 Criminal Code — Uncontrolled dangerous dog

A. Ordinance No. 24-16 — Amendment to Chapter 255 Animals (Article I Dogs)

The attached clean and redlined versions of an Amendment to Chapter 255 Animals (Article I Dogs) of the Code of the Menominee Indian Tribe of Wisconsin were approved without changes at first consideration at the MTL meeting of April 18, 2024. The attached clean and redlined versions are being sent for final approval.

At the October 12, 2023 regular meeting of the Law Enforcement Committee (LEC) changes to the dog ordinance were discussed, including removing breed specific language regarding dangerous dogs.

At the November 9, 2023 regular meeting of the LEC changes to the dog ordinance were discussed, including a criminal penalty if a dog, for example, maims a child or evades police.

At the December 14, 2023 regular meeting of the LEC changes to the dog ordinance were discussed, including the ability of Housing Authority Staff to issue citations for dangerous dogs.

At the January 11, 2024 regular meeting of the LEC changes to the dog ordinance were discussed including criminal penalties for owners of dangerous dogs. The criminal penalties were put in a separate document to align with the existing Criminal Code (Chapter 290) and is a proposed new Article XIX in Chapter 290 — Criminal Code — Uncontrolled dangerous dog. See Section B., below.

At the February 8, 2024 regular meeting of the LEC motioned to recommend Chapter 255 Animal Code to the MTL.

The amendments to Chapter 255 of the code were to remove the breed specific language in the definition of dangerous dog, remove the breed specific language in 255-13.1 Dangerous dogs, create Criminal Offenses and Penalties, and provide for Housing Authority Staff who have completed training on this Chapter to issue citations for Dangerous Dogs.

B. Ordinance No. 24-18 New Article XIX in Chapter 290 Criminal Code - Uncontrolled dangerous dog

The attached clean and redlined versions of a New Article XIX in Chapter 290 Criminal Code — Uncontrolled dangerous dog of the Code of the Menominee Indian Tribe of Wisconsin were approved

without changes at first consideration at the MTL meeting of April 18, 2024. The attached clean and redlined versions are being sent for final approval.

This new Article XIX was considered along with the Amendment to Chapter 255 Animals (Article I Dogs) at the LEC. It was approved by that committee; however, it was later learned that since two separate chapters are being amended, a separate ordinance should be used for each of the two chapters involved. Therefore, there is no specific recommendation from the LEC for the new Article XIX of Chapter 290 Criminal Code, but the Committee intended to create the criminal penalties.

The new Article XIX creates criminal penalties for an owner of a dangerous dog who bites or attacks any person lawfully upon public or private property, provides a penalty of imprisonment in the Tribal Jail for not more than six months, or a fine not to exceed Five Hundred Dollars or both. The Court may also impose up to 40 hours of community service. It provides for law enforcement officers to immediately confiscate dangerous dogs after which the Court shall hold a hearing to determine the appropriate course of action. It provides for a charge of Resisting or Obstructing an Officer if an owner of a dangerous dog evades or attempts to evade officers. It makes a dog owner responsible for boarding costs and other fees. Lastly, it provides for a criminal charge of homicide resulting from failure to control dangerous dog.

If you have any further questions or concerns, please do not hesitate to contact Lyn John or Forrest Gauthier at 715-799-5194.

Chapter 290 Criminal Code

Article XIX Uncontrolled Dangerous Dog

§ 290-80 Failure to control dangerous dog.

- A. Any owner of any dangerous dog, as defined in § 255-2, that permits such dog to run at large or aggressively bite or attack any person while such person is lawfully upon public or private property commits the crime of failure to control a dangerous dog.
- B. Any person convicted of committing the criminal offense of failure to control a dangerous dog shall be guilty of a crime punishable by imprisonment in the Tribal Jail for not more than six months, or by imposition of a fine not to exceed Five Hundred Dollars (\$500.00), or both. In addition to said fine, imprisonment, or fine and imprisonment, the Court may also impose up to forty (40) hours of community service upon conviction.
- C. It shall be an affirmative defense to a prosecution pursuant to this subsection that the injury was sustained by a person who, at the time, was committing a willful criminal act upon the premises occupied by the owner of the dog or was assaulting the owner of the dog.
- D. If a dangerous dog is found uncontrolled, the dangerous dog shall be immediately confiscated by a law enforcement officer, placed in quarantine for the proper length of time (if necessary), and following the quarantine or in lieu of quarantine, the dangerous dog shall be impounded and held for ten (10) business days after the owner is given written notification. Thereafter, the Court shall hold a hearing to determine the proper conditions for return of the dog or appropriate course of action. As ordered by the Tribal Court, the dog shall be returned to the owner, placed for adoption, or euthanized in an expeditious and humane manner. If the owner's identity is known, the owner shall be provided notice of the date and time of the Court hearing. If the dog is returned to the owner the Court may impose conditions deemed necessary to ensure proper control of the dangerous dog.
- E. If any owner of a dangerous dog evades or attempts to evade officers, the owner shall be guilty of the crime § 290-33 Resisting or Obstructing an Officer. Any person found in violation of § 290-33 shall, on a first and subsequent offense, be sentenced to a jail term not to exceed ten days.
- F. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog prior to the Court hearing and during any appeal procedure, and for all costs and other fees for humanely euthanizing the dog. If the owner files a written appeal in the Tribal Court, the dog must be held and may not be adopted or destroyed while the appeal is pending.

§ 290-81 Homicide resulting from failure to control dangerous dog.

- A. Whoever knowing the vicious propensities of any dog intentionally allows it to go at large or keeps it without ordinary care, if such dog, while so at large or not confined, kills any human being who has taken all the precautions which the circumstances may permit to avoid such dog, is guilty of § 290-81 A.

Chapter 290 Criminal Code

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