

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 **ORDINANCE # 391**

4 _____
5
6 **Relating to animal control; amending LCC 2.720; and declaring an emergency.**
7 _____

8 WHEREAS the 1999 Oregon Legislature enacted two bills altering dog control law,
9 1999 Oregon Laws, Chapters 658 and 756 (House Bill 2425 and Senate Bill 795); and

10 WHEREAS House Bill 2425 made general improvements and clarifications to the
11 procedure and disposition for dog-person and dog-pet incidents; and

12 WHEREAS Senate Bill 795 eliminated local control over the disposition for dog-
13 livestock incidents (over the strong objections of Lincoln County and others); and

14 WHEREAS those new laws go into effect on October 23, 1999; and

15 WHEREAS existing Lincoln County ordinance that provides for the procedure and
16 disposition for these types of incidents (LCC 2.720) needs to be amended in conformance
17 with those new laws; therefore, the Lincoln County Board of Commissioners ordains as
18 follows:

19 ////

20 ////

21 ////

22 ////

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 **SECTION 1.**

2 LCC 2.720 is amended to read:

3 2.720 Procedure and Disposition of Dog Impounded for Killing, Wounding,
4 Injuring, or Chasing a Person or Livestock

5 (1) For purposes of this section:

6 (a) "Animal Control Officer" means the Lincoln County Animal Control Officer or
7 any Lincoln County Sheriff's Deputy performing the functions of the Lincoln County
8 Animal Control Officer.

9 (b) "Dog Judge" means the Lincoln County Legal Counsel, the Assistant Lincoln
10 County Legal Counsel, or their duly appointed designee.

11 (c) "Livestock" has the meaning provided in *[ORS 609.010(1)]* **Section 11, 1999**
12 **Oregon Laws, Chapter 756 (Enrolled Senate Bill 795).**

13 (d) "Shelter Manager" means the Lincoln County Animal Shelter Manager, or any
14 Lincoln County Sheriff's Deputy performing the functions of the Lincoln County Animal
15 Shelter Manager.

16 (2) (a) In accordance with ORS 609.015, the following provisions of ORS *[609.010]*
17 **609.030 and 609.040** to *[609.190]* **609.110** shall not apply in Lincoln County, and the
18 provisions of this section shall apply in lieu of those sections:

19 *[(a)]* **(A) ORS *[609.090(2)]* 609.090(3)**, as applied to dogs that have been
20 impounded for killing, wounding, injuring, or chasing a person, **pet, or domestic animal;**
21 and

Page 2 -- ORDINANCE # 391

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing ordinance to be omitted. New sections are in boldfaced type.

1 *[(b) ORS 609.155(3)(a)]* **(B) ORS 609.090(7) and (8)**, as applied to dogs that have
2 been impounded for killing, wounding, injuring, or chasing *[livestock]* **a person, pet, or**
3 **domestic animal.**

4 **(b) In accordance with Section 9a, 1999 Oregon Laws, Chapter 756 (Enrolled**
5 **Senate Bill 795), no provision of ORS 609.140 to 609.190 shall apply in Lincoln County,**
6 **and the provisions of this section shall apply in lieu of those sections, except for the**
7 **following sections, which are mandatory in accordance with Section 9a, 1999 Oregon**
8 **Laws, Chapter 756 (Enrolled Senate Bill 795): Sections 2, 3(4), 5 and 9, 1999 Oregon**
9 **Laws, Chapter 756 (Enrolled Senate Bill 795).**

10 **(3) If a dog has been impounded pursuant to ORS 609.090(1) or ORS 609.155(1) for**
11 **allegedly having killed, wounded, injured, or chased a person, pet, domestic animal, or**
12 **livestock, the Animal Control Officer or other impounding law enforcement agency shall**
13 **cause a report of that incident to be promptly filed with the Dog Judge. In addition to all**
14 **other matters deemed relevant by the Animal Control Officer or other impounding law**
15 **enforcement agency, the report shall specifically identify the names and mailing addresses**
16 **of the owner of the dog and all alleged victims and interviewed witnesses.**

17 **(4) (a) Upon receipt of a report described in subsection (3) of this section relating to**
18 **allegations that a dog has killed, wounded, injured, or chased a person, pet, or**
19 **domestic animal, the Dog Judge shall promptly set a hearing on the matter, and shall issue a**
20 **notice of that hearing to all persons identified in the report as the dog owner, victim, witness,**
21 **or law enforcement officer. The notice shall state the date, time, and location for the**

Page 3 -- ORDINANCE # 391

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing ordinance to be omitted. New sections are in boldfaced type.

1 hearing, and shall include a copy of the report. The notice shall be mailed by regular first
2 class mail.

3 (b) Upon receipt of a report described in subsection (3) of this section **relating to**
4 **allegations that a dog has killed, wounded, injured, or chased livestock**, the Dog Judge
5 shall issue a notice as required by Section 2, 1999 Oregon Laws, Chapter 756 (Enrolled
6 Senate Bill 795). The notice shall be mailed by regular first class mail.

7 (5) *[The]* A hearing conducted by the Dog Judge pursuant to this section shall be
8 informal and open to the public. No rules of evidence or civil procedure shall apply to the
9 conduct of the hearing. The Dog Judge may establish reasonable parameters for the conduct
10 of the hearing to ensure an orderly and complete presentation of the evidence.

11 (6) Upon completion of the hearing, the Dog Judge shall promptly issue written
12 findings of fact and disposition order.

13 (7) If the Dog Judge finds that the allegations have not been proven by a
14 preponderance of the evidence, then the Dog Judge shall enter an order directing release of
15 the dog to the owner of the dog, without payment by the owner of any accumulated impound
16 fees, but with full compliance with all licensing and vaccination requirements of ORS
17 chapter 609 and 433.

18 (8) (a) If the Dog Judge finds that the allegations have been proven by a
19 preponderance of the evidence, **and the incident relates to the killing, wounding,**
20 **injuring, or chasing of a person, pet, or domestic animal**, then the Dog Judge shall *[enter*
21 *an order directing that the dog be killed in a humane manner, unless the Dog Judge has also*

1 *made findings that, by a preponderance of the evidence, the dog is not dangerous, can be*
2 *safely kept, and a responsible person has agreed to accept release of the dog on probation*
3 *and has agreed to sign an acceptance of all conditions recommended by the Dog Judge]*
4 **determine whether to order that the dog be killed, or placed on probation in**
5 **accordance with subsection (9) of this section. In making such a determination, the**
6 **Dog Judge shall consider the factors described in Section 2, 1999 Oregon Laws,**
7 **Chapter 658 (Enrolled House Bill 2425) and any other factors that the Dog Judge may**
8 **deem relevant.**

9 **(b) If the Dog Judge finds that the allegations have been proven by a**
10 **preponderance of the evidence, and the incident relates to the killing, wounding,**
11 **injuring, or chasing of livestock, then the Dog Judge shall issue an order in compliance**
12 **with Sections 3(4), 5 and 9, 1999 Oregon Laws, Chapter 756 (Enrolled Senate Bill 795).**

13 **(9) If the Dog Judge releases the dog on probation as described in subsection (8)(a)**
14 **of this section, the Dog Judge:**

15 **(a) Shall impose the following conditions of probation:**

16 **(A) That the dog and the person to whom the dog is to be released comply with all**
17 **dog control laws and conditions of probation;**

18 **(B) That the term of probation shall last for a period of five years from the date of**
19 **release of the dog;**

20 **(C) That the dog be immediately licensed and vaccinated in accordance with ORS**
21 **chapters 609 and 433, if the dog is not already licensed and vaccinated;**

1 (D) That upon probable cause to believe that there has been any violation of the
2 probation, the dog may be immediately impounded by the Animal Control Officer pending a
3 probation revocation hearing as described in subsection (11) of this section; **and**

4 *[(E) That the person to whom the dog is to be released on probation be liable as*
5 *owner of the dog as provided by ORS 609.010 to 609.190 and 609.405; and]*

6 *[(F)]* (E) That the person to whom the dog is to be released sign an acceptance of all
7 conditions of probation.

8 (b) May impose one or more of the following conditions of probation:

9 (A) That accrued impound fees, or a portion of the accrued impound fees, be paid by
10 or on behalf of the person to whom the dog is to be released on probation; and

11 (B) Any other condition that is reasonably related to ensuring the welfare and safety
12 of the victim, **or** the public *[, or livestock]*.

13 (10) A certified true copy of the findings and order shall be forwarded to the Shelter
14 Manager for execution of the order. The Dog Judge shall also forward a copy of the order,
15 by regular first class mail, to each person to whom notice of the hearing was sent.

16 (11)(a) If a dog has been impounded pursuant to **subsection (9)(a)(d) of this section,**
17 **or pursuant to an order issued under subsection (8)(b) of this section,** *[subparagraph*
18 *(D) of paragraph (a) of subsection (9) of this section]* for allegedly having violated a
19 condition of probation, the Animal Control Officer **or other investigating law enforcement**
20 **agency** shall forward a report of that incident to the Dog Judge, who shall set a hearing on

1 that matter, issue notice of the hearing, and conduct a hearing in the manner described in
2 subsections (4) and (5) of this section.

3 (b) If the Dog Judge finds that the probation violation allegation has not been proven
4 by a preponderance of the evidence, the Dog Judge shall order the probation to be continued
5 and the dog to be released to the owner of the dog, without payment by the owner of any
6 accumulated impound fees, but with full compliance with all licensing and vaccination
7 requirements of ORS chapter 609 and 433.

8 (c) If the Dog Judge finds that the probation violation allegation has been proven by
9 a preponderance of the evidence, the Dog Judge shall order that the dog be killed in a
10 humane manner, unless the Dog Judge finds by clear and convincing evidence that the dog is
11 not dangerous, can be safely kept, and a responsible person has agreed to accept release of
12 the dog on continued probation and has agreed to sign an acceptance of all previous
13 conditions of probation, and any additional conditions of probation imposed by the Dog
14 Judge.

15 /////

16 /////

17 /////

18 /////

19 /////

20 /////

21 /////

Page 7 -- ORDINANCE # 391

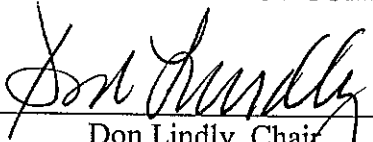
NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 **SECTION 2.**

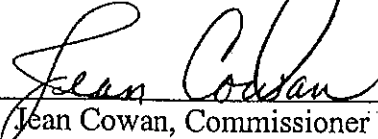
2 This Ordinance being necessary for the immediate preservation of the public peace,
3 health and safety, an emergency is declared to exist and this Ordinance shall take effect on
4 October 23, 1999.

DATED this 20th day of October, 1999.

LINCOLN COUNTY BOARD OF COMMISSIONERS



Don Lindly, Chair



Jean Cowan, Commissioner



Karen L. Gerttula, Commissioner

ATTESTED TO:



Sue Kays, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.