

1                                   **BEFORE THE BOARD OF COMMISSIONERS**

2                                   **FOR LINCOLN COUNTY, OREGON**

3                                   ORDINANCE # 399

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

8           The Lincoln County Board of Commissioners ordains as follows:

9           **SECTION 1.**

10          LCC 2.720 is amended to read:

11          2.720   Procedure and Disposition of Dog Impounded for Killing, Wounding,  
12   Injuring, or Chasing a Person, Domestic Animal, or Livestock

13          (1) For purposes of this section:

14          (a) "Animal Control Officer" means the Lincoln County Animal Control Officer or  
15   any Lincoln County Sheriff's Deputy performing the functions of the Lincoln County  
16   Animal Control Officer.

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

19          (c) "Livestock" has the meaning provided in ORS 609.125.

20          (d) "Shelter Manager" means the Lincoln County Animal Shelter Manager, or any  
21   Lincoln County Sheriff's Deputy performing the functions of the Lincoln County Animal  
22   Shelter Manager.

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 (2)(a) In accordance with ORS 609.015, the following provisions of ORS 609.030  
2 and 609.040 to 609.110 shall not apply in Lincoln County, and the provisions of this section  
3 shall apply in lieu of those sections:

4 (A) ORS 609.090(3), as applied to dogs that have been impounded for killing,  
5 wounding, injuring, or chasing a person, pet, or domestic animal; and

6 (B) ORS 609.090(7) and (8), as applied to dogs that have been impounded for  
7 killing, wounding, injuring, or chasing a person, pet, or domestic animal.

8 (b) In accordance with ORS 609.135, no provision of ORS *[609.140 to 609.190]*  
9 **609.155, 609.158, 609.163, 609.166, and 609.167** shall apply in Lincoln County, and the  
10 provisions of this section shall apply in lieu of those sections, except for the following  
11 sections, which are mandatory in accordance with ORS 609.135: ORS 609.156, 609.158(4),  
12 609.162 and 609.168.

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

20 (4) (a) **(A) Except as provided in subparagraph (B) of this paragraph,** upon  
21 receipt of a report described in subsection (3) of this section relating to allegations that a dog

1 has killed, wounded, injured, or chased a person, pet, or domestic animal, the Dog Judge  
2 shall promptly set a hearing on the matter, and shall issue a notice of that hearing to all  
3 persons identified in the report as the dog owner, victim, witness, or law enforcement  
4 officer. The notice shall state the date, time, and location for the hearing, and shall include a  
5 copy of the report. The notice shall be mailed by regular first class mail.

6 **(B) If the Animal Control Officer or other impounding law enforcement agency**  
7 **has issued a citation and summons to Circuit Court in addition to the impoundment, as**  
8 **authorized by ORS 609.090(1), then the Dog Judge shall be divested of all jurisdiction**  
9 **over the matter, and disposition of the impounded dog or dogs shall be left for**  
10 **determination by the Circuit Court in accordance with ORS 609.990.**

11 (b) Upon receipt of a report described in subsection (3) of this section relating to  
12 allegations that a dog has killed, wounded, injured, or chased livestock, the Dog Judge shall  
13 issue a notice as required by ORS 609.156. The notice shall be mailed by regular first class  
14 mail.

15 (5) A hearing conducted by the Dog Judge pursuant to this section shall be informal  
16 and open to the public. No rules of evidence or civil procedure shall apply to the conduct of  
17 the hearing. The Dog Judge may establish reasonable parameters for the conduct of the  
18 hearing to ensure an orderly and complete presentation of the evidence. **Upon request of a**  
19 **party, or upon the Dog Judge's own motion, the Dog Judge may elect to tape record the**  
20 **hearing.**

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

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

8 (8) (a) If the Dog Judge finds that the allegations have been proven by a  
9 preponderance of the evidence, and the incident relates to the killing, wounding, injuring, or  
10 chasing of a person, pet, or domestic animal, then the Dog Judge shall determine whether to  
11 order that the dog be killed, or placed on probation in accordance with subsection (9) of this  
12 section. In making such a determination, the Dog Judge shall consider *[the]* **all relevant**  
13 factors described in ORS 609.093 and any other factors that the Dog Judge may deem  
14 relevant.

15 (b) If the Dog Judge finds that the allegations have been proven by a preponderance  
16 of the evidence, and the incident relates to the killing, wounding, injuring, or chasing of  
17 livestock, then the Dog Judge shall issue an order in compliance with ORS 609.158(4),  
18 609.162, and 609.168.

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

21 (a) Shall impose the following conditions of probation:

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

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

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

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

10 (E) That the person to whom the dog is to be released sign an acceptance of all  
11 conditions of probation.

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

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

15 (B) Any other condition that is reasonably related to ensuring the welfare and safety  
16 of the victim, or the public.

17 (10) A certified true copy of the findings and order shall be forwarded to the Shelter  
18 Manager for execution of the order. The Dog Judge shall also forward a copy of the order,  
19 by regular first class mail, to each person to whom notice of the hearing was sent **and who**  
20 **was also present at the hearing, and to any other person present at the hearing who**  
21 **specifically requests a copy of the order.**

1           (11)(a) If a dog has been impounded pursuant to subsection (9)(a)(d) of this section,  
2 or pursuant to an order issued under subsection (8)(b) of this section, for allegedly having  
3 violated a condition of probation, the Animal Control Officer or other investigating law  
4 enforcement agency shall forward a report of that incident to the Dog Judge, who shall set a  
5 hearing on that matter, issue notice of the hearing, and conduct a hearing in the manner  
6 described in subsections (4) and (5) of this section.

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

12           (c) If the Dog Judge finds that the probation violation allegation has been proven by  
13 a preponderance of the evidence, the Dog Judge shall [*order that the dog be killed in a*  
14 *humane manner, unless the Dog Judge finds by clear and convincing evidence that the dog*  
15 *is not dangerous, can be safely kept, and a responsible person has agreed to accept release*  
16 *of the dog on continued probation and has agreed to sign an acceptance of]* **determine**  
17 **whether to order that the dog be killed, or continued on probation subject to all**  
18 **previous conditions of probation, and any additional conditions of probation imposed by the**  
19 **Dog Judge. In making such a determination, the Dog Judge shall consider all relevant**  
20 **factors described in ORS 609.093 and any other factors that the Dog Judge may deem**  
21 **relevant.**

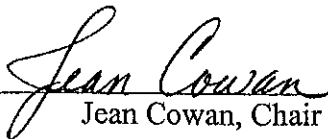
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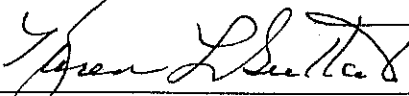
**SECTION 2.**

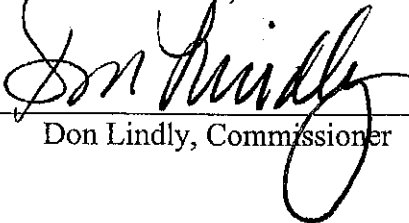
This Ordinance being necessary for the immediate preservation of the public peace,  
health and safety, an emergency is declared to exist and this Ordinance shall take effect upon  
its passage.

DATED this 18<sup>th</sup> day of October, 2000.

LINCOLN COUNTY BOARD OF COMMISSIONERS

  
\_\_\_\_\_  
Jean Cowan, Chair


  
\_\_\_\_\_  
Karen L. Gerttula, Commissioner

  
\_\_\_\_\_  
Don Lindly, Commissioner

ATTESTED TO:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Sue Kays, Recorder

  
\_\_\_\_\_  
Wayne Belmont, County Counsel

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