



Lincoln County Board of Commissioner's Agenda Item Cover Sheet

Board Meeting Date:		Agenda Item Type:	Consent Agenda:	Public Hearing:	Regular Agenda:
Submitting Person:		Presentation Time (est):			
		Phone Number/Ext:			
Presenter at Meeting:		Email:			
		Phone Number/Ext:			
Submitting Department:		Email:			
		Department Head Approval:			

Description of Agenda Item:

Background & Basis of Recommendations:

Action/Recommendations:

Time Sensitivity (none or explain):

Budget Impact (if applicable):

List of Attachments (if any):



BOARD OF COMMISSIONERS
JAMIE LINEBERGER, CHAIR
BUD CESENA, VICE-CHAIR
TRENT CARPENTER
MARK MULLEN
ALEX PATTON

COUNTY MANAGER
DAVIN W. MADDEN

COUNTY ATTORNEY
MEGAN H. GILBERT

CLERK TO THE BOARD
JENNIFER M. FARMER

**AN ORDINANCE AMENDING CHAPTER 92 OF THE
LINCOLN COUNTY CODE OF ORDINANCES**

WHEREAS, Lincoln County has established and adopted the Lincoln County Code of Ordinances pursuant to N.C.G.S. §153A-49; and

WHEREAS, pursuant to N.C.G.S. §153A-127, a County may by ordinance define and prohibit the abuse of animals; and

WHEREAS, pursuant to N.C.G.S. §153A-131, a county may regulate, restrict, or prohibit the possession or harboring of animals which are dangerous to persons or property; and

WHEREAS, Chapter 92 of the Lincoln County Code of Ordinances was created to establish an organized enforcement mechanism for the protection of public health and safety, to help prevent animal nuisances and to promote animal welfare; and

WHEREAS, Chapter 92 of the Lincoln County Code of Ordinances needs to be amended to meet the requirements of North Carolina law and to allow for Lincoln County Animal Services to better and more effectively enforce its rules and regulations; and

WHEREAS, the amendment to the Lincoln County Code of Ordinances set forth in this ordinance is policy neutral.

NOW, THEREFORE, BE IT ORDAINED that:

Section 1. Chapter 92 of the Lincoln County Code of Ordinances shall be amended as follows:

CHAPTER 92: ANIMALS

- 92.01. Title
- 92.02. Purpose
- 92.03. Definitions
- 92.04. Establishment, **Jurisdiction** and Authority
- 92.05. Program of Animal ~~control~~ **Services**
- 92.06. Animal Cruelty
- 92.07. Tethering
- 92.08. Leash Law
- 92.09. Nuisance
- 92.10. Rabies Control

DANGEROUS DOG ORDINANCE

92.11.1 Title.

92.11.2 Determination of Dangerous & Potentially Dangerous Dogs

92.11.3 Appeal Procedure for Dangerous & Potentially Dangerous Dogs

92.11.4 Confinement and Restraint Requirements

92.11.5 Registration and Transfer of Ownership

92.11.6 Dangerous Dogs from Other Jurisdictions

92.11.7 Declassification

92.11.8 Private Action

92.11.9 Penalties

EXOTIC ANIMALS ORDINANCE

92.12.1 Title.

92.12.2 Purpose and Statutory Authority

92.12.3 Definitions

92.12.4 Exemptions.

92.12.5 Prohibition.

92.12.6 Impoundment and/or Disposition of Inherently Dangerous Exotic Animals

92.13. Disposition of ~~Dead~~ Deceased Animals

92.14. Impoundment of Animals

92.15. Disposition of Animals

92.16. Record Keeping

92.17. Relation to Other Laws

92.18. Animal Services Advisory Board

92.19. Abandonment of Animals.

92.20. Inspections, Interference and Concealment.

92.21. Protective Measures for the Containment of Animals.

92.22. Harboring Stray Animals.

92.23. Seizure, Forfeiture, and Disposition of Animals.

92.99 Fees and Penalties

ANIMAL CONTROL SERVICES

§ 92.01. TITLE.

This chapter shall be known and may be cited as the "**Lincoln County** Animal Ordinance-
~~of Lincoln County, North Carolina.~~"

(Ord. passed 6-21-2021)

§ 92.02. PURPOSE.

The purpose of this animal chapter is to protect public health and safety, help to prevent public animal nuisances, and promote the welfare of animals in Lincoln County.

(Ord. passed 6-21-2021)

§ 92.03. DEFINITIONS.

As used in this Chapter, the following definitions shall apply:

ABANDON. Forsake, desert, or absolutely give up an animal previously under the custody or possession of a person without having secured another owner or custodian, or by failing to provide

one (1) or more of the elements of adequate care for a period of twenty-four (24) or more hours consecutively.

ADEQUATE COLD WEATHER SHELTER. A shelter that when the temperature is below 32°F at any time during a 24-hour period will provide a secondary source of heat including but not limited to cedar shavings or straw.

ADEQUATE ENVIRONMENT. The provision of a safe and sanitary environment for an animal, free of debris, hazards, waste and filth.

ADEQUATE FOOD. Provisions at suitable intervals, not to exceed 24 hours of a sufficient quantity of wholesome foodstuff suitable for the species and age to maintain a reasonable level of nutrition for the animal.

ADEQUATE HOT WEATHER SHELTER. A shelter that shall be located, either in appropriate secondary shade or have shade provided for the animal by artificial means when temperature is in excess of 80°F at any time during a 24-hour period.

ADEQUATE SHELTER. Means: 1) an enclosure having four solid walls with an opening large enough to allow access to the animal, with a roof; 2) an igloo-shaped enclosure; or 3) another type of equivalent shelter designed specifically for a dog and approved by an Animal Services Officer. The enclosure must have a solid floor, be structurally sound and maintained in good repair, be constructed in such a manner that it is water and wind resistant and have sufficient room for the animal to move about freely and lie down comfortably. Adequate shelter is to include the provision of cold weather shelter or hot weather shelter depending on conditions.

ADEQUATE STANDARDS OF CARE. The provision of adequate food, water, shelter, environment and vet care as defined in this section.

ADEQUATE VETERINARY CARE. The provision of vet care for an animal within 72 hours, or a time period determined appropriate by an Animal Services Officer when determined by an Animal Services Officer to be necessary.

ADEQUATE WATER. Constant access to a supply of clean, fresh, unfrozen, and potable water provided in a sanitary manner.

ANIMAL SERVICES OFFICER. Animal Services Officers constitute Animal Control Officers as defined by N.C.G.S. §§ 67-30 et seq.

AT LARGE. A dog shall be deemed to be at large when off the curtilage of the owner's residence and not under restraint.

COUNTY. Lincoln County.

CURTILAGE. An area of land attached to a house and forming one enclosure with it. Includes the area immediately surrounding a dwelling.

DOMESTICATED ANIMALS. A species of animals that are indigenous to Lincoln County and normally, customarily share human habitation in Lincoln County and are normally dependent on humans for food and shelter in Lincoln County, such as dogs and cats.

~~EXOTIC OR WILD ANIMALS. Exotic animals are animals which are not native to North Carolina other than domestic animals.~~

FERAL CAT. A domesticated feline that is unsocialized and unclaimed but lives in the community.

INTERLOCAL AGREEMENT. A written contract between local government agencies such as a city, a county, a school board or a constitutional office as provided for in N.C.G.S. §160A-460.

LIVESTOCK. Equine animals, bovine animals, sheep, goats, llamas and swine, all other animals considered livestock by the USDA.

OWNER. Shall mean any of the following:

- (1) Any person who has legal title to any animal;
- (2) Is responsible for an animal's care, actions, and behavior; or
- (3) Takes control of any animal either inside the owner's house or becomes responsible for any animal's care for more than a period of 72 96 hours.

RESTRAINT. A dog is under restraint if it is confined within the curtilage of its owner's residence, is secured by a leash and under control of a responsible person or is confined within a vehicle in a manner that prevents escape.

STRAY. Any domestic, livestock or exotic animal not under restraint and found off the property of its owner, or is wandering at large, and does not have an owner present.

TETHER(ING). To restrain a dog outdoors by means of a rope, chain, wire or other type of line for holding a dog, one end of which is fastened to the dog and the opposite end of which is connected to a stationary object or to a cable or trolley system. This definition does not include walking a dog with a handheld leash.

(Ord. passed 6-21-2021)

§ 92.04. ESTABLISHMENT, JURISDICTION AND AUTHORITY.

(A) **Animal Services.** This chapter creates an Animal Services Office, under the supervision and direction of the County Manager, or his/her designee, which shall be composed of any number of employees as determined by the Board of Commissioners, who shall provide compensation for these employees. The office shall be headed by the Director of Animal Services, who shall be appointed, supervised, and evaluated by the County Manager or his/her designee.

(1) **Animal Shelter.** The Animal Shelter division of the Animal Services Office is established pursuant to N.C.G.S. §153A-442. The Animal Shelter shall be responsible for animal shelter operations, and subject to all rules and regulations as given by state law and the North Carolina Department of Agriculture and Consumer Services.

(2) **Field Services ~~Animal Control~~.** The Field Services ~~Animal Control~~ Division of the Animal Services Office is established under this chapter to enforce the provisions of the Lincoln County Animal Ordinance, state laws, and municipal regulations (to the extent provided by an interlocal agreement ~~chapter. The Animal Control Division's authority includes enforcement of state laws, county ordinances, and (to the extent provided by an interlocal agreement between a county and a city) city regulations relating to animal public health, animal nuisances, and animal welfare, to the full extent allowed by state law.~~

(B) **Jurisdiction.** The Lincoln County Animal Ordinance shall be applicable within the legal limits

of Lincoln County, North Carolina. However, the Lincoln County Animal Ordinance shall not apply within the corporate limits or jurisdiction of any municipality located in Lincoln County unless Lincoln County enters into an Interlocal Agreement with said municipality.

(Ord. passed 6-21-2021)

§ 92.05 PROGRAM OF ANIMAL SERVICES CONTROL.

- (A) **Director of Animal Services.** The Director of Animal Services shall serve as the chief administrator of the Lincoln County Animal Ordinance this chapter and the program of Animal Control Services, which includes operation of the Animal Shelter and Field Services.
- (B) **Animal Services Officers.** Animal Services Officers are appointed through authority of N.C.G.S. § 67-30, ~~Appointment of animal control officers authorized; salary, etc.~~ The duties and powers of Animal Services Officers include enforcement of the Lincoln County Animal Ordinance, state laws, and municipal regulations (to the extent provided by an interlocal agreement) ~~chapter, and other applicable state, and local animal laws.~~
- (C) ~~**Animal cruelty investigators.** Animal cruelty investigators shall be appointed by the Board of Commissioners and shall have the power ascribed to them per N.C.G.S. § 19-45, Appointment of animal cruelty investigators; terms of office; removal; badge; oath; bond.~~
- (D) ~~**Interference.** Interference with the Director of Animal Services or Animal Services Officers in any aspect of the enforcement of this chapter shall constitute a violation of this chapter.~~
- (E) ~~**Penalty.** Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.~~

(Ord. passed 6-21-2021; Ord. passed 3-21-2022)

§ 92.06. ANIMAL CRUELTY.

- (A) **Prohibited Acts.** It shall be considered animal cruelty, unlawful and a violation of this Lincoln County Animal Ordinance if a person willfully and negligently does any of the following:
- (1) Fails to provide adequate food and/or water for any animal he owns, possesses, or harbors; or
 - (2) Overworks or overdrives any animal causing physical pain, suffering or death; or
 - (3) Beats, tortures, injures, torments, poisons or mutilates any animal causing physical pain, suffering or death; or
 - (4) Fails to provide adequate medical attention for any sick, diseased or injured animal he owns, possesses, or harbors; or
 - (5) Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; or
 - (6) Teases, molests, or in any way bothers or harasses any animal; or
 - (7) Promotes, stages, holds, manages, conducts, carries on or attends any game, exhibition, contest, fight or combat between one or more animals or between animals and humans; or
 - (8) Fails to provide an adequate shelter for an animal he owns, possesses, harbors, or encloses, wherein the animal can be protected from extremes of weather (heat, cold, rain, etc.) and allowed to remain dry and comfortable during inclement weather; or
 - (9) Conveys any type of animal in a wagon, a trailer pulled by a motor vehicle/truck, or in

the bed of a truck without having such animal reasonably secured so as to prevent the animal from leaping or being thrown from the vehicle or in such a way as to cause pain, suffering, unreasonable discomfort or death to the animal; or

(10) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or water, or such other conditions as may reasonably be expected to cause suffering, disability or death:

i. After making a reasonable effort to find the driver of a vehicle in which an animal is confined, an Animal Services Officer, whether in the presence of a law enforcement officer or not, may use the least intrusive means to break and enter the vehicle if necessary to remove the animal where probable cause exists to believe that the animal is in the vehicle in violation of this subsection.

ii. The Animal Services Officer who is removing the animal shall then impound it and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal, and where and when the animal may be reclaimed. In addition, the officer may also use any other enforcement method authorized herein.

iii. So long as an animal is within sight of an Animal Services Officer or a law enforcement officer, there shall be no requirement that any warrant be obtained before removing the animal so long as such removal is consistent with the United States Constitution; or

(11) Fails to provide sufficient shade, when sunlight is likely to cause overheating and discomfort, to allow all animals kept outdoors to protect themselves from the direct rays of the sun (not applicable to livestock); or

(12) Keeps animals outdoors without access to shelter to allow them to remain dry and comfortable during inclement weather (not applicable to livestock); or

(13) Keeps dogs in an outdoor kennel used for the primary purpose of restraining dogs, where there is less than 50 square feet of kennel space per dog. Outdoor kennels shall be kept in a state of repair to prevent injury to the dog(s). Carriers, crates or other similar devices used for training or temporary housing shall only be utilized indoors. This requirement shall not apply to the housing of dogs whose primary purpose is hunting activities.

(B) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in N.C.G.S. § 14-4. In addition to criminal enforcement of this section, any person found to be in violation of this section shall be subject to civil penalties as defined in §92.99 of this Ordinance. Each day a violation continues shall be deemed a separate offense, ~~and said violation may also be enforced as set forth in § 10.99 herein.~~

~~(A) It shall be unlawful and a violation of this chapter for any owner, or other person to fail to comply with the laws of North Carolina relating to animal cruelty including, but not limited to:~~

~~(1) N.C.G.S. § 14-360, Cruelty to animals; construction of section;~~

~~(2) N.C.G.S., § 14-361, Instigating or promoting cruelty to animals;~~

~~(3) N.C.G.S. § 14-361.1, Abandonment of animals;~~

~~(4) N.C.G.S. § 14-363, Conveying animals in a cruel manner;~~

~~(5) N.C.G.S. § 14-363.1, Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden;~~

~~(6) N.C.G.S. § 14-362.3, Restraining dogs in a cruel manner;~~

~~(7) N.C.G.S. § 14-363.3, Confinement of animals in motor vehicles;~~

~~(8) N.C.G.S. § 14-366, Molesting or injuring livestock;~~

- (9) N.C.G.S. § 14-362, Cockfighting;
 - (10) N.C.G.S. § 14-362.1, Animal fights and baiting, other than cockfights, dog fights and dog baiting;
 - (11) N.C.G.S. § 14-362.2, Dog fighting and baiting;
 - (12) N.C.G.S. § 14-163, Poisoning livestock; and
 - (13) N.C.G.S. § 14-401, Putting poisonous foodstuffs, antifreeze, etc., prohibited.
- (B) ~~It shall be unlawful and a violation of this chapter for any owner, or other person to fail to comply with adequate standards of animal care as defined by this chapter through statutory power given in N.C.G.S. § 153A-127, Abuse of animals. Adequate standards of care are to include adequate food, water, shelter, environment and vet care as defined above in § 92.03.~~
- (C) ~~Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.~~
- (Ord. passed 6-21-2021; Ord. passed 3-21-2022)

§ 92.07. TETHERING.

- (A) Tethering of dogs shall be permitted when:
- (1) The tether is a minimum of 12 feet;
 - (2) If attached to a pulley or trolley system the tether is at least 15 feet long and no more than seven feet above the ground;
 - (3) The tether is attached to a properly fitting collar or harness (not a choke, prong or pinch collar);
 - (4) The tether has a swivel on at least one end;
 - (5) The tether is an appropriate size and weight for the dog; and
 - (6) Only one dog is attached to a single tether.
- (B) Tethering of dogs shall be prohibited if:
- (1) Any of the above conditions are violated;
 - (2) The tether allows the dog to cross the property line or onto public property;
 - (3) The dog is tethered in a manner that is likely to cause injury, strangulation, or entanglement thereto;
 - (4) The dog is sick/injured, pregnant or nursing, or under six months; or
 - (5) Any other condition detrimental to the dog exists as determined by the Animal Services Officer.
- (C) **No dog may be tethered in a location where the dog will be within five (5) feet of the property line when tethered.**
- (D) **Exceptions.** Notwithstanding the foregoing, exceptions may apply at the discretion of the Animal Services Officer for tethering that is non-permanent and being used as a part of a legal activity with direct supervision from an owner.
- (E) **Penalty.** Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. **In addition to criminal enforcement of this section, any person found to be in violation of this section shall be subject to civil penalties as defined in §92.99 of this Ordinance** Each day a violation continues shall be deemed a separate offense, ~~and said violation may also be enforced as set forth in § 10.99 herein.~~
- (Ord. passed 6-21-2021; Ord. passed 3-21-2022)

§ 92.08. LEASH LAW.

- (A) **Prior Jurisdiction.** Dogs at large shall not be permitted at any time in the following subdivisions **within Lincoln County**, which were adopted under previous ordinances:
- (1) Anderson Woods

- (2) Arden Oaks
- (3) Brookwood Acres
- (4) Cherry Lane
- (5) Cherry Point
- (6) City of Lincoln
- (7) Clearbrook, Country Club Apartments
- (8) Country Valley
- (9) Eastwood
- (10) Goodsons Place
- (11) Grandview Farms
- (12) Green Acres
- (13) Hidden Valley
- (14) Hill Crest
- (15) Hoffman Acres
- (16) Hunter's Bluff
- (17) Knottingham Forest
- (18) Lake Hill Trailer Park
- (19) Lincoln Park
- (20) Meadowbrook
- (21) North Hill Deerwood Trails
- (22) Sherrill Ridge
- (23) Sifford Acres
- (24) Stoney Creek Acres
- (25) West Bay
- (26) Westport Peninsula
- (27) Westport Subdivision
- (28) Westward Trail
- (29) Whispering Pines
- (30) Windsor Forest, and
- (31) Worthington Park.

- (B) **New Jurisdiction.** Any Each additional jurisdiction subdivision desiring to subject itself and its properties to the leash law provisions shall meet the following criteria and be acted upon as follows:
- (1) It must be a subdivision platted and recorded with the Lincoln County Register of Deeds or an approved mobile home park registered with Lincoln County; and
 - (2) A majority of the property owners residing in the ~~a-platted and recorded~~ subdivision, condominium or mobile home park must sign a petition agreeing to the leash restrictions.
- (C) **Subdivisions Meeting New Criteria.** Following the receipt of a petition as provided in subsection (B), the Board of Commissioners shall review the petition ~~of the subdivision or mobile home park~~ and, if the criteria are met, a public hearing shall be scheduled. Following the public hearing, action shall be taken on the petition which includes either the approval or denial of said petition. If approved, the subdivision shall be listed in this chapter.
- (D) **Subdivisions Desiring to Opt-Out of Leash Law Provisions.** Any subdivisions subject to the leash laws herein which desires desiring to opt-out of the leash law ~~remove a leash law from this chapter~~ must meet the following criteria:
- (1) Seventy-five percent (75%) of property owners within the subdivision jurisdiction must sign a petition agreeing to remove the leash law restrictions.
 - (2) Following receipt of a petition, the Board of Commissioners shall review the petition of the subdivision or mobile home park, and if the criteria are met, a public hearing shall be scheduled.

- (3) Following the public hearing, action shall be taken on the petition which includes either the approval or denial of said petition.
 - (4) If approved, the subdivision shall be removed from listing in this chapter.
- (E) **Penalty.** Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. In addition to criminal enforcement of this section, any person found to be in violation of this section shall be subject to civil penalties as defined in §92.99 of this Ordinance. Each day a violation continues shall be deemed a separate offense, ~~and said violation may also be enforced as set forth in § 10.99 herein.~~
- (Ord. passed 6-21-2021; Ord. passed 3-21-2022)

§ 92.09. NUISANCE.

- (A) **Nuisance Acts.** It shall be unlawful for an owner to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals. Nuisance means any act of an animal that disturbs rights and privileges common to the public or enjoyment of private property. ~~The commission of a nuisance act on more than one occasion shall be evidence of a nuisance.~~ A nuisance act includes but is not limited to:
- (1) Continuously or frequently roams or is found on the property of another person;
 - (2) Turns over garbage containers or removes garbage from a container;
 - (3) Damages gardens, foliage or other real personal property of another person;
 - (4) Eliminates-Defecates or urinates on private property without the permission of the owner;
 - (5) Walks on or sleeps on automobiles of another person;
 - (6) Is maintained in an unsanitary condition so as to be offensive to sight or smell;
 - (7) Is not confined to a building or secure enclosure while in estrus;
 - (8) Is diseased or dangerous to the health of the public;
 - (9) Chases, snaps at, attacks, or otherwise molests pedestrians, cyclists, motor vehicle passengers, farm stock, or domestic animals;
 - (10) Is housed or restrained less than five feet from a property line, public street, road or sidewalk, and in the discretion of the Animal Services Officer, poses a threat to the general safety, health and welfare of the general public; or
 - (11) Habitually loiters on school grounds or county recreation property.
- (B) **Nuisance Complaints.** Any person wishing to file an animal nuisance complaint must contact Animal Services by phone or fill out a nuisance/complaint form and may not do so anonymously. ~~Before initiating an investigation, the complainant must provide a timestamped photo or video evidencing said nuisance act. Further, civil or criminal proceeding pursuant to this chapter or any state statute,~~ the Animal Services Director or his or her designee shall have the option of requesting the complaining party to sign a sworn statement of the alleged offense and to require the cooperation of the complaining party in court appearances arising from the complaint.
- (1) Nothing contained herein in this chapter shall obligate the Lincoln County, or its Animal Services Director, to pursue civil or criminal proceedings hereunder, and
 - (2) Nothing shall prevent a private citizen from pursuing a civil action for nuisance pursuant to common law or this chapter.
 - (3) Complaints related to noise, even if said noise is caused by an animal, are not investigated by Lincoln County Animal Services under this Lincoln County Animal Ordinance. All noise complaints shall be subject to the Lincoln County Noise Ordinance.
- (C) **Penalty.** Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. In addition to criminal enforcement of this section, any person found to be in violation of this section shall be subject to civil penalties as defined in §92.99 of this Ordinance. Each day a

violation continues shall be deemed a separate offense, ~~and said violation may also be enforced as set forth in § 10.99 herein.~~
(Ord. passed 6-21-2021; Ord. passed 3-21-2022)

§ 92.10 RABIES CONTROL.

- (A) The Animal Services Director or designee shall enforce and carry out all rabies control laws of the State and this Chapter, and shall work with the ~~Local Lincoln County~~ Health Director to investigate and help control rabies cases in accordance with Chapter 130A, ~~of the North Carolina General Statutes, Rabies (Exhibit I).~~
- (B) **Rabies requirements.** It shall be unlawful and a violation of this Chapter for any owner, or other person to fail to comply with the following laws of North Carolina relating to the control of rabies:
- (1) Vaccination of animals above 16 weeks of age for rabies pursuant to N.C.G.S. §130A-185, ~~Vaccination required;~~
 - (2) Displaying rabies tags pursuant to N.C.G.S. §130A-190, ~~Rabies vaccination tags;~~ (Cats and ferrets exempt);
 - (3) Confinement of biting animals pursuant to N.C.G.S. §130A-196, ~~Notice and confinement of biting animals;~~
 - (4) Post exposure management pursuant to N.C.G.S. §130A-197, ~~Management of dogs, cats and ferrets exposed to rabies;~~ and
 - (5) Confinement of animals suspected of rabies pursuant to N.C.G.S. §130A-198, ~~Confinement.~~
- (C) **Penalty.** Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. In addition to criminal enforcement of this section, any person found to be in violation of this section shall be subject to civil penalties as defined in §92.99 of this Ordinance. Each day a violation continues shall be deemed a separate offense, ~~and said violation may also be enforced as set forth in § 10.99 herein.~~
(Ord. passed 6-21-2021; Ord. passed 3-21-2022)

DANGEROUS DOG ORDINANCE

§ 92.11.1. TITLE.

This subchapter (§92.11.1 through §92.11.9) of the Lincoln County Animal Ordinance shall be considered the Lincoln County Dangerous Dog Ordinance

§92.11.2. DETERMINATION OF DANGEROUS & POTENTIALLY DANGEROUS DOGS.

The Animal Services Director or their designee shall determine whether a dog is to be declared dangerous or potentially dangerous based on this Dangerous Dog Ordinance. Once the dog is deemed dangerous or potentially dangerous, and the Animal Services ~~Division~~ Director or designee may shall impound the dog immediately, and notify the owner of the dog in writing, including the reason for the determination. The Animal Services Director or designee shall notify the owner in writing, giving the reason for the determination. ~~The owner of a dog which has been declared to be dangerous or potentially dangerous has the right to appeal the decision in the manner set forth in division (B) of this section.~~

- (A) **Dangerous dog.** A dangerous dog will be classified as either a level 1 or level 2 dangerous dog based on the following requirements.
- (1) Level 1. The dog will be classified as Level 1 if the dog:
 - a) Killed a person who was not attempting to harm, rob or seriously injure the dog's owner or family;
 - b) Severely injures a child under the age of twelve (12);

- c) When not on the owner's real property, inflicted severe injury to a person;
 - d) Was previously declared a Level 2 Dangerous dog and while out of the secure enclosure bit a person;
 - e) Was previously declared a Level 2 Dangerous Dog and while out of the secure enclosure and not on the owner's real property bit another domestic animal;
 - f) Was previously declared a Potentially Dangerous Dog and inflicted severe injury to a person; or
 - g) Was previously declared a Potentially Dangerous Dog and when not on the owner's real property killed or inflicted severe injury to a domestic animal.
- (2) Result if Deemed Level 1. The Animal Services Director or designee shall immediately seize and impound the dog, and order and cause the Level 1 Dangerous Dog to be humanely destroyed at the expense of the owner. No Level 1 Dangerous Dog shall be destroyed until after the appeal period has expired. removed from Lincoln County within a period of ten (10) calendar days if the dog meets the criteria of another jurisdiction, and will be accepted therein.
- (3) Level 2. The dog may be classified as Level 2 if the dog:
- a) When on the owner's real property inflicted severe injury to a person and the person was not attempting to harm, rob or seriously injure the dog's owner or family;
 - b) Was owned or harbored primarily or in part for the purpose of dog fighting, or trained for dog fighting, in violation of N.C.G.S. § 14-362.2;
 - c) Was previously declared a Potentially Dangerous Dog and when not on the owner's real property bit another domestic animal, livestock or other chicken/fowl, but did not cause a severe injury; or
 - d) Was previously declared a Potentially Dangerous Dog and bit a person but did not cause a severe injury.
- (4) Result if Deemed Level 2. A Level 2 dangerous dog may be redeemed by the owner, provided the owner first complies with those regulations and confines the level 2 dangerous dog as required in §92.11.3 divisions (C)(1) and (2). If the owner fails to redeem the Level 2 Dangerous Dog, or fails to provide notice that it will redeem the dog following installation of confinement structures, the Level 2 Dangerous Dog shall be humanely destroyed at the expense of the owner. No Level 2 Dangerous Dog shall be destroyed until after the appeal period has expired.
- (B) Potentially dangerous dog.** A dog may be classified as a potentially dangerous if the dog:
- (1) When not on the owner's real property killed or inflicted severe injury upon a domestic animal, livestock or other chicken/fowl; or
 - (2) When not on the owner's real property approached a person in a vicious or terrorizing manner in an apparent attitude of attack; or
 - (3) Inflicted an unprovoked bite to a human.
 - (4) Result if Deemed Potentially Dangerous. A potentially dangerous dog may be redeemed by the owner, provided the owner first agrees to keep the dog under restraint and complies with §92.11.3 division (C)(3).
- (C) Exceptions.** This chapter does not apply to the following:
- (1) A law enforcement dog being used by a law enforcement officer to carry out the law enforcement officer's official duties or professional responsibilities; or a security dog used by a professional security guard registered with the North Carolina Protective Services Board, to carry out the security guard's official duties or professional responsibilities.
 - (2) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a herding dog, or predator control dog on the property of or under the control of its owner, and the damage or injury was to a specific type of domestic animal appropriate to the work of the dog; or

- (3) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury was tormenting, abusing, or assaulting the dog; had tormented, abused or assaulted the dog; or was committing or attempting to commit a crime.

§92.11.3. APPEAL PROCEDURE FOR DANGEROUS & POTENTIALLY DANGEROUS DOGS.

(A) **Right to Appeal.** The owner of a dog which has been declared dangerous or potentially dangerous pursuant to ~~§92.11.1 division (A)~~ of this Ordinance section has the right to appeal the determination by filing a written appeal objection, stating the grounds for the appeal, with the Animal Services ~~Director Division~~ within three (3) business days of receipt of the dangerous or potentially dangerous dog determination letter. If the owner fails to file the written appeal objection, the dog will be disposed of according to this Dangerous Dog Ordinance chapter depending on its level.

- (1) Any appeal of the Director's decision filed hereunder shall be heard by the Dangerous Dog Appellate Board, as established herein. The Dangerous Dog Appellate Board shall hold a hearing within ten (10) business days of the filing of the written appeal objection. The appellant person requesting the appeal will be notified of the Board's decision in writing within ten (10) business days following the final decision of the Appellate Board.
- (2) Following the decision of the Dangerous Dog Appellate Board, the appellant (or the County) shall have a right to appeal from the final that decision of the Appellate Board. Any appeal shall be filed with the Lincoln County to Superior Court by filing a notice of appeal and petition for review within thirty (30) ten-business days of receipt of the final decision of the Appellate Board. This written notice must be served on Animal Services as well as the Clerk of Superior Court. This appeal must be served on all parties relevant to the appeal, including but not limited to: the Animal Services Director and the County Attorney.

(B) **Dangerous Dog Appellate Board.**

- (1) The Dangerous Dog Appellate Board has been established by the Board of Commissioners, as follows:
 - a) The Board shall be composed of five (5) regular members and two (2) alternates, and at least one of the regular members shall be a sworn law enforcement officer.
 - b) Members and alternates must be residents of Lincoln County and appointed by the Board of Commissioners for a period of three (3) years, and each member may serve two (2) terms.
 - c) A quorum of at least three (3) members (any combination of regular members and alternates) must be present at an Appellate Board hearing in order for the Appellate Board to conduct business.
 - d) Conflict of Interest. The members of the Dangerous Dog Appellate Board shall be expected to disclose any prior personal involvement they have had with the case or other conflicts of interest, and upon a motion of the Board, the member making the disclosure may be recused.
- (2) Procedural Requirements.
 - a) All testimony offered at the Appellate Board hearing held pursuant to this chapter shall be given under oath and recorded by audio recording. The hearing shall be open to the public, and the person requesting the appeal may be represented by an attorney.
 - b) The Animal Services Director or designee shall have the burden of demonstrating that this chapter has been violated. The person requesting the appeal will be given an opportunity to prove this chapter has not been violated. The Animal Services Director or designee will be given a final opportunity to clarify any conflicts,

- ambiguities or inconsistencies created by or arising from the statements or evidence.
- c) The Dangerous Dog Appellate Board may ask questions at any time during the appeal hearing and may request additional evidence from either party, including continuing the hearing in the interest of fairness.
 - d) **Decision.** The Dangerous Dog Appellate Board may rule on the appeal in any of the following ways: (1) uphold the decision of the Animal Services Director in total, (2) reverse the decision of the Animal Services Director in total, or (3) uphold or reverse the decision of the Animal Services Director with additional criteria added or removed.
- (C) **Application of Decision.** Any decision rendered by the Dangerous Dog Appellate Board applies only to the violation(s) appealed and does not prevent the Animal Services Department from enforcing a subsequent violation of the same provision or any other provision of this chapter. If the Dangerous Dog Appellate Board upholds or affirms the decision of the Animal Services Director or designee the owner is responsible for all applicable boarding fees, redemption fees and civil penalties.
- (D) **Failure to Appeal.** If the owner of the dog does not file a written appeal with the Dangerous Dog Appellate Board as provided herein within the time period required by law or if the owner of the dog does not comply with the confinement requirements as specified herein in division (C) of this section within 21 calendar days of the final decision of the Dangerous Dog Appellate Board or Superior Court, then the dog becomes the property of the county for disposition.

§92.11.4. CONFINEMENT AND RESTRAINT REQUIREMENTS

- (A) **Level 2 Dangerous Dog Requirements.** The owner of a Level 2 Dangerous Dog that is required to be confined pursuant to §92.11.2 division (A)(1) may redeem the dog upon complying with the following:
- (1) The owner ~~of a dog which has been declared a level 2 dangerous dog~~ must file a written notice of intent to comply with the enclosure requirements outlined below with the Animal Services ~~Director~~ Division within three (3) business days of receipt of the ~~dangerous dog~~ determination letter. If the owner fails to file a written notice, the dog shall become the property of the county and shall be disposed of in accordance with this Ordinance chapter.
 - (2) Before redemption, a Level 2 Dangerous Dog must be fitted with microchip identification, at the owner's expense.
 - (3) The owner must pay all outstanding fines and fees owed to the Animal Services Division Department.
 - (4) From the initial notice from the Animal Services Division Department, the owner has 21 calendar days to erect the secure enclosure. If the owner appeals ~~the determination in accordance with this chapter to the Dangerous Dog Appellate Board or Superior Court, and the decision is upheld~~, the owner has 21 days to erect the secure enclosure from the date of the final decision.
 - (5) Secure Enclosure Requirements. The secure enclosure must conform to all of the following:
 - a) The structure must be a minimum size of 90 square feet and six feet tall, with a concrete pad at least two inches thick. If more than one dog is to be kept in the enclosure, the floor area must provide at least 90 square feet for each dog. The walls and roof of the structure must be constructed of welded chain link, of a minimum thickness of 9-gauge, or equivalent gauge welded wire, supported by galvanized steel poles at least two and one-half inches in diameter. The vertical support poles must be sunk in concrete-filled holes at least 18 inches deep and at least eight inches in diameter. The chain link

fencing must be anchored to the concrete pad with galvanized steel anchors at intervals of no more than 12 inches along the perimeter of the pad. The entire structure must be freestanding and not attached or anchored to any existing fence, building, or structure. The structure must be secured by a pad lock.

- b) A warning sign of at least 120 square inches must be visible from each side of the structure and visible to any adjoining property.
 - c) The secure enclosure must be inspected and approved by the Animal Services Director or designee.
 - d) The owner of the dog is responsible for ensuring that the enclosure is maintained in such a condition to continually meet the requirements of this chapter. Failure to maintain or repair the enclosure shall subject the owner to penalties under this chapter.
 - e) Prior to inspection of the enclosure by the Animal Services Director or designee, the dog shall not be returned to the owner's property until the shelter and warning signs have been approved. While the structure is being erected, the dog must be boarded at the county animal shelter at the owner's expense.
 - f) **Insurance Requirement.** At the owner's expense, the owner of a Level 2 Dangerous Dog shall procure and maintain and provide proof of liability insurance in the amount of at least \$100,000.
 - g) **Additional Requirements.** ~~The Animal Services Director may make additional confinement requirements as deemed necessary, and based on the circumstances surrounding each specific case. Comply with any additional requirements as deemed necessary by the Director of Animal Services or designee.~~
- (6) **Maintenance Requirements of a Level 2 dangerous dog.** The owner of a level 2 dangerous dog that is required to be confined ~~pursuant to division (A)(2)(b)~~ must comply with the following **requirements**:
- a) A dangerous dog shall not be permitted out of the enclosure unless the dog is under physical restraint by a competent person who by means of a leash no longer than six feet has the dog firmly under control at all times. Voice command and electronic collars are not recognized as adequate restraints. A dangerous dog must be muzzled when not on the owner's real property.
 - b) If the owner can provide detailed written instructions from a licensed veterinarian that the dog must remain out of the secure enclosure for a specified amount of time due to sickness or injury, then the dog shall immediately be housed at a veterinarian clinic until it is medically cleared, at which time the dog shall immediately be returned to the secure enclosure. Written instructions from a licensed veterinarian must be updated at least every 30 days by a licensed veterinarian and provided to the Animal Services Division by the owner.

(B) Potentially Dangerous Dog Confinement and Maintenance Requirements. ~~and maintenance.~~ The owner of any Potentially Dangerous Dog may redeem their dog upon complying with the following:

- (1) At the owner's expense and before redemption, a potentially dangerous dog must be fitted with microchip identification.
- (2) The owner must pay all outstanding fines and fees due to the Animal Services Department Division.
- (3) The owner must keep the dog under restraint at all times. Restraint under this section includes:

- a) Controlled by means of a chain or other approved tether no longer than 20 feet or a leash no longer than six feet. Voice command and electronic collars are not recognized as adequate restraints.
- b) Within a vehicle being driven or parked, and secured in such manner as to prevent the animal from escaping or causing injury to persons approaching or passing the vehicle. An animal is not under restraint if it is in the back of an open-bed pickup.
- c) Within a fenced enclosure adequate to secure the dog so as to prevent it from escaping from the owner's real property.
- d) Not permitting the dog to go beyond the owner's real property unless the dog is leashed and muzzled.
- e) Comply with any additional requirements as deemed necessary by the Director of Animal Services or designee.

(C) Indoor Confinement. It shall be at the sole discretion of the Animal Services Director to determine if the dog, based on the specifics of its designation, is eligible for indoor confinement. Any proposed indoor confinement shall be submitted and viewed by the Animal Services Director, or their designee, and approved prior to being used for that purpose. However, no indoor confinement shall be permitted in a residential structure where a child under the age of 12 years old resides, or where an adult that is considered vulnerable or incompetent resides.

(D) Penalties. In addition to criminal penalties provided by state law and civil penalties set forth in § 92.99, any person who violates the requirements set forth in this Section divisions (C)(1) and (2) shall be subject to the following sanctions and remedies:

- (1) If a Dangerous Dog is found at large, it shall be seized and impounded. An Animal Services Officer is authorized to go upon private property to seize the Dangerous Dog.
- (2) The Animal Services Division shall have the right to inspect the enclosure at any time. If an inspection of the enclosure reveals that the owner has not complied with the requirements for confining and/or restraining the dog, an Animal Services Officer may issue a civil penalty in conformity with this Ordinance chapter and may impound the dog.
- (3) ~~If the dog is not redeemed within three business days of the impoundment pursuant to this section or if the owner does not request an appeal within the time limit provided in division (B) of this section the dog shall become the property of the county and shall be disposed of in accordance with this chapter.~~
- (4) Subsequent Violations. Upon a second violation of this section, the dog will be impounded immediately and will become the property of the county and will be disposed of in accordance with this chapter.

§92.11.5. REGISTRATION AND TRANSFER OF OWNERSHIP.

(A) Registration. A current registration shall be maintained by the Animal Services Department Division for every dog determined to be Dangerous or Potentially Dangerous. The owner of the dog is responsible for ensuring that the dog is registered. Registrations must include the name and address of the owner, identifying information concerning the dog, a copy of the certificate of insurance, verification of current rabies vaccination, and any other information the animal services division deems necessary. The owner shall register the dog annually with the Animal Services Department Division during the month of January. If the dog dies, the owner is responsible for notifying Animal Services immediately. If ownership is transferred, section division (B) (2) below applies.

(B) Transfer of Ownership. If the owner of a Potentially Dangerous or Dangerous Dog transfers ownership or possession of the dog to another person, the owner must, ten days

prior to the transfer, provide written notice to the Animal Services Director or designee stating the intent to transfer the dog and the name, telephone number, and address of the new owner or possessor of the dog. The new owner must assume all responsibilities regarding the dangerous or potentially dangerous dog. The Animal Services Director or designee must inspect the new, proposed location to ensure compliance with the written order prior to the dog's relocation. If the location does not fall under the jurisdiction of this chapter, the Animal Services Director or designee shall contact the appropriate animal control or law enforcement agency of the owner's intent to relocate the dog in question to a location within such agency's jurisdiction and shall provide copies of all records pertaining to the dog to the agency prior to the dog's relocation. **Any owner of a dog that has been deemed Level 1 Dangerous Dog shall not be eligible to transfer ownership as delineated herein.**

§92.11.6. DANGEROUS DOGS FROM OTHER JURISDICTIONS.

- (A) An owner bringing into the county a dog that has been classified as dangerous or potentially dangerous ~~has an obligation to shall~~ notify Animal Services prior to transferring the dog into the county. Once an owner notifies Animal Services of a dog's classification as dangerous or potentially dangerous classification from another jurisdiction, the Animal Services Director or designee shall contact that jurisdiction to obtain all necessary information to classify the dog according to this chapter. Dogs from other jurisdictions must comply with all Lincoln County laws after their classification. **The Animal Services Director shall have the discretion to disallow the transfer of any Dangerous Dog from another jurisdiction.**
- (B) An owner may appeal the determination of the Animal Services Director according to ~~§92.11.2. division (B) of this section.~~
- (C) **Penalty. If an owner of a dog that has been classified as dangerous or potentially dangerous fails to notify Animal Services of its intent to transfer the dog into Lincoln County, then that owner shall be subject to a penalty of \$500.00 per animal.**

§92.11.7. DECLASSIFICATION.

Any declaration that an animal is potentially dangerous, or dangerous level 2 may be petitioned for declassification as provided in this section.

- (A) An owner of an animal that has been declared Dangerous or Potentially Dangerous under this or a previous version of this Ordinance chapter may request annually that the Animal Services Director or designee submits the declaration in front of the Dangerous Dog Appellate Board for review of the declaration. The request shall be made in writing on an application provided by Animal Services and shall be accompanied by an overall assessment of the animal completed by a competent person accredited by the Certification Council for Professional Dog Trainers or another recognized and approved body. The assessment shall have an emphasis on the behavior underlying the declaration and the owner's ability to manage the animal. The Dangerous Dog Appellate Board shall consider revocation of the declaration only if no violations of this Ordinance chapter or, if applicable, N.C.G.S. § 67-4.1 et al, have occurred within the 18 months preceding the date of application for review. The Dangerous Dog Appellate Board shall further consider the following matters when reviewing the declaration:
- (1) The outcomes of the assessment described in this division;
 - (2) The nature of the original attack/s and the reasons for the original declaration;
 - (3) The manner in which the animal has been cared for and managed since the declaration was imposed; and
 - (4) Evidence of whether the animal's behavior has changed since the declaration due to the animal's age, environment, training, or other factors.
- (B) The Dangerous Dog Appellate Board may revoke the declaration or revise the level of danger after considering the application, the assessment, and the matters described above.

The Dangerous Dog Appellate Board shall issue written findings to the owner stating the reason(s) for his or her decision and, if the Dangerous Dog Appellate Board has denied the revocation, the date upon which the owner may request further review of the declaration by the Dangerous Dog Appellate Board. The Dangerous Dog Appellate Board has complete discretion in making the decision and any final decision is not subject to appeal.

- (C) Any animal that has been deemed potentially dangerous that becomes property of Lincoln County may be declassified at the discretion of the Animal Services Director, or Designee.

§92.11.8. PRIVATE ACTION.

Nothing in this chapter shall prevent a private citizen from bringing an action against the owner of a dog which has caused injury to the private citizen or his property for damages or any other loss resulting from the dog's conduct being dangerous.

§92.11.9. PENALTIES.

Any person who violates a provision of this section shall be subject to the civil penalties listed in § 92.99 of this Ordinance.

(Ord. passed 6-21-2021)

[SECTION 92.12 INTENTIONALLY OMITTED FROM THIS SECTION 1]

§ 92.13 DISPOSITION OF ~~DEAD DECEASED~~ ANIMALS.

Animal Services will investigate allegations of improper disposal of animals and will coordinate with the County Health Department for concerns on public health and safety. The County Health Department will provide consultation for disposal efforts to the responsible party. ~~Animal Services may assess penalties to the responsible party if the animal is not properly disposed of.~~

- (A) **Deceased domestic animals.** The owner of a domesticated animal that dies from any cause must bury the animal in accordance with N.C.G.S. § 106-403, ~~Disposition of dead domesticated animals.~~
- (B) **Deceased animals in the road.** The Department of Transportation shall remove ~~dead deceased animals~~ from the road pursuant to N.C.G.S. § 136-18, ~~Powers of Department of Transportation.~~
- (C) **Deceased animals when owner unknown.** The Animal Services Officer will make every effort to locate the owner of the ~~dead deceased~~ animal and cause him/her to dispose of the animal in compliance with N.C.G.S. § 106-403, ~~Disposition of dead domesticated animals.~~ When the animal's owner cannot be determined, the owner of the land where the animal is located will be responsible for the disposal of the ~~dead deceased~~ animal.
- (D) **Penalty.** Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4, and in addition to criminal enforcement the violator shall be subject to civil penalties as defined in §92.99 of this Ordinance. Each day a violation continues shall be deemed a separate offense, ~~and said violation may also be enforced as set forth in § 10.99 herein.~~

(Ord. passed 6-21-2021; Ord. passed 3-21-2022)

§ 92.14 IMPOUNDMENT OF ANIMALS.

- (A) **Impoundment.** Domesticated or exotic animals may be impounded when found at large, determined to be stray, or upon any exigent circumstances deemed necessary by the Animal Services Director or designee.
- (B) **Notice to owner of impounded animal.** Animal Services will make every reasonable effort to attempt to contact animal owners where an owner may be suspected, or owner information exists.

(Ord. passed 6-21-2021)

§ 92.15 DISPOSITION OF ANIMALS.

~~Disposition of~~ Animals in the custody of Animal Services ~~eustody~~ will be disposed of as follows:

- (A) **Stray Animals.** Stray animals will be held for a period of 96 hours to allow owners to reclaim the animals pursuant to N.C.G.S. § 19A-32.1, ~~Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.~~
- (1) Cats deemed to be feral by the Animal Services Director or designee will be held for a period of 72 hours. For the purposes of this section, feral shall mean a domesticated feline that is unsocialized and unclaimed but lives within the community. ~~a cat that has escaped from a domestic or captive status and is living as a wild animal or a cat which was never domesticated.~~
- (B) **Reclaim of Animals.** Animals can be reclaimed by owners for fees in accordance with the Lincoln County fee schedule. The owner of an impounded animal shall be entitled to redeem such animal, except as provided in this Ordinance chapter, upon the payment of all redemption fees ~~as provided in § 92.99 below~~, and upon furnishing proof of ownership. Animals cannot be reclaimed without proof of a current rabies vaccine, or a rabies vaccine given by Animal Services Certified Rabies Vaccinators (CRVs).
- (1) In addition to this, dogs ~~will need~~ shall be required to wear rabies vaccination tags upon reclaim pursuant to N.C.G.S. § 130A-190, ~~Rabies vaccination tags.~~
- (C) **Failure to Reclaim.** If an animal is not reclaimed after 96 hours ~~then the animal~~ stray animals will be made available for ~~the additional outcomes of:~~ adoption, transfer to a rescue group, or euthanasia per N.C.G.S. § 19A-32.1, and shall become property of Lincoln County Animal Services.
- (D) **Owner Surrender.** Owner surrendered animals with proof of ownership will be made available for disposition ~~by the Director of Animal Services or designee~~ after a period of 24 hours, unless the 24-hour period has been waived by the Owner.
- (E) Nothing in this section shall prevent an animal that is seriously ill or injured from being euthanized for humane reasons prior to the end of stray hold per N.C.G.S. § 19A-32.1.

(Ord. passed 6-21-2021)

§ 92.16 RECORD KEEPING.

~~Record keeping responsibilities.~~ Animal Services shall be responsible for properly keeping and providing any and all public records regarding its operation of the Animal Shelter and Field Services (occasionally referred to as Animal Control) as determined by Chapter 132 of the North Carolina General Statutes.

~~(A) N.C.G.S. § 132-2, Custodian designated;~~

~~(B) N.C.G.S. § 132-3, Destruction of records regulated;~~

~~(C) N.C.G.S. § 132-6, Inspection, examination and copies of public records;~~

~~(D) N.C.G.S. § 132-8, Assistance by and to the Department of Natural and Cultural Resources; and~~

~~(E) The North Carolina Animal Welfare Act and Administrative Code.~~ (Ord. passed 6-21-2021)

§ 92.17 RELATION TO OTHER LAWS.

- (A) **Hunting laws.** Nothing in this chapter is intended to be in conflict with the laws of the State of North Carolina regulating, restricting, authorizing or otherwise affecting dogs while used in hunting, but this exception applies only while the dogs are under the control of the owner, or competent person, and are actually lawfully being used for hunting, or training for hunting in compliance with applicable statutes, regulations, or ordinances. This chapter should be read and enforced consistent with any such laws.

- (B) **Legal veterinary activities.** Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this chapter except for the provisions relating to cruelty to animals and rabies control.
- (C) **Wildlife and research laws.** The provisions of this chapter shall not apply to the keeping of wild and dangerous animals as follows, provided, such keeping is in all respects in compliance with applicable federal and state rules and regulations:
- (1) Animals used for teaching and/or research purposes.
 - (2) Wildlife rehabilitators licensed by the state or the federal government to provide such services.
- (D) **Livestock laws.** Nothing in this chapter is intended to be in conflict with the laws of the State of North Carolina regulating livestock. This chapter should be read and enforced consistent with any such laws.
- (Ord. passed 6-21-2021)

§ 92.18 ANIMAL SERVICES ADVISORY BOARD.

- (A) **Board creation.** There is hereby created an Animal Services Advisory Board to advise the County Commissioners, County Manager, and Animal Services Director on the organization and operation of the Lincoln County Animal Services Department.
- (B) **Board composition.** The Advisory Board shall be composed of nine members appointed by the Board of Commissioners. All members must reside at all times in the county. This Board shall include one member from each of the following categories:
- (1) Rural area member (must live in an unincorporated area);
 - (2) Veterinarian;
 - (3) Health Director or their designee;
 - (4) Hunter;
 - (5) Law Enforcement Officer;
 - (6) Urban area member (must live in an incorporated municipality);
 - (7) No Kill Philosophy Representative;
 - (8) Community Animal Group Representative; and
 - (9) Member at large.
- Each member appointed to serve on the Animal Services Advisory Board is required to visit the Lincoln County Animal Shelter at least once per year. Failure to do so, shall result in a report from the Animal Services Director to the Board of Commissioners. Any Board member failing to attend regular meetings for at least 50% of the year shall also be reported to the Board of Commissioners for review and consideration.
- (C) **Terms.** For the initial terms, four of the members shall be appointed for one-year terms, and five of the members shall be appointed for two-year terms. All subsequent appointments shall be for two-year terms, so that the membership appointments are staggered. Board members shall serve their complete terms unless removed for any reason by the Board of Commissioners. In the event of any vacancy on the Board, the Board of Commissioners shall appoint a replacement member.
- (D) **Successive terms.** An Animal Services Advisory Board member may be appointed to a maximum of three successive two-year terms but to no more than two successive terms in the same seat.
- (E) **Selection of officers.** The Board shall select in its first meeting of each calendar year, a Chair~~man~~ and Vice-Chair~~man~~, and secretary. The Chair~~man~~ shall call all regular and any special meetings of the Board and shall preside at those meetings. In the absence of the Chair~~man~~, the Vice-Chair~~man~~ shall preside at any regular or called meeting. In the absence of the Chair~~man~~ and the vice-Chair~~man~~, the secretary shall preside a vote for an Interim-Chair shall be had at the beginning of the meeting that shall serve until the return of either the Chair or the Vice-Chair. A Clerk shall be appointed by the Animal Services Director and

shall be an employee of the Animal Services Department.

- (F) **Animal Services responsibilities.** The Animal Services Director or ~~his or her~~ their designee will attend all meetings of the Animal Services Advisory Board and shall be responsible for the proper advertisement of meetings, and the recording of minutes. ~~They~~ He or she ~~also~~ shall serve as the staff resource for the Board in its research and deliberations. However, ~~they he or she~~ shall have no vote on any matter coming before the Board.
- (G) **Meetings.** The Animal Services Advisory Board will meet on a quarterly basis for review and discussion of any issues that it deems appropriate regarding the operation of the Animal Services Department. Additional meetings may be scheduled if requested by the County Commissioners, County Manager, Animal Services Director, or the chairman of the Board.
- (Ord. passed 6-21-2021)

§ 92.19. ABANDONMENT OF ANIMALS.

- (A) **Abandonment.** A person commits the crime of Abandonment if the person intentionally, knowingly, recklessly or with negligence leaves a domestic, livestock, and/or an exotic animal at a location without providing minimum care for a period exceeding 24 hours.
- (B) **Penalty.** Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. In addition to criminal enforcement of this section, any person found to be in violation of this section shall be subject to civil penalties as defined in §92.99 of this Ordinance. Each day a violation continues shall be deemed a separate offense.

§ 92.20. INSPECTIONS, INTERFERENCE AND CONCEALMENT.

- (A) **Inspections.** Whenever it is necessary to make an inspection to enforce any of the sections of this chapter or other applicable law or whenever an Animal Services Officer or the Director of Animal Services has probable cause to believe that there exists in any building or upon any premises any violation of this Lincoln County Animal Ordinance or other applicable law, the Animal Services Officer(s) are empowered to enter and inspect such property at any reasonable time and perform any duty imposed upon them by this Ordinance or other applicable law, but only if the consent of the occupant or owner of the property is freely given, an administrative search warrant, or criminal search warrant is obtained or if legally recognized exigent circumstances exist, as follows:
- (1) If such property is occupied, an Animal Services Officer and/or Director shall first present credentials to the occupant and request entry, explaining the reasons for entry;
 - (2) If such property is unoccupied, an Animal Services Officer and/or Director shall first make a reasonable effort to locate the owner or other person having control of the property, present proper credentials, and request entry, explaining the reasons for entry;
 - (3) If such entry is refused or cannot be obtained because the owner or other person having control or charge of the property cannot be found after due diligence, an Animal Services Officer and/or the Animal Services Director may obtain an appropriate warrant to conduct a search or inspection of the property or seizure on the property.
 - (4) Notwithstanding any other section of this Ordinance, an Animal Services Officer and/or Director shall have the authority to enter upon any land to enforce this Ordinance or other applicable law if a violation of such law is being committed in the presence of the Animal Services Officer or the Animal Services Director and such entrance is otherwise allowed by law. Any such entry upon private property shall not be deemed to be a trespass.
- (B) **Interference.** It shall be unlawful for any person to interfere with, hinder, molest, resist, or obstruct an Animal Services Officer and/or the Animal Services Director while they are carrying out any duty created under this Ordinance or other applicable law.
- (C) **Concealment of Animal(s).** It shall be unlawful for any person to conceal, for the purpose

of evading the permit requirement or rabies inoculation requirement of this Ordinance or any other law, any unlicensed, uninoculated or unpermitted animal from any employee of the Lincoln County Animal Services.

- (D) **Concealment of license, permit, or rabies inoculation.** It shall be unlawful for any person to refuse to show proof of a permit, or a rabies inoculation to any employee of the shelter upon request.
- (E) **Penalty.** Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. In addition to criminal enforcement of this section, any person found to be in violation of this section shall be subject to civil penalties as defined in §92.99 of this Ordinance Each day a violation continues shall be deemed a separate offense.

§92.21. PROTECTIVE MEASURES FOR THE CONTAINMENT OF ANIMALS.

(A) **Circumstances requiring special preventive measures.** The Director of Animal Services, or their designee, shall have the authority to require the owner or custodian of an animal to comply with specific preventive measures, as described in subsection (B) of this section, whenever Animal Services has the authority to seize the animal for possible forfeiture or when otherwise authorized by this chapter. Preventive measures shall only be ordered after taking into consideration the totality of the circumstances, including, but not limited to, the following:

- (1) Nature of the particular animal. The behavior, size, temperament, breed, capacity for inflicting serious injury, number of animals or other such similar factors that would be relevant to a determination of whether preventive measures need to be imposed for a particular situation;
- (2) Adequacy of confinement. The adequacy of the current enclosure or confinement, if any;
- (3) Immediate surrounding area. The likelihood that the conditions pertaining to the particular animal and the animal's confinement are detrimental to the safety or welfare of citizens or the peace and tranquility of citizens in the immediate surrounding area;
- (4) History and ability. The history of the animal and the animal's owner in compliance or noncompliance with this chapter as well as the owner's ability to adequately restrain the animal when considering all relevant factors.

(B) **Preventive Measures.** If an Animal Services Officer, in consultation with the Director determines that the circumstances require special preventive measures, the Director shall have the authority to require the any or all of the following:

- (1) Appropriate, specific preventive measures which might include, but are not limited to, the following: necessary repairs for any fence or enclosure, measures to ensure that a gate will remain closed, a fence or secure fence as described in this subsection or any other similar device that would provide greater assurance for the confinement of the animal, all of which are subject to being specifically approved for their adequacy by the shelter.
- (2) A fence shall be at least a minimum of four feet high and shall constitute a secure enclosure sufficient to contain the animal at all times. The minimum size of the enclosure may be at least 100 square feet. If the animal is over 15 inches at the shoulder or is deemed capable of climbing a standard four-foot fence, the Animal Services Director may require a six-foot fence. A secure fence means a fence, as immediately described above, that may also be enclosed on all six sides, including the top. The bottom must be concrete, unless the sides of the fence are buried one foot deep in a hard-packed soil. Any reference to "fence" or "secure fence" shall be defined as stated in this subsection. Preventive measures may also specifically include mandatory spay/neuter for any animal that has been declared dangerous by Lincoln County Animal Services.
- (3) The owner microchip the animal at the owner's expense if that is necessary for

identification, investigative or enforcement purposes.

- (4) The owner procure liability insurance in the amount of at least \$100,000.00 at the owner's expense or to have the animal microchipped and/or to display a sign on the premises warning of the animal on the premises. The shelter shall have the authority to require the owner to show signed, written statements about maintaining the liability insurance, the designated enclosure for the animal and the duty to notify Animal Services if the animal escapes, and to require the owner to give the shelter the authority to seize and impound the animal if the owner fails to comply with this subsection.
- (C) **Containment Order.** If an Animal Services Officer determines that specific preventive measures must be complied with by the owner of an animal, Animal Services shall make reasonable efforts to notify the owner of the containment order. All containment orders shall be in writing and shall state the reasons that preventive measures are required, shall identify the specific preventive measures that must be implemented, and shall state the designated time period within which to comply with the containment order. The Animal Services Director, or their designee, shall have the authority to exercise discretion for extensions of time if that is reasonable in view of the good-faith progress of the owner in implementing the preventive measures.
- (D) **Failure to Comply with Containment Order.** It shall be unlawful for an owner to fail to comply with a containment order within the designated time for compliance stated in the written order or any extension thereof. Any person found to be in violation of this section shall be subject to a fine of two hundred fifty dollars (\$250.00) Each day a violation continues shall be deemed a separate offense, and the dog may be subject to seizure under this Ordinance.
- (E) **Owner's Appeal of Containment Order.** The owner may submit in writing an appeal to the Director's determination that subsection (a) of this section is applicable to the owner's premises or submit in writing a challenge to the specific preventive measures required by the Director within 3 business days of the Containment Order being issued. The appeal must be filed with the Dangerous Dog Appellate Board, and said the Board shall hold a hearing on the matter within 10 days of the appeal being filed. Any appeal filed hereunder shall be subject to the procedural requirements set forth in §92.11.2 of this Ordinance. If the animal has been seized and the owner wishes to appeal the seizure and potential forfeiture as well as challenge the containment order, both matters may be addressed in the same hearing.

§92.22. HARBORING STRAY ANIMALS.

- (A) **Harboring Unlawful.** Unless otherwise mandated by state law, it shall be unlawful for any person, without the consent of an animal's owner or keeper, to knowingly and intentionally harbor or keep in possession by confinement any animal that does not belong to them.
- (B) **Reporting Required.** Any person in possession of a stray animal shall fill out a Report provided by Lincoln County Animal Services (in person or on the website) within 72 hours to provide notice of the stray animal's description and location or to arrange for intake. Upon receipt of the Report, Animal Services may take the animal and process it as provided for in this Ordinance.
- (C) **Stray Hold.** The 96-hour stray hold shall not begin until the animal is reported to Lincoln County Animal Services. Any person who gives away, sells or allows an otherwise stray or abandoned animal to be adopted without first surrendering the animal to Animal Services shall have no authority over the animal and ownership shall remain with the previous owner to the extent the previous owner is able to be identified.
- (D) **Removal of Identification.** It shall also be unlawful for any person other than the owner or keeper of the animal to remove its collar, license tag, or rabies tag, and shall be considered a Class 3 Misdemeanor.
- (E) **Refusal to Surrender.** It shall be unlawful for any person to refuse to surrender such an

animal to an employee of the shelter upon demand and shall be considered a Class 3 Misdemeanor.

§92.23. SEIZURE, FORFEITURE AND DISPOSITION OF ANIMALS.

(A) Authority to seize and forfeit animals. In addition to any other authority or procedure authorized by this Ordinance or by any other law to seize an animal, Lincoln County Animal Services Officers shall have the authority to immediately seize and forfeit to the Animal Shelter any animal if, and only if, the Animal Services Director, or their designee, has probable cause to believe that the animal:

- (1) Under the totality of the circumstances, is dangerous or prejudicial to the public safety or public health and the county has issued a probable cause notice on the animal pursuant to the Lincoln County Dangerous Dog Ordinance (§92.11.1 through §92.11.9);
- (2) Is the subject of a violation of the following sections of this Ordinance:
 - i. §92.19 – Abandoned Animals
 - ii. §92.06 – Animal Cruelty
 - iii. §92.07 – Animal Tethering
 - iv. §92.08 – Leash Law
 - v. §92.09 – Nuisance
 - vi. §92.10 – Rabies Control
 - vii. §92.12.1 through §92.12.6 – Lincoln County Exotic Animals Ordinance
- (3) Is the subject of a violation of this Ordinance that is punishable by escalating civil penalties and the escalated penalty appropriate to the specific violation includes seizure of the animal

(B) General Seizure Procedures. The seizure of any animal under this Ordinance shall be done in a manner consistent with State and Federal law.

- (1) Notice and Holding Period. Animal Services shall conduct reasonable efforts to identify, locate, and notify the animal's owner prior to seizure. The animal shall be held 4 business days, from the date notice is sent to the owner or from the date of seizure if the owner cannot be identified or located after reasonable efforts to do so. The notice, if sent, shall include the following statements:
 - i. An order to the animal's owner to contact the Animal Shelter immediately.
 - ii. A brief statement of the date, location, and reason for the seizure of the animal.
 - iii. A statement that the animal is subject to forfeiture within four business days from the date the notice was sent, if the owner fails to respond to the Notice.
 - iv. A statement that a hearing will be held, at the owner's request, to determine if the animal shall be forfeited.
 - v. A statement of the methods by which the owner may contact the Animal Shelter.
- (2) Hearing. A hearing shall be held if the owner contacts the shelter within the four (4) business days and requested a hearing. The hearing shall be conducted in the same manner and with the same remedies and consequences as those set out in the Lincoln County Dangerous Dog Ordinance.
 - i. If the violation that is the basis of the seizure is found to have occurred, the Board shall have the authority to order the same remedies available in the Lincoln County Dangerous Dog Ordinance for a Potentially Dangerous Dog.
 - ii. If a forfeiture is ordered, the animal may be placed for general adoption to the public.
- (3) Failure to Contact. If the animal's owner fails to contact the Animal Shelter and request a hearing within the 4 business days after the notice is sent, the animal shall be forfeited to the Animal Shelter, and may disposed of as provided for herein.

(C) Dangerous Dogs. Any seizure of a Dangerous Dog or Potentially Dangerous Dog shall be consistent with the requirements set forth in the Lincoln County Dangerous Dog Ordinance.

(D) Applicability. This Section does not permit an Animal Services Officer to enter onto the private property of an individual, without the individual's permission, to seize an animal unless exigent circumstances exist that require such action. Any entry onto private property shall be in accordance with all applicable laws and regulations, and Animal Services Officers shall work with the Lincoln County Sheriff's Office or the Lincoln Police Department, if necessary.

§ 92.99 FEES AND PENALTIES.

(A) Fees Related to Animal Services. Fees shall be charged in accordance with the Lincoln County Fee Schedule ~~schedule of fees~~ adopted by the Lincoln County Board of Commissioners on an annual basis, and as may be amended from time to time. Fees may be waived or reduced by the Animal Services Director, their designee, or the County Manager designee at his or her discretion, and as allowed by law.

ANIMAL SHELTER	
FEE/FINE	AMOUNT
Cat Adoption	\$20
Dog Adoption	\$80
Pocket Pet Adoption	\$10
Livestock Adoption (after auction)	\$20
Senior Citizen/Armed Forces Cat Adoption	\$0
Senior Citizen/Armed Forces Dog Adoption	\$0
Multiple Cat Adoption	\$10
Fee Waived Adoption Event Adoption	\$0
Adoption Special Adoption	Variable fees
Rescue Pull	\$0
Altered Animal Reclaim 1 st Offense	\$0
Altered Animal Reclaim 2 nd Offense	\$25
Altered Animal Reclaim 3 rd + Offense	\$50
Unaltered Animal Reclaim 1 st Offense	\$25
Unaltered Animal Reclaim 2 nd Offense	\$50
Unaltered Animal Reclaim 3 rd + Offense	\$100
Shelter Bite Quarantine Fee	\$50
Daily Board Fee	\$10
Rabies Vaccination Fee	\$7
Trap Rental Fee	\$40
Returned Check Fee	\$25
Low Cost Cat Spay/Neuter	\$20
Low Cost Dog Spay/Neuter	\$50
Cat Carrier	\$5

ANIMAL SERVICES FINES	
FINE	AMOUNT
Warning Violation	\$0
1 st Offense Civil Citation	\$100
2 nd Offense Civil Citation	\$200

3rd Offense Civil Citation	\$300
4th Offense Civil Citation	\$400
5th Offense Civil Citation	\$500
Field Return to Owner	\$0
Exotic License Permit per Household	\$250 \$150
Reinstatement of Exotics Permit	\$300

If the offender fails to pay the penalties within 20 days after having been cited, the county may recover the penalties in a civil action in the nature of debt. In addition, the county may, in its discretion, take all actions to prevent violations of this chapter and to enforce the payment of any such fines including, but not limited to, civil actions for injunctions, abatements, and monetary judgements for outstanding fines, including, to the extent allowed by law, the county's court costs and attorney's fees.

(B) Civil Penalties. Any violation under the Lincoln County Animal Ordinance shall be subject to criminal enforcement as stated herein, and shall also be subject to the Civil Penalties established as follows:

<u>Type of Citation</u>	<u>Penalty Amount</u>
<u>Warning Citation</u>	<u>\$0.00</u>
<u>First Citation (following term of Warning)</u>	<u>\$100.00 per day</u>
<u>Second Citation</u>	<u>\$200.00 per day</u>
<u>Third Citation</u>	<u>\$300.00 per day</u>
<u>Fourth Citation</u>	<u>\$400.00 per day</u>
<u>Fifth and Subsequent</u>	<u>\$500.00 per day</u>

- ~~(1) Discretion of Officer.~~ If the Animal Services Officer believes that the violation is so extreme as to require the issuance of a First Citation then they shall be permitted to forego the warning citation, so long as said decision is approved by the Animal Services Director, or their designee.
- ~~(2) Court Action.~~ If the Offender fails to pay all Civil Penalties within 20 days of a citation being issued, the County may recover said civil penalties in a civil action in the nature of debt, which may include, but is not limited to court action or debt setoff.
- ~~(3) Repeat Violations.~~ After having been cited for a violation of this Ordinance, an offender shall be subject to an escalating civil penalties for any additional violations within the following 12-calendar-month period with a warning citation starting with \$100.00 per day.

(C) Injunctive Relief or Equitable Remedy. Notwithstanding the assessment of civil penalties as provided above, the County may pursue a civil action seeking a mandatory or prohibitory injunction and order of abatement or other equitable remedy against the Offender of this Ordinance. The action may be in addition to, and not in lieu of, civil penalties.

(D) Penalty:

- ~~(1) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to the penalties of § 10.99.~~
- ~~(2) Violation of § 92.06 shall constitute a misdemeanor. Any person convicted of violating this section shall be punished by a fine not to exceed \$50 or by imprisonment not to exceed 30 days or both. Each day during which a violation continues shall be determined a separate and distinct offense.~~

Section 2. Section 92.12 of Chapter 92 is deleted in its entirety and replaced with the following:

EXOTIC ANIMALS ORDINANCE

§ 92.12.1. TITLE.

This subchapter of the Lincoln County Animal Ordinance shall be considered the Lincoln County Exotic Animals Ordinance.

§ 92.12.2. PURPOSE AND STATUTORY AUTHORITY.

The purpose of the Lincoln County Exotic Animals Ordinance is to protect the general public from the inherent risk posed by dangerous exotic animals. These risks included, but are not limited to, public health risks associated with the spread of disease and safety risks of the general public that may arise from the allowance of inherently dangerous animals for private ownership.

Pursuant to N.C.G.S. §153A-121, the County is authorized to regulate, restrict or prohibit the possession or harboring of animals which are dangerous to persons or property.

§ 92.12.3. DEFINITIONS.

For the purposes of this Lincoln County Exotic Animals Ordinance, the following terms, words and their derivations shall have the meaning as defined herein, unless the context clearly indicates that another meaning is intended.

INHERENTLY DANGEROUS EXOTIC ANIMAL. Any mammal, reptile or arachnid which is a member of a species that, due to the inherent nature of the species, may be considered dangerous to humans. Inherently dangerous exotic animals specifically include, but are not limited to, any or all of the following orders and families, whether bred in the wild or in captivity, and any or all hybrids thereof (all animals listed in parenthesis are intended as examples and shall not be construed as an exhaustive list or limit the generality of each group of animals *unless* otherwise specified):

- (A) **CLASS MAMMALIA**, which includes
 - (1) Order Artiodactyla (such as hippopotami, giraffes, and camels)
 - (2) Order Carnivora, which includes:
 - i. Family Felidae (such as lions, tigers, panthers, leopards, jaguars, ocelots, and servals)
 - ii. Family Canidae (such as such as wolves and jackals)
 - iii. Family Ursidae (all bears)
 - iv. Family Mustelidae (such as weasels, martins and minks)
 - v. Family Procyonidae (such as coatis)
 - vi. Family Hyaenidae (all hyenas)
 - vii. Family Viverridae (such as civets, genets and mongooses)
 - (3) Order Edentatia (such as anteaters, armadillos, and sloths)
 - (4) Order Marsupialia (such as kangaroos and wallabies)
 - (5) Order Perissodactyla (such as rhinoceroses and tapirs, but not horses, donkeys, or mules);
 - (6) Order Primates (such as lemurs, monkeys, chimpanzees, baboons, gorillas, and all other non-human primates);
 - (7) Order Proboscidae (all elephants);
 - (8) Order Rodentia
- (B) **CLASS REPTILIA**, which includes:
 - (1) Order Squamata, which includes:
 - i. Family Varanidae (only water monitors and crocodile monitors)
 - ii. Family Iguanidae (only rock iguanas)
 - iii. Family Boidae (only those whose actual length exceeds eight (8) feet)
 - iv. Family Colubridae (only boomslangs and African twig snakes)
 - v. Family Elapidae (all species, including but not limited to coral snakes, cobras, mambas)
 - vi. Family Nactricidae (only keelback snakes)

- vii. Family Viperidae (all species, including but not limited to cottonmouths)
- viii. Family Helodermodidae (such as gila monsters and Mexican beaded lizards);
- ix. Family Crotalidae (such as pit vipers)
 - x. Family Atractaspidae (such as burrowing asps)
 - xi. Family Hydrophilidae (such as sea snakes)
- (2) Order Crocodilia (all species, including but not limited to crocodiles, alligators, caimans, gavials)
- (C) *CLASS ARACHNIDA*, which includes:
 - (1) Order Araneae (only spiders which are venomous, but excluding tarantulas);
 - (2) Order Scorpionida (all scorpions).

OWNER: This term shall have the same meaning as set forth in §92.03 of this Ordinance. For the purposes of this Exotic Animals Ordinance, Owner shall also include one who allows an exotic animal to remain in, be lodged, fed, given shelter or refuge within the Owner's home, store, yard, enclosure, accessory structure, abandoned vehicle or building, place of business or any other premises in which the person or entity resides has control of.

§ 92.12.4. EXEMPTIONS.

- (A) This Prohibition set forth in § 92.12.5 of this Ordinance shall not apply to:
 - (1) Veterinary clinics in possession of any Inherently Dangerous Exotic Animal for the treatment or rehabilitation of the animal;
 - (2) Any institution operated under licensure and regulation of the U.S. Department of Agriculture (USDA);
 - (3) Any institution accredited by the American Zoo and Aquarium Association;
 - (4) Any animal control authority or law enforcement officers acting under the authority of this Ordinance;
 - (5) Persons temporarily transporting any Inherently Dangerous Exotic Animal(s) through Lincoln County, providing that such transport shall not be longer than 24 hours, and the animal(s) is at all times maintained within a confinement sufficient to prevent its escape;
 - (6) Any licensed or accredited research medical institution or education institution; and
 - (7) Any person owning or harboring an animal that is indigenous to North Carolina or Lincoln County and are regulated and subject to the requirements for captivity permits under the rules of the North Carolina Wildlife Resources Commission as contained in 15A N.C.A.C. 10H, or any successor rules and regulations thereto.
- (B) Exempted Animals. The following animals shall not be considered an Inherently Dangerous Exotic Animal for the purpose of this Ordinance, and shall be excluded from the definition set forth in § 92.12.3 of this Ordinance:
 - (1) The species *Homo sapiens* (humans);
 - (2) All domestic dogs, but not hybrids with wolves, coyotes, or jackals;
 - (3) All domestic cats, but not hybrids with ocelots or margays;
 - (4) The species *Equus caballus* (domestic horses);
 - (5) The species *Equus asinus* (asses, donkeys);
 - (6) The following members of the sub-family Bovine: the species *Bos Taurus* (cattle), the genus *Bison* (American Buffalo), and the genus *Bubalus* (water buffalo);
 - (7) The species *Ovis ammon aries* (sheep);
 - (8) The species *Capra hircus* (goats);
 - (9) The subspecies *Sus scrota domestica* (swine);
 - (10) Domesticated races of the species *Gallus gallus* or *Meleagris gallapavo* (poultry);
 - (11) Domesticated races of the species *Mesocricetus auratus* (golden hamsters);
 - (12) Domesticated races of the subspecies *Cavia aperea procellus* (guinea pigs);

- (13) Domesticated races of rats and mice (white or albino, trained, laboratory reared);
- (14) Domesticated races of the species *Chinchillas laniger* (chinchillas);
- (15) Domesticated races of the species *Oryctolagus cuniculus* (rabbits);
- (16) Domesticated species of the family Camelid (including camels, llamas, and alpacas);
- (17) All captive-bred members of the species of the families Psittacidae (parrots, parakeets), Anatidae (ducks), Fringillidae (finches), Columbidae (doves and pigeons), and Ratite (flightless birds, including ostriches, emus, and rheas);
- (18) All captive-bred members of the species *Serinius canaria* of the class Aves (canaries);
- (19) Domesticated races of the species *Carassius auratus* (goldfish);
- (20) Captive-bred members of the superorder Teleostei of the class Osteichthyes (common freshwater and salt-water aquarium fish);
- (21) Captive-bred, non-venomous or non-poisonous members of the suborder Serpentes (snakes);
- (22) Captive-bred members of the suborder Cryptodira (turtles);
- (23) All species of the class Insecta (insects) not considered life-threatening to humans, specifically including, but not limited to, *Apis mellifera* (common honeybee);
- (24) All species of the class Arachnida (spiders, scorpions, and related) not considered life-threatening to humans; and
- (25) Any other animal determined by Animal Services Director to be exempted from this Ordinance. The Director may not exempt an animal from this Ordinance that is specifically prohibited within the terms of this Ordinance. Any animal exempted hereunder shall also be approved by the County Manager.

§ 92.12.5. PROHIBITION.

- (A) Unlawful Possession and/or Ownership. It shall be unlawful to own, possess, keep, harbor, or bring into Lincoln County, have in one's possession, act as a custodian for, or have custody of an Inherently Dangerous Exotic Animal within Lincoln County.
- (B) Pre-Existing Inherently Dangerous Exotic Animals. Any Owner of an Inherently Dangerous Exotic Animal that is existing and/or present within Lincoln County prior to, or at the time, this ordinance is adopted shall be required to remove said Inherently Dangerous Exotic Animal from Lincoln County within 180-days of the effective date of this Ordinance.
- (C) Unlawful Release. It shall be unlawful for the release or abandonment of an Inherently Dangerous Exotic Animal within Lincoln County intentionally or for the purpose of meeting those requirements set forth in subsection (A) or (B) of this Section.
- (D) Prohibited in Public. It shall be unlawful for any person or entity, even those exempted from the prohibition under this Exotic Animals Ordinance, to carry or possess an Inherently Dangerous Exotic Animal in a public space, and outside of the confines of their private property.
- (E) Penalty. Violation of any prohibition in (A) through (D) of this section shall be punishable as a Class 3 misdemeanor, and a person may be charged with a violation of more than one subsection herein. In addition to criminal enforcement of this section, any person found to be in violation of this section shall be subject to a civil penalty in the amount of \$500.00 for each subsection. Each day a violation continues shall be deemed a separate offense.

§ 92.12.6. IMPOUNDMENT AND/OR DISPOSITION OF INHERENTLY DANGEROUS EXOTIC ANIMALS.

The following provisions govern the impoundment and/or disposition of Inherently Dangerous Exotic Animals within Lincoln County in contravention of this Ordinance:

- (A) Impoundment. The Animal Services Department may immediately take custody of and

impound an Inherently Dangerous Exotic Animal if the Animal Control Department determines in its discretion that it has facilities sufficient to safely house the animal and that the impoundment can be undertaken without injury to persons or property. The owner or possessor of said animal shall be liable for the costs of capture, placement, and care for the Inherently Dangerous Exotic Animal from the time the attempt to capture begins or impoundment occurs (whichever happens first) until the time the animal has been relocated to an approved facility as set forth hereunder, or has been returned to the owner/possessor (in the case of an exempt entity or person), or has been destroyed. Recovery of said costs may be in the form of civil penalties.

- (1) Bond or Deposit.** If an Inherently Dangerous Exotic Animal is impounded as set forth herein, the owner or possessor must, within seventy-two (72) hours of impoundment, post a bond or cash deposit with Lincoln County in an amount sufficient to guarantee payment of all reasonable expenses incurred and expected to be incurred in capturing, caring for, and providing shelter for the animal. Any bond shall be approved by the Finance Director, or their designee, prior to acceptance.

 - (i) Reasonable Expenses.** Reasonable expenses shall include, but are not limited to, the estimated cost of feeding, medical care and boarding for a period of no less than thirty (30) days, plus the cost associated with the relocation of the animal as set forth hereunder.
 - (ii) Relocation.** The Bond or Deposit shall not prevent Animal Services from relocating the animal at any time, provided that, upon such relocation the Animal Services Director shall recovery under the bond or deposit only the sums actually incurred in connection with the expenses.
 - (iii) Extension.** Animal Services may, in its discretion, keep the animal under its impoundment for a period of not more than sixty (60) days if the possessor/owner has made a deposit or bond sufficient to cover said time frame.
 - (iv) Calculation of Bond or Deposit.** In all cases, the amount of the bond or deposit shall be determined by Animal Services and shall be based on the current rate of feed, the estimated cost to provide medical care for, and to house the animal. In addition, it should also include an expected cost to relocate the animal and any costs incurred for capturing the animal, if applicable.
- (2) Compliance with Bond or Deposit.** If an Inherently Dangerous Exotic Animal is impounded and the owner/possessor *successfully* complies with the provision of a Bond or Deposit (as required herein) then the Director, or their designee, shall attempt to find proper and safe housing for said animal outside of Lincoln County through placement of the animal with an institution or location with the proper accreditation or licensure to accept the animal into their care.
- (3) Non-Compliance with Bond or Deposit.** If an Inherently Dangerous Exotic Animal is impounded and the owner/possessor *does not* comply with the provision of a Bond or Deposit (as required herein) then the Director, or their designee, may, in their discretion, attempt to find proper and safe housing for the animal outside of Lincoln County, but is not required to do so.
- (4) Exempted Ownership under § 92.12.4(A).** Any owner/possessor of an Inherently Dangerous Exotic Animal that is exempted pursuant to §92.12.4(A) of this Ordinance shall not be required to place a Bond or Deposit as set forth in subsections (1) through (3) immediately above. However, any costs incurred by the County for the capture and/or impoundment of the animal shall be paid to Lincoln County prior to return of the animal,

if all of the following criteria are met:

- (i) The impounded animal escaped or was released from an exempt entity or person;
- (ii) The animal can safely be impounded and returned to the exempt entity or person or can safely be recaptured by said entity or person; and
- (iii) The exempt entity or person has taken reasonably sufficient steps to assure that the animal will not escape or be released in the County again; and
- (iv) The animal has not previously escaped or been released in the County.

(B) Animal to Remain in Care of Possessor. If the Animal Services Director, or their designee, determines that the Inherently Dangerous Exotic Animal cannot be captured and impounded by the Animal Services Department, the Director may authorize and direct the owner/possessor to retain the animal and within a period of not more than thirty (30) days, relocate the animal to proper and safe housing located outside of Lincoln County with an institution or location with the proper accreditation or licensure to accept the animal into their care.

- (1) **Limited Applicability.** This provision shall only be available if the Inherently Dangerous Exotic Animal has not caused injury to persons or property, and that the possessor/owner has facilities sufficient to safely house the animal in a way that prevents said animal from escape or causing any such injury during the period for when its being relocated.
- (2) **Non-Waiver of Penalties.** The decision of the Animal Services Director to allow for the owner/possessor to retain the animal shall not in any way constitute a waiver of any civil penalties associated with the violation of § 92.12.5, and said civil penalties shall continue to accrue daily until the animal is adequately relocated. In addition, this shall not waive the rights of the County for criminal enforcement any violation of this Ordinance.

(C) Destruction of Inherently Dangerous Exotic Animal. Unless otherwise prohibited by the Federal Endangered Species Act or any other applicable federal or state law, the Director may immediately destroy an Inherently Dangerous Exotic Animal in a humane manner if:

- (1) It is determined that the Inherently Dangerous Exotic Animal cannot be taken into custody or impounded without injury to person or property; or
- (2) The possessor/owner of the Inherently Dangerous Exotic Animal fails to timely post the bond or cash deposit as required herein; or
- (3) Proper and safe housing cannot be found for the Inherently Dangerous Exotic Animal as set forth herein;
- (4) The Inherently Exotic Dangerous Exotic Animal has previously escaped or been released from an exempt entity or person within the last year and poses a risk to person or property.

Section 3. This shall be effective October 1, 2025.

Adopted this the 15th day of September, 2025.

ATTEST:

Jennifer M. Farmer

Jamie Lineberger, Chairman
Lincoln County Board of Commissioners