



LINCOLN COUNTY MONTANA

Ordinance 2018-03

AN ORDINANCE TO CONTROL DOGS WITHIN LINCOLN COUNTY AND ESTABLISH PROCEDURES FOR ITS ENFORCEMENT

THE BOARD OF COUNTY COMMISSIONERS FOR LINCOLN COUNTY, MONTANA FINDS:

1. Sections 7-23-2108 through 7-23-2110, MCA, authorize counties to adopt an ordinance for the control of dogs within the county.
2. The Board of County Commissioners adopted a new ordinance to control domestic animals within Lincoln County and a procedure for its enforcement on April 11, 2012.
3. The Board requested that all presently operable ordinances be re-drafted in uniform format, in accordance with the policies adopted by the Board through Resolution 2018-01.

THE BOARD ORDAINS:

1. TITLE

This ordinance may be cited as the "Lincoln County Dog Control Ordinance"

2. DEFINITIONS

As used in this ordinance, the following definitions apply:

- (1) "Animal" means any domesticated animal or livestock.
- (2) "At Large" means off the premises of its owner and not under the immediate control of its owner or authorized agent by the owner, either by leash, voice, or signal control; or by complete confinement within or upon a vehicle. Dogs controlling or protecting livestock or engaged in other agriculture related activities, dogs engaged in hunting related activities, and police service dogs are excluded from this definition. Behaviors included within the definition of "at large" include, but are not limited to, any of the following:
 - (a) Chasing vehicles or bicycles in public streets, ways, parks, or easements;
 - (b) Rummaging through or scattering garbage or rubbish;
 - (c) Interfering with vehicular or pedestrian traffic.
- (3) "Bite" means a laceration, bruise, or puncture inflicted by the teeth of a dog.



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- (4) "Officer" means any duly appointed law enforcement officer having jurisdiction within Lincoln County or other duly appointed and qualified Animal Control Officer designated by the Board of County Commissioners to enforce the provisions of this ordinance.
- (5) "Owner" means any person who owns, harbors, or keeps a dog.
- (6) "Vaccination" means the inoculation of a dog or cat with anti-rabies vaccine, administered by a licensed veterinarian.
- (7) "Vicious Dog" means a dog which harasses, chases, bites, or attempts to bite any human being without provocation or which harasses, bites, or attempts to bite any other animal without provocation. A police service dog that bites or chases any person while engaged in the lawful performance of its duties is not considered a vicious dog under this ordinance.

3. DOG LICENSING, LICENSE TAGS, AND EXEMPTIONS

- (1) It is unlawful for any person to keep, harbor, or maintain in Lincoln County any dog over six (6) months of age unless the dog is duly registered and licensed in accordance with Lincoln County Health Department's written policies and regulations, or is exempted under such policies.
- (2) Failure to license a dog in violation of this ordinance constitutes a misdemeanor punishable by imprisonment in the Lincoln County Jail not to exceed one (1) week, a fine not to exceed \$25.00, or both.

4. DOGS AT LARGE

- (1) It is unlawful for the owner or person having charge, care, custody, or control of any dog to allow that dog to be at large.
- (2) Any dog found at large may be impounded by the Officer. Impoundment may result in the dog being made available for adoption, humanely euthanized, or otherwise destroyed as necessary, in accordance with Lincoln County Health Department's written policies and regulations.

5. VICIOUS DOGS

- (1) It is unlawful for any person to keep, harbor, or maintain any vicious dog in Lincoln County unless the dog is:
 - (a) Securely and adequately confined upon the property of the owner or other person having charge, care, or control of the dog so as not to injure any person or property or be a hazard to public safety.
 - (b) Under proper restraint and leashed on a line not to exceed six (6) feet in length, properly muzzled, and under the immediate control of a person of



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suitable age and discretion to control or restrain the dog, while off the premises of the owner.

- (2) If a vicious dog is not being effectively controlled as provided for in this ordinance, the Officer may restrain, control, humanely euthanize, impound, or quarantine the dog.
- (3) If any dog bites any person in the county, the following procedure must be followed:
 - (a) The person bitten, or that person's parent or guardian, must immediately report the dog bite to Lincoln County Health Department.
 - (b) The owner of the vicious dog may be required to surrender the dog to the Officer or the Lincoln County Health Department for quarantine within twenty-four (24) hours after service of the order. The order may be served by the Officer. If the owner cannot be found at his place of residence, the order may be served by leaving it with a person of suitable age and discretion at, or by placing it in a prominent place at the front door of, the residence.
 - (c) It is unlawful for any person to refuse or neglect to surrender any vicious dog within twenty-four (24) hours after service of the order as herein provided, and the Officer will seize and impound the dog at the owner's expense. If the owner is unknown and the dog is running at large, the Officer may seize and impound the dog without notice.
 - (d) All dogs impounded under this section will be quarantined in accordance with Lincoln County Health Department's written policies and regulations.
 - (e) It is unlawful for any person to remove any dog that is quarantined under this section from the place of quarantine without written permission of the Lincoln County Health Department.

6. BARKING OR HOWLING DOGS

- (1) It is unlawful for any person to own, keep, harbor, or maintain any dog, which unreasonably annoys or disturbs the peace and quiet of any person by undue barking or howling.
- (2) This Section does not apply to a dog owned, kept, or harbored at the Lincoln County Animal Shelter or as part of the business of a licensed veterinarian, animal boarding facility, or agricultural or livestock operation.

7. ENFORCEMENT

- (1) All duly appointed Lincoln County law enforcement and Animal Control Officers are authorized to enforce the provisions of this ordinance.



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- (2) The Officer has the following authorities and responsibilities, in addition to responsibilities otherwise outlined in this ordinance:
 - (a) The authority to investigate a complaint or potential violation of this ordinance;
 - (b) The authority to restrain, control, impound, quarantine, humanely euthanize, or otherwise destroy any dog as permitted by this ordinance.
 - (c) The authority to serve a written Notice to Appear and Complaint on the person who violates any section of this ordinance, and the responsibility to file the Notice and Complaint in Justice Court;
 - (d) The responsibility to provide the County Attorney with sufficient documentation to enable him or her to prosecute the violation as a misdemeanor. Evidence of a violation of any section of this ordinance may include, but is not limited to, the following:
 - (i) Written affirmation or statement from a witness
 - (ii) Video or audio recording, photographs, or written documentation
 - (iii) Documentation by the Officer.
- (3) It is unlawful for any person to knowingly and intentionally interfere with any Officer in the lawful discharge of the duties prescribed by this ordinance.

8. PENALTIES

- (1) Violation of any part of this ordinance will constitute a misdemeanor punishable by imprisonment in the Lincoln County Jail not exceeding six (6) months or by a fine not to exceed \$500.00, or both, unless a specific penalty for the violation is defined in this ordinance.
- (2) The penalty for a violation of Section 5 of this ordinance, "Vicious Dog", may include humane euthanasia of the dog.

THE BOARD FURTHER ORDAINS:

1. This ordinance applies to the whole of Lincoln County with the exception of properties located within incorporated municipalities that have ordinance making powers.
2. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance or resolution, this ordinance will prevail.



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3. The various sections and clauses of this ordinance are severable. If any part, sentence, clause, or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance will not be affected.
4. Upon first reading and adoption, this ordinance will be posted and made available to the public in accordance with section 7-5-103, MCA.
5. This ordinance will be effective 30 days after its second and final adoption, in accordance with section 7-5-105, MCA.
6. Upon second and final adoption of this ordinance, this ordinance will be signed by the Board and published by the Clerk in the Register of Ordinances to be kept on file in the Clerk and Recorder's Office, as well as published on the official County website, in accordance with sections 7-5-103 and 7-5-107, MCA.

END OF ORDINANCE

Approved as to Form:

MARCIA BORIS, County Attorney

First reading date 4-25-18 Approved () Disapproved () Amended (✓)

Second reading date 5-14-18 Approved (✓) Disapproved () Amended ()

Adopted this 11th day of May, 2018.

LINCOLN COUNTY BOARD OF COMMISSIONERS

MIKE COLE, Chair





LINCOLN COUNTY
MONTANA


JERRY BENNETT, Member


MARK PECK, Member

ATTEST:


ROBIN BENSON, Clerk of the Board