

**Ordinance Number 2010 – 16**

City of Lincoln Animal Control Ordinance

*WHEREAS, the City of Lincoln has experienced and continues to experience a large population growth with a corresponding growth in its animal population, and*

*WHEREAS, Lincoln recognizes its responsibility to promote responsible pet ownership and to uphold the care and custody of animals in the interest of public health, safety and welfare; and*

*WHEREAS, Lincoln desires to encourage the adoption and placement of animals; now*

*THEREFORE, the City of Lincoln elects to adopt an animal control ordinance as provided for under the provisions of the Code of Alabama, 1975 as amended Title and Sections of 3 and 11 as follows:*

**Contents**

- Art I: In General
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**ARTICLE I  
IN GENERAL**

**Sec.1-1. Livestock at large**

It shall be unlawful for the owner or person-in-charge of any hog, goat, sheep, horse, mule, cow, llama, buffalo, ox or other livestock to allow or permit such animal to run at large upon any of the streets, or other public ways, or on the property of another without consent, within the city. Livestock may be kept only in areas where Lincoln zoning regulations permits.

**Sec. 1-2. Fowl at large**

It shall be unlawful for any person to allow or permit any domestic chickens, ducks, geese, turkeys, ostrich, emus, guineas, or any other fowl to be unconfined. Fowl may be kept only in areas where zoning permits.

**ARTICLE II  
ANIMAL CONTROL OFFICER; ANIMAL LIMITATION; LICENSE REQUIRED; AT  
LARGE, MISCHIEVOUS ANIMALS, DEAD ANIMALS**

**Sec. 2-1. Definitions**

Whenever used herein, unless otherwise clearly indicated, the following words and phrases shall have the following meanings:

**Animal Control Officer:** The person(s) designated by the city council who shall be primarily responsible for the enforcement of this article.

**Animal(s):** Dog(s), cat(s). Puppy(s) and kitten(s) may also be included in some instances.

**Animal shelter:** The location where animals, puppies and kittens are taken by animal control or the public, for humane care during the State of Alabama required seven (7) day holding period. The current designated location is the Animal Shelter of Pell City Inc. (ASPCI)

**Altered:** Spayed or neutered so as to prevent reproduction.

**At large:** Unrestrained and not under the control of the owner or person-in-charge or person acting for the owner. Dogs, cats, puppies or kittens shall at all times be kept on a leash while at or in any public places or facilities such as walking tracks, parks, public buildings, or streets, etc.

**Breeding purposes:** At any time when animal is bred, whether intentionally or not; or animal is allowed to complete gestation and give birth, whether intentionally or not; regardless if puppies or kittens resulting from that breeding are to be sold, bartered, or given away.

**Caged:** Confinement in a container, which may include a vehicle but not its trunk, in such a way that the free movement of such animal is restrained in a safe and humane fashion so as to prevent it from escaping, biting or attacking a person or animal.

**Cat:** All members of the domesticated feline family three (3) months of age or older.

**Collar:** A well-fitted band, appropriate to the age and size of the animal, attached around the animal's neck in such a way as to prevent discomfort, injury or trauma to the animal. Wire, rope or chain may not be used as a collar.

**Credit:** A credit for the animal license fee will be given upon proof of certificate within the current license year: Five dollars with proof of spay or neuter; Five dollars with proof of microchip. The total credit may not exceed \$5.00; if the owner is over sixty-five years of age the fee shall be reduced to \$5.00.

**Cross tethered:** Secured or attached from two corresponding sides to keep the animal from moving in either direction to a point that it could become injured.

**Dog:** All members of the domesticated canine family three (3) months of age or older.

**Effective restraint:** See "at large"

**Electronic containment device:** A device used to keep pets within a designated area, usually a yard. It can be either electronic wireless, which produces a static shock to the pet if he moves beyond the fence boundary while wearing the accompanying collar, or a wire fence that produces a static shock when touched by the pet.

**Enclosure:** A pen or run of adequate size for species and age, which provides adequate space for exercise and provides protection from the elements.

**Establishment:** A place of business or residence.

**Habitat:** The place where an animal normally lives.

**Habitat license:** A current yearly license for animals kept for breeding purposes; or selling of animal(s), puppy(s), or kitten(s) and as defined in the ordinance. Each animal must wear a current animal license at all times or owner have current animal license on file and readily available.

**Harness:** A device worn by an animal that encircles the neck and has a loop that surrounds the torso with connecting straps and is attached in such a way as to prevent discomfort, injury or trauma to the animal. Wire, rope or chain may not be used as a harness.

**His/Him:** Either masculine or feminine, male or female.

**Husbandry:** The care of domestic animal(s).

**In Season:** Estrus, "in heat", reproductive period or time.

**Intact:** Not spayed or neutered; animal is capable of reproducing.

**Kennel/Cattery:** A registered establishment for the breeding, boarding or selling of animals.

**Kennel/Cattery license:** A current yearly license for the keeping of: animals kept for breeding purposes or selling of animals. A kennel may only be operated where Lincoln zoning regulations allow. This is not a business license.

**Kitten:** Any cat under the age of three (3) months.

**License or licensed:** A current Lincoln animal license indicating that the animal has been registered with Lincoln within 365 days prior and is currently vaccinated for rabies. Licenses are valid for one year or until the time of the next required rabies vaccination.

**License tag:** A serially numbered metal tag provided by the City which shall be securely affixed to a collar or harness worn at all times by the animal, except when the animal is inside the residence or contained.

**Microchip or microchip identification implant:** A tiny electronic transponder implanted into the animal using a simple, painless procedure similar to a routine vaccination. For most animals (dogs, cats) the chip is implanted in the loose skin over the animal's shoulder blades.

**Neglect:** Failure to provide food, water, protection from the elements, opportunity for exercise, veterinary care or other normal, usual and proper care for an animal's health, comfort, and well being.

**Neighborhood nuisance:** 1. Any female animal in season which is attracting other animal(s); any animal which bark, growl, hiss, yowl, fight, roam, loiter, or otherwise cause a threat to public health, welfare or safety. 2. Any intact male animal which when attracted to an animal in season, barks, growls, yowls, fights, roams, loiters, or otherwise causes a threat to public health, welfare, or safety. Animals which by their actions create a disturbance or nuisance causing concern to individuals other than the owner.

**Notify:** Written or verbal.

**OFA:** Orthopedic Foundation for Animals provides dog and cat orthopedic and genetic disease information and certification.

**Owner:** Any person having a right of property in the animal, or who harbors the animal, or who has it in his care, or acts as it's custodian, or who permits the animal to remain on or about any premises owned or occupied by him for a period of three consecutive days or more, or the occupant of the premises where the animal is usually kept. The parent or guardian of an owner under eighteen (18) years of age shall be deemed the owner. Any person who has or exhibits custodial, supervisory authority, control or otherwise cares for an animal.

**Puppy:** Dog under the age of three (3) months.

**Rabies vaccination:** The injection and the rabies vaccine approved by the state health officer and the state veterinarian.

**Registered animal:** A purebred or hybrid animal recognized by and registered with the American Kennel Club (AKC), United Kennel Club (UKC), Cat Fanciers Association (CFA) American Cat Fanciers Association (ACFA) or The International Cat Association (TICA).

**Stray animal:** An animal having no means of identification as to the owner. An animal without a collar and tag shall be considered a stray animal.

**Vicious Animal:** An animal which has a disposition to bite humans, which has bitten or attempted to bite any persons shall be deemed to be a vicious animal. An animal which has a disposition to bite with intention to harm, which has bitten or attempted to bite any other animal shall be deemed to be a vicious animal.

**Sec. 2-2. Appointment of enforcing officer; provision for shelter or pound;  
Interference with enforcing officer prohibited**

(A) The city council shall appoint one or more enforcement officers to be designated as Animal Control Officers. In addition to Animal Control Officers, Lincoln Police Officers shall enforce provisions of this article and all state laws pertaining to animals.

(B) The council may employ, hire or contract with an individual or concern to maintain and keep a shelter or for animals picked up and/or impounded hereunder.

(C) It shall be unlawful for any person to interfere with or resist an Animal Control Officer or other person charged with the enforcement of the provisions of this article in the discharge of any act required or permitted hereby.

**Sec. 2-3. Animal limitation**

It shall be unlawful for any person to keep or harbor on his premises a number of animals that would create an unhealthy environment for the animals or the owner or adjacent property owners. An unhealthy environment may be described as inadequate housing for the number of animals, unsanitary conditions present in the home or premises, permitting large number of animals to roam around the neighborhood, or other conditions inconsistent with health and safety.

**Sec. 2-4. License required; tag on collar or harness required**

Dogs kept within the corporate limits should at all times wear a collar or harness to which should be attached a serially numbered license tag issued by the city along with a current rabies tag or possess such license tag on file and readily available for inspection. A microchip identification implant may be used in addition to the license as an added form of identification. The provisions of this section shall not apply to dogs or cats whose owners are nonresidents and temporarily within the city for a period not exceeding 30 days, kennels, animal hospital, the animal shelter and veterinarians.

**Sec. 2-5. Application for license; fees; duration**

(A) *Application for animal license.* Application for animal license shall be made to the office of the City Animal Control and shall state the name, address, telephone number of the owner, email address and an alternate or emergency contact number. Other information to be obtained shall be the name, breed, age, sex, color, distinguishing marks of the animal along with the physical address where the animal is primarily kept.

(B) *Proof of vaccination.* Presenting a current rabies vaccination certificate or the certificate need not be presented whenever the animal has a condition or illness which renders it unfit to be vaccinated and is substantiated in writing by a licensed veterinarian.

(C) *License tag.* Upon payment and proof of vaccination, the City Animal Control officer shall issue a numbered tag with the words, "Lincoln, Alabama".

(D) *Fees.* The license fee shall be paid to the City of Lincoln. The license fee per year for an intact animal is \$10.00. Reduced fees for other types of animal licenses will be given with proof of necessary certificates.

(E) *Reduced license fee with proof that animal has been micro-chipped.* Before a city animal license may be issued for the fee of \$5.00 per year for an animal, which has been micro-chipped, the owner of the animal shall provide evidence to the City Animal Control officer that the animal has been micro-chipped by providing a certificate of microchip with a corresponding identification number.

(F) *Conditional intact license fee:* The license fee for a Conditional intact license is \$5.00. To qualify for this license one of the following conditions must be met:

- (1) Proof that the animal is a "registered animal" and is under the age required for OFA certification or other certifications verified by a licensed veterinarian.
- (2) Proof that animal is a "registered animal" and has competed in at least one show or sporting competition sanctioned by a national registry within the last 24 months or has earned a conformation, obedience, agility, carting, herding, protection, rally, sporting, working or other title from a purebred registry.
- (3) An animal that is unable to be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to age or infirmity. The owner or person-in-charge must present written confirmation from a licensed veterinarian of the condition.

Any person or governmental authority owning a certified guide dog or certified service dog shall be exempt from the license fee.

The owner shall notify Animal Control within thirty days of any change of address of owner or location where animal is primarily kept.

The Animal Control Officer may deny or revoke an animal license if the animal has been declared a "Dangerous Animal or Vicious Animal."

The Municipal Court Judge may revoke any animal license if the person holding the license refuses or fails to comply with the regulations of this article or any state law governing the keeping of animals. Any person whose animal license is revoked shall, within the time period set by the Judge, surrender the animal and its puppies or kittens (if any) to the Animal Shelter currently under contract with the City. No part of the license fee shall be refunded.

Within ten days of an animal license tag being lost or destroyed, a replacement tag should be obtained from Animal Control for a fee of \$5.00. The replacement tag will expire on the date the original license expires.

**Sec. 2-6. Tampering with tag, display of unauthorized tag**

It shall be unlawful for any person to display a city license tag on an animal for which it was not issued. It shall be unlawful for any person to purposely mutilate or efface any such license tag.

**Sec. 2-7. Impoundment of animal without tags; liability of owner**

Any animal which has an appearance as a stray or identified by persons as a dog not known to them and not possessing a current city license tag and current rabies tag shall be impounded.

**Sec. 2-8. Habitat License and fees**

A habitat license may be obtained by submitting an application to Animal Control. The Habitat license location is subject to an inspection by the City Animal Control Officer prior to the approval of the license.

(A) There are two categories of habitat licenses.

(1) Animal(s) kept for breeding purposes.

(2) Animal(s) puppy(s) or kitten(s) kept for selling purposes.

(B) The license fee shall be ten dollars (\$10.00) for each animal. A habitat license must be reapplied for yearly.

**Sec. 2-9. Kennel license and fees**

A Kennel license application must be submitted to the City Animal Control Officer. Issuance of a Kennel license is subject to inspection by an Animal Control Officer of animal(s) and premises prior to the approval of the license. Kennel licenses permitted where zoning regulations permits.

The license fee for such kennel owner shall be as defined in the Business License Section of the city business license ordinance.

A condition to the issuance of a Kennel License is that animal control or a Police Officer shall be permitted to inspect the following at any reasonable time: all animal(s) (including puppies or kittens) and the premises where animal(s) (including puppies or kittens) are kept. If permission for such an inspection is refused Animal Control shall report the incident to the City Council for license revocation. In addition, upon inspection, if any violations of this chapter are found and corrections are not made, the Kennel License will be revoked and there will be no refund of licensing fees. Keeping of intact animals which are allowed to make contact during the time a female of the same species is in season or animals that have bred shall be prima facie evidence that they are kept for breeding purposes.

**Sec. 2-10. Running at large prohibited; effective restraint and confinement of animals**

Any animal found at large within the city may be apprehended by an animal control officer and taken to the animal shelter.

In addition to apprehending an animal found at large, if the animal is registered with the city the Animal Control Officer may return the animal to the owner.

In lieu of apprehending an animal found at large, when the Animal Control Officer is unable to capture the animal, the Animal Control Officer may notify the owner to confine the animal.

**Sec. 2-11. Stray animals**

Any stray animal found at large within the city limits shall be taken up and impounded.

**Sec. 2-12. Duration of impoundment; notice to public; redemption by owner; final disposition of animal**

When animals are picked up and if the animal is registered such animal shall be entitled to be returned to the owner. If a registered animal has been picked up as a result of a complaint such animal may only be returned to the owner once.

The owner of any animal apprehended as a stray or other provisions of the provisions of this ordinance may redeem such animal upon payment to the city of the charges set forth below, provided that he produces, within 72 hours of redeeming the animal, evidence satisfactory to the city that such animal has, within 12 months prior to being apprehended, been vaccinated for rabies.

Any stray animal apprehended shall not be redeemed until an apprehension fee is paid to the city in addition to the animal shelter fees and any veterinary fees incurred. Fee must be paid at the time of redemption. Fee schedule:

- (A) First apprehension- Twenty-Five dollars (\$25.00)
- (B) Second apprehension within twelve (12) months, Fifty dollars (\$50.00)
- (C) Third apprehension within twelve (12) months, Seventy five dollars (\$75.00)
- (D) Fourth and subsequent apprehensions within twelve (12) months One hundred fifty dollars (\$150.00)

Any animal not reclaimed by its owner within seven days shall become the property of the animal shelter and shall be placed available for adoption in a suitable home or humanely euthanized. Failure to reclaim animal will not relieve owner from payment of fees incurred.

Any animal apprehended pursuant to this chapter for which there is an after-hours response by a Police Officer or Animal Control Officer shall not be redeemed until a service charge of fifty dollars is paid to the city. This fee shall be in addition to all other apprehension, impoundment and redemption fees. After hour response" is one made other than on Monday through Friday (legal holidays excepted) between the hours of 8:00 a.m. and 5:00 p.m.

Any animal that is injured or diseased will, as an act of mercy, be humanely euthanized immediately after examination by a veterinarian or animal shelter director/manager, if it is evident that such destruction is necessary to prevent unnecessary suffering, to prevent the spread of disease or because the animal is incurable. An attempt will be made to contact owner prior to animal being euthanized.

**Sec. 2-13. Care of animals**

- (A) Each owner or person-in-charge shall provide for each of his animals;

- (1) Adequate feed;
- (2) Adequate water;
- (3) Adequate shelter that is properly cleaned;
- (4) Adequate space in the primary enclosure for the particular type of animal depending upon its age, size, species, and weight;
- (5) Adequate exercise;
- (6) Adequate care;
- (7) Veterinary care when needed or to prevent suffering or disease transmission.

(B) Every female animal in estrus shall be confined by the owner or person-in-charge of such animal in a building or secure enclosure in such a manner that the animal is not a neighborhood nuisance. Each owner or person-in-charge who keeps an animal for breeding purposes must obtain and maintain a current habitat license.

**Sec. 2-14. Disturbance of the Peace and Quiet**

Each owner or person-in-charge of any animal in the City shall not permit such animal to disturb the peace and quiet of any person by barking, whining, howling, or making any other noise in an excessive, ongoing or untimely fashion so as to annoy and disturb the neighbors. No one shall be charged with a violation of this section unless they or a member of their household over the age of eighteen years has received a written warning from an Animal Control Officer or Police Officer of a previous complaint at least once within the preceding six (6) months.

**Sec. 2-15. Destructive Animals**

No owner or person-in-charge shall allow any animal to damage or destroy the property of another, including gardens, flower beds and trees.

**Sec. 2-16. Sanitation of premises**

It shall be unlawful for any owner to keep or maintain within the city a pen, yard or enclosure wherein animals are harbored or kept, in such an unsanitary condition that the life, health or comfort of the public or animal may be endangered. All such pens, yards, or enclosures shall be regularly cleaned and the residue disposed of in a sanitary manner.

**Sec. 2-17. Owner's duty to remove overturned or scattered garbage**

The owner or person-in-charge of any animal shall pick up and remove any garbage or refuse which the animal has caused to be overturned, spilled, or scattered upon any residential lot or upon any right-of-way adjacent thereto, upon demand from the lot owner, occupant, or any Police Officer or Animal Control Officer.

**Sec. 2-18. Owner's duty to remove feces**

The owner or person-in-charge of any animal shall remove and dispose of any feces deposited by such animal upon any residential lot, or upon any right-of-way adjacent thereto, upon demand from the lot owner or occupant, or upon demand of any Police or Animal Control Officer.

**Sec. 2-19. Dead animal removal**

Whenever a request is made for the removal of wild dead animals, such as a dog, cat, fox, raccoon, or opossum the finder of the animal should notify Animal Control for disposal. If the death is due to a communicable disease, the remains shall be burned or otherwise disposed of as directed by the health department.

Whenever a request is made to the city to remove a large dead animal such as a horse, mule, cow, or hog, it shall be the duty of the director of the street department to cause the remains of such dead animal to be removed and disposed of in a lawful, sanitary manner.

**Sec. 2-20. Fees for removal by city**

For removal of any large dead animal such as a horse, mule, cow, hog, or other large animal, the owner or person-in-charge of any animal requesting its removal by the city there shall be a minimal charge of One Hundred dollars (\$100.00) with necessary adjustments made to this fee by the City Animal Control Officer based on actual charges for the service of time and distance. Large dead wildlife shall be collected at no charge.

**ARTICLE III  
PROTECTION OF ANIMALS**

**Sec. 3-1. Temporary protective custody**

Any Police or Animal Control Officer may take any animal into protective custody after an investigation, without prior consent of the owner or person-in-charge, if the circumstance or conditions of the animal are such that continuing in the place of residence or in the care and custody of the owner or person-in-charge presents an imminent danger to the public or that animal. However, such official shall within seventy-two (72) hours seek to procure necessary process from the court having jurisdiction over the person from whose custody the animal was removed. The animal shelter may keep such animal in its custody, and the chief of police or his designee may give or cause to be given effective consent for necessary veterinary services for any such animals.

**Sec. 3-2. Humane traps and Tranquilization**

Any Animal Control Officer is hereby authorized to place traps designed to capture animals upon any public property of the city, upon the right-of-way of any public street or highway or upon the private property of any person granting permission therefore. The Animal Control Officer to check such traps regularly and remove any animals or wildlife caught. It shall be unlawful for any person to (a) molest or tamper with any such trap; (b) to remove any animal or wildlife captured in any such trap without the Animal Control Officer's knowledge; or (iii) to interfere with an Animal Control Officer in setting or servicing any such trap. The Animal Control Officer will not trap during times of inclement weather, or when the ambient temperature is too low or too high as to permit the animal to remain comfortable during the time the animal is inside trap.

Where in the interest of safety, the City Animal Control Officer is authorized and may choose to tranquilize an animal and transport the animal to the animal shelter for custody.

**Sec. 3-3. Stealing animals**

It shall be unlawful for any person to entice or take any animal out of the enclosure of the owner or person-in-charge except for a Police Officer or Animal Control Officer while in the performance of official duties.

**Sec. 3-4. Protection and regulation of certain animals**

It shall be unlawful for any person in the city to trap, shoot, hunt, molest, attempt to shoot, attempt to molest, or have in his possession any wild animal protected by state law, or to take or willfully destroy the den of any such animal, except as permitted by state law.

**Sec. 3-5. Protection of animal in vehicles**

No person shall transport or carry on any public roadway any dog or other animal in a motor vehicle unless the dog or other animal is safely enclosed within the vehicle or protected by a cage, cross-tether or other device to prevent the animal from falling from, being thrown from or jumping from said motor vehicle. As used in this chapter, "motor vehicle" includes, without limitation, automobile, pickup truck and trailer.

No person shall leave a dog or other animal in any unattended motor vehicle without adequate ventilation, sanitary conditions, or in such a manner as to subject the animal to extreme temperatures which adversely affect the animal's health or safety.

**Sec. 3-6. Motor vehicles striking animals; duty of driver to report**

Any person who is the operator of a motor vehicle which strikes an animal and injures or kills such animal should report such accident to the police department. It shall be unlawful and a violation for any person to intentionally strike, injure or kill an animal using a motor vehicle.

**ARTICLE IV  
DANGEROUS ANIMALS**

**Sec. 4-1. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning**

*Animal* means: intact or altered animals, including, but not limited to, dogs, cats, puppies, kittens, livestock; or fowl, fish, bird, or reptile.

*"Animal Subject to Impoundment"* means an animal that:

- (A) Is a dangerous animal; and
- (B) Is not kept as required by section 4-51 herein; and
- (C) Poses a substantial danger to the health, safety, or welfare of the public.

*Bites* means seized with teeth so that the skin of the person or animal seized has been nipped or gripped.

*Dangerous animal* means any animal that:

- (A) Being unprovoked, causes a wound to any person or animal;
- (B) Being unprovoked, attacks or bites any person or animal, and because of its size, physical nature, or aggressive behavior is capable of inflicting serious physical harm;
- (C) Being unprovoked, threatens, chases, or approaches a person in a menacing fashion or in an apparent attitude of attack, and because of its size, physical nature, or aggressive behavior is capable of inflicting serious physical harm to persons; or
- (D) Has a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or animals.

*Owner* means any person, firm, or corporation:

- (A) In charge of the animal;
- (B) Having a right of property in the animal;
- (C) Who keeps or harbors an animal or who has the animal in his care,
- (D) Who acts as custodian of the animal, or
- (E) Who permits the animal to remain or about any premises occupied by him.

*Provoke* means to incite anger, irritate, exasperate, abuse, or excite.

*Wound* means a physical injury which results in puncture, muscle tear, broken bone, laceration, or permanent disfigurement.

#### **Sec. 4-2. Regulation of dangerous animals**

It shall be unlawful for anyone to own, keep, harbor, maintain in its care, permit to remain on his premises, be in charge of, or act as custodian of, any dangerous animal within the city, except in compliance with each of the following conditions and specifications:

(A) Owners shall provide an exterior perimeter fence suitable to contain an average adult animal of the same type. The perimeter fence shall be constructed of chain link or wooden privacy type and shall be at least four feet in height. If the animal is kept enclosed and inside a residential or commercial building, then an exterior perimeter fence is not required, and the references to a "perimeter fence" herein shall be viewed as referring to the residential or commercial building.

(B) Owners shall provide an additional fence/pen of adequate size inside the perimeter fence to humanely confine the animal. This additional fence/pen must:

- (1) Not share common fencing/wall with the exterior perimeter fence,
- (2) Have secure sides and a secure top attached at all sides,
- (3) Have four sides that are sunk at least two feet into the ground, be built over a concrete pad, or have a secure floor;
- (4) Have an inward-opening gate that is locked at all times by padlock or key lock, except when tending to the care of the animal;
- (5) Have sides that shall be from ground to top at least twice the height of the animal measured from its shoulders;
- (6) Not be positioned so that neighbors or passers-by have access to the animal;
- (7) Be no less than 20 feet from any neighboring property line;
- (8) Provide the animal with protection from the elements; and
- (9) Be kept in a clean and sanitary condition.

(C) The owner of any dangerous animal shall display two signs on his property stating "Dangerous Animal on Premises." One of the signs shall be posted at the front of the property and the second sign shall be placed at the rear of the property. Each sign shall be capable of being read from a distance of 50 feet.

(D) Whenever the dangerous animal is outside the additional fence/pen:

- (1) It must be attended by the owner and kept under his control;
- (2) It must be restrained by a secure collar and leash, of no longer than four (4) feet and of sufficient strength to prevent escape; and
- (3) It must be securely muzzled so as to prevent the animal from biting another animal or person.

(E) Any law enforcement officer, Animal Control Officer, or other duly designated agent or employee of the city shall be permitted the right to inspect the enclosures in which any dangerous animals are kept at any time.

#### **Sec. 4-3. Insurance**

All owners of a dangerous animal shall obtain liability insurance in a single incident amount of at least \$100,000.00, specifically covering any damage or injury which may result from the ownership, keeping or maintenance of such animal. The policy shall contain a provision naming the city as an additional insured for the sole purpose of being notified by the insurer of any cancellation, termination or expiration of the liability insurance policy.

**Sec. 4-4. Exceptions**

- (A) No animal shall be found to be dangerous based solely on its breed.
- (B) No animal shall be declared dangerous based on an attack upon a person that resulted from the attacked person:
  - (1) Assaulting the animal's owner or a person in the immediate vicinity of the animal;
  - (2) Provoking the animal;
  - (3) Having provoked, tormented, or abused the animal at other times; or
  - (4) Committing a willful trespass or other tort upon the owner's premises with the intent to commit a crime or while committing a crime.
- (C) This article shall have no application to:
  - (1) Any animal owned by a federal, state, or local law enforcement agency; or
  - (2) Licensed kennels, animal control facilities, or veterinary facilities.

**Sec. 4-5. Enforcement**

- (A) Any law-enforcement officer shall be authorized to enforce the provisions of this article and to make arrests for any violation thereof.
- (B) The city's law-enforcement officers are authorized to issue a summons and complaint to any person charged with violating any part of this article, in lieu of placing such persons under custodial arrest.
- (C) Upon deciding whether or not a person is in violation of this Ordinance the municipal court shall first determine whether or not the animal is a dangerous animal. The municipal court shall accord no presumption in favor of the city's determination that the animal is dangerous, and the city has the burden of proof to show the municipal court that the animal is dangerous. A finding that an animal is not a dangerous animal does not preclude a subsequent and different result based upon incidences subsequent to the court's finding. If the court decides that the animal is not a dangerous animal, then it shall dismiss the case as to this article. If the court decides that the animal is a dangerous animal and that the owner has violated the Ordinance the court shall, if it is the first offense under this article involving the owner and the animal at issue, continue the proceedings before its entry of judgment in order to allow the owner not less than 30 days to comply and if those sections are complied with within such time, the case against the person shall be dismissed upon payment of court costs; otherwise, judgment shall be entered.

**Sec. 4-6. Penalty for violations**

The penalty for the violation of the applicable sections of the ordinance shall be as follows:

- (A) For the first offense, punishment as authorized by this ordinance shall be no less than \$300.00. However, where the animal at issue has been impounded pursuant to the Ordinance, then the charged ordinance violation requires a court appearance. Notwithstanding the above, however, in the case of a first offense, no later than 72 hours before the person's court date, the person may present to the magistrate certification from a law enforcement officer of the city that the requirements of the Ordinance have been satisfied (and with payment for any costs for the impoundment of the animal, if applicable), in which event the charges will be dismissed.
- (B) For the second and all subsequent offenses within a three-year period of any other such offense hereunder, be punished as authorized in this ordinance but in no case by a fine of less than \$500.00 and such imprisonment as may be adjudged.

(C) The court may as a condition of any probation, among other things, require that the violator comply with the requirements of this article, and/or pay any and all costs incurred with respect to any impoundment and/or destruction of the animal.

**Sec. 4-7. Animals Subject to Impoundment; release; humane disposal**

(A) An animal that:

- (1) Is a dangerous or vicious animal,
- (2) Is not kept as required by section 4-2, and
- (3) Poses a substantial danger to the health, safety, or welfare of the public, is hereby declared a public nuisance and is an "Animal Subject to Impoundment".

(B) Upon charging a person with a violation of this Article, a law enforcement officer of the City may impound an animal upon his/her determination that it is an "Animal Subject to Impoundment".

(C) In determining whether the animal poses a substantial danger to the health, safety, and welfare of the general public, the officer shall consider:

- (1) Whether the animal's enclosure, if any, is likely to prevent the animal from running at large;
- (2) The proximity of the animal to places habited or frequented by one or more persons; and
- (3) The degree to which, because of its size, physical nature, or aggressive behavior, the animal is capable of inflicting serious physical harm to persons.

(D) Upon the impoundment of an animal under this section, written notice of the impoundment and a copy of this article shall be provided to the owner of the animal by either personal service or certified mail. The notice shall contain the date of a hearing wherein the municipal court shall determine if the animal is an "Animal Subject to Impoundment", which date shall not be less than ten days nor more than 30 days after the issuance of the notice.

(E) If the animal is impounded, then the municipal court, in connection with its determination whether there has been a violation of this article, shall decide whether or not the animal is an "Animal Subject to Impoundment", and the animal's owner shall have a right to be heard and submit evidence in connection with that determination.

(F) If the owner contests the municipal court's determination that the animal is an "Animal Subject to Impoundment", then he or she may, within 14 days of the municipal court's decision, appeal the decision to the circuit court, and serve notice upon the city that the appeal has been filed. The circuit court shall conduct a hearing de novo, and make its own determination as to whether the animal is an "Animal Subject to Impoundment." A circuit court ruling that the animal is not an "Animal Subject to Impoundment" shall not bar the city from any subsequent action concerning the same animal.

(G) If the court determines that an animal is an "Animal Subject to Impoundment" and enters a judgment finding a violation of this ordinance, then the court shall subsequently determine whether any of the conditions for the animal's release have been satisfied within 30 days thereafter. The animal's owner shall be afforded at least ten days' advance notice and an opportunity to be heard with respect to the hearing where the court shall make that determination.

(H) The city may release an animal impounded to its owner upon the occurrence of any one of the following:

- (1) Determination by a court of competent jurisdiction that the animal is not an "Animal Subject to Impoundment" as defined in this section;

- (2) Other order of a court of competent jurisdiction requiring the animal's release;
- (3) Where the animal has been determined to be an "Animal Subject to Impoundment", or where a court proceeding to determine whether the animal is an "Animal Subject to Impoundment" is pending, upon the city or the court's determination that the requirements of the Ordinance have been met, and the owner's payment of the costs of impounding the animal;
- (4) The City or a court's reasonable satisfaction that the animal will be removed from Lincoln for the rest of the animal's life, and the owner's payment of the costs of impounding the animal.

(I) An animal impounded under this Ordinance may be humanely euthanized:

- (1) Upon an order of a court of competent jurisdiction finding that the animal is an immediate and/or substantial threat to public health, safety, and welfare (such as where the animal is a dangerous animal and has seriously wounded a human being) regardless of whether the other requirements of this Ordinance are satisfied;
- (2) Where the known owner abandons or disavows ownership of the animal, which may be shown by, among other things, an absence of communication by the owner for ten days or more after the owner's unexcused failure to appear in a court proceeding concerning charges hereunder after notice thereof; or
- (3) Where there has been a final determination in court that the animal is an "Animal Subject to Impoundment" and the entry of a judgment finding a violation of this article in connection therewith, and the court has subsequently determined that none of the conditions for the animal's release have been satisfied within 30 days thereafter.

(J) In lieu of impounding an animal prior to a determination by the municipal court that an animal is an "Animal Subject to Impoundment", a law enforcement officer may elect to claim that the animal is an "Animal Subject to Impoundment" in conjunction with the charge against the person of a violation of the Ordinance, and to impound the animal after any such determination by the municipal court. In such case, the owner shall receive advance notice of this claim in the same manner as notice is provided in the Ordinance.

#### **Sec. 4-8. Investigation of claim of dangerous animals**

When any person claims that an animal is a dangerous animal, he may make a sworn statement setting forth the name of the animal's owner, the location where the animal is being kept in the city, and the reason(s) that the animal is claimed to be a dangerous animal. The sworn statement will be delivered to the city's animal control division, which may conduct an investigation with respect to the same. It shall be unlawful for a person to falsify charges due to malicious intent toward the owner of the animal or the animal itself.

#### **Sec. 4-9. Concealment of dangerous animal; interference with officer; notification of loose or missing dangerous animal; sale of dangerous animal**

It shall be unlawful for the owner of a dangerous animal which has wounded a person or domestic animal to conceal or cause to be concealed such animal from any law enforcement officer, Animal Control Officer, or other duly designated agent or employee of the city.

It shall be unlawful for any person or owner of a dangerous animal to interfere with, hinder, molest, prevent, or obstruct a law enforcement officer, Animal Control Officer, or other duly designated agent or employee of the city engaged in the enforcement of this ordinance.

The owner shall notify the proper law enforcement agency within two hours of becoming aware that a dangerous animal is loose or missing, or if such animal has wounded a human being or other animal.

**ARTICLE V**  
**PENALTIES; ALLOCATION OF FUNDS; REPEAL OF PRIOR ORDINANCES**

**Sec. 5-1. Penalties**

Any person, firm or corporation found guilty of violating any of the said terms and provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall, except for where otherwise specifically provided in this ordinance, be subject to the penalties and punishment as prescribed by state law:

**Sec. 5-2. Allocations of funds**

All monies collected, as provided for in this ordinance shall be turned over and delivered forthwith to the city clerk.

**Sec. 5-3. Repeal of prior ordinances**

Any and all prior Lincoln ordinances now or ever in effect pertaining to the control, impounding, regulating, and disposal of animals and dangerous animals are hereby repealed.

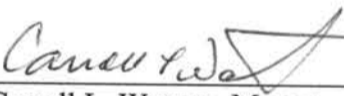
**Sec. 5-4. Sections and Provisions Severable**

If any section or provisions of this ordinance shall be held invalid, such holding shall not affect any other section or provision of this ordinance, each of said sections and provisions being hereby declared severable.

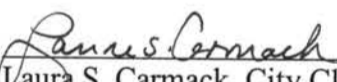
**Sec. 5-5. Police jurisdiction**

Any and all sections and provisions of this ordinance shall encompass the corporate limits of the City of Lincoln, Alabama but not the police jurisdiction.

Adopted this the 24<sup>th</sup> day of August 2010.

  
\_\_\_\_\_  
Carroll L. Watson, Mayor

Attest:

  
\_\_\_\_\_  
Laura S. Carmack, City Clerk


CERTIFICATION OF ORDINANCE NO. 2010-16

I, the undersigned, City Clerk of the City of Lincoln, do hereby certify that the above and foregoing ordinance was published by posting copies thereof in three (3) public places within the City of Lincoln, Alabama, said three (3) public places being:

- (1) the United States Post Office in the City of Lincoln, Alabama;
- (2) the City Hall in the City of Lincoln, Alabama;
- (3) the Public Library in the City of Lincoln, Alabama.

I further certify that said copies of said ordinance were posted by me on the 25<sup>th</sup> day of August, 2010.

This the 25<sup>th</sup> day of August, 2010.

  
\_\_\_\_\_  
City Clerk