

STATE OF NORTH CAROLINA)

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ORDINANCE #MCA

TOWN OF INDIAN TRAIL )

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**AN ORDINANCE ESTABLISHING ANIMAL  
ENFORCEMENT IN THE  
TOWN OF INDIAN TRAIL, UNION COUNTY, NORTH  
CAROLINA**

**WHEREAS**, pursuant to §Chapter 160A - 441 of the General Statutes of North Carolina, a Town may exercise its authority of police power by establishing an ordinance to regulate and restrict animals that interfere with the enjoyment of property or the peace and safety of the community; to protect animals from abuse or condition harmful to their well-being; and to carry out any other lawful duties authorized by state law and applicable ordinances;

**WHEREAS**, the Council finds dangerous conditions exists for animals and citizens alike which are detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the Town; and

**WHEREAS**, the Mayor and the Town Council have found and determined that it is essential to the public health, safety, and general welfare of the Town to address Animal Enforcement.

**NOW THEREFORE**, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF INDIAN TRAIL, NORTH CAROLINA AS FOLLOWS:

**Section 1.** §Chapter 92 of the Code of Ordinances is hereby modified and adopted attached herein as Exhibit A.

This Ordinance amendment shall be effective September 1, 2013.

Adopted this \_\_\_\_ day of \_\_\_\_\_ 2012.

**APPROVED:** \_\_\_\_\_  
**Michael L. Alvarez, Mayor**

Attest: \_\_\_\_\_  
Peggy Piontek, Town Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Keith J. Merritt, Town Attorney

DRAFT

## Town of Indian Trail Animal Enforcement Ordinance

### §92.01 Purpose

This ordinance is enacted to regulate and restrict animals; to protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild or exotic animals; to define unlawful acts of animals that interfere with the enjoyment of property or the peace and safety of the community; to protect animals from abuse or conditions harmful to their well-being; and to carry out any other lawful duties authorized by state laws and applicable ordinances.

(Ord. passed 10/12-2004)

### §92.02 Indian Trail Animal Enforcement Program

This ordinance creates Indian Trail Animal Enforcement Program. The Animal Enforcement Officer shall fall under the authority of the Town Manager or his/her designee. This position may not have to be a sworn law enforcement officer. It shall be the duty of the Animal Enforcement Officer to see that the provisions of this Ordinance are strictly enforced within the jurisdiction of the Town, while working with local law enforcement authorities. It shall be the duty of the Animal Enforcement Officer to cooperate with the Union County Animal Control officers in any manner which will more efficiently and effectively carry out the terms of this Ordinance.

(Ord. passed 10/12-2004)

### §92.03 Domestic Animals

#### (A) Animal Licensing (Effective July 1, 2013)

(1) All dogs shall be required to be licensed by the town on an annual or multi-year basis with the licensing fee being structured in the Town's annual fee structure and approved by the Town Council. The Town reserves the right to establish a separate fee structure for spayed and neutered animals and those not spayed and neutered. In such case the Town may require proof that the animal is in fact spayed or neutered. The Town may also establish various incentives as part of its licensing program such as but not limited to micro chipping etc. The Town reserves the right to offer multi-year licenses. Cats and ferrets will require a license beginning on July 1, 2015.

- a) It shall be unlawful for any person to use a registration tag for any dog other than for which the registration tag was issued.
- b) It shall be unlawful for any owner to fail to provide a current registration tag as provided in this section. No registration or permit will be issued unless written proof of current rabies vaccination is shown at the time of application for registration.
- c) It shall be unlawful for any owner of a dog to fail to provide said animal with a collar or harness to which a current registration tag issued under this section is securely attached. The collar or harness, with attached registration tag, must be worn by the animal when off of owners property, except while the animal is participating in bona fide animal shows, tracking tests, training events or training schools, or other events sanctioned and supervised by a recognized organization, or except while the animal is involved in lawful hunting activities, provided that the animal's owner or keeper has the tag in their actual possession at these times.

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Upon licensing an animal the owner must show proof that the animal is current on rabies vaccinations, and whether the animal has been spayed and/or neutered by a licensed veterinarian.

(2) Owners of the following dogs shall complete an application for registration, but are exempt from paying the registration fee:

- 1) Service and/or trained assistance dog provided the dog is spayed or neutered.
- 2) An animal, which is a working member of a law enforcement or public safety agency, regardless whether the animal is fertile or infertile.
- 3) Any animal owner 62 years of age or older who owns a sterilized animal.
- 4) Any handicapped owner of a spayed or neutered dog which is used for seeing or hearing purposes.
- 5) Any foster dog being housed for a temporary six-month period time period. Any foster dog must obtain a regular dog registration after 12 months.

(3) The amount of any license tax imposed by this chapter shall be deemed a debt to the town.

(Ord. passed 10/12-2004)

### **§92.04 Number and Restraint of Animals**

(A) Effective July 1, 2013, it shall be unlawful for any person owning or having possession, charge, custody or control of any animal, excluding cats, to keep the animal upon his or her own premises unless the animal is under sufficient physical restraint such as a pen, kennel, leash, fence, invisible fence, electric fence (which is posted as having an electric or invisible fence) and hot wire. The minimum outdoor enclosure for each animal shall be 10' x 10' for the first animal, with an addition 5' x 5' for each additional animal. Any existing enclosure will be grandfathered until the enclosure is modified. Additional animals temporarily residing at a property for fewer than fourteen days shall be exempt for the additional square footage. All structures used to confine dogs shall be secure to prevent reasonable escape from the pen or kennel.

The pen or kennel should be constructed in such a manner to prevent dogs from jumping over the fence and the area should be regularly maintained to prevent the tunneling by the dog in order to escape. All structures erected to house dogs shall comply with all zoning and buildings regulations of the county and town. All such structures shall be adequately ventilated, kept in a clean and sanitary condition, and having fresh food available as appropriate. Clean water will be available to the animal at all times.

(B) It shall be unlawful for any person to locate, keep or maintain more than a combined total of six (6) dogs and cats per acre or a portion thereof. This provision shall not apply to dogs or cats under four months of age. Any person having more than a combination of six (6) dogs or cats per acre or portion thereof, on the effective date of this ordinance will be allowed to keep them on their property provided that all other requirements of the Town's animal enforcement ordinance are in compliance and all excess dogs and cats that are removed from the premises upon death or other means are not replaced. This provision shall not apply to registered and approved Professional Breeders or Animal Rescuers. In cases of special circumstances, the

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property owner(s) (or the owner(s) of the dogs with the property owner(s)'s written consent) may appeal in writing to the Animal Enforcement Officer requesting to keep in excess of six animals. The Animal Enforcement Officer shall file a written answer within 20 business days of receipt of the request. In the event that the request is denied the person may appeal to the Public Safety Committee within 5 business days of receipt of the denial and the Public Safety Committee shall file an answer within 45 days of the receipt of the appeal.

(C) The animal's owner shall be responsible for insuring that anyone having possession over the animal while off the owner's property shall maintain control over the animal's behavior. Control shall include having the dog on a leash or harness at all times.

(D) It shall be unlawful for any person to locate, construct, reconstruct, alter, or maintain any kennel, pen or similar structure for the purposes of keeping any animal over four months of age unless such kennel, pen or similar structure is 30 feet or greater from the adjoining property owner's inhabited structure.

(Ord. passed 10/12-2004)

### **§92.05 Abuse of Animals**

It shall be unlawful to abuse an animal. Abuse may include but is not limited to beating, ill treatment through lack of food and/or water, denying reasonable medical care, intentionally mutilating, encouraging the fighting of animals, maintaining a location for the demonstration or show of fighting animals, or containing an unattended animal in a parked vehicle greater than 10 minutes with an outside temperature greater than 70 degrees or as otherwise defined by N.C. General Statutes.

(Ord. passed 10/12-2004)

### **§92.06 Breeders and Animal Rescue**

(A) Persons desiring to serve as a Professional Breeder or Animal Rescuer shall register with the Town's Animal Enforcement Officer. The Town's Animal Enforcement Officer may reject a Professional Breeder or Animal Rescuer registration if the facilities or conditions for the animals fail to comply with the terms and provisions of this Chapter. In cases of denial an appeal may be filed in writing to the Public Safety Committee within 5 business days of the receipt of the denial. The Public Safety Committee shall file an answer within 45 days of the receipt of the appeal.

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

- 1) Licensed Professional Breeder shall mean and refer to a person or entity engaged in the business of selling or breeding dogs, cats, or ferrets;
- 2) Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer 31 or more dogs or cats in a 12-month period beginning on April 1 of each year;
- 3) Who owns or harbors four or more dogs or cats, intended for breeding, in a 12-month period beginning on April 1 of each year;
- 4) Whose dogs or cats produce a total of four or more litters within a 12-month period beginning on April 1 of each year; or

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(B) Animal Rescuer shall mean and refer to a person, entity or group of persons who hold themselves out as an animal rescue, that accept, or solicit for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs or cats, or who use foster homes as the primary means of housing dogs or cats.

(Ord. passed 10/12-2004)

### §92.07 Dangerous Dogs

It shall be unlawful for any person to own, possess or have a dangerous dog in the town limits.

As used herein, a **DANGEROUS DOG** shall mean and refer to:

(A) Any dog owned or harbored for the purpose of dog fighting;

(B) A dog that has:

- 1) Without provocation, killed or injured a person;
- 2) Approached a person when not on the owner's property in a vicious or terrorizing manner in what is deemed to be a dangerous or threatening manner or
- 3) Killed or inflicted severe injury upon a domestic animal when not on the owner's property.

Union County Animal Control (UCAC) will be responsible to classify a dog as dangerous, a potentially dangerous dog, or public nuisance animals by using the definition provided in the this ordinance and the Union County Animal Control Ordinance. The Indian Trail Animal Enforcement Officer shall assist the UCAC in classifying the dog as dangerous. If classified as dangerous, the dog must be removed from its current environment by UCAC.

Animal Enforcement Officers shall have the authority provided by law (including all authority granted under G.S. § 160A-186) to seize any animal allowed to run at large in violation of this subchapter. This shall include the authority in carrying out and performing their lawful duties, to enter upon private property, not including entry into a dwelling unit or other similar building, when the Animal Enforcement Officer has observed that animal running at large in violation of this section and entry upon private property shall not be deemed to be a trespass.

(Ord. passed 10/12-2004)

### §92.08 Interference with Duties

It shall be unlawful for any person to interfere, to threaten or otherwise prevent an Animal Enforcement Officer from carrying out and performing his or her lawful duties, as described above, under this subchapter.

(Ord. passed 10/12-2004) **Penalty, see §92.18**

### §92.09 Impoundment

(A) If any animal shall be found to be running at large in violation of the Union County Animal Control Ordinance, or state of North Carolina law, and it's owner cannot be located; including dangerous dogs, potentially dangerous dogs, or public nuisance dogs, the UCAC shall respond and take custody of the animal and be transported to Union County Animal Control Shelter

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and impounded at the Union County Animal Shelter and shall not be released, except upon the payment of the fees provided for in this subchapter; provided that, if any dangerous, fierce or vicious animal so found running at large cannot be safely taken up and impounded, the animal may, in the sole and absolute discretion of the UCAC, be disposed by the humane destruction of the animal.

(B) The County shall be responsible for notifying the owner in accordance with county regulations and the animal will be held no longer than 72 hours following impoundment in accordance with G.S. §130A-192. To the extent not inconsistent with county regulations, but before any owner secures release of an animal from the County Animal Control authority, the owner shall furnish proof of any license then required and shall pay all applicable fees and expenses required by the authority. The owner of any dog subject to this ordinance shall also furnish proof of vaccination.

(C) It shall be unlawful for the owner of any dog over four months of age to keep or maintain the dog unless it shall have been vaccinated against rabies by a licensed veterinary surgeon or a person duly licensed for such purposes by the Commissioners of the county or the town or state agent in compliance with G.S. § 130A-185. Any person inoculating a dog against rabies shall deliver to the owner or person in possession of the dog a metal tag, serially numbered, which tag shall indicate inoculation against rabies and the year of the inoculation. This tag shall at all times be kept fastened to the collar of the dog.

(D) If an animal shall be believed to have rabies or if the animal shall have been bitten by a animal suspected of having rabies, the animal shall be confined by penning or otherwise securing and actually isolating the animal from other animals and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two weeks from his or her confinement. The owner shall notify the Animal Enforcement Officer of the fact that his or her animal has been exposed to rabies. Union County Animal Control is empowered to have the animal removed from the owner's premises to a veterinary hospital and there placed under observation for two weeks at the expense of the owner. It shall be unlawful for any person knowing or suspecting a animal to have rabies to allow the animal to be taken off his or her premises or beyond the limits of the town without the written permission of Union County Animal Control. Upon ascertaining that a animal is rabid, every owner or other person shall immediately notify the County Animal Shelter or the Union County Animal Control Officer, who shall remove the animal to the Shelter.

(E) On rare occasions the Animal Enforcement Officer may only transport a dog to the Union County Animal Shelter. The dog must meet all of the following criteria to be transported by the Animal Enforcement Officer: 1) its owner cannot be located and 2) the dog is not in violation of any of the Union County Animal Control Ordinance or any state of North Carolina law.

(Ord. passed 10/12-2004) **Penalty, see §92.18**

### **§92.10 Dogs and Cats as Nuisance**

(A) The actions of a dog or cat constitute a public nuisance when that animal disturbs the rights of, threatens the safety of, or damages property of a member of the general public or interferes with the ordinary use and enjoyment of property. This includes odor and animal sounds.

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(B) It shall be unlawful for any person to own, keep, possess or maintain a dog or cat in a manner so as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or possessor of a dog or cat are hereby declared to be a public nuisance and are therefore unlawful:

- 1) Allowing or permitting the dog or cat to damage the property of anyone other than its owner or keeper;
- 2) Maintaining a vicious dog or cat as described by the laws of the state;
- 3) Maintaining dogs or cats in an environment of unsanitary conditions or lack of cleanliness, including but not limited to, excessive animal waste inside the pen or kennel, stagnant water, rotting food etc. which may be determined to be dangerous to the dogs or cats or to the public health, welfare or safety;
- 4) Allowing or permitting the dog or cat to bark, whine or howl, in an excessive or continuous fashion or make noise in a manner or at times so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises;
- (5) Maintaining a dog that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicycles or vehicles off the owner's property;
- 6) Failing to confine a female dog while in heat in a building or secure enclosure provided. This section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal which is being bred;
- 7) Failing to remove feces deposited by a dog on any public street, sidewalk, gutter, park or other publicly owned property or private property unless the owner of the property has given permission allowing such use of the property. Private property owners must maintain the feces odor to their own property. This shall not apply to visually impaired persons who have charge, control or use of a guide and/or service trained assistance dog or dog working in conjunction with a law enforcement or public safety function.
- 8) Maintaining an animal that is diseased to a point of being dangerous to the public health.

(Ord. passed 10/12-2004)

### **§92.11 Tying Animals on Streets or Sidewalks**

It shall be unlawful for any person to stake or tie any animal where it can get upon any public sidewalk or street in the town.

(Ord. passed 10/12-2004) **Penalty, see §92.18**

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### **§92.12 Farm Animals**

It shall be unlawful for any person to have or maintain any farm animals, such as, but not limited to, cows, pigs, hogs, turkeys, mules, donkeys, goats and sheep on his or her premises in the town, except horses meeting the standards of the town's Unified Development Ordinance. The farm animal prohibition shall not apply to bona fide farms of 10 acres or more (which 10 acres may include contiguous bona fide farmland outside the town limits). In addition, existing farm animals not on bona fide farms of 10 acres or more may remain, but shall not be replaced nor shall their numbers be increased.

(Ord. passed 10/12-2004) **Penalty, see §92.18**

### **§92.13 Livestock Running at Large**

It shall be unlawful for any person to allow his or her horse, mule, cattle, swine or other livestock to run at large within the incorporated limits of the town.

(Ord. passed 10/12-2004) **Penalty, see §92.18**

### **§92.14 Chickens Allowed in Town; Permit**

Live chickens shall be allowed in the town's municipal limits with a valid permit, as provided herein.

An owner or possessor of the chicken(s) shall comply with the following divisions before a permit is issued.

The permit may be revoked upon violation of the terms and provisions of this section.

Permits shall not be issued and may be revoked if the chicken(s) is likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business.

Chickens will be allowed upon issuance of a valid permit within the municipal limits of the town; provided that:

- 1) The chickens must be confined in a chicken coop not less than four square feet of floor area for each chicken. Chicken coops must not be lower than 24 inches from the ground or higher than 7 feet from the ground;
- 2) Chickens may be allowed outside their coops during daytime hours if temporary fencing is constructed to restrict the chickens from leaving the owner or possessor's property. The temporary fencing must be completely enclosed and removed when chickens are in coops. The temporary fencing must also have a top cover. In no such case shall the temporary fencing be left out over night. If the owner or possessor wishes to allow the chickens to roam freely, a more permanent fencing is required to prevent the chicken from leaving the subject property;
- 3) The chicken coop and/or property shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odors;

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- 4) The chicken coop shall be a minimum of 50 feet from the nearest residence other than that of the owner and a minimum of five feet from the lot line;
- 5) No more than six chickens shall be kept or maintained on any individual lot. Chickens are prohibited on lots less than one-fourth acre (10,890 square feet) in size. Chickens on property when ordinance is adopted are grandfathered, but must comply with permit requirements;
- 6) No male chickens/roosters shall be allowed;
- 7) The owner or possessor must pay an annual chicken permit fee in an amount established and/or modified by the town. Annual renewal fees must be paid on or before July 1;
- 8) If chickens are removed from the premises for a violation of this section or other applicable law, the owner or possessor is not allowed to obtain a chicken permit for a minimum of one year from the date of removal;
- 9) No slaughter or sale of slaughtered chickens is allowed within the town; and
- 10) It is recommended that the owner or possessor take an educational course on chicken care provided by the County Cooperative Extension Office.

(Ord. passed 10/12-2004) **Penalty, see §92.18**

### **§92.15 Goats Allowed in Town; Permit**

Live goats shall be allowed in the town's municipal limits with a valid permit, as provided herein.

An owner or possessor of the goat(s) shall comply with the following divisions before a permit is issued.

The permit may be revoked upon violation of the terms and provisions of this section.

Permits shall not be issued and may be revoked if the goat(s) is likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business.

Goats will be allowed upon issuance of a valid permit within the municipal limits of the town; provided that:

- 1) The goats are for temporary purposes to reduce foliage or grass on a property.
- 2) The goat permit shall not be longer than 3 months.
- 3) You can only have one goat per acre up to a maximum of four goats at any given time.
- 4) The goats must be tethered or fenced in at all times.

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- 5) The owner or possessor must pay an annual goat permit fee in an amount established and/or modified by the town;
- 6) If goats are removed from the premises for a violation of this section or other applicable law, the owner or possessor is not allowed to obtain a goat permit for a minimum of one year from the date of removal;
- 7) No slaughter or sale of slaughtered goats is allowed within the town, unless expressly permitted by the town's Unified Development Ordinance; and
- 8) It is recommended that the owner or possessor take an educational course on goats care provided by the County Cooperative Extension Office

### ***§92.16 Exotic/or Wild Animals***

As used herein, exotic or wild animals shall mean and refer to an animal that would ordinarily be confined to a zoo, or one that would ordinarily be found in the wilderness of this or any other country or one that is a species of animal not indigenous to the United States or to North America, or one that otherwise is likely to cause a reasonable person to be fearful of significant destruction of property or of bodily harm and the latter includes but is not limited to: monkeys, raccoons, squirrels, ocelots, bobcats, wolves, hybrid wolves, venomous reptiles, and other such animal. Such animals are further defined as those mammals or non-venomous reptiles weighing over fifty (50) pounds at maturity, which are known at law as *ferae naturae*. Exotic or wild animals specifically do not include animals of a species customarily used in North Carolina as ordinary household pets, animals of a species customarily used in North Carolina as a domestic farm animals, fish confined in an aquarium other than piranha, birds, or insects.

No person, firm, or corporation shall keep, maintain, possess or have within the Town any venomous reptile or any other wild or exotic animal. It is unlawful to keep or harbor or breed or sell or trade any wild or exotic animal as a pet, for display or for exhibition purposes,

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whether gratuitously or for a fee. Exemptions to this rule include lawfully operated pet shops, zoos, veterinarians, wildlife rehabilitators with proper permits and scientific research facilities.

### §92.17 Beekeeping

Beekeeping shall be permitted as long as all hives and related areas are located at least 50 feet from any property or street line.

(Ord. passed 10/12-2004) **Penalty, see §92.18**

### §92.18 Enforcement

In addition to the Dangerous Dog and impoundment provisions set forth herein, violators shall be subject to a civil fine. The maximum civil fine for violations of this chapter shall be as follows:

First Offense:	\$100
Second Offense:	\$200
Third Offense:	\$300
Fourth Offense:	\$400
Fifth Offense:	\$500 and seizure of animal

Violations accumulate per owner, not per animal. Second and subsequent offenses are based on offenses within any 12-month period. Each day's continuing violation shall constitute a separate offense.