

**FREQUENTLY ASKED QUESTIONS:
AMENDMENTS TO ORANGE COUNTY'S UNIFIED ANIMAL CONTROL ORDINANCE**

November 8, 2018

Effective November 15, 2018, the Unified Animal Control Ordinance for Orange County, North Carolina, was amended by the Board of County Commissioners in a number of different ways. Based on experiences with the ordinance since its adoption in 2016, these amendments were made based upon the recommendations of Animal Services staff and the Animal Services Advisory Board. They worked closely with the county's staff attorney to develop and present these amendments.

Below is an overview of substantive amendments in the form of questions and answers:

1. Has animal control authority changed?

It has not changed as much as it has been clarified. Specifically, a new paragraph 4-38(c) has been added to the section titled "Animal control program" in order to clarify under what conditions Animal Control Officers may enter onto private property. This language states in writing what Animal Control Officers currently do in practice, by granting them the authority under the Ordinance to enter onto and inspect private property to investigate, impound, and/or issue citations for violations of the Ordinance, such as upon the owner's consent, pursuant to an administrative search warrant, or as otherwise authorized for law (for example, pursuant to a criminal search warrant or an exception to the warrant requirement, such as exigent circumstances).

2. What changes have been made in the regulation of dangerous animals?

A number of amendments were made in section 4-42 of the ordinance. They are identified below:

- References to the defined term "restraint" have been removed and substituted with variations of "control" or "confined in accordance with the requirements of this section." The definition of "Restraint" in section 4-37(bb) is applicable to animals in the County generally, while animals that have been declared "dangerous" are subject to the higher levels of restraint as detailed in section 4-42(d). Changing the word "restraint" in section 4-42 is intended to alleviate conflation of "restraint" generally and the stronger control required for animals declared dangerous, and clarify the requirements for how dangerous animals must be controlled and confined under the Ordinance.
- The Animal Services Advisory Board and Animal Services Hearing Panel Pool members determined the language of Section 4-42(b)(3) to be confusing when applied in appeal hearings for dangerous animal declarations. The proposed language clarifies that sentence by moving "defending a person" to another part of the Ordinance (see 4-42(e)) and by limiting the provision to apply to animals attacked while "on the land of the attacking animal's owner or keeper without permission" as opposed to "on the land of another

without permission.” This amendment would alleviate confusion raised in matters where an animal attacks another animal on land open to the public but where no express permission has been given for that animal to be there (for example, an attack occurring in Duke Forest).

- In 4-42(d), the phrase “controlled by means of a leash, chain, or other like device” has been simplified to “controlled by means of a leash.” While “leash” is not defined in the Ordinance, the dictionary definition of “leash” (“a line for leading or restraining an animal”) encompasses all means by which a dangerous animal may be controlled under the Ordinance, without identifying means the Ordinance does not permit, specifically electronic fences.
- Section 4-42(d)(2) has been split into two sections, clarifying how a dangerous animal shall be controlled going to and from a secure enclosure or permitted location when on the owner’s property, and when off the owner’s property. Dangerous animals going to and from a secure enclosure or permitted location (such as a kennel or vehicle) on the owner’s property should be leashed, but need not be muzzled as is required when off the owner’s property.

3. Has it become possible to have a dangerous dog declaration reviewed and revoked in the course of a dog’s life?

A new section 4-42(k) has been added, allowing for the Animal Services Director to review dangerous animal declarations annually upon application of the owner, and revoke the declaration should the owner meet certain criteria for revocation, including by providing a professional, third party assessment of the animal. The Animal Services Director would be required to issue written findings when revoking or refusing to revoke the declaration, based on the criteria outlined in section 4-42(k). There is strong support for this amendment given the experience of the Animal Services Hearing Panel Pool with appeals of dangerous animal declarations as the incidents on which these are based vary greatly in their intensity and harm.

4. Are there changes in animal control authority for cruelty cases?

The language, “[an animal] that is in imminent danger,” has been added to the general impoundment authority and process in Section 4-43. As described in new paragraph 4-38(c) and as required by law, such animals would only be impounded pursuant to consent, a warrant, or an exception to the warrant requirement.

5. How has the scope of appeal to the Animal Services Hearing Panel Pool been clarified?

This language has been amended to clarify what appeals are granted by the Ordinance: dangerous animal declarations, citations ordering the removal of nuisance animals, and denials or revocations of kennel or pet shops permits. A new appeal is included for citations issued for mistreatment, where the animal has been impounded and the Animal Services Director has determined not to release the animal back to its owner under Section 4-43(c). Citations for other Ordinance violations are not appealable under this Ordinance, but may be appealed to the Finance Director through the debt setoff process.

The Board of County Commissioners also made a number of recommended technical amendments related to past drafting of the ordinance. These are identified in the agenda abstract for the amendments which is available at https://nc-orangecounty.civicplus.com/AgendaCenter/ViewFile/Agenda/_11012018-760

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