



**Orange County
Board of Commissioners**

Agenda

Regular Meeting

October 1, 2013
7:00 p.m.
Department of Social Services
Hillsborough Commons
113 Mayo Street
Hillsborough, NC 27278

Note: Background Material
on all abstracts
available in the
Clerk's Office

Compliance with the "Americans with Disabilities Act" - Interpreter services and/or special sound equipment are available on request. Call the County Clerk's Office at (919) 245-2130. If you are disabled and need assistance with reasonable accommodations, contact the ADA Coordinator in the County Manager's Office at (919) 245-2300 or TDD# 644-3045.

1. Additions or Changes to the Agenda

PUBLIC CHARGE

The Board of Commissioners pledges to the residents of Orange County its respect. The Board asks its residents to conduct themselves in a respectful, courteous manner, both with the Board and with fellow residents. At any time should any member of the Board or any resident fail to observe this public charge, the Chair will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed. All electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.

2. Public Comments (Limited to One Hour)

(We would appreciate you signing the pad ahead of time so that you are not overlooked.)

- a. Matters not on the Printed Agenda (Limited to One Hour – THREE MINUTE LIMIT PER SPEAKER – Written comments may be submitted to the Clerk to the Board.)

Petitions/Resolutions/Proclamations and other similar requests submitted by the public will not be acted upon by the Board of Commissioners at the time presented. All such requests will be referred for Chair/Vice Chair/Manager review and for recommendations to the full Board at a later date regarding a) consideration of the request at a future regular Board meeting; or b) receipt of the request as information only. Submittal of information to the Board or receipt of information by the Board does not constitute approval, endorsement, or consent.

- b. Matters on the Printed Agenda
(These matters will be considered when the Board addresses that item on the agenda below.)

3. Petitions by Board Members (Three Minute Limit Per Commissioner)

4. Proclamations/ Resolutions/ Special Presentations

- a. Resolution Recognizing Senator Ellie Kinnaird for Service to Orange County
- b. Arts & Humanities Month – 2013 Piedmont Laureate John Claude Bemis



- c. Orange County Disability Employment Awareness Month Proclamation

5. Consent Agenda

- Removal of Any Items from Consent Agenda
 - Approval of Remaining Consent Agenda
 - Discussion and Approval of the Items Removed from the Consent Agenda
- a. Minutes – None
 - b. Motor Vehicle Property Tax Releases/Refunds
 - c. Property Tax Releases/Refunds
 - d. Applications for Property Tax Exemption/Exclusion
 - e. Approval of a New Public Health Preparedness Coordinator Position
 - f. Memorandum of Agreement with the Town of Hillsborough for the Hillsborough Circulator Transit Service
 - g. Request for Road Addition to the State Maintained Secondary Road System
 - h. Appointment of Review Committee for the County Logo

6. Public Hearings

- a. North Carolina Department of Transportation, Rural Operating Assistance Program (ROAP) Grant Application for FY 2013/2014

7. Regular Agenda

- a. Unified Animal Control Ordinance
- b. Orange County Volunteer Application-Proposed Revisions

8. Reports

9. County Manager's Report

10. County Attorney's Report

11. Appointments

- a. Appointments to the Assessment of Jail Alternatives Work Group
- b. Chapel Hill Library Board of Trustees
- c. Orange County Housing Authority

12. Board Comments (Three Minute Limit Per Commissioner)

13. Information Items

- September 17, 2013 BOCC Meeting Follow-up Actions List
- Tax Collector's Report – Numerical Analysis
- BOCC Chair Letter Regarding Petitions from September 17, 2013 Regular Meeting

14. Closed Session



15. Adjournment

A summary of the Board's actions from this meeting will be available on the County's website the day after the meeting.

Note: Access the agenda through the County's web site, www.orangecountync.gov

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No.** 4-a

SUBJECT: Resolution Recognizing Senator Ellie Kinnaird for Service to Orange County

DEPARTMENT: BOCC

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

- Resolution

INFORMATION CONTACT:

Donna Baker, Clerk to the Orange
County Board of Commissioners,
(919) 245-2130

PURPOSE: To consider a resolution recognizing Ellie Kinnaird for her years of service to the people of Orange County and beyond.

BACKGROUND: Eleanor "Ellie" Kinnaird was elected to the North Carolina State Senate by the voters of the 23rd District, which includes Orange County, for nine (9) terms from 1997 to 2013. She also served as the mayor for the Town of Carrboro from 1987 to 1996.

Ellie Kinnaird has been a persistent advocate for the rights of the underprivileged, a dedicated protector of the environment, a champion of social justice, a resolute opponent of the death penalty, and a supporter of fulfilling employment and quality public education.

Ellie Kinnaird has gone about her public duties with an unflagging spirit, a willingness to attend diverse community events that reflect and support the values of Orange County, and a devotion to principle regardless of obstacles or opposition.

FINANCIAL IMPACT: None

RECOMMENDATION(S): The Interim Manager recommends that the Board approve and authorize the Chair to sign the attached resolution recognizing Ellie Kinnaird for her 26 years as an elected public servant protecting and strengthening the quality of life for the people of Orange County.

ORANGE COUNTY BOARD OF COMMISSIONERS
RESOLUTION RECOGNIZING NORTH CAROLINA
SENATOR ELLIE KINNAIRD

WHEREAS, Eleanor “Ellie” Kinnaird was elected to the North Carolina State Senate by the voters of the 23rd District, which includes Orange County, for nine (9) terms from 1997 to 2013; and,

WHEREAS, Ellie Kinnaird was elected as the mayor for the Town of Carrboro from 1987 to 1996; and,

WHEREAS, her time in office represents 26 years as an elected public servant; and,

WHEREAS, Ellie Kinnaird has demonstrated commitment to protecting and strengthening the institution of state government through her perseverance and statesmanship; and,

WHEREAS, Ellie Kinnaird has been a persistent advocate for the rights of the underprivileged, a dedicated protector of the environment, a champion of social justice, a resolute opponent of the death penalty, and a supporter of fulfilling employment and quality public education; and,

WHEREAS, Ellie Kinnaird has gone about her public duties with an unflagging spirit, a willingness to attend diverse community events that reflect and support the values of Orange County, and a devotion to principle regardless of obstacles or opposition; and,

WHEREAS, during her years in the Senate, Ellie Kinnaird served as Chair of the Appropriations Committee on Justice and Public Safety, as Chair of the Mental Health and Youth Services committee, as Vice-Chair of the Agriculture/Environment/Natural Resources committee, and also served on the Senate Committees for Finance, State and Local Government, and Health Care; and,

WHEREAS, during her years of service, she has been recognized by a multitude of organizations including the North Carolina National Association for the Mentally Ill, the National Coalition Against the Death Penalty, the North Carolina Academy of Trial Lawyers, the Adolescent Pregnancy Prevention Coalition of N.C. and the North Carolina Central University School of Law;

NOW, THEREFORE, be it resolved that the Orange County Board of Commissioners does hereby recognize Senator Ellie Kinnaird for her progress and commitment to the sanctity of the political process in the North Carolina Senate while representing residents of Orange County.

This the first day of October 2013.

Barry Jacobs, Chair
Orange County Board of Commissioners

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No.** 4-b

SUBJECT: Arts & Humanities Month – 2013 Piedmont Laureate John Claude Bemis

DEPARTMENT: Orange County Arts
Commission

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):
Press Release

INFORMATION CONTACT:
Martha Shannon, 968-2011

PURPOSE: To introduce and hear a brief selection from Hillsborough resident and children's book author, educator and presenter John Claude Bemis, the 2013 Piedmont Laureate, during National Arts & Humanities Month (October).

BACKGROUND: The 2013 Piedmont Laureate Program is co-sponsored by the Orange County Arts Commission, the City of Raleigh Arts Commission, the Durham Arts Council, United Arts of Raleigh and Wake County and the Alamance County Arts Council. In its fifth year, the primary goal of this program is to promote awareness and heighten appreciation for excellence in the literary arts throughout the Piedmont region. The Arts Commission participates so that Orange County writers can apply and Orange County sites can host the Piedmont Laureate free of charge. The Piedmont Laureate is contracted for 25 events (readings or workshops at public sites) and at least 5 media appearances throughout the four-county area during calendar year 2013.

The application process was open to all writers residing in Orange, Durham, Wake or Alamance counties who met the guideline criteria. For 2013, applications were accepted from **children's book authors** only. In addition to the program sponsors, the selection panel included Clay Carmichael (Children's Book Author and Illustrator), Susie Wilde (Children's Book Author and Columnist), and Susan Wright (Manager, North Regional Library, Durham). Three finalists were selected and interviewed by the program sponsors, and Mr. Bemis was chosen for the position.

As his special project this year, Mr. Bemis is hosting a series of roundtable talks at independent book stores with area children's book authors about creativity, story craft, & the magic of writing for children. Mr. Bemis will be in Orange County on **Saturday, October 5, 2013 at 2:00 pm, Flyleaf Books, Chapel Hill**

FINANCIAL IMPACT: Orange County's portion (\$1,350) of the 2013 Piedmont Laureate's stipend and website (www.piedmontlaureate.com) expenses was paid primarily from FY13 state Grassroots funds.

RECOMMENDATION(S): The Interim Manager recommends that the Board recognize John Claude Bemis, the 2013 Piedmont Laureate.

Children's Author John Claude Bemis Selected as 2013 Piedmont Laureate

Hillsborough children's book author, educator and presenter John Claude Bemis has been selected as the region's 2013 Piedmont Laureate. Mr. Bemis will be introduced as the new laureate throughout the Piedmont Laureate sponsoring agencies' four-county area at various workshops, reading programs and speaking engagements. The Piedmont Laureate appointment was announced on the Murphey School Radio Show on Saturday, February 23rd.

The Piedmont Laureate program is dedicated to building a literary bridge for residents to come together and celebrate the art of writing. Co-sponsored by the City of Raleigh Arts Commission, Alamance County Arts Council, Durham Arts Council, Orange County Arts Commission and United Arts Council of Raleigh & Wake County, the program's mission is to "promote awareness and heighten appreciation for excellence in the literary arts throughout the Piedmont region." The program focuses on a different literary form each year (poetry in 2009, novels in 2010, creative non-fiction in 2011, drama/screenwriting in 2012 and children's literature in 2013).

"John Bemis brought his book and aspects of American folklore alive for our students with a lively and entertaining program," said Dr. Rhonda Zayas-Palmer, a librarian at Ravenscroft School. "He did what has become increasingly difficult in our video age – he inspired them to read!"

For being named the Piedmont Laureate, Mr. Bemis will receive an honorarium and serve until December 31st, 2013. His duties will include presenting public readings and workshops, participating at select public functions and creating at least one original activity to expand appreciation of children's literature. A schedule of the Laureate's 2013 activities will be posted in March on the sponsoring agency websites and on the Piedmont Laureate website at www.piedmontlaureate.com.

An inspiring speaker and entertaining performer, John Claude Bemis brings his passion for music, folklore and spinning exciting tales to his novels and presentations. The first novel in his *Clockwork Dark* trilogy, *The Nine Pound Hammer*, was nominated for the North Carolina Children's Book Award and was selected as a New York Public Library Best Children's Book for Reading and Sharing. The trilogy continues with *The Wolf Tree* and *The White City* and has been described as "original and fresh" and "a unique way of creating fantasy." His latest novel is *The Prince Who Fell from the Sky*. A musician and educator, John lives with his wife and daughter in Hillsborough, N.C.

For more information about the Piedmont Laureate program, visit www.piedmontlaureate.com; contact Martha Shannon, Director of the Orange County Arts Commission, at mshannon@orangecountync.gov or 919/968-2011 or contact any of the other sponsor agencies of the program.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No.** 4-c

SUBJECT: Orange County Disability Employment Awareness Month Proclamation

DEPARTMENT: BOCC

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

- Proclamation

INFORMATION CONTACT:

Donna Baker, Clerk to the Orange
County Board of Commissioners,
(919) 245-2130

PURPOSE: To consider a proclamation declaring October 2013 as Disability Employment Awareness Month in Orange County.

BACKGROUND: October is National Disability Employment Awareness Month.

Persons with disabilities have skills, talents, and dreams, and with respect and acceptance, individuals with disabilities – mental or physical – can participate in society and the work force to their fullest capacity.

Workplaces welcoming of the talents of all people, including people with disabilities, are a critical part of Orange County efforts to build an inclusive community and strong economy.

Deanna Jones with the NC Division of Vocational Rehabilitation will be at the meeting to receive the proclamation.

FINANCIAL IMPACT: None

RECOMMENDATION(S): The Interim Manager recommends that the Board approve and authorize the Chair to sign the attached proclamation declaring October 2013 as Disability Employment Awareness Month in Orange County.

ORANGE COUNTY BOARD OF COMMISSIONERS

ORANGE COUNTY DISABILITY EMPLOYMENT AWARENESS MONTH PROCLAMATION

WHEREAS, October is National Disability Employment Awareness Month; and,

WHEREAS, persons with disabilities have skills, talents, and dreams, and with respect and acceptance, individuals with disabilities – mental or physical – can participate in society and the work force to their fullest capacity; and,

WHEREAS, workplaces welcoming of the talents of all people, including people with disabilities, are a critical part of Orange County efforts to build an inclusive community and strong economy; and,

WHEREAS, through the use of assistive technology, people with disabilities can gain equal access to employment; and,

WHEREAS, Orange County recognizes that persons with disabilities are a resource we cannot afford to overlook or not use to their highest potential;

NOW, THEREFORE, be it proclaimed that the Orange County Board of Commissioners does hereby recognize the month of October 2013 as **DISABILITY EMPLOYMENT AWARENESS MONTH** in Orange County and calls upon employers, schools and other community organizations to become more aware of the needs, capabilities and hopes of people with disabilities.

This the first day of October 2013.

Barry Jacobs, Chair
Orange County Board of Commissioners

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No.** 5-b

SUBJECT: Motor Vehicle Property Tax Releases/Refunds

DEPARTMENT: Tax Administration

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Resolution
Releases/Refunds Data Spreadsheet
Reason for Adjustment Summary

INFORMATION CONTACT:

Dwane Brinson, Tax Administrator,
919-245-2726

PURPOSE: To consider adoption of a resolution to release motor vehicle property tax values for thirty-three (33) taxpayers with a total of thirty-seven (37) bills that will result in a reduction of revenue.

BACKGROUND: North Carolina General Statute (NCGS) 105-381(a)(1) allows a taxpayer to assert a valid defense to the enforcement of the collection of a tax assessed upon his/her property under three sets of circumstances:

- (a) "a tax imposed through clerical error", for example when there is an actual error in mathematical calculation;
- (b) "an illegal tax", such as when the vehicle should have been billed in another county, an incorrect name was used, or an incorrect rate code (the wrong combination of applicable county, municipal, fire district, etc. tax rates) was used;
- (c) "a tax levied for an illegal purpose", which would involve charging a tax which was later deemed to be impermissible under state law.

NCGS 105-381(b), "Action of Governing Body" provides that "Upon receiving a taxpayer's written statement of defense and request for release or refund, the governing body of the taxing unit shall within 90 days after receipt of such a request determine whether the taxpayer has a valid defense to the tax imposed or any part thereof and shall either release or refund that portion of the amount that is determined to be in excess of the correct liability or notify the taxpayer in writing that no release or refund will be made".

For classified motor vehicles, NCGS 105-330.2(b) allows for a full or partial refund when a tax has been paid and a pending appeal for valuation reduction due to excessive mileage, vehicle damage, etc. is decided in the owner's favor.

FINANCIAL IMPACT: Approval of these release/refund requests will result in a net reduction of \$3,981.35 to Orange County, the towns, and school and fire districts. Financial impact year to date for FY 2013-2014 is \$20,480.36.

RECOMMENDATION(S): The Interim Manager recommends that the Board:

- Accept the report reflecting the motor vehicle property tax releases/refunds requested in accordance with the NCGS; and
- Approve the attached refund resolution.

NORTH CAROLINA

RES-2013-070

ORANGE COUNTY

REFUND/RELEASE RESOLUTION (Approval)

Whereas, North Carolina General Statutes 105-381 and/or 330.2(b) allows for the refund and/or release of taxes when the Board of County Commissioners determines that a taxpayer applying for the release/refund has a valid defense to the tax imposed; and

Whereas, the properties listed in each of the attached "Request for Property Tax Refund/Release" has been taxed and the tax has not been collected: and

Whereas, as to each of the properties listed in the Request for Property Tax Refund/Release, the taxpayer has timely applied in writing for a refund or release of the tax imposed and has presented a valid defense to the tax imposed as indicated on the Request for Property Tax Refund/Release.

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY THAT the recommended property tax refund(s) and release(s) are approved.

Upon motion duly made and seconded, the foregoing resolution was passed by the following votes:

Ayes: Commissioners _____

Noes: _____

I, Donna Baker, Clerk to the Board of Commissioners for the County of Orange, North Carolina, DO HEREBY CERTIFY that the foregoing has been carefully copied from the recorded minutes of the Board of Commissioners for said County at a regular meeting of said Board held on _____, said record having been made in the Minute Book of the minutes of said Board, and is a true copy of so much of said proceedings of said Board as relates in any way to the passage of the resolution described in said proceedings.

WITNESS my hand and the corporate seal of said County, this _____ day of _____, 2013.

Clerk to the Board of Commissioners

Clerical error 105-381(a)(1)(a)
 Illegal tax 105-381(a)(1)(b)
 Appraisal appeal 105-330.2(b)

**BOCC REPORT REGISTERED MOTOR VEHICLE
 OCTOBER 1, 2013**

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT
Beckwith, Dennis	1042028	2013	16,899	0	(139.91)	County changed to Durham (Illegal tax)
Boone, Larry	8538800	2013	3,640	3,640	(56.36)	Incorrect situs address (Illegal tax)
Brown, Charles	8584367	2013	3,000	500	(23.29)	Holds an antique auto plate (Appraisal appeal)
Buenviaje, Bekki & Eric	1038043	2013	15,820	0	(129.39)	Half off. Co-owner is Military. Leave and Earning Statement home of record is TX (Illegal tax).
Buenviaje, Bekki & Eric	1038004	2013	15,530	0	(127.02)	Half off. Co-owner is Military. Leave and Earning Statement home of record is TX (Illegal tax).
Chavis, Nola	940928	2013	14,750	500	(132.25)	Holds an antique auto plate (Appraisal appeal)
Fesel, Kelly	664039	2013	5,370	0	(112.72)	Military Leave and Earning Statement home of record is PA (Illegal tax)
Freeman, Larry	5789150	2013	1,180	200	(15.48)	Price paid (Appraisal appeal)
Goldner, Richard	1041847	2013	14,930	0	(128.10)	County changed to Durham (Illegal tax)
Gunn, Dianne Mechelle	1004884	2013	14,340	14,340	(40.11)	Incorrect situs address (Illegal tax)
Hart, Ann	1023989	2013	10,740	0	(195.44)	County changed to Durham (Illegal tax)
Hartzog, Wayne Fulton Jr.	1040871	2013	5,400	0	(118.33)	County changed to Chatham (Illegal tax)
Kerr, Jordan Allen	1041610	2013	8,390	6,209	(20.24)	High mileage (Appraisal appeal)
Krasnov, Michael Robert	665808	2013	6,170	5,430	(12.11)	High mileage (Appraisal appeal)
Mckay, Mary Heather	650108	2013	9,640	9,640	(29.43)	Incorrect situs address (Illegal tax)
North State Specialty Haulers, Inc.	1040640	2013	980	0	(45.10)	County changed to Durham (Illegal tax)
Oakley, Johnny	8534762	2013	16,820	16,820	(154.00)	Incorrect situs address (Illegal tax)
Patterson, Michael Louis	1037490	2013	3,990	0	(35.85)	County changed to Durham (Illegal tax)
Patterson, Michael Louis	1037938	2013	9,810	0	(88.15)	County changed to Durham (Illegal tax)
Piszcak, Bogdon	658977	2013	8,510	7,659	(13.11)	High mileage (Appraisal appeal)
Rechholtz, Robert	1000979	2013	19,450	0	(329.60)	County changed to Durham (Illegal tax)
Rechholtz, Robert	998008	2013	5,290	0	(111.49)	County changed to Durham (Illegal tax)
Rechholtz, Robert	998008	2013	5,900	0	(120.89)	County changed to Durham (Illegal tax)
Riggsbee, Mabel	5724004	2013	3,000	500	(40.89)	Holds an antique auto plate (Appraisal appeal)
Rothrock Law Firm	593185	2013	15,920	15,290	(106.54)	Incorrect situs address (Illegal tax)
Rowe, Sarah Marie	1008422	2013	3,610	3,610	(3.45)	Incorrect situs address (Illegal tax)
Sellars, Howard	1041703	2013	6,130	0	(55.46)	County changed to Alamance (Illegal tax)
Sheffield, Colin	1003608	2013	22,860	0	(403.95)	County changed to Chatham (Illegal tax)
Stone, James Donald	1040728	2013	600	0	(5.15)	County changed to Durham (Illegal tax)
Surbrook, Joel Phillip	1042796	2013	1,180	0	(15.67)	County changed to Alamance (Illegal tax)
Tauer, Iwona	652340	2013	9,790	8,224	(24.09)	High mileage (Appraisal appeal)
VCNA Prestige Concrete	1037403	2013	31,500	0	(545.28)	County changed to Guilford (Illegal tax)
Vereczkey, Kinga	1042193	2013	23,240	0	(387.99)	County changed to Chatham (Illegal tax)
Walthall, Lori Rikard	8530649	2013	8,630	8,630	(92.50)	Incorrect situs address (Illegal tax)
Wheeling, Charles	1041422	2013	10,990	8,242	(42.25)	Total loss title (Appraisal appeal)
Woods, Joseph	8594441	2013	3,640	3,640	(56.27)	Incorrect situs address (Illegal tax)
Zhao, Wei	1041655	2013	10,260	8,824	(23.49)	High mileage (Appraisal appeal)
				Total	(3,981.35)	

August 28, 2013 thru
 September 11, 2013

Military Leave and Earning Statement: Is a copy of a serviceman's payroll stub covering a particular pay period. This does list his home of record, which is his permanent state of residence where he would pay any state income taxes.

Vehicle Titles

Salvaged and Salvage Rebuilt: Any repairs that exceed 75% of the vehicle's market value using NADA, Kelly Blue Book and various other publications. When the insurance company has totaled the vehicle, and the customer has received the claim check, four things can happen:

- Insurance company can keep the vehicle.
- Customer can keep the vehicle. The customer is instructed to contact the local DMV inspector to have an initial inspection done, for vehicles 2001 to 2006 (these dates change yearly, example in 2007 the models will be 2002-2007).
- Affidavit of Rebuilder- The inspector lists each part that needs to be repaired.
- Final inspection- if all work is cleared and approved by the inspector then the rebuilt status is then removed (salvaged status remains).

Note: Finance companies will not finance a salvaged vehicle.

Total Loss: Repairs were more than the market value of the vehicle and the insurance company is unwilling to pay for the repairs.

Total Loss/Rebuilt: Whatever the repairs were to make the vehicle road worthy after a Total Loss status has been given. Vehicle must be 5 years old or older. Vehicle status then remains as salvaged or rebuilt.

Certificate of Reconstruction: When work has been done on (vehicles 2001-2006 in year 2006) this is issued when the inspector didn't see the original damaged and the vehicle has been repaired.

Certificate of Destruction: NC DMV will not register this type of vehicle. It is not fit for North Carolina roads.

Custom Built: When the customer has built this vehicle himself or herself. Ex. parts taken from various vehicles to build one vehicle. Three titles are required from the DMV in this case. 1) Frame 2) Transmission 3) Engine. Then an indemnity bond must be issued. An indemnity bond must also be issued when the vehicle does not have a title at all.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No.** 5-c

SUBJECT: Property Tax Releases/Refunds

DEPARTMENT: Tax Administration

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Resolution
Spreadsheet

INFORMATION CONTACT:

Dwane Brinson, Tax Administrator,
(919) 245-2726

PURPOSE: To consider adoption of a resolution to release property tax values for ten (10) taxpayers with a total of twenty-six (26) bills that will result in a reduction of revenue.

BACKGROUND: The Tax Administration Office has received ten taxpayer requests for release or refund of property taxes. North Carolina General Statute 105-381(b), "Action of Governing Body" provides that "upon receiving a taxpayer's written statement of defense and request for release or refund, the governing body of the Taxing Unit shall within 90 days after receipt of such a request determine whether the taxpayer has a valid defense to the tax imposed or any part thereof and shall either release or refund that portion of the amount that is determined to be in excess of the correct liability or notify the taxpayer in writing that no release or refund will be made". North Carolina law allows the Board to approve property tax refunds for the current and four previous fiscal years.

FINANCIAL IMPACT: Approval of this change will result in a net reduction in revenue of \$38,610.79 to the County, municipalities, and special districts. The Tax Assessor recognized that refunds could impact the budget and accounted for these in the annual budget projections.

RECOMMENDATION(S): The Interim Manager recommends the Board approve the attached resolution approving these property tax release/refund requests in accordance with North Carolina General Statute 105-381.

NORTH CAROLINA

RES-2013-071

ORANGE COUNTY

REFUND/RELEASE RESOLUTION (Approval)

Whereas, North Carolina General Statutes 105-381 and/or 330.2(b) allows for the refund and/or release of taxes when the Board of County Commissioners determines that a taxpayer applying for the release/refund has a valid defense to the tax imposed; and

Whereas, the properties listed in each of the attached "Request for Property Tax Refund/Release" has been taxed and the tax has not been collected: and

Whereas, as to each of the properties listed in the Request for Property Tax Refund/Release, the taxpayer has timely applied in writing for a refund or release of the tax imposed and has presented a valid defense to the tax imposed as indicated on the Request for Property Tax Refund/Release.

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY THAT the recommended property tax refund(s) and release(s) are approved.

Upon motion duly made and seconded, the foregoing resolution was passed by the following votes:

Ayes: Commissioners _____

Noes: _____

I, Donna Baker, Clerk to the Board of Commissioners for the County of Orange, North Carolina, DO HEREBY CERTIFY that the foregoing has been carefully copied from the recorded minutes of the Board of Commissioners for said County at a regular meeting of said Board held on _____, said record having been made in the Minute Book of the minutes of said Board, and is a true copy of so much of said proceedings of said Board as relates in any way to the passage of the resolution described in said proceedings.

WITNESS my hand and the corporate seal of said County, this _____ day of _____, 2013.

Clerk to the Board of Commissioners

Releases/refund both clerical errors
and illegal tax - GS 105-381

BOCC REPORT- REAL/PERSONAL OCTOBER 1, 2013

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT
Ellis, Jessie Lee	154311	2013	1,150	0	(12.06)	Owner deceased (Illegal tax)
Ellis, Jessie Lee	154311	2012	1,200	0	(13.51)	Owner deceased (Illegal tax)
Ellis, Jessie Lee	154311	2011	1,200	0	(14.51)	Owner deceased (Illegal tax)
Ellis, Jessie Lee	154311	2010	1,200	0	(15.42)	Owner deceased (Illegal tax)
Ellis, Jessie Lee	154311	2009	1,200	0	(16.31)	Owner deceased (Illegal tax)
Escobar, Wendy	1033971	2013	2,170	0	(22.38)	Double-billed (Illegal tax)
Gorley, Robin	316795	2013	2,790	0	(28.48)	Double-billed (Illegal tax)
Gorley, Robin	316795	2012	3,130	0	(33.65)	Double-billed (Illegal tax)
Masimo Americas, Inc.	1029279	2013	1,164,488	54,437	(19,297.57)	Double-billed (clerical error)
Masimo Americas, Inc.	1036451	2013	1,258,696	1,110,051	(2,349.18)	Double-billed (clerical error)
Meunier, Kimberly	1022858	2013	1,000	0	(10.25)	Did not own on 1-1-13 (Illegal tax)
Miland, Alfred L.	193073	2013	950	0	(9.96)	MH destroyed prior to 1-1-13 (Illegal tax)
Penske Truck Leasing Co.	946033	2013	524,404	491,109	(285.67)	Over Assessment (clerical error)
Rent A Center East, Inc.	290065	2013	291,821	34,809	(4,255.60)	Amended listing (Illegal tax)
T-Mobile South, LLC	317983	2013	19,527	2,609	(156.99)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	317987	2013	29,769	5,556	(400.92)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	317998	2013	23,899	4,218	(311.04)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	318002	2013	13,852	2,069	(109.78)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	317988	2013	14,455	2,147	(115.43)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	317982	2013	26,996	4,235	(211.23)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	317993	2013	28,297	4,994	(368.28)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	1002142	2013	1,927,733	1,362,763	(8,928.79)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	317975	2013	8,485	2,401	(57.95)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	317977	2013	13,892	2,452	(108.21)	Incorrect Depreciation Schedule (Appraisal appeal)
T-Mobile South, LLC	317991	2013	142,233	60,043	(1,298.93)	Incorrect Depreciation Schedule (Appraisal appeal)
US Bancorp Equipment Finance, Inc.	279143	2013	909,073	897,767	(178.69)	Over Assessment (Clerical error)
				Total	(38,610.79)	

August 28, 2013 thru
September 11, 2013

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No.** 5-d

SUBJECT: Applications for Property Tax Exemption/Exclusion

DEPARTMENT: Tax Administration

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Exempt Status Resolution
Spreadsheet
Requests for Exemption/Exclusion

INFORMATION CONTACT:

Dwane Brinson, Tax Administrator,
(919) 245-2726

PURPOSE: To consider ten (10) untimely applications for exemption/exclusion from ad valorem taxation for thirteen (13) bills for the 2013 tax year.

BACKGROUND: North Carolina General Statutes (NCGS) require applications for exemption to be filed during the normal listing period, which is during the month of January. Exclusion for Elderly/Disabled, Circuit Breaker and Disabled American Veterans should be filed by June 1st of the tax year being applied. NCGS 105-282.1(a)(5) does allow some discretion. Upon a showing of good cause by the applicant for failure to make a timely application, an application for exemption or exclusion filed after the close of the listing period may be approved by the Department of Revenue, the board of equalization and review, the board of county commissioners, or the governing body of a municipality, as appropriate. An untimely application for exemption or exclusion approved under this subdivision applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

Two (2) applicants are applying for exclusion based on NCGS 105-278.3, which allows for exclusion from property taxes for property used for a religious purpose.

Eight (8) of the applicants are applying for homestead exclusion based on NCGS 105-277.1, which allows exclusion of the greater of twenty-five thousand dollars (\$25,000) or fifty percent (50%) of the appraised value of the residence plus the value of up to one (1) acre of land.

Based on the information supplied in the applications and the above referenced General Statutes, the applicants may be approved by the Board of County Commissioners. NCGS 105-282.1(a)(5) permits approvals of such applications if good cause is demonstrated by the taxpayer.

FINANCIAL IMPACT: The reduction in the County's tax base associated with approval of the exemption applications will result in a reduction of FY 2013/2014 taxes due to the County, municipalities, and special districts in the amount of \$10,908.88.

RECOMMENDATION(S): The Interim Manager recommends the Board approve the attached resolution for the above listed applications for FY 2013/2014 exemption.

NORTH CAROLINA

RES-2013-072

ORANGE COUNTY

EXEMPTION/EXCLUSION RESOLUTION

Whereas, North Carolina General Statutes 105-282.1 empowers the Board of County Commissioners to approve applications for exemption after the close of the listing period, and

Whereas, good cause has been shown as evidenced by the information packet provided, and

Whereas, the Tax Administrator has determined that the applicants could have been approved for 2013 had applications been timely.

NOW, THEREFORE, IT IS RESOLVED BY THE BOARD OF COUNTY

COMMISSIONERS OF ORANGE COUNTY THAT the properties applying for exemption for 2013 are so approved as exempt.

Upon motion duly made and seconded, the foregoing resolution was passed by the following votes:

Ayes: Commissioners _____

Noes: _____

I, Donna Baker, Clerk to the Board of Commissioners for the County of Orange, North Carolina, DO HEREBY CERTIFY that the foregoing has been carefully copied from the recorded minutes of the Board of Commissioners for said County at a regular meeting of said Board held on _____ said record having been made in the Minute Book of the minutes of said Board, and is a true copy of so much of said proceedings of said Board as relates in any way to the passage of the resolution described in said proceedings.

WITNESS my hand and the corporate seal of said County, this ____ day of _____, 2013.

Clerk to the Board of Commissioners

Late exemption/exclusion- GS 105-282.1 (a1)

BOCC REPORT REAL/PERSONAL OCTOBER 1, 2013

NAME	ABSTRACT NUMBER	BILL YEAR	ORIGINAL VALUE	TAXABLE VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT
Adams, Terry	290363	2013	119,678	59,839	(557.46)	Late application for exemption G.S. 105-277.1 (Homestead exclusion)
Alexander, Joanie Trustee	308833	2013	158,789	79,395	(739.64)	Late application for exemption G.S. 105-277.1 (Homestead exclusion)
Davis, Magdeline Sue T.	240999	2013	205,481	87,683	(1,097.41)	Late application for exemption G.S. 105-277.1 (Homestead exclusion)
Hunter, Elsie	3996	2013	85,860	49,861	(341.03)	Late application for exemption G.S. 105-277.1 (Homestead exclusion)
Keeter Jr., Herbert Calvin	250936	2013	77,190	38,595	(359.55)	Late application for exemption G.S. 105-277.1 (Homestead exclusion)
Soeey, Carl	297276	2013	123,417	61,708	(574.88)	Late application for exemption G.S. 105-277.1 (Homestead exclusion)
Spiritual Assembly of the Bahais of Orange County NC, Inc.	250787	2013	275,000	0	(2,312.50)	Late application for exemption G.S. 105-278.3 (Religious purposes)
Spiritual Assembly of the Bahais of Orange County NC, Inc.	250789	2013	179,400	0	(1,664.83)	Late application for exemption G.S. 105-278.3 (Religious purposes)
Spiritual Assembly of the Bahais of Orange County NC, Inc.	250790	2013	1,800	0	(16.70)	Late application for exemption G.S. 105-278.3 (Religious purposes)
Spiritual Assembly of the Bahais of Orange County NC, Inc.	250788	2013	3,500	0	(32.48)	Late application for exemption G.S. 105-278.3 (Religious purposes)
Steppe, Erma	198212	2013	221,440	110,720	(1,291.44)	Late application for exemption G.S. 105-277.1 (Homestead exclusion)
Subud Durham	242066	2013	169,320	0	(1,588.06)	Late application for exemption G.S. 105-278.3 (Religious purposes)
Webster, Bertha	263990	2013	110,774	74,901	(332.90)	Late application for exemption G.S. 105-277.1 (Homestead exclusion)
				Total	(10,908.88)	

August 18, 2013 thru
September 11, 2013



FILED
SEP 09 2013
ORANGE COUNTY
TAX ADMINISTRATION

Request for Tax Relief Late Application Filing

Date: 9/9/13

To Whom It May Concern:

I, (PRINT NAME) TERRY E. ADAMS, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2013 on Parcel Identification Number (PIN) # 9873572699.

In accordance with North Carolina General Statute 105-282.1(a1), I submit the reason(s) set forth below for consideration as demonstration of "good cause" for failure to make a timely application. An untimely application approved under G.S. 105-282.1(a1) applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

I was not aware that this exemption was available to me.

I just found out about the Property Tax Relief Program.

Other (please explain)

Thank you,

Terry E. Adams

(Signature)

How did you learn of this exemption?

SAW Information @ TAX office while paying CAR TAX

SEP 03 2013

ORANGE COUNTY
TAX ADMINISTRATION



**Request for Tax Relief
Late Application Filing**

Date: Aug 30 2013

To Whom It May Concern:

I Joanie Alexander Trustee, am applying for a late
(PRINT NAME)

Property Tax Relief Exemption or Exclusion for the year 2013 on parcel
number (PIN) # 9874755431

The reason for my late request is:

I was not aware that this exemption was available to me.

I just found out about the Property Tax Relief Program.

Other (please explain)

I was not aware that putting my residence in trust in my name, with same SSI number, was reason to re
Thank you, appl - neither was my lawyer.

Joanie Alexander
(Signature)

How did you find out about this exemption? change?

letter re trash tax change



**Request for Tax Relief
Late Application Filing**

FILED
AUG 27 2013
**ORANGE COUNTY
TAX ADMINISTRATION**

Date: 8/27/13

To Whom It May Concern:

I, (PRINT NAME) MAGDELINE SUE DAVIS, wish to be considered for Property Tax Relief Exemption or Exclusion for the year _____ on Parcel Identification Number (PIN) # 9865911573.

In accordance with North Carolina General Statute 105-282.1(a1), I submit the reason(s) set forth below for consideration as demonstration of "good cause" for failure to make a timely application. An untimely application approved under G.S. 105-282.1(a1) applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

I was not aware that this exemption was available to me.

I just found out about the Property Tax Relief Program.

Other (please explain)

(dead)

I didn't know it was a died line

Thank you,

Magdeline S. Davis
(Signature)

How did you learn of this exemption?



FILED
AUG 13 2013
ORANGE COUNTY
TAX ADMINISTRATION

Request for Tax Relief Late Application Filing

Date: 8-10-2012

To Whom It May Concern:

I Elsie Lloyd Hunter, am applying for a late
(PRINT NAME)

Homestead Exemption for the year 2012 on parcel number

(PIN) # 9825832110.

The reason for my late request is:

I was not aware that this exemption was available to me.

I just found out about the Property Tax Relief Program.

Other

Thank you,

Elsie Lloyd Hunter
(Signature)

How did you find out about this exemption?

A friend



FILED
SEP 09 2013
ORANGE COUNTY
TAX ADMINISTRATION

Request for Tax Relief Late Application Filing

Date: 9-9-13

To Whom It May Concern:

I, (PRINT NAME) Herbert Calvin Keeter Jr., wish to be considered for Property Tax Relief Exemption or Exclusion for the year _____ on Parcel Identification Number (PIN) # 9864473766.

In accordance with North Carolina General Statute 105-282.1(a1), I submit the reason(s) set forth below for consideration as demonstration of "good cause" for failure to make a timely application. An untimely application approved under G.S. 105-282.1(a1) applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

- I was not aware that this exemption was available to me.
- I just found out about the Property Tax Relief Program.
- Other (please explain)

on back of tax bill

Thank you,

Herbert Calvin Keeter Jr.
(Signature)

How did you learn of this exemption?

on back of tax bill



FILED
AUG 28 2013
ORANGE COUNTY
TAX ADMINISTRATION

**Request for Tax Relief
Late Application Filing**

Date: 8/28/13

To Whom It May Concern:

I Carl J. Soovey, am applying for a late
(PRINT NAME)

Property Tax Relief Exemption or Exclusion for the year 2013 on parcel
number (PIN) # 9878568201.

The reason for my late request is:

I was not aware that this exemption was available to me.

I just found out about the Property Tax Relief Program.

Other (please explain)
Didn't receive tax bill until
after 8/19/13

Thank you,

Carl J. Soovey
(Signature)

How did you find out about this exemption?

Back of tax bill

SEP 05 2013

ORANGE COUNTY
TAX ADMINISTRATION

To Whom it May Concern,

I am writing to apply for the property tax exemption for the property at 119 Maple Street in Elland. This church and fellowship hall were purchased by the Spiritual Assembly of the Bahais of Orange County in the late spring of 2012.

We have not requested a tax exemption for the property prior to now because we were not made aware of the tax status until we received the tax bills in August. We had assumed that the tax status of the church was already established by the previous owners (a Baptist association in Raleigh), and that a purchase of a church from one religious organization by another religious organization would have maintained the tax exemption afforded to religious organizations registered in the state of North Carolina.

Thank you for your assistance in this matter.

Glenn A. Peirce
Glenn A. Peirce
Secretary
Spiritual Assembly
of the Bahais
of Orange County.

encl.: Application
Tax bills (4)
Registration Document



FILED
AUG 19 2013
ORANGE COUNTY
TAX ADMINISTRATION

**Request for Tax Relief
Late Application Filing**

Date: 8/19/13

To Whom It May Concern:

I Erma Steppe, am applying for a late
(PRINT NAME)

Homestead Exemption for the year 2013 on parcel number
(PIN) # 9777508664.

The reason for my late request is:

I was not aware that this exemption was available to me.

I just found out about the Property Tax Relief Program.

Other

Thank you,

Erma Steppe
(Signature)

How did you find out about this exemption?

on tax form

August 28, 2013

Orange County Tax Office
Post Office Box 8181
Hillsborough, North Carolina 27278

FILED
AUG 28 2013
ORANGE COUNTY
TAX ADMINISTRATION

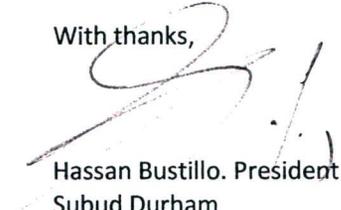
To whom it may concern:

I'm writing to request exemption from property tax on parcel number 9892693018.

The owner, Subud Durham, is a 501(c)3 nonprofit organization, under the umbrella of Subud USA. A copy of the IRS exemption letter, which lists us as an affiliate, is attached. When we bought the property from University Baptist Church in September, 2012, the attorney who handled the sale (Darin Meece) did not advise us that we needed to make a formal application to you for property tax exemption. Because the parcel was attached to University Baptist for the 2012 tax year, we did not receive a tax bill last year. We did not become aware of our need to apply to you for exemption until this month, when the bill for 2013 arrived.

We would certainly have applied for exemption last year if we had known that was necessary. We'd be grateful for your consideration in granting us the exemption now.

With thanks,



Hassan Bustillo, President
Subud Durham
3801 Dove Creek Road
Durham, North Carolina 27705



FILED
JUN 19 2013
ORANGE COUNTY
TAX ADMINISTRATION

Request for Tax Relief Late Application Filing

Date: 6/15/2013

To Whom It May Concern:

I Bertha R. Webster, am applying for a late
(PRINT NAME)

Homestead Exemption for the year 2013 on parcel number

(PIN) # 9833 - 08 - 3003.

The reason for my late request is:

I was not aware that this exemption was available to me.

I just found out about the Property Tax Relief Program.

Other

Thank you,

Bertha R. Webster
(Signature)

How did you find out about this exemption?

Daughter found out info online

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No. 5-e**

SUBJECT: Approval of a New Public Health Preparedness Coordinator Position

DEPARTMENT: Emergency Services & Health

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

Darshan Patel, 919-245-6135
James Groves, 919-245-6140
Dr. Colleen Bridger, 919-245-2412
Clarence Grier, 919-245-2453

PURPOSE: To approve a new Public Health Preparedness Coordinator position (1.0 FTE) in Orange County as a shared position between Emergency Services (.50 FTE) and the Health Department (.50 FTE).

BACKGROUND: Over the past several years, through the work of the Public Health Preparedness Coordinator, Orange County has developed an outstanding public health emergency preparedness program. This position works closely with Emergency Services (ES) Division of Emergency Management and other first responders to coordinate emergency preparedness needs in the County.

The Public Health Preparedness Coordinator is responsible for: developing and implementing mutual aid agreements to support National Incident Management System (NIMS) compliant public health response; working in conjunction with Emergency Services to use and maintain incident management systems for local events and response activities; developing and maintaining OSHA compliant respiratory protection programs as offered by the Public Health Regional Surveillance Team; updating county Strategic National Stockpile plans in accordance with the most current Centers for Disease Control and Prevention guidance; and working with Emergency Services to update and maintain the Emergency Operations Plan.

Historically the Health Department has contracted with the Person County Health Department to carry out the duties of the position while working closely with ES and other first responders within the County. Up until June 2013 when the position in Person County became vacant, the Health Department had a contract with Person County that outlined deliverables and position duties. Salary and benefits of the Public Health Preparedness Coordinator was split between the two counties at 50%, with the Orange County portion being covered by budgeted state grant funds. As a result of the vacancy, Person County will be creating its own 1.0 FTE to handle

public health preparedness and response duties within Person County. Upon approval of this request, Orange County will have the same structure in place.

Emergency Services has an excellent working relationship with the Health Department and sharing an Emergency Services position with Health would help bolster that coordination at a nominal cost. Both departments have a vested interest in seeing emergency preparedness across the County continue to flourish, and this would be an opportunity to share a preparedness resource within the County instead of with another county.

FINANCIAL IMPACT: The annual cost of the new position is \$60,300, which includes salary and benefits and operations. For FY 2013-14, the salary and benefit costs will be \$40,200 for the period of November 1, 2013 – June 30, 2014. Traditionally, the Health Department has paid 50% in salary and benefits of the position using state Public Health Preparedness Grant Funds budgeted in the department's Contract Services account. If approved, those funds would be transferred from contract services to salary and benefits to cover the costs of the .50 FTE in Health.

Funds for salary and benefits of \$20,100 and \$5,000 for one-time start-up costs would also need to be approved for the remaining 50% portion of the position in Emergency Services. If approved, staff would bring back an appropriation of \$25,100 from the General Fund's Unassigned Fund Balance to cover the remaining 50% cost of the position as part of the standard budget amendment agenda item at the Board's October 15, 2013 regular meeting.

RECOMMENDATION(S): The Interim Manager recommends that the Board approve the new Public Health Preparedness Coordinator (1.0 FTE) shared by Emergency Services (.50 FTE) and in the Health Department (.50 FTE), noting a proposed appropriation of \$25,100 from the General Fund's Unassigned Fund Balance to cover the remaining 50% cost of the position in Emergency Services for FY 2013-14.

Upon approval from the Board, the transfer of \$25,100 from the General Fund's Unassigned Fund Balance into Emergency Services' budget will be included as a Budget Amendment item at the October 15, 2013 Board of Commissioners meeting.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No.** 5-f

SUBJECT: Memorandum of Agreement with the Town of Hillsborough for the Hillsborough Circulator Transit Service

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

1. MOA Approved by Hillsborough Town Board
2. MOA with Tracked Changes from Previous Version
3. 2013 Hillsborough Circulator Ridership

INFORMATION CONTACT:

Bret Martin, Transportation Planner, 245-2582
Tom Altieri, Comprehensive, Planning Supervisor, 245-2579
Craig Benedict, Planning Director, 245-2592

PURPOSE: To consider approving an amended Memorandum of Agreement (MOA) between the Town of Hillsborough and Orange County for the Hillsborough Circulator bus service.

BACKGROUND: At its September 17, 2013 meeting, the BOCC authorized the County Attorney to review and approve an amended supplemental agreement with the North Carolina Department of Transportation (NCDOT) that extends the eligibility and use of a Congestion Mitigation and Air Quality (CMAQ) grant for supporting the Hillsborough Circulator bus service an additional two (2) years beyond its originally scheduled project duration until November 2015. In conjunction with the execution of the original agreement with NCDOT, in April 2011, the County and the Town of Hillsborough entered into an MOA laying out certain responsibilities of both parties regarding the County's delivery of the Hillsborough Circulator bus service.

In that agreement, the Town of Hillsborough committed to contribute the required 20% local match to secure the CMAQ grant funds for supporting the service. The original MOA with the Town became effective in June 2011 and is scheduled to expire in June 2014. Because the CMAQ grant's eligibility is set to be extended until November 2015, beyond the originally established agreement horizon date, and the Town of Hillsborough has agreed to continue contributing the required local match to secure the grant funds that will support the service beyond June 2014, County and Town staff have worked to update the MOA to reflect these changes.

At its regular meeting on September 9, 2013, the Hillsborough Town Board approved the attached MOA ([Attachment 1](#)) agreeing to contribute the remaining required 20% local match to continue to support the project through the life of the CMAQ grant's two (2)-year extension up to a maximum total local match contribution of \$69,000. This amount, in conjunction with the \$131,000 grant award amount that will be made available, is projected to conservatively cover the costs of the service through June 2015 with the potential for the service to be supported through the life of the grant award extension (November 2015) depending on quarterly cost outcomes. In addition to financial

responsibilities, the MOA also lays out general terms and conditions for the County's operation of the service. Attachment 2 depicts the changes made from the original MOA to the Town of Hillsborough-approved MOA.

In the future, if it is the desire of the Town and the County for the route to be sustained beyond the CMAQ grant authorization's extension, Orange County planning staff can work with the Town's planning staff to identify other grant sources or other sources of local revenue (e.g., Orange County Bus and Rail Investment Plan [OCBRIP] monies) that may be available to support the route after the existing grant award is exhausted. If OCBRIP monies are to be used to support the service, all three (3) parties to the OCBRIP's Interlocal Implementation Agreement must agree to that arrangement.

Originally, through the first three (3) years of OCBRIP development, it was understood that the Hillsborough Circulator was to be considered a new service as opposed to an existing service because there was very little local expenditure on the service. This concept has become more clouded with Triangle Transit's interpretation of the Interlocal Implementation Agreement that the Hillsborough Circulator is considered an existing service and would only be eligible for use of OCBRIP monies to support the increased cost of existing services as opposed to eligibility for funding new services.

To provide an indication of the scale of service provided by the Hillsborough Circulator, Attachment 3 summarizes the route's 2013 monthly ridership. The route's location and existing schedule can be accessed using the following web link:

<http://orangecountync.gov/planning/documents/Townofhillsboroughandorangecounty.pdf>

FINANCIAL IMPACT: Based on conservative estimates, projections indicate that the total cost of continuing the operation of the Hillsborough Circulator transit service through the life of the grant authorization extension (November 18, 2015) is \$192,519. Orange County will be reimbursed for all eligible costs of operating the route by NCDOT and the Town of Hillsborough. However, the County must expend the money for services before submitting invoices for reimbursement, and the County has configured its budget to accommodate this arrangement. The total cost to the County for operating this service is \$0.

RECOMMENDATION(S): The Interim Manager recommends that the Board approve the amended Memorandum of Agreement with the Town of Hillsborough and authorize the Manager to sign the Memorandum of Agreement.

**MEMORANDUM OF AGREEMENT for
HILLSBOROUGH CIRCULATOR TRANSIT ROUTE
BETWEEN ORANGE COUNTY, NORTH CAROLINA,
AND THE TOWN OF HILLSBOROUGH, NORTH CAROLINA**

This Memorandum of Agreement is entered into this 9th day of Sept., 2013, by and between Orange County (County) and the Town of Hillsborough (Town), North Carolina (referred to collectively as the "Parties").

WHEREAS, the County and the Town are public entities of North Carolina and are eligible to enter into a binding contractual relationship with one another; and

WHEREAS, the parties have previously entered into a Memorandum of Agreement dated April 5, 2011, concerning the operation, management and funding of the transit services which are the subject of this Agreement; and

WHEREAS, the parties desire to enter into this Memorandum of Agreement (hereinafter referred to as Memorandum) in order to establish the mutually agreed upon conditions upon which the County will provide certain transit services for the Town; and

WHEREAS, Orange Public Transportation (OPT) is a public transportation system operated by Orange County Government in Orange County, North Carolina; and

WHEREAS, OPT and the Town developed a Hillsborough Circulator route, and OPT is currently providing this service; and

WHEREAS, the Town wishes to continue to provide public transportation services through the Hillsborough Circulator route in and around the Hillsborough town limits.

NOW, THEREFORE, the following Memorandum of Agreement is hereby entered into by the County and the Town.

FUNDING

The route is currently funded by a Congestion Mitigation and Air Quality (hereinafter CMAQ) grant jointly administered by the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA). CMAQ grants for transit operating assistance provide 80% of a project's funding and require a local match of 20%. When the Hillsborough Circulator route was initiated, the duration of a transit operating assistance project's eligibility for a CMAQ grant was three (3) years; however, new interim guidance released by the FHWA in its interpretation of the Moving Ahead for Progress in the 21st Century (MAP-21) Federal surface transportation authorization allows active CMAQ grants that had not fully exhausted their three (3)-year eligibility as of September 30, 2012, to be extended for a duration not to exceed five (5) years. The North Carolina Department of Transportation has provided and continues to provide the required 20% local match for the first \$198,000 in costs incurred for the project. After the first \$198,000 is expended, the Town's previous and current contributions to the County will provide the required 20% local match to continue to support the project through the life of the CMAQ grant's two (2)-

year extension. The continuation of the Hillsborough Circulator transit service after the total five-year term of the CMAQ grant is contingent upon available new funding source(s).

CERTIFICATIONS AND ASSURANCES

OPT has provided the North Carolina Department of Transportation with certain Annual Certifications and Assurances as set forth on that certain document entitled "FEDERAL AND STATE CERTIFICATIONS AND ASSURANCES FOR COMMUNITY TRANSPORTATION PROGRAMS."

SERVICE GOVERNANCE

OPT will continue to operate the service and perform other responsibilities as outlined by this Memorandum. However, in the future, the governance of new transit services might be affected by the recommendations of an ongoing OPT – Chapel Hill Transit Consolidation Study. Any governance changes shall be discussed with the Town of Hillsborough prior to implementation.

ORANGE COUNTY RESPONSIBILITIES

Orange County shall:

- Provide public transportation services to the Town of Hillsborough following the attached route design.
- Provide services on an eight-hour schedule per day, Monday through Friday.
- Provide back-up drivers in case the assigned driver is not available.
- Determine if services should be suspended/limited due to inclement weather.
- Coordinate vehicle maintenance with Orange County Motor Pool to ensure vehicles are in safe operating order.
- Review the public route design and bus stops to ensure efficiencies and provide any relevant information to the Town of Hillsborough.
- Discuss the specific situation, and present evidence of cause, with the Town of Hillsborough staff prior to modification or termination of services.
- Administer the CMAQ grant and provide required reports to the North Carolina Department of Transportation, Federal Highway Administration and/or Federal Transit Administration.
- Provide and maintain adequate insurance coverage. All such insurances shall meet all laws of the State of North Carolina.
- Provide any information, data, documents, studies or reports given to or prepared or assembled under this Memorandum to North Carolina Department of Transportation and the Town of Hillsborough. Orange County acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information, OPT will safeguard and not further disclose the information except as otherwise provided in this Memorandum.
- Continue to provide a service invoice to the Town of Hillsborough on a quarterly basis.
- Maintain existing bus stop signage at route-designated bus stops.

THE TOWN OF HILLSBOROUGH RESPONSIBILITIES

The Town of Hillsborough shall:

- Provide the remaining required local match for operating the route under the CMAQ grant extension not to exceed a total of \$69,000 for the Town's overall contribution.

- Provide payment on a quarterly basis, within 30 days of receipt of an invoice from the County, throughout FY 2014 (July 1, 2013 – June 30, 2014) for the remaining local match contribution up to a maximum total contribution amount of \$69,000.
- Keep bus stops and surrounding pedestrian amenities in the Town limits cleared of snow during winter months.
- Ensure bus stop locations in the Town limits are compliant with North Carolina Department of Transportation's specifications and with all Americans with Disabilities Act regulations.
- Alert OPT of potential road closures or other obstructions that might affect transit service.
- Work with Orange County on developing route performance tracking and reporting mechanism.

MEMORANDUM OF AGREEMENT TERMS AND CONDITIONS

The parties to this Memorandum agree that this Memorandum shall be effective from 10/01/13 to 11/15/15 unless terminated earlier by either party.

This Memorandum shall be reviewed at least annually prior to March 1st and may be terminated by either party upon 90 days of written notice.

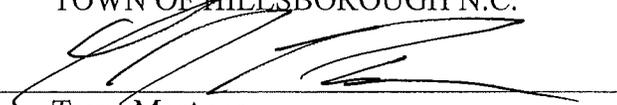
The Memorandum contains the entire understanding of the parties and shall not be altered, amended or modified, except in writing executed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be signed by its Department Directors.

FOR AND ON BEHALF OF:
ORANGE COUNTY

FOR AND ON BEHALF OF:
TOWN OF HILLSBOROUGH N.C.

County Manager



Town Manager

Date

9/19/13

Date

This Memorandum has been approved as to form and legal sufficiency.

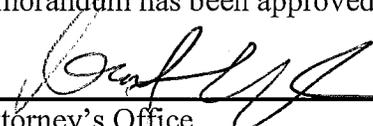
County Attorney's Office

Date

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Orange County Financial Director

This Memorandum has been approved as to form and legal sufficiency.

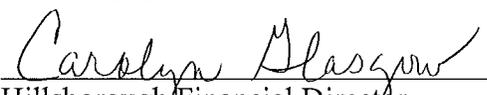


Town Attorney's Office

9/19/13

Date

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.



Hillsborough Financial Director

MEMORANDUM OF AGREEMENT for
HILLSBOROUGH CIRCULATOR TRANSIT ROUTE
BETWEEN ORANGE COUNTY, NORTH CAROLINA,
AND THE TOWN OF HILLSBOROUGH, NORTH CAROLINA

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This Memorandum of Agreement is entered into this ____ day of _____, 2013, by and between Orange County (County) and the Town of Hillsborough (Town), ~~North Carolina~~ (referred to collectively as the "Parties").

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WHEREAS, ~~the Orange~~ County and the Town ~~of Hillsborough~~ are public entities of North Carolina and are ~~ineligible~~ to enter into ~~aa~~ binding contractual relationship with one another; and

~~WHEREAS, the parties have previously entered into a Memorandum of Agreement dated April 5, 2011, concerning the operation, management and funding of the transit services which are the subject of this Agreement; and~~

WHEREAS, the parties desire to enter into this Memorandum of Agreement (hereinafter referred to as Memorandum) in order to establish the mutually agreed upon conditions upon which the County will provide certain transit services for the Town; and

~~WHEREAS, Orange Public Transportation (OPT) is a public transportation system operated by Orange County Government in Orange County, North Carolina; and~~

~~WHEREAS, OPT and the Town developed a Hillsborough Circulator route, and OPT is currently providing this service; and~~

WHEREAS, the Town wishes to continue to provide public transportation services through the Hillsborough Circulator route in and around the Hillsborough town limits, ~~and~~

~~WHEREAS, Orange Public Transit (OPT) is a public transportation system operated by Orange County Government in Orange County, North Carolina; and~~

~~WHEREAS, OPT and the Town have developed a new Hillsborough Circulator Route.~~

NOW, THEREFORE, the following Memorandum of Agreement is hereby entered into by the County and the Town.

FUNDING

The route is currently ~~funded~~ by a Congestion Mitigation and Air Quality (hereinafter CMAQ) grant jointly administered by the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA). ~~Transit Administration Congestion Mitigation and Air Quality (hereinafter CMAQ) grant. The CMAQ grants for transit operating assistance~~ provides 80% of a project's funding and requires a local match of 20%. When the Hillsborough Circulator route was initiated, the duration of a transit operating assistance project's eligibility for a CMAQ grant grant term was three (3) years; however, new interim guidance released by the FHWA in its interpretation of the Moving Ahead for Progress in the 21st Century (MAP-21) Federal surface

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transportation authorization allows active CMAQ grants that had not fully exhausted their three (3)-year eligibility as of September 30, 2012, to be extended for a duration not to exceed five (5) years. ~~—~~The North Carolina Department of Transportation has ~~committed to~~ provided and continues to provide the required 20% local match for the first \$198,000 in costs incurred for the project year of the project. After the first \$198,000 is expended year, the Town's previous and current contributions to the County will provide- ~~the required~~ will provide 20% local match to continue to support the project through the life of the CMAQ grant's two (2)-year extension. The continuation of the Hillsborough Circulator ~~the~~ transit services after the total five-year term of the CMAQ grant ~~grant three year term~~ is contingent upon available new funding source(s).

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CERTIFICATIONS AND ASSURANCES

OPT has provided the North Carolina Department of Transportation with certain Annual Certifications and Assurances as set forth on that certain document entitled "FEDERAL AND STATE CERTIFICATIONS AND ASSURANCES FOR COMMUNITY TRANSPORTATION PROGRAMS."

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SERVICE GOVERNANCE

OPT will continue to operate the service and perform other responsibilities as outlined by this Memorandum. However, in the future, the governance of ~~the~~ new transit services might be affected by the recommendations of an ongoing OPT – Chapel Hill Transit Consolidation Study. Any governance changes shall be discussed with the Town of Hillsborough prior to implementation.

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ORANGE COUNTY RESPONSIBILITIES

Orange County shall:

- Provide public transportation services to the Town of Hillsborough following the attached route design~~a~~.
- Provide services on an eight-hour schedule per day, Monday through Friday.
- Provide back-up drivers in case the assigned driver is not available.
- Determine if services should be suspended/limited due to inclement weather.
- Coordinate vehicle maintenance with Orange County Motor Pool to ensure vehicles are in safe operating order.
- Review the public route design and bus stops to ensure efficiencies and provide any relevant information to the Town of Hillsborough.
- Discuss the specific situation, and present evidence of cause, with the Town of Hillsborough staff prior to modification or termination of services.
- Administer the CMAQ grant and provide required reports to the North Carolina Department of Transportation, Federal Highway Administration and/or Federal Transit Administration.
- Provide and maintain adequate insurance coverage. All such insurances shall meet all laws of the State of North Carolina.
- Provide any information, data, documents, studies or reports given to or prepared or assembled under this Memorandum to North Carolina Department of Transportation and the Town of Hillsborough. Orange County acknowledges that in receiving, storing, processing or otherwise dealing with any confidential information, OPT will safeguard and not further disclose the information except as otherwise provided in this Memorandum.

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- ~~Continue to Develop and implement a marketing campaign in cooperation with the Town of Hillsborough as outlined in Appendix A.~~
- Provide a service invoice to the Town of Hillsborough on a quarterly basis.
- ~~Install and m~~Maintain existing bus stop signage at route-designated bus stops.

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THE TOWN OF HILLSBOROUGH RESPONSIBILITES

The Town of Hillsborough shall:

- Provide the remaining required local match for operating the route under the CMAQ grant extension not to exceed a total of \$69,000 for the Town’s overall contribution. ~~required 20% local match for the second and third year of the project.~~
- Provide payment on a quarterly basis, within ___ days of receipt of an invoice from the County, throughout FY 2014 (July 1, 2013 – June 30, 2014) for the remaining local match contribution up to a maximum total contribution amount of \$69,000. ~~based upon operating costs.~~
- Keep bus stops and surrounding pedestrian amenities in the Towneity limits cleared of snow during winter months.
- Ensure bus stop locations in the Towneity limits are compliant with North Carolina Department of Transportation’s specifications and with all Americans with Disabilities Act regulations.
- Alert OPT of potential road closures or other obstructions that might affect transit service.
- ~~Develop and implement a marketing campaign in cooperation with Orange County as outlined in Appendix A.~~
- Work with Orange County on developing route performance tracking and reporting mechanism.

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MEMORANDUM OF AGREEMENT TERMS AND CONDITIONS

The parties to this Memorandum agree that ~~the term of this memorandum is three (3) years unless terminated earlier by either party.~~ This Memorandum shall be effective from ___/___/___ to ___/___/___ unless terminated earlier by either party.-

This Memorandum shall be reviewed at least annually, prior to March 1st and may be terminated by either party upon 90 days of written notice.

The Memorandum contains the entire understanding of the parties and shall not be altered, amended or modified, except in writing executed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be signed by its Department Directors.

FOR AND ON BEHALF OF:
ORANGE COUNTY

FOR AND ON BEHALF OF:
TOWN OF HILLSBOROUGH N.C.

County Manager

Town Manager

Date

Date

This Memorandum has been approved as to form and legal sufficiency.

County Attorney's Office

Date

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Orange County Financial Director

This Memorandum has been approved as to form and legal sufficiency.

Town Attorney's Office

Date

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Hillsborough Financial Director

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APPENDIX A
Hillsborough Circulator Route
Memorandum of Agreement

~~A Marketing Campaign one month prior to and during the first two months of circulator service can be executed using existing funds programmed in the current fiscal year 2010-2011. The Marketing Campaign consists of the following:~~

The Town of Hillsborough will:

- ~~Spotlight the start of service and schedule in its Citizen's Newsletter published in April and mailed to every household in the city limits.~~
- ~~Develop and print tri fold brochures for the route until the schedule and stops are finalized (approximately 2000 copies, not to exceed 5000 copies).~~
- ~~Develop an 11' X 17' poster to compliment the brochures for posting in public locations and on buses. The electronic file will be scalable to facilitate printing at a variety of sizes.~~
- ~~Develop and distribute a press release before the service begins (may be a joint release with the County).~~
- ~~Develop and post bulletins announcing the service on the town's website and cable TV channel.~~
- ~~Coordinate the filming of a short video with County and OPT staff, if possible, for posting on the website and cable TV channel.~~
- ~~Coordinate posting of the schedule through the NC Courts website for use by court patrons.~~

Orange County/OPT will:

- ~~Develop route map and route schedule.~~
- ~~Secure and install bus stop signs for all stop locations. Most locations will have a tube that displays a route map and schedule.~~
- ~~Distribute press release coordinated with the Town's before service begins (may be joint release).~~
- ~~Print poster developed by the town for public building and bus locations (not to exceed 50)~~
- ~~Coordinate the filming of a short video with County and OPT staff, if possible, for posting on the website and cable TV channel.~~
- ~~Distribute brochures and posters to locations expected to generate riders.~~
- ~~Attend local events like Last Fridays (once).~~

During FY12, the Town and County agree to equally share expenses:

- Professionally print 5000 copies of a finalized route map/schedule for \$560.

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Attachment 3: 2013 Hillsborough Circulator Ridership

2013 Hillsborough Circulator Monthly Ridership*

January	February	March	April	May	June	July	August
1,188	970	1,016	815	824	1,013	1,596	1,110

*Figures are expressed as total unlinked passenger trips per month. Unlinked passenger trips are the number of passengers who board public transit vehicles who are counted each time they board vehicles no matter how many vehicles they use to travel from origin to destination.

Note: Monthly fluctuations in ridership are influenced by many factors including but not limited to differences from month to month in the total number of weekdays of service and weather conditions. Months with fewer weekdays of service result in fewer total monthly trips. Months with more extreme temperatures tend to result in higher levels of ridership than months with more comfortable temperatures.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No.** 5-g

SUBJECT: Request for Road Addition to the State Maintained Secondary Road System

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

N

ATTACHMENT(S):

1. Map of Casey Lane
2. Mallory Place Subdivision Final Plat
3. Casey Lane NCDOT Documentation

INFORMATION CONTACT:

Bret Martin, 245-2582
Tom Altieri, 245-2575
Craig Benedict, 245-2585

PURPOSE: To make a recommendation to the North Carolina Department of Transportation (NCDOT) concerning a petition to add a subdivision road in Mallory Place Subdivision (Casey Lane) to the State Maintained Secondary Road System.

BACKGROUND: This request includes one (1) petition for a road addition to the State Maintained Secondary Road System. The road is as follows:

Mallory Place Subdivision (Casey Lane)

The requested road addition is about 0.24 mile long. Seventeen (17) houses currently have entrances to the road submitted for addition, and an additional two (2) undeveloped lots have frontage on the road. Casey Lane is located approximately 0.43 mile west of the intersection of Secondary Road (SR) 1345 (Mill Creek Road) and Lebanon Road (Attachment 1).

Mallory Place Subdivision is located within the City of Mebane's Extraterritorial Zoning Jurisdiction (ETJ) and was recorded with the Orange County Register of Deeds on November 20, 2001 (Attachment 2). Before the subdivision plat was recorded, the City of Mebane reviewed and approved the plat per the City's subdivision regulations that apply to the City's ETJ. The City of Mebane has indicated that any subdivision conditions of its approval of the plat are met, and the City has no issues or problems with the petition. The City of Mebane has also indicated that there are no plans to annex the Mallory Place Subdivision in the near future that would require the City to take responsibility for maintenance of Casey Lane. Although this property is within the City's ETJ, North Carolina General Statute §136-62* requires that road petitions for additions to the state system be made by the Board of County Commissioners (BOCC). NCDOT has investigated this request and has submitted a petition to the BOCC for its recommendation (Attachment 3).

Conclusion

The above-referenced application meets the criteria endorsed by the BOCC for recommending acceptance of a public road into the State Maintained System for roads approved through the governing jurisdiction's major subdivision process (*NCDOT Subdivision roads Minimum Construction Standards, January 2010*). The City o

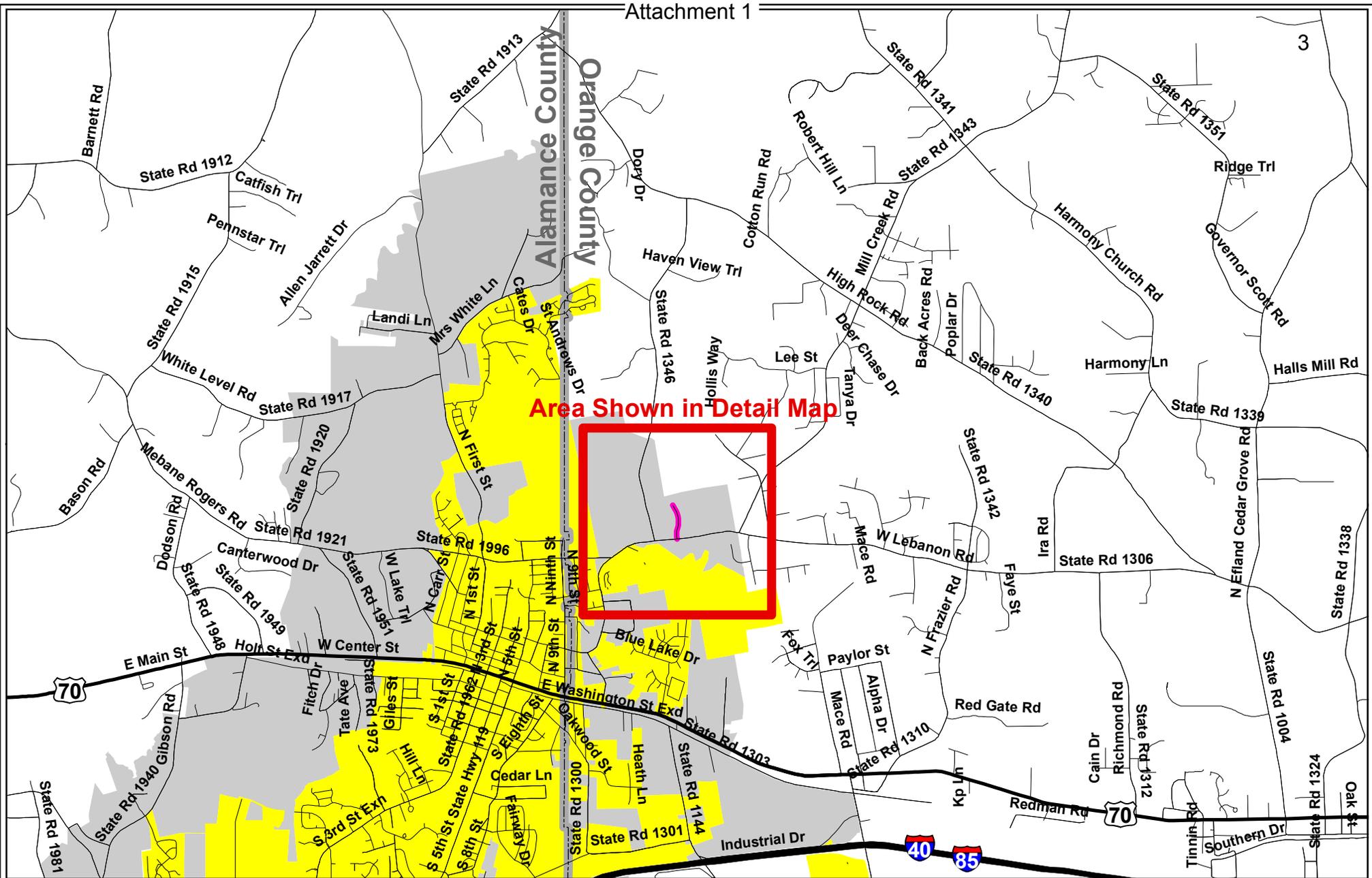
In accordance with North Carolina General Statute §136-62*, the Board is required to make a recommendation regarding the petition to the North Carolina Board of Transportation (NC BOT) before NCDOT can consider the petitions.

FINANCIAL IMPACT: There is no direct financial impact to the County associated with this item. NCDOT will incur additional maintenance responsibilities and costs.

RECOMMENDATION(S): The Interim Manager recommends the Board:

1. Forward the Petition for Addition to the State Maintained System to the North Carolina Department of Transportation for Casey Lane subdivision road in Mallory Place Subdivision.
2. Recommend the Department of Transportation accept the road for maintenance as a State Secondary Road.

* North Carolina General Statute §136-62 directs that "The citizens of the State shall have the right to present petitions to the board of county commissioners, and through the board to the Department of Transportation, concerning additions to the system and improvement of roads. The board of county commissioners shall receive such petitions, forwarding them on to the Board of Transportation with their recommendations."



Area Shown in Detail Map

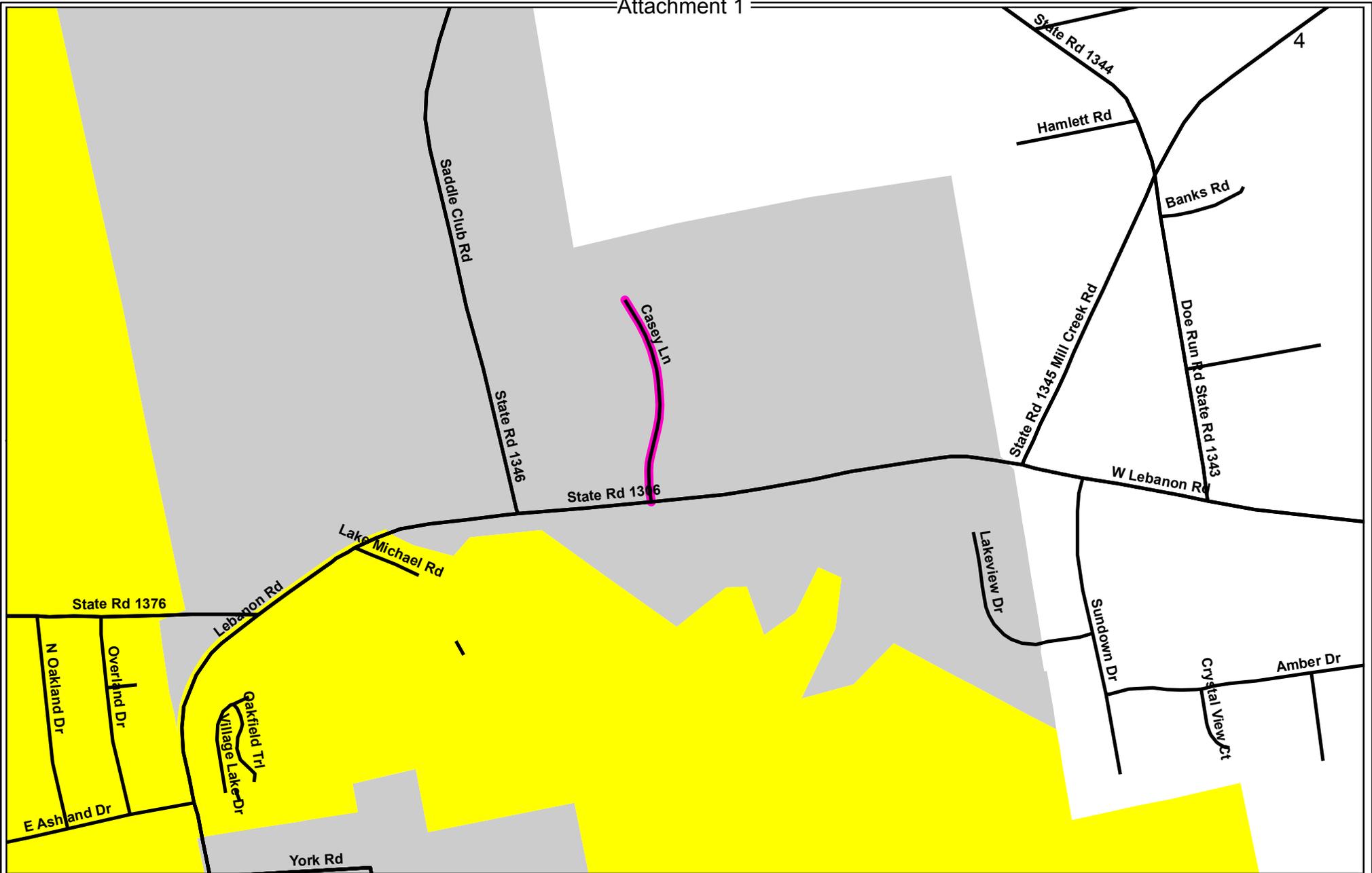
LEGEND

-  Casey Lane
-  Highway
-  Secondary Road/Street
-  Mebane City Limits
-  Mebane ETJ
-  County Boundary



Vicinity Map of Casey Lane - Mallory Place Subdivision





LEGEND

-  Casey Lane
-  Secondary Road/Street
-  Mebane City Limits
-  Mebane ETJ



Detail Map of Casey Lane - Mallory Place Subdivision



Orange County Planning and Inspections Department
Map Prepared by Bret Martin 09/19/2013

Book 89 Page 46

SURVEYOR'S CERTIFICATE

I, ROBERT S. JONES, CERTIFY THAT THIS PLAT WAS DRAWN BY ME FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION...

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS...

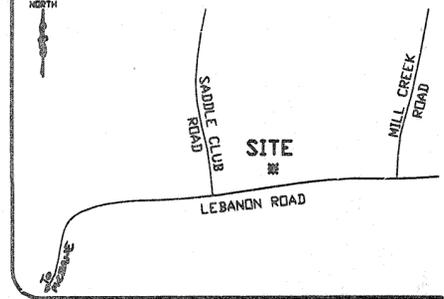
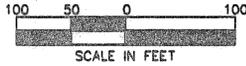
WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 11-12-01 DAY OF NOVEMBER, 2001.

11-12-01 Montevideo, N.C. Planning Director AUTHORIZED STAFF, CITY OF MEBANE



PROFESSIONAL LAND SURVEYOR L-3939 REGISTRATION NUMBER

BRUCE W. CURTIS DB.1994 P.264



VICINITY MAP (NOT TO SCALE)

FOR MULTIPLE PIN SHEET SEE BOOK PAGE 46

FILED BOOK PAGE # 81 PAGE # 46 2001 NOV 20 P 1: 25 JOYCE H. PEARSON REGISTER OF DEEDS ORANGE CO. N.C.

DORIS CLARK LYNCH 85-E-077

REFERENCES DB.2212 P.366

- NOTES: 1. ALL AREAS BY COORDINATES. 2. NEW IRON RODS SET AT ALL CORNERS UNLESS OTHERWISE NOTED. 3. NO N.C.G.S. MONUMENTS FOUND WITHIN 2000' OF PROPERTY.

Table with 3 columns: LINE, LENGTH, BEARING. Lists lines L1 through L7 with their respective measurements.

GEORGE AND VANESSA WOODS DB.1600 P.218

AT&T EASEMENT TO BE CHANGED FROM 100' TO 33'

- LEGEND: EIP EXISTING IRON PIPE, EIR EXISTING IRON ROD, NIR NEW IRON ROD, CP COMPUTED POINT, R/W RIGHT OF WAY, MBL MINIMUM BUILDING LINE

ENVIRONMENTAL HEALTH CERTIFICATION

SOIL AND SITE EVALUATIONS HAVE BEEN CONDUCTED BY THE ORANGE COUNTY HEALTH DEPARTMENT, ENVIRONMENTAL HEALTH DIVISION...

ENVIRONMENTAL HEALTH SPECIALIST

THIS SURVEY REPRESENTS A SUBDIVISION OF PROPERTY AND IS WITHIN THE CITY OF MEBANE SUBDIVISION JURISDICTION

DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS PROPOSED SUBDIVISION ROAD CONSTRUCTION STANDARDS CERTIFICATION

OWNER CHASE HOLLOW, INC. P.O. BOX 131 HILLSBOROUGH, N.C. 27278

CURVE TABLE with columns: CURVE, RADIUS, DELTA, ARC LENGTH, TANGENT, CHORD BEARING, CHORD. Lists curves C1 through C25.

CERTIFICATE OF OWNERSHIP AND DEDICATION. WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON...

11-12-2001 DATE

NORTH CAROLINA ORANGE COUNTY

Notary Public section for Robert S. Jones, Notary Public, Orange County, NC.

STATE OF NORTH CAROLINA COUNTY OF ORANGE

1. Penny Bryant REVIEW OFFICER OF ORANGE COUNTY. CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS...

DATE OF CERTIFICATION 11-20-01

NORTH CAROLINA - ORANGE COUNTY THE FOREGOING CERTIFICATE OF

NOTARY PUBLIC OF THE DESIGNATED GOVERNMENTAL UNITS IS CERTIFIED TO BE CORRECT. FILED FOR REGISTRATION ON THE ... DAY OF ... 20...

NOTE: 1) PROPERTY ZONED R-12 2) TOTAL AREA = 230 ACRES±

CERTIFICATE OF LAND USE REGULATION

A. THAT THE SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

FINAL PLAT SUBDIVISION OF PROPERTY FOR MALLORY PLACE SUBDIVISION

SCALE - 1" = 100' CHECKS TOWNSHIP - ORANGE COUNTY, N.C. DATE - AUGUST 9, 2001

BRADY H. GODFORTH & ASSOCIATES, INC. 301 WEST GRAHAM STREET MEBANE, N.C. 27302 919-563-3623



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

August 13, 2013

ORANGE COUNTY

Mr. Frank Clifton
County Manager
Orange County
P.O. Box 8181
Hillsborough, North Carolina 27278

SUBJECT: Request for Road Addition
Casey Lane
Mallory Place Subdivision

Dear Mr. Clifton:

Please find attached is Form SR-4 Secondary Road Addition Investigation Report, Form SR-1 Petition for Road Addition, recorded plat, and a location map for the above subject.

This is being forwarded to you for consideration by your Board of Commissioners.

Sincerely,

A handwritten signature in cursive script, appearing to read "C.N. Edwards, Jr.".

C.N. Edwards, Jr., P.E.
District Engineer

Attachments
/tcs

North Carolina Department of Transportation
Division of Highways
Secondary Road Addition Investigation Report

County: ORANGE Co. File No: O-04-10 Date: 7-23-13
Township: CHEEKS Div. File No: _____ Div. No: 7

Local Name: CASEY LANE Subdivision Name: MALLORY PLACE
Length: 0.24 MI Width: 26 FEET Surface Type: I-2 PVMT Condition: GOOD
Surface Thickness: 2 INCHES Base Type: ABC Base Thickness: 8 INCHES

*Bridges Yes___ No_X * Pipe > 48" Yes___ No_X *Retaining Walls Within Right of Way Yes___ No_X

*** If Yes -Include Bridge Maintenance Investigation Report**

Is this a subdivision street subject to the construction requirements for such streets? YES

Recording Date: 11-20-2001 Book: 89 Page: 46

Number of homes having entrances into road: 17

Other uses having entrances into road: NONE

Right-of-Way Width: 50 FEET If right-of-way is below the desired width, give reasons under "Remarks and Recommendations."

Is petition (SR-1) attached? YES

Is the County Commissioners Approval (SR-2) attached? YES If not, why not? _____

Is a map attached indicating information for reference in locating road by the Planning Department? YES

Cost to place in acceptable maintenance condition: Total Cost: \$ 0.00

Grade, drain, stabilize: \$ 0.00 Drainage: \$ 0.00 Other: \$ 0.00

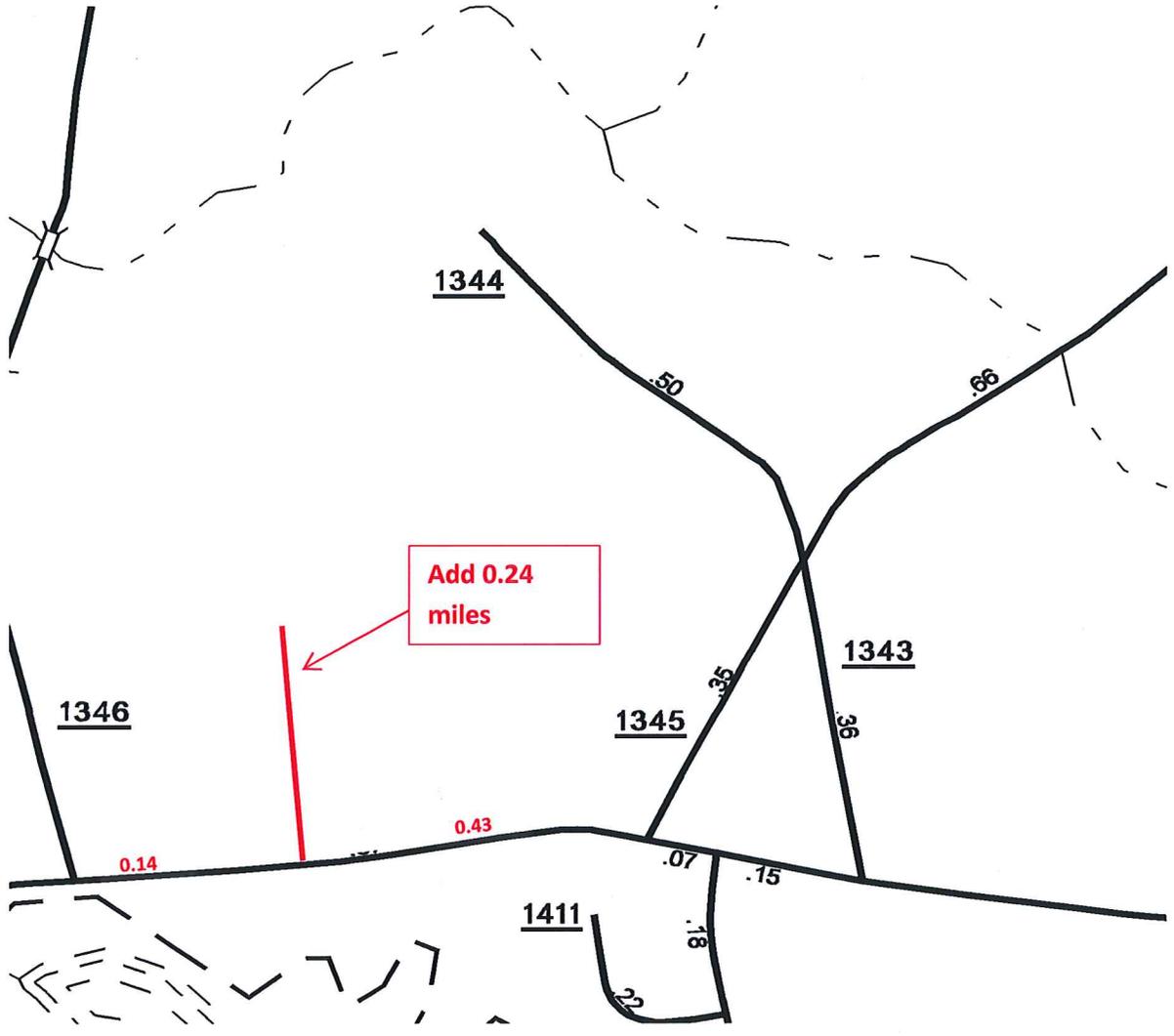
Remarks and Recommendations: Road meets minimum requirements. Recommend addition

Submitted by: *C.N. Edwards* C.N. Edwards Reviewed and Approved: J.M. Mills
DISTRICT ENGINEER DIVISION ENGINEER

Reviewed and Approved

BOARD OF TRANSPORTATION MEMBER: _____

	Do not write in this space- For Use by Secondary Roads Unit
	Petition #



North Carolina Department of Transportation
Division of Highways
Petition for Road Addition

ROADWAY INFORMATION: (Please Print/Type)

County: Orange Road Name: Casey Lane
(Please list additional street names and lengths on the back of this form.)

Subdivision Name: Mallory Place Length (miles): 3/10 of a mile

Number of occupied homes having street frontage: 17 Located (miles): 0.43 miles

miles N S E W of the intersection of Route SR 1345 and Route Lebanon Rd.
(Check one) (SR, NC, US) (SR, NC, US)

We, the undersigned, being property owners and/or developers of Casey Lane in Orange County, do hereby request the Division of Highways to add the above described road.

CONTACT PERSON: Name and Address of First Petitioner. (Please Print/Type)

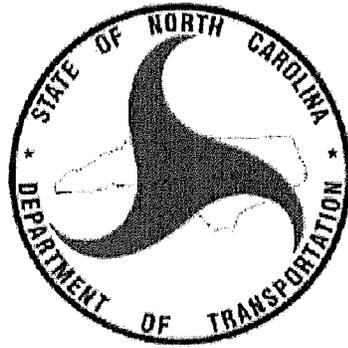
Name: ALFRED + LLOYDENE JOHNS Phone Number: 919-304-0777

Street Address: 601 Casey Lane

Mailing Address: Mebane, N.C. 27302

PROPERTY OWNERS

<u>Name</u>	<u>Mailing Address</u>	<u>Telephone</u>
<u>Mary Bass Stallings</u>	<u>603 Casey Lane, Mebane, NC 27302</u>	<u>919-451-5231</u>



DEPARTMENT OF TRANSPORTATION INTEROFFICE MEMO

RIGHT OF WAY BRANCH
P. O. BOX 14996
GREENSBORO, N.C. 27415-4996

Phone: 336-334-3515

Fax: 336-334-5331

August 13, 2013

MEMO TO: C. N. Edwards, Jr.
MEMO FROM: Alan Rothrock
COUNTY: Orange
SUBJECT: Addition to System—Mallory Place Subdivision
Casey Lane

I have examined the Mallory Place Subdivision plat of the Orange County Registry furnished by your office. Based on my examination of the plat it appears that there is a platted 50-ft. right of way and sight distances as shown.

If any additional information is needed, please contact me at the number above.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT
Meeting Date: October 1, 2013

**Action Agenda
Item No.** 5-h

SUBJECT: Appointment of a Review Committee for the County Logo

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

Michael Talbert, Interim County Manager,
919-245-2300

PURPOSE: To approve the appointment of a Review Committee for the County logo.

BACKGROUND: On May 21, 2013 the Board received an overview of the County's Marketing and public relations projects. A motion was made "that the Board of County Commissioners or designated members would participate in the design or review of any logo for overall use to represent Orange County, including the review of any already developed logo; and that the Board of County Commissioners will have final approval of any such logo, emblem or representation." The motion was seconded and unanimously approved.

At its September 12, 2013 work session, the Board discussed the County logo and expressed concerns about the design and design process for the logo. The appointment of a Review Committee will provide an opportunity for the Board members to participate in the design process and finalize a redesigned County logo to recommend to the Board of County Commissioners (BOCC).

The Review Committee will;

1. Review the current County logo
2. Review alternative logo designs
3. Make a recommendation to the BOCC

Commissioners Renee Price and Penny Rich have volunteered to serve on the Review Committee with Public Affairs Director Carla Banks and Interim County Manager Michael Talbert. The Review Committee will report back to the Board of County Commissioners prior to or at the December 10, 2013 regular Board meeting.

FINANCIAL IMPACT: There is no anticipated financial impact for the County to review logo designs.

RECOMMENDATION(S): The Interim Manager recommends that the Board appoint Commissioners Renee Price and Penny Rich to serve on a Review Committee with Public Affairs Director Carla Banks and Interim County Manager Michael Talbert to review the County logo.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No. 6-a**

SUBJECT: North Carolina Department of Transportation, Rural Operating Assistance Program (ROAP) Grant Application for FY 2013/2014

DEPARTMENT: Planning/Transportation

PUBLIC HEARING: (Y/N)

Yes

ATTACHMENT(S):

1. Public Hearing Notice
2. Certified Statement

INFORMATION CONTACT:

Craig Benedict, 245-2592
Al Terry, 245-2002
Pearl Waite, 245-2004

PURPOSE: To conduct a public hearing for the NCDOT Rural Operating Assistance Program (ROAP) grant and to approve the annual FY 2013/2014 ROAP grant application and certified statement.

BACKGROUND: The North Carolina Department of Transportation, Public Transportation Division, designates Rural Operating Assistance Program (ROAP) funds each fiscal year to Orange County. ROAP consolidates the Elderly/Disabled Transportation Assistance Program (EDTAP), the Employment Program, and the Rural General Public (RGP) Program into a single application package. These ROAP funds allow Orange County to continue servicing the above mentioned programs from July 1, 2013 through June 30, 2014.

Orange Public Transportation (OPT) is the lead agency for public and human services agency transportation in rural Orange County. The EDTAP allocation of \$80,561 will allow OPT to continue to provide medical transportation for the sixty-plus and disabled residents of Orange County. To the extent possible, trips will be grouped by geographic area per weekday and the destination will be the closest provider. All EDTAP service recipients are required to provide a co-pay of \$3 per one-way trip. This fee is pro-rated for any individual whose family income is at or below 125% of the poverty level as determined by the NC Department of Health and Human Services. Co-payments are utilized to fund additional trips.

With an allocation of \$34,980 for Employment Transportation Assistance funds, Orange Public Transportation will provide former Work First participants or other low-income persons certified for Medicaid or Food Stamps with a maximum of \$300 per year to assist with employment related transportation. For vehicle owners, the funds may be used for repairs and/or insurance. For non-vehicle-owning residents, the funds may assist with the purchase of bus passes, van/car pool expenses, or possibly gas coupons. OPT allocates the Work First

Transitional/Employment Transportation Program funds to Orange County Department of Social Services to administer and complete the required annual service report.

Orange Public Transportation has provided Rural General Public transportation on a seat available basis for many years. The development of the Hillsborough to Chapel Hill public route, no longer funded through Triangle Transit, and the Hillsborough Circulator public route are subsidized through RGP allocated funds. The FY 2013/2014 Rural General Public funds are \$92,624 to support general public routes.

The period of performance for Rural Operating Assistance Program funds is July 1, 2013 through June 30, 2014. The FY 2013-2014 ROAP individual programs totals are:

EDTAP	\$80,561
EMPL	\$34,980
<u>RGP</u>	<u>\$92,624</u>
 TOTAL	 \$208,165

FINANCIAL IMPACT: The Rural Operating Assistance Program grant requires a local 10% which will be provided by a \$3 co-pay per EDTAP trip. Orange County was awarded a total of \$181,761 for FY 2012/2013, and the County request for FY 2013/2014 is \$208,165.

RECOMMENDATION(S): The Interim Manager recommends that the Board:

1. Conduct and then close the required ROAP public hearing for public comments;
2. Approve the application for Rural Operating Assistance Program funds totaling **\$208,165** for FY 2013/2014; and
3. Authorize the Chair and Interim County Manager to sign the Certified Statement of Participation.

Attachment 1

Public Hearing Notice

This is to inform the public of the opportunity to attend a public hearing on the proposed Rural Operating Assistance Program (ROAP) application to be submitted to the North Carolina Department of Transportation no later than October 18, 2013 by Orange County. The public hearing will be held on **October 1, 2013 at 7:00 p.m.** at the **Orange** commissioners meeting in the **Hillsborough Social Services office** located at **113 Mayo Street, Hillsborough, N.C. 27278**. **Orange County** will provide auxiliary aids and services under the ADA for disabled persons who wish to participate in the hearing. Anyone requiring special services should contact Pearl Waite at (919) 245-2008 as soon as possible so that arrangements can be made.

The programs included in the Rural Operating Assistance Program application are:

1. Elderly & Disabled Transportation Assistance (EDTAP) Program provides operating assistance for the public transportation of elderly and disabled citizens.
2. Employment Transportation Assistance Program provides operating assistance for the public transportation of persons with employment related transportation needs.
3. Rural General Public (RGP) Program provides operating assistance for the public transportation of persons living in non-urban areas of the county.

The period of performance for Rural Operating Assistance Program funds is July 1, 2013 through June 30, 2014. The FY2014 ROAP individual program totals are:

PROGRAM	TOTAL
EDTAP	\$80,561
EMPL	\$34,980
RGP	\$92,624
TOTAL	\$208,165

This application may be inspected at the **Orange County Public Transportation Administrative Office** located at **600 Highway 86 North, Hillsborough, N.C. 27278** between the hours of **8 a.m. to 5 p.m. Monday thru Friday**. Written comments should be directed to **Pearl Waite, 600 Highway 86 North, Hillsborough, N.C. 27278** before **October 1, 2013**.

Attachment 2

CERTIFIED STATEMENT
FY2014
RURAL OPERATING ASSISTANCE PROGRAM
 Orange County

WHEREAS, the state-funded, formula-based Rural Operating Assistance Program (ROAP) administered by the North Carolina Department of Transportation, Public Transportation Division provides funding for the operating cost of passenger trips for counties within the state;

WHEREAS, the county uses the most recent transportation plans (i.e. CTSP, CTIP, LCP) available and other public involvement strategies to learn about the transportation needs of agencies and individuals in the county before determining the sub-allocation of these ROAP funds;

WHEREAS, the county government or regional public transportation authorities created pursuant to Article 25 or Article 26 of Chapter 160A of the General Statutes (upon written agreement with the municipalities or counties served) are the only eligible recipients of Rural Operating Assistance Program funds which are allocated to the counties based on a formula as described in the Program Guidelines included in the ROAP State Management Plan. NCDOT will disburse the ROAP funds only to counties and eligible transportation authorities and not to any sub-recipients selected by the county;

WHEREAS, the county finance officer will be considered the county official accountable for the administration of the Rural Operating Assistance Program in the county, unless otherwise designated by the Board of County Commissioners;

WHEREAS, the passenger trips provided with ROAP funds must be accessible to individuals with disabilities and be provided without discrimination on the basis of national origin, creed, age, race or gender (FTA C 4702.1A, FTA C 4704.1, Americans with Disabilities Act 1990); and

WHEREAS, the period of performance for these funds will be July 1, 2013 to June 30, 2014 regardless of the date on which ROAP funds are disbursed to the county.

NOW, THEREFORE, by signing below, the duly authorized representatives of Orange County North Carolina certify that the following statements are true and accurate:

- The county employed a documented methodology for sub-allocating ROAP funds that involved the participation of eligible agencies and citizens. Outreach efforts to include the participation of the elderly and individuals with disabilities, persons with limited English proficiency, minorities and low income persons in the county's sub-allocation decision have been documented.
- The county will advise any sub-recipients about the source of the ROAP funds, specific program requirements and restrictions, eligible program expenses and reporting requirements. The county will be responsible for invoicing any sub-recipients for unexpended ROAP funds as needed.
- The county will monitor ROAP funded services routinely to verify that ROAP funds are being spent on allowable activities and that the eligibility of service recipients is being properly documented. The county will maintain records of trips and services for five years that prove that an eligible citizen was provided an eligible transportation service on the billed date, by whatever conveyance at the specified cost.
- The county will be responsible for monitoring the safety, quality and cost of ROAP funded services and assures that any procurements by subrecipients for contracted services will follow state guidelines.

- The county will conduct regular evaluations of ROAP funded passenger trips provided throughout the period of performance.
- The county will only use the ROAP funds to provide trips when other funding sources are not available for the same purpose or the other funding sources for the same purpose have been completely exhausted.
- The county assures that the required matching funds for the FY2014 ROAP can be generated from fares and/or provided from local funds.
- The county will notify the Mobility Development Specialist assigned to the county if any ROAP funded services are discontinued before the end of the period of performance due to the lack of funding. No additional ROAP funds will be available.
- The county will provide an accounting of trips and expenditures in a semi-annual report and a final year-end report to NCDOT – Public Transportation Division or its designee.
- Any interest earned on the ROAP funds will be expended for eligible program uses as specified in the ROAP application. The County will include ROAP funds received and expended in its annual independent audit on the schedule of federal and state financial assistance. Funds passed through to other agencies will be identified as such.
- The county is applying for the following amounts of FY2014 Rural Operating Assistance Program funds:

State-Funded Rural Operating Assistance Program	Allocated	Requested
Elderly & Disabled Transportation Assistance Program (EDTAP)	\$80,561	\$80,561
Employment Transportation Assistance Program (EMPL)	\$34,980	\$34,980
Rural General Public Program (RGP)	\$92,624	\$92,624
TOTAL	\$208,165	\$208,165

WITNESS my hand and county seal, this _____ day of _____, **20**_____ .

Signature of Board of County Manager/Administrator

Signature of Board of County Commissioners Chairperson

Printed Name of County Manager/Administrator

Printed Name of Chairperson

State of North Carolina County of



Signature of County Finance Officer

Printed Name of County Finance Officer

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No.** 7-a

SUBJECT: Unified Animal Control Ordinance

DEPARTMENT: Animal Services & County
Attorney

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

- 1) Excerpt from Approved June 4, 2013, BOCC Meeting Minutes (Pages 4-12)
 - 2) Unified Animal Control Ordinance: An Inventory of Proposed Changes (Pages 13-19)
 - 3) Update on Appeal Actions (Pages 20-21)
 - 4) September 24, 2013 Media Advisory (Page 22)
 - 5) Strikethrough-Underline Version of Draft Unified Animal Control Ordinance (Pages 23-63)
 - 6) Clean Draft Unified Animal Control Ordinance (Pages 64-102)
-

INFORMATION CONTACT:

Bob Marotto, Animal Services Director,
(919) 968-2287
Annette Moore, Staff Attorney, (919)
245-2317

PURPOSE: To approve revisions to the current Orange County Animal Control Ordinance to make it a Unified Animal Control Ordinance (Attachment 6).

BACKGROUND: Despite the integration of animal services through Orange County Animal Services, three different animal ordinances are in force in the county.¹ The differences in the ordinances have proven to be confusing, not only for staff responsible for their application and the Court system, but for Orange County residents.

County staff initiated the effort to create a unified animal ordinance by convening a work group including staff from the Towns of Chapel Hill and Carrboro (and by communicating results to Hillsborough staff).² Together these staff have substantial pertinent experience, and have worked together to resolve a wide range of animal concerns throughout the County.

The staff believe that the creation of a unified ordinance is not only prudent but an excellent example of “smart government”. It is much more comprehensible to the general public and it

¹ Orange County, Chapel Hill and Carrboro each have their own ordinance; Hillsborough adopts the County’s ordinance. All three ordinances are available at <http://orangecountync.gov/animalservices/info.asp>.

² The workgroup included the staff attorney for the Chapel Hill Police Department with animal control responsibilities; the Carrboro Police Chief and a Carrboro Police Captain; and Animal Services staff attorney, the Animal Services Director and the Animal Control Manager. Hillsborough staff did not participate in the work group, but received updates and is fully supportive of the ordinance

allows the best use of available resources for the provision of animal services. Also, a unified ordinance does not preclude different jurisdictions from having their own ordinances. For example, all of the towns have chosen to keep their own livestock regulations, and Chapel Hill and Carrboro will keep their own tethering ordinances.

As staff has previously communicated to the BOCC, no effort has been made to create new law (with the exception of the animal recovery requirements discussed below). Rather, staff is recommending that any new provisions to the ordinance be considered at a later date on the basis of the unified ordinance.

However, the unification of three different ordinances is by no means a simple process. Elements that exist in one ordinance may be altogether absent in another, and staff may believe that these “new” elements deserve to be included given their professional experience (and expertise).³ One example is the vicious animal regulation for the Town of Chapel Hill, which sets out a much more formal process than exists in the County’s ordinance for deeming and managing vicious animals. Another is differentiation between public nuisances caused by dogs and cats in the Carrboro animal ordinance, a very meaningful distinction that is altogether absent from the County’s current ordinance.

In addition, staff’s opinion is that the process of unification should fill “gaps” that have become apparent in their work with the existing ordinances. Staff has needed to work around some very significant omissions in the current ordinance in order to protect the health and safety of the public and to protect the welfare of animals.

Staff presented the Unified Animal Control Ordinance to the BOCC at its June 4, 2013 meeting (Minutes excerpt provided at Attachment 1). Comments were received from seven members of the public plus the chair and vice-chair of the Animal Services Advisory Board (ASAB). In response to a request made by the BOCC at the end of that meeting, staff has prepared a summary of changes made in the ordinance (Attachment 2), indicating the changes made and the rationale for those changes.

An added advantage of this inventory of changes is that the BOCC may adopt the Unified Animal Control Ordinance without one or more specific changes. For instance, it is possible to adopt the ordinance while preserving watchdogs as a category of “security dog”. Insofar as the inventory amounts to a menu of choices, then, the BOCC need not make an “all or nothing decision” about the unified ordinance.

An item not addressed in the summary attachment deserves mention in this context. It is the possible involvement of UNC School of Government faculty member Aimee Wall, J.D. in the process of ordinance unification. After the June 4 BOCC meeting, ASAB Chair Susan Elmore contacted Professor Wall and reviewed staff’s method and reasoning for the unified ordinance. According to Dr. Elmore, Professor Wall indicated that the approach taken is eminently reasonable and makes good sense as a starting point for considering other kinds of ordinance changes. Dr. Elmore and Professor Wall also spoke about the possibility of Professor Wall assisting the ASAB and/or staff should there be a need for her services in the future.

An earlier version of the attached summary was considered by the ASAB at its August 21, 2013 meeting. On the basis of discussion, and with consideration of public comments, the ASAB again unanimously supported the unified ordinance, recommending that the BOCC accept the

³ The process of the work group entailed a side-by-side comparison of specific sections of all three ordinances, e.g., public nuisance and vicious animal sections. On this basis decisions were made about what to retain and what to modify in the county ordinance being proposed as a single unified ordinance for Orange County.

ordinance. The ASAB also asked staff to consider presenting the menu approach mentioned above so that the BOCC would be in a position to take favorable action even if there was contention over one or a few issues. This was the third time that the ASAB considered the unified ordinance (or some part thereof) as well as comments about the ordinance from residents of Orange County.

The unified ordinance also includes changes in the requirements for stray animals being recovered by an owner or custodian. These are the same changes that Animal Services staff and the ASAB recommended to the BOCC at its February 12, 2013 work session. Specifically, the changes are to create:

1. A requirement for microchipping stray cats and dogs upon their first recovery;
2. A tiered and differential fee schedule for the recovery of cats and dogs depending upon the number of times they have been recovered and whether they are reproductive or sterilized;
3. A refundable spay/neuter deposit for cats and dogs recovered three or more times.

These changes are expected to help reduce the euthanasia of potentially adoptable animals and to contain and control the medium and long term cost of providing animal services in Orange County.

Staff has also included an update on recent appeal actions as Attachment 3.

Prior to this October 1 BOCC meeting, Orange County Public Affairs published a media advisory regarding the BOCC consideration of the Unified Animal Control Ordinance (Attachment 4). The September 24, 2013 media advisory makes residents aware of this agenda item and directs interested residents to materials posted on the Animal Services website.

North Carolina General Statute §153A-45 provides that in order for an ordinance to be adopted on its first reading it “must receive the approval of all the members of the board of commissioners. If the ordinance is approved by a majority of those voting but not by all the members of the board....it shall be considered at the next regular meeting of the board.” The Board then has 100 days after introduction of the ordinance to adopt the change to the ordinance.

FINANCIAL IMPACT: The unified animal ordinance entails no additional costs. Staff believes that service will become more effective and efficient as a result of the creation of a single regulatory framework for animal care and control in the County.

There will be limited financial impacts from the proposed changes for the recovery of reproductive animals and the microchip requirement for recovered stray animals. The net effect of these new fees is expected to produce approximately \$10,000 more in revenue per annum. More specifically, there would be an annual increase of approximately \$6,000 in animal recovery fees (with no offsetting expenditures); and an annual increase of approximately \$7,000 in fees from microchips (minus approximately \$2,800 for their purchase). The fee changes are expected to help create more substantial incentives (and disincentives) for residents as they consider whether to sterilize their dogs and cats as a part of being a responsible pet owner.

RECOMMENDATION(S): The Interim Manager recommends that the Board adopt the Unified Animal Control Ordinance (Attachment 6).

APPROVED 9/5/2013

MINUTES
BOARD OF COMMISSIONERS
REGULAR MEETING
June 4, 2013
7:00 p.m.

The Orange County Board of Commissioners met in regular session on Tuesday, June 4, 2013 at 7:00 p.m. at the DSS offices, in Hillsborough, N.C.

COUNTY COMMISSIONERS PRESENT: Chair Jacobs and Commissioners Mark Dorosin, Alice M. Gordon, Barry Jacobs, Earl McKee, Bernadette Pelissier, Renee Price and Penny Rich

COUNTY COMMISSIONERS ABSENT:

COUNTY ATTORNEYS PRESENT: John Roberts

COUNTY STAFF PRESENT: County Manager Frank Clifton, Assistant County Managers Michael Talbert, Clarence Grier and Clerk to the Board Donna Baker (All other staff members will be identified appropriately below)

NOTE: ALL DOCUMENTS REFERRED TO IN THESE MINUTES ARE IN THE PERMANENT AGENDA FILE IN THE CLERK'S OFFICE.

1. Additions or Changes to the Agenda

The Chair went through the items at the County Commissioners' places:

- Pink sheet – for Item 7c, additional information for Refund Requests for Inaccurate Square Footage Calculation
- White sheet- PowerPoint – for Item 4-b, Potential Orange County Fair – Preliminary Background Report
- White sheet- for item 7b, Unified Animal Control Ordinance
- White sheet - for Item 6a, Executive Summary - CDBG Program – North Carolina Tomorrow Grant

A motion was made by Commissioner Price, seconded by Commissioner Gordon to add a closed session to the agenda for the purpose of:

“To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee” NCGS § 143-318.11(a) (6).

VOTE: Ayes, 3 (Commissioner Price, Commissioner Gordon and Chair Jacobs); Nays, 2 (Commissioner Pelissier and Commissioner McKee)

Commissioner Rich and Commissioner Dorosin had not yet arrived.

PUBLIC CHARGE

The Chair dispensed with the reading of the public charge.

Commissioner Dorosin arrived at 7:04pm.

2. Public Comments

a. Matters not on the Printed Agenda

Bill Holmberg read the following prepared letter:

Hello Commissioners and thank you for hearing me.

In regard to the proposed site of the White Cross fire station on Neville Rd., I simply want to state the following.

space. She said that the wings of the building have memories' and because of this the community would like to see if it is financially feasible to save the wings for future uses.

She agreed that there should be a defined group who can be given a charge. She said that this will not prevent others from giving feedback into the group discussion.

Commissioner McKee said the moment the sign-up sheet for input was laid out, a formal group was established. He said it is worrisome to see the proposed expansion costs. His main concern is that a very expensive structure will be built that won't provide any services, which is not the point. He said the services that will be available are important, as is the historical significance of the facility. He said one way to kill a project is to make it too expensive.

Commissioner Rich said it would be nice to see budget figures on some proposed services such as a library, Cybrary and others.

Jeff Thompson said as part of the preliminary plan process, this can be vetted out and brought back in the fall.

Chair Jacobs said this is a circular argument. He said that investigating more possibilities creates more expenditure. He said the cost of looking at the three proposed alternative uses is \$40,000' versus the \$168,000 for the other consulting. He feels this is a comparatively small additional cost.

Chair Jacobs said the community simply wanted a library/Cybrary, and a community resource; and it was someone else who brought up all these other services. He said this is not about duplicating other service models. He said the main reason, other than safety issues, that staff recommended closing the old library was because it cost \$125,000 to heat/cool that one room. He said the people criticizing the board for spending money should know that the library was closed to save money. He summarized that the Board wants a formal structure, scope of services, charge, time, and specific membership, with background information presented at the next meeting.

Commissioner Gordon said there should be a formal group established and nothing should be done between now and 18th.

Commissioner Dorosin asked what is going to come back on the 18th if there are no meetings between now and then.

Commissioner Gordon said the formal charge, timeline, structure and the membership list will be established. She said none of this exists now, so this information should come back on June 18th.

Commissioner Price asked when the community will have input.

Commissioner Dorosin said there have already been community meetings.

Commissioner Price said more are needed and this needs to move forward with community input.

Chair Jacobs said there is still an issue with understanding what the community said and staff will bring back these notes on June 18th.

Frank Clifton said there were several community meetings with Commissioners participating in them. He said a variety of issues were discussed, including services. He mentioned the overriding issue of the septic system and reviewed engineering issues that limit expansion. He said many of the decisions are not staff driven and these issues and the discussion points can be presented at the next meeting.

Chair Jacobs said the Board wants background information, including a review of past public comments; formal structure; timeline; cost; membership; and scope of services within the current septic limitations.

This was agreed to by Board Consensus.

Chair Jacobs said the discussion group is open to general public and interested parties should sign up.

START

b. Unified Animal Control Ordinance

The Board considered amending the Orange County Animal Control Ordinance to make it a Unified Animal Control Ordinance.

Bob Marotto introduced himself and Annette Moore, staff attorney. He said this is an amendment to set the basis for a more unified animal control ordinance' and the backbone is the existing county ordinance. He said this effort has involved staff from Carrboro and Chapel Hill Animal Control, as well as

the town manager, the police chief of Hillsborough and the Animal Services Advisory Board (ASAB). He said staff met with the ASAB three times this year in developing the ordinance being presented tonight.

Annette Moore said the court system was confused about which ordinances would apply to a case. The issue was confusing for Animal Services itself, since there are three ordinances in effect in Orange County. She said the advisory board used Orange County's ordinance as a base and merged the three ordinances into one; but there were still missing pieces. She referenced examples, such as no set appeal process and no humane euthanasia plan for suffering animals. She reviewed information from the ordinance and the abstract below:

Background: Beginning July 1, 2013, Orange County Animal Services will be providing Animal Control Services to all parts Orange County except for the portion of Orange County within Mebane. Despite the increasing integration of animal services through Orange County Animal Services, there are three different animal ordinances in force (all available online <http://orangecountync.gov/AnimalServices/info.asp>). Orange County, Chapel Hill and Carrboro all have their own ordinances, while Hillsborough has adopted the County's ordinance. The differences in the local Ordinances have proven to be complicated and confusing, not only for staff charged with responsibility for regulatory functions and the Court system, but perhaps most importantly for the residents of Orange County.

Because animal services within the County have become more unified and integrated than they have been in the past, for the past year County staff has been working on a proposed Unified Animal Control Ordinance with the Towns of Chapel Hill and Carrboro.

In this context, County staff initiated the effort to create a unified animal ordinance by convening a work group of staff from the involved jurisdictions. Staff from Chapel Hill and Carrboro have been integral to the process responsible for the proposed ordinance, and upon County adoption of the ordinance, the towns' staffs will present the ordinance for consideration by their respective governing boards.

More specifically, the work group has consisted of the staff attorney for the Chapel Hill Police Department with animal control responsibilities, the Carrboro Police Chief and a Carrboro Police Captain, the staff attorney for County Animal Services, and the County's Animal Services Director and Animal Control Manager. Hillsborough staff elected not to participate in the work group but are fully aware of this project. Most recently, the Town Manager and Police Chief received a copy of the draft unified ordinance and an invitation to offer comment.

The objectives of the work group were to:

1. Create a unified ordinance. The group's work practice has essentially been to compare the same or similar sections of the three existing ordinances and decide which made the most sense in light of experience providing effective animal services in the different jurisdictions. The County's current Animal Control Ordinance remains the backbone for the proposed unified ordinance. In addition, the comparative methodology assured a finished product that was complete, strong and worthy of designation as a unified ordinance for the County.
2. Fill in necessary "gaps" in the Ordinance to create the needed authority to assure the public health and safety and welfare of animals within Orange County. One illustration of such authority would be to have an animal euthanized for humane reasons in exigent circumstances. Another illustration would be the authority to hold a vicious animal that has repeatedly bitten or attacked members of the public. While there may well be a need for new laws under the animal control ordinance, staff did not make any effort to create new laws but deferred such efforts until it could occur under a unified ordinance. Throughout the process requests to create new law were resisted to ensure there was no "scope creep". Staff attempted to propose changes to the existing Ordinances that would not be controversial, refined existing services being provided, and assured the public health and the safety of animals.

During the initial process, the existence of "gaps" in the existing ordinances become apparent in trying to address and resolve the concerns of residents in different parts of Orange County.

Staff has tried to work around the gaps in the Ordinance in close collaboration with staff attorneys from the County and municipalities to respond to animal control issues and to protect public safety and the welfare of the animals. In addition to Staff review of the Ordinance changes, the Animal Services Advisory Board ("ASAB") also reviewed and suggested changes to the draft Unified Ordinance.

The ASAB discussed the proposed changes to the Ordinance on three occasions:

- At the initial meeting (February 20, 2013), the Animal Services staff attorney discussed the effort to create a unified ordinance, its rationale and its scope.
- In a subsequent meeting (March 20 2013), the Animal Services Director and staff attorney went through a draft version of the proposed ordinance distributed in advance of the meeting for review by board members. This was a page-by-page review in which feedback was provided for additional consideration.
- At the May 15, 2013 ASAB meeting, the focus was on the status of vicious animals in the proposed unified ordinance. The Animal Services Director presented a summary to identify the "gaps" that were being in-filled by the proposed ordinance as well as the logic of state and local laws and their articulation and limitations. At the meeting the ASAB made some suggestions for further consideration (which staff has incorporated) and unanimously recommended that staff bring its effort to create the unified ordinance to as soon as possible.

This detailed examination of the Vicious Animal section of the Ordinance was done to assure that issues voiced by concerned residents about the laws surrounding vicious animals at the March 20, 2013 meeting were fully discussed. It also had the added benefit of completely clarifying how the unified ordinance would strengthen the County ordinance given that the BOCC Chair and Vice-Chair had previously requested such consideration from staff and the ASAB in response to resident concerns about the death of a dog as a result of an attack by a declared dangerous dog in the resident's neighborhood.

The only area in which amendments that would be considered a change are being proposed is in the area of animal recovery. These changes are being proposed on the basis of the recommendations made by the ASAB and Animal Services staff to the BOCC at the Board's February 12, 2013 Work Session. The changes are part and parcel of the County's five year plan for managing pet overpopulation in order to both reduce the euthanasia of potentially adoptable animals and to contain and control the medium and long-term costs of providing animal services. There are three specific changes that are incorporated into the unified ordinance on the basis of this effort. These changes are to create:

1. A requirement for micro chipping stray cats and dogs upon their first recovery;
2. A tiered and differential fee schedule for the recovery of cats and dogs depending upon the number of times they have been recovered and whether they are reproductive or sterilized;
3. A refundable spay/neuter deposit for cats and dogs recovered three or more times.

Bob Marotto said subsequent to County adoption of the ordinance, as previously indicated, staff from the towns of Chapel Hill and Carrboro will present the unified ordinance for consideration by their respective governing boards. There has already been legal review of the Ordinance in each jurisdiction and there is ongoing consideration of the best way for the towns to enact the Unified Ordinance. Significantly, the towns of Carrboro and Chapel Hill are expected to retain some portion of their ordinances that have been designed to address unique circumstances specific to that jurisdiction or where there is no corresponding component in the Unified Ordinance in the other jurisdictions: (i.e. tethering, permitting chicken, and keeping livestock). Where a Municipality may have a more restrictive Ordinance in an urban area than the County does for rural areas, the Ordinance provides for the greater restriction in the municipalities than in the County. Communication from the Hillsborough Town Manager indicates that Hillsborough will essentially adopt the County's new unified ordinance. The Town has done and will continue to do so on the

basis of the action of the Town Board of Commissioners, as it is codified in the Town's own animal ordinance, which allows it to depart from the County's code where they wish to do so. Presently, the Town of Hillsborough does so only through the prohibition of roosters and permitting requirements for farm animals within city limits.

The North Carolina General Statute §153A-45 provides that in order for an ordinance to be adopted on its first reading it "must receive the approval of all the members of the Board of Commissioners. If the ordinance is approved by a majority of those voting but not by all the members of the board... it shall be considered at the next regular meeting of the board." The Board then has 100 days after introduction of the ordinance to adopt the change to the Ordinance.

Staff Attorney Annette Moore said that if this is approved, the advisory board would like to take this to Chapel Hill, Carrboro, Hillsborough and the small portion of Durham in Orange County.

Bob Marotto said the board has resisted the scope creep of creating new laws. He said there was one exception to this, where a recommendation was made for an amendment on animal recovery. This amendment requires a micro-chip fee for dogs and cats recovered for the first time; a refundable sterilization deposit for people whose pets have been impounded and recovered two times; and a differential recovery fee structure for the recovery of animals sterilized, versus those that are reproductive with higher rates for non-sterilized animals. He said this was done to address the pet overpopulation in the county and reduce reliance on euthanasia.

PUBLIC COMMENT:

Allan Green is an Orange County farmer. He addressed several handouts at the Commissioner's places and read from the following statement:

I want to thank the commissioners for this opportunity to speak. I am Allan Green, an Orange County farmer, and member of the Agriculture Preservation Board (APB), although I am not here tonight representing the Board.

I will be addressing two related issues described in the background material I provided to you. The first originated over 4 years ago, on March 3rd 2009 when an ice storm shorted out our electric fence. One of our small Dexter cows went through the fence, and was grazing outside my fences next to Orange Grove road on property I partially own. A helpful passer-by called Animal Control, and even though the cow was quickly confined, I was cited and subsequently fined because my cow was at-large, and by definition, a public nuisance. Because the animal represented no real nuisance or public danger, I appealed to both the manager and director of Animal Services; but they refused to void the citation, citing the language of our ordinance: an animal at-large is a public nuisance, period.

As a farmer, this narrow definition seemed inconsistent with my experience and common sense, and worth investigating. I began by researching similar provisions of the animal control ordinances of surrounding counties. Attachment 2 summarizes the results: including our 10 neighboring counties, only Orange County categorically defines at-large animals as a nuisance, at least in unincorporated jurisdictions. While ordinances vary, our neighboring counties reserve violations for actual nuisance behavior while an animal is at-large. I then brought the issue to the APB, and in March 2010, our chairperson met with the ASAB and requested a meeting to discuss our position.

Which brings me to my second issue. Attachment 1 is Director Marotto's response to that request. He describes the issue as a waste of staff resources and unnecessary because animal control officers have the discretion we are recommending. But, that is not what our ordinance says, and no discretion was exercised in my case in 2009. Keeping an ordinance on the books so that it can be selectively enforced is simply wrong.

I am therefore asking the Commissioners to direct Animal Services staff and the Animal Services Advisory Board to work cooperatively with the Agriculture Preservation Board to make our Animal Control Ordinance more consistent with the realities of rural life. Thank you.

Ed Johnson lives on 60 acres of land in the Orange Grove community. He said this proposed ordinance is not ready yet and needs more work. He said last year, two of his dogs were declared vicious animals, when an intruder came into his yard and one of his dogs bit the intruder during a confrontation.

The intruder ran away, and later, without revealing a past criminal record for trespassing, the intruder filed a complaint against Ed Johnson. He said that state law allows an animal to be declared dangerous and has a built in appeal process, while the county ordinance has a provision for vicious animals and has no appeal process. He said it is unclear to him how animal control can make the decision between calling an animal dangerous or vicious. He wrote to animal control pointing out that the county ordinance does not allow an animal to be declared vicious if a trespasser is declared dangerous and if the animal is acting as a watchdog. He said the latest version of the ordinance has no category for watchdog and the category of trespass now puts the burden on the land owner to prove the trespasser had criminal intent. He feels these changes are significant and require more public debate and input. He feels that most rural residents regard their dogs as watchdogs and this provision should be saved. He said the ordinance should allow for differences between town and country' and the question should be asked regarding why there are categories for both dangerous and vicious dogs.

Bonnie Hauser is speaking for Orange County Voice. She has dogs, and has come to know many of the people on the ASAB. She said her dealings with animal control have been positive and professional. She said she was very surprised and uncomfortable watching the county attorney lead a discussion of the new unified ordinance without any legal framing of the issues or their implications. She said the attorney did her job well but did not explain that her role is to represent the County's interests, and this may not be the same as the citizens' rights or interests. She said that the Animal Services Advisory Board is a group of committed and impassioned animal services professionals who need more than a one sided briefing on these issues. She said the workgroup had no citizen representation. She said that she met with a professor who specializes in animal control law at the UNC School of Government. The professor expressed concern with overlapping and contradictory language, lack of due process and missed opportunities to distinguish urban and rural issues. The professor offered to advise the ASAB, but this offer was rejected. She said the draft ordinance takes away important protections and property rights from citizens. She urged the Board not to endorse the ordinance, but to thank the ASAB and Annette Moore for their work, while acknowledging there is more input and more protection for citizens needed.

Ann Meade said she reviewed the ordinance. She said that it contains numerous internal inconsistencies; is poorly worded; has ambiguous statements and severe organizational problems. She gave several examples of this, including the use of the definitions of vicious animals and its placement in the ordinance. She also noted section 4, page 16 regarding dangerous animals and the appeal process that allows an animal to remain classed as vicious while no longer being classed as dangerous.

Bob Epting is an Orange County resident and has two dogs. He read from the following statement:

My name is Bob Epting, and I am an Orange County resident. I keep two wonderful Labrador retrievers as company. They are a very real part of my family. They protect me, my home, and my property from intruders. I am here to urge to you protect them, and the watchful animals of others in Orange County, from being arbitrarily designated as vicious animals.

When I am staying in town, I expect visitors to come and go across my front porch. The way my house is located along the street, with a sidewalk leading up to my front porch, invites guests, postmen, and neighbors, even unknown ghost and goblins at Halloween to visit. They may expect not to be bitten by my dogs. On the other hand, persons roaming around inside my fenced-in back yard, without invitation, especially at night, are trespassers and should expect to be chased, barked at, and even bitten if they do not flee.

When I am out in the country, I expect my dogs to know the boundaries of my 40 acres, and to bark to alert me of persons who come there unexpectedly. Here is nothing about that rural tract that invites any passerby to come onto my land, and they should do so at their own risk. My dogs know to protect me and my home in the country and are given free run of the farm to do so.

At either place, they are watchdogs and their attention, barking, and physical threats protect me, my family and friends, not to mention my property.

Trespassers who enter my property without civil intent should expect to be barked at, even bitten, to prevent harm to me or my property. And they should not be protected, as this draft ordinance would do, unless I am able to prove they were there to commit a specific crime.

I mention watchdogs and trespassers, because this draft ordinance turns these expectations on their head, and instead gives Animal Services officers the power to declare my dogs vicious animals if they bite a trespasser, even once, unless I can prove the intruder's intent was to commit a crime.

Understand, it is clear as a bell, that the existing ordinance recognizes that the Animal Services officers may not declare watchdogs that bite in protection of their property to be vicious dogs.

It is also clear in the existing ordinance that dogs who bite trespassers may not be declare vicious animals.

The "Unified Ordinance" does away with both of these provisions, though the narrative accompanying this agenda item fails to mention to you either of these very major changes.

He urged the County not to adopt this Ordinance tonight but to allow the opportunity for citizens to give public comment and suggestions for changes to make it better.

Time expired. More written comments are included in the statement attached to this abstract item.

Don O'Leary said he also lives in a rural area and he has a large black lab who is friendly, but a good watchdog. He said that if his dog were to bite someone, it would be in defense. He referenced a Dr. Albright, and the RFID chipping practice. He said this chip causes cancer and he would like the Board to do research on this issue before moving forward.

Susan Elmore, Chair of ASAB, said the board did meet on occasion and did review this potential ordinance very carefully before giving input. She said the board did consider inviting Professor Wall, but did not, because it did not seem necessary. She said the board does have an attorney who facilitated a discussion and review of the ordinance and the vicious dog issue among others. The board gave feedback to staff and unanimously approved the ordinance. She said the board did consider potential exemption for livestock that were loose, but the board felt that these animals are a potential human health hazard, especially near the road where there may be contact with a car. She said that the ASAB understood that if it is the case of an act of God, it would be up to the discretion of the Animal Control Officer whether to issue a citation.

Patrick Mulkey is a resident of Bingham Township. He referenced the definition of a trespasser and said that in the rural part of the county you can take lethal action against a trespasser if you are in fear of your life. He said that this is not so in the towns, where the trespasser has to be in your house. He wonders how this affects the lay enforcement community. He said he has two watchdogs that help protect his family. He said that he hears people talking about farm animals and he remembers helping his family gather cows when they escaped the fence. He said this is discussion of city folks making a determination of what farm animals are thinking. He feels the Board needs to put this ordinance off and seek more input in to this ordinance.

Michelle Walker is the vice chair of the ASAB. She said the board did hold a specific meeting that deals with vicious and dangerous dogs' and there was ample opportunity for public participation. She said that there was no clear definition or standard for what is a watchdog, and the proposed ordinance does maintain an exemption for sentry dogs that have been trained and registered with the county. She said that she is also a licensed attorney in North Carolina and she knows that the word trespass is fraught with legal issues. She said that there are concerns with the kind of civil litigation that the County could be involved in, and the new ordinance seeks to address that. She said that the designation between dangerous and vicious dogs is done to give the Animal Control more ability to impound certain animals in the county than the state allows.

Commissioner McKee said it was his understanding that it was a compilation of ordinances only and not an expansion, but he sees an expansion of the scope. He referenced the changes made, against the objections of many citizens, to county tethering laws in the past and asked if tethering still applies to Chapel Hill and Carrboro. He asked how a unified document could not be unified across the County.

Annette Moore said there are certain parts of the ordinance that could be controversial in certain jurisdictions, and thus those areas were exempted out of this process. She said the same is true of issues like chicken coops in Carrboro.

Bob Marotto said Chapel Hill and Carrboro both have a tethering ordinance that is more prohibitive than Orange County's ordinance. He said there are some significant gaps in the ordinance and these gaps can be filled in by Animal Control with consultation from the advisory board and colleagues. He said there are efforts being made to identify those gaps.

Commissioner McKee said that rather than fight a difficult fight on tethering again, it seems that this unified document has picked soft targets like the vicious dog issue. He said he has a real problem with making regulatory changes while creating a unified document. He said he is seeing many things that have been taken out and others that have been added in. He is concerned with the decision not to take advice

from the School of Government. He said that he realizes that the farm animals can be destructive, but they are not the only animals that can damage a car on the road.

Bob Marotto said that the farm animals issue was brought to the ASAB several years ago, and it was carefully studied. This was followed by the development of a set of recommendations for the Board of County Commissioners that preceded this one. He said he realizes that there are several large animals that can cause harm, but this issue involved litigation and assessment of a policy issue. He said this history is an important part of the process that needs to be recognized.

Annette Moore said that the board thought about not filling the gaps, such as the appeal process. However, it was felt that this was one of several glaring missing pieces. She said the same is true of the issue of trespass, and that is why these gaps were filled.

Commissioner McKee said he knows there will be gaps; however it should have been consolidated and then each individual gap addressed after the consolidation, not before. This would have made it clear to the public. He said the fact that this wasn't done makes it impossible for him to support this. This would mean supporting not just the consolidation document, but also new recommendations and regulations.

Commissioner Price referenced the section regarding penalties and spay/neutering for animals picked up by animal services. She said she understands the overpopulation issue, but she does not understand the correlation between an animal that strays and the practice of spaying/neutering without owner consent.

Bob Marotto said that the correlation is that reproduction can occur in the case of unattended animals. He said it is not a requirement of the proposal that the animal be spayed or neutered, but it is a requirement that the owner put down a deposit that is refundable if the procedure is done within a 60 day period. He said this also allows for education to the owner regarding the available services and the benefits.

Commissioner Rich asked about the criteria for classification of vicious and dangerous dogs.

Bob Marotto said the decision is made in accordance with the criteria set in law and the totality of the circumstances and facts of the case. He said there is a review conducted when a report is made and an investigation is done in accordance with a set of standards.

Commissioner Rich asked about the appeal process.

Bob Marotto said the NC General statute gives a general appeal to the owner of a dog declared "potentially dangerous", but there is no appeal for a dog declared "dangerous." He said that the proposal this evening is the first appeal process in an ordinance. This has been created in this ordinance out of concern for the necessity of due process and checks and balances.

Commissioner Pelissier said she appreciates the work that has been done. She said the point made about definitions being deleted is valid and definitions need to be made up front.

She said she does have a concern about the farm animals, as she does not want to send the wrong message to farmers in rural Orange County. She said that escaped cows are not an uncommon occurrence and this is not something farmers want. She is concerned and would like to see this issue reexamined.

Chair Jacobs said he has decided to defer the closed session to the June 11th work session. He also deferred the Work Group and Charge for an Assessment of Jail Alternative Programs to the June 18th BOCC Meeting.

Chair Jacobs suggested staff should highlight the gaps and to come back to the Board, addressing the points the public made and why the board agrees or disagrees with these points. He said there were valid arguments made, and he could not decide on a direction at this point. He said this should come back on the 18th and he said the official schedule will be decided at agenda review. He said that this will not get the go ahead until September.

Bob Marotto said the recommended amendment changes for animal recovery are part of the Animal Services recommended budget and he asked if these can be considered separately.

Frank Clifton said there is a proposal in the budget where Carrboro has asked the County to absorb its animal control operations. He said some of these changes may be a result of that and the town of Carrboro will have to be dealt with in this process.

Bob Marotto said that services can begin to be delivered in Carrboro on July 1 without the changes, but this will be done under 2 or 3 different ordinances until the single ordinance is established throughout the County.

Commissioner Rich expressed concern about the number of items being deferred until the 18th. She asked if the financial parts will be separated out or if it can be done as one item.

Frank Clifton said the financial aspects won't impact budget.

Commissioner Gordon suggested this be deferred until fall.

Chair Jacobs summarized the plan.

A motion was made by Commissioner Gordon, seconded by Commissioner McKee to defer consideration of this item until fall, when staff is asked to come back with a digested form highlighting changes to the ordinance, addressing points made by the public and why the work group agrees or disagrees with these points.

Commissioner Dorosin asked if this motion includes bringing back the recovery fees issue before the fall.

Commissioner Gordon clarified that she would prefer to bring it all back in the fall, since the June 18th meeting may be too full. She said she would defer the decision about the animal recovery issue/fees to the agenda review team.

END

VOTE: UNANIMOUS

c. Refund Requests for Inaccurate Square Footage Calculation

The Board was to consider five taxpayers' refund requests for the years 2008 through 2012.

A motion was made by Commissioner Dorosin, seconded by Commissioner Gordon to defer this item to the June 18th BOCC meeting.

VOTE: UNANIMOUS

d. Work Group and Charge for an Assessment of Jail Alternative Programs

The Board was to consider the creation of a Work Group and Charge for the Assessment of Jail Alternative Programs.

DEFERRED

8. Reports NONE

9. County Manager's Report

Chair Jacobs had asked Frank Clifton to reaffirm with towns on a solid waste inter-local agreement.

Frank Clifton said right now the towns are waiting for an analysis of their current services studies. He said that both are taking waste to a private transfer station in Durham County. He said the Town of Chapel Hill is still analyzing pursuit of its own transfer station and the possible inclusion of Carrboro in this. He said Hillsborough is still just as close to Durham. He said the towns are still interested in a construction and debris landfill, and there is continued discussion of Chapel Hill having its own recycling program. He said that all of this means there is no ongoing effort for a solid waste agreement until the towns have sorted through these considerations.

Commissioner Rich asked if this means the County is not considering an inter-local agreement.

Frank Clifton said there have been some preliminary staff discussions. He said the primary issue is what an agreement would entail and recycling is the main topic. He said much of this depends on what direction the County decides to take.

Commissioner Rich encouraged everyone to keep those conversations going and keep a positive tone to encourage a partnership.

Frank Clifton said one thing that has been discussed is the legal authority to operate within the Chapel Hill section of Durham County. He said this requires Chapel Hill to include a provision in its budget ordinance to allow the County to levy a fee and collect for the services within the town's authority. He

Unified Animal Control Ordinance: An Inventory of Proposed Changes

Attachment 2

I. Purpose

On June 4, 2013, the Board of County Commissioners (“Board”) requested that staff bring back to them a summary of the basic changes proposed in the Unified Animal Control Ordinance (“Ordinance” or “Unified Ordinance”) and to review and provide feedback about concerns expressed by residents about changes to the Orange County Ordinance (“County Ordinance”).

II. Introduction

The final form of Unified Animal Control Ordinance reflects the working group’s goal to unify the Orange County, Chapel Hill and Carrboro existing Animal Control Ordinances into one unified ordinance; to update the Ordinance to reflect both legal and departmental changes occurring since the adoption of the Ordinance; and to fill critical gaps in the County Ordinance.

1. Unification: Unifying three entirely different ordinances into a single coherent ordinance is complex. Each section of the ordinance is the result of a careful comparison of the pertinent section of the three existing ordinances. This means that elements from town ordinances absent in the current County Ordinance may have been incorporated into the proposed Unified Ordinance. Sections of the town Ordinances may also have been incorporated in the existing Ordinance because they utilized best practices or because they provided clarifying language in the Ordinance. A good example is differentiation between public nuisances caused by dogs and cats, which was in the Carrboro Animal Control Ordinance but not in the County Ordinance (See Carrboro Animal Control Ordinance Chapter 10 §10-12(e)).
2. Necessary updates: On November 3, 2004, the Board voted to create a separate Animal Services Department, effective in the first quarter of 2005. At the time the Board voted to create Animal Services, the timeline included incorporating changes into the County Ordinance to provide for the new department no later than February 2005; however, changes were not incorporated. As a result, an unavoidable need exists to update the County Ordinance to reflect not only the consolidation of animal control and animal sheltering functions in Animal Services but also to change names and titles to match current organizational realities.
3. Critical Gaps: Gaps in the County Ordinance have become apparent and sometimes painfully so in the nearly ten years Animal Services has been responsible for its application and enforcement. Striking is the absence of an appeal process, whether for a dog declared dangerous or a citation issued for any infraction under the ordinance. Other deficiencies include allowing a provision for the humane euthanasia of animal that is suffering, the absence of authority to seize and impound dangerous dogs not lawfully kept and the authority to require microchipping of dogs declared vicious or dangerous to ensure future positive identification of those animals. Closing such “gaps” as part of the process of creating a unified ordinance seems to be prudent in light of concerns regarding repeated incidents over the years. Staff is keenly aware of the need to have suitable authority to protect both the public and animals and to enforce those protections in a manner completely consistent with the principles embodied in the “rule of law.”

III. Recommended Significant Changes

Below are the specific changes of note in the Unified Animal Control Ordinance:

1. Changes associated with the creation in 2005 of Animal Services as a free standing county department. **(Update)**. Changes of this kind include reference to the Animal Services Director (as opposed to the Animal Control Manager); the existence of Animal Services as a county department; and recognition that animal sheltering, animal control, and animal protection functions are all now the responsibility of Animal Services. These changes are too numerous to specifically identify without creating confusion as to other changes in the document.
2. Keeping and Display of Wild Animals. **(Sec. 4-132. Display of wild or exotic animals prohibited; Sec. 4-182.-Keeping of wild and dangerous animals prohibited).** **(Integration)** These sections of the Ordinances were originally written when Animal Control was a part of the Health Department and authority was vested in the Health Director (or designee). This section was updated to vest regulatory authority in Animal Services and the Animal Services Director. In addition, the definitions for the terms “wild animals”, “exotic animals” and “display” were incorporated into the Unified Ordinance from the existing language in the town ordinances.
3. Creating an appeal process for violations and administrative orders. **(Sec.4-54.-Appeals; passim).** **(Deficiency)** The current county Ordinance provides no appeals process either for civil citations issued for infractions or administrative orders. As a result, a person receiving a citation or an administrative order has no redress other than to appeal the decision in civil court; either for the collection of monetary penalties or for injunctive relief from an administrative order.
4. Designating only animal control staff as cruelty investigators pursuant to North Carolina General Statute. **(Sec 4-33.-Animal control officers. (a); p. 1).** **(Update)** North Carolina General Statute §19A-45 grants the Board of County Commissioners the authority to appoint Animal Cruelty Officers. Staff is recommending that the Board limit that authority of animal control investigation to professionally trained staff. Doing so assures that the powers and duties of an animal cruelty investigator vest in Animal Services, thereby streamlining Animal Services use of civil processes to take effective custody and/or real possession of animals suffering from neglect or cruelty in its different forms. This designation reflects the expansion of the responsibilities of Animal Control Officers under Animal Services to include animal protection, which includes investigating and remedying of assorted forms of animal cruelty and neglect. The restriction of this designation to Animal Control staff reflects several considerations: 1) the professionalization of the function of animal protection with the creation of Animal Services; 2) the availability of an Animal Control Officer around the clock, year round to respond to urgent or exigent circumstances; 3) the interdependence of sheltering and animal protective functions recognizing there may be intensive and costly large-scale seizures as a result of animal cruelty investigation; and 4) the overall advantages of organizational integration and alignment.
5. Authority for assuring humane treatment of animals and humane euthanasia when warranted. **(Sec. 4-43.-Impoundment of animals. (c) (d); p.21).** **(Deficiency)** Absent from the existing Ordinance is the express authority to humanely euthanize an animal suffering in exigent circumstances and to hold an animal if there is no reasonable assurance of proper care
6. Differentiation of public nuisances created by cats. **(Sec. 4-45.(7)-Public nuisance. (Deficiency and Integration)** Generally, cats are covered by the public nuisance provisions of the existing County

Ordinance; however, specific nuisance behaviors associated with cats are not defined in the current Ordinance. By contrast, the existing Town of Carrboro Animal Control Ordinance (Article V, §10-12(e)) explicitly differentiates the behaviors associated with cats from those dogs, such as nuisance barking, e.g., defecation or urination in sandboxes and flower beds or damaging vehicles owned by someone other than the animal's owner.

7. Establishing authority sufficient to effectively regulate dogs that are a danger to the public and to effectively control dogs possessed by repeat offenders. (Sec. 4-42.-Control of vicious animals; security dogs). (Integration and Deficiency)

- Integration – Carrboro's current Animal Control Ordinances uses language that is similar to the language found in N.C. Gen. Stat. Chapter 67, Article 1A et. seq. Dangerous Dogs. Instead of repeating the entire section found in the statute, the citation of the statute was added to §4-42 Control of Vicious animals; security dogs of the Unified Ordinance. Most, but not all, action constituting a declaration under the Dangerous Dog statute would also constitute a declaration under the vicious dog provision of the County Ordinance(§4-42); however, the remedies and the relief provided are not the same.
- Integration and Deficiency – Neither the County Ordinance nor the North Carolina General Statutes provides an adequate remedy for dogs previously declared "dangerous," "potentially dangerous" or "vicious" that continue to act in an unlawful manner. Throughout the County there have been a number of cases where dogs designated either "dangerous" or "vicious" have repeatedly, both on and off their owner's property, bitten again. These situations have resulted in extensive contact with the courts for victims, witnesses, owners and staff. Language from the Chapel Hill Animal Control Ordinance §4-16 Vicious Animals has been included in the Unified Ordinance not only to integrate Chapel Hill's language into the Unified Ordinance but also to fill the a critical deficiency in the current Ordinance.
- Deficiency – Micro-chipping- Requires micro-chipping for identification of vicious and dangerous dogs. This language is new.

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IV. Concerns from the Public

At the June 4th Board of County Commissioner meeting, nine residents spoke on the proposed Unified Ordinance. After reviewing the tapes of the June 4th meeting, we paraphrased the concerns of the speakers and provided feedback as requested by the Board on these issues as it relates to the Ordinance. We attempted to capture their comments as closely as possible; however, the Minutes of the June 4, 2013 Board of Commissioner's meeting have been attached and may more accurately reflect what was stated. If Staff had additional information that could provide context to the speaker's concern it was also included.

1. Allen Green– Mr. Green's concern was that § 4-45(b)(6) of the Ordinance, which deemed animals "at large off the premises of the owner or keeper" a public nuisance, did not provide animal control officers the discretion to determine whether or not a citation should be issued when a farm animal was found off the property of its owner.

Response: In 2009, Mr. Green received a civil citation for public nuisance after a cow was found off his property. Mr. Green disagreed with the citation and opted to proceed to court. The Court heard his claim and upheld the citation, ordering Mr. Green to pay the fine. In 2009 and 2010, Mr. Green met

with the Animal Services Advisory Board (“ASAB”) to request a review by the Ordinance and either exempt farm animals from the Ordinance or remove as a public nuisance farm animals found off their owner’s property.

In May 2010, the Animal Services Advisory Board issued a report that concluded Animal Control Officers had the discretion whether to cite an owner for an animal on or off property depending on circumstances and they would not recommend an amendment to the Ordinance. In making their decision, they cite concerns of public safety, deterrence, owner’s responsibility and farmland protection. They also reviewed data from the Sheriff’s Office on calls reporting animals in the roadway. The Board shared the report with the Agricultural Preservation Boards. The ASAB met with and discussed its findings with the officers of the Agricultural Preservation board and DEAPR senior staff.

Animal Control Officers inherently have the authority to cite someone for a violation depending on the circumstances. However, additional language has been added to clarify that the Animal Services Director has the discretion to determine whether to cite a person whose domestic livestock is off the premises of the owner or keeper. The new language was sent to the Agriculture Preservation Board. The new language to the Unified Ordinance is:

(6) At large off the premises of the owner or Keeper, except in the case of domestic livestock the Animal Services Director shall have the discretion to determine a violation. (Language in red was added.)

2. Ed Johnson – At the June 4th meeting Mr. Johnson expressed the following concerns about the Unified Ordinance:
 - The dangerous dog declaration had an appeal process but the vicious animal declaration did not;
 - That there is both a vicious and dangerous dog designation;
 - That the definition of “trespass” “was modified to put the onus on the land owner to prove that the trespasser came on the property with criminal intent;”
 - The definition of “watch dog” was removed from the Ordinance;
 - The Ordinance should allow for differentiate between the Towns and the County; and
 - In an appeal process under §4-42 if a dog were declared both dangerous and vicious, would a person have to appeal the dangerous and vicious dog declarations separately?

Response: On January 31st, a person filed a report indicating he came onto Mr. Johnson property to ask permission to photograph a waterfall and was bitten by Mr. Johnson’s two dogs. After an investigation the dogs were declared “vicious.” Mr. Johnson alleged his dogs were “watch dogs” and that the person coming onto his property was a trespasser; therefore, his dogs were exempt from the vicious dog designation. The Animal Services Director, in consultation with legal counsel, reviewed the facts of the case and determined that under the Ordinance the person, regardless of their reason for being on the property, was not invited and therefore was a trespasser. Once it was determined the bite victim was a trespasser, the vicious dog declaration was rescinded. The declaration was rescinded based on the determination that the bite victim was a trespasser and because of the claim they were watch dogs.

- a. Appeal. The Dangerous Dog declaration is a state statute and requires an appeal process; the County Ordinance does not have an appeal process. We do not dispute that there

should be an appeal process for vicious animals and proposed that it should be in the Ordinance. (See III.3. above)

- b. Dangerous and Vicious Dog Declaration. North Carolina General Statute §67-4.5 authorizes local governments to enact laws in addition to the ones found in the North Carolina General Statutes. Neither the “vicious dog” declaration under the county ordinance nor the “dangerous” or “potentially dangerous” dog declarations under state law are new. The vicious dog designation is a part of the County Ordinance and a part of the Chapel Hill Ordinance. The added language in the Unified Ordinance incorporates language from the Chapel Hill and Carrboro Ordinances. (See Section III.7 above)
- c. Trespass definition puts the onus on the property owner to prove the intruder came onto the property with criminal intent. The current definition of “vicious animal” (§4-37) in the County Ordinance provides the following:

“Any animal on or off the premises of its owner or keeper, security dog excluded, which animal is three months of age or older and without provocation has bitten, or killed, or caused physical harm through bites to people (a person) who are (is) **not trespassing** and or has bitten or killed an animal(s) that is (are) not where its (their) owner(s) has (have) been told such animal(s) cannot be. Any dog that is owned or harbored for the purpose of dog fighting or training for dog fighting is also defined as a vicious animal.” §4-37 (emphasis added)

Neither the County nor Towns Ordinances currently define the term “trespass.” The North Carolina General Statutes lists a variety of types of trespasses based on whether the nature of the act is either civil or criminal. One of the many definitions of “trespasser” in Black’s Law Dictionary (9th ed. 2009), is “one who intentionally and without consent or privilege enters another’s property.” Because the definition of trespass is open to many definitions, the definition of a trespasser in Black’s Law is followed by an admonition:

“The word ‘trespasser’ has an ugly sound, but it covers the wicked and the innocent. The burglar and the arrogant squatter are trespassers, but so are all sorts of comparatively innocent and respectable persons such as a walker in the countryside who unhindered strolls across an open field. Perhaps much of the trouble in this area has arisen from ‘the simplistic stereotype’ of the definition. The courts are therefore beginning to recognize that the duty of the occupier may vary according to the nature of the trespasser.” R.F.V. Heuston, Salmond on the Law of Torts 278 (17th ed. 1977). TRESPASSER, Black’s Law Dictionary (9th ed. 2009), trespasser

Recognizing the definition of the word “trespasser” may be open to interpretation, language consistent with the N.C. Gen. Stat. § 67-4.1 (Dangerous Dog Statute) and Carrboro Ordinance was added to the Unified Ordinance. This language provides for an exception in the Unified Ordinance for dogs that bite persons considered trespassers. The following exception appears in the Unified Ordinance:

“a dog where the injury inflicted by the dog was sustained by a person who, at the time of injury was:

- a. On the owner or keeper property that has been posted with placards or signs noting the presence of such animal or “No Trespassing” in a manner reasonably likely to come to the attention of an intruder’
- b. Committing a willful trespass or other tort as provided in N.C. Gen. Stat. Chapter 14, Article 22B; (Language in red was deleted.)
- c. Tormenting, abusing, or assaulting the dog or has attempting to torment, abuse, or assault the dog; or
- d. Committing or attempting to commit a crime.

§4-42(e)(4)

The only new language included in this section is the words: “as provided in N.C. Gen. Stat. Chapter 14, Article 22B.” We have removed that language from the Ordinance so that the exception now almost mirrors that found in the State Statute and Carrboro Ordinance.

- d. Watch dog removed from Ordinance. The current Ordinance defines the term “watch dog” as “[A] dog that barks and threatens to bite any intruder that has not been specially trained or conditioned for that purpose.” Watch dogs that meet the definition are exempt from vicious dog designation because they are considered “security dogs.” The other two types of security dogs in the County Ordinance require either registration or training; no registration or training is required for a watch dog. The County Ordinance currently does not protected a dog that bites an intruder on its owner’s or keeper’s property from being declared “vicious”; because once having bit a person it would not meet the definition of a watch dog.

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Staff believes the Mr. Johnson’s concern is unfounded. A dog on its owner’s or keeper’s property that only approaches an intruder and barks or threatens to bite the intruder is neither vicious nor dangerous. The definition of “vicious,” “dangerous” or “potentially dangerous” in the Ordinance and the North Carolina General Statutes does not provide for a designation of “vicious” or “dangerous” to a dog that was on its owner’s or keeper’s property and barked or threatened to bite an intruder. The term “watch dog” doesn’t provide property owners any greater or fewer rights, doesn’t require registration or training and causes undue confusion. For these reasons the language is superfluous, and was removed.

- e. Rural vs. urban distinction. The Unified Ordinance contemplates the distinct differences between not only rural and urban areas of the County but also differences that may exist amongst the County and Towns as well as the Towns themselves. For example, the Unified Ordinance in §4-45(b) would deem a rooster crowing as prima facie evidence of a public nuisance only in the towns and not in the County. Another example found in Carrboro’s Animal Control Ordinance provides for the permitting of chicken coops. That section of the Carrboro Ordinance was not included in the Unified Ordinance because it is unique to Carrboro.

- f. Appeal of dangerous and vicious dog declaration. Mr. Johnson cited a case in Northern Orange where a dog was declared both vicious and dangerous, and in the appeal process the dangerous dog declaration was overturned. The dangerous dog declaration was overturned; however, because the current County Ordinance does not have an appeal process, the Animal Services Director rescinded the vicious dog declaration based on evidence heard at the appeal hearing. Under the Unified Ordinance, this would not occur because the owner would have the right to appeal both the dangerous declaration under the State statute and the vicious dog declaration under the County Ordinance.
3. Bonnie Hauser. Ms. Hauser's concern seemed to be that there was no citizen input into the Unified Ordinance nor was Aimee Wall from the UNC School of Government brought in to advise the County on changes they should make in the Ordinance.

Response: While the drafting of the Unified Ordinance was a staff driven project, the Animal Services Advisory Board which is comprised of residents of Orange County appointed by the Board, were asked to review changes to the Ordinance on multiple occasions. Additionally on May 9, 2013, Dr. Marotto contacted residents who had communicated their interest or concerns with the Ordinance to inform them of recommended changes to the Ordinance. As a result of that contact, Mr. Johnson, Ms. Meade and Ms. Hauser were on hand to speak at the advisory board meeting. See agenda abstract for Dr. Elmore's response to not asking Ms. Wall to come to advisory committee meeting.

4. Anne Meade. Ms. Meade's concern was that the Unified Ordinance contained internal inconsistencies and was poorly written. We disagree with Ms. Meade's assessment. The changes made to the Ordinance were consistent with the rules of statutory interpretation.
5. Bob Epting. Mr. Epting said that a trespasser is a person who comes on the property of another without civil intent. He felt staff should use guided discretion in their deliberation of trespass. He also was concerned that there is no appeal process in the Ordinance, wanted to maintain the distinction between rural and urban, and objected to the removal of the term "watch dog" from the Ordinance.

Response: See response 2 above.

6. Don O'Leary. Mr. O'Leary was concerned that the RFID microchip caused cancer.

Response: We reviewed the FDA data on RFID microchips, and found no concrete data that RFID microchips cause cancer in animals.

7. Patrick Mulkey - Mr. Mulkey indicated he believed that lethal action could be taken if a trespasser came onto his property in the rural area. He said that he uses his dogs to protect his daughters. He was concerned about the "watch dog" provision being removed.

Response: See Response 2

APPEALS UNDER THE UNIFIED ANIMAL CONTROL ORDINANCE**September 25, 2013**

Introduction: Currently, Orange County's Animal Control Ordinance contains no provisions for appeals. Under the ordinance the only way to have a civil citation or an administrative order reviewed is through an "informal appeal" to the Animal Services Director (or Animal Control Manager). The North Carolina Dangerous Dog Statute does provide an appeal process for dogs declared "potentially dangerous" under the statute. Criminal citations can be appealed through the appropriate state court judicial process. Below is a list of administrative reviews and potentially dangerous dog appeals during the 2012-13 fiscal year.

Recent Administrative Reviews: In the last year or so, the Animal Services Director has received two requests for appeals of vicious animal declarations made under the county's current Animal Control Ordinance. These declarations are different from potentially dangerous dog declarations made under state law (below) but sometimes they are made at the same time.

1. Case 1 - Two dogs were declared vicious after having bitten a person. The owner objected to the declaration of "vicious" because when the dogs bit the person he was on the owner's property uninvited. The owner wanted to appeal the declaration; however, there was no appeal process available to him under the Orange County Ordinance. In response, the Animal Services Director conducted an informal review of the declarations made by Animal Control personnel. On the basis of information gathered in the investigation the Animal Services Director rescinded the declarations because the bite victim was trespassing on the owner's property.
2. Case 2 - Two dogs were declared vicious and potentially dangerous after injuring a third dog that required veterinary care. The owner of two dogs wanted to appeal both the vicious and potentially dangerous dog declarations. She appealed the potentially dangerous dog declaration to the Animal Services Advisory Board Appeal Committee in accordance with state law; and the declaration was overturned. The vicious dog declaration could not be appealed under the Orange County Ordinance. On the bases of evidence heard at the potentially dangerous dog hearing, the Animal Service Director rescinded the declaration because there was no evidence as to which animal was the instigator and all three dogs were off their owner's property at the time of the incident.

As the foregoing suggests, requests for an administrative review by the Animal Services Director have been sparing. This is no less true in the preceding years.

Potentially Dangerous Dog Hearings: Local governments must provide an appeal process for potentially dangerous dog declarations (although not for a dangerous dog declaration) under North Carolina General Statutes § 67-4.1. Since 2005, Orange County has provided an appeal process through a Appeal Committee of the Animal Services Advisory Board (ASAB).

Appeals Process
September 25, 2013
Page 2

In 2012, the Board of County Commissioners affirmed the hearing of appeals of potentially dangerous dogs as one of the responsibilities of the ASAB in adopting the board's new Policies and Procedures (Section V. Committees). The new policies and procedures document also contains provisions for "Other Appeal Committees."

In 2012, Animal Services convened five (5) potentially dangerous dog appeal hearings, and this year to date there have been six (6) appeals. Prior to convening an appeal hearing, the declaration made by the Animal Control Manager in coordination with the investigating Animal Control Officer is reviewed by the Animal Services Director to confirm that the declaration has merit.

The ASAB potentially dangerous dog appeal committee has become quite seasoned. The committee is supported by the Animal Services Director, and as needed, the department's staff attorney. Last year the Animal Services Director and the staff attorney provided training about these appeal hearings to all ASAB members. Among other things, the training included types and rules of evidence; elements and definitions for statutory declarations; and the overall appeal procedure for such declarations mandated by state law.

Proposed Appeal Process: An integral part of the proposed Unified Animal Control Ordinance is a two-step appeal process for civil citations and administrative orders. These two steps are:

1. Step 1 - An appeal to the Animal Services Director; and
2. Step 2- An appeal of the Animal Services Director's decision to a committee of the Animal Services Advisory Board (Sec.-4-54).

The proposed appeal process would mirrors the one currently in place for reviewing potentially dangerous dog declarations under state law. Staff believes this is the best way to proceed by recognizing the authority vested in the position of Animal Services Director but providing a check on his or her decision-making.

Conclusion: Staff deliberately made a generalized appeal process integral to the proposed Unified Animal Control Ordinance. They have done so on the basis of legal and civic considerations and their experience with all aspects of Animal Services. The two-step process is compatible with existing processes, manageable and ensures that there is due process in the administration of the ordinance.

Media Contact

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Attachment 4

FOR IMMEDIATE RELEASE**ORANGE COUNTY COMMISSIONERS TO CONSIDER UNIFIED
ANIMAL CONTROL ORDINANCE**

ORANGE COUNTY, NC (September 24, 2013)—The Orange County Board of County Commissioners (BOCC) will hold its regular meeting at 7:00 p.m. on Tuesday, October 1, at the Department of Social Services building at Hillsborough Commons in downtown Hillsborough.

Among the agenda items, the Commissioners will consider a Unified Animal Control Ordinance, which the BOCC first received and discussed at its June 4, 2013, meeting. This will be another opportunity for the public to share comments if they wish to speak on the issue.

The proposed ordinance has been developed by County staff in coordination with town staff and the members of the Orange County Animal Services Advisory Board.

With approval by the BOCC, the unified ordinance is expected to be brought forward by the police departments in Chapel Hill and Carrboro for consideration by the elected officials in these towns. With their approval it would become possible to unify the three existing ordinances for Orange County, Chapel Hill and Carrboro to assure transparency and clarity and cost effective service delivery. If that does eventually occur, the ordinance would apply throughout Orange County except that the Towns or County may still maintain or develop a unique ordinance in any area of concern.

The ordinance also includes a new fee structure for stray animal recoveries and a micro chipping requirement for all stray animals that are recovered. Recovery fees will differ depending upon whether an animal is sterilized or reproductive in order to extend the County's continuing effort to effectively manage pet overpopulation.

To review the Proposed Ordinance Draft and Inventory of Changes, please click on the 'Quick Links' tab of the Animal Services Web site at www.orangecountync.gov/animalservices

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Regards,

Carla Banks

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ORANGE COUNTY
NORTH CAROLINA

Animal Control Ordinance

DIVISION 1. - GENERALLY

Sec. 4-31. - Authority.

This Ordinance is adopted pursuant to the power granted Orange County in N.C. Gen. Stat. §§ 153A-121, 153A-127, 153A-153 and 153A-442.

(Ord. of 6-16-1987, § I, eff. 1-1-1988)

Sec. 4-32. - Applicability to animal shelter.

Orange County shall operate and maintain a County Animal Shelter for the purpose of impounding or caring for animals held under the authority of state law, this Ordinance or any other county or municipal ordinance. Orange County may contract for the operation of the Animal Shelter as it deems appropriate.

(Ord. of 6-16-1987, § XVIII, eff. 1-1-1988)

Sec. 4-33. - Animal control officers.

- (a) Orange County may appoint one or more Animal Control Officers. Any County employee designated by the County Manager with the duties of an Animal Control Officer shall also be designated as Animal Cruelty Investigators. Only Orange County employees shall be designated as an Animal Cruelty Investigators.
- (b) Animal Control Officers shall have only the following powers and duties within Orange County and within any municipality therein that has given prior approval therefore:
- (1) The responsibility for the enforcement of all state and local laws including ordinances, resolutions and proclamations pertaining to the ownership and control of dogs and other animals.
 - (2) To cooperate with the County Health Director and all law enforcement officers in the county and the towns therein and assist in the enforcement of the laws of the state with regard to animals, the vaccination of dogs and cats against rabies, the confinement and leashing of vicious animals, and any other state law applicable to animals or animal control.
 - (3) To investigate reported or observed animal cruelty or animal abuse and make written reports of such investigations and, when requested, provide such reports to animal , appropriate law enforcement officers or the District Attorney's office.
 - (4) To investigate reports of observed harassment or attacks by dogs or other animals against domesticated livestock and to assist in locating those persons owning or harboring the attacking animals.
 - (5) ~~County~~ Animal Control Officers shall not have the power to arrest.

Animal Control Ordinance

Sec. 4-34. - Animal license privilege taxes.

The Owner of every dog or cat over four (4) months of age that is kept within the County shall annually pay to the County, through Orange County Animal Services, a tax on the privilege of keeping such animal within the County.

Orange County may set animal license privilege taxes as allowed by law and set the tax amounts annually as part of the Budget. In order to further the goals of controlling animal population, the taxes of unspayed or unneutered dogs and cats shall be higher than those of neutered animals. Within 30 days of acquisition of an animal for which a license is required, the owner or keeper shall purchase the appropriate county license.

(Ord. of 3-15-88, § IV, eff. 3-15-88; Amend. of 12-2-96, eff. 1-1-97)

Sec. 4-35. - Licenses, permits, registrations, and fees required by this ordinance.

(a) The following licenses, permits, and registrations are required by this Ordinance:

- (1) Licenses for dogs, cats, or other animals designated by either the Board of County Commissioners or other local government body, in their respective Budget Ordinance (see Section 4-34).
- (2) Registration of patrol dogs or sentry dogs (see Section 4-42(d)).
- (3) Rabies vaccination tags for dogs and cats (see Section 4-47).
- (4) Permits for collecting of dogs and cats for sale (see Section 4-96).
- (5) Permits for commercial (Class II) kennels, non- commercial (Class I) kennels and pet shops (see Sections 4-71 and 4-73).

(b) The amount of license privilege tax shall be recommended by the ~~Animal Control Services~~ Director and approved by the Board of Commissioners, or other local government body, in their respective Budget Ordinance. The ~~Animal Control Services~~ Director may propose for approval by the Board of Commissioners or other local government body such policies or procedures as may be necessary or appropriate to allow for payment of privilege taxes over extended periods of time, at reduced rates, or a waiver of privilege taxes. Additionally, dog and cat owners or keepers who furnish to the ~~Animal Control Services~~ Director a statement from a licensed veterinarian that the animal, due to age, physical reasons, or chronic health problems cannot withstand spay/neuter surgery, shall be allowed to pay the license privilege taxes provided for spayed or neutered animals.

(c) When an animal is impounded under this Ordinance there shall be paid, in accordance with Section 4-43, a redemption privilege tax.

(1) The Redemption Privilege Tax shall be:

Comment [AM1]:
 Redemption of Impoundment Privilege Tax
 \$10.00
 \$50.00
 \$100.00
 \$200.00

Animal Control Ordinance

Number of Prior Incidents	Redemption or Impoundment Privilege Tax	Redemption or Impoundment Privilege Tax
	<u>Sterilized Animal</u>	<u>Reproductive Animal</u>
0	<u>\$25.00</u>	<u>\$50.00</u>
1	<u>\$50.00</u>	<u>\$100.00</u>
2	<u>\$100.00</u>	<u>\$200.00</u>
3 or more	<u>\$200.00</u>	<u>\$400.00</u>

(2) For reproductive animals with two or more prior incidents \$100 of the redemption privilege tax shall be a sterilization deposit, which may be refunded to the owner if they provide to Animal Services proof of sterilization in the form of a veterinarian record within 90 days of recover of the animal.

- (d) In order to defray the costs of administering and enforcing ordinances adopted under this Chapter, and in order to account for the additional costs of locating, responding to and caring for unvaccinated and unlicensed animals found within the County, additional fees shall be assessed as follows if the Owner or Keeper of an animal fails to pay the following fees within the time specified in the Ordinance:

Failure to Vaccinate for Rabies (Section 4-46)	\$ 200.00
Failure to Wear Rabies Tag (Section 4-47)	\$ 50.00
Failure to License (Section 4-35)	\$ 200.00

- (e) For any stray animal that has been impounded by Animal Services there shall be a microchip fee that shall be determined by the Board of County Commissioners in the Budget Ordinance.
- (f) Inspection fees, as provided in this Chapter, shall be set by the Board of County Commissioners in the Budget Ordinance.

(Ord. of 6-16-1987, § V, eff. 1-1-1988; Amend. of 12-2-1996, eff. 1-1-1997; Ord. of 12-3-2007, eff. 7-1-2008)

Sec. 4-36. - Ordinance.

All other Orange County ordinances in conflict with this Ordinance, ~~except the Ordinance Prohibiting the Keeping of Wild Animals Dangerous to Persons and Property within Orange County,~~ are hereby repealed to the extent they conflict with this Ordinance. The Ordinance to Provide for Animal Control and Protection in Orange County, adopted May 15, 1979, as amended October 3, 1983, is hereby repealed.

Animal Control Ordinance

(Ord. of 6-16-1987, § VI, eff. 1-1-1988)

Sec. 4-37. - Definitions.

As used in this Chapter, the following terms mean:

Adequate Food: The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a receptacle, dish, or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

Adequate Shelter: That shelter which will keep a nonaquatic animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthful for the animal. For dogs, cats and other small animals, the shelter shall be a windproof and moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat. It shall include four walls, a roof and a solid floor raised up off of the ground, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shaving, or the equivalent. For all animals the containment area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris, and a suitable method of draining shall be provided to rapidly eliminate excess water or moisture. Aquatic or semi-aquatic animals shall have an adequate amount of clean water in which to move.

Adequate Water: A constant access to a supply of clean, fresh water provided in a sanitary manner. In near or below freezing temperatures the water must be changed frequently to prevent freezing, unless heated.

Administrator: The Animal Services Director, or their designee, as designated by the County Manager to perform the responsibilities assigned by this chapter to the Administrator.

Animal: Any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish, livestock, and reptiles.

Animal ~~Control~~ Services Director: That person designated by the County Manager in Orange County, and where appropriate, his or her designee, charged with the responsibility and authority to implement and enforce the Animal Control program in Orange County.

Animal Shelter: A place provided and operated by Orange County directly or by contractual agreement, whether jointly with another governmental unit or independently, for the restraint, care, adoption, and disposition of animals.

At Large: Any animal shall be deemed to be at large when it is off the property of its owner or its keeper and not under the restraint of a competent person. For purposes of

Animal Control Ordinance

this definition, the term "real property of its owner or keeper" shall include any property owned or occupied by the owner or keeper of such animal but shall not include any of the common areas (including without limitation, walks, drives, recreation and open space areas, etc.) within any subdivision or multifamily residential development.

~~Class I Kennels: An establishment maintained by any person where animals of any species, excluding domesticated livestock, are kept for the purpose of showing, competition, hunting or sport, and which establishment is so constructed that the animals cannot stray therefrom, and which maintains more than six but less than 19 animals.~~

Comment [AM2]: Class I and Class II Kennel definition were moved to the Section Kennels 4-71(a) and 4-72(a).

~~Class II Kennels: Any person maintaining an establishment where animals of any species excluding domesticated livestock, kept for the purpose of breeding, buying, selling, or boarding such animals or engaged in the training of dogs for guard or sentry purposes, and which establishment is so constructed that the animals cannot stray therefrom; or any person owning or keeping 20 or more animals, excluding domesticated livestock, each of which is four months of age or older.~~

Competent Person: A person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal, to persons, to other animals, including but not limited to domesticated livestock, or to property.

Cruel and Cruel Treatment: Every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted;. Such acts or omissions shall include, but not be limited to; beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, confining in a closed vehicle without functioning air conditioning or ventilation whenever the ambient temperature exceeds seventy (70) degrees Fahrenheit, confining in the closed trunk of a vehicle and depriving of food, water, and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport.

Display: Display shall mean any exhibition, act, circus, public show, trade show, photographic opportunity, carnival ride, parade, race, performance, or similar undertaking in which animals are required to perform tricks, fights, wrestle or participate in performances for the amusement or entertainment of an audience, whether or not a fee is charged. "Display" shall not include the use or exhibition of animals for animal-related educational purposes by non-profit groups or institutions or individuals. "Displayed" means to be the subject thereof.

Domestic Animal: A domesticated or tame animal that is kept principally as a pet, except that livestock (other than rabbits kept as pets and not for productive purposes) and wild animals shall not be regarded as domestic animals.

Animal Control Ordinance

Domesticated Livestock: Livestock raised for the production of meat, milk, eggs, fiber, or used for draft or equestrian purposes, including but not limited to cattle, sheep, goats, swine, horses, mules, rabbits, and poultry.

Educational Purposes: Teaching and instructing with the intent and effect of imparting knowledge to others.

Exotic animals: Exotic animals are animals other than domestic animals, farm animals, and wild animals which are not native to North Carolina, or are native to North Carolina but have been captive-bred.

Exposed to Rabies: An animal has been exposed to rabies within the meaning of this Ordinance if it has been bitten by, or otherwise come into contact with the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis.

Harbor: An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for 72 consecutive hours or more.

Health Department: Orange County Health Department.

Health Director: Director of the Orange County Health Department.

Injury: Any injury which is serious enough to require immediate medical attention to preserve the life of the injured person.

Keeper: A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person, whether or not that person literally "owns" the animal. Every person 18 years or older residing in the dwelling unit where a pet is harbored and/or kept shall be deemed a keeper for purposes of this Ordinance.

Leash-free Area: An area in a Town or County designated by the governing body of said Town or County which permits an animal to go free from physical restraint. Does not apply to animals deemed vicious, potentially dangerous or dangerous.

Other Local Government Body: Other local government authority shall include the Towns of Carrboro, Chapel Hill and Hillsborough and those parts of the City of Durham located in Orange County.

Owner: Any person who owns any animal and is responsible for its care, actions, and behavior.

Owner or Keeper's Premises: Any real, owned or leased, property of the owner of an animal; excluding any public right-of-way, or common area of a condominium, apartment complex or townhouse development.

Animal Control Ordinance

Person: Any individual, family, group of individuals, corporation, partnership, organization, or institution recognized by law as a person.

Pet Shop: A person that acquires for the purposes of resale animals, excluding domesticated livestock, bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals at retail or wholesale, or a person that holds or keeps animals, excluding domesticated livestock, for the purpose of cleaning or grooming.

Comment [AM3]: Moved to Section 4-73(a).

Provocation: Any act that would reasonably be expected to cause an animal to defend itself, its young, its owner or keeper or the property of said owner or keeper.

Public Nuisance: Actions deemed prima facie evidence of a public nuisance include the following activities of an animal, or conditions maintained or permitted by the animal's owner or keeper:

- (1) The animal is found at large off as defined in this section.
- (2) The animal damages the property of anyone other than its owner or keeper, including, but not limited to, turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees, fences or gates, or causes injury to domesticated livestock or pets.
- (3) The animal habitually and repeatedly barks, whines, or howls so as to interfere seriously with the reasonable use and enjoyment by neighboring residents of their property.
- (4) The animal repeatedly chases, snaps at, or barks at persons, domesticated livestock, pets, or vehicles when it is not in an enclosure, leashed, or on the owner's or keeper's property.
- (5) The owner or keeper fails to confine a female dog while in heat (estrus) in a building or secure enclosure in such a manner that she will not be in contact with another dog, provided, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.

Restraint: An animal is under restraint if it is under sufficient physical restraint such as a leash, cage, bridle, or similar effective and humane device which restrains and controls the animal, or within a vehicle, or adequately contained by a fence on the premises or other secure enclosure as permitted in this Ordinance. If a competent adult is physically outside on the land with the animal, on land where the owner or keeper of the animal resides, then the animal shall be deemed to be under restraint during the time the animal is in the company of and under the control of that competent person and the animal is on the premises. If any unattended animal is restrained by a chain, leash or similar restraint, it shall be designated and placed to prevent choking or strangulation. Such chain or restraint shall not be less than ten feet in length and shall be on a swivel designed to prevent the animal from choking or strangling itself. The restraint of unattended dogs by a fence, kennel, outdoor enclosure, chain, leash or similar restraint is further regulated under this Ordinance.

Animal Control Ordinance

Security Dog: Any dog used, kept or maintained on the premises of its owner or keeper for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog or sentry dog.

- (a) *Patrol dog:* A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.
- (b) *Sentry dog:* A dog that is trained or conditioned to attack or otherwise respond aggressively without command.
- (c) ~~*Watch dog:* A dog that barks and threatens to bite any intruder that has not been specially trained or conditioned for that purpose.~~

Secure Enclosure: An enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner or keeper. A motor vehicle shall not constitute a secure enclosure. Minimum space and height requirements and other specifications for secure enclosures shall be obtained from the Animal Services Director based on breed, age, height, weight, temperament, and history of the animal.

Severe injury: Any physical injury that results in broken bones, or disfiguring lacerations or requires cosmetic surgery or hospitalization.

Steel Jaw Trap: Spring-powered devices or traps which capture or hold an animal by exerting a lateral force with fix mounted jaws on the leg, toe, paw, or any other part of the animal's body.

Stray: Any domestic animal that is not under restraint or is not on the property of its owner and is wandering at large, or is lost, or does not have an owner, or does not bear evidence of the identification of any owner.

Suspected of Having Rabies: An animal which has bitten a person or another animal.

Tethering: 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 does not include walking a dog with a handheld leash.

Veterinary Hospital: Any place or establishment which is maintained and operated under the supervision of a licensed veterinarian as a hospital where animals are harbored, boarded and cared for incidental to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine for surgery, diagnosis and treatment of diseases and injuries of animals.

~~*Vicious Animal:* Any animal on or off the premises of its owner or keeper, security dog excluded, which animal is three months of age or older and without provocation has bitten, or killed, or caused physical harm through bites to people (a~~

Animal Control Ordinance

~~person) who are (is) not trespassing and or has bitten or killed an animal(s) that is (are) not where its (their) owner(s) has (have) been told such animal(s) cannot be. Any dog that is owned or harbored for the purpose of dog fighting or training for dog fighting is also defined as a vicious animal.~~

Comment [AM4]: This section has been moved to Section 4-42(b)

Wild Animals: An animal (other than livestock) that typically is found in a non-domesticated state and that, because of its size or vicious propensity or because it is poisonous, venomous or for any other substantial reason, poses a potential danger to persons, other animals or property, whether bred in the wild or in captivity and includes any or all hybrids bred with these animals and domestic species.

(Ord. of 6-16-1987, § VII, eff. 1-1-1988; Amend. of 12-2-1996, eff. 1-1-1997; Amend. of 11-18-08, eff. 11-19-08)

Sec. 4-38. - Animal control program.

The Orange County Animal Control Program, as herein described and as otherwise described in other County ordinances related to animals and as otherwise described in the laws of North Carolina, shall be administered by the Animal Services Control Director. Specifically:

- (a) ~~The Animal Control Director shall designate employees or agents enforcing this Ordinance as Animal Control Officers and Rabies Control Officers. Animal Cruelty Investigators may be appointed by the Board of County Commissioners as provided by law. In the performance of their duties, officers and investigators shall have all the power, authority, and immunity granted under this Ordinance and by the general laws of this State to enforce the provisions of this Ordinance, and the laws of North Carolina as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the joint responsibility of and shall be jointly carried out by the Animal Cruelty Investigators and the Animal Control Officers of Orange County.~~
- (a) The Animal Services Control Director shall have the duties of Animal Control Officer and direct the duties of designated County employees or agents in carrying the enforcement of this Ordinance as Animal Control Officers including the duties of a Rabies Control Officers and Animal Cruelty Investigator.
- (b) Except as may be otherwise provided by law, no officer, agent, or employee of the County charged with the duty of enforcing the provisions of this Ordinance or other applicable laws, shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duty unless he or she acts with actual malice.
- (c) It shall be unlawful for any person to interfere with, hinder, or molest any Animal Control or police officer while in the performance of any duty authorized by this Ordinance, ~~or the Animal Control Program~~, or to seek to

Comment [AM5]: First sentence redrafted in (a) below. Second sentence has been moved below.

Animal Control Ordinance

release any animal in the custody of said agents, except in the manner as herein provided.

- (d) ~~Animal Control Officers, Rabies Control Officer, and Animal Cruelty Investigators~~ are not authorized to carry on their person firearms of any kind except as provided herein. The Orange County Animal Control Program may store firearms at the ~~Health~~ Animal Services Department and use those firearms when necessary to enforce sections of this Chapter or under applicable law for the control of wild, vicious, or diseased animals.
- (1) Any Animal Control Officer or law enforcement officer, in carrying out their duties under this Chapter, shall make every effort to deal humanely with all animals.
 - (2) An Animal Control Officer or law enforcement officer may inject an animal with a chemical tranquilizer which will result in limiting the activity of an animal, when in the officer's judgment any attempt to seize the animal would be dangerous to the person attempting the seizure, the animal, or the public at large.
 - (3) An Animal Control Officer or law enforcement officer may humanely put an animal to death, if in the judgment of the officer an attempt to otherwise seize or impound the animal would be dangerous to the officer or others . It is the intent of this subsection that the killing of an animal would be done only after, within the sole discretion of the officer, other reasonable procedures are judged impossible.
- (e) The Animal Control Program shall:
- (1) Have the responsibility along with law enforcement agencies and where applicable with animal control officers to enforce all laws of North Carolina and all ordinances of Orange County pertaining to animals and shall cooperate with all law enforcement officers within Orange County in fulfilling this duty. Animal Control Officers in the performance of their duties, shall have all the power, authority, and immunity granted under this Ordinance and by the general laws of this State to enforce the provisions of this Ordinance, and the laws of North Carolina as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the responsibility of and shall be carried out by the Animal Control Officers.
 - (2) Enforce and carry out all laws of North Carolina and all ordinances of Orange County pertaining to rabies control.

Comment [AM6]: See original section (a) above.

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- (3) Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat exposed to or suspected of having rabies, for a period of not less than ten days, and for reporting to the Health Director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
- (4) Be responsible for the investigation of reports or observations of incidents of harassment of or injuries to domesticated livestock caused by animals.
- (5) Be responsible for the seizure and arranging for the impoundment, where deemed necessary, of any dog or other animal in Orange County involved in a violation of this or any other County ordinance or state law.
- (6) Investigate cruelty or abuse with regard to animals ~~independently or with a duly appointed Animal Cruelty Investigator.~~
- (7) Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this Ordinance or applicable state statute.
- (8) Keep, or cause to be kept, accurate and detailed records of:
 - i. Seizure, impoundment, and disposition of all animals coming into the custody of the animal control program.
 - ii. Bite cases, violations and complaints, and investigation of same, including names and addresses of persons bitten, date, circumstances, and breed.
 - iii. Any other matters deemed necessary by the Animal ~~Control~~ Services Director.
- (9) Be empowered to issue citations or notices of violation of this Ordinance in such form as the Animal ~~Control~~ Services Director may prescribe.
- (10) Have employees who are trained to standards to be established by the Animal ~~Control~~ Services Director, which training shall include, but not be limited to, training in animal first aid taught by a licensed veterinarian.
- (11) The premises for all Animal Shelters operated by or for the County shall meet the standards prescribed for commercial (Class II) kennels set out in Section 4-72 of this Ordinance.

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(12) The standards applicable to vehicles and care in transportation set out in [Section 4-98](#) apply to Animal Control Officers collecting, transporting, or holding animals in this County.

(Ord. of 6-16-1987, § VIII, eff. 1-1-88)

Sec. 4-39. - Relation to hunting laws.

Nothing in this Ordinance 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, keeper, or competent person, and are actually lawfully being used for hunting or training for hunting in compliance with applicable statutes, regulations, or ordinances. This Ordinance should be read and enforced consistent with any such law.

(Ord. of 6-16-1987, § IX, eff. 1-1-88)

Sec. 4-40. - Notice in case of injury.

It shall be unlawful for any person who causes injury to an animal, including but not limited to, running over or hitting the animal with any vehicle, to fail to notify immediately at least one of the following:

- (1) The owner(s) or keeper(s) of the animal (if known or ascertainable with reasonable efforts made to locate the owner or keeper),
- (2) An Animal Control Officer,
- (3) Local law enforcement agency, or
- (4) Orange County Animal Services.

(Ord. of 6-16-1987, § X, eff. 1-1-88)

Sec. 4-41. - Mistreatment of animals unlawful.

The following acts or failure to act relating to the mistreatment of animals are unlawful and violations of this Ordinance:

- a. It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water, with respect to domesticated animals or wild animals in captivity or under restraint, it shall additionally be unlawful to deprive or cause to be deprived any such animal of adequate shelter or veterinary care.
- b. It shall be unlawful for any person to sell or offer for sale, barter or give away within the County baby chickens, baby ducklings or other fowl under six weeks of age or rabbits under eight weeks of age as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or

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display of such baby chickens, ducklings or other fowl or such rabbits in proper facilities with adequate food, water, and shelter, by breeders or stores engaged in the business of selling the animals for purposes other than as pets or novelties.

- c. It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.
- d. It shall be unlawful for any person to tether any fowl.
- e. It shall be unlawful to restrain any animal except in a humane fashion as set forth in Section 4-37 above and Section 4-41 below. (Does not apply to Chapel Hill and Carrboro) (See also Carrboro Code of Ordinances § _____ and Chapel Hill Code of Ordinances § _____)
- f. It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property of its owner or keeper, except a stray animal may be seized when trying to capture it.
- g. It shall be unlawful to possess any paraphernalia related to dog, cock or other animal fighting, ~~including, but not limited to, gaffs.~~ with the intent that the paraphernalia be used to train or feature in an exhibition the baiting of dog, cock or other animal or the fighting of a dog, cock or other animal with another dog, cock or other animal.
- h. It shall be unlawful for any person to transport an animal in the closed trunk of a vehicle, or closed compartment on a vehicle or trailer when the ambient temperature in the vicinity of the vehicle or trailer is greater than or equal to 70 degrees F.
- i. It shall be unlawful for any person to commit any of the acts made unlawful under the provisions of North Carolina General Statutes §§ 14-360 and 14-362, as the same relate to a dog or dogs, or to commit any other act made unlawful by any other law of the State of North Carolina relating to animal fighting or animal baiting. The repeal of such law or laws of the State of North Carolina shall have no effect upon this Section, and the acts herein made unlawful shall, in the event of such repeal, be those referred to in said law or laws immediately prior to such repeal.
- j. It shall be unlawful for any person to abandon or forsake any animal within the County.

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- k. It shall be unlawful for any person to restrain a dog using a chain, wire or other type of tethering device in a manner prohibited by this subsection. (Does not apply in Chapel Hill or Carrboro)
- (1) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a tree, fence, post, dog house, or other stationary object for more than a total of three hours in a 24-hour period. During periods of tethering that are not unlawful under this subsection, any tethering device used shall be at least ten feet in length and attached in such manner as to prevent strangulation or other injury to the dog and entanglement with objects. In no event shall the time limitations established by this subsection 4-41(k)(1) & (2) below be added together to allow for tethering, fastening, chaining, tying, or restraining to either a stationary object or to a cable trolley system for more than a total of three hours in a 24-hour period.
 - (2) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a cable trolley system, that allows movement of the restraining device, for more than a total of three hours in a 24-hour period. During periods of tethering that are not unlawful under this subsection, the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move ten feet away from the cable perpendicularly and attached in such a manner as to prevent strangulation or other injury to the dog and entanglement with objects.
 - (3) No person shall tether a dog with a chain or wire or other device to, or cause such attachment to, any collar other than a buckle type collar or body harness.
 - (4) No person shall tether with a chain or wire or other device to, or cause such attachment to, a head harness, choke-type collar or pronged collar to a dog.
 - (5) No person shall tether with a chain, wire or other device to a dog where the weight of the tethering device and the collar combined exceeds ten percent of the dog's body weight.
 - (6) No person shall tether with a chain or wire or other device a dog in such manner that does not allow the dog access to adequate food, water, and shelter.
 - (7) Notwithstanding the provisions of subsections 4-41(k)(1) & (2) of this subsection, a person may, subject to the provisions of subsections 4-41(k)(3—(6), and subject to the requirement that any stationary tethering device used shall be at least ten feet in length, and subject to the requirement that for any

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cable trolley system used the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move ten feet away from the cable perpendicularly:

- a. Tether and restrain a dog while actively engaged in:
 - i. Use of the dog in shepherding or herding livestock, or
 - ii. Use of the dog in the business of cultivating agricultural products, if the restraining is reasonably necessary for the safety of the dog, or
 - iii. Use of the dog in lawful hunting activities if the restraint is reasonably necessary for the safety of the dog, or
 - iv. Use of the dog at dog training or performance events, including but not limited to field trials and obedience trials where tethering does not occur for a period exceeding seven consecutive days, or
 - v. Camping or other recreation where tethering is required by the camping or recreational area where the dog is located, or
 - vi. Any activity where a tethered dog is in visual range of its Owner or Keeper, and the Owner or Keeper is located outside with the dog.
- b. After taking possession of a dog that appears to be a stray dog and after having advised animal control authorities of the capture of the dog, tether and restrain the dog in accordance with the provisions of [Section 4-41](#) for a period not to exceed seven days as the person having taken possession of the dog is seeking the identity of the owner of the dog.
- c. Walk a dog with a handheld leash.
- d. ~~Section 4-41 becomes effective one year following the adoption of this amendment (the "effective date"). Any person who violates this subsection after the effective date but prior to the expiration of the eighteenth month following the date this amendment was adopted shall be issued a written warning giving the violator notice of the provisions of this amendment. Any person who violates [Section 4-41](#) after the expiration of the eighteenth month following the date of the adoption of this amendment is subject to one or more of the Penalties established in [Section 4-51](#) of this Ordinance. Any dog that is kept in violation of [Section 4-41](#) of this Ordinance may be seized and subsequently impounded in accordance with [Section 4-43](#) of this Ordinance until such a time as the Animal Control Services Director is reasonably assured that the dog will not be subject to restraint in~~

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violation of this Ordinance. The Animal Control Services Director shall post a notice at the place of the illegal restraint, or at such other location, that is designed to reasonably apprise the Owner or Keeper of the dog, the place, date and time the dog was seized along with the location where the dog was taken. Such notice shall clearly state that the dog may be returned to the Owner or Keeper upon providing reasonable assurances to the Animal Control Services Director that the dog will not be subject to restraint in violation of this Ordinance.

(Ord. of 6-16-1987, § XI, eff. 1-1-88; Amend. of 11-18-2008, eff. 11-19-09)

Sec. 4-42. - Control of vicious animals; security dogs.

(a) In General. It shall be unlawful for any person to keep any vicious animal within the County, unless under restraint and on the premises of the owner or keeper. ~~Security dogs are subject to all other provisions of this Ordinance while off the premises of their owner or keeper.~~

Comment [AM7]: Many of the changes in this section are to align the requirements for vicious dogs under this Ordinance with the requirements for a dangerous dog under the State Statute.

Comment [AM8]: Moved to (e)(5) below.

(b) Vicious Animal. Any animal, ~~security dog excluded,~~ on or off the premises of its owner or keeper, which is three (3) months of age or older and who:

- (1) Without provocation has bitten, killed or caused physical harm through bite(s) to a person; or
- (2) Without provocation has attempted to bite a person or cause physical harm through bite(s) to a person; or
- (3) Without provocation has injured, maimed or killed a pet or domestic livestock, ~~except where such animal has bitten or killed an animal a pet or domestic livestock that is not where is its (their) owner(s) have been told such animal(s) cannot be trespassing~~ on the land of another without permission or is defending a person; or
- (4) Has been deemed potentially dangerous or dangerous in accordance with N.C. Gen. Stat. Chapter 67, Article 1A. Dangerous Dog.

Comment [AM9]: Deleted: "Any dog that is owned or harbored for the purpose of dog fighting or training for dog fighting is also defined as a vicious animal." This covered by this statute.

(c) Declaration of Vicious Animal.

- (1) Upon observation by an Animal Control or law enforcement officer or receipt of a written complaint that an animal is behaving or has behaved viciously and is at large or is off the premises of its owner or keeper and is not restrained by a competent person, an Animal Control Officer may impound the animal and investigate the complaint and, upon a finding that there is probable cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, shall take any action allowed by this Ordinance or State law as the circumstances may require.

Comment [AM10]: Section 4-42 (b) and (c) have been combined.

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- (2) Any animal who, after investigation by an Animal Control officer, is found by the Animal Services Director to have committed any act described in (b) above may, in the Animal Services Director's sole discretion, be declared vicious and is subject to this Section of the Ordinance.

(d) Effect of Declaration.

- (1) Permitted Locations. A vicious animal shall be permitted at the following locations only:
- (a) On the premises of the owner or keeper either confined indoors or in a secure enclosure when outdoors;
- i. Secure Enclosure. The owner or keeper of a declared vicious animal is required to keep the animal securely confined indoors or in a securely enclosed and locked pen or structure. The pen or structure must be suitable to prevent the entry of young children and designed to prevent the animal from escaping; it must provide the animal with protection from the elements; and must be inspected by an animal control officer and approved by the Animal Services Director prior to use by the animal declared vicious.
 - ii. Annual Inspection. An Animal Control Officer shall inspect the secured enclosure of all animals deemed vicious at least once a year to assure that the standards are maintained. There will be an inspection fee as provided by the Orange County Board of Commissioners.
- (b) On private property, with the authorization of the owner of the property;
- (c) At a licensed veterinarian for treatment;
- (d) In a motor vehicle while being transported;
- (e) Off the owner's or keeper's property provided it is muzzled and controlled by means of a chain, leash or other like device by a competent adult able to restrain the animal.
- (2) When going to and from a Permitted Location or a Secured Enclosure an animal declared vicious off the owner's or keeper's property must be muzzled and controlled by means of a chain, leash or other like device by a competent adult able to restrain the animal.
- (3) There must be posted on the premises of the owner or keeper placards or signs noting "Beware of Dog" or other information noting the presence of a vicious animal placed in a manner reasonable likely to come to the attention of an intruder.

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- (4) Any animal declared vicious must receive a microchip prior to the animal being reclaimed if impounded. If the animal was not impounded and it is declared vicious the owner must provide proof to animal services that the animal has received a microchip within 30 days of having received notice that the dog has been declared vicious.
- (e) Exceptions. The provisions of this Section do not apply to:
- (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
 - (2) A dog being used in a lawful hunt;
 - (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting, herding or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
 - (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury was:
 - a. On the owner or keeper property that has been posted with placards or signs noting the presence of such animal or "No Trespassing" in a manner reasonably likely to come to the attention of an intruder'
 - b. Committing a willful trespass or other;
 - c. Tormenting, abusing, or assaulting the dog or ~~has~~ attempting to torment, abuse, or assault the dog; or
 - d. Committing or attempting to commit a crime.
 - (5) Security dogs are subject to all other provisions of this Ordinance while off the premises of their owner or keeper.
- (f) An animal which has been declared vicious may be impounded by the Animal Control Officer, either upon direct observation of the Animal Control Officer or law enforcement officer or receipt of written complaint that the animal is at large, or off the premises of its owner or keeper and not restrained by a competent person, or not confined in a manner permitted in subsection (d) above.
- (1) Written Complaint. Upon receipt of a written complaint that an animal ~~is or has been was behaving viciously or was~~ previously declared vicious was off the owner or keeper property while not properly restrained and there is probably

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cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, an Animal Control Officer may impound the animal and investigate the complaint.

- (2) If an animal is impounded as vicious, authorization for reclamation after any required holding period shall be granted when in the Animal Services Director, or their designee's sole discretion, is reasonably assured that either the animal is not vicious or the vicious animal will be properly restrained on the premises of its owner or keeper.
 - (3) Upon a finding that there is probable cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, the Officer may seize the animal and take any action allowed by this Ordinance or State law as the circumstances may require.
- (g) Citation. The Animal Control Officer shall issue a citation to the owner or keeper for actions described in section b. 1 - 4. Citations may be delivered in person or by registered mail if the owner or keeper is not readily found. The citation issued shall impose upon the owner or keeper a civil penalty of one hundred dollars (\$100.00), or any other amount prescribed by the Orange County Board of Commissioners.
- (1) The violator must pay the citation to the Orange County Animal Services within fourteen (14) days of receipt in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees or remedies authorized under this Chapter.
 - (2) In the event that the owner or keeper of the animal does not appear in response to the described citation, the civil penalty is not paid within the time period prescribed, or if the animal previously has been declared vicious upon payment of a citation or the conviction of the owner or keeper a criminal summons may be issued against the owner or keeper for violation of this chapter and upon conviction, the owner or keeper shall be punished as provided by this Ordinance.
 - (3) Upon the issuance of a citation for an animal which has committed any of the acts described in this Section, the animal must be confined either in the home of the owner or keeper, at an animal shelter, a kennel as provided in Sections 4-71 and 4-72 below or a veterinarian's office until such time that the required pen is constructed, the animal is destroyed, or a judge finds that the animal is not a vicious animal.
 - (4) The Animal Services Director has the authority at any time to require that a vicious animal not be kept in the owner or keeper's home. The animal must stay confined through any legal appeals. The owner or keeper shall be responsible for the costs incurred in the animal's confinement. If the animal is found not to be a vicious animal, the County shall be responsible for the cost of animals kept at the Animal Services facility for that purpose.

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(h) Effect of Citation.

- (1) Upon payment of a citation or the conviction of the owner or keeper for having an animal which without provocation has committed any of the acts described in subsection (b) above, said animal is declared a vicious animal.
- (2) Upon the payment of a citation or the conviction of the owner or keeper for having an animal which on or off the property of the owner or keeper and without provocation has killed or caused life threatening injuries through bite(s) to a person, the animal will be seized by the animal control officer and destroyed in a humane manner.
- (3) Any animal previously declared vicious upon the payment of a citation or by conviction of the owner or keeper for a violation of this subsection, that commits a subsequent violation of the subsection, will cause the owner or keeper to be charged with that violation. Upon the owner or keeper's conviction of that violation, the animal will be destroyed in a humane manner.
- (4) Any violation of this section may be a misdemeanor and subject to a fine of five hundred dollars (\$500.00) or imprisonment of not more than thirty (30) days.
- (5) All persons owning security dogs that are classed as patrol dogs or sentry dogs as defined by this Ordinance shall register such animals with the Animal Services Director; the owner or keeper of any such dog that is classed as a patrol dog or sentry dog under this Ordinance shall place signs or placards on his premises noting "Beware of Dog" or other information noting the presence of security dog(s).

- (j) Appeal. Any declaration that an animal is "vicious" may be appealed to the Orange County Animal Services Advisory Board as provided in this Chapter.

Sec. 4-43. - Impoundment of animals.

Any animal either found at large, found not to be wearing a currently valid rabies tag, is public nuisance, has been declared vicious and is out-of-doors, not in a secure pen or on a restraint, is a danger to the public or for any other reason designated in this Chapter may be impounded and confined in the Animal Shelter in a humane manner for a period hereinafter prescribed:

- (a) Owner notification. Immediately upon impounding any animal, the Animal Services Director or designee shall attempt to notify the owner or keeper by either telephone or in person to inform that person of such impoundment, and the conditions whereby the animal may be redeemed. If unable to give notice by telephone, an official, dated, written notice shall be mailed to the registered owner by certified mail, return receipt requested, giving notice of the impoundment and the conditions whereby the animal may be redeemed.

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- (b) Reclamation. A domesticated animal impounded under this Chapter may be reclaimed by its owner or keeper according to procedures of Animal ~~Control~~ Services. The owner or keeper of an impounded domesticated animal shall be responsible for and shall pay all expenses, boarding costs, redemption privilege taxes and costs associated with such impoundment prior to reclaiming the animal. Unless reclaimed, the impounded domesticated animal may be allowed to be adopted or humanely euthanized according to Animal ~~Control~~ Service procedures after five days of impoundment. Feral dogs and cats may be held for 72 hours and then euthanized pursuant to Animal ~~Shelter~~ Services procedures for humane euthanasia. The owner or keeper of an impounded domesticated animal shall also comply with any vaccination and licensing directives and be responsible for the payment to Orange County of all civil penalties and license privilege taxes imposed or associated with the animal's impoundment as prescribed in any citation or notice issued by the Animal ~~Control~~ Services Director. Animals who have impounded in accordance with N.C. Gen. Stat. 130A-196, after having bitten a person not reclaimed within 72 hours after the end of the quarantine period will be considered abandoned and will become the property of the Orange County and disposed of according to standard Animal ~~Shelter~~ Services procedures.
- (c) Release to Owner. An owner or an impounded animal may reclaim the animal after it has been impounded, upon compliance with this Section and in accordance with requirements set forth by the Animal Services Director. Nothing in this Chapter shall require the Animal Services Director to release an animal that has been impounded who is need of protection because of cruel treatment.
- (d) Diseased or injured animals. Severely diseased or badly injured animals may be euthanized in a humane manner, if authorized by a licensed veterinarian, without waiting the required redemption or adoption period.
- (e) Confinement Order. In lieu of impoundment, the Animal ~~Control~~ Services Director is authorized to issue a Confinement Order to the animal owner or keeper that would require the owner or keeper to confine a vicious animal or an animal otherwise violating provisions of the Ordinance. Failure to thus confine the animal would constitute a further violation of the Ordinance, subjecting the owner to appropriate criminal or civil penalties.

(Ord. of 6-16-1987, § XIII, eff. 1-1-88; Amend. of 12-2-96, eff. 1-1-97)

Sec. 4-44. - Handling of stray animals.

It shall be unlawful for any person, without the consent of the Owner or Keeper, knowingly and intentionally to harbor, feed, keep in possession by confinement or otherwise any animal that does not belong to him, unless he has, within 72 hours from the time such animal came into his possession, ~~notified an Animal Control Officer or the Animal Shelter~~ Services.

- (a) Any animal at large may in a humane manner be seized, impounded, and confined in the Animal Shelter and thereafter adopted out or disposed of pursuant to procedures of the Animal ~~Shelter~~ Services and applicable State law.

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- (b) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this Ordinance Chapter.
- (c) Any animal seized and impounded that is badly wounded or diseased and has no identification, may be euthanized pursuant to procedures of the Animal Shelter Services. If the animal has rabies or is suspected of having rabies, the body shall be disposed of in accordance with applicable state regulations. If the animal has identification, the Animal Shelter Services shall attempt to notify the owner or keeper before euthanizing such animal; in any event, and except as may be otherwise provided by law, the Animal Shelter Services and Animal Control Program shall have no liability for euthanizing wounded or diseased animals when such action is taken upon the advice or recommendation of a veterinarian who has been advised of the animal's condition.
- (d) Any cat or dog impounded must receive a microchip, at the expense of its owner, prior to recovery by its owner.
(Ord. of 6-16-1987, § XIV, eff. 1-1-88)

Sec. 4-45. - Public nuisance.

- (a) In General. It shall be unlawful for an owner or keeper to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals. ~~Compliance shall be required as follows:~~
- (b) Prima Facie Evidence. Actions deemed prima facie evidence of a public nuisance include the following activities of any animal, or conditions maintained or permitted by the animal's owner or keeper:
- (1) Habitually or repeatedly, without provocation, chasing, snapping at or attacking pedestrians, bicycles, persons lawfully entering the property to provide a service, other animals being walked on a leash, or vehicles even if the animal never leaves the owner's property, except that this provision shall not apply if such animal is restrained by a pen, fence, or other secure enclosure. For purposes of this section, an "underground fence" shall only be considered secure if it in fact contains the animal and a small sign or other notification is present to alert others that the animal is restrained.
 - (2) Interfering with the reasonable use and enjoyment by neighboring residents of their property because of its odor or excessive noise making. For purposes of this subsection, excessive noise making shall include repeated episodes of barking, howling, whining, crying, crowing only if the rooster is within the town limits or Carrboro, Chapel Hill, or Hillsborough.
 - (3) A female dog that is not confined while in heat in a building or secure enclosure in such a manner that she will not be in contact with another animal, provided that this

Comment [AM11]:

The following was deleted:

It shall be unlawful for an owner or keeper to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals. Compliance shall be required as follows:

(a)

When an Animal Control Officer or law enforcement officer observes a violation, the owner or keeper will be provided written notification of such violation and be given 24 hours or less to abate the nuisance.

(b)

Upon receipt of a written detailed and signed complaint alleging that any person is maintaining a public nuisance as defined in this Ordinance, the Animal Control Director shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received, and shall cause the situation complained upon to be investigated and a written report thereon to be prepared.

(c)

If the written findings indicate that the complaint is justified, the Animal Control Director shall cause the owner or keeper of the animal or animals in question to be notified in writing, and shall order abatement of such nuisance within 24 hours or such lesser amount of time which shall be designated on the abatement order.

(d)

If, after 24 hours or such lesser time as is designated in the abatement order the nuisance is not abated, the animal creating the nuisance may be impounded or a civil penalty may be issued and/or a criminal summons may be issued.

Comment [AM12]: Much of this was formerly in the definitions section under the term "Public Nuisance"

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section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.

- (4) Damages the property of anyone other than its owner or keeper, including but not limited to, turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees, fences or gates, or causing injury to domesticated livestock or pets.
- (5) Without provocation, inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.
- (6) At large off the premises of the owner or keeper; except in the case of domestic livestock the Animal Services Director, or designee, shall have the discretion to determine a violation.
- (7) The provisions of subsections (1) through (5) above of this section shall not apply to cats. However, cats may be deemed a public nuisance when off the premises of its owner or keeper when they:
 - i. Habitually or repeatedly defecates or urinates in children's sandboxes, gardens, flower beds or other private property without the permission of the property owner;
 - ii. Habitually or repeatedly injures or kills animals or birds, whether domesticated or not;
 - iii. Is a female in heat not confined in a building or secure enclosure in such a manner as to prevent contact with another cat;
 - iv. Habitually or repeatedly, without provocation, chases or attacks pedestrians, bicyclists or other animals being walked on a leash;
 - v. Seriously interferes with the reasonable use and enjoyment by neighboring residents of their property because of its howling, whining, crying, or other noise making;
 - vi. Without provocation, inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.
 - vii. Habitually or repeatedly walks or sleeps on or damages vehicles owned by another.
 - viii. Is off the owner's or keeper's property except when the cat can be identified through a currently registered microchip.

Comment [AM13]: This Subsection has been modified to include language giving the Animal Services Director discretion to determine a violation in the case of domestic livestock.

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(8) Subsection (7)(viii) applies also to ferrets.

(c) Violation.

(1) Determining Violations.

- i. Animal Control or Law Enforcement Officer. An Animal Control Officer or law enforcement officer who observes a violation, of this section, shall provide the owner or keeper of the animal written notification of the nature of the violation(s) in the form of an Abatement Order that shall indicate that unless these violations are abated and measures are taken to prevent their reoccurrence within twenty-four (24) hours or such lesser time as the designated in the notice, the owner shall be required to remove the animal from the County.
 - ii. Written Complaint.
 1. Upon receipt of a written detailed and signed complaint alleging that any person is maintaining a public nuisance as defined in this Ordinance, the Animal Services Director shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received, and shall cause the situation complained upon to be investigated and a written report thereon to be prepared.
 2. If the written findings indicate that the complaint is justified, the Animal Services Director shall provide the owner or keeper of the animal written notification of the nature of the violation(s) in the form of an Abatement Order that shall indicate that unless these violations are abated and measures are taken to prevent there reoccurrence within twenty-four (24) hours or such lesser time as the designated in the notice, the owner shall be required to remove the animal from the County.
- (2) Failure to Abate a Violation. If the public nuisance has not been abated after the time indicated in the Abatement Order, then the Animal Service Director shall notify the owner or keeper in writing that the animal may be impounded or a civil penalty may be issued and/or a criminal summons may be issued.
- (3) Animals Removed from County. The Owner or Keeper of any animal who has been required to remove the animal pursuant to this Section shall, within five (5) days after removal, inform the Administrator or designee in writing of the animal's present location, including the name, address and telephone number of the animal's owner or keeper. If the animal has been destroyed, the Administrator shall be informed of the name, address, and telephone number of the person who destroyed such animal.

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- (4) Subsequent Violations. The Animal Services Director or designee may impound an animal if a third verified violation occurs within one year of any other previous violations of this Section.
- (5) Right of Appeal. An Owner or Keeper shall have a right to appeal a citation or removal of an animal under this Section in accordance with Section 4-54 of this Chapter.

Sec. 4-46. - Rabies control.

It shall be unlawful and a violation of this Ordinance for any animal owner, keeper or other person to fail to comply with the laws of North Carolina relating to the control of rabies.

(Ord. of 6-16-1987, § XVI, eff. 1-1-88)

Sec. 4-47. - Rabies vaccination tag.

All dogs ~~and cats~~ shall wear a valid rabies vaccination tag. Cats and ferrets are not required to wear tags but the owner or custodian of such animal shall provide proof that the cat or ferret has been vaccinated against rabies. The owner or custodian of all animals required to be vaccinated against rabies shall provide proof of vaccination upon demand of a law enforcement or animal control officer if an animal required to be vaccinated is not wearing a rabies vaccination tag. Failure to produce proof of vaccination may result in such animal being impounded subject to redemption in the manner provided in this Chapter. Such proof being the certificate of vaccination from a licensed veterinarian or a certified rabies vaccinator.

(Ord. of 6-16-1987, § XVII, eff. 1-1-88; Amend. of 12-2-1996, eff. 1-1-97)

Sec. 4-48. - Applicability to veterinarians.

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this Ordinance except for the provisions relating to cruelty to animals and rabies control.

(Ord. of 6-16-1987, § XVIII, eff. 1-1-88)

Sec. 4-49. - Reserved.

Editor's note—

Section 4-49 entitled kennel standards replaced by Sections 4-71 and 4-72 and derived from Ord. of 6-16-1987, § VIII, eff. 1-1-88; Amend. of 12-3-2007, eff. 7-1-08.

Sec. 4-50. - Reserved.

Editor's note—

Section 4-50 entitled permits and standards for animal collection replaced by Sections 4-96 through 4-99 and derived from Ord. of 6-16-1987, § XX, eff. 1-1-88; Amend. of 12-3-07, eff. 7-1-08.

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Sec. 4-51. - Penalties.

The following penalties shall pertain to violations of this Ordinance.

- (a) The violation of any provision of this Ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in North Carolina General Statutes § 14-4, or other applicable law. Each day's violation of this Ordinance is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes, fees or civil penalties imposed under this Ordinance.
- (b) Enforcement of this Ordinance may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to North Carolina General Statutes § 153A-123 (d) and (e).
- (c) In addition to and independent of any criminal penalties and other sanctions provided in this Ordinance, a violation of this Ordinance may also subject the offender to the civil penalties hereinafter set forth.
 - (1) The Animal Services Director (or designee) may issue to the known owner or keeper of any animal, or to any other violator of the provisions of this Ordinance, a ticket or citation giving notice of the alleged violation(s) and of the civil penalty imposed. Tickets or citations so issued may be delivered in person or mailed by first class mail to the person charged if that person cannot readily be found. The following civil penalties shall be assessed for each violation of this Ordinance.

- (i) Mistreatment of Animals (Section [4-41](#)) \$200.00
- (ii) The civil penalty for a nuisance violation (Section [4-45](#)) shall be as follows:

Number of Prior Nuisance Violations	Amount
1	<u>\$100.00</u>
2	<u>\$200.00</u>
3 or more	<u>\$400.00</u>

- (2) This civil penalty shall be paid to the Animal Services Director or his or her designee within 14 days of receipt. This civil penalty is in addition to any other fees, taxes, costs or fines imposed that are authorized by this Ordinance.

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- (3) In the event that the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or a criminal summons may be issued against the owner or keeper or other alleged violator of this Ordinance, and upon conviction, the owner shall be punished as provided by State law. Failure on the part of the owner or keeper of an animal or other alleged violator to pay the applicable civil penalty within the time period prescribed is unlawful and a violation of the Ordinance. Unless otherwise provided ~~t~~The civil penalty for violation of this subsection is \$25.00, except where the original violation was for Failure to Vaccinate for Rabies in which case the civil Penalty for violation of this subsection is \$100.00.

(Ord. of 6-16-87, § XXI, eff. 3-15-88; Amend. of 12-3-07, eff. 7-1-08)

Sec. 4-52. - Severability.

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts.

(Ord. of 6-16-1987, § XXII, eff. 1-1-88)

Sec. 4-53. - Effective date.

This Ordinance shall be effective January 1, 1988. Adopted this the 16th day of June, 1987. Upon motion of Commissioner Carey, seconded by Commissioner Hartwell, the foregoing Animal Control Ordinance was adopted this the 16th day of June, 1987. This Ordinance was amended effective

(Ord. of 6-16-1987, § XXIII, eff. 1-1-88)

Sec. 4-54. - Appeals.

Any appeals of the Chapter shall be to the Orange County Animal Services Advisory Board within 5 days of the final decision of the action. The Animal Services Advisory Board shall adopt rules regarding the appeals of violations of the Chapter.

Secs. 4-53—4-70. - Reserved.

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DIVISION 2. - KENNEL AND PET SHOP STANDARDS

Sec. 4-71. – Class I kennels.

- (a) In General. A noncommercial or not for profit establishment maintained by any person where animals of any species, excluding domesticated livestock, are kept for the purpose of showing, competition, hunting or sport, and which establishment is so constructed that the animals cannot stray therefrom, and which maintains more than six but less than 19 animals.
- (b) Standards for Class I Kennels. All noncommercial kennels shall, in addition to other requirements of this article, comply with the minimum standards of this section. ~~Owners or operators of class I kennels must apply to the animal control director, pay any designated privilege tax and receive a permit to own or operate a noncommercial kennel in the county. Facilities shall be subject to inspection during reasonable hours by the animal control officer upon his request. Failure to meet the standards set out in this section shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article.~~ The premises at noncommercial kennels shall meet the following standards:
- (1) All enclosures housing animals must provide adequate shelter.
 - (2) The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
 - (3) All animals shall have fresh potable water available at all times.
 - (4) All areas housing animals shall be free of accumulated waste and debris and shall be maintained regularly so as to promote proper health.
 - (5) All areas housing animals shall be free of accumulated or standing water.
 - (6) All animals housed shall be provided with proper veterinary care to promote good health.
- (c) Owners or operators of class I kennels must apply to the Animal Services Director for a Class 1 Kennel Permit and pay any designated privilege tax to receive a permit to own or operate a noncommercial kennel in the county.
- (d) Kennel facilities shall be subject to inspection during reasonable hours by the animal control officer upon his request.
- (e) Failure to meet the standards set out in this section shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article.

Comment [AM14]: This comes from the definitions section of the Ordinance.

Comment [AM15]: See (c) – (e) below.

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- (f) Revocation. A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for violation of another section of the Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

(Ord. of 6-16-1987, § XIX(B), eff. 1-1-1988)

Sec. 4-72. - Class II kennels.

- (a) In General. Any person maintaining any commercial establishment where animals of any species excluding domesticated livestock, kept for the purpose of breeding, buying, selling, grooming or boarding such animals or engaged in the training of dogs for guard or sentry purposes, and which establishment is so constructed that the animals cannot stray therefrom; or any person owning or keeping 20 or more animals, excluding domesticated livestock, each of which is four months of age or older.
- (b) Standards for a Class II Kennel. All commercial kennels shall, in addition to the other requirements of this article including those for a 4-71 above, comply with the minimum standards of this subsection. Owners or operators of Class II kennels must apply to the animal control director, pay any designated fee, and receive a permit to own or operate a Class II commercial kennel in Orange County. Facilities shall be subject to inspection during reasonable hours by an animal control officer upon his or her request. A fee in the amount of \$25.00 shall be assessed against the owners or operators of a facility for failing to permit an inspection pursuant to this subsection in order to defray the costs of repeat travel to the facility. Failure to meet the standards set out herein shall be grounds for the issuance of a citation subjecting the owner to the penalties described herein, and/or the issuance of an abatement order to comply with the provisions of this article. The premises of commercial kennels shall meet the following standards:
- (1) Buildings or enclosures must be provided, which shall allow adequate protection against extreme weather conditions. Floors of buildings and runs, and walls shall be of a nonporous material or otherwise constructed as to permit proper cleaning and disinfecting. Temperatures in animal containments shall be maintained at a level that is healthful for every species of animal in the containment.
 - (2) Cages, kennels or runs shall have sufficient space for each animal to sit, stand up, lie down, turn around and stretch out to its full length without touching the sides or tops of the cage, kennel or run. Cages, kennels and runs are to be of a material and construction that permits cleaning and disinfecting, and shall have an impervious surface. Cage, kennel and run floors of concrete shall have a resting board or some type of bedding. Cages, kennels and runs shall provide protection from the weather. All animal quarters are to be kept clean, dry and in a sanitary condition. Cages, kennels and runs shall be structurally sound and maintained in

Comment [AM16]: This is from the definition section "Class II Kennel"

Comment [AM17]: See below (c) – (e)

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good repair to protect animals from potential injury, contain the animals, and restrict the entrance of other animals and people.

- (3) Animals shall not be placed in cages, kennels or runs less such cages, kennels or runs are so constructed to prevent animal excreta from entering other cages, kennels or runs.
- (4) Sufficient shade shall be provided to allow all animals kept outdoors to protect themselves from the direct rays of the sun.
- (5) Each animal shall be given the opportunity for vigorous daily exercise as appropriate.
- (6) Litter boxes shall be provided for cats and kittens.
- (7) Food shall not be contaminated and shall be wholesome, palatable, and of sufficient quantity and nutritive value and offered at appropriate intervals to meet the normal daily requirements for the condition, size and age of the animal. Food for all animals shall be served in a clean container so mounted that the animals cannot readily tip it over or defecate or urinate in it.
- (8) Supplies of food and bedding shall be stored in facilities that adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.
- (9) All animals shall have fresh, potable water available at all times. Water containers shall be of a removable type and be mounted or secured so that the animals cannot readily tip them over or defecate or urinate in them.
- (10) All food and water containers shall be cleaned and disinfected daily.
- (11) All animals must be fed and watered, and all cages and kennels cleaned each day, including Sundays and holidays.
- (12) Adequate veterinary care shall be provided as needed for each animal.
- (13) Provisions shall be made for the removal and disposal of animal and food waste, bedding and debris.
- (14) Facilities such as a washroom, sink or basin shall be provided to maintain cleanliness among animal caretakers and animal food and water containers.
- (15) Facilities for animals shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air, either by means of windows, doors, vents or air conditioning, and shall be ventilated so as to minimize drafts, odors and moisture condensation.

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- (16) Facilities for animals shall have ample light by natural or artificial means or both, of good quality and well distributed and as appropriate for each animal's health and well-being. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Enclosures shall be so placed as to protect the animals from excessive illumination.
- (17) Every person maintaining such a facility shall post a notice clearly visible from the ground level at the main entrance to the facility containing the names, addresses and telephone numbers of persons responsible for the facility where they may be contacted during any hour of the day or night.
- (c) Owners or operators of Class II kennels must apply to the Animal Services Director for a Class II Kennel Permit, pay any designated fee, to receive a permit to own or operate a Class II Kennel in Orange County.
- (d) Kennel Facilities shall be subject to inspection during reasonable hours by an animal control officer upon his or her request. A fee in the amount of \$25.00 shall be assessed against the owners or operators of a facility for failing to permit an inspection pursuant to this subsection in order to defray the costs of repeat travel to the facility.
- (e) Failure to meet the standards set out herein shall be grounds for the issuance of a citation subjecting the owner to the penalties described herein, and/or the issuance of an abatement order to comply with the provisions of this article.
- (f) No person may own or operate a Class II Kennel within the County unless and until such person satisfies the requirements of this section and has been issued any privilege license if required.
- (g) A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for other violations of this Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

(Ord. of 6-16-1987, § XIX(A), eff. 1-1-1988; Amend. of 12-3-2007, eff. 7-1-2008)

Sec. 4-73. - Pet shops.

- (a) **In general.** A person that acquires for the purposes of resale animals, excluding domesticated livestock, bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals at retail or wholesale, or a person that holds or keeps animals, excluding domesticated livestock, for the purpose of cleaning or grooming.

Comment [AM18]: Moved from definition section "Pet Shop"

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(b) Standards for Pet Shops. All pet shops, including pet shops run in conjunction with another animal facility, shall, in addition to the other requirements of this article, comply with the minimum standards of this section. ~~Failure to meet these standards shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article. Owners or operators of pet shops must apply to the animal control director, pay any designated privilege tax and receive a permit to own or operate a pet shop in the county. Facilities shall be subject to inspection during reasonable hours by the animal control officer or other appropriate representative of the animal control officer or other appropriate representative of the animal protection program upon his request.~~ The premises for pet shops shall meet the following standards:

Comment [AM19]: See below (c) – (e).

- (1) There shall be available hot water at a minimum temperature of 140 degrees Fahrenheit for washing cages and disinfecting, and cold water easily accessible to all parts of the shop.
- (2) Fresh water shall be available to all species at all times. Containers are to be cleaned and disinfected each day. All water containers shall be removable for cleaning and be mounted so the animal cannot turn them over or defecate in them.
- (3) The temperature of the area around the animal enclosures in the shop shall be maintained at a level that is healthful for every species of animals kept in the shop.
- (4) All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, turn, lie down and stretch out to its full length without touching the sides or tops of the enclosure, and floors of sufficient strength and design to ensure the animal's limbs or paws cannot pass through the floor material.
- (5) All animals under three months of age are to be fed at least two times per 24 hours. Food for all animals shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food for all animals shall be served in a clean dish so mounted that the animal cannot readily tip it over, and shall be of the removal type.
- (6) Each bird must have a perch and sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages and perches must be cleaned every day, and cages must be disinfected when birds are sold or as otherwise transferred. Parrots and other large birds shall have separate cages from smaller birds.

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- (7) There shall be sufficient clean, dry bedding to meet the needs of each individual animal. Provision shall be made for the removal and disposal of animal and food waste, bedding and debris, to ensure the enclosure is maintained in a clean and sanitary manner.
- (8) All animals must be fed and watered and all cages cleaned every day, including Sundays and holidays.
- (c) Failure to meet these standards shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article.
- (d) Owners or operators of pet shops must apply to the Animal Services Director for a Pet Shop Permit, pay any designated privilege tax and receive a permit to own or operate a pet shop in the county.
- (e) Facilities shall be subject to inspection during reasonable hours by the animal control officer or other appropriate representative of the animal control officer or other appropriate representative of the animal protection program upon his request.
- (f) No person may own or operate a Pet Shop within the County unless and until such person satisfies the requirements of this section and has been issued any privilege license if required.
- (g) A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for other violations of the Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

(Ord. of 6-16-1987, § XIX(C), eff. 1-1-1988)

Sec. 4-74 - Permit procedures.

The Animal Services Director shall establish procedures to govern the permitting process.

Secs. 4-74—4-95. - Reserved.

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DIVISION 3. - ANIMAL COLLECTION

Sec. 4-96. - Permit required.

A permit for the collecting of dogs and cats for sale shall be required before any individual may engage in any action in the county in furtherance of any action involving or relating to the collection or procurement of dogs and cats for sale or disposal. A permit allowing such actions will be issued only upon payment of a privilege tax set by the board of commissioners and demonstration by the applicant that the requirements of this division shall be met.

(Ord. of 6-16-1987, § XX(A)(Preamble), eff. 1-1-1988)

Sec. 4-97. - Permit application.

- (a) An application for a collection permit shall be made by each individual involved in the collecting of dogs and/or cats in the county for the purpose of sale or other disposal. Any such application for the purpose mentioned in this section shall have to be made to the Animal Services Director on a form prescribed by the Animal Services Director.
- (b) An investigation may then be conducted by the Animal Services Director which may include inspection of the premises where the animals are to be kept and any vehicles in which animals are to be transported. A fee in the amount of \$25.00 shall be assessed against an applicant or permit holder for failing to permit an inspection pursuant to this subsection in order to defray the costs of repeat travel.
- (c) Upon the determination by the Animal Services Director or person duly authorized by the Animal Services Director that the requirements of this section have been met and are capable of continuing to be met during the duration of the permit, a permit for no more than one year shall be issued, upon payment of applicable privilege taxes, to the individual applicant only for the specific individual applicant, premises and vehicles listed on the application.
- (d) Application for a permit renewal is the responsibility of the permit holder and shall be made no later than 30 days prior to the expiration of the current permit. Failure to reapply prior to the 30-day limit may result in a civil penalty.
- (e) No individual shall be issued a collection permit unless:
 - (1) The individual is properly licensed by the U.S. Department of Agriculture and/or the state department of agriculture, and such license is unsuspended and unrevoked.
 - (2) The individual complies with this article and all other applicable laws and regulations.

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- (3) All requirements of this section have been met.
- (4) The following information shall be provided on or with the application for a collection permit:
 - i. The name, address and telephone number of the applicant.
 - ii. U.S. Department of Agriculture and/or state department of agriculture license number under which the applicant operates.
 - iii. A basic description of the applicant's background, including but not limited to all licenses he may have had for handling or keeping of animals, and all arrests or convictions involving any matter or law in any way pertaining to animals.
 - iv. A complete description, including vehicle identification number and vehicle license number of each vehicle that will be used to collect and/or transport animals.
 - v. The address and location where the animals will be kept or maintained for the five days after collection.

(Ord. of 6-16-1987, § XX(A)(1), eff. 1-1-1988; Amend. of 12-3-2007, eff. 7-1-08)

Sec. 4-98. - Permit requirements.

No permit shall be issued or remain valid unless the Animal Services Director or person duly authorized by the Animal Services Director is satisfied that both the vehicles in which the animals will be collected and transported and/or the premises where the animals will be housed meet the following requirements:

- (1) *Premises.* All premises shall meet the same standards as set for class II commercial kennels in [section 4-72](#)
- (2) *Vehicles.*
 - a. Vehicles used to transport animals must be mechanically sound and equipped to provide fresh air to all animals without harmful drafts.
 - b. The sections of the vehicles where the animals are placed are to be constructed and maintained so that engine exhaust fumes cannot get to the animals.
 - c. The sections of the vehicles where the animals are to be kept should be cleaned and disinfected after each use and as needed.
- (3) *Enclosures in or on vehicles.*
 - a. Enclosures, including compartments, cages, cartons or crates, used to transport animals are to be well constructed, well ventilated, and designed in such a way to protect the health and ensure the safety of the animals.
 - b. These enclosures must be constructed or placed on the vehicles so that:
 1. Every animal in the vehicle has sufficient fresh air for normal breathing.
 2. The openings of these enclosures are easily accessible for emergency removals at all times.
 3. The animals are adequately protected from the elements, including heat and cold.

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4. The animals are adequately protected from one another.
 - c. Only animals of the same species shall be transported in the same enclosure. Puppies and kittens under six months of age shall not be transported in the same enclosure with adult animals, other than their mother.
 - d. Each enclosure used to transport animals shall be large enough for each animal to stand erect, sit, turn about freely and lie down in a normal position.
 - e. Animals shall not be placed in enclosures over other animals while being transported unless each enclosure is so constructed to prevent animal excreta from entering the other enclosures.
 - f. All enclosures used to transport animals shall be disinfected after each use and as needed.
- (4) *Care in transit.*
- a. The attendant or driver shall be responsible for inspecting the animals frequently enough to ensure the health and comfort of the animals and to determine if emergency care is needed and to obtain emergency care if needed.
 - b. If any animal is in a vehicle for more than three hours, it shall be provided fresh, drinkable water, and food as appropriate.
 - c. Each animal in transit shall have a tag affixed to its collar of a type approved by the U.S. Department of Agriculture.

(Ord. of 6-16-1987, § XX(A)(2), eff. 1-1-1988)

Sec. 4-99. - Records.

- (a) Every person who sells, gives, exchanges or otherwise delivers any animal to a collector must receive from the collector a written receipt, a copy of which is to be kept by the collector, signed by both the owner or keeper and the collector, stating the following:
 - (1) The number of animals received by the collector.
 - (2) The sex, breed and a general description of each animal received and the U.S. Department of Agriculture number assigned to each animal.
 - (3) The name, address and telephone number of the location to which the animal will be taken for the following five days.

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- (4) The name, address and telephone number of the collector.
- (5) The name, address and telephone number of the person surrendering the animal.
- (b) A written report containing the information in subsection (a) of this section shall be delivered by the person collecting the animals to Animal Services within 24 hours of the surrender of the animal.
- (d) A record shall be kept of the disposition of every animal collected.
- (e) Every collector shall maintain a copy of all receipts and disposition records for one year.
(Ord. of 6-16-1987, § XX(A)(3), eff. 1-1-1988)

Sec. 4-100. - Quality assurance program.

A quality assurance program to ensure adherence to this division shall be carried out within the animal control division.

(Ord. of 6-16-1987, § XX(B), eff. 1-1-1988)

Sec. 4-101. - Application and enforcement of division.

The Animal Services Director shall be responsible for the full and proper application of this division. Questions concerning the applicability or interpretation of this division shall be the responsibility of the Animal Services Director.

(Ord. of 6-16-1987, § XX(C), eff. 1-1-1988)

Secs. 4-102—4-130. - Reserved.

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DIVISION 1. - DISPLAY OF WILD AND EXOTIC ANIMALS

Sec. 4-131. - Repealed

(Ord. of 8-14-2001(1), § 1, eff. 8-14-01)

Sec. 4-132. - Display of wild or exotic animals prohibited.

It shall be unlawful for any person to display or sponsor a display of wild or exotic animals on any public or private property within Orange County.

(Ord. of 8-14-2001(1), § 2, eff. 8-14-01)

Sec. 4-133. - Enforcement.

Any person displaying or sponsoring a display of a wild or exotic animal at the date that this Ordinance is adopted to prohibit such display shall comply with the Ordinance's prohibition on the display of wild or exotic animals within 30 days of the effective date of this Ordinance. No wild or exotic animals may be displayed that are not permitted by the United States Department of Agriculture nor shall any exotic or wild animal that has been designated a rabies vector species in North Carolina be displayed, except when approved by the Animal Services Director they may be displayed in a manner so as to not come into contact with the public.

(a) *Investigations.* The Orange County Animal Service Department shall investigate any complaints, reports or information that wild or exotic animals are being displayed or will be displayed in Orange County in violation of this Ordinance to determine whether or not a violation has occurred.

- (1) If the Orange County Animal Services Department determines that wild or exotic animals are being displayed in Orange County in violation of this Chapter, the investigating officer(s) shall issue a written warning to the person displaying the wild or exotic animal(s). The written notice shall be delivered, via hand delivery to a responsible person or via posting at the site of the display.
- (2) The person against whom the warning is issued shall desist all activities in violation of this Ordinance as of the business day the written notice is given.

(b) *Penalties.*

- (1) Criminal Offenses - A violation of any provision of this Section constitutes a Class 3 Misdemeanor and shall be punishable as provided in North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.
- (2) Civil penalty - A person who violates any of the provisions of this Section shall be subject to a civil penalty of \$250 per animal for each day of the violation. No penalty shall be assessed until the person alleged to be in

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violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Administrator shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 14 days after demand for payment is made, the matter may be referred to the County Attorney for institution of a civil action in the name of the County of Orange in the appropriate division of the general court of justice for recovery of the penalty.

(3) Injunctive Relief.

- a. Whenever the Orange County Animal Services Department or the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate this Section, the agency shall report the violation or threatened violation to the Administrator. The Administrator may, either before or after the institution of any other action or proceeding authorized by this Section, institute a civil action in the name of the County of Orange for injunctive relief to restrain the violation of threatened violation.
- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil or criminal penalty prescribed for violations of this Section.

(Ord. of 8-14-2001(1), § 3, eff. 8-14-01)

Sec. 4-134. - Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

(Ord. of 8-14-2001(1), § 3, eff. 8-14-01)

Secs. 4-135—4-180. - Reserved.

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DIVISION 2. - KEEPING OF WILD ANIMALS DANGEROUS TO PERSONS AND PROPERTY ^[4]

Sec. 4-181. - Definitions.

As used hereinafter, the following term shall mean:

Wild Animals Dangerous to Persons and Property, hereinafter referred to as "Wild and Dangerous Animals": The term applies to the following animals: all felines (other than the domestic house cat), nonhuman primates, bears, wolves, coyotes, reptiles (poisonous, crushing and giant), and any crossbreed of such animals which have similar characteristics of the animals specified herein. In order to properly administer the provisions of this Ordinance, the Board may add to or remove from the classification of wild animal any bird, mammal, reptile, aquatic and amphibious forms, or other members of the animal kingdom. Additions to or deletions from the animals regulated herein may be made only if the Board determines, after receiving evidence, that such animals because of habit, mode of life or natural instinct are either capable or incapable of being domesticated, requires the exercise of art, force or skill to keep them safely in subjection, and would or would not create a reasonable likelihood of hazard to the public.

(Ord. of 8-14-2001(2), § 1, eff. 8-14-01)

Sec. 4-182. - Keeping of wild and dangerous animals prohibited.

No person, firm or corporation shall keep, shelter, feed, harbor, or take care of any wild and dangerous animal within Orange County.

(Ord. of 8-14-2001(2), § 2, eff. 8-14-01)

Sec. 4-183. - Exemptions.

The provisions of this Ordinance 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:

- (a) Animals used for teaching and/or research purposes at The University of North Carolina at Chapel Hill.
- (b) Wildlife rehabilitators licensed by the state or the federal government to provide such services.

(Ord. of 8-14-2001(2), § 3, eff. 8-14-01)

Sec. 4-184. - Enforcement.

- (a) *Investigations.* The Orange County Animal Services Department or the North Carolina Wildlife Resources Commission shall investigate any complaints that a wild animal is possessed or harbored in Orange County in violation of this Ordinance to determine whether or not a violation has occurred.
- (b) *Penalties.*
 - (1) *Criminal Offenses* - A violation of any provision of this Section constitutes a misdemeanor and shall be punishable as provided in North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.

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- (2) Civil penalty - A person who violates any of the provisions of this Section shall be subject to a civil penalty of \$50.00 per animal. No penalty shall be assessed until the person alleged to be in violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Administrator shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 14 days after demand for payment is made, the matter may be referred to the County Attorney for institution of a civil action in the name of the County of Orange in the appropriate division of the general court of justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this Ordinance.
- (3) Injunctive relief.
- a. Whenever the Orange County Animal Services Department and the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate this Section, the agency shall report the violation or threatened violation to the Administrator. The Administrator may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the County of Orange for injunctive relief to restrain the violation or threatened violation.
 - b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil or criminal penalty prescribed for violations of this Section.

(Ord. of 8-14-2001(2), § 4, eff. 8-14-01)

Sec. 4-185. - Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

(Ord. of 8-14-2001(2), § 5, eff. 8-14-01)

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DIVISION 1. - GENERALLY

Sec. 4-31. - Authority.

This Ordinance is adopted pursuant to the power granted Orange County in N.C. Gen. Stat. §§ 153A-121, 153A-127, 153A-153 and 153A-442.

(Ord. of 6-16-1987, § I, eff. 1-1-1988)

Sec. 4-32. - Applicability to animal shelter.

Orange County shall operate and maintain a County Animal Shelter for the purpose of impounding or caring for animals held under the authority of state law, this Ordinance or any other county or municipal ordinance. Orange County may contract for the operation of the Animal Shelter as it deems appropriate.

(Ord. of 6-16-1987, § XVIII, eff. 1-1-1988)

Sec. 4-33. - Animal control officers.

- (a) Orange County may appoint one or more Animal Control Officers. Any County employee designated by the County Manager with the duties of an Animal Control Officer shall also be designated as Animal Cruelty Investigators. Only Orange County employees shall be designated as an Animal Cruelty Investigators.
- (b) Animal Control Officers shall have only the following powers and duties within Orange County and within any municipality therein that has given prior approval therefore:
 - (1) The responsibility for the enforcement of all state and local laws including ordinances, resolutions and proclamations pertaining to the ownership and control of dogs and other animals.
 - (2) To cooperate with the County Health Director and all law enforcement officers in the county and the towns therein and assist in the enforcement of the laws of the state with regard to animals, the vaccination of dogs and cats against rabies, the confinement and leashing of vicious animals, and any other state law applicable to animals or animal control.
 - (3) To investigate reported or observed animal cruelty or animal abuse and make written reports of such investigations and, when requested, provide such reports to animal , appropriate law enforcement officers or the District Attorney's office.
 - (4) To investigate reports of observed harassment or attacks by dogs or other animals against domesticated livestock and to assist in locating those persons owning or harboring the attacking animals.
 - (5) Animal Control Officers shall not have the power to arrest.

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Sec. 4-34. - Animal license privilege taxes.

The Owner of every dog or cat over four (4) months of age that is kept within the County shall annually pay to the County, through Orange County Animal Services, a tax on the privilege of keeping such animal within the County.

Orange County may set animal license privilege taxes as allowed by law and set the tax amounts annually as part of the Budget. In order to further the goals of controlling animal population, the taxes of unspayed or unneutered dogs and cats shall be higher than those of neutered animals. Within 30 days of acquisition of an animal for which a license is required, the owner or keeper shall purchase the appropriate county license.

(Ord. of 3-15-88, § IV, eff. 3-15-88; Amend. of 12-2-96, eff. 1-1-97)

Sec. 4-35. - Licenses, permits, registrations, and fees required by this ordinance.

- (a) The following licenses, permits, and registrations are required by this Ordinance:
- (1) Licenses for dogs, cats, or other animals designated by either the Board of County Commissioners or other local government body, in their respective Budget Ordinance (see Section 4-34).
 - (2) Registration of patrol dogs or sentry dogs (see Section 4-42(d)).
 - (3) Rabies vaccination tags for dogs and cats (see Section 4-47).
 - (4) Permits for collecting of dogs and cats for sale (see Section 4-96).
 - (5) Permits for commercial (Class II) kennels, non-commercial (Class I) kennels and pet shops (see Sections 4-71 and 4-73).
- (b) The amount of license privilege tax shall be recommended by the Animal Services Director and approved by the Board of Commissioners, or other local government body, in their respective Budget Ordinance. The Animal Services Director may propose for approval by the Board of Commissioners or other local government body such policies or procedures as may be necessary or appropriate to allow for payment of privilege taxes over extended periods of time, at reduced rates, or a waiver of privilege taxes. Additionally, dog and cat owners or keepers who furnish to the Animal Services Director a statement from a licensed veterinarian that the animal, due to age, physical reasons, or chronic health problems cannot withstand spay/neuter surgery, shall be allowed to pay the license privilege taxes provided for spayed or neutered animals.
- (c) When an animal is impounded under this Ordinance there shall be paid, in accordance with Section 4-43, a redemption privilege tax.
- (1) The Redemption Privilege Tax shall be:

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Number of Prior Incidents	Redemption or Impoundment Privilege Tax	Redemption or Impoundment Privilege Tax
	Sterilized Animal	Reproductive Animal
0	\$25.00	\$50.00
1	\$50.00	\$100.00
2	\$100.00	\$200.00
3 or more	\$200.00	\$400.00

(2) For reproductive animals with two or more prior incidents \$100 of the redemption privilege tax shall be a sterilization deposit, which may be refunded to the owner if they provide to Animal Services proof of sterilization in the form of a veterinarian record within 90 days of recover of the animal.

(d) In order to defray the costs of administering and enforcing ordinances adopted under this Chapter, and in order to account for the additional costs of locating, responding to and caring for unvaccinated and unlicensed animals found within the County, additional fees shall be assessed as follows if the Owner or Keeper of an animal fails to pay the following fees within the time specified in the Ordinance:

Failure to Vaccinate for Rabies (Section 4-46)	\$ 200.00
Failure to Wear Rabies Tag (Section 4-47)	\$ 50.00
Failure to License (Section 4-35)	\$ 200.00

(e) For any stray animal that has been impounded by Animal Services there shall be a microchip fee that shall be determined by the Board of County Commissioners in the Budget Ordinance.

(f) Inspection fees, as provided in this Chapter, shall be set by the Board of County Commissioners in the Budget Ordinance.

(Ord. of 6-16-1987, § V, eff. 1-1-1988; Amend. of 12-2-1996, eff. 1-1-1997; Ord. of 12-3-2007, eff. 7-1-2008)

Sec. 4-36. - Ordinance.

All other Orange County ordinances in conflict with this Ordinance are hereby repealed to the extent they conflict with this Ordinance. The Ordinance to Provide for Animal Control and Protection in Orange County, adopted May 15, 1979, as amended October 3, 1983, is hereby repealed.

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(Ord. of 6-16-1987, § VI, eff. 1-1-1988)

Sec. 4-37. - Definitions.

As used in this Chapter, the following terms mean:

Adequate Food: The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a receptacle, dish, or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

Adequate Shelter: That shelter which will keep a nonaquatic animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthful for the animal. For dogs, cats and other small animals, the shelter shall be a windproof and moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat. It shall include four walls, a roof and a solid floor raised up off of the ground, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shaving, or the equivalent. For all animals the containment area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris, and a suitable method of draining shall be provided to rapidly eliminate excess water or moisture. Aquatic or semi-aquatic animals shall have an adequate amount of clean water in which to move.

Adequate Water: A constant access to a supply of clean, fresh water provided in a sanitary manner. In near or below freezing temperatures the water must be changed frequently to prevent freezing, unless heated.

Administrator: The Animal Services Director, or their designee, as designated by the County Manager to perform the responsibilities assigned by this chapter to the Administrator.

Animal: Any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish, livestock, and reptiles.

Animal Services Director: That person designated by the County Manager in Orange County, and where appropriate, his or her designee, charged with the responsibility and authority to implement and enforce the Animal Control program in Orange County.

Animal Shelter: A place provided and operated by Orange County directly or by contractual agreement, whether jointly with another governmental unit or independently, for the restraint, care, adoption, and disposition of animals.

At Large: Any animal shall be deemed to be at large when it is off the property of its owner or its keeper and not under the restraint of a competent person. For purposes of

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this definition, the term "real property of its owner or keeper" shall include any property owned or occupied by the owner or keeper of such animal but shall not include any of the common areas (including without limitation, walks, drives, recreation and open space areas, etc.) within any subdivision or multifamily residential development.

Competent Person: A person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal, to persons, to other animals, including but not limited to domesticated livestock, or to property.

Cruel and Cruel Treatment: Every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted. Such acts or omissions shall include, but not be limited to: beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, confining in a closed vehicle without functioning air conditioning or ventilation whenever the ambient temperature exceeds seventy (70) degrees Fahrenheit, confining in the closed trunk of a vehicle and depriving of food, water, and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport.

Display: Display shall mean any exhibition, act, circus, public show, trade show, photographic opportunity, carnival ride, parade, race, performance, or similar undertaking in which animals are required to perform tricks, fights, wrestle or participate in performances for the amusement or entertainment of an audience, whether or not a fee is charged. "Display" shall not include the use or exhibition of animals for animal-related educational purposes by non-profit groups or institutions or individuals. "Displayed" means to be the subject thereof.

Domestic Animal: A domesticated or tame animal that is kept principally as a pet, except that livestock (other than rabbits kept as pets and not for productive purposes) and wild animals shall not be regarded as domestic animals.

Domesticated Livestock: Livestock raised for the production of meat, milk, eggs, fiber, or used for draft or equestrian purposes, including but not limited to cattle, sheep, goats, swine, horses, mules, rabbits, and poultry.

Educational Purposes: Teaching and instructing with the intent and effect of imparting knowledge to others.

Exotic animals: Exotic animals are animals other than domestic animals, farm animals, and wild animals which are not native to North Carolina, or are native to North Carolina but have been captive-bred.

Exposed to Rabies: An animal has been exposed to rabies within the meaning of this Ordinance if it has been bitten by, or otherwise come into contact with the saliva or

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nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis.

Harbor: An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for 72 consecutive hours or more.

Health Department: Orange County Health Department.

Health Director: Director of the Orange County Health Department.

Injury: Any injury which is serious enough to require immediate medical attention to preserve the life of the injured person.

Keeper: A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person, whether or not that person literally "owns" the animal. Every person 18 years or older residing in the dwelling unit where a pet is harbored and/or kept shall be deemed a keeper for purposes of this Ordinance.

Leash-free Area: An area in a Town or County designated by the governing body of said Town or County which permits an animal to go free from physical restraint. Does not apply to animals deemed vicious, potentially dangerous or dangerous.

Other Local Government Body: Other local government authority shall include the Towns of Carrboro, Chapel Hill and Hillsborough and those parts of the City of Durham located in Orange County.

Owner: Any person who owns any animal and is responsible for its care, actions, and behavior.

Owner or Keeper's Premises: Any real, owned or leased, property of the owner of an animal; excluding any public right-of-way, or common area of a condominium, apartment complex or townhouse development.

Person: Any individual, family, group of individuals, corporation, partnership, organization, or institution recognized by law as a person.

Provocation: Any act that would reasonably be expected to cause an animal to defend itself, its young, its owner or keeper or the property of said owner or keeper.

Restraint: An animal is under restraint if it is under sufficient physical restraint such as a leash, cage, bridle, or similar effective and humane device which restrains and controls the animal, or within a vehicle, or adequately contained by a fence on the premises or other secure enclosure as permitted in this Ordinance. If a competent adult is physically outside on the land with the animal, on land where the owner or keeper of the animal resides, then the animal shall be deemed to be under restraint during the time the animal is in the company of and under the control of that competent person and the animal is on the premises. If any unattended animal is restrained by a chain, leash or

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similar restraint, it shall be designated and placed to prevent choking or strangulation. Such chain or restraint shall not be less than ten feet in length and shall be on a swivel designed to prevent the animal from choking or strangling itself. The restraint of unattended dogs by a fence, kennel, outdoor enclosure, chain, leash or similar restraint is further regulated under this Ordinance.

Security Dog: Any dog used, kept or maintained on the premises of its owner or keeper for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog or sentry dog.

(a) *Patrol dog:* A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

(b) *Sentry dog:* A dog that is trained or conditioned to attack or otherwise respond aggressively without command.

Secure Enclosure: An enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner or keeper. A motor vehicle shall not constitute a secure enclosure. Minimum space and height requirements and other specifications for secure enclosures shall be obtained from the Animal Services Director based on breed, age, height, weight, temperament, and history of the animal.

Severe injury: Any physical injury that results in broken bones, or disfiguring lacerations or requires cosmetic surgery or hospitalization.

Steel Jaw Trap: Spring-powered devices or traps which capture or hold an animal by exerting a lateral force with fix mounted jaws on the leg, toe, paw, or any other part of the animal's body.

Stray: Any domestic animal that is not under restraint or is not on the property of its owner and is wandering at large, or is lost, or does not have an owner, or does not bear evidence of the identification of any owner.

Suspected of Having Rabies: An animal which has bitten a person or another animal.

Tethering: 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 does not include walking a dog with a handheld leash.

Veterinary Hospital: Any place or establishment which is maintained and operated under the supervision of a licensed veterinarian as a hospital where animals are harbored, boarded and cared for incidental to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine for surgery, diagnosis and treatment of diseases and injuries of animals.

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Wild Animals: An animal (other than livestock) that typically is found in a non-domesticated state and that, because of its size or vicious propensity or because it is poisonous, venomous or for any other substantial reason, poses a potential danger to persons, other animals or property, whether bred in the wild or in captivity and includes any or all hybrids bred with these animals and domestic species.

(Ord. of 6-16-1987, § VII, eff. 1-1-1988; Amend. of 12-2-1996, eff. 1-1-1997; Amend. of 11-18-08, eff. 11-19-08)

Sec. 4-38. - Animal control program.

The Orange County Animal Control Program, as herein described and as otherwise described in other County ordinances related to animals and as otherwise described in the laws of North Carolina, shall be administered by the Animal Services Director. Specifically:

- (a) The Animal Services Director shall have the duties of Animal Control Officer and direct the duties of designated County employees or agents in carrying the enforcement of this Ordinance as Animal Control Officers including the duties of a Rabies Control Officers and Animal Cruelty Investigator.
- (b) Except as may be otherwise provided by law, no officer, agent, or employee of the County charged with the duty of enforcing the provisions of this Ordinance or other applicable laws, shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duty unless he or she acts with actual malice.
- (c) It shall be unlawful for any person to interfere with, hinder, or molest any Animal Control or police officer while in the performance of any duty authorized by this Ordinance or to seek to release any animal in the custody of said agents, except in the manner as herein provided.
- (d) Animal Control Officers are not authorized to carry on their person firearms of any kind except as provided herein. The Orange County Animal Control Program may store firearms at the Animal Services Department and use those firearms when necessary to enforce sections of this Chapter or under applicable law for the control of wild, vicious, or diseased animals.
 - (1) Any Animal Control Officer or law enforcement officer, in carrying out their duties under this Chapter, shall make every effort to deal humanely with all animals.
 - (2) An Animal Control Officer or law enforcement officer may inject an animal with a chemical tranquilizer which will result in limiting the activity of an animal, when in the officer's judgment any attempt to seize the animal would be dangerous to the person attempting the seizure, the animal, or the public at large.

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- (3) An Animal Control Officer or law enforcement officer may humanely put an animal to death, if in the judgment of the officer an attempt to otherwise seize or impound the animal would be dangerous to the officer or others. It is the intent of this subsection that the killing of an animal would be done only after, within the sole discretion of the officer, other reasonable procedures are judged impossible.
- (e) The Animal Control Program shall:
- (1) Have the responsibility along with law enforcement agencies and where applicable with animal control officers to enforce all laws of North Carolina and all ordinances of Orange County pertaining to animals and shall cooperate with all law enforcement officers within Orange County in fulfilling this duty. Animal Control Officers in the performance of their duties, shall have all the power, authority, and immunity granted under this Ordinance and by the general laws of this State to enforce the provisions of this Ordinance, and the laws of North Carolina as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the responsibility of and shall be carried out by the Animal Control Officers.
 - (2) Enforce and carry out all laws of North Carolina and all ordinances of Orange County pertaining to rabies control.
 - (3) Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat exposed to or suspected of having rabies, for a period of not less than ten days, and for reporting to the Health Director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
 - (4) Be responsible for the investigation of reports or observations of incidents of harassment of or injuries to domesticated livestock caused by animals.
 - (5) Be responsible for the seizure and arranging for the impoundment, where deemed necessary, of any dog or other animal in Orange County involved in a violation of this or any other County ordinance or state law.
 - (6) Investigate cruelty or abuse with regard to animals.
 - (7) Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this Ordinance or applicable state statute.

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- (8) Keep, or cause to be kept, accurate and detailed records of:
- i. Seizure, impoundment, and disposition of all animals coming into the custody of the animal control program.
 - ii. Bite cases, violations and complaints, and investigation of same, including names and addresses of persons bitten, date, circumstances, and breed.
 - iii. Any other matters deemed necessary by the Animal Services Director.
- (9) Be empowered to issue citations or notices of violation of this Ordinance in such form as the Animal Services Director may prescribe.
- (10) Have employees who are trained to standards to be established by the Animal Services Director, which training shall include, but not be limited to, training in animal first aid taught by a licensed veterinarian.
- (11) The premises for all Animal Shelters operated by or for the County shall meet the standards prescribed for commercial (Class II) kennels set out in **Section 4-72** of this Ordinance.
- (12) The standards applicable to vehicles and care in transportation set out in **Section 4-98** apply to Animal Control Officers collecting, transporting, or holding animals in this County.

(Ord. of 6-16-1987, § VIII, eff. 1-1-88)

Sec. 4-39. - Relation to hunting laws.

Nothing in this Ordinance 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, keeper, or competent person, and are actually lawfully being used for hunting or training for hunting in compliance with applicable statutes, regulations, or ordinances. This Ordinance should be read and enforced consistent with any such law.

(Ord. of 6-16-1987, § IX, eff. 1-1-88)

Sec. 4-40. - Notice in case of injury.

It shall be unlawful for any person who causes injury to an animal, including but not limited to, running over or hitting the animal with any vehicle, to fail to notify immediately at least one of the following:

- (1) The owner(s) or keeper(s) of the animal (if known or ascertainable with reasonable efforts made to locate the owner or keeper),

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- (2) An Animal Control Officer,
- (3) Local law enforcement agency, or
- (4) Orange County Animal Services.
(*Ord. of 6-16-1987, § X, eff. 1-1-88*)

Sec. 4-41. - Mistreatment of animals unlawful.

The following acts or failure to act relating to the mistreatment of animals are unlawful and violations of this Ordinance:

- a. It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water, with respect to domesticated animals or wild animals in captivity or under restraint, it shall additionally be unlawful to deprive or cause to be deprived any such animal of adequate shelter or veterinary care.
- b. It shall be unlawful for any person to sell or offer for sale, barter or give away within the County baby chickens, baby ducklings or other fowl under six weeks of age or rabbits under eight weeks of age as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings or other fowl or such rabbits in proper facilities with adequate food, water, and shelter, by breeders or stores engaged in the business of selling the animals for purposes other than as pets or novelties.
- c. It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.
- d. It shall be unlawful for any person to tether any fowl.
- e. It shall be unlawful to restrain any animal except in a humane fashion as set forth in **Section 4-37** above and **Section 4-41** below. (Does not apply to Chapel Hill and Carrboro) (See also Carrboro Code of Ordinances § _____ and Chapel Hill Code of Ordinances § _____)
- f. It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property of its owner or keeper, except a stray animal may be seized when trying to capture it.
- g. It shall be unlawful to possess any paraphernalia related to dog, cock or other animal fighting with the intent that the paraphernalia be used to train or feature in

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an exhibition the baiting of dog, cock or other animal or the fighting of a dog, cock or other animal with another dog, cock or other animal.

- h. It shall be unlawful for any person to transport an animal in the closed trunk of a vehicle, or closed compartment on a vehicle or trailer when the ambient temperature in the vicinity of the vehicle or trailer is greater than or equal to 70 degrees F.
- i. It shall be unlawful for any person to commit any of the acts made unlawful under the provisions of North Carolina General Statutes §§ 14-360 and 14-362, as the same relate to a dog or dogs, or to commit any other act made unlawful by any other law of the State of North Carolina relating to animal fighting or animal baiting. The repeal of such law or laws of the State of North Carolina shall have no effect upon this Section, and the acts herein made unlawful shall, in the event of such repeal, be those referred to in said law or laws immediately prior to such repeal.
- j. It shall be unlawful for any person to abandon or forsake any animal within the County.
- k. It shall be unlawful for any person to restrain a dog using a chain, wire or other type of tethering device in a manner prohibited by this subsection. (Does not apply in Chapel Hill or Carrboro)
 - (1) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a tree, fence, post, dog house, or other stationary object for more than a total of three hours in a 24-hour period. During periods of tethering that are not unlawful under this subsection, any tethering device used shall be at least ten feet in length and attached in such manner as to prevent strangulation or other injury to the dog and entanglement with objects. In no event shall the time limitations established by this subsection 4-41(k)(1) & (2) below be added together to allow for tethering, fastening, chaining, tying, or restraining to either a stationary object or to a cable trolley system for more than a total of three hours in a 24-hour period.
 - (2) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a cable trolley system, that allows movement of the restraining device, for more than a total of three hours in a 24-hour period. During periods of tethering that are not unlawful under this subsection, the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move ten feet away from the cable perpendicularly and attached in such a manner as to prevent strangulation or other injury to the dog and entanglement with objects.

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- (3) No person shall tether a dog with a chain or wire or other device to, or cause such attachment to, any collar other than a buckle type collar or body harness.
- (4) No person shall tether with a chain or wire or other device to, or cause such attachment to, a head harness, choke-type collar or pronged collar to a dog.
- (5) No person shall tether with a chain, wire or other device to a dog where the weight of the tethering device and the collar combined exceeds ten percent of the dog's body weight.
- (6) No person shall tether with a chain or wire or other device a dog in such manner that does not allow the dog access to adequate food, water, and shelter.
- (7) Notwithstanding the provisions of subsections 4-41(k)(1) & (2) of this subsection, a person may, subject to the provisions of subsections 4-41(k)(3—(6), and subject to the requirement that any stationary tethering device used shall be at least ten feet in length, and subject to the requirement that for any cable trolley system used the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move ten feet away from the cable perpendicularly:
 - a. Tether and restrain a dog while actively engaged in:
 - i. Use of the dog in shepherding or herding livestock, or
 - ii. Use of the dog in the business of cultivating agricultural products, if the restraining is reasonably necessary for the safety of the dog, or
 - iii. Use of the dog in lawful hunting activities if the restraint is reasonably necessary for the safety of the dog, or
 - iv. Use of the dog at dog training or performance events, including but not limited to field trials and obedience trials where tethering does not occur for a period exceeding seven consecutive days, or
 - v. Camping or other recreation where tethering is required by the camping or recreational area where the dog is located, or
 - vi. Any activity where a tethered dog is in visual range of its Owner or Keeper, and the Owner or Keeper is located outside with the dog.
 - b. After taking possession of a dog that appears to be a stray dog and after having advised animal control authorities of the capture of the

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dog, tether and restrain the dog in accordance with the provisions of **Section 4-41** for a period not to exceed seven days as the person having taken possession of the dog is seeking the identity of the owner of the dog.

- c. Walk a dog with a handheld leash.

- d. Any dog that is kept in violation of **Section 4-41** of this Ordinance may be seized and subsequently impounded in accordance with **Section 4-43** of this Ordinance until such a time as the Animal Services Director is reasonably assured that the dog will not be subject to restraint in violation of this Ordinance. The Animal Services Director shall post a notice at the place of the illegal restraint, or at such other location, that is designed to reasonably apprise the Owner or Keeper of the dog, the place, date and time the dog was seized along with the location where the dog was taken. Such notice shall clearly state that the dog may be returned to the Owner or Keeper upon providing reasonable assurances to the Animal Services Director that the dog will not be subject to restraint in violation of this Ordinance.

(Ord. of 6-16-1987, § XI, eff. 1-1-88; Amend. of 11-18-2008, eff. 11-19-09)

Sec. 4-42. - Control of vicious animals; security dogs.

- (a) In General. It shall be unlawful for any person to keep any vicious animal within the County, unless under restraint and on the premises of the owner or keeper.

- (b) Vicious Animal. Any animal, on or off the premises of its owner or keeper, which is three (3) months of age or older and who:
 - (1) Without provocation has bitten, killed or caused physical harm through bite(s) to a person; or
 - (2) Without provocation has attempted to bite a person or cause physical harm through bite(s) to a person; or
 - (3) Without provocation has injured, maimed or killed a pet or domestic livestock, except where such animal has bitten or killed a pet or domestic livestock that is on the land of another without permission or is defending a person; or
 - (4) Has been deemed potentially dangerous or dangerous in accordance with N.C. Gen. Stat. Chapter 67, Article 1A. Dangerous Dog.

- (c) Declaration of Vicious Animal.
 - (1) Upon observation by an Animal Control or law enforcement officer or receipt of a written complaint that an animal is behaving or has behaved viciously and is at

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large or is off the premises of its owner or keeper and is not restrained by a competent person, an Animal Control Officer may impound the animal and investigate the complaint and, upon a finding that there is probable cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, shall take any action allowed by this Ordinance or State law as the circumstances may require.

- (2) Any animal who, after investigation by an Animal Control officer, is found by the Animal Services Director to have committed any act described in (b) above may, in the Animal Services Director's sole discretion, be declared vicious and is subject to this Section of the Ordinance.

(d) Effect of Declaration.

- (1) Permitted Locations. A vicious animal shall be permitted at the following locations only:

- (a) On the premises of the owner or keeper either confined indoors or in a secure enclosure when outdoors:

- i. Secure Enclosure. The owner or keeper of a declared vicious animal is required to keep the animal securely confined indoors or in a securely enclosed and locked pen or structure. The pen or structure must be suitable to prevent the entry of young children and designed to prevent the animal from escaping; it must provide the animal with protection from the elements; and must be inspected by an animal control officer and approved by the Animal Services Director prior to use by the animal declared vicious.
- ii. Annual Inspection. An Animal Control Officer shall inspect the secured enclosure of all animals deemed vicious at least once a year to assure that the standards are maintained. There will be an inspection fee as provided by the Orange County Board of Commissioners.

- (b) On private property, with the authorization of the owner of the property;

- (c) At a licensed veterinarian for treatment;

- (d) In a motor vehicle while being transported;

- (e) Off the owner's or keeper's property provided it is muzzled and controlled by means of a chain, leash or other like device by a competent adult able to restrain the animal.

- (2) When going to and from a Permitted Location or a Secured Enclosure an animal declared vicious off the owner's or keeper's property must be muzzled and

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controlled by means of a chain, leash or other like device by a competent adult able to restrain the animal.

- (3) There must be posted on the premises of the owner or keeper placards or signs noting "Beware of Dog" or other information noting the presence of a vicious animal placed in a manner reasonable likely to come to the attention of an intruder,
 - (4) Any animal declared vicious must receive a microchip prior to the animal being reclaimed if impounded. If the animal was not impounded and it is declared vicious the owner must provide proof to animal services that the animal has received a microchip within 30 days of having received notice that the dog has been declared vicious.
- (e) Exceptions. The provisions of this Section do not apply to:
- (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
 - (2) A dog being used in a lawful hunt;
 - (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting, herding or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
 - (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury was:
 - a. On the owner or keeper property that has been posted with placards or signs noting the presence of such animal or "No Trespassing" in a manner reasonably likely to come to the attention of an intruder'
 - b. Committing a willful trespass or other;
 - c. Tormenting, abusing, or assaulting the dog or ~~has~~ attempting to torment, abuse, or assault the dog; or
 - d. Committing or attempting to commit a crime.
 - (5) Security dogs are subject to all other provisions of this Ordinance while off the premises of their owner or keeper.
- (f) An animal which has been declared vicious may be impounded by the Animal Control Officer, either upon direct observation of the Animal Control Officer or law

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enforcement officer or receipt of written complaint that the animal is at large, or off the premises of its owner or keeper and not restrained by a competent person, or not confined in a manner permitted in subsection (d) above.

- (1) Written Complaint. Upon receipt of a written complaint that an animal previously declared vicious was off the owner or keeper property while not properly restrained and there is probable cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, an Animal Control Officer may impound the animal and investigate the complaint.
 - (2) If an animal is impounded as vicious, authorization for reclamation after any required holding period shall be granted when in the Animal Services Director, or their designee's sole discretion, is reasonably assured that either the animal is not vicious or the vicious animal will be properly restrained on the premises of its owner or keeper.
 - (3) Upon a finding that there is probable cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, the Officer may seize the animal and take any action allowed by this Ordinance or State law as the circumstances may require.
- (g) Citation. The Animal Control Officer shall issue a citation to the owner or keeper for actions described in section b. 1 - 4. Citations may be delivered in person or by registered mail if the owner or keeper is not readily found. The citation issued shall impose upon the owner or keeper a civil penalty of one hundred dollars (\$100.00), or any other amount prescribed by the Orange County Board of Commissioners.
- (1) The violator must pay the citation to the Orange County Animal Services within fourteen (14) days of receipt in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees or remedies authorized under this Chapter.
 - (2) In the event that the owner or keeper of the animal does not appear in response to the described citation, the civil penalty is not paid within the time period prescribed, or if the animal previously has been declared vicious upon payment of a citation or the conviction of the owner or keeper a criminal summons may be issued against the owner or keeper for violation of this chapter and upon conviction, the owner or keeper shall be punished as provided by this Ordinance.
 - (3) Upon the issuance of a citation for an animal which has committed any of the acts described in this Section, the animal must be confined either in the home of the owner or keeper, at an animal shelter, a kennel as provided in Sections 4-71 and 4-72 below or a veterinarian's office until such time that the required pen is constructed, the animal is destroyed, or a judge finds that the animal is not a vicious animal.

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(4) The Animal Services Director has the authority at any time to require that a vicious animal not be kept in the owner or keeper's home. The animal must stay confined through any legal appeals. The owner or keeper shall be responsible for the costs incurred in the animal's confinement. If the animal is found not to be a vicious animal, the County shall be responsible for the cost of animals kept at the Animal Services facility for that purpose.

(h) Effect of Citation.

- (1) Upon payment of a citation or the conviction of the owner or keeper for having an animal which without provocation has committed any of the acts described in subsection (b) above, said animal is declared a vicious animal.
- (2) Upon the payment of a citation or the conviction of the owner or keeper for having an animal which on or off the property of the owner or keeper and without provocation has killed or caused life threatening injuries through bite(s) to a person, the animal will be seized by the animal control officer and destroyed in a humane manner.
- (3) Any animal previously declared vicious upon the payment of a citation or by conviction of the owner or keeper for a violation of this subsection, that commits a subsequent violation of the subsection, will cause the owner or keeper to be charged with that violation. Upon the owner or keeper's conviction of that violation, the animal will be destroyed in a humane manner.
- (4) Any violation of this section may be a misdemeanor and subject to a fine of five hundred dollars (\$500.00) or imprisonment of not more than thirty (30) days.
- (5) All persons owning security dogs as defined by this Ordinance shall register such animals with the Animal Services Director; the owner or keeper of any such dog shall place signs or placards on his premises noting "Beware of Dog" or other information noting the presence of security dog(s).

(j) Appeal. Any declaration that an animal is "vicious" may be appealed to the Orange County Animal Services Advisory Board as provided in this Chapter.

Sec. 4-43. - Impoundment of animals.

Any animal either found at large, found not to be wearing a currently valid rabies tag, is public nuisance, has been declared vicious and is out-of-doors, not in a secure pen or on a restraint, is a danger to the public or for any other reason designated in this Chapter may be impounded and confined in the Animal Shelter in a humane manner for a period hereinafter prescribed:

- (a) Owner notification. Immediately upon impounding any animal, the Animal Services Director or designee shall attempt to notify the owner or keeper by either telephone or in person to inform that person of such impoundment, and the conditions whereby the animal may be redeemed. If unable to give notice by telephone, an official, dated,

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written notice shall be mailed to the registered owner by certified mail, return receipt requested, giving notice of the impoundment and the conditions whereby the animal may be redeemed.

- (b) **Reclamation.** A domesticated animal impounded under this Chapter may be reclaimed by its owner or keeper according to procedures of Animal Services. The owner or keeper of an impounded domesticated animal shall be responsible for and shall pay all expenses, boarding costs, redemption privilege taxes and costs associated with such impoundment prior to reclaiming the animal. Unless reclaimed, the impounded domesticated animal may be allowed to be adopted or humanely euthanized according to Animal Service procedures after five days of impoundment. Feral dogs and cats may be held for 72 hours and then euthanized pursuant to Animal Services procedures for humane euthanasia. The owner or keeper of an impounded domesticated animal shall also comply with any vaccination and licensing directives and be responsible for the payment to Orange County of all civil penalties and license privilege taxes imposed or associated with the animal's impoundment as prescribed in any citation or notice issued by the Animal Services Director. Animals who have impounded in accordance with N.C. Gen. Stat. 130A-196, after having bitten a person not reclaimed within 72 hours after the end of the quarantine period will be considered abandoned and will become the property of the Orange County and disposed of according to standard Animal Services procedures.
- (c) **Release to Owner.** An owner or an impounded animal may reclaim the animal after it has been impounded, upon compliance with this Section and in accordance with requirements set forth by the Animal Services Director. Nothing in this Chapter shall require the Animal Services Director to release an animal that has been impounded who is need of protection because of cruel treatment.
- (d) **Diseased or injured animals.** Severely diseased or badly injured animals may be euthanized in a humane manner, if authorized by a licensed veterinarian, without waiting the required redemption or adoption period.
- (e) **Confinement Order.** In lieu of impoundment, the Animal ~~Control~~ Services Director is authorized to issue a Confinement Order to the animal owner or keeper that would require the owner or keeper to confine a vicious animal or an animal otherwise violating provisions of the Ordinance. Failure to thus confine the animal would constitute a further violation of the Ordinance, subjecting the owner to appropriate criminal or civil penalties.

(Ord. of 6-16-1987, § XIII, eff. 1-1-88; Amend. of 12-2-96, eff. 1-1-97)

Sec. 4-44. - Handling of stray animals.

It shall be unlawful for any person, without the consent of the Owner or Keeper, knowingly and intentionally to harbor, feed, keep in possession by confinement or otherwise any animal that does not belong to him, unless he has, within 72 hours from the time such animal came into his possession, notified Animal Services.

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- (a) Any animal at large may in a humane manner be seized, impounded, and confined in the Animal Shelter and thereafter adopted out or disposed of pursuant to procedures of the Animal Services and applicable State law.
- (b) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this Chapter.
- (c) Any animal seized and impounded that is badly wounded or diseased and has no identification, may be euthanized pursuant to procedures of Animal Services. If the animal has rabies or is suspected of having rabies, the body shall be disposed of in accordance with applicable state regulations. If the animal has identification, Animal Services shall attempt to notify the owner or keeper before euthanizing such animal; in any event, and except as may be otherwise provided by law, Animal Services shall have no liability for euthanizing wounded or diseased animals when such action is taken upon the advice or recommendation of a veterinarian who has been advised of the animal's condition.
- (d) Any cat or dog impounded must receive a microchip, at the expense of its owner, prior to recovery by its owner.
(Ord. of 6-16-1987, § XIV, eff. 1-1-88)

Sec. 4-45. - Public nuisance.

- (a) In General. It shall be unlawful for an owner or keeper to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals.
- (b) Prima Facie Evidence. Actions deemed prima facie evidence of a public nuisance include the following activities of any animal, or conditions maintained or permitted by the animal's owner or keeper:
 - (1) Habitually or repeatedly, without provocation, chasing, snapping at or attacking pedestrians, bicycles, persons lawfully entering the property to provide a service, other animals being walked on a leash, or vehicles even if the animal never leaves the owner's property, except that this provision shall not apply if such animal is restrained by a pen, fence, or other secure enclosure. For purposes of this section, an "underground fence" shall only be considered secure if it in fact contains the animal and a small sign or other notification is present to alert others that the animal is restrained.
 - (2) Interfering with the reasonable use and enjoyment by neighboring residents of their property because of its odor or excessive noise making. For purposes of this subsection, excessive noise making shall include repeated episodes of barking, howling, whining, crying, and crowing only if the rooster is within the town limits or Carrboro, Chapel Hill, or Hillsborough.

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- (3) A female dog that is not confined while in heat in a building or secure enclosure in such a manner that she will not be in contact with another animal, provided that this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.
- (4) Damages the property of anyone other than its owner or keeper, including but not limited to, turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees, fences or gates, or causing injury to domesticated livestock or pets.
- (5) Without provocation, inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.
- (6) At large off the premises of the owner or keeper; except in the case of domestic livestock the Animal Services Director, or designee, shall have the discretion to determine a violation.
- (7) The provisions of subsections (1) through (5) above of this section shall not apply to cats. However, cats may be deemed a public nuisance when off the premises of its owner or keeper when they:
 - i. Habitually or repeatedly defecates or urinates in children's sandboxes, gardens, flower beds or other private property without the permission of the property owner;
 - ii. Habitually or repeatedly injures or kills animals or birds, whether domesticated or not;
 - iii. Is a female in heat not confined in a building or secure enclosure in such a manner as to prevent contact with another cat;
 - iv. Habitually or repeatedly, without provocation, chases or attacks pedestrians, bicyclists or other animals being walked on a leash;
 - v. Seriously interferes with the reasonable use and enjoyment by neighboring residents of their property because of its howling, whining, crying, or other noise making;
 - vi. Without provocation, inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.
 - vii. Habitually or repeatedly walks or sleeps on or damages vehicles owned by another.

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viii. Is off the owner's or keeper's property except when the cat can be identified through a currently registered microchip.

(8) Subsection (7)(viii) applies also to ferrets.

(c) Violation.

(1) Determining Violations.

i. Animal Control or Law Enforcement Officer. An Animal Control Officer or law enforcement officer who observes a violation, of this section, shall provide the owner or keeper of the animal written notification of the nature of the violation(s) in the form of an Abatement Order that shall indicate that unless these violations are abated and measures are taken to prevent their reoccurrence within twenty-four (24) hours or such lesser time as the designated in the notice, the owner shall be required to remove the animal from the County.

ii. Written Complaint.

1. Upon receipt of a written detailed and signed complaint alleging that any person is maintaining a public nuisance as defined in this Ordinance, the Animal Services Director shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received, and shall cause the situation complained upon to be investigated and a written report thereon to be prepared.

2. If the written findings indicate that the complaint is justified, the Animal Services Director shall provide the owner or keeper of the animal written notification of the nature of the violation(s) in the form of an Abatement Order that shall indicate that unless these violations are abated and measures are taken to prevent there reoccurrence within twenty-four (24) hours or such lesser time as the designated in the notice, the owner shall be required to remove the animal from the County.

(2) Failure to Abate a Violation. If the public nuisance has not been abated after the time indicated in the Abatement Order, then the Animal Service Director shall, notify the owner or keeper in writing that the animal may be impounded or a civil penalty may be issued and/or a criminal summons may be issued.

(3) Animals Removed from County. The Owner or Keeper of any animal who has been required to remove the animal pursuant to this Section shall, within five (5) days after removal, inform the Administrator or designee in writing of the animal's present location, including the name, address and telephone number of

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the animal's owner or keeper. If the animal has been destroyed, the Administrator shall be informed of the name, address, and telephone number of the person who destroyed such animal.

- (4) **Subsequent Violations.** The Animal Services Director or designee may impound an animal if a third verified violation occurs within one year of any other previous violations of this Section.
- (5) **Right of Appeal.** An Owner or Keeper shall have a right to appeal a citation or removal of an animal under this Section in accordance with Section 4-54 of this Chapter.

Sec. 4-46. - Rabies control.

It shall be unlawful and a violation of this Ordinance for any animal owner, keeper or other person to fail to comply with the laws of North Carolina relating to the control of rabies.

(Ord. of 6-16-1987, § XVI, eff. 1-1-88)

Sec. 4-47. - Rabies vaccination tag.

All dogs shall wear a valid rabies vaccination tag. Cats and ferrets are not required to wear tags but the owner or custodian of such animal shall provide proof that the cat or ferret has been vaccinated against rabies. The owner or custodian of all animals required to be vaccinated against rabies shall provide proof of vaccination upon demand of a law enforcement or animal control officer if an animal required to be vaccinated is not wearing a rabies vaccination tag. Failure to produce proof of vaccination may result in such animal being impounded subject to redemption in the manner provided in this Chapter. Such proof being the certificate of vaccination from a licensed veterinarian or a certified rabies vaccinator.

(Ord. of 6-16-1987, § XVII, eff. 1-1-88; Amend. of 12-2-1996, eff. 1-1-97)

Sec. 4-48. - Applicability to veterinarians.

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this Ordinance except for the provisions relating to cruelty to animals and rabies control.

(Ord. of 6-16-1987, § XVIII, eff. 1-1-88)

Sec. 4-49. - Reserved.

Editor's note—

Section 4-49 entitled kennel standards replaced by Sections **4-71** and **4-72** and derived from Ord. of 6-16-1987, § VIII, eff. 1-1-88; Amend. of 12-3-2007, eff. 7-1-08.

Sec. 4-50. - Reserved.

Editor's note—

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Section 4-50 entitled permits and standards for animal collection replaced by Sections 4-96 through 4-99 and derived from Ord. of 6-16-1987, § XX, eff. 1-1-88; Amend. of 12-3-07, eff. 7-1-08.

Sec. 4-51. - Penalties.

The following penalties shall pertain to violations of this Ordinance.

- (a) The violation of any provision of this Ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in North Carolina General Statutes § 14-4, or other applicable law. Each day's violation of this Ordinance is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes, fees or civil penalties imposed under this Ordinance.
- (b) Enforcement of this Ordinance may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to North Carolina General Statutes § 153A-123 (d) and (e).
- (c) In addition to and independent of any criminal penalties and other sanctions provided in this Ordinance, a violation of this Ordinance may also subject the offender to the civil penalties hereinafter set forth.
 - (1) The Animal Services Director (or designee) may issue to the known owner or keeper of any animal, or to any other violator of the provisions of this Ordinance, a ticket or citation giving notice of the alleged violation(s) and of the civil penalty imposed. Tickets or citations so issued may be delivered in person or mailed by first class mail to the person charged if that person cannot readily be found. The following civil penalties shall be assessed for each violation of this Ordinance.

- (i) Mistreatment of Animals (Section 4-41) \$200.00
- (ii) The civil penalty for a nuisance violation (Section 4-45) shall be as follows:

Number of Prior Nuisance Violations	Amount
1	\$100.00
2	\$200.00
3 or more	\$400.00

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- (2) This civil penalty shall be paid to the Animal Services Director or his or her designee within 14 days of receipt. This civil penalty is in addition to any other fees, taxes, costs or fines imposed that are authorized by this Ordinance.
- (3) In the event that the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or a criminal summons may be issued against the owner or keeper or other alleged violator of this Ordinance, and upon conviction, the owner shall be punished as provided by State law. Failure on the part of the owner or keeper of an animal or other alleged violator to pay the applicable civil penalty within the time period prescribed is unlawful and a violation of the Ordinance. Unless otherwise provided the civil penalty for violation of this subsection is \$25.00, except where the original violation was for Failure to Vaccinate for Rabies in which case the civil Penalty for violation of this subsection is \$100.00.

(Ord. of 6-16-87, § XXI, eff. 3-15-88; Amend. of 12-3-07, eff. 7-1-08)

Sec. 4-52. - Severability.

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts.

(Ord. of 6-16-1987, § XXII, eff. 1-1-88)

Sec. 4-53. - Effective date.

This Ordinance shall be effective January 1, 1988. Adopted this the 16th day of June, 1987. Upon motion of Commissioner Carey, seconded by Commissioner Hartwell, the foregoing Animal Control Ordinance was adopted this the 16th day of June, 1987. This Ordinance was amended effective _____

(Ord. of 6-16-1987, § XXIII, eff. 1-1-88)

Sec. 4-54. - Appeals.

Any appeals of the Chapter shall be to the Orange County Animal Services Advisory Board within 5 days of the final decision of the action. The Animal Services Advisory Board shall adopt rules regarding the appeals of violations of the Chapter.

Secs. 4-53—4-70. - Reserved.

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DIVISION 2. - KENNEL AND PET SHOP STANDARDS

Sec. 4-71. – Class I kennels.

- (a) In General. A noncommercial or not for profit establishment maintained by any person where animals of any species, excluding domesticated livestock, are kept for the purpose of showing, competition, hunting or sport, and which establishment is so constructed that the animals cannot stray therefrom, and which maintains more than six but less than 19 animals.
- (b) Standards for Class I Kennels. All noncommercial kennels shall, in addition to other requirements of this article, comply with the minimum standards of this section. The premises at noncommercial kennels shall meet the following standards:
 - (1) All enclosures housing animals must provide adequate shelter.
 - (2) The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
 - (3) All animals shall have fresh potable water available at all times.
 - (4) All areas housing animals shall be free of accumulated waste and debris and shall be maintained regularly so as to promote proper health.
 - (5) All areas housing animals shall be free of accumulated or standing water.
 - (6) All animals housed shall be provided with proper veterinary care to promote good health.
- (c) Owners or operators of class I kennels must apply to the Animal Services Director for a Class 1 Kennel Permit and pay any designated privilege tax to receive a permit to own or operate a noncommercial kennel in the county.
- (d) Kennel facilities shall be subject to inspection during reasonable hours by the animal control officer upon his request.
- (e) Failure to meet the standards set out in this section shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article.
- (f) Revocation. A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for violation of another section of the Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

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(Ord. of 6-16-1987, § XIX(B), eff. 1-1-1988)

Sec. 4-72. - Class II kennels.

- (a) **In General.** Any person maintaining any commercial establishment where animals of any species excluding domesticated livestock, kept for the purpose of breeding, buying, selling, grooming or boarding such animals or engaged in the training of dogs for guard or sentry purposes, and which establishment is so constructed that the animals cannot stray therefrom; or any person owning or keeping 20 or more animals, excluding domesticated livestock, each of which is four months of age or older.
- (b) **Standards for a Class II Kennel.** All commercial kennels shall, in addition to the other requirements of this article including those for a 4-71 above, comply with the minimum standards of this subsection. The premises of commercial kennels shall meet the following standards:
- (1) Buildings or enclosures must be provided, which shall allow adequate protection against extreme weather conditions. Floors of buildings and runs, and walls shall be of a nonporous material or otherwise constructed as to permit proper cleaning and disinfecting. Temperatures in animal containments shall be maintained at a level that is healthful for every species of animal in the containment.
 - (2) Cages, kennels or runs shall have sufficient space for each animal to sit, stand up, lie down, turn around and stretch out to its full length without touching the sides or tops of the cage, kennel or run. Cages, kennels and runs are to be of a material and construction that permits cleaning and disinfecting, and shall have an impervious surface. Cage, kennel and run floors of concrete shall have a resting board or some type of bedding. Cages, kennels and runs shall provide protection from the weather. All animal quarters are to be kept clean, dry and in a sanitary condition. Cages, kennels and runs shall be structurally sound and maintained in good repair to protect animals from potential injury, contain the animals, and restrict the entrance of other animals and people.
 - (3) Animals shall not be placed in cages, kennels or runs less such cages, kennels or runs are so constructed to prevent animal excreta from entering other cages, kennels or runs.
 - (4) Sufficient shade shall be provided to allow all animals kept outdoors to protect themselves from the direct rays of the sun.
 - (5) Each animal shall be given the opportunity for vigorous daily exercise as appropriate.
 - (6) Litter boxes shall be provided for cats and kittens.

Animal Control Ordinance

- (7) Food shall not be contaminated and shall be wholesome, palatable, and of sufficient quantity and nutritive value and offered at appropriate intervals to meet the normal daily requirements for the condition, size and age of the animal. Food for all animals shall be served in a clean container so mounted that the animals cannot readily tip it over or defecate or urinate in it.
- (8) Supplies of food and bedding shall be stored in facilities that adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.
- (9) All animals shall have fresh, potable water available at all times. Water containers shall be of a removable type and be mounted or secured so that the animals cannot readily tip them over or defecate or urinate in them.
- (10) All food and water containers shall be cleaned and disinfected daily.
- (11) All animals must be fed and watered, and all cages and kennels cleaned each day, including Sundays and holidays.
- (12) Adequate veterinary care shall be provided as needed for each animal.
- (13) Provisions shall be made for the removal and disposal of animal and food waste, bedding and debris.
- (14) Facilities such as a washroom, sink or basin shall be provided to maintain cleanliness among animal caretakers and animal food and water containers.
- (15) Facilities for animals shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air, either by means of windows, doors, vents or air conditioning, and shall be ventilated so as to minimize drafts, odors and moisture condensation.
- (16) Facilities for animals shall have ample light by natural or artificial means or both, of good quality and well distributed and as appropriate for each animal's health and well-being. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Enclosures shall be so placed as to protect the animals from excessive illumination.
- (17) Every person maintaining such a facility shall post a notice clearly visible from the ground level at the main entrance to the facility containing the names, addresses and telephone numbers of persons responsible for the facility where they may be contacted during any hour of the day or night.

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- (c) Owners or operators of Class II kennels must apply to the Animal Services Director for a Class II Kennel Permit, pay any designated fee, to receive a permit to own or operate a Class II Kennel in Orange County.
- (d) Kennel Facilities shall be subject to inspection during reasonable hours by an animal control officer upon his or her request. A fee in the amount of \$25.00 shall be assessed against the owners or operators of a facility for failing to permit an inspection pursuant to this subsection in order to defray the costs of repeat travel to the facility.
- (e) Failure to meet the standards set out herein shall be grounds for the issuance of a citation subjecting the owner to the penalties described herein, and/or the issuance of an abatement order to comply with the provisions of this article.
- (f) No person may own or operate a Class II Kennel within the County unless and until such person satisfies the requirements of this section and has been issued any privilege license if required.
- (g) A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for other violations of this Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

(Ord. of 6-16-1987, § XIX(A), eff. 1-1-1988; Amend. of 12-3-2007, eff. 7-1-2008)

Sec. 4-73. - Pet shops.

- (a) In general. A person that acquires for the purposes of resale animals, excluding domesticated livestock, bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals at retail or wholesale, or a person that holds or keeps animals, excluding domesticated livestock, for the purpose of cleaning or grooming.
- (b) Standards for Pet Shops. All pet shops, including pet shops run in conjunction with another animal facility, shall, in addition to the other requirements of this article, comply with the minimum standards of this section. The premises for pet shops shall meet the following standards:
 - (1) There shall be available hot water at a minimum temperature of 140 degrees Fahrenheit for washing cages and disinfecting, and cold water easily accessible to all parts of the shop.
 - (2) Fresh water shall be available to all species at all times. Containers are to be cleaned and disinfected each day. All water containers shall be removable for cleaning and be mounted so the animal cannot turn them over or defecate in them.

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- (3) The temperature of the area around the animal enclosures in the shop shall be maintained at a level that is healthful for every species of animals kept in the shop.
 - (4) All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, turn, lie down and stretch out to its full length without touching the sides or tops of the enclosure, and floors of sufficient strength and design to ensure the animal's limbs or paws cannot pass through the floor material.
 - (5) All animals under three months of age are to be fed at least two times per 24 hours. Food for all animals shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food for all animals shall be served in a clean dish so mounted that the animal cannot readily tip it over, and shall be of the removal type.
 - (6) Each bird must have a perch and sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages and perches must be cleaned every day, and cages must be disinfected when birds are sold or as otherwise transferred. Parrots and other large birds shall have separate cages from smaller birds.
 - (7) There shall be sufficient clean, dry bedding to meet the needs of each individual animal. Provision shall be made for the removal and disposal of animal and food waste, bedding and debris, to ensure the enclosure is maintained in a clean and sanitary manner.
 - (8) All animals must be fed and watered and all cages cleaned every day, including Sundays and holidays.
- (c) Failure to meet these standards shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article.
 - (d) Owners or operators of pet shops must apply to the Animal Services Director for a Pet Shop Permit, pay any designated privilege tax and receive a permit to own or operate a pet shop in the county.
 - (e) Facilities shall be subject to inspection during reasonable hours by the animal control officer or other appropriate representative of the animal control officer or other appropriate representative of the animal protection program upon his request.

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- (f) No person may own or operate a Pet Shop within the County unless and until such person satisfies the requirements of this section and has been issued any privilege license if required.
- (g) A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for other violations of the Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

(Ord. of 6-16-1987, § XIX(C), eff. 1-1-1988)

Sec. 4-74 - Permit procedures.

The Animal Services Director shall establish procedures to govern the permitting process.

Secs. 4-74—4-95. - Reserved.

Animal Control Ordinance

DIVISION 3. - ANIMAL COLLECTION

Sec. 4-96. - Permit required.

A permit for the collecting of dogs and cats for sale shall be required before any individual may engage in any action in the county in furtherance of any action involving or relating to the collection or procurement of dogs and cats for sale or disposal. A permit allowing such actions will be issued only upon payment of a privilege tax set by the board of commissioners and demonstration by the applicant that the requirements of this division shall be met.

(Ord. of 6-16-1987, § XX(A)(Preamble), eff. 1-1-1988)

Sec. 4-97. - Permit application.

- (a) An application for a collection permit shall be made by each individual involved in the collecting of dogs and/or cats in the county for the purpose of sale or other disposal. Any such application for the purpose mentioned in this section shall have to be made to the Animal Services Director on a form prescribed by the Animal Services Director.
- (b) An investigation may then be conducted by the Animal Services Director which may include inspection of the premises where the animals are to be kept and any vehicles in which animals are to be transported. A fee in the amount of \$25.00 shall be assessed against an applicant or permit holder for failing to permit an inspection pursuant to this subsection in order to defray the costs of repeat travel.
- (c) Upon the determination by the Animal Services Director or person duly authorized by the Animal Services Director that the requirements of this section have been met and are capable of continuing to be met during the duration of the permit, a permit for no more than one year shall be issued, upon payment of applicable privilege taxes, to the individual applicant only for the specific individual applicant, premises and vehicles listed on the application.
- (d) Application for a permit renewal is the responsibility of the permit holder and shall be made no later than 30 days prior to the expiration of the current permit. Failure to reapply prior to the 30-day limit may result in a civil penalty.
- (e) No individual shall be issued a collection permit unless:
 - (1) The individual is properly licensed by the U.S. Department of Agriculture and/or the state department of agriculture, and such license is unsuspended and unrevoked.
 - (2) The individual complies with this article and all other applicable laws and regulations.

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- (3) All requirements of this section have been met.
- (4) The following information shall be provided on or with the application for a collection permit:
 - i. The name, address and telephone number of the applicant.
 - ii. U.S. Department of Agriculture and/or state department of agriculture license number under which the applicant operates.
 - iii. A basic description of the applicant's background, including but not limited to all licenses he may have had for handling or keeping of animals, and all arrests or convictions involving any matter or law in any way pertaining to animals.
 - iv. A complete description, including vehicle identification number and vehicle license number of each vehicle that will be used to collect and/or transport animals.
 - v. The address and location where the animals will be kept or maintained for the five days after collection.

(Ord. of 6-16-1987, § XX(A)(1), eff. 1-1-1988; Amend. of 12-3-2007, eff. 7-1-08)

Sec. 4-98. - Permit requirements.

No permit shall be issued or remain valid unless the Animal Services Director or person duly authorized by the Animal Services Director is satisfied that both the vehicles in which the animals will be collected and transported and/or the premises where the animals will be housed meet the following requirements:

- (1) *Premises.* All premises shall meet the same standards as set for class II commercial kennels in [section 4-72](#).
- (2) *Vehicles.*
 - a. Vehicles used to transport animals must be mechanically sound and equipped to provide fresh air to all animals without harmful drafts.
 - b. The sections of the vehicles where the animals are placed are to be constructed and maintained so that engine exhaust fumes cannot get to the animals.
 - c. The sections of the vehicles where the animals are to be kept should be cleaned and disinfected after each use and as needed.
- (3) *Enclosures in or on vehicles.*
 - a. Enclosures, including compartments, cages, cartons or crates, used to transport animals are to be well constructed, well ventilated, and designed in such a way to protect the health and ensure the safety of the animals.
 - b. These enclosures must be constructed or placed on the vehicles so that:
 1. Every animal in the vehicle has sufficient fresh air for normal breathing.
 2. The openings of these enclosures are easily accessible for emergency removals at all times.

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3. The animals are adequately protected from the elements, including heat and cold.
 4. The animals are adequately protected from one another.
 - c. Only animals of the same species shall be transported in the same enclosure. Puppies and kittens under six months of age shall not be transported in the same enclosure with adult animals, other than their mother.
 - d. Each enclosure used to transport animals shall be large enough for each animal to stand erect, sit, turn about freely and lie down in a normal position.
 - e. Animals shall not be placed in enclosures over other animals while being transported unless each enclosure is so constructed to prevent animal excreta from entering the other enclosures.
 - f. All enclosures used to transport animals shall be disinfected after each use and as needed.
- (4) *Care in transit.*
- a. The attendant or driver shall be responsible for inspecting the animals frequently enough to ensure the health and comfort of the animals and to determine if emergency care is needed and to obtain emergency care if needed.
 - b. If any animal is in a vehicle for more than three hours, it shall be provided fresh, drinkable water, and food as appropriate.
 - c. Each animal in transit shall have a tag affixed to its collar of a type approved by the U.S. Department of Agriculture.

(Ord. of 6-16-1987, § XX(A)(2), eff. 1-1-1988)

Sec. 4-99. - Records.

- (a) Every person who sells, gives, exchanges or otherwise delivers any animal to a collector must receive from the collector a written receipt, a copy of which is to be kept by the collector, signed by both the owner or keeper and the collector, stating the following:
 - (1) The number of animals received by the collector.
 - (2) The sex, breed and a general description of each animal received and the U.S. Department of Agriculture number assigned to each animal.

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- (3) The name, address and telephone number of the location to which the animal will be taken for the following five days.
- (4) The name, address and telephone number of the collector.
- (5) The name, address and telephone number of the person surrendering the animal.
- (b) A written report containing the information in subsection (a) of this section shall be delivered by the person collecting the animals to Animal Services within 24 hours of the surrender of the animal.
- (c) A record shall be kept of the disposition of every animal collected.
- (d) Every collector shall maintain a copy of all receipts and disposition records for one year.

(Ord. of 6-16-1987, § XX(A)(3), eff. 1-1-1988)

Sec. 4-100. - Quality assurance program.

A quality assurance program to ensure adherence to this division shall be carried out within the animal control division.

(Ord. of 6-16-1987, § XX(B), eff. 1-1-1988)

Sec. 4-101. - Application and enforcement of division.

The Animal Services Director shall be responsible for the full and proper application of this division. Questions concerning the applicability or interpretation of this division shall be the responsibility of the Animal Services Director.

(Ord. of 6-16-1987, § XX(C), eff. 1-1-1988)

Secs. 4-102—4-130. - Reserved.

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DIVISION 1. - DISPLAY OF WILD AND EXOTIC ANIMALS

Sec. 4-131. - Repealed

(Ord. of 8-14-2001(1), § 1, eff. 8-14-01)

Sec. 4-132. - Display of wild or exotic animals prohibited.

It shall be unlawful for any person to display or sponsor a display of wild or exotic animals on any public or private property within Orange County.

(Ord. of 8-14-2001(1), § 2, eff. 8-14-01)

Sec. 4-133. - Enforcement.

Any person displaying or sponsoring a display of a wild or exotic animal at the date that this Ordinance is adopted to prohibit such display shall comply with the Ordinance's prohibition on the display of wild or exotic animals within 30 days of the effective date of this Ordinance. No wild or exotic animals may be displayed that are not permitted by the United States Department of Agriculture nor shall any exotic or wild animal that has been designated a rabies vector species in North Carolina be displayed, except when approved by the Animal Services Director they may be displayed in a manner so as to not come into contact with the public.

(a) Investigations. The Orange County Animal Service Department shall investigate any complaints, reports or information that wild or exotic animals are being displayed or will be displayed in Orange County in violation of this Ordinance to determine whether or not a violation has occurred.

- (1) If the Orange County Animal Services Department determines that wild or exotic animals are being displayed in Orange County in violation of this Chapter, the investigating officer(s) shall issue a written warning to the person displaying the wild or exotic animal(s). The written notice shall be delivered, via hand delivery to a responsible person or via posting at the site of the display.
- (2) The person against whom the warning is issued shall desist all activities in violation of this Ordinance as of the business day the written notice is given.

(b) Penalties.

- (1) Criminal Offenses - A violation of any provision of this Section constitutes a Class 3 Misdemeanor and shall be punishable as provided in North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.
- (2) Civil penalty - A person who violates any of the provisions of this Section shall be subject to a civil penalty of \$250 per animal for each day of the violation. No penalty shall be assessed until the person alleged to be in

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violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Administrator shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 14 days after demand for payment is made, the matter may be referred to the County Attorney for institution of a civil action in the name of the County of Orange in the appropriate division of the general court of justice for recovery of the penalty.

(3) Injunctive Relief.

- a. Whenever the Orange County Animal Services Department or the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate this Section, the agency shall report the violation or threatened violation to the Administrator. The Administrator may, either before or after the institution of any other action or proceeding authorized by this Section, institute a civil action in the name of the County of Orange for injunctive relief to restrain the violation of threatened violation.
- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil or criminal penalty prescribed for violations of this Section.

(Ord. of 8-14-2001(1), § 3, eff. 8-14-01)

Sec. 4-134. - Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

(Ord. of 8-14-2001(1), § 3, eff. 8-14-01)

Secs. 4-135—4-180. - Reserved.

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DIVISION 2. - KEEPING OF WILD ANIMALS DANGEROUS TO PERSONS AND PROPERTY ^[4]

Sec. 4-181. - Definitions.

As used hereinafter, the following term shall mean:

Wild Animals Dangerous to Persons and Property, hereinafter referred to as "Wild and Dangerous Animals": The term applies to the following animals: all felines (other than the domestic house cat), nonhuman primates, bears, wolves, coyotes, reptiles (poisonous, crushing and giant), and any crossbreed of such animals which have similar characteristics of the animals specified herein. In order to properly administer the provisions of this Ordinance, the Board may add to or remove from the classification of wild animal any bird, mammal, reptile, aquatic and amphibious forms, or other members of the animal kingdom. Additions to or deletions from the animals regulated herein may be made only if the Board determines, after receiving evidence, that such animals because of habit, mode of life or natural instinct are either capable or incapable of being domesticated, requires the exercise of art, force or skill to keep them safely in subjection, and would or would not create a reasonable likelihood of hazard to the public.

(Ord. of 8-14-2001(2), § 1, eff. 8-14-01)

Sec. 4-182. - Keeping of wild and dangerous animals prohibited.

No person, firm or corporation shall keep, shelter, feed, harbor, or take care of any wild and dangerous animal within Orange County.

(Ord. of 8-14-2001(2), § 2, eff. 8-14-01)

Sec. 4-183. - Exemptions.

The provisions of this Ordinance 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:

- (a) Animals used for teaching and/or research purposes at The University of North Carolina at Chapel Hill.
- (b) Wildlife rehabilitators licensed by the state or the federal government to provide such services.

(Ord. of 8-14-2001(2), § 3, eff. 8-14-01)

Sec. 4-184. - Enforcement.

- (a) *Investigations.* The Orange County Animal Services Department or the North Carolina Wildlife Resources Commission shall investigate any complaints that a wild animal is possessed or harbored in Orange County in violation of this Ordinance to determine whether or not a violation has occurred.

- (b) *Penalties.*

- (1) **Criminal Offenses** - A violation of any provision of this Section constitutes a misdemeanor and shall be punishable as provided in North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.

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- (2) Civil penalty - A person who violates any of the provisions of this Section shall be subject to a civil penalty of \$50.00 per animal. No penalty shall be assessed until the person alleged to be in violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Administrator shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 14 days after demand for payment is made, the matter may be referred to the County Attorney for institution of a civil action in the name of the County of Orange in the appropriate division of the general court of justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this Ordinance.
- (3) Injunctive relief.
- a. Whenever the Orange County Animal Services Department and the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate this Section, the agency shall report the violation or threatened violation to the Administrator. The Administrator may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the County of Orange for injunctive relief to restrain the violation or threatened violation.
 - b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil or criminal penalty prescribed for violations of this Section.

(Ord. of 8-14-2001(2), § 4, eff. 8-14-01)

Sec. 4-185. - Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

(Ord. of 8-14-2001(2), § 5, eff. 8-14-01)

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

Action Agenda

Item No. 7-b

SUBJECT: Orange County Volunteer Application-Proposed Revisions

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Revised Application

INFORMATION CONTACT:

Commissioner Alice Gordon
Commissioner Bernadette Pelissier
Clerk's Office, 245-2130

PURPOSE: To consider proposed revisions to the Orange County Volunteer Application for boards/commissions.

BACKGROUND: The Board discussed this issue as part of its May 14, 2013 work session and provided direction below (excerpt from May 14th approved minutes) and appointed Commissioner Bernadette Pelissier, Commissioner Alice Gordon and Clerk to the Board Donna Baker to work as a sub-committee to bring back proposed revisions:

“Decision Point:

- Does the Board want to move forward with a revised application for these particular boards mentioned above, and if so, can the board provide feedback/questions to the County Attorney in order to move the process forward?
Does the Board want to stay with the current process?

After discussion, the Board proposed adding supplemental questions to the existing volunteer application, for these 5 Boards: ABC Board, OWASA, E&R Board, Planning Board and Board of Adjustment. The Clerk will work with Commissioner Pelissier and Commissioner Gordon over the summer break to compile this supplemental information and to distribute to all BOCC members for review.

2. Process for Commissioners to “vet” Board Appointments-for certain boards with fiduciary or statutory responsibilities, such as the ABC Board, OWASA, E&R Board, Planning and Board of Adjustment.

Decision Point:

- Does the Board want to develop a process for Commissioners to vet board appointments to these particular boards (and others as applicable)?
- Are there criteria to be applied or a process for vetting appointments (such as interviews, questions on a revised application, committee review, etc.)? Or will the application process suggested in Item #1 cover this item?

The Board decided that Item #1 was sufficient (no vetting necessary)".

The sub-committee worked on additional questions for the five volunteer boards and is submitting the following recommendations. The proposed additional questions are included in Section II of the volunteer application.

II. ADDITIONAL QUESTIONS FOR SELECTED BOARDS

Applicants to the ABC Board, Orange County Board of Adjustment, Orange County Equalization and Review Board, Orange County Planning Board and OWASA (Orange Water and Sewer Authority Board) should answer the questions for the relevant boards:

A. ABC Board Applicants:

1. Please list/explain your experience, either professionally and/or from other boards/commissions, that you have in the areas of budget, personnel, and management.
2. In addition to the experience listed in question 1 above, please list the work/volunteer experience/qualifications that would add to your expertise for this board.
3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
4. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___Yes ___ No If yes, then please explain:

B. Orange County Board of Adjustment Applicants:

1. Please list the work/volunteer experience/qualifications that would add to your expertise for this board.
2. What unique perspective can you bring to the Orange County Board of Adjustment?
3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
4. What do you consider to be the most important issues facing Orange County related to growth?
5. What role should the Board of Adjustment take in guiding and regulating growth?
6. How would you, as a member of the Orange County Board of Adjustment, contribute to the implementation of the Board of Commissioners' adopted Goals and Priorities – link below: (<http://orangecountync.gov/occlerks/BOCCGoals09.pdf>)

7. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___Yes ___ No If yes, then please explain:

C. Orange County Equalization and Review Board Applicants:

1. Please list/explain any experience (professional/volunteer) you may have in the area(s) of real estate, tax appraisal or real estate law.
2. In addition to the experience listed in question 1 above, please list the work/volunteer experience/qualifications that would add to your expertise for this board.
3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
4. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___Yes ___ No If yes, then please explain:

D. Orange County Planning Board Applicants:

1. Please list the work/volunteer experience/qualifications that would add to your expertise for this board.
2. What unique perspective can you bring to the Orange County Planning Board?
3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
4. What do you consider to be the most important issues facing Orange County related to growth?
5. What role should the Planning Board take in guiding and regulating growth?
6. How would you, as a member of the Planning Board, contribute to the implementation of the Board of Commissioners' adopted Goals and Priorities - link below (<http://orangecountync.gov/occlerks/BOCCGoals09.pdf>)
7. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___Yes ___ No If yes, then please explain:

E. OWASA Applicants

1. Please list/explain your experience, either professionally and/or from other boards/commissions, that you have in the areas of budget, personnel, and management.
2. In addition to the experience listed in question 1 above, please list the work/volunteer experience/qualifications that would add to your expertise for this board.
3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
4. What is OWASA's role in growth/development issues?
5. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___Yes ___ No If yes, then please explain:

The only other recommended changes to the application are to make two additions to Section I (which asks residents to list the boards and commissions on which they wish to serve). The first is to add a note that a resident could submit an application to a maximum of three boards, because of data base limitations. The second is to add a question, "Please explain your reasons for wanting to serve on this board", for all applicants, because the question is general in scope and seems appropriate for all boards.

FINANCIAL IMPACT: NONE

RECOMMENDATION(S): The Interim Manager recommends that the Board discuss the proposed revisions and provide direction as needed.

DRAFT

**VOLUNTEER APPLICATION
ORANGE COUNTY ADVISORY BOARDS AND COMMISSIONS**

This application is a public document

If you are an Orange County resident, at least 18 years old, and willing to volunteer your time and expertise to your community, you may complete this application online or download it and mail/fax it to the address/fax number below:

Orange County Board of Commissioners' Office
P.O. Box 8181
Hillsborough, NC 27278
Phone (919) 245-2125
Fax: (919) 644-0246 • Email: jjones@orangecountync.gov

If an applicant is not selected, their application will remain on file in the Clerk to the Board's office for two (2) years, and will be considered by the Commissioners when reviewing and making appointments.

Items in **bold** are required fields.

NAME: _____

HOME ADDRESS: _____

CITY: _____ **Zip Code:** _____

PHONE: (Day) _____ (Evening/late) _____ (Cell) _____

EMAIL: _____

PLACE OF EMPLOYMENT: _____ **JOB TITLE:** _____

YEAR BECAME ORANGE COUNTY RESIDENT: _____

IN ORDER TO ASSURE COUNTYWIDE REPRESENTATION PLEASE INDICATE YOUR TOWNSHIP OF RESIDENCE:

- Bingham Cheeks Hillsborough Eno Chapel Hill Little River Cedar Grove

WE ASK YOUR HELP IN ASSURING DIVERSITY OF MEMBERSHIP BY AGE, GENDER AND RACE, BY ANSWERING THE FOLLOWING QUESTIONS: Male Female

ETHNIC BACKGROUND: African American Caucasian Hispanic Native American
Asian American Other _____ :

ARE YOU AT LEAST 18 YEARS OF AGE? YES NO

PLEASE LIST YOUR CURRENT COMMUNITY ACTIVITIES/ORGANIZATIONAL MEMBERSHIPS:

I. PLEASE LIST THE BOARDS/COMMISSIONS ON WHICH YOU WOULD BE WILLING TO SERVE (maximum

of three)

A. _____

1. Please explain how your background, education and experience is relevant to this board.

2. Please explain your reasons for wanting to serve on this board.

B. _____

1. Please explain how your background, education and experience is relevant to this board.

2. Please explain your reasons for wanting to serve on this board.

C. _____

1. Please explain how your background, education and experience is relevant to this board.

2. Please explain your reasons for wanting to serve on this board.

II. ADDITIONAL QUESTIONS FOR SELECTED BOARDS

Applicants to the ABC Board, Orange County Board of Adjustment, Orange County Equalization and Review Board, Orange County Planning Board and OWASA (Orange Water and Sewer Authority Board) should answer the questions for the relevant boards:

A. ABC Board Applicants:

- 1. Please list/explain your experience, either professionally and/or from other boards/commissions, that you have in the areas of budget, personnel, and management.
- 2. In addition to the experience listed in question 1 above, please list the work/volunteer experience/qualifications that would add to your expertise for this board.
- 3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
- 4. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___ Yes ___ No If yes, then please explain:

B. Orange County Board of Adjustment Applicants:

1. Please list the work/volunteer experience/qualifications that would add to your expertise for this board.
2. What unique perspective can you bring to the Orange County Board of Adjustment?
3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
4. What do you consider to be the most important issues facing Orange County related to growth?
5. What role should the Board of Adjustment take in guiding and regulating growth?
6. How would you, as a member of the Orange County Board of Adjustment, contribute to the implementation of the Board of Commissioners' adopted Goals and Priorities – link below:
(<http://orangecountync.gov/occlerks/BOCCGoals09.pdf>)
7. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___ Yes ___ No If yes, then please explain:

C. Orange County Equalization and Review Board Applicants:

1. Please list/explain any experience (professional/volunteer) you may have in the area(s) of real estate, tax appraisal or real estate law.
2. In addition to the experience listed in question 1 above, please list the work/volunteer experience/qualifications that would add to your expertise for this board.
3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
4. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___ Yes ___ No If yes, then please explain:

D. Orange County Planning Board Applicants:

1. Please list the work/volunteer experience/qualifications that would add to your expertise for this board.
2. What unique perspective can you bring to the Orange County Planning Board?
3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
4. What do you consider to be the most important issues facing Orange County related to growth?
5. What role should the Planning Board take in guiding and regulating growth?
6. How would you, as a member of the Planning Board, contribute to the implementation of the Board of Commissioners' adopted Goals and Priorities - link below
(<http://orangecountync.gov/occlerks/BOCCGoals09.pdf>)
7. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___ Yes ___ No If yes, then please explain:

E. OWASA Applicants

- 1. Please list/explain your experience, either professionally and/or from other boards/commissions that you have in the areas of budget, personnel, and management.
- 2. In addition to the experience listed in question 1 above, please list the work/volunteer experience/qualifications that would add to your expertise for this board.
- 3. What do you see as the responsibilities of this board, and what do you hope to accomplish if appointed?
- 4. What is OWASA's role in growth/development issues?
- 5. Do you have any personal or business interest(s) that could create a conflict of interest (either real or perceived) if you are appointed to this board? ___ Yes ___ No If yes, then please explain:

III. QUESTIONS FOR ALL APPLICANTS

A. ARE YOU SERVING OR HAVE YOU EVER SERVED ON ANY ORANGE COUNTY ADVISORY BOARDS? IF "YES", PLEASE INDICATE WHICH ONE(S):

B. Please check yes or no:

1. I maintain a **domicile** in Orange County (Domicile is defined as one's permanent established home as distinguished from one's temporary although actual place of residence).

- Yes
- No

2. I owe no outstanding taxes (real/personal) at the time of application/appointment.

- Yes
- No

C. How did you become aware of Orange County volunteer opportunities? (Please check all that apply):

- Newspaper County Web Page Current Orange County Volunteer
- Radio T.V. Other _____

**ETHICS GUIDELINES FOR
COUNTY ADVISORY BOARDS AND COMMISSIONS**

I agree by my signature below that, if appointed, I pledge to comply with the following ethics guidelines for advisory boards and commissions as adopted by the Orange County Board of Commissioners.

A. Conflict of Interest

1. During advisory board meetings, a member shall immediately disclose any potential conflict of interest and request to be excused from voting when he or she has a conflict of interest.
2. During appeal proceedings, the applicant has the right to question the interest of any voting member. The advisory board chair should consult with the County Attorney or staff attorney on any potential conflict of interest in appeal matters.
3. In determining from existing facts and circumstances whether a conflict of interest exists the determining party shall consider the facts and circumstances as would an ordinary and reasonable person exercising prudence, discretion, intelligence, and due care.

B. Gifts

1. An advisory board member shall not directly or indirectly ask, accept, demand, exact, solicit, seek, assign, receive, or agree to receive any gift or honorarium for the advisory board member, or for another person, in return for being influenced in the discharge of the advisory board member's official responsibilities.
2. This section shall not apply to gifts or awards authorized by Orange County Policies, Resolutions, or Ordinances.

C. Code of Ethics

1. Advisory board members should act with integrity and with independence from improper influence as they exercise the functions of their offices. Characteristics and behaviors that are consistent with this standard are:
 - a. Adhering firmly to a code of sound values.
 - b. Behaving consistently and with respect towards everyone with whom they interact.
 - c. Exhibiting trustworthiness.
 - d. Living as if they are on duty as appointed officials regardless of where they are or what they are doing.
 - e. Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner.
 - f. Remaining incorruptible, self-governing, and not subject to improper influence, while at the same time being able to consider the opinions and ideas of others.
 - g. Disclosing contacts and information about issues that they receive outside of public meetings, and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves.
 - h. Treating other advisory boards and advisory board members and the public with respect, and honoring the opinions of others even when they disagree.
 - i. Being careful not to reach conclusions on issues until all sides have been heard.
 - j. Showing respect for their appointed office and not behaving in ways that reflect badly on the office, the advisory board, Orange County, or the Orange County Board of Commissioners.
 - k. Recognizing that they are part of a larger group and acting accordingly.

- l. Recognizing that individual board members are not generally allowed to act on behalf of the board, but may only do so if the board specifically so authorizes, and that the board must take official action as a body.
 - m. Being faithful in the performance of the duties of their offices.
 - n. Acting as especially responsible residents whom others can trust and respect.
 - o. Faithfully attending and preparing for meetings.
 - p. Carefully analyzing all credible information that is properly submitted to them, and when applicable, being mindful of the need not to engage in communications outside the meeting in quasi-judicial matters.
 - q. Being willing to bear their fair share of the board’s workload.
 - r. To the extent appropriate, they should be willing to put the board’s interests ahead of their own.
2. Members of the Planning Board, Board of Adjustment, Economic Development Commission, and Board of Equalization and Review shall upon initial appointment, and prior to December 31 annually thereafter, disclose:
- a. Any interest he or she or his or her spouse or domestic partner has in real property situated in whole or in part in Orange County and the general description of that property.
 - b. Any legal, equitable, beneficial or contractual interest he or she or his or her spouse or domestic partner has in any business, firm or corporation, which is currently doing business with Orange County pursuant to contracts awarded by Orange County, or which is attempting, or has attempted in the past calendar year, to secure the award of a bid from Orange County or the approval of any Board or Agency of Orange County.
 - c. Failure to file a disclosure statement setting out the above required information shall result in immediate removal of the member from the applicable board.

DO NOT SUBMIT RESUMES OR ATTACHMENTS.

SIGNATURE AND DATE

By checking this box I certify that this serves as an electronic version of my signature, for the sole purposes of this form:

Date

Signature

Date

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

Action Agenda

Item No. 11-a

SUBJECT: Appointments to the Assessment of Jail Alternatives Work Group

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S): Under Separate Cover
Membership Roster
Invitation Email to Participate in Work
Group

INFORMATION CONTACT:
Clerk's Office -919-245-2130
Cheryl Young –Assistant County Manager

PURPOSE: The Board will consider making/confirming appointments to the *Assessment of Jail Alternatives Work Group*.

BACKGROUND: The Orange County Board of Commissioners created an ***Assessment of Jail Alternatives Work Group*** at their regular meeting on September 5th. The Board said that before planning of a new jail begins, a comprehensive assessment of jail alternative programs needs to be completed and that the creation of such a work group to address alternatives to incarceration programs and the impact each program may have on inmate population could be a feasible solution.

The proposed charge for the Jail Alternatives Work Group is to investigate and make recommendations to the Board of County Commissioners concerning alternatives to incarceration programs operating in Orange County and review the impact each program may have on the inmate population of the Orange County Jail. Including but not limited to the following programs:

- Pretrial Release
- Pretrial Diversion
- Drug Court
- Family Court
- Adult Probation

1. Analysis of program history organization purpose and objectives
2. Collection and analysis of program data, statistics, participation, and outcomes.
3. Analysis of program impact on inmate population.

The Work Group is directed to submit a Report back to the Board of County Commissioners by March 31, 2014.

FINANCIAL IMPACT: To be determined.

RECOMMENDATION(S): The Manager recommends for the Board to make/confirm appointments to the Assessment of Jail Alternatives Work Group.

Position Number	Special Representation	Appointee/Designee
1	Senior Resident Superior Court Judge or Designee (1)	Judge Fox/Judge Baddour
2	Chief District Court Judge or Designee (1)	Judge Buckner/Marie Lamoureaux Programs and Special Projects Manager District Court Judges' Office
3	District Attorney or Designee (1)	Jim Woodall – District Attorney
4	Public Defender or Designee (1)	James Williams-Public Defender
5	Clerk of Court or Designee (1)	James Stanford- Clerk of Court
6	Orange County Sheriff or Designee (1)	Sheriff Lindy Pendergrass
7	Municipal Police Chief (1)	Chief Chris Blue from Chapel Hill
8	Jail Administrator or Designee (1)	Jail Administrator John Sellew/Deputy Jail Administrator David Bolton
9	Department of Social Services representative (1)	Nancy Coston – DSS Director
10	Mental Health representative (1)	Debra Farrington-Executive Director Cardinal Innovations Healthcare Solutions- OPC/Alternate - Tom Velivil
11	Faith Community representative (1)	Nkosi Mtumwa- Trustee—First Community Missionary Baptist Church
12	Project to End Homelessness representative (1)	Jeff Nieman, Orange County DA's office and Vice Chair of the Leadership Team of the Partnership to End Homelessness
13	Adult Probation (1)	Aries Cox – awaiting direction from District Manager
14	Drug treatment (1)	Courtney Kennedy, Coordinator Drug Treatment Court
15/16	Board of County Commissioners (2)	Chair Jacobs and Commissioner Pelissier Commissioner Price-Alternate
17/18	Client 1/2	TBD
19	Staff/Legal Support	Cheryl Young- Assistant County Manager

Donna Baker

Subject: FW: Assessment of Jail Alternative Work Group -Board of Commissioners

From: Donna Baker
Sent: Thursday, September 12, 2013 10:08 AM
To: 'carl.r.fox@nccourts.org'
Cc: Cheryl Young
Subject: Assessment of Jail Alternative Work Group -Board of Commissioners

Elected Officials/Court Administrators/Community Representatives/Staff:

The Orange County Board of Commissioners created an ***Assessment of Jail Alternative Work Group*** at their regular meeting on September 5th. The Board said that before planning of a new jail begins, a comprehensive assessment of jail alternative programs needs to be completed and that the creation of such a work group to address alternatives to incarceration programs and the impact each program may have on inmate population could be a feasible solution.

The proposed charge for the Jail Alternatives Work Group is to investigate and make recommendations to the Board of County Commissioners concerning alternatives to incarceration programs operating in Orange County and review the impact each program may have on the inmate population of the Orange County Jail. Including but not limited to the following programs:

- Pretrial Release
- Pretrial Diversion
- Drug Court
- Family Court
- Adult Probation

1. Analysis of program history organization purpose and objectives
2. Collection and analysis of program data, statistics, participation, and outcomes.
3. Analysis of program impact on inmate population.

The Work Group is directed to submit a Report back to the Board of County Commissioners by March 31, 2014.

The following is the work group composition:

Assistant Orange County Manager – Coordinator

Senior Resident Superior Court Judge or Designee 1
 Chief District Court Judge or Designee 1
 District Attorney or Designee 1
 Public Defender or Designee 1
 Clerk of Court or Designee 1
 Sheriff or Designee 1
 Municipal police chief or designee 1

Jail Administrator or Designee 1
 Department of Social Services representative 1
 Mental Health representative 1
 Faith Community representative 1
 Project to End Homelessness representative 1
 Staff/Legal Support 1

Client- 1 or 2— *The Commissioners want a client(s) who can work in a group, can articulate challenges they perceive in being treated fairly and efficiently in the current framework, and perhaps has first-hand experience with alternative sentencing or treatment programs.*

Adult Probation 1
 Drug treatment 1
 County Commissioners 2

- In naming an appointee or designee, please keep in mind the Board of Commissioner's goal of having all work groups reflect Orange County's diversity.

If you would please let me know your appointed person and/or his/her designee (and contact information) no later than Friday, September 27, 2013.

You may email this information to dbaker@co.orange.nc.us.

Donna Baker
 Clerk to the Board
 P.O. Box 8181
 200 South Cameron St.
 Hillsborough, N.C. 27278
 Phone: (919) 245-2130
 Fax: (919) 644-0246
 Cell: (919) 428-3212
dbaker@orangecountync.gov

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

**Action Agenda
Item No. 11-b**

SUBJECT: Chapel Hill Library Board of Trustees

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S): Under Separate Cover
Membership Roster
Recommendation Letter for Reappointment
Application of Person Recommended
Applicant Interest List
Applications of Persons on Interest List

INFORMATION CONTACT:
Clerk's Office, 245-2130

PURPOSE: To consider making an appointment to the Chapel Hill Library Board of Trustees.

BACKGROUND: The Library Board of Trustees is a nine-member Town advisory board. Membership includes eight Chapel Hill residents appointed by the Town Council and one at-large Orange County resident appointed by the County Board of Commissioners. The Board meets on the second Monday of the month at 5:15 p.m.

Duties and responsibilities of the Library Board of Trustees include the following:

- (a) Advise the Chapel Hill Town Council, Town Manager, and Library Director concerning all matters relating to the operation of a public library system for the town, taking into consideration the needs and attitudes of library users and staff.
- (b) Advise the Chapel Hill Town Council, Town Manager, and Library Director as to the use and daily operation of library services and facilities.
- (c) Work cooperatively with the friends of the library in support of the library.
- (d) Make recommendations to the Town Council concerning the construction and improvement of buildings and other structures for the library system.
- (e) Advise the Chapel Hill Town Council, Town Manager, and Library Director concerning the annual budget of the library system.
- (f) Monitor gift and memorial donations and endowments of the library, and advise the council on the expenditure of these funds.

(g) Recommend a schedule of fines and charges for the late return of, failure to return, damage to, and loss of library materials, and take other measures to protect and regulate the use of such materials.

(h) Advise the Chapel Hill Town Council on the extension of privileges to and use of the library by nonresidents of the town and any fees associated therewith.

(i) Advise the Town Manager concerning the appointment of the Library Director.

U) Make an annual report on the operations of the library to the Chapel Hill Town Council and make an annual report to the department of cultural resources as required in N.C.G.S. 125-5.

Trustees serve staggered, four-year terms, and shall not be eligible for more than two consecutive four-year terms

FINANCIAL IMPACT: None.

RECOMMENDATION(S): The Board will consider making an appointment to the Chapel Hill Library Board of Trustees.

Board and Commission Members

And Vacant Positions

Chapel Hill Library Board of Trustees

Meeting Times: 5:15 pm 2nd Monday

Terms: 2

Contact Person: Susan Brown

Meeting Place: Library Meeting Room 100 Library Dr.

Positions: 1

Length: 4 years

Contact Phone:

Description: The Library Board of Trustees is responsible for recommending long-term plans, policies, and programs of library service throughout the community. It advises the Mayor and Council on library matters, develops plans for library facilities, and recommends operating policies of the library. The Trustees are also responsible for the monitoring of non-budgeted gifts and donations received by the library.

Dr. Evelyn Daniel

Day Phone: 207-974-9609

Sex: Female

First Appointed: 06/30/2005

Evening Phone: 919-929-2237

Race: Caucasian

Current Appointment: 10/06/2009

100 Cathy Road

FAX: 919-962-8071

Township: Chapel Hill

Expiration: 06/30/2013

Carrboro NC 27510

E-mail: daniel@ils.unc.edu

Resid/Spec Req:

Number of Terms: 3

Special Repr: Orange County Resident

Chairman Barry Jacobs
Orange County Board of Commissioners
200 South Cameron Street
P. O. Box 8181
Hillsborough, NC 27278

September 6, 2013

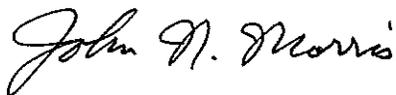
Dear Mr. Jacobs:

I am currently serving as Chairman of the Chapel Hill Public Library Board of Trustees and am writing to you about Board member Evelyn Daniel, who represents the County on our Board.

Dr. Daniel's term on the Board is about to expire. I have discussed her service with my predecessor as Chair, Martha Diefendorf. Ms. Diefendorf has served on the Board with Dr. Daniel for several years before I joined the Board two years ago. Ms. Diefendorf and I have the greatest respect for the knowledge and energy that Dr. Daniel has brought to our work as Library Trustees. She brings a deep knowledge of library programs in the US and how libraries are evolving with the rise of digital information and changes in public demands for library services. She has an excellent attendance record at our meetings and is always ready to take the lead on projects, most recently in developing policies for the use of meeting rooms at the Library by the public, which she brought to a successful conclusion after working with other Board members to weigh all the issues.

We understand that the County will have many things to consider in this appointment. We just want you to know that we value the service of Dr. Daniel and would welcome her reappointment. Thank you for your consideration.

Sincerely,



John N. Morris, Chair
CHPL Board of Trustees

cc. Commissioner Earl McKee
Commissioner Mark Dorosin
Commissioner Alice M. Gordon
Commissioner Bernadette Pelissier
Commissioner Renee Price
Commissioner Penny Rich
Ms. Donna Baker, County Clerk

Volunteer Application Orange County Advisory Boards and Commissions

Name: Dr. Evelyn Daniel
Name Called:
Home Address: 100 Cathy Road
 Carrboro NC 27510
Phone (Day): 207-974-9609
Phone (Evening): 919-929-2237
Phone (Cell):
Email: daniel@ils.unc.edu
Place of Employment: UNC , Chapel Hill
Job Title: Dean and Professor Emeritus
Year of OC Residence: 1985
Township of Residence: Chapel Hill
Zone of Residence: Carrboro City Limits
Sex: Female
Ethnic Background: Caucasian

Boards/Commissions applied for:

Chapel Hill Library Board of Trustees

Long term research interest in libraries and policy issues. Recent publication: Cutback management in US Public Libraries in Advances in Librarianship, vol. 34, 2011. Recent volunteer experience in Carrboro Branch of Orange County Public Library and for Chapel Hill Public Library. Experience on the Board and on various commissions and studies of librarianship in the county and the state.

Community Activities/Organizational Memberships:

0

Past Service on Orange County Advisory Boards:

Completing term on Chapel Hill Library Board of Trustees

Other Comments:

STAFF NOTES: Renewed application 1/27/04 for Reconvened 2004 Library Services Task Force. 10/8/01 Interest letter update-no reply-made app inactive. Renewed application 8/1/00 for Library Task Force. Originally applied for : Hyconeechee Reg. Libr. Bd. 2/3/97. UPDATED APPLICATION 06/10/2013 FOR CHAPEL HILL LIBRARY BOARD OF TRUSTEES. 100 Cathy Road is Chapel Hill Township, Carrboro Jurisdiction, Carrboro City Limits.

Applicant Interest Listing

by Board Name and by Applicant Name

Chapel Hill Library Board of Trustees

Contact Person: Susan Brown

Contact Phone:

Ms. Virginia Baeckler

317 Joyce Road
Hillsborough NC 27278

Skills: Librarian
Skills: Writer/Editor

Day Phone: 609-462-5978
Evening Phone: 919-241-4596
Cell Phone:
E-mail: baeckler@gmail.com

Also Serves On:
Also Serves On:

Sex: Female
Race: Caucasian
Township: Hillsborough
Date Applied: 06/20/2013

Dr. Evelyn Daniel

100 Cathy Road
Carrboro NC 27510

Skills: Community Service Volunteer
Skills: Dean of Library science UNC-CH
Skills: Former Library Services TaskForce Me
Skills: Research

Day Phone: 207-974-9609
Evening Phone: 919-929-2237
Cell Phone:
E-mail: daniel@ils.unc.edu

Also Serves On: Chapel Hill Library Board of Trustees

Sex: Female
Race: Caucasian
Township: Chapel Hill
Date Applied: 06/10/2013

Mr. James R. Stroud

7904 Rogers Rd
Chapel Hill NC 27516

Skills: Durham City/Co. Gov. Merger Commit
Skills: Extraterritorial Jurisdiction Resident
Skills: Mortgage Account Representative
Skills: NC Dept. Housing/Redevelopment

Day Phone: 919-680-8871
Evening Phone: 919-971-7063
Cell Phone:
E-mail: jstroud@choedc.org

Also Serves On: Affordable Housing Advisory Board

Sex: Male
Race: African American
Township: Chapel Hill
Date Applied: 05/24/2013

Volunteer Application Orange County Advisory Boards and Commissions

Name: Ms. Virginia Baeckler
Name Called:
Home Address: 317 Joyce Road
 Hillsborough NC 27278
Phone (Day): 609-462-5978
Phone (Evening): 919-241-4596
Phone (Cell):
Email: baeckler@gmail.com
Place of Employment: Retired
Job Title: Former Director, Plainsboro Public Library, NJ
Year of OC Residence: 2013
Township of Residence: Hillsborough
Zone of Residence: Hillsborough ETJ
Sex: Female
Ethnic Background: Caucasian

Boards/Commissions applied for:

Chapel Hill Library Board of Trustees

While my academic training at Cornell University was in the field of Slavic languages and literature, I wandered far astray after a year of doctoral research in the Soviet Union. I became a lobbyist for arts in education, which morphed into being the advocate for New Jersey Media Association, working to improve political support for libraries in every school. From there, I stepped into the public library world. In Plainsboro, NJ, which has a wildly diverse population, I guided the library through rapid cultural revolutions, and in the space of 20 years, built two libraries, moving from 1400 square feet, to 14,000 square feet to 48,000 square feet. Numbers are not everything. I bring real world experience gained throughout the growth in services, holdings and finance. More than that, as a recent article trumpeted: libraries are in my blood! Since supporting myself in college by working in and eventually running a branch of the university library system, I have been dazzled by the potential of libraries as the only public institution entrusted with cradle to grave education. We are informal education at its finest. For example: With the nation facing a critical shortage of scientists, and science education lagging in school curricula, we launched a Science Center that boasted everything from science story hours for wee children, to robotics classes utilizing corporate volunteer techies, to community wide science competitions that engaged adults, teens and tots. With the advent of digital education, we brought a nifty array on online services to our public--be they adult investors, or kids needing help/tutoring with their homework. At the core of it all, education is our supreme goal!

Community Activities/Organizational Memberships:

Recently retired librarian who directed two major building campaigns. Author 4 books on library management, programming and pr. Member American Library Association, National Science Teachers Association, NYTimes Librarian of the Year, co founder of Contact Science/University of Texas at Dallas.

Past Service on Orange County Advisory Boards:

None

Other Comments:

STAFF COMMENTS: Originally applied for Chapel Hill Library Board of Trustees 06/20/2013. ADDRESS VERIFICATION: 317 Joyce Road is Hillsborough Township, Hillsborough Jurisdiction, and Hillsborough ETJ.

This application was current on: 6/20/2013 8:10:01 PM

Date Printed: 9/25/2013

Volunteer Application Orange County Advisory Boards and Commissions

Name: Mr. James R. Stroud
Name Called:
Home Address: 7904 Rogers Rd
 Chapel Hill NC 27516
Phone (Day): 919-680-8871
Phone (Evening): 919-971-7063
Phone (Cell):
Email: jstroud@choedc.org
Place of Employment: Bank of America
Job Title: Mortgage Account Executive
Year of OC Residence: 1955
Township of Residence: Chapel Hill
Zone of Residence: JPA
Sex: Male
Ethnic Background: African American

Boards/Commissions applied for:
 Chapel Hill Library Board of Trustees

Community Activities/Organizational Memberships:

Past Service on Orange County Advisory Boards:

Work Experience: NC Department of Housing & Redevelopment (Dave Kelly, Director) and the Hurricane Floyd Initiative. Acted as an advocate for (9) eastern counties who were impacted by Hurricane Floyd. Worked with local government and state representatives to engage a housing counseling program designed to promote rehabilitation, and new housing for low to moderate income individuals. 18 Years of experience in community and economic development

Volunteer Experience: Worked as a volunteer for Durham City/County Government Merger Committee. Currently on the Chapel Hill Town Planning Board

Education: Columbia Southern University - Business Administration
 Columbia Southern University - Metairie, LA.
 Business Administration

Other Comments:

STAFF NOTES: Ncg. spoke to him 3/25/04 and asked if he would consider serving on C.H. Bd. Adju. since he lives in the C.H. JPA. He said yes. Originally applied 2/17/04 for CHPB; OC Bd. Adj; EDC. STAFF COMMENTS: Reapplied 06/30/2010 for Affordable Housing Advisory Board, Economic Development Commission, Chapel Hill Library Board of Trustees. I'm very interested in Orange County achieving the goals that are assessed

in the 2030 Comprehensive Plan. Address Verification: 7904 Rogers Road is in CH JPA per Kay Tapp, CH Planning Dept. ncg/Clerk's office/BOCC. UPDATED APPLICATION 05/24/2013 TO REMAIN ON CHAPEL HILL LIBRARY BOARD OF TRUSTEES.

This application was current on: 5/24/2013

Date Printed: 9/25/2013

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: October 1, 2013

Action Agenda

Item No. 11-c

SUBJECT: Orange County Housing Authority

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S): Under Separate Cover
Membership Roster
Letter of Recommendation
Application of Person(s) For Consideration
Applicant Interest List
Application of Person(s) on the Interest List
Excerpt from 6-16-2009 Approved BOCC
Minutes

INFORMATION CONTACT:
Clerk's Office, 245-2130

PURPOSE: To consider making appointments to the Orange County Housing Authority.

BACKGROUND: The following appointments are for Board consideration: The length of terms for this board is five (5) years.

- Appointment to a first partial term for Ms. Tammy Jacobs. If appointed Ms. Jacobs will be serving a first partial term ending 06/30/2014.
- Appointment to a first full term for Ms. Britney Walden. If appointed Ms. Walden will be serving a first full term ending 06/30/2017.

Position Number/Name	Representation	Expiration Date
3 Ms. Tammy Jacobs	At-Large	06/30/2014
5 Ms. Britney Walden	At-Large	06/30/2017

FINANCIAL IMPACT: None.

RECOMMENDATION(S): The Board will consider making appointments to the Orange County Housing Authority.

Board and Commission Members

And Vacant Positions

Orange County Housing Authority

Meeting Times: TBD TBD

Terms: 2

Contact Person: Tara Fikes, Housing/CD Director

Meeting Place: TBD

Positions: 7

Length: 5 yrs beg 2009 Contact Phone: 919-245-2490

Description: All members are appointed by the Board of County commissioners. The goal of the Orange County Housing Authority board is to provide decent, safe, and sanitary housing for the low and moderate income families in the County. At least one member of the Board shall be a Section 8 voucher holder. Other board members may represent the following areas of interest: real estate; development; affordable housing; real estate and/or municipal law; and banking.

1 **Mr. James O. Anderson**
Chair
 1209 Phils Ridge Road
 Chapel Hill NC 27516

Day Phone: 919-360-2357
 Evening Phone: 919-967-3058
 FAX: 919-967-5626
 E-mail: janderson027@nc.rr.com

Sex: Male
 Race: African American
 Township: Chapel Hill
 Resid/Spec Req:
 Special Repr:

First Appointed: 06/16/2009
 Current Appointment: 06/16/2009
 Expiration: 06/30/2014
 Number of Terms: 1

2 **Ms. Jean Bolduc**
 5519 Hideaway Drive
 Chapel Hill NC 27516

Day Phone: 667-2107
 Evening Phone: 933-5485
 FAX:
 E-mail: jbolduc@dha-nc.org

Sex: Female
 Race: Caucasian
 Township: Chapel Hill
 Resid/Spec Req:
 Special Repr:

First Appointed: 06/16/2009
 Current Appointment: 06/16/2009
 Expiration: 06/30/2014
 Number of Terms: 1

3 **VACANT**

Day Phone:
 Evening Phone:
 FAX:
 E-mail:

Sex:
 Race:
 Township:
 Resid/Spec Req:
 Special Repr:

First Appointed:
 Current Appointment:
 Expiration: 06/30/2014
 Number of Terms:

4 **Ms. Diane Beecham**
 218 Turtleback Crossing Drive
 Chapel Hill NC 27516

Day Phone: 919-918-4075
 Evening Phone: same
 FAX:
 E-mail: ddbeecham@gmail.com

Sex: Female
 Race: Caucasian
 Township: Chapel Hill
 Resid/Spec Req:
 Special Repr:

First Appointed: 09/18/2012
 Current Appointment: 09/18/2012
 Expiration: 06/30/2017
 Number of Terms: 1

5 **VACANT**

Day Phone:
 Evening Phone:
 FAX:
 E-mail:

Sex:
 Race:
 Township:
 Resid/Spec Req:
 Special Repr:

First Appointed:
 Current Appointment:
 Expiration: 06/30/2017
 Number of Terms:

Board and Commission Members

And Vacant Positions

Orange County Housing Authority

Meeting Times: TBD TBD

Terms: 2

Contact Person: Tara Fikes, Housing/CD Director

Meeting Place: TBD

Positions: 7

Length: 5 yrs beg 2009 Contact Phone: 919-245-2490

Description: All members are appointed by the Board of County commissioners. The goal of the Orange County Housing Authority board is to provide decent, safe, and sanitary housing for the low and moderate income families in the County. At least one member of the Board shall be a Section 8 voucher holder. Other board members may represent the following areas of interest: real estate; development; affordable housing; real estate and/or municipal law; and banking.

6	Ms. JonZella Bailey-Pridham 800 Pritchard Ave. Ext. Apt. A12 Chapel Hill NC 27516	Day Phone: 919-923-6931 Evening Phone: same as above FAX: n/a E-mail: zuguru02@yahoo.com	Sex: Female Race: Caucasian Township: Chapel Hill Resid/Spec Req: Resident Board Mem Special Repr:	First Appointed: 10/18/2011 Current Appointment: 10/18/2011 Expiration: 06/30/2014 Number of Terms: 1
7	Ms. Tara Fikes Housing Department P. O. Box 8181 Hillsborough NC 27278	Day Phone: 919-245-2492 Evening Phone: 919-245-2492 FAX: E-mail: tfikes@co.orange.nc.us	Sex: Female Race: African American Township: Resid/Spec Req: Executive Director Special Repr:	First Appointed: 06/16/2009 Current Appointment: 06/16/2009 Expiration: 06/30/2014 Number of Terms: 1

Jeanette Jones

From: Tara L. Fikes
Sent: Tuesday, September 10, 2013 10:49 AM
To: Jeanette Jones
Subject: Housing Authority Board

Hi Jeanette:

The Housing Authority Board recommends the appointment of Tammy Jacobs and Brittany Walden to the board. Can the BOCC consider appointment of them at the September 17th meeting?

Thanks, Tara

Volunteer Application Orange County Advisory Boards and Commissions

Name: Ms. Tammy Jacobs
Name Called:
Home Address: 200 Laurel Avenue
 Carrboro NC 27510
Phone (Day): 919-271-0554
Phone (Evening): 919-271-0554
Phone (Cell):
Email: tammy.jacobs722@yahoo.com
Place of Employment: Durham Housing Authority
Job Title: Service Coordinator-Public Housing Sector
Year of OC Residence: 1985
Township of Residence: Chapel Hill
Zone of Residence: Carrboro City Limits
Sex: Female
Ethnic Background: African American

Boards/Commissions applied for:

Orange County Housing Authority

Currently, I am employed with the Housing Authority in the city of Durham. I understand the make up and guidelines of Public Housing Communities and have some knowledge of the HCV (Section 8) programs.

Affordable Housing Advisory Board

I have served on this board in the past and understand the function and purpose of its mission.

Community Activities/Organizational Memberships:

Currently a member of the Chapel Hill High School PTA

Past Service on Orange County Advisory Boards:

Served on Affordable Housing Advisory Board in the past.

Other Comments:

STAFF COMMENTS: Applied 6/8/2001 for Affordable Housing Advisory Board; Human Relations Commission. Applied 07/15/2013 for Orange County Housing Authority and Affordable Housing Advisory Board. ADDRESS VERIFICATION: 200 Laurel Avenue is Chapel Hill Township, Carrboro Jurisdiction and Carrboro City Limits.

Volunteer Application Orange County Advisory Boards and Commissions

Name: Ms. Britney Walden
Name Called:
Home Address: 101 Kildaire Road Apt P
 Chapel Hill NC 27516
Phone (Day): 704-701-1799
Phone (Evening): 704-701-1799
Phone (Cell):
Email: bwalden@live.unc.edu
Place of Employment: UNC Hospitals
Job Title: Administrative Intern
Year of OC Residence: 2012
Township of Residence: Chapel Hill
Zone of Residence: C.H. City Limits
Sex: Female
Ethnic Background: African American

Boards/Commissions applied for:

Affordable Housing Advisory Board

I have attended undergrad at UNC and I am now obtaining my master s degree at UNC so the total amount of time I have lived in Chapel Hill is about 6 years. I know this area well and through my volunteer activities I am well in touch with the demographics of the populations as well as the needs of the people of Orange County. I currently work for UNC Hospitals in Hillsborough so my wealth of knowledge about this county has expanded. As a young woman in my mid 20s I know I can bring the perspective of the younger generation of residents in Orange County to the board and help in making housing for Orange County fair for all its residents.

Orange County Housing Authority

Through my knowledge of the town of Chapel Hill and my experience working with many different members of the population here in Chapel Hill and Hillsborough I know that I will be a valuable asset to the Orange County Housing Authority. I worked for the federal government in Washington DC helping TRICARE Management Activity and the work I did with the military and their families will prove to be an asset here in Orange County. I value this County and everything it has to offer to its residents and I would like to help ensure Orange County is the best county to live in North Carolina.

Community Activities/Organizational Memberships:

I volunteer at the Student Health Action Coalition in Chapel Hill NC which is a free clinic that services residents of Chapel Hill who do not have access to health care. I am also a member of the American College of Healthcare Association. In addition, I volunteer at UNC Hospitals taking treats and cards to patients on all holidays.

Past Service on Orange County Advisory Boards:**Other Comments:**

STAFF COMMENTS: Originally (07/07/2013) applied for Affordable Housing Advisory Board and Orange County Housing Authority. ADDRESS VERIFICATION: 101 Kildaire Road Apt. P., is Chapel Hill Township, Chapel Hill Jurisdiction, and Chapel Hill Town Limits.

This application was current on: 7/7/2013 9:16:20 PM

Date Printed: 9/25/2013

Applicant Interest Listing

by Board Name and by Applicant Name

Orange County Housing Authority

Contact Person: Tara Fikes, Housing/CD Director
 Contact Phone: 919-245-2490

Ms. Tammy Jacobs

200 Laurel Avenue
 Carrboro NC 27510

Day Phone: 919-271-0554
 Evening Phone: 919-271-0554
 Cell Phone:
 E-mail: tammy.jacobs722@yahoo.com

Sex: Female
 Race: African American
 Township: Chapel Hill
 Date Applied: 07/15/2013

Skills:

Skills: Affordable Housing Advocate

Skills: Community Service Volunteer

Also Serves On:

Also Serves On:

Also Serves On:

Ms. Britney Walden

101 Kildaire Road Apt P
 Chapel Hill NC 27516

Day Phone: 704-701-1799
 Evening Phone: 704-701-1799
 Cell Phone:
 E-mail: bwalden@live.unc.edu

Sex: Female
 Race: African American
 Township: Chapel Hill
 Date Applied: 07/07/2013

Skills: Hospital Volunteer

Also Serves On:

Excerpt from June 16, 2009 Approved BOCC Minutes:

**6-1. Regular Agenda (SITTING AS THE ORANGE COUNTY HOUSING AUTHORITY)
Orange County Housing Authority Bylaws Revision and Board Member Resignations**

The Board considered approving the proposed revision of the Bylaws of the Orange County Housing Authority; and resigning as the Board of Commissioners of the Orange County Housing Authority.

A motion was made by Commissioner Jacobs, seconded by Commissioner Hemminger to suspend the BOCC meeting and convene as the Orange County Housing Authority.

VOTE: UNANIMOUS

Tara Fikes said that staff asks that the Orange County Housing Authority consider a revision to the bylaws. The bylaws were approved in 2008, but in Article 2, Section 4, there was a provision that each Commissioner hold office for a term of three years. The State statute now says five years. The County Attorney recommends that it say, "that the term of office would be that as prescribed by the Housing Authority of the State of North Carolina."

Commissioner Gordon made reference to the background materials, which says that the Housing Authority is called the Board of County Commissioners by law. She said that she went all through the bylaws and could not find that one person has to be designated Executive Director.

Tara Fikes said that in Article 2, Section 1 says that the Housing Authority/Board of Commissioners shall consist of seven Commissioners, and in Section 3, it talks about the resident Commissioner, that at least one of the Commissioners must be a person who is directly assisted by the Authority.

Commissioner Gordon said that she had hoped that the changes would be highlighted. She suggested having a Section 3 on membership with 'a' being about the resident Commissioner and 'b', "another member of the Commissioners should be Executive Director."

A motion was made by Commissioner Gordon, seconded by Commissioner Jacobs to approve the proposed revision of the Bylaws of the Orange County Housing Authority with the changes as made by Commissioner Gordon, and to resign as the Board of Commissioners of the Orange County Housing Authority.

Commissioner Jacobs said that he was not clear who the Executive Director was and if they would receive compensation. Tara Fikes said that she had been serving as Executive Director and the old bylaws did indicate compensation.

County Attorney John Roberts said that he has not reviewed this and Geof Gledhill had been working on this and is still working on this.

Commissioner Jacobs made reference to the terms and asked about putting an asterisk and say "five-year term as of 2009." If there is no term mentioned, no one will remember what it was.

Tara Fikes said that the attorney was concerned that they would not have to come back each time the statute changes and it is a statutory change automatically.

John Roberts said that a footnote would be fine for the five-year term in 2009.

Commissioner Jacobs asked to have the footnote for the five year term in 2009 added to the motion and Commissioner Gordon agreed.

VOTE: UNANIMOUS

With that motion, the Board of County Commissioners resigned as the Orange County Housing Authority and reconvened as the Orange County Board of Commissioners.

BOCC Meeting Follow-up Actions

(Individuals with a * by their name are the lead facilitators for the group of individuals responsible for an item)

Meeting Date	Task	Target Date	Person(s) Responsible	Status
9/17/13	Follow-up on proposed Operations Agreement with RENA with possibility of Board reviewing the draft agreement and proposed changes at the October 1, 2013 regular meeting	11/19/2013	Michael Talbert John Roberts	Meetings have occurred with goal to present at November 19th Board meeting based on schedules
9/17/13	Review and consider request by Commissioner Dorosin to ask staff to provide data to the Board on how “banning the box” has proceeded and also a method to collect the data	11/5/2013	Chair/Vice Chair/Manager	DONE Manager requested clarification from Commissioner Dorosin
9/17/13	Review and consider request by Commissioner Price to ask staff to pursue opportunities to provide additional parking at Fairview Park as part of Park Master Plan	11/5/2013	Chair/Vice Chair/Manager	DONE Chair to provide letter and map to full Board noting opportunity for the Board to discuss as part of 2014-15 Capital Investment Plan
9/17/13	Conform BOCC meeting minutes based on Board approved corrections	10/1/2013	Donna Baker	DONE
9/17/13	Provide the BOCC with the additional cost figures associated with conducting a separate Presidential primary and having 44 precincts open	10/1/2013	Tracy Reams	Additional cost information to be provided
9/17/13	Make plans to present the Historic Rogers Road Neighborhood Task Force Report at the November 21, 2013 Assembly of Governments meeting	11/21/2013	Michael Talbert	Staff plans to present at AOG meeting
9/17/13	Provide BOCC with some reference materials on self-funded health insurance with other governmental entities	10/15/2013	Nicole Clark, Cheryl Young & Diane Shepherd	Materials to be provided
9/17/13	Work with Mark III to provide information and assistance to Community Home Trust and the ABC Board on market options for small group health insurance for the future, including the exchange	10/15/2013	Nicole Clark, Cheryl Young & Diane Shepherd	Information and assistance to be provided

Meeting Date	Task	Target Date	Person(s) Responsible	Status
9/17/13	Pursue scheduling an annual employee question and answer session with UnitedHealthCare to provide for feedback for UHC and information for employees	10/15/2013	Nicole Clark, Cheryl Young & Diane Shepherd	Session to be scheduled in coming months
9/17/13	Present a proposed technology plan for the planned Whitted Meeting Room for Board feedback prior to presenting the full design plan for approval to the Board at the November 5, 2013 regular meeting	11/1/2013	Jeff Thompson Jim Northup	Technology plan to be presented prior to November 5 th full design plan approval
9/17/13	Follow-up to determine any State mandated requirements/qualifications associated with the Nursing Home Community Advisory Committee, especially the four vacant positions, and any possible composition changes based on those requirements	11/19/2013	Donna Baker John Roberts	Clerk's Office met with NHCAC representatives on September 25 th – follow-up as necessary to occur
9/17/13	Bring the Planning Board appointments back	1/31/2013	Donna Baker	To be brought back
9/17/13	Follow-up with the Human Relations Commission (HRC) to bring back a plan to reduce the membership size of the Commission	12/31/2013	Tara Fikes	DONE HRC previously provided information to BOCC in November 2012
9/17/13	Provide update to the Board on any challenges/remaining issues associated with the Chapel Hill Town Council using the SHSC Meeting Room	11/1/2013	Donna Baker	DONE

INFORMATION ITEM

Tax Collector's Report - Numerical Analysis

Effective Date of Report: September 13, 2013						
Tax Year 2013	Amount Charged in FY 13-14	Amount Collected	Accounts Receivable*	Amount Budgeted in FY 13-14	Remaining Budget	% of Budget Collected
Current Year Taxes	\$ 137,868,792.00	12,430,349.54	\$ 118,882,724.42	\$ 137,868,792.00	\$ 125,438,442.46	9.11%
*Current Year VTS Taxes		127,538.90				
Prior Year Taxes	\$ 4,163,721.00	617,102.89	\$ 3,529,788.58	\$ 994,130.00	\$ 377,027.11	62.07%
Total	\$ 142,032,513.00	13,174,991.33	\$ 122,412,513.00	\$ 138,862,922.00	\$ 125,815,469.57	9.49%
Tax Year 2012	Amount Charged in FY 12-13	Amount Collected	Accounts Receivable	Amount Budgeted in FY 12-13	Remaining Budget	% of Budget Collected
Current Year Taxes	\$ 135,068,463.00	8,819,562.92	\$ 121,676,989.06	\$ 135,068,463.00	\$ 126,248,900.08	6.53%
Prior Year Taxes	\$ 4,026,736.27	674,081.82	\$ 3,104,500.04	\$ 994,130.00	\$ 320,048.18	67.81%
Total	\$ 139,095,199.27	9,493,644.74	\$ 124,781,489.10	\$ 136,062,593.00	\$ 126,568,948.26	6.98%
Current Year Overall Collection Percentage Tax Year 2013			9.69%			
Current Year Overall Collection Percentage Tax Year 2012			7.03%			

**Effective with September, 2013 vehicle registration renewals, the Orange County Tax Office will generally no longer bill and collect for registered motor vehicles. This is in accordance with new State law, House Bill 1779. In an effort of full transparency, the tax office has modified its Collector's Report format to include taxes billed and collected through the new Vehicle Tax System (VTS). Including this figure will show the Collector's progress toward meeting the overall tax revenue budget. Note that reconciliation for these taxes is monthly, so this figure will not change with each report.*

INFORMATION ITEM

BARRY JACOBS, CHAIR
EARL MCKEE, VICE CHAIR
MARK DOROSIN
ALICE M. GORDON
BERNADETTE PELISSIER
RENEE PRICE
PENNY RICH

ORANGE COUNTY BOARD OF COMMISSIONERS
POST OFFICE BOX 8181
200 SOUTH CAMERON STREET
HILLSBOROUGH, NORTH CAROLINA 27278



September 25, 2013

Dear Commissioners,

At the Board's September 17, 2013 regular meeting, three petitions were brought forth which were reviewed by the Chair/Vice Chair/Manager Agenda team. The petitions and responses are listed below:

- 1) Review and consider request by Commissioner Dorosin to ask staff to provide data to the Board on how "banning the box" has proceeded and also a method to collect the data

Response: Manager has requested clarification from Commissioner Dorosin.

- 2) Review and consider request by Commissioner Price to ask staff to pursue opportunities to provide additional parking at Fairview Park as part of Park Master Plan

Response: Chair requested staff to provide map (attached) to full Board, noting opportunity for the Board to discuss as part of 2014-15 Capital Investment Plan and/or possible bond proposal.

- 3) Review and consider a request by Commissioner Dorosin to conform BOCC meeting minutes based on Board approved corrections.

Response: The Clerk to the Board has corrected the designated minutes.

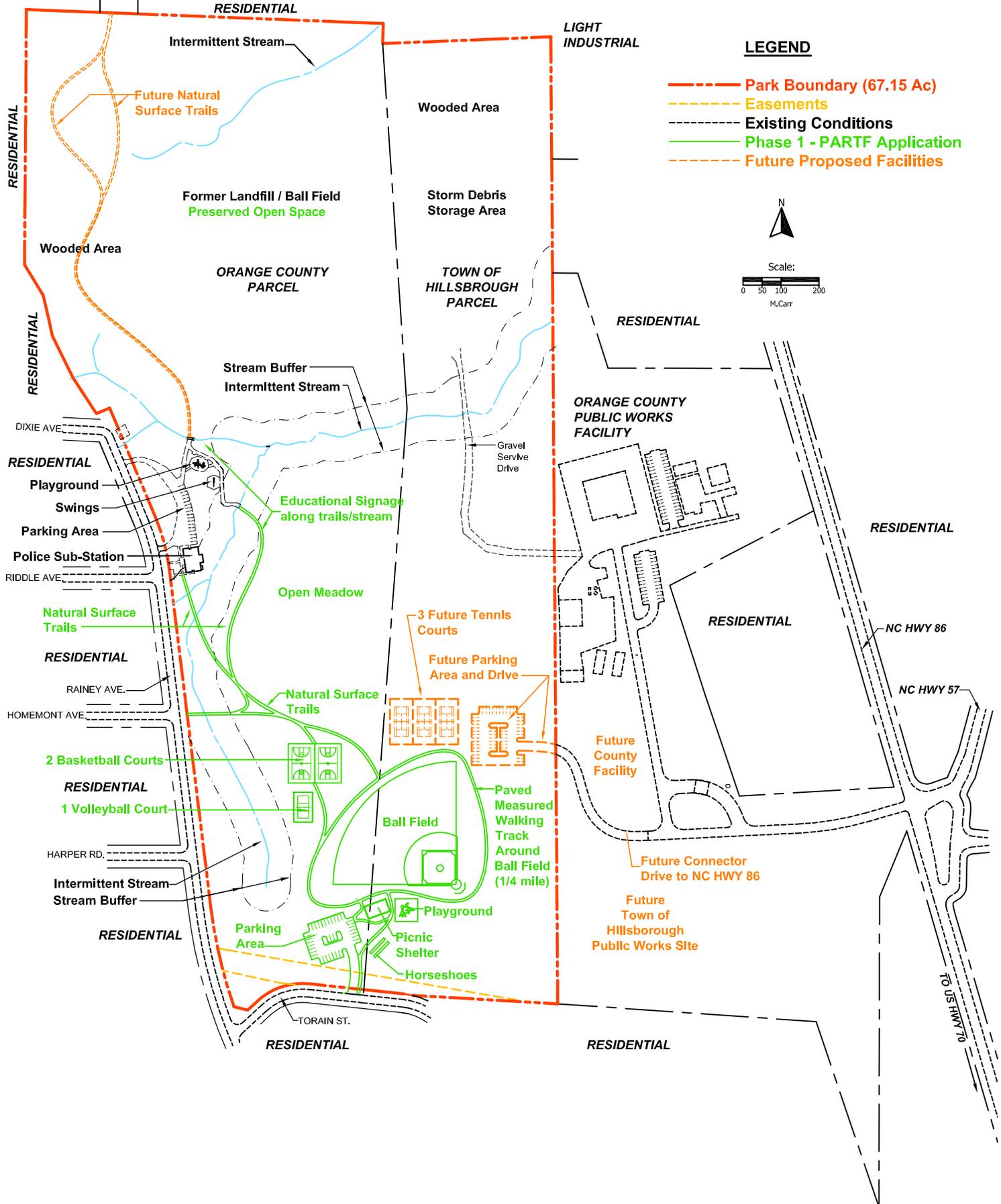
This letter will be provided as an Information Item on the October 1, 2013 agenda for public information.

Best,

Barry Jacobs, Chair
Board of County Commissioners

www.co.orange.nc.us

Protecting and preserving – People, Resources, Quality of Life
Orange County, North Carolina – You Count!
(919) 245-2130 • FAX (919) 644-0246

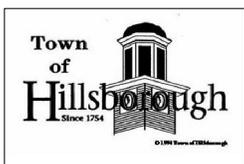


Fairview Park Development

(Phase 1)

PARTF Site Plan / January 2009

Orange County and the Town Of Hillsborough, NC



Orange County
North Carolina