



**Orange County
Board of Commissioners**

Agenda

Regular Meeting

January 21, 2016

7:00 p.m.

Richard Whitted Meeting Facility

300 West Tryon 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. Human Relations Month Proclamation
- b. 2017 Countywide Revaluation Update



5. Public Hearings

- a. Unified Development Ordinance Text Amendment – Recreational Land Uses - Closure of Public Hearing and Action (No Additional Comments Accepted)

6. 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
 - b. Motor Vehicle Property Tax Releases/Refunds
 - c. Property Tax Releases/Refunds
 - d. Applications for Property Tax Exemption/Exclusion
 - e. Fiscal Year 2015-16 Budget Amendment #5
 - f. Request for Road Addition to the State Maintained Secondary Road System
 - g. Orange Unified Transportation Board (OUTBoard) Policies and Procedures
 - h. Unified Development Ordinance Amendment Outline and Schedule – Mailed Notification Requirements

7. Regular Agenda

- a. Unified Animal Control Ordinance
- b. Mountains-to-Sea Trail – Master Plan for Segment 11
- c. Creation of a Criminal Case Assessment Specialist Position

8. Reports

- a. Analysis of Impediments to Fair Housing Choice

9. County Manager's Report

10. County Attorney's Report

11. Appointments

- a. Adult Care Home Community Advisory Committee – Appointment
- b. Arts Commission – Appointment

12. Board Comments (Three Minute Limit Per Commissioner)

13. Information Items

- December 15, 2015 BOCC Meeting Follow-up Actions List
- Tax Collector's Report – Numerical Analysis
- Tax Collector's Report – Measure of Enforced Collections
- Tax Assessor's Report – Releases/Refunds under \$100
- Memo from County Manager Regarding Budget Schedule Changes
- Memo Regarding Health in All Policies Pilot Project with Criminal Justice Resource Office and



Jail Alternatives Work

- BOCC Chair Letter Regarding Petitions from December 15, 2015 Regular Meeting

14. Closed Session

15. Adjournment

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

Orange County Board of Commissioners' regular meetings and work sessions are available via live streaming video at orangecountync.gov/occlerks/granicus.asp and Orange County Gov-TV on channels 1301 or 97.6 (Time Warner Cable).

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

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

SUBJECT: Human Relations Month Proclamation

DEPARTMENT: Housing, Human Rights and
Community Development

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):
Proclamation

INFORMATION CONTACT:
Audrey Spencer-Horsley, Director,
919-245-2492
James E. Davis, Jr.,
919-245-2488

PURPOSE: To officially proclaim the month of February 2016 as “Human Relations Month” in Orange County.

BACKGROUND: The Governor annually proclaims the month of February as “Human Relations Month” in North Carolina. The Board of County Commissioners also annually proclaims February as “Human Relations Month” in Orange County for the purpose of promoting diversity, inclusion and equal access, and to acknowledge strides in removing barriers to equal opportunity.

The Human Relations Commission will host its annual Human Relations Month Forum on Sunday, January 31, 2016 from 2:30 p.m. to 5:00 p.m. at the Whitted Human Services Building in Hillsborough. The 25th anniversary of the Americans with Disabilities Act (ADA) occurred on July 26, 2015. As such, the HRC has centered its programs for the ensuing year on the topic of disability awareness. The 2016 Forum is entitled “*dis*ABILITIES MATTER: A Focus on Disability Awareness” and features a special presentation by Alice Elliott. Ms. Elliott is an Academy Award nominated film maker whose films include stories compelled to change its viewers’ perception of “ability”. Forum panelists will also include Leigh Fickling, Director of the Disability Management System at Duke University; CJ Scarlett, board member of the Lupus Foundation and a disabled business owner; and Kim Lan Grout, a respected writer and photographer overcoming a lifetime battle with a rare congenital ailment. Disability advocates Dr. Timothy Miles and Ms. Pam Dickens will moderate the event.

On Sunday, February 28, 2016, the Human Relations Commission will host the 26th Annual Pauli Murray Human Relations Awards ceremony. This award is presented to an Orange County youth, an Orange County adult, and an Orange County business that has served the community with distinction in the pursuit of equality, justice, and human rights for all residents. The ceremony will take place at the Whitted Human Services Building in Hillsborough from 3:00 to 5:00 p.m.

FINANCIAL IMPACT: There is no financial impact associated with consideration of the proclamation.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this agenda item:

- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**

The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

On June 2, 2015, the BOCC signed a Proclamation to Support the Full Implementation of the Americans with Disabilities Act. The Board also discussed the importance of ensuring equal access to County services and facilities for persons with disabilities. The Human Relations Month proclamation and events will further the Board's intent of inclusion and equal access.

RECOMMENDATION(S): The Manager recommends the Board adopt the Proclamation and authorize the Chair to sign.

ORANGE COUNTY BOARD OF COMMISSIONERS

HUMAN RELATIONS MONTH PROCLAMATION

WHEREAS, the Orange County Board of County Commissioners established the Human Relations Commission in June 1987 with the desire to “encourage mutual understanding and fair treatment of all citizens”; and

WHEREAS, the Orange County Human Relations Commission believes that in order to achieve justice and equal opportunity for all Orange County residents, we must all strive to create an atmosphere where people are valued and accepted rather than merely tolerated, and therefore continue to promote the ideal of social justice for all; and

WHEREAS, the Orange County Human Relations Commission has diligently served Orange County since 1987 and remains committed to promoting equal treatment, opportunity and understanding throughout the community; and

WHEREAS, the Orange County Human Relations Commission enforces the County’s Civil Rights Ordinance which specifically prohibits discrimination based on an individual’s race, color, creed, religion, national origin, sex, disability, age, veteran status and familial status; and

WHEREAS, the Orange County Human Relations Commission encourages Orange County residents, as individuals, to take a stand against social injustice and continue to work together to make freedom, justice, and equal opportunity available for all; and

WHEREAS, Orange County is committed to preserving the progress made thus far towards equality and leading the challenge for equal opportunity using all the means at our disposal;

NOW, THEREFORE, We, the Orange County Board of Commissioners, do hereby proclaim February 2016 as “HUMAN RELATIONS MONTH” in Orange County and challenge our residents to promote the ideology of social justice for all by celebrating and encouraging multiculturalism in the County and encouraging all residents to embrace diversity and equal access in Orange County.

THIS THE 21ST DAY OF JANUARY, 2016.

Earl McKee, Chair
Orange County Board of Commissioners

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: January 21, 2016

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

SUBJECT: 2017 Countywide Revaluation Update

DEPARTMENT: Tax Administration

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Memorandum on 2017 Revaluation
Example of Summary Description Letter

INFORMATION CONTACT:

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

PURPOSE: To receive an update on the Orange County Tax Office's administration of the 2017 countywide revaluation of real property.

BACKGROUND: North Carolina State Law, North Carolina General Statute (NCGS) 105-286(a), mandates that counties conduct a countywide revaluation of real property at least once every eight (8) years. Orange County's last revaluation took effect January 1, 2009. All current property tax assessments in the County reflect each property's market value as of the last revaluation date. The 2017 revaluation will capture eight (8) years of market changes, and it will involve reviewing the most current market information available to produce an estimate of market value.

FINANCIAL IMPACT: There is no financial impact associated with receiving this update.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends the Board receive this update.



ORANGE COUNTY TAX ADMINISTRATION
228 S CHURTON STREET, SUITE 200, PO BOX 8181
HILLSBOROUGH, NORTH CAROLINA 27278
Telephone (919) 245-2725 Fax (919) 644-3332
T. Dwane Brinson, Director

Memorandum

To: Orange County Board of Commissioners

Cc: Bonnie Hammersley, County Manager

From: Dwane Brinson, Tax Administrator 

Date: January 21, 2016

Re: 2017 Property Tax Revaluation Update

North Carolina state law, G.S. 105-286(a), mandates that counties conduct a countywide revaluation of real property at least once every eight years. Orange County last conducted a countywide revaluation effective for January 1, 2009 and current tax assessments reflect market value as of that appraisal date. Therefore, Orange County is required to complete its next revaluation no later than January 1, 2017. This memorandum serves as an update of the 2017 countywide revaluation.

Current Market Conditions

It is evident that the economy is improving. Sales volume is increasing, sales prices are rising and properties are selling faster. As part of this report an analysis of Orange County qualified sales is provided. Real property tax assessments in Orange County currently reflect market value as of January 1, 2009, the County's last revaluation appraisal date. Figures, ratios and statistics provided in this report compare the County's current tax assessment based on January 1, 2009 market value against recent qualified market sales. This is performed annually to determine the impact of a countywide revaluation, in part. Elaboration on recent qualified market sales and the statistical measuring tools is provided below.

Sales Analysis

The predominant method of measuring mass appraisal effectiveness is through the median sales ratio. This is computed by dividing the assessed value by the sales price. A sales ratio of greater than 1 indicates that the tax assessment is higher than the property's recent sales price and vice versa. One simple way to describe this measure is that the sales ratio shows what percentage of market value is represented by current tax assessment. For example, a median sales ratio of 1.05 indicates that tax assessments in that category represent 105% of current market sales. However, this ratio is only a measure of central tendency. Ratios higher and lower than the median exist, too. Coefficient of Dispersion (COD) shows the data spread. A lower COD is better, and one less than 15 is a post-revaluation goal. The lower the COD, the more tightly-compacted the sales are around the median sales ratio.

Based on the 2015 qualified market sales, Orange County tax assessments are within an acceptable range. The median sales ratio has been gradually falling over the last several years, which indicates a rise in sales prices since tax assessments are the controlled variable. The COD is acceptable considering the sales analyzed are six years removed from the last revaluation.

2015 Median Sales Ratio – 0.993
2014 Median Sales Ratio – 1.007
2013 Median Sales Ratio – 1.04

2015 Coefficient of Dispersion – 13.30

Revaluation Process

Field reviews for the 2017 revaluation began in April 2014 and have continued to date. Tax office appraisers are visiting residences and talking to residents when possible. During the visit, even if no one is home, the appraisers are leaving postcards at the residences as a means of collaboration between the tax office and residents. We want records to be accurate and the 2017 revaluation value to be indicative of market value. A tentative timeline is provided below:

- April 2014 – May 2016: Field visits to verify property records, grade, depreciation, etc.
- January 2016: Mail summary description of property with annual listing forms
- January 2016 – April 2016: Field reviews of sales used in models
- April 2016 – July 2016: Development of new rates for SOV and testing
- July/August 2016: Finalize SOV
- September 2016: Public Hearing on SOV
- October/November 2016: Adoption of SOV
- December 2016: Final, holistic review
- December/January 2017: Send out value change notices
- January 2017 – March 2017: Informal appeals
- April 2017 – June 2017: Board of Equalization and Review hearings

Collaboration with Community

A local government project that directly affects each resident as much as a countywide revaluation should have built-in education and collaboration efforts. The tax office realizes that completing this project accurately and successfully requires assistance from the public. Moreover, collaboration is the cornerstone of Orange County Government, and the tax office embraces that approach as well. We feel it is not enough for the public to hear about the 2017 revaluation only at the very end of the process through a notice of new value in early 2017. Below are some proactive programs we are excited about.

1. 2017 Revaluation Partner – we have developed this program for those residents wishing to take the extra step and test what they have learned through our educational resources. A significant overhaul of the “Revaluation” section of our website was recently completed, and the revisions provide numerous educational offerings. The program begins with a review of the data on our website, moves on to our three (3) 2017 revaluation “learn and share” videos and culminates with an interactive and educational 10-question quiz. At the end of a successful quiz, the resident is awarded a Certificate of Achievement for successfully participating in our 2017 Revaluation Partner program. Earning this distinction shows a willingness to engage and collaborate with their local government, and it will prepare each participant to discuss the 2017 revaluation with other members of the community. As a 2017 Revaluation Partner, they also may be involved in pilot studies and asked for input over the course of the 2017 revaluation.



2. Summary Description Mailing – On December 31, 2015 we mailed 39,260 letters with the 2016 Property Tax Listing Forms. These letters provided residential real property owners with a snapshot of the data on record with the tax office. An important preliminary step in the appraisal process is ensuring accurate data. This effort is a way to show our desire for community collaboration and involvement in the 2017 revaluation.

3. Sales Bank Data/Appeals Process – Another portion of our collaborative approach is to prepare residents on not only their appeal options but also how to prepare a successful appeal. This approach creates a win for all stakeholders. As step one in this effort we are providing our raw sales data on our website for anyone to review. From there, we provide a brief overview of how to compare their property to other sales, and we even provide a hypothetical sales adjustment grid for a visual. Lastly, we dedicate nearly an entire video in our revaluation video series to the appeals process.

Revaluation Goals

With any large project goals are established. As part of contingency planning, those goals must be prioritized as part of a larger strategic plan. The tax office has an opportunity to accomplish many goals with the 2017 revaluation, and a list of primary goals is provided below:

1. Update 2009 real property tax assessments to reflect market value as of January 1, 2017
 - a. Ensure accuracy of records through field visits, questionnaires, etc.
 - b. Build community support through collaboration and education
2. Capture building use data, i.e. commercial, residential, industrial and their subcategories
 - a. Will allow tax office to better assist Economic Development and Chambers of Commerce with studies and analyses
3. Review exempt properties in Orange County
 - a. Currently approximately \$7B of exempt property in Orange County
 - b. Important for Asset Management Services, Risk Management and the State's annually-required AV-50 report

Correcting Records

Should egregious record inaccuracies be discovered during the process leading up to the county's 2017 revaluation, those changes would take effect in the corresponding year. All records for the revaluation will be keyed into the system with an effective date of January 1, 2017. Any resulting change in tax assessment would take place with the revaluation date and the tax bill to be mailed in July/August 2017.

Conclusion

Market statistics show Orange County real estate markets to be improving. While we notice manifestations of properties selling for more or less than the tax assessment, those will occur in any market in any year. The majority of current qualified market sales hover around current tax assessments. Furthermore, the economy is improving with more market activity, shorter selling times and higher selling prices. The sales ratio has been gradually declining in recent years indicating that market values are rising.

LPP to add Typical OC Outgoing Address with Logo

XXXXXXXXXXXXXXXXXX
 XXXXXXXXXXXXXXXXXXXX
 XXXXXXXXXXXXXXXXXXXX
 XXXXXXXXXXXXXXXXXXXX
 XXXXXXXXXXXXXXXXXXXX

December 30, 2015

John Doe
 100 Main Street
 Hillsborough, NC 27278

Parcel ID Number (PIN): XXXXXXXXXXXX

Dear Property Owner:

Provided below is a snapshot of data from your current property record. As we work towards the countywide revaluation of all real property to take effect January 1, 2017, we hope you and others in our community will serve as partners in producing a top-quality product. Your review of the data below is an important step. For more information on the 2017 countywide revaluation, how you can become a revaluation partner, and to fill out an electronic version of this form, please visit www.bit.ly/2017reval. If the data below is accurate, there is no need for further action at this time.

The tax office appraisal staff has been conducting an organized canvas of properties in the County for approximately the last 18 months. These visits have served to confirm or correct our records. If you believe the property characteristics as outlined below are inaccurate, you have the right to request an additional site visit and property review.

OUR CURRENT FILE HAS YOUR PROPERTY LISTED AS SHOWN BELOW

Parcel Id Number (PIN)	
Legal Description	
Year Built	
*Exterior Siding	
Total Heated Square Feet	
Air Conditioning/Heat Type	
Full Baths	
Half Baths	
Number of Fireplaces	
Other Comments	

If year built is not listed in the above description, please provide that information on the **Data Correction Form** below and return the entire form in the supplied return envelope.

Instead of mailing your corrections, you can fill out an electronic version of this form by visiting www.bit.ly/2017reval.

Data Correction Form	
Parcel Id Number (PIN)	
Legal Description	

Year Built	
*Exterior Siding	
Total Heated Square Feet	
Air Conditioning/Heat Type	
Full Baths	
Half Baths	
Number of Fireplaces	
Other Comments	

*Exterior siding types:

Frame – includes masonite, hardiboard, vinyl siding, wood, cedar shake, board and batten

Masonry – includes brick veneer and concrete block

Aluminum – includes traditional aluminum siding only

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: January 21, 2016

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

SUBJECT: Unified Development Ordinance Text Amendment – Recreational Land Uses - Closure of Public Hearing and Action (No Additional Comments Accepted)

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

Yes

ATTACHMENT(S):

1. Comprehensive Plan and Unified Development Ordinance Outline Form - Recreation Amendments (UDO/Zoning 2015-04)
2. Excerpt of September 8, 2015 Quarterly Public Hearing Minutes
3. Sheriff's Response to Complaints Related to the Discharge of a Firearm
4. Excerpt of October 7, 2015 Planning Board Minutes
5. Excerpt of November 4, 2015 Planning Board Minutes
6. Excerpt of December 2, 2015 Planning Board Minutes
7. Planning Board Approved Statement of Consistency
8. Statement of Consistency
9. Proposed UDO Text Amendment(s)

INFORMATION CONTACT:

Michael Harvey, Planning, (919) 245-2578
Craig Benedict, Planning, (919) 245-2592

PURPOSE: To receive the Planning Board recommendation, close the public hearing, and make a decision on text amendments to the Unified Development Ordinance (UDO) initiated by the Planning Director to revise existing regulations governing the development of recreational land uses.

BACKGROUND: This item was presented at the September 8, 2015 Quarterly Public Hearing (materials available at: http://www.orangecountync.gov/document_center/BOCCAgendaMinutes/150908.pdf). Minutes from the meeting are included within Attachment 2.

As indicated during the hearing, staff and the Attorney's office determined existing definitions and classification methodology for recreation uses were outdated. The proposed amendments are necessary to update existing regulations governing the development of recreational land uses and establish new land use regulations governing the discharge of firearms. During the hearing there were several questions related to how shooting incidents were addressed, specifically when there was "rapid fire" of fire arms and noise-related issues. Staff suggested the Sheriff's Office be asked to comment on its procedures for reviewing such incidents. This response is contained within Attachment 3.

For background information on the proposal please refer to Section B.1 of Attachment 1.

The Planning Board began review of this item began at its October 7, 2015 meeting (materials available at: http://www.orangecountync.gov/Full_Agenda_Packet_PB_10_7_15.pdf). Minutes from this meeting are contained within Attachment 4. Review continued at the November 4, 2015 (materials available at: http://www.orangecountync.gov/PB_Full_Agenda_Package_110415.pdf) and concluded at the December 2, 2015 regular meeting (materials available at: http://www.orangecountync.gov/departments/planning_and_inspections/PB_Full_Agenda_Packa_ge_1222015.pdf). Minutes from these meetings are contained in Attachment 5 and Attachment 6 respectively.

Procedural Information: In accordance with Section 2.8.8 of the UDO any evidence not presented at the public hearing must be submitted in writing prior to the Planning Board's recommendation. Additional oral evidence may be considered by the Planning Board only if it is for the purpose of presenting information also submitted in writing. The public hearing is held open to a date certain for the purpose of the BOCC receiving the Planning Board's recommendation and any submitted written comments.

Planning Director's Recommendation: The Planning Director recommends **approval** of proposed text amendment and further recommends approval of the:

- i. Statement of Consistency, as contained in Attachment 8, indicating the proposed text amendment is consistent with the adopted Comprehensive Plan, is reasonable, and in the public interest, and
- ii. The text amendment as contained in Attachment 9.

Planning Board Recommendation: At its December 2, 2015 meeting, the Board voted unanimously to recommend **approval** of the Statement of Consistency.

The Planning Board voted unanimously to recommend **approval** of the proposed amendment package as contained within Attachment 9. The Planning Board's signed Statement of Consistency is included within Attachment 7.

FINANCIAL IMPACT: Please refer to Section C.3 of Attachment 1.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals is applicable to this agenda item:

GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES

The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

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

1. Receive the Planning Board's recommendation;
2. Close the public hearing;
3. Deliberate as necessary on the proposed amendments; and
4. Decide accordingly and/or adopt the Statement of Consistency, contained within Attachment 8 and the Ordinance amending the UDO contained within Attachment 9 as recommended by the Planning Board and staff.

COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE

UDO / Zoning-2015-04

Revision(s) of existing definitions and regulations governing the development of recreational facilities within the County.

A. AMENDMENT TYPE

Map Amendments

- Comprehensive Plan – Future Land Use Element Map:
From: - - -
To: - - -
- Zoning Map:
From: - - -
To: - - -
- Other:

Text Amendments

- Comprehensive Plan Text:
Section(s):

- UDO Text:
 - UDO General Text Changes
 - UDO Development Standards
 - UDO Development Approval Processes

Section(s): Section(s):

1. 5.2.1 *Table of Permitted Uses – General Use Zoning Districts;*
2. 5.2.2 *Table of Permitted Uses – Economic Development Districts;*
3. 5.2.3 *Table of Permitted Uses – Conditional Use Districts;*
4. 5.7 *Standards for Recreational Uses, and*
5. *Article 10 Definitions.*

- Other:

B. RATIONALE

1. Purpose/Mission

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO, the Planning Director has initiated a text amendment to revise existing regulations and definitions of recreational uses.

While reviewing an issue with the Attorney's office it was determined the County's existing definitions and classification methodology for recreation uses (i.e. relying on the profit/non-profit status of said operation) was not appropriate and inconsistent with acceptable legal practice. The regulation and permitting of recreational uses should be based anticipated impacts of said use rather than on its 'tax status'.

2. Analysis

As required under Section 2.8.5 of the UDO, the Planning Director is required to: *'cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners'*.

Recreational uses are defined as follows within the UDO:

- *Recreation Use, Non-Profit:* An indoor or outdoor recreation use owned by a not-for-profit corporation, according to the laws of North Carolina.
- *Recreation Use, Profit:* An indoor or outdoor recreation use owned by an entity other than a not-for-profit corporation.

Recreation Use, Non-profit land uses are allowed, through the issuance of a Class B Special Use Permit (i.e. reviewed and acted upon by the Board of Adjustment) in:

1. All residential zoning (i.e. Rural Buffer (RB), Agricultural Residential (AR), Rural Residential (R-1), Low (R-2), Medium Residential (R-3, R-4), and High Intensity(R-5, R-8, and R-13) districts.
2. Commercial zoning (i.e. Local Commercial (LC-1), Neighborhood Commercial (NC-2), Community Commercial (CC-3), General Commercial (GC-4), and Office Institutional (OI)) districts.
3. All industrial (i.e. Light Industrial (I-1), Medium Industrial (I-2), Heavy Industrial (I-3)) districts.
4. Within a Master Planned Development Conditional Zoning (MPD-CZ) district.

Recreation Use, Profit is allowed within the Community Commercial (CC-3), General Commercial (GC-4), and Light Industrial (I-1) zoning districts as a permitted use (i.e. administrative review and approval by staff).

Within the Buckhorn and Eno Economic Development districts both Recreation Use, Profit and Non-profit land uses are only allowed within both the Low and High Intensity general use zoning designations with the review and approval of a Conditional Use (i.e. rezoning and Class A Special Use Permit) application by the BOCC. There are specific recreational land uses, including a golf driving range,

listed as a permitted use of property within these districts.

Staff has been working to address local resident concern(s) over the purported development of commercial shooting ranges. Currently the County has no land use standards governing the development of such uses (i.e. setbacks, development of protective berms to absorb bullets, etc.).

Staff is proposing to overhaul our current regulations by:

- a. Establishing new definitions for recreational uses;
- b. Reviewing the types of recreational land uses permitted in each zoning district and suggesting revisions;
- c. Developing new standards governing the development of recreational land uses; and
- d. Developing standards governing the discharge of firearms from both a commercial business and personal enjoyment standpoint.

The amendments are necessary to address outdated regulations governing the development of recreational land uses, update existing development standards and requirements, complete a review of acceptable recreational land uses throughout the County, and establish land use regulations governing the discharge of firearms.

Nothing within the proposed amendments will impact the development of parks/recreational amenities by Orange County.

3. Comprehensive Plan Linkage (i.e. Principles, Goals and Objectives)

Land Use Goal 2: Land uses that are appropriate to on-site environmental conditions and features and that protect natural resources, cultural resources, and community character.

Land Use Goal 4: Land development regulations, guidelines, techniques and/or incentives that promote the integrated achievement of all Comprehensive Plan goals.

4. New Statutes and Rules

N/A

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

- a. BOCC Authorization to Proceed

May 5, 2015

- b. Quarterly Public Hearing

September 8, 2015. The amendment was reviewed at the September 8, 2015

Quarterly Public Hearing where the following questions/comments were made:

- There was general consensus that proposed amendments to the Buckhorn and Eno Economic Development Districts permitted use table, allowing for recreational facilities to be a permitted use of property within the high intensity zoning designations (i.e. EDB-2 and EDE-2), are acceptable.
- A BOCC member asked why there were different setback standards for gun ranges developed as an accessory use to a residential use of property or a recreational facility.

STAFF COMMENT: Staff recommended a shooting range developed as an accessory use to a residence observe a setback of 300 feet from all property lines. For a shooting range developed as a recreational facility we recommended a setback of 600 feet from all property lines.

The rationale for the different standards is based on the anticipated intensity of use, with a private recreational amenity having a perceived lower potential impact versus a facility designed to be used by the general public (i.e. more weapons being discharged at any given time).

- A BOCC member asked what the typical minimum lot size would have to be to comply with proposed setback standards for a shooting range.

STAFF COMMENT: A residential property would have to be roughly 8 ½ acres in area to accommodate a designated shooting area while a recreational facility would have to be roughly 33 acres to accommodate a non-residential outdoor shooting range.

- A BOCC and Planning Board member asked if the proposed setbacks for a gun range would be sufficient to ensure bullets remain on the property.

STAFF COMMENT: Discharged projectiles can travel upwards of ½ mile or farther depending on the caliber of the weapon.

If our goal is to rely solely on setback standards to ensure discharged projectiles remain on the property, they would have to be more extensive. Staff does not believe this option is consistent with concerns expressed at the public hearing.

This proposal combines required setbacks with additional standards mandating shooting and/or targeting activities be oriented in such a manner to keep projectiles on the property and directed into a permanent backstop. This is intended to mitigate the need for more restrictive setback requirements.

- Both BOCC and Planning Board members suggested hour limitations be established concerning the discharge of firearms on residential property.

STAFF COMMENT: Staff will add language to the proposed text amendment.

- A BOCC member asked if we were being overly restrictive with the proposed amendments as they relate to the discharge of firearms.

STAFF COMMENT: Staff understands the concern. The proposal is an

attempt to address complaints from property owners related to the discharge of firearms on neighboring properties while protecting an individual's right to engage in shooting activity and/or discharge a firearm on their property.

- BOCC and Planning Board members suggested shooting ranges/facilities ought to have similar setback requirements.
- A BOCC member asked staff to invite those individuals who had previously submitted complaints and concerns over the discharge of firearms to the October 7, 2015 Planning Board meeting to express their concerns.

STAFF COMMENT: Staff sent notices inviting individuals who had submitted complaints to attend the October regular Planning Board meeting on September 28, 2015. One resident attended the meeting.

- A BOCC member suggested revising Section 5.7.2 *Recreational Facilities* of the proposed text amendment to combine recreational uses played on a court into a single category.

STAFF COMMENT: Staff will combine the uses as suggested.

- A BOCC member asked why the proposed text amendments did not address the number of people discharging a firearm at a given moment or limit the number of times a firearm could be discharged in a given time frame.

STAFF COMMENT: Staff indicated such regulations would be difficult to enforce and hard to verify as part of a land use enforcement investigation.

- A Planning Board member expressed concern the amendment would overly restrict the use of private recreational accessory uses. Specifically there was concern over staff's statement a private recreational use could not be used by neighbors/friends in the owner's absence.

STAFF COMMENT: The amendment is an attempt to develop a threshold making it easier to identify instances where a recreational land use is either a private or a public amenity.

As indicated during the public hearing, staff is investigating complaints over the purported establishment of public recreational facilities without required permits (i.e. Class B Special Use Permit). As the ordinance is currently written it is difficult to make a determination either way.

Our goal is not to overly regulate private recreational accessory uses but to ensure we have an appropriate methodology to identify those instances where such uses become, or are truly, a public recreational amenity requiring a heightened permit review and approval process.

- There was a general discussion amongst Board members and staff outlining how they responses to complaints associated with the discharge of a firearm, including noise issues and concerns over the rapid discharge of weapons. Staff suggested the Sheriff's Office provide a response.

STAFF COMMENT: Please refer to [Attachment 3](#).

--

c. BOCC Updates/Checkpoints

May 5, 2015 – Approval of UDO Amendment Outline Form

July 1, 2015 – Planning Board Ordinance Review Committee (ORC) (BOCC receives materials)

September 8, 2015 – Quarterly Public Hearing

January 21, 2016 – Receive Planning Board Recommendation

d. Other

N/A

2. PUBLIC INVOLVEMENT PROGRAM

Mission/Scope: Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements

a. Planning Board Review:

July 1, 2015 – Ordinance Review Committee (ORC). The ORC reviewed this item at its July 1, 2015 meeting where the following comments/questions were made:

- Could a resident, on his own property, sponsor a club in his name and finance play on the field under this proposal?

STAFF COMMENT: As the Ordinance is currently written, and proposed, the property owner would have to get a special use permit as the proposed recreational land use is intended to serve the needs of the general public or members of a club/organization.

- Could I develop a putting green on my property?

STAFF COMMENT: You can have a recreational facility on your property and use it for recreational purposes, including a putting green.

When a recreational amenity is opened up for public use/access, however, the nature of the use of property changes and becomes more than a simple accessory use. Staff argues it becomes a recreational facility used to satisfy the needs of the general public, which requires a heightened level of permit review to operate.

- Could a farmer donate land to a non-profit organization to allow for the development of a recreational facility?

STAFF COMMENT: Yes but they would have to obtain a Class B Special Use Permit for the use. This is the current requirement and we are not recommending a change to the existing process.

- Is the intent with this regulation to control the development of gun ranges

specifically?

STAFF COMMENT: The amendment seeks to make it easier to identify instances where a recreational land use is a private or a public amenity. The text amendment also proposes the adoption of new development standards for recreational activities, including standards for shooting ranges/facilities.

The proposed amendment is not solely geared to address the regulation, or establishment, of gun ranges.

- Could a local homeowners association develop a recreational land use on HOA owned property for local residents to take advantage of?

STAFF COMMENT: This text amendment will not preclude that. The homeowners association would, however, have to amend the previously approved subdivision final plat to incorporate the new recreation amenity in accordance with the UDO.

- Will this proposed amendment impact County parks?

STAFF COMMENT: No.

October 7, 2015 – The Planning Board reviewed this item at its October 7, 2015 meeting where the following comments/questions were made:

1. Board members were concerned the required backstop included materials which could cause bullets to ricochet (i.e. steel).

STAFF COMMENT: Staff has modified Section 5.7.1 (A) (2) eliminating references to specific materials for a backstop and, instead, require the backstop to be '*projectile proof*'.

2. A suggestion was made that proposed language be modified to require shooting activities to occur in a low lying area of the property as a means of further keeping projectiles on the property.

STAFF COMMENT: As indicated during the meeting relying on topography can be problematic.

On one end of the spectrum you may have a property owner whose land may not have sufficient slope to allow for shooting activities thereby requiring excavation to create same. On the other end of the spectrum topography can be altered after the fact creating a potential Ordinance violation.

From staff's standpoint it would be more prudent to rely on a projectile proof backstop and strongly urge existing topography be taken into consideration with respect to its location rather than to mandate same as a development standard.

3. A comment was made the proposed text amendment did not adequately address skeet shooting.

STAFF COMMENT: Staff has modified the proposal to include language concerning skeet shooting activities.

4. A Board member asked if the regulations would address the types of weapons that could be discharged.

STAFF COMMENT: The County does not have the legal authority to restrict the type of weapon that can be discharged from private property from a land use standpoint.

It needs to be remembered the adoption of land use regulations governing the discharge of a firearm does not impact the enforceability of other local, State, or Federal regulations concerning the discharge of firearms.

If, for example, it would be illegal to discharge a specific class of firearm on private property under State law this amendment does not preempt enforcement of same by the appropriate law enforcement agency.

5. There was general concern over proposed standards detailing the number of times per month incidental shooting could occur on a parcel without being considered a regulated shooting activity requiring the development of a backstop.

STAFF COMMENT: Staff understands the concern and has reduced the number of times incidental shooting activities can occur per month from 3 to 2. There needs to be some allowances made for a property owner who inadvertently engages in shooting activities to not be faced with a notice of violation from the County.

Staff will also reiterate the adoption of land use regulations governing the discharge of a firearm does not impact the enforceability of other local, State, or Federal regulations concerning same.

If a property owner is discharging a weapon in such a manner creating a threat to public safety (i.e. a property owner shooting at a neighbor's house) action can be taken to address the problem.

This enforcement action can occur today with or without the adoption of proposed standards.

November 4, 2015– The Planning Board reviewed this item at its November 4, 2015 meeting where the following comments were made:

1. The Board wanted more information on the County Attorney's thought(s) on removing setback and projectile-proof backstop standards from the UDO and placing them within the County Code of Ordinances before making a recommendation.
2. A Board member indicated there ought to be regulations requiring a property owner to collect all the brass and residue of shots on a parcel of property to ensure there are no environmental issues.

STAFF COMMENT: This issue was discussed at the public hearing and previous Planning Board meetings where staff indicated such a regulation would be difficult to enforce.

December 2, 2015 – The Planning Board reviewed this item and voted unanimously to recommend approval.

- b. Advisory Boards:
 Orange County Parks Advisory Board
 – DEAPR staff. Staff Transmitted
 copies of the proposed text
 amendments as part of peer review on
 July 10, 2015.

As of this date we have not received
 any comments.

- c. Local Government Review:
 Staff transmitted copies of the
 proposed text amendments to our
 planning partners in the Towns of
 Chapel Hill, Carrboro, and
 Hillsborough for their review and
 comment on July 10, 2015.

The Orange County Sheriff's office
 was sent the proposed text
 amendment on July 10, 2015.

As of this date staff has not received
 any comments on the proposed
 amendments from our planning
 partners. On September 24, 2015
 staff received a memo from the
 Sheriff's office outlining how they
 respond to complaints related to
 shooting activities.

- d. Notice Requirements

Legal advertisement was published in accordance with the provisions of the UDO.

- e. Outreach:

<input checked="" type="checkbox"/> General Public:	<p>Consistent with NC State General Statutes and Orange County Ordinance requirements.</p> <p>At the September 8, 2015 Quarterly Public Hearing the BOCC requested staff invite individuals who previously submitted concerns related to the discharge of firearms to the October 7, 2015 Planning Board meeting.</p> <p>Notices were sent on September 29, 2015 with a copy of the proposed regulations for review at the October Planning Board meeting.</p>
---	--

<input type="checkbox"/> Small Area Plan Workgroup:	
<input type="checkbox"/> Other:	

3. FISCAL IMPACT

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2015-16 Departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

D. AMENDMENT IMPLICATIONS

The amendment will revise existing, outdated, regulations governing the categorization and development of recreational land uses and proposes the adoption of new development standards.

E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 8.

Primary Staff Contact:
 Michael D. Harvey
 Planning
 (919) 245-2597
 mharvey@orangecountync.gov

Attachment 2 – Excerpt of
September 8, 2015 Quarterly
Public Hearing Minutes

APPROVED 10/20/2015

MINUTES
ORANGE COUNTY BOARD OF COMMISSIONERS
QUARTERLY PUBLIC HEARING
September 8, 2015
7:00 P.M.

The Orange County Board of Commissioners met with the Orange County Planning Board for a Quarterly Public Hearing on September 8, 2015 at 7:00 p.m. at the Whitted Building, in Hillsborough, N.C.

COUNTY COMMISSIONERS PRESENT: Chair Earl McKee and Commissioners Barry Jacobs, Mia Burroughs, Mark Dorosin, Bernadette Pelissier, Renee Price and Penny Rich

COUNTY COMMISSIONERS ABSENT:

COUNTY ATTORNEY PRESENT: James Bryan (Staff Attorney)

COUNTY STAFF PRESENT: County Manager Bonnie Hammersley, Deputy County Manager Travis Myren and Clerk to the Board Donna Baker (All other staff members will be identified appropriately below)

PLANNING BOARD MEMBERS PRESENT: Chair Pete Hallenbeck and Planning Board members Lisa Stuckey, Herman Staats, Paul Guthrie, Laura Nicholson, Andrea Rohrbacher, Maxecine Mitchell, H.T. "Buddy" Hartley, James Lea, Tony Blake

PLANNING BOARD MEMBERS ABSENT: Lydia Wegman

1. **Unified Development Ordinance (UDO) Text Amendment** - To review government-initiated amendments to the text of the UDO regarding recreational land uses, including shooting ranges.

Michael Harvey, Planner III, reviewed the following Planning Board Ordinance Committee Notes:

July 1, 2015 – Planning Board Ordinance Review Committee (ORC)

STAFF COMMENT: the ORC reviewed this item at its July 1, 2015 meeting where the following comments/questions were made:

- Could a resident, on his own property, sponsor a club in his name and finance play on the field under this proposal?

STAFF COMMENT: As the Ordinance is currently written the property owner would have to get a special use permit. The reason being the field is intended to serve the needs of the general public, even if they are members of a club or other similar organization, with respect to providing the use of a recreational facility.

- So I can't develop a putting green on my property?

STAFF COMMENT: You can have a recreational facility on your property and use it for recreational purposes. This would include a putting green. From my standpoint the problem occurs when you open the recreational amenity up for public use/access. When this occurs you change the nature of the use of property and, I believe, it becomes

more than a simple accessory use to your residence. It becomes a recreational facility used to satisfy the needs of the general public.

- Could a farmer donate land to a non-profit organization to allow for the development of a recreational facility?

STAFF COMMENT: Yes but they would have to obtain a Class B Special Use Permit for the use. This is the current requirement and we are not recommending a change to the existing process.

- Is the intent with this regulation to control the development of gun ranges specifically?

STAFF COMMENT: We are adopting regulations and development standards associated with them but the proposed amendment seeks to do more than just establish regulations on public or private gun ranges.

- Could a local homeowners association develop a recreational land use on HOA owned property for local residents to take advantage of?

STAFF COMMENT: Yes. This text amendment will not preclude that. The homeowners association would, however, have to amend the previously approved subdivision final plat to incorporate the new recreation amenity in accordance with the UDO.

- Will this proposed amendment impact County parks?

STAFF COMMENT: No.

Staff and the County Attorney's office have determined existing definitions and classification methodology for recreation land uses (i.e. relying on the profit/non-profit status of said operation) is inappropriate and inconsistent with acceptable legal practice. The current methodology has concerned staff for some time and has even complicated recent enforcement efforts relating to the discharge of firearms on private property and addressing the purported establishment of an outdoor recreational field off of Old Greensboro Highway. Staff is proposing to overhaul our current regulations by:

- Establishing a new definition for a recreational land use with no reference to its tax status;
- Reviewing the types of recreational land uses permitted in each zoning district and suggesting revisions to ensure consistency;
- Developing new standards governing the development of recreational land uses for both private and commercial purposes; and
- Developing standards governing the discharge of firearms from both a business and personal enjoyment standpoint.

Michael Harvey said with that frame of reference, staff began re-tooling the ordinance to draw distinction between personal and commercial recreational activities on one's property. He said staff has been locked in an enforcement effort over the purported operation of a commercial cricket field. He said it is hoped that this proposal will address mounting concerns.

Michael Harvey said part of the reason for this proposal is to address two long-standing enforcement issues:

1. Discharge of firearms, from a land use standpoint.
2. A longstanding issue of concerns and complaints, regarding the operation of what could best be construed as motor cross facilities.

Michael Harvey said a new definition of recreational facilities is being proposed. He referred to page 91. He said distinguishing between personal and commercial uses is the purpose of the amendment.

Michael Harvey referred to page 80-81 and said linguistic changes will refer to facilities simply as recreation facilities. He said the words non-profit and profit are being removed.

Michael Harvey said it is still being recommended that these facilities be processed in the residential areas through a Class B Special Use Permit (SUP) process, being reviewed and acted upon by the Board of Adjustment. He said it is also recommended that there still be permitted uses in several commercial districts, where they are currently listed. Michael Harvey said in Economic Development Districts, it is recommended that recreational facilities be considered permitted uses in the high intensity districts. He said the rationale for this is that recreational amenities are already allowed in many of these districts, and it is not believed that further specification is needed.

Michael Harvey referred to page 85 and said language is being added to formalize a County Planning Department interpretation that has existed since before his tenure. He said this states that recreational land uses developed on residentially zoned property (i.e. pool, pool deck, tennis court, basketball court, etc.) are accessory uses, thus needing to meet all the applicable set back standards. He said the typical residential set back is a 40-foot front, 20-foot side, and 20-foot rear. He said language is being added here to formalize this interpretation.

Michael Harvey referred to page 86 that established standards for recreational uses as accessory uses.

Recreational Uses as Accessory Uses⁵

(A) General Standards

- (1) Accessory recreational uses shall not be open to the public or be designed to serve as a recreation amenity for other lots.⁶
- (2) Amenities, equipment, and/or facilities intended for spectators such as bleachers or public address systems shall not be permitted.⁷
- (3) Outdoor sports field lighting, as detailed within Section 6.11, shall be prohibited.

⁵There have been issues in the past with property owners allowing for the use of recreation amenities on their property to serve others. To address this issue staff is recommending the imposition of various standards to ensure this use does not become some form of commercial operation.

⁶ Staff is not trying to say a property owner cannot have friends over who use a pool or basketball court. What we are attempting to avoid is the de-facto expansion of an accessory use on a parcel property to serve other lots recreational needs. Please note this will not prohibit subdivision developers from establishing a recreational amenity for their projects. That is addressed in Section 7.11 of the UDO.

⁷ Staff has received concerns from various property owners over the years with respect to a private landowner's ability to erect amenities, primary athletic field lights, to expand the use of

their accessory recreation use. Staff is recommending language that would prohibit the installation/use of equipment allowing for the expanded use of a recreation amenity beyond what is considered customary for a residential setting.

⁸ This would prohibit the erection of sports field lights for accessory recreational land uses.

Commissioner Price asked if this applied to Home Owner's Associations.

Michael Harvey said no, it does not.

Commissioner Price asked if there was an example where this would apply.

Michael Harvey said if someone wanted to put a pool or basketball court on their property, they would be able to do so, but could not put outside lighting in a residential area.

Michael Harvey said the next issue pertains to the discharge of firearms on private property. He said the following standards have been established:

B. Specific Standards

(1) Shooting activities

(a) All shooting or targeting activities shall be designed or oriented to keep projectiles on the property.

(b) A projectile-proof backstop consisting of concrete, steel, earth or any combination thereof, a minimum 15 feet in height and 30 feet in depth shall be required behind all target and/or shooting areas. All shooting activities shall be directed into this protective backstop.

(c) Shooting activities and required backstop shall be located a minimum of 300 feet from all property lines, rights-of-way, or access easements and 1,000 feet from occupied dwelling units external to the property.

(d) Warning signs indicating shooting activities are occurring on the property shall be posted at one hundred-foot intervals along the perimeter of the property.

(e) A Type B land use buffer, as detailed within Section 6.8, shall be required around the perimeter of the portion of property where shooting activities occurs.

(f) The use of exploding shells, targets, or other similar materials shall be prohibited. This will preclude hunting activities.

(g) Nothing within Section 5.7.1 shall be construed as limiting or otherwise restricting hunting activities or the use of fireworks.

⁹ There have been issues associated with the discharge of firearms on private property, focusing on noise and public safety issues. Staff is attempting to establish reasonable land use regulations to address safety concerns by requiring discharged items remain on the subject parcel and for those areas where a gun is discharged to be set distances from a property line and occupied dwelling units.

¹⁰ This will require either the erection of a land use buffer, or preservation of existing vegetation, around the area of the property where shooting activities are occurring.

Chair McKee referred to the section regarding shooting ranges versus shooting activities, and he noted differences in the backstop heights and set backs from adjacent properties.

Michael Harvey said the reason for the distinction is that shooting activities are meant to be in a residential setting. He said if the public is going to be present, then the nature of the use becomes commercial, and the setback requirements et al will change.

Chair McKee said emails about this issue do not distinguish between a commercial range, and a residential back yard target. He said the concern is about the safety, and he is not so sure that there should be the same requirements for this issue.

Michael Harvey said the intent is to distinguish back yard recreational enjoyment versus a paid, commercial, open-to-the-public range.

Chair McKee said he would question how it would be justified to have two people over to target shoot on large open property with no neighbors, and not allow that same right to someone that lives on two acres in another township.

Michael Harvey said there would be properties that will be unable to conform to whatever standard is imposed. He said this is regrettable. He said in more densely populated areas with smaller lots, there would need to be acceptable limitations.

Chair McKee said the acceptable limitations should be the higher.

Commissioner Pelissier referred to the requirement that public shooting ranges can only operate between 10:00 a.m. and 6:00 p.m. She asked if there could be a similar limit placed on private landowners. She said the noise of a group of friends target shooting on the weekend is the same as that of a commercial range.

Michael Harvey said firearms are exempt within the Orange County Noise Ordinance.

Commissioner Jacobs thanked Michael Harvey for trying to revise this ordinance. He suggested inviting the many residents who have complained repeatedly about the shooting ranges to a Planning Board meeting.

Commissioner Jacobs noted the standards for commercial shooting ranges of 600 feet from any property line, and asked if there is a similar standard for a personal shooting target.

Michael Harvey said 300 feet.

Commissioner Jacobs asked if there is then a minimal lot size that would be required in order to accommodate this standard.

Michael Harvey said he did not know, but would find this out.

Commissioner Jacobs said it might also be useful including slope on these ranges.

Michael Harvey said when trying to create uniform standards, it is difficult to allow flexibility regarding slope of property as there could end up being many more problems. He said on-site land differences cannot be taken into account, as it results in people being treated differently.

Paul Guthrie said in his neighborhood there are both kinds of ranges, and the Sheriff's office does come out to make sure that weapons are being discharged safely. He also said other states allow the shooting of explosive targets.

Michael Harvey said this text amendment prohibits exploding targets, and does not preempt the Sheriff's office from their duty of insuring safety.

Commissioner Jacobs said the way the Sheriff's measure decibels has never stopped anyone from shooting, as the noise is measured from the property line and typically dissipates enough by that point. He said he does agree with the possibility of reasonable hours being enforced.

Commissioner Price asked if the warning signs will have a uniform look, and if the Planning Board deems placing them at 100-foot intervals sufficient.

Michael Harvey said he did not recall the distance being a concern, and that the signs are simply to serve as a warning of shooting activity.

Commissioner Price said she is concerned as to whether the time of day, or the decibels of the noise, is a more effective enforcement. She said the lay of land would have an impact on this.

Michael Harvey said if the Planning Board and the BOCC would like to see a reasonable time limit he could pursue it, but he would prefer the issue of decibel levels be discussed directly with the Sheriff.

Lisa Stuckey asked if it required that the backstops be maintained, in order to avoid degrading.

Michael Harvey said the ordinance does not specify this, but if a permit is issued indicating that the backstop will be maintained, it must be complied with.

Chair McKee asked what would happen if a member of the public purchased a new rifle and went on his 10 acres of land to practice shooting, without a backstop or any type of buffer.

Michael Harvey said if someone complains to him, he would meet with the landowner where the shooting occurred, and try to enforce this issue. He said it is a valid concern, and this is an opportunity to educate the public on what the ordinance requires. He said ordinances are living and breathing documents that can be changed.

Chair McKee said he appreciated this effort on the shooting issue. He said he hears about repetitive shooting in the same areas over and over again.

Maxecine Mitchell asked questions and clarifications on issues surrounding residential versus commercial recreational areas and Michael Harvey responded.

Commissioner Rich asked if there is a limit on the number of people that may shoot at a residential property at the same time.

Michael Harvey said there is no limit built into this ordinance to say how many people can be at a place and discharging a firearm.

Michael Harvey said a distinction has been established between the recreational accessory uses versus a non-residential land use activity. He said the Planning Board had a lot of concerns at the ORC regarding his draft definition of a recreational facility. He said he met with the Attorney's Office, and a workable definition, that can be enforced, was created.

Commissioner Price referred to the top of page 90, and said she had concerns about the required frontage. She said there are properties in the County that are accessed by an easement.

Michael Harvey said the goal of this provision is to stipulate that if one is going to have a heightened level of traffic to access, what amounts to a commercial facility, then it ought to be done through a public road rather than a private road of a subdivision. He said if there is an easement, access across it should be properly negotiated.

Commissioner Jacobs suggested amending the list of general standards for evaluation for recreational facilities from listing a variety of courts to using a global statement that covers multiple courts.

Commissioner Price suggested further explanation be given to “turkey shoots, and other similar activities”.

Michael Harvey referred to page 89 where it says there is “nothing in this section shall be construed as prohibiting the holding of turkey shoots or other similar activities as a fundraiser or community event.” He said the idea is a shooting event or fundraiser that can be held no more than twice a year on a given parcel of property.

Commissioner Price asked if there are specifics that are seeking to be regulated.

Michael Harvey said fund raising activities are not being regulated.

A motion was made by Commissioner Pelissier, seconded by Commissioner Jacobs to approve:

1. Referring the matter to the Planning Board with a request that a recommendation be returned to the BOCC in time for its **November 5, 2015** regular meeting.
2. Adjourning the public hearing until **November 5, 2015** in order to receive and accept the Planning Board’s recommendation and any submitted written comments.

VOTE: UNANIMOUS

Attachment 3

OFFICE OF THE ORANGE COUNTY SHERIFF



Sheriff Charles S. Blackwood
106 East Margaret Lane
Hillsborough, North Carolina 27278

Hillsborough
(919) 644-3050

Chapel Hill
(919) 942-6300

Fax
(919) 732-6403

Memorandum

To: Orange County Board of Commissioners
Orange County Planning Board

From: Sheriff Charles S. Blackwood

Date: September 24, 2015

Re: Response to September 8, 2015 Quarterly Public Hearing Questions regarding the Discharge of Firearms

When Central Communications relays a call for service associated with the discharge of firearms, the Orange County Sheriff's Office's ("Sheriff's Office") standard operating procedure requires the response of the appropriate area deputy. Once the deputy arrives at the property which is the subject of the complaint, he or she will attempt to locate and make contact with any individuals who may be there. If successful, the deputy informs them of the complaint and engages them in conversation to better assess the situation. A criminal history may be conducted of the individuals located at the property and firearms' serial numbers may be checked.

If weapons are being discharged at a shooting range on the property, the deputy will inspect the backstop to determine whether it provides adequate protection for the ammunition being fired. The deputy may suggest improvements be made to the backstop. At the end of the encounter, the deputy thanks the individuals he or she spoke with for their time and clears the property. Often, the deputy's visit to the property sufficiently addresses the complaint and minimizes the likelihood of future calls for service to the property.

Enforcement

The Sheriff's Office is charged with enforcing the Orange County Noise Ordinance, Chapter 16, Article 3. The Ordinance prohibits, *inter alia*, "unreasonably loud and disturbing noise" as defined therein. Maximum permissible standards by receiving land are established for continuous, regular, frequent, or intermittent source of sound produced by any activity. Sound level meters are used to determine compliance with the Ordinance. The discharge of firearms, however, is exempted from the standards but only as permitted by state law and county regulations. Absent an allegation

of criminal activity connected with the use or possession of a firearm,¹ the Sheriff's Office is unable to require an individual to cease discharging a firearm. If the County were to decide to regulate the discharge of firearms, clear standards are necessary to allow for enforcement. Noise and rate of fire regulations are extremely difficult and almost impossible to enforce given the brief duration of the sound.

Instead, the Sheriff's Office seeks to gain the cooperation of the individual whose discharge of a firearm is the subject of the complaint. Consistent with the Sheriff's Office's philosophy of community policing, deputies encourage County residents to be considerate of their neighbors when discharging firearms in addition to talking with one another about such matters. With regard to shooting ranges, the North Carolina General Assembly amended The Shooting Range Protection Act of 1997 to include any recreational shooting range, regardless of when it began operating. Effective July 1, 2015, a person who owns or operates a recreational shooting range in North Carolina is not able to be prosecuted criminally or sued civilly in any lawsuit related to noise or noise pollution resulting from the use of the shooting range, so long as the range is being operated in compliance with noise control laws in effect at the time the range began operating. *See* An Act to Amend Various Firearm Laws, 2015 N.C. Sess. Laws 2015-195 (N.C. Gen. Stat. § 14-409.46).

¹ Examples of such activity may include bullets striking a home or personal property, possession of a firearm by a felon, a victim's statement alleging the commission of a crime involving the discharge of a firearm, or discharge of a firearm on educational property.

Excerpt of Approved October 7,
2015 Planning Board Minutes

PLANNING BOARD
OCTOBER 7, 2015
REGULAR MEETING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52

MEMBERS PRESENT: Peter Hallenbeck (Chair), Cheeks Township Representative; Lydia Wegman-At-Large Chapel Hill Township (Vice Chair); Tony Blake, Bingham Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Buddy Hartley, Little River Township Representative; Laura Nicholson, Eno Township Representative; Lisa Stuckey, Chapel Hill Township Representative; Maxecine Mitchell, At-Large Bingham Township; Herman Staats, At-Large, Cedar Grove Township; James Lea, Cedar Grove Township Representative; Andrea Rohrbacher, At-Large Chapel Hill Township;

MEMBERS ABSENT: None

STAFF PRESENT: Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor; Perdita Holtz, Planning Systems Coordinator; Ashley Moncado, Special Projects Planner; Patrick Mallett, Planner II;

OTHERS PRESENT: Phil Koch, PE Earth Centric Engineering, Inc.; Tom Heffner, Developer Heffner Properties, Inc.;

AGENDA ITEM 10: **UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT** - To make a recommendation on government-initiated amendments to the text of the UDO regarding recreational land uses, including shooting ranges. This item was heard at the September 8, 2015 quarterly public hearing.

Presenter: Michael Harvey, Current Planning Supervisor

Michael Harvey reviewed the abstract.

Michael Harvey: We have a standard in here that stipulates a discharged shell be directed into a backstop which would consist of concrete, steel, wood, or combination. The concern is can any consideration be given to a property owner who locates a shooting area in low lying area and takes advantage of topography to reduce to scope of backstop. Since topography can be altered I am worried about relying on that as a means of guaranteeing a reasonable backstop.

Herman Staats: I have a shooting range on my property with an earth backstop. The shooting range I have built on my property does not meet the definition of suitable. I believe it is safe and I think some consideration should be given to these other factors despite my own personal range. The other issue I have is that concrete and steel are not ideal for a backstop if you have ricochet issues and there needs to be some consideration for that as well. Lastly, this broadly specifies shooting activities and does not address shooting clay pigeons in the air.

Tony Blake: I agree. Steel is very dangerous.

Michael Harvey: What I am hearing from comments is if we could reconfigure the back stop standards and provide distinction for skeet shooting?

Buddy Hartley: I think the earth backstop is obviously your best option.

Tony Blake: The Sherriff's letter seems to indicate that he has standards for backstops and for safe shooting and I was wondering if it would be a good idea to coordinate with the Sheriff's Department.

Michael Harvey: The Sheriff does not have ordinance for stablishing regulations for a backstop. What they do is go out and make a determination if the activity is safe, but they do not have specific standards. The Sherriff has

53 reviewed this. Also I would like to remind the Board the proposed text amendment indicates target shooting activities
54 are governed by the Ordinance. I would interpret that to mean skeet shooting as well.

55
56 Lisa Stuckey: Are there any state laws on this?

57
58 Michael Harvey: There are state laws, but they do not get specific to the construction of a backstop. There is
59 nebulous language in the general statutes, but not definite state law regulating the backstop.

60
61 Paul Guthrie: Are there any considerations on what type of weapons are being fired?

62
63 Michael Harvey: No. From a land use stand point we do not have the legal authority to tell people they cannot shoot a
64 certain weapon.

65
66 Herman Staats: This language on page 123 is the distinction of the times per month for shooting?

67
68 Michael Harvey: Yes on page 123 we added language with the direction of the County Attorney indicating that if you
69 are a property owner and are discharging your gun on your property three days or less a month that is not going to
70 be considered an activity that warrants you to build a backstop.

71
72 Lydia Wegman: For clarification, someone could go out on their property three times a month and target shoot all day
73 long?

74
75 Michael Harvey: Unfortunately, that is exactly what that means.

76
77 James Lea: And not only can they target shoot, but they can shoot any gun they want?

78
79 Michael Harvey: They can shoot any gun they want anyway, period.

80
81 Lydia Wegman: Does this exemption also exempt them from the hours of the day.

82
83 Michael Harvey: Yes because it would not be considered a shooting activity per this ordinance.

84
85 Lydia Wegman: That is why I am concerned because this seems overly broad as an exemption.

86
87 Lisa Stuckey: Do you have to keep the bullets on the property?

88
89 Michael Harvey: Yes.

90
91 Lisa Stuckey: The exemption that was added is kind of confusing. What exactly is exempted? For three days you can
92 shoot your bullets into your neighbor's yard?

93
94 Michael Harvey: We may need to add language that says all bullets must be kept on the property.

95
96 Michael Harvey continued review of abstract.

97
98 Michael Harvey: We are recommending that all rec facilities, private or public, have frontage on public roads. The
99 reason being you don't want a facility in the middle of nowhere on a private road and create hardship for neighbors
100 who maintain that road.

101
102 Paul Guthrie: As long as the use is on the same land it can be anywhere from one foot to five thousand feet from the
103 road?

104
105 Michael Harvey: The property has to have frontage and that's where access is going to have to be provided.

106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125

Michael Harvey: I am recommending to review the proposed standards based on comments received tonight regarding the backstop and exemption and bring it back to you.

Pete Hallenbeck: I do not think we are going to be able to agree on a statement of consistency tonight.

MOTION made by Paul Guthrie to bring this item back to the November Planning Board meeting. Tony Blake seconded.

VOTE: Unanimous

AGENDA ITEM 11: COMMITTEE/ADVISORY BOARD REPORTS

A. Board of Adjustment

None

B. Orange County Transportation

None

AGENDA ITEM 12: ADJOURNMENT

Motion to adjourn made by Lisa Stuckey.

Pete Hallenbeck, Chair

Excerpt of Approved November 4,
2015 Planning Board Minutes

PLANNING BOARD
NOVEMBER 4, 2015
REGULAR MEETING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53

MEMBERS PRESENT: Peter Hallenbeck (Chair), Cheeks Township Representative; Lydia Wegman (Vice Chair), At-Large Chapel Hill Township; Lisa Stuckey, Chapel Hill Township Representative; James Lea, Cedar Grove Township Representative; Tony Blake, Bingham Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill Township; Maxecine Mitchell, At-Large Bingham Township; Buddy Hartley, Little River Township Representative;

MEMBERS ABSENT: Laura Nicholson, Eno Township Representative; Herman Staats, At-Large;

STAFF PRESENT: Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor, Perdita Holtz, Special Projects Coordinator, Ashley Moncado, Special Projects Planner, Meredith Pucci, Administrative Assistant II

AGENDA ITEM 7: **UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT** - To make a recommendation to the BOCC on government-initiated amendments to the text of the UDO regarding recreational land uses, including shooting ranges. This item was heard at the September 8, 2015 quarterly public hearing and was discusses at the October 7, 2015 Planning Board Meeting
Presenter: Michael Harvey, Current Planning Supervisor

Michael Harvey reviewed the abstract and mentioned that the attorney's office may decide to take some of the shooting range language out of the UDO and put it in the general code of ordinances.

Lydia Wegman: What would be the process for putting it somewhere else?

Michael Harvey: The County Attorney's office would have to draft the ordinance and take it to the County Commissioners and they would have to approve it but it would be in the general county code of ordinances. It wouldn't be a land use ordinance. So you all as an example wouldn't get to see it or comment on it because it's not a land use ordinance.

Lydia Wegman: Who would get to comment on it?

Perdita Holtz: Anybody can show up at the BOCC meeting and sign up to speak.

Paul Guthrie: One issue that might keep you slightly in the process would be that the applicant had to be able to police all the brass and residue of shots off the property. It's changing the character of the land use.

Michael Harvey: That was discussed and quite honestly the thought was that its ancillary component of the shooting activity and while it may be an important one the issue is the safety with respect to the discharge of the firearm. There are probably going to be regulations that will be enforced by other departments and agencies.

Paul Guthrie: Have you begun to think through how you can link all of these organizations together for discussion of these issues?

Michael Harvey: All the agencies we talked about have completed peer review of these regulations and have said that they have no concerns or comments.

Lisa Stuckey: Do they care what we think? It seems to me that the enforcement of shooting regulations should be done by the Sheriff's Office.

54
55 Michael Harvey: The County Commissioners care because they asked you to comment on it.
56
57 Buddy Hartley: The Sheriff Deputies are going to come out to any call. If you call and say my neighbor is shooting
58 they have got to come out. One thing that I don't want to see happen out of this is the Sheriff Department having
59 more problems with frivolous things.
60
61 Michael Harvey: At the October 7th meeting you were provided with a memorandum from the Sheriff's Office that
62 basically said here is our SOP when it comes to discharge of guns and that's exactly what they do.
63
64 Buddy Hartley: Do we need to wait and see what the Attorney decides?
65
66 Michael Harvey: You have a couple of options. In my mind your options are that you can ask that this be delayed until
67 you hear what the County Attorney wants to do, you can all make the statement that you concur with the county
68 attorney and if that's the decision you will support it.
69
70 Paul Guthrie: It seems to me that the Sheriff's Department is not going to be enforcing the land use that is disturbing
71 a neighbor or potential harm to the neighbor. It's going to be a question of noise and stuff like that so what you're
72 saying to me is that there will be absolutely no regulations except the discharge of a firearm regulations.
73
74 Michael Harvey: The Sheriff's Office is not being asked to enforce a land use component.
75
76 Lydia Wegman: Won't the minimum back stop be ignored?
77
78 Michael Harvey: I don't know if they are going to exist or not because the County Attorney will be doing the
79 recommendation.
80
81 Peter Hallenbeck: I suggest that in regard to the item on page 34 at some point we go around the room and people
82 just address what they think otherwise we will be here talking back and forth. If two and three go away then the
83 Sheriff Deputies have to decide is it safe.
84
85 Michael Harvey: Well in conclusion let me just say everything else about the ordinance is going to stay the same
86 including the non-residential activity. Please note, on page 40 we added language in consultation with the County
87 Attorney's office. So if you're going to be active with this tonight I ask that replacement page 40 become a part of
88 your official action.
89
90 Paul Guthrie: You have no standard in the rest of the material if you're giving it all to the Sheriff.
91
92 Michael Harvey: We are not giving it all to the Sheriff because recreational facilities are the non-residential activity
93 and the shooting standards will remain in that section for recreational facilities. The only thing coming out is for
94 private shooting.
95
96 Peter Hallenbeck: We have to remember where this came from. We had definitions based on profit and non-profit.
97
98 Tony Blake: So there is no distinction between profit and non-profit?
99
100 Michael Harvey: Well the problem is from a language standpoint the impacts are the same.
101
102 Tony Blake: Right, so there is no leniency with one or the other.
103
104 Michael Harvey: I know it's a lot for you all to take in. I certainly don't want to try to tell you how you should respond
105 to what could potentially happen to the regulations with respect to shooting on private property but again I feel you

106 need to know it's certainly within your purview to say you want to see what the County Attorney does before we make
107 a recommendation.

108
109 Peter Hallenbeck: I would like to go around the room and let everyone comment and then we can have some general
110 discussion.

111
112 Buddy Hartley: I would like to see what the attorney decides.

113
114 Paul Guthrie: I don't think we should be making a formal presentation until we have seen how it's being fitted out
115 through the rest of the county.

116
117 James Lea: I too would like to hear what the attorney has to say.

118
119 Maxecine Mitchell: We should just sit and wait to see what the attorney says.

120
121 Lisa Stuckey: I agree with everybody else.

122
123 Andrea Rohrbacher: I agree with everybody else.

124
125 Tony Blake: Overall I agree with everybody else but I think what really needs to happen is they need to consider the
126 source of the complaint but let's hear what the attorney has to say first.

127
128 Lydia Wegman: I agree with waiting for the attorney but I would like to have these set back requirements enforced in
129 some way.

130
131 Peter Hallenbeck: I am a little concerned about the two incidents a month; I think that's too low for rural areas. I think
132 I would be more concerned that target practice happens during daylight hours than I would how many times it
133 happens. I like the simplification on page 34 that just says that the set-up is designed to keep the projectiles on the
134 property. I think that's something that gives the Sheriff some discretion. I would not be opposed to some setbacks in
135 regard to safety. I like the change on page 40, I think it strikes to the reason we are doing this. Meaning getting away
136 from the profit and non-profit and simply saying is this going on for compensation. We need a big picture with respect
137 to other agencies and how they work together because we keep running into this with planning ordinances. I would
138 now like to open up the floor for any more comment.

139
140 Michael Harvey: It sounds to me like the board would rather not make a decision until it gets something definitive
141 from the County Attorney so my recommendation is that your motion be that this be continued to the December
142 regular meeting and that you ask the county commissioners to extend the public hearing to the first meeting in
143 January.

144
145 **MOTION** made by Paul Guthrie to move continue item to December meeting and request the public hearing be the
146 first meeting in January. Buddy Hartley seconded.

147 **VOTE:** Unanimous

148
149 Michael Harvey: Just as a heads up we are due to go before the Board of County Commissioners tomorrow night and
150 extend the public hearing so originally we asked it to be extended to the December 7th meeting, we will ask that it be
151 adjourned until the first meeting in January.

152
153 Peter Hallenbeck: Are there any opposed?

154
155 Peter Hallenbeck: Okay so it is a unanimous decision to wait and not deal with this statement of consistency tonight.

156

Attachment 6
Excerpt of Approved December 2,
2015 Planning Board Minutes

Approved 1/6/2016

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52

PLANNING BOARD
DECEMBER 2, 2015
REGULAR MEETING

MEMBERS PRESENT: Lydia Wegman (Vice Chair), At-Large Chapel Hill Township; James Lea, Cedar Grove Township Representative; Paul Guthrie, At-Large Chapel Hill Township; Andrea Rohrbacher, At-Large Chapel Hill Township; Maxecine Mitchell, At-Large Bingham Township; Buddy Hartley, Little River Township Representative; Patricia Roberts, Cheeks Township Representative; Laura Nicholson, Eno Township Representative; Herman Staats, At-Large;

MEMBERS ABSENT: Lisa Stuckey, Chapel Hill Township Representative; Tony Blake, Bingham Township Representative;

STAFF PRESENT: Craig Benedict, Planning Director; Michael Harvey, Current Planning Supervisor, Perdita Holtz, Special Projects Coordinator, Meredith Pucci, Administrative Assistant II;

AGENDA ITEM 7: **UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT** - To make a recommendation to the BOCC on government-initiated amendments to the text of the UDO regarding recreational land uses, including shooting ranges. This item was heard at the September 8, 2015 quarterly public hearing and was discussed at the October 7 and November 4, 2015 Planning Board meetings.
Presenter: Michael Harvey, Current Planning Supervisor

Michael Harvey reviewed abstract

Lydia Wegman: Could you review the setbacks?

Michael Harvey: We have recommended that anyone engaging in shooting activities to be located a minimum of 300 feet away from all property lines, rights-of-ways or easements; be located a minimum of 1,000 feet from occupied dwelling units that are external to the property and be directed into a projectile proof backstop. We added language to the proposal indicating if you are engaging in shooting activities indoors required setback changes to the activity only having to be 100 feet from all property lines and the shot has to be kept in the structure. We have recommended hours of operation for the discharge of firearms and obviously we have also recommended the posting of warning signs and the maintenance of a land use buffer around the area where outdoor target shooting is occurring. We also have provisions in the ordinance that incidental discharge of a firearm, the discharge of a firearm in self-defense, or engaging in target shooting activities on a parcel of property less than 2 days a month is permitted.

Lydia Wegman: Does anyone have any concerns or questions about the information presented by Michael?

Laura Nicholson: I think that there should definitely be a backstop requirement for shooting.

Lydia Wegman: I agree. I think that the safety of the citizens is the most important issue.

Maxecine Mitchell: Will the Sherriff office still respond to calls about shooting on private property with this amendment?

Michael Harvey: Yes, the sheriff deputies will still respond when called about shots fired.

Buddy Hartley: The Sheriff Deputies are going to come out to any call. If you call and say my neighbor is shooting they have got to come out.

53 Paul Guthrie: The Sheriff's Department is not going to be enforcing the land use that is disturbing a neighbor or
54 potential harm to the neighbor. It's going to be a question of noise and stuff like.

55

56 Michael Harvey: Correct, we are not asking the Sheriff's Office to enforce a land use component.

57

58 Andrea Rohrbacher: I think what really needs to happen is they need to consider the source of the complaint.

59

60 Laura Nicholson: I agree with Andrea but I think that the recommendation made would be suitable for everyone. I
61 would still like to see involvement from the Sherriff Department on where they stand with the issue.

62

63 Lydia Wegman: Should we make a motion to approve or does anyone have any other questions or concerns?

64

65 **MOTION** made by Lydia Wegman to approve text amendment. Seconded by Laura Nicholson and Buddy Hartley

66 **VOTE:** Unanimous

**STATEMENT OF CONSISTENCY
OF PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH THE 2030 COMPREHENSIVE PLAN**

Orange County has initiated an amendment to the Unified Development Ordinance (UDO) to revise existing regulations governing the development of recreational land uses.

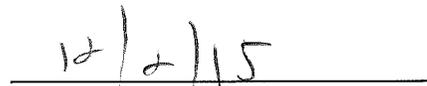
The Planning Board finds:

- a. The requirements of Section 2.8 of the UDO have been deemed complete; and,
- b. Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.
 1. The amendment is consistent with applicable plans because it supports the following 2030 Comprehensive Plan goals and objectives:
 - Land Use Goal 2: *Land uses that are appropriate to on-site environmental conditions and features, and that protect natural resources, cultural resources, and community character.*
 - Land Use Goal 3: *A variety of land uses that are coordinated within a program and pattern that limits sprawl, preserves community and rural character, minimizes land use conflicts, supported by an efficient and balanced transportation system.*
 - Land Use Goal 6: *A land use planning process that is transparent, fair, open, efficient, and responsive.*
- c. The amendment is reasonable and in the public interest because it:
 1. Establishes a legally defensible regulation based on the impacts of a specific land use rather than on its tax status.
 2. Establishes uniform standards of development for recreational uses serving either as an accessory, or principal, use of property.
 3. Provides measurable thresholds with respect to what constitutes an accessory or principal recreational land use to ensure equitable enforcement of development standards.
 4. Promotes public health, safety, and general welfare by furthering the goals and objectives of the 2030 Comprehensive Plan.

The Planning Board hereby recommends that the Orange County Board of County Commissioners consider adoption of the proposed UDO Text Amendments.



Lydia Wegman, Vice-Chair



Date

Attachment 8

**STATEMENT OF CONSISTENCY
OF PROPOSED UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT
WITH THE 2030 COMPREHENSIVE PLAN**

Orange County has initiated an amendment to the Unified Development Ordinance (UDO) to revise existing regulations governing the development of recreational land uses.

The Board of County Commissioners finds:

- a. The requirements of Section 2.8 of the UDO have been deemed complete; and,
- b. Pursuant to Sections 1.1.5, and 1.1.7 of the UDO and to Section 153A-341 of the North Carolina General Statutes, the Board finds sufficient documentation within the record denoting that the amendment **is consistent** with the adopted 2030 Comprehensive Plan.
 1. The amendment is consistent with applicable plans because it supports the following 2030 Comprehensive Plan goals and objectives:
 - Land Use Goal 2: *Land uses that are appropriate to on-site environmental conditions and features, and that protect natural resources, cultural resources, and community character.*
 - Land Use Goal 3: *A variety of land uses that are coordinated within a program and pattern that limits sprawl, preserves community and rural character, minimizes land use conflicts, supported by an efficient and balanced transportation system.*
 - Land Use Goal 6: *A land use planning process that is transparent, fair, open, efficient, and responsive.*
- c. The amendment is reasonable and in the public interest because it:
 1. Establishes a legally defensible regulation based on the impacts of a specific land use rather than on its tax status.
 2. Establishes uniform standards of development for recreational uses serving either as an accessory, or principal, use of property.
 3. Provides measurable thresholds with respect to what constitutes an accessory or principal recreational land use to ensure equitable enforcement of development standards.
 4. Promotes public health, safety, and general welfare by furthering the goals and objectives of the 2030 Comprehensive Plan.

The Board of County Commissioners hereby adopts this Statement of Consistency and findings expressed herein.

Earl McKee, Chair

Date

Ordinance #: ORD-2016-001

**AN ORDINANCE AMENDING
THE ORANGE COUNTY UNIFIED DEVELOPMENT ORDINANCE**

WHEREAS, Orange County has initiated amendment(s) to the Orange County Unified Development Ordinance in order to revise and update regulations governing the review, approval, and development of public and private recreational facilities, and

WHEREAS, the amendment eliminates existing inconsistencies associated with the permitting and classification of recreational facilities and amenities, and

WHEREAS, the amendment represents a reasonable balance of attempting to allow for the development and use of recreational land uses for bother public and private purposes while addressing adjacent property owner concerns over potential impacts, and

WHEREAS, the requirements of Section 2.8 of the Unified Development Ordinance have been deemed complete, and

WHEREAS, pursuant to North Carolina General Statute 153A-341 and Section 1.1.7 of the Unified Development Ordinance, the Board of Commissioners of Orange County has found the proposed text amendments to be reasonably necessary to promote public health, safety and general welfare and is consistent with the goals and policies of the adopted Comprehensive Plan.

BE IT ORDAINED by the Board of Commissioners of Orange County that the Unified Development Ordinance of Orange County is hereby amended as depicted in the attached pages.

BE IT FURTHER ORDAINED that this ordinance be placed in the book of published ordinances and that this ordinance is effective upon its adoption.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing ordinance was adopted this _____ day of _____, 2016.

I, Donna S. Baker, Clerk to the Board of Commissioners for Orange County, DO
HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said
Board at a meeting held on _____, 2016 as relates in any way to the
adoption of the foregoing and that said proceedings are recorded in the minutes of the said
Board.

WITNESS my hand and the seal of said County, this _____ day of _____,
2016.

SEAL

Clerk to the Board of Commissioners

UDO AMENDMENT PACKET NOTES:

The following packet details staff's proposed modifications to existing regulations associated with the review and permitting of public and private recreational facilities.

As the number of affected pages/sections of the existing UDO are being modified with this proposal staff has divided the proposed amendments into the following color coded classifications:

- Red Underlined Text: Denotes new, proposed text, that staff is suggesting be added to the UDO
- ~~Red Strikethrough Text~~: Denotes existing text that staff is proposing to delete
- Green Bold Underlined Text: Denotes new, proposed text, designed to address comments made at the September 8, 2015 Quarterly Public Hearing.
- ~~Green Bold Strikethrough Text~~: Denotes text eliminated to address Planning Board and County Attorney Concerns made after the public hearing.
- Orange Bold Underlined Text: Denotes new, proposed text, designed to address comment made by the Planning Board at its October 7, 2015 regular meeting.
- Blue Bold Underlines Text: Denotes language recommended by the County Attorney's office after the public hearing.
- ~~Blue Bold Strikethrough Text~~: Denotes changes recommended by the County Attorney's office after the public hearing.

Staff has included footnotes within the amendment package to provide additional information/rationale concerning the proposed amendments to aid in your review.

Only those pages of the UDO impacted by the proposed modification(s) have been included within this packet. Some text on the following pages has a large "X" through it to denote that these sections are not part of the amendments under consideration. The text is shown only because in the full UDO it is on the same page as text proposed for amendment or footnotes from previous sections 'spill over' onto the included page. Text with a large "X" is not proposed for deletion.

Please note that the page numbers in this amendment packet may or may not necessarily correspond to the page numbers in the adopted UDO because adding text may shift all of the text/sections downward.

Users are reminded that these excerpts are part of a much larger document (the UDO) that regulates land use and development in Orange County. The full UDO is available online at: http://www.orangecountync.gov/departments/planning_and_inspections/UDO_MOST_CURRENT_updated_120915.pdf

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE Δ = SUBJECT TO SPECIAL STANDARDS																					
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Military Installations (National Guard & Reserve Armory) ~											*	*	*		*						
MANUFACTURING, ASSEMBLY & PROCESSING																					
Assembly and Packaging Operations Including Mail Order Houses, But Excluding On-Premises Retail Outlets												*			*			*	*	*	
Industrial, Heavy ~																				*	
Industrial, Light ~																	*	*	*	*	
Industrial, Medium ~																		*	*		
Microbrewery, production only ^	B	B																*	*	*	
Printing & Lithography												*	*	*				*	*	*	
Sawmills ~																*					
Winery, production only ^	B	B																*	*	*	
MEDICAL USES																					
Health Services: Over 10,000 Sq. Ft. ~													*								
Health Services: Under 10,000 Sq. Ft.										*		*	*	*	*						
Hospitals ~													*		*						
Veterinary Clinic		B								*	*	*	*	*	*	*	*	*	*	*	*
Veterinary Clinic, mobile		B	B							*	*	*	*	*	*	*	*	*	*	*	*
Veterinary Hospitals												*	*	*	*	*	*	*	*	*	*
RECREATIONAL USES																					
Botanical Gardens & Arboretums	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Camp/Retreat Center	B	B	B																		
Golf Driving and Practice Ranges		B										*	*					*			
Parks, Public & Non-Profit	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

TABLE OF PERMITTED USES – GENERAL USE ZONING DISTRICTS																					
* = PERMITTED USE		A = CLASS A SPECIAL USE				B = CLASS B SPECIAL USE				Δ = SUBJECT TO SPECIAL STANDARDS											
USE TYPE	GENERAL USE ZONING DISTRICTS																				
	RB	AR	R1	R2	R3	R4	R5	R8	R13	LC1	NC2	CC3	GC4	EC5	OI	AS	EI	I1	I2	I3	PID
~ Use may not be permitted as a Conditional Use District; See Section 5.1.4(E) ^ Allowed as more than one principal use if located on a bona fide farm (see Section 6.2.5)																					
Recreational Facilities (Non-Profit) ¹	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Recreational Facilities (Profit)																					
Golf Course	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
RESIDENTIAL USES																					
Dwelling; Mobile Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Dwelling; Multiple Family				*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Dwelling; Single-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Dwelling; Two-Family	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Family Care Home	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Group Care Facility	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B
Rehabilitative Care Facility										*		*	*								
Residential Hotel (Fraternities, Sororities, and Dormitories) ~								A	A	A			A	A							
Rooming House						*	*	*	*						*						
TELECOMMUNICATIONS																					
Telecommunication Tower – Stealth (75 feet or shorter)	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
Telecommunication Towers (Over 75 feet and under 200 feet)	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B	B

¹ Staff is eliminating the distinction between profit and non-profit recreation facilities and eliminating references to an entity’s status as a ‘non-profit’ as being a rationale for deciding the review status of a given land use (i.e. staff review, Special Use Permit, etc.). After reviewing the matter with the Attorney’s office staff has determined the ownership status of a recreational land use and/or property owner is not a reasonable means of establishing land use/permitting regulations. Whether or not a recreational facility is a for-profit entity or not the impacts of said development on adjacent property owners will be the same. From this standpoint it makes more sense to establish reasonable land use controls instead of relying on the tax status of a property owner when determining the viability of a project or identifying required permit review processes (i.e. administrative review versus a requiring a special use permit).

TABLE OF PERMITTED USES – ECONOMIC DEVELOPMENT DISTRICTS									
* = PERMITTED USE A = CLASS A SPECIAL USE B = CLASS B SPECIAL USE C = CONDITIONAL USE (REZONING & CLASS A SUP)									
USE TYPE	GENERAL USE ZONING DISTRICTS								
	BUCKHORN EDD		ENO EDD		HILLSBOROUGH EDD				
	EDB-1	EDB-2	EDE-1	EDE-2	EDH-1	EDH-2	EDH-3	EDH-4	EDH-5
# Shall be noted on Zoning Atlas as "Zoning District" – CU (e.g., EDB-2-CU)									
Recreational facilities (Non-Profit)	C#	C#	C#	C#					
Recreational facilities (Profit) ²	C# B	C# *	C# B	C# *					
Repair service, electronic and appliance	C#	C#	*	*					
Research facility		*		*					
Schools, dance, art, and music	*	C#	*	*					
Schools, elementary, middle, and high	A	A	*						
Schools, vocational	C#	C#		*					
Other Services (Hillsborough EDD only)					*		*	*	
TRANSPORTATION									
Bus terminals and garages		C#		*					
Postal and parcel delivery services		*		*					
Rail/bus passenger shelter	*	*	*	*				*	
Surface and structure parking as principal use (When associated with a local or regional transportation goal such as mass transit or park-and-ride)		*		*				*	
Transportation and Warehousing (Sector 48, 49)									*
WHOLESALE TRADE									
Wholesale Trade (Sector 42)									
Durable Goods (see listing below)									*
• Automotive parts and supplies (In an enclosed building)		*		*					

² Staff is recommending changing review processes for recreational facilities in what are considered high intensity economic development districts. We currently allow certain recreational land uses as a permitted use of property in these districts and do not believe it was the intent of the County to require both the issuance of a Class A Special Use Permit and a rezoning to allow for the development of those land uses falling within the recreational facilities designation.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS				
* = PERMITTED USE				
USE TYPE	CONDITIONAL ZONING DISTRICTS			
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval				
^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.				
Veterinary Hospitals	*	*		
RECREATIONAL USES				
Arts, Entertainment & Recreation (Sector 71)				
Botanical Gardens & Arboretums	*			
Camp/Retreat Center	*			
Golf Driving and Practice Ranges		*		
Guest Ranch	*			
Parks, Public & Non-Profit	*	*		
Recreational Facilities (Non-Profit)		*		
Recreational Facilities (Profit) ³		*		
Golf Course		*	*	
Race Track (Motorized, etc.) and Go-Kart Track Facilities				*
RESIDENTIAL USES				
Dwelling; Mobile Home	*		*	
Dwelling; Multiple Family		*		
Dwelling; Single-Family	*	*		
Dwelling; Two-Family		*		
Family Care Home				
Group Care Facility		*		
Rehabilitative Care Facility		*		
Residential Hotel (Fraternities, Sororities, and Dormitories)				
Rooming House				
TELECOMMUNICATIONS				

³ Recommended changes here are to ensure consistency throughout the UDO.

- (e) A statement for setting forth the length of time for which the request is made. Approval shall not exceed one year.

(2) Standards of Evaluation

- (a) The relationship between the occupants of the single family unit and the mobile home is established.
- (b) There is a certificate from a licensed physician (MD) stating the necessity of direct care.
- (c) The floor plan of the existing single family unit shows there is no reasonable alternative to the mobile home.
- (d) The proposed site plan shows the location and setbacks of the existing single family unit, the mobile home, and driveways and parking areas. The setbacks for all structures meet or exceed the requirements of the district in which the lot is located.
- (e) There shall be adequate lot area for each unit, according to the minimum requirements of the zoning district in which the lot is located.
- (f) Approval of the Orange County Health Department for water and sewerage disposal facilities, or the approval of the appropriate agency from which sanitary sewer and water will be supplied.
- (g) Approval of the application shall not exceed one year. Renewal shall constitute a new application.

5.4.5 Buildings for Temporary Use

(A) Standards for Class B Special Use Permit

(1) Submittal Requirements –

In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:

- (a) Site plan showing all existing and proposed structures on the site, existing and proposed topography at a contour interval of five feet, existing and proposed landscaping, parking areas, access points, any officially designated flood plains, and other site details.
- (b) A description of the exterior materials, color and construction details.
- (c) Statement of proposed use and length of time building will be in use.

(2) Standards of Evaluation –

- (a) The temporary building shall not be used for residential purposes.
- (b) The temporary building shall not be used by operations offering drive-in services.
- (c) The use of the building shall be only for the period of time specified and for the use specified.
- (d) The proposed use is a permitted use in the district in which it is located.

SECTION 5.5: STANDARDS FOR RESIDENTIAL USES

5.5.1 Accessory Structures and Uses

(A) General Standards of Evaluation

- (1) Accessory structures and uses, including recreational uses and amenities,⁴ shall not be located in any required front open space and shall conform to the principal setbacks of the district where located unless otherwise provided in this Section.
- (2) An attached private garage, or carport, not exceeding 12 feet in height, may occupy a portion of the required side open space, provided that this does not result in a required side open space of less than 7% of the lot width, nor a total, when combined with the required side open space of the lot immediately adjacent, of less than eight feet.
- (3) Mobile homes as accessory structures to residential uses are prohibited.

5.5.2 Efficiency Apartment

(A) General Standards of Evaluation

- (1) There shall be no more than one efficiency apartment, whether detached or attached, on any lot.
- (2) The efficiency unit shall contain no more than 800 square feet of gross floor area.
- (3) The residential lot shall meet the minimum lot size requirements of the zoning district in which it is located.
- (4) The efficiency unit shall comply with the N.C. Residential Building Code including minimum light/ventilation and room sizes.
- (5) The efficiency unit shall be accessory to the principal dwelling unit and may be attached or detached.
- (6) The efficiency unit shall be served by an approved water supply and sanitary facilities.
- (7) The efficiency unit shall remain in the same ownership as the primary residence.

5.5.3 Home Occupations

(A) General Standards

(1) Submittal Requirements—

In addition to the completed application form, applicants for a minor or major home occupation shall submit the following to the Planning Department:

(a) Minor Home Occupations

- (i) A plot plan of the property on which the home occupation is to be located. The plot plan shall show:
 - a. The location of the residence and/or accessory building in which the home occupation is to be located in relation to existing property lines and adjacent homes;
 - b. The location, number, and means of access to required off street parking areas; and
 - c. The location and type of required landscaping and/or screening.
- (ii) A floor plan of the residence and/or accessory building in which the home occupation is to be located showing the location, size,

⁴ Staff has always interpreted a recreational use (i.e. pool, basketball court, etc.) to be an customary accessory use to a residential land use. We are adding language here to formalize this interpretation which will require such uses to comply with established dimensional standards (i.e. setbacks).

from adjacent residentially zoned property.

- (4) The site shall be located on a major road, as classified in the Orange County Comprehensive Plan, unless permitted as an ASE-CZ.
- (5) Parking shall not be located in the front yard space.
- (6) Application materials shall include a comprehensive groundwater study, for facilities expected to use more groundwater on an annual basis than an average single family residence (which uses 240 gallons of water per day) built at the highest density the existing zoning district would allow. For example, if the existing zoning district allows a residential density of 1 unit for 2 acres and the proposed use is on a six acre parcel (which could yield 3 residences), the proposed use(s) may use three times the water used by an average single family residence (or 720 gallons per day, on an annualized basis) before a comprehensive groundwater study is required. The water usage rates of any existing use subject to zoning regulations located on the same lot shall be taken into account when determining if a comprehensive groundwater study is required. Said study shall detail:
 - (a) The amount of water anticipated to be used on a daily, weekly, monthly, and annual basis by regulated uses located on the parcel (e.g., water usage by bona fide farm uses is not required to be included);
 - (b) An analysis of the amount of groundwater withdrawal considered to be safe and sustainable in the immediate vicinity; and
 - (c) An analysis of whether other wells in the vicinity of the proposed use are expected to be affected by withdrawals made by the proposed use.

SECTION 5.7: STANDARDS FOR RECREATIONAL USES

5.7.1 Recreational Uses as Accessory Uses⁵

(A) Residential Land Uses⁶

In addition to the requirements contained within this Ordinance, recreational uses developed as an accessory use to a residence shall abide by the following:

(1) General Standards

- (a) Accessory recreational uses shall not be open to the public or serve as a recreation amenity for other lots.⁷
- (b) Amenities, equipment, and/or facilities intended for spectators such as bleachers or public address systems shall not be permitted.⁸

⁵ There have been issues in the past with property owners allowing for the use of recreation amenities on their property to serve others. To address this issue staff is recommending the imposition of various standards to ensure this use does not become some form of commercial operation.

⁶ **Green Underlined** text added to address comments from the September 8, 2015 Quarterly Public Hearing. There was concern the regulations, as written, would prevent a church from developing a recreational amenity for their congregation's use. While staff does not believe this would be the case, we have added language clarifying the section to address the concern.

⁷ Staff is not trying to say a property owner cannot have friends over who use a pool or basketball court. What we are attempting to avoid is the de-facto expansion of an accessory use on a parcel property to serve other lots recreational needs or be open to the public like a non-residential land use can be. Please note this will not prohibit subdivision developer's from establishing a recreational amenity for their projects. That is addressed in Section 7.11 of the UDO.

⁸ Staff has received concerns from various property owners over the years with respect to a private land owners ability to erect amenities, primary athletic field lights, to expand the use of their accessory recreation use. Staff is

(c) Outdoor sports field lighting, as detailed within Section 6.11, shall be prohibited.⁹

(2) Specific Standards¹⁰

(a) Shooting activities¹¹

(i) All shooting or targeting activities, **including skeet shooting**, ~~not otherwise exempted herein,~~¹² shall be designed or oriented to keep projectiles on the property.¹³

(ii) Shooting activities occurring outdoors shall:

a. Be located a minimum of 300 feet from all property lines, rights-of-way, or access easements;

b. Be located a minimum of 1,000 feet from occupied dwelling units external to the property; and

c. ~~Be directed~~¹⁴ Direct all stationary target shooting activities into a projectile-proof backstop consisting of concrete, steel, earth, wood, or combination thereof¹⁵ a minimum of 15 feet in height and 30 feet in depth.¹⁶

(iii) Shooting activities occurring indoors shall:¹⁷

a. Be located a minimum of 100 feet from all property lines, rights-of-way, or access easements, and

recommending language that would prohibit the installation/use of equipment allowing for the expanded use of a recreation amenity beyond what is considered customary for a residential setting.

⁹ This would prohibit the erection of sports field lights for accessory recreational land uses developed to support a residential recreational facility.

¹⁰ As written staff is still proposing to establish specific standards for target shooting activities as an accessory use to a residence. There was some discussion at the public hearing to eliminate these standards, specifically setback and backstop requirements, and enforce non-residential target shooting activities only.

¹¹ There have been issues associated with the discharge of firearms on private property, focusing on noise and public safety issues. Staff is attempting to establish reasonable land use regulations to address safety concerns by requiring discharged items remain on the subject parcel and for those areas where a gun is discharged to be set distances from a property line and occupied dwelling units.

¹² **Bold Orange Underlined** text added to address October 7, 2015 Planning Board comments the term ‘target shooting’ did not specifically include or allow skeet shooting.

¹³ **Bold Blue Underlined** was language added in consultation with the County Attorney’s office designed to address a concern from the September 8, 2015 Quarterly Public Hearing proposed regulations could restrict the ‘incidental’ discharge of a firearm. This language has now been deleted.

¹⁴ Language deleted to address concerns from the October 7, 2015 Planning Board meeting that, as written, the ordinance would not allow skeet shooting.

¹⁵ **Bold Green Underlined** text was eliminated to address concerns from the October 7, 2015 Planning Board meeting, specifically staff is eliminating language defining the materials that could constitute an acceptable backstop. In consultation with the County Attorney it was determined projectile proof backstop would be sufficient.

¹⁶ **Bold Green Underlined** text represents a change to address comments from the September 8, 2015 Quarterly Public Hearing and combines what was proposed to be Section(s) 5.7.1 (B) (1) (b) and (c) into 1 section. Staff has decided to add language reducing required setbacks if shooting/targeting activities occur indoors to address BOCC and Planning Board concerns over the possible impacts proposed setbacks would have on a property owner’s ability to engage in target shooting activities.

¹⁷ **Bold Green Underlined** text represents additional regulations to address comments from the September 8, 2015 Quarterly Public Hearing to provide greater flexibility for those property owners who choose to erect an indoors target range on their property with respect to required setbacks.

- b. Be designed to keep the shot within the structure.**¹⁸
- (iv) All Shooting or targeting activities occurring outdoors shall occur only between the hours of 10:00 a.m. to 6:00 p.m. daily.¹⁹
- (v) Warning signs indicating shooting activities are occurring on the property shall be posted at one hundred-foot intervals along the perimeter of the property in accordance with Section 6.12.5.²⁰
- (vi) A Type B land use buffer, as detailed within Section 6.8, shall be required around the perimeter of the portion of property where outdoor target shooting activities, including skeet shooting, occurs.²¹²²
- (vii) The use of exploding shells, targets, or other similar materials shall be prohibited.
- (viii) Nothing within Section 5.7.1 shall be construed as limiting or otherwise restricting hunting activities, the use of fireworks, the incidental discharge of a firearm, the discharge of a firearm in self-defense, or engaging in target shooting activities on a parcel of property less than 2 days a month.²³
- (b) Motor Cross and Go-Kart Tracks**²⁴
- (i) All tracks and/or paths shall be located a minimum of 100 feet from a property line.
- (ii) A track or path shall not cross over active septic fields.
- (iii) A Type B Land Use Buffer, as detailed in Section 6.8, shall be required around the portion of the property where the track is located.
- (B) Non-residential Land Uses**²⁵

¹⁸ Staff is not recommending the establishment of a standard with respect to an indoor projectile-proof backstop. We believe this can be addressed on a case by case basis.

¹⁹ **Bold Green Underlined** text represents additional regulations to address comments from the September 8, 2015 Quarterly Public Hearing where BOCC and Planning Board members recommended limiting the hours which target shooting activities could occur.

²⁰ **Bold Green Underlined** text represents clarifying language requested at the September 8, 2015 Quarterly Public Hearing to ensure erected warning signs are consistent with established regulations.

²¹ **Bold Orange Underlined** text added to address October 7, 2015 Planning Board comments on incorporating specificity for skeet shooting activities.

²² This will require either the erection of a land use buffer, or preservation of existing vegetation, around the area of the property where shooting activities are occurring. Staff is recommending the installation of a buffer regardless of shooting occurring indoors or outdoors as the buffer will assist with the possible reduction of noise occurring from a discharged weapon.

²³ **Bold Blue Underlined** text represents a change made in consultation with the County Attorney's office after the Quarterly Public Hearing and is designed to ensure we are not limiting the lawful discharge of a firearm or otherwise requiring compliance with development requirements for property owners who may engage in incidental target shooting activities.

²⁴ In the late 1990's and early 2000's staff received numerous complaints from local property owners over the use of motorcycles and go-karts on private property. We are amending existing regulations to establish setback and land use buffer requirements to address these concerns.

²⁵ **Bold Green Underlined** text represents a change to address comments from the September 8, 2015 Quarterly Public Hearing clarifying development standards for recreational amenities developed by non-residential land uses such as a church.

In addition to the requirements contained within this Ordinance, recreational uses developed as an accessory use to a non-residential land use shall abide by the following:

(1) Uses shall not constitute Recreational Facilities.

5.7.15.7.2 Recreational Facilities

(A) General Standards of Evaluation

(1) The standards included herein shall be applied to ~~the following for-profit~~ recreational facilities as a principal use of property.²⁶

~~(a) Tennis clubs~~ Sports played on a²⁷;

~~(b) Swim clubs,~~

~~(c) Racquet ball,~~

~~(d) Squash clubs,~~

~~(e) Pitch and putt courses,~~

~~(f) Amusement areas,~~

~~(g) Bowling alleys,~~

~~(h) Skating rinks,~~

~~(i) Shooting ranges,~~

~~(j) Billiard and pool halls,~~ or other similar activities

~~(k) Rope climbing or obstacle courses,~~

~~(l) Go-kart or motor cross track,~~

~~(m) Exercise facilities including aerobic and yoga studios,~~

~~(n) Indoor athletic facilities and~~

~~(o) Other similar uses.~~

(2) The minimum lot area shall be two acres.

~~(3) Facilities may include such features as play and training areas, athletic field lights, public address systems, parking for patrons and staff, storage/office facilities, and restroom/locker facilities.~~

~~(3)(4) No building shall be closer than 20 feet from any right-of-way or property line or than the minimum requirements of the district in which it is located. or 20 feet to the public right-of-way or private property line, whichever is greater.~~

~~(4)(5) Outdoor athletic fields shall comply with the provisions of Section 6.11 and shall be located a minimum of 50 feet from a property line.~~²⁸

~~(6) All outdoor recreational facilities shall utilize a combination of screens, fences, nets, berms, or vegetation to keep equipment on the property.~~²⁹

~~(B)~~

²⁶ **Blue Underlined** text represents a change made in consultation with the County Attorney's office after the Quarterly Public Hearing in an attempt to further distinguish a recreational facility, considered a principal use of property, versus an accessory use.

²⁷ Text moved to the definition of a Recreational Facility in Article 10.

²⁸ This is a new regulation designed to protect adjacent property owners from the glare of outdoor lighting generated by an outdoor recreational facility.

²⁹ This regulation is designed to ensure any equipment used as part of an outdoor facility (balls, etc.) stays on the property.

(B) Standards for Specific Uses³⁰**(1) Shooting Ranges**

- (a) Shooting ranges, including skeet shooting activities,³¹ ~~not otherwise exempted herein,~~³² shall be designed or oriented to keep projectiles on the property.
- (b) Outdoor shooting ranges shall:³³
- (i) Be located a minimum of 300 feet from all property lines, street rights-of-way, or access easements;
 - (ii) Be located a minimum of 1,000 feet from occupied dwelling units external to the property; and
 - (iii) Have shooting activities Direct all stationary target shooting activities into a projectile-proof backstop consisting of concrete, steel, earth, wood or combination thereof,³⁴ a minimum of 15 feet in height and 30 feet in depth.
 - (iv) Operate only from 10:00 a.m. to 6:00 p.m. daily.³⁵
 - (v) Maintain a Type F land use buffer, as detailed in Section 6.8, around the perimeter of the range.
- (c) Indoor shooting activities shall:
- (i) Be located a minimum of 50 feet from all property lines, street rights-of-way, or access easements;
 - (ii) Be located a minimum of 500 feet from occupied dwelling units external to the property; and
 - (iii) Direct shooting activities into a projectile proof backstop to keep the shot within the structure.
 - (iv) Maintain a Type B land use buffer, as detailed in Section 6.8, around the perimeter of the property.
- (d) Nothing in Section 5.7.2 (B) shall be construed as regulating hunting activities or the operation of a shooting range developed for, and exclusively utilized by, local, State, and/or Federal law enforcement agencies.
- (e) Nothing in Section 5.7.2 (B) shall be construed as regulating or prohibiting:
- i. Hunting activities or the operation of a shooting range developed for, and exclusively utilized by,

³⁰ These regulations would govern the development of commercial shooting ranges.

³¹ **Orange Bold Underlined** text added to address concern expressed at the October 7, 2015 Planning Board meeting the ordinance would not allow skeet shooting.

³² **Bold Blue Underlined** text was a change made in consultation with the County Attorney's office after the Quarterly Public Hearing. To address concerns from the Planning Board it has been deleted.

³³ **Bold Green Underlined** text represents a change to address comments from the September 8, 2015 Quarterly Public Hearing to ensure setback/development standards for shooting ranges are similar regardless if they are for private or public use.

³⁴ ~~**Bold Green Underlined**~~ text was eliminated to address concerns from the October 7, 2015 Planning Board meeting, specifically staff is eliminating language defining the materials that could constitute an acceptable backstop. In consultation with the County Attorney it was determined projectile proof backstop would be sufficient.

³⁵ **Bold Blue Underlined** text represents a change made in consultation with the County Attorney's office after the Quarterly Public Hearing to consolidate regulations governing outdoor shooting activities into a central section.

local, State, and/or Federal law enforcement agencies.

ii. The holding of turkey shoots or other similar activities conducted as a fundraiser or community event so long as such activities occur no more than three days in a given calendar year on a parcel of property³⁶ .

iii. The incidental discharge of a firearm, the discharge of a firearm in self-defense, or engaging in target shooting activities on a parcel of property less than 2 days in a given month.³⁷

(2) Outdoor Paintball

(a) Areas where outdoor paintball activities occur shall be a minimum of 50 feet from all property lines, street rights-of-way, or access easements.

(b) A Type B land use buffer, as detailed in Section 6.8, shall be required around the perimeter of the portion of property where outdoor paintball activity occurs.

(3) Pitch and Putt Courses

(a) Pitch and putt areas shall be located a minimum of 40 feet from all property lines, street rights-of-way, or access easements.

(b) A Type B land use buffer, as detailed in Section 6.8, shall be required around the perimeter of the portion of property where pitch and putt course activity occurs.

(C) Standards for Class B Special Use Permit

(1) Submittal Requirements

In addition to the information required by Section 2.7, the following information shall be supplied as part of the application for approval of this use:

- (a) A description of the exact type facility planned, the amount of area, including and number of members or participants expected, a site plan showing siting and size of existing and proposed building.
- (b) Access, parking, service and recreation areas for all planned facilities or existing facilities.
- (c) Plans, and elevation for all proposed and existing structures and descriptions of the color and nature of all exterior materials.
- (d) A landscape plan showing, at the same scale as the site plan, existing and proposed trees, shrubs, ground cover and any other landscape materials.
- (e) A signed statement from the owners or operators that there shall be no activity allowed that will have adverse effects on adjacent property. The statement shall also include a complete list of all recreational activities that will take place on the site.

(2) Standards of Evaluation

³⁶ Staff did not want to inadvertently prohibit what has become a lucrative fundraising opportunity for several local organizations. As a result language was included to allow for turkey shoots and other similar activities to occur.

³⁷ **Bold Blue Underlined** text represents a change made in consultation with the County Attorney's after the Quarterly Public Hearing to ensure we are treating the discharge of a firearm consistently within the UDO.

- (a) The property shall have direct frontage on, and obtain vehicular access from, a public road.³⁸
- ~~(a)~~(b) Lot size shall be adequate for the method of sewage disposal proposed, and for the proposed recreational uses.
- ~~(b)~~(c) The site plan should show the boundaries of the site, the distances to the nearest residential structures, proposed or existing access points, parking and service areas, location of outdoor recreational facilities, and location of existing or proposed buildings.
- ~~(c)~~(d) The landscape plan shall be at the same scale as the site plan and should show how the facilities will be screened from the adjacent properties, in addition to proposed or existing trees, shrubs and ground cover.
- ~~(d)~~(e) Elevations of all structures and buildings. The structure shall be of such a nature as to preserve the residential character of the area.
- ~~(e)~~(f) There are no adverse impacts on the adjacent roads or residential property.

5.7.25.7.3 Golf – Driving and Practice Range

(A) Standards for Class B Special Use Permit

(1) Submittal Requirements

In addition to the information required by Section 2.7, the following shall be submitted as part of the application:

- (a) A site plan showing the following:
- (i) All existing or proposed buildings, tee areas, lawn areas,
 - (ii) Distances to nearest residential structures,
 - (iii) Access road(s) to the site, with an indication of type of proposed surface;
 - (iv) On-site parking and roads, with an indication of type of proposed surface; and
 - (v) All other requirements as indicated in section 2.5.

(2) Standards of Evaluation

- (a) Unless public sewer is proposed to be extended, the adequacy for the method of sewage disposal will be determined by the lot size and soil suitability. Appropriate letters from the Orange County Environmental Health Department, local jurisdictions and/or the State Division of Environmental Management shall be submitted to indicate preliminary approval.
- (b) The landscape plan shall show how the facilities will be screened from the adjacent properties. A Type D 50 foot buffer, as indicated in Section 6.8, shall be observed around the perimeter of the property. This buffer shall be located outside of the required dimensional area indicated in d. below.
- (c) The site plan, as required in Section 2.7, shall be reviewed by the Orange County Recreation and Parks Director.

³⁸ Staff is recommending this change in an attempt to ensure there is adequate access to a recreation facility and to avoid the use of private roadways supporting such activities.

Public Interest Area

Land which contains public or quasi-public uses such as state parks, research forests or known archaeological or historical sites.

Public Safety Hazard and/or Nuisance

Anything, which is injurious to the safety or health of an Orange County neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Public Vehicular Areas

Street in a platted subdivision which are open for vehicular traffic and have been offered for dedication to the public and where the offer for dedication has not been accepted.

Recreation Use, Non-Profit

~~An indoor or outdoor recreation use owned by a not for profit corporation, according to the laws of North Carolina.~~

Recreation Use, Profit

~~An indoor or outdoor recreation use owned by an entity other than a not for profit corporation.~~

Recreation Space

Exterior area appropriately improved for common recreational use. Part of total and livability open space.

Recreation Space Ratio

Recreation space ratio is the minimum square footage of open space in residential areas, suitable by location, size, shape, access and improvements, required for each square foot of gross land area. This area is a public or private exterior area improved for recreation of all residents, having a least dimension of 50 feet, and average dimension of 100 feet and a minimum area of 10,000 square feet.

Recreation Vehicle (RV)

A self-propelled or towed vehicle, qualified to be licensed by the appropriate State Agency, and is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, providing short term recreational living accommodations, designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational Facility – For Profit Facilities

~~Includes uses such as tennis clubs, swim clubs, racquet ball, squash clubs, pitch and putt courses, amusement areas, bowling allies, skating rinks, shooting ranges, billiard and pool halls, indoor athletic facilities and such similar uses. A use of property occurring indoors and/or outdoors providing recreational amenities, activities, or services³⁹ to either the general public or to members of an organization, club, or league for the purpose of leisure, physical fitness, training, competitive activities or for compensation⁴⁰. Activities shall include, but not be limited to: sports played on a court, amusement arcades, bowling alleys, skating rinks, shooting ranges, billiard and pool halls, paintball, rope climbing or obstacle courses, go-kart or motor cross tracks, exercise centers including aerobic and yoga studios, athletic facilities, and gymnasiums.⁴¹~~

Reference level

The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance. For structures within Special Flood Hazard Areas designated as Zone AE, the reference level is the top of the lowest floor.

³⁹ Language within the definition was revised after the public hearing based on comments from the County Attorney's office in an attempt to make enforcement easier.

⁴⁰ **Bold Orange Underlined** text added to address comments from the October 7, 2015 Planning Board meeting.

⁴¹ **Bold Blue Underlined** text represents a change made in consultation with the County Attorney's office after the Quarterly Public Hearing moving language previously found in Section 5.7.1

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

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

SUBJECT: MINUTES

DEPARTMENT:

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

INFORMATION CONTACT:

Draft Minutes

Donna Baker, 245-2130

PURPOSE: To correct and/or approve the minutes as submitted by the Clerk to the Board as listed below:

November 23, 2015
December 15, 2015

BOCC Quarterly Public Hearing
BOCC Regular Meeting

BACKGROUND: In accordance with 153A-42 of the General Statutes, the Governing Board has the legal duty to approve all minutes that are entered into the official journal of the Board's proceedings.

FINANCIAL IMPACT: NONE

RECOMMENDATION(S): The Manager recommends the Board approve minutes as presented or as amended.

Attachment 1

DRAFT

MINUTES
ORANGE COUNTY BOARD OF COMMISSIONERS
QUARTERLY PUBLIC HEARING
November 23, 2015
7:00 P.M.

The Orange County Board of Commissioners met with the Orange County Planning Board for a Quarterly Public Hearing on November 23, 2015 at 7:00 p.m. at the Whitted Building, in Hillsborough, N.C.

COUNTY COMMISSIONERS PRESENT: Chair Earl McKee and Commissioners Barry Jacobs, Mia Burroughs, Mark Dorosin, Bernadette Pelissier and Penny Rich

COUNTY COMMISSIONERS ABSENT: Renee Price

COUNTY ATTORNEY PRESENT: John Roberts and James Bryan (Staff Attorney)

COUNTY STAFF PRESENT: County Manager Bonnie Hammersley and Deputy Clerk to the Board David Hunt (All other staff members will be identified appropriately below)

PLANNING BOARD MEMBERS PRESENT: Vice Chair Lydia Wegman and Planning Board members, Herman Staats, Paul Guthrie, Laura Nicholson, Andrea Rohrbacher and H.T. "Buddy" Hartley

PLANNING BOARD MEMBERS ABSENT: Tony Blake, James Lea, Maxecine Mitchell, Patricia Roberts and Lisa Stuckey

Chair McKee called the meeting to order at 7:12 p.m.

A. OPENING REMARKS FROM THE CHAIR

Chair McKee welcomed everyone to the meeting. He noted that there were two items for the public hearing, to be followed by one work session item. He noted the following items at the Commissioners' places:

- PowerPoint for item C-1: Unified Development Ordinance (UDO) Text Amendment Sexually Oriented Businesses
- PowerPoint for item C-2: Unified Development Ordinance (UDO) Text Amendment Display of Vehicles at Motor Vehicle Sales/rental Land Uses

B. PUBLIC CHARGE

Chair McKee dispensed with the reading of the public charge.

C. PUBLIC HEARING ITEMS

- 1. Unified Development Ordinance (UDO) Text Amendment** - To review government-initiated amendments to the text of the UDO regarding sexually oriented businesses.

BACKGROUND:

As defined within NCGS 14-202.10 a sexually oriented business means, "Any businesses, or enterprises that have as one of their principal business purposes, or as a significant portion of their business, an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities."

The County cannot prohibit sexually oriented businesses outright but is afforded the opportunity to regulate their location and certain operational characteristics in an effort to ensure identified secondary impacts are mitigated.

1 Staff is proposing to amend the UDO to establish locational criteria for such businesses
 2 including mandatory setbacks from identified sensitive uses (i.e. church, school, single-family
 3 residence, etc.) while allowing for their development consistent with applicable State and
 4 Federal requirements and prohibiting the consumption and/or sale of alcohol. In support of
 5 recommended land use regulations, staff offers the following information with respect to
 6 addressing identified secondary impacts.

7 Staff's review of these studies caused a conclusion that the secondary effects of
 8 sexually oriented businesses have negative impacts on the surrounding area, in the form of
 9 crime and property devaluation, which will be addressed by the proposed regulations.

10 Planning staff is recommending sexually oriented businesses observe a 1,000 ft.
 11 setback from each other as well as identified sensitive uses (i.e. church, residence, playground,
 12 etc.). Staff is recommending the setback for several reasons, including:

13 a. Referenced studies have found the clustering of such land uses in a given area could
 14 attract an undesirable quantity and quality of transients adversely impacting property values,
 15 creating blight for adjacent properties, cause an increase in crime and encourages residents
 16 and businesses to move elsewhere.

17 b. Courts have consistently found local communities have the legal ability and interest in
 18 promoting stable neighborhoods through requiring a setback. This was viewed as being a
 19 substantial government interest and the incidental impact of an ordinance regulating such
 20 businesses on protected speech. (United States versus O'Brien – US Supreme Court
 21 (1976); Young versus American Movie Theaters Inc. – US Supreme Court (1979) ; City of
 22 Renton versus Playtime Theaters – US Supreme Court (1986)).

23 The proposed setback does not restrict the activity that can occur within the business.

24 Planning staff is recommending sexually oriented businesses not be located within a
 25 structure or on property where alcohol is allowed to be sold or consumed. Staff is
 26 recommending the standard for several reasons including:

27 a. Referenced studies have found such land uses could attract an undesirable quantity and
 28 quality of transients adversely impacting property values, creating blight for adjacent
 29 properties, and causes an increase in crime (most notably prostitution).

30 In some of these studies alcohol is identified as contributing factor.

31 b. Courts have found local communities have the legal ability to restrict or prohibit the
 32 consumption/sale of alcohol (Fay versus State Board of Alcoholic Control – NC Court of
 33 Appeals (1976).

34 c. State law allows governing bodies to restrict alcohol sales/consumption at sexually
 35 oriented businesses. Please refer to Attachment 2.

36 The prohibition on alcohol sales/consumption does not restrict the activity that can occur
 37 within the business.

38
 39 Michael Harvey, Orange County Planning, made the following PowerPoint presentation:

40
 41 **November 23, 2015**

42 **Agenda Item: C-1**

43 **Public Hearing-Unified Development Ordinance (UDO) Text Amendment**

44 **Sexually Oriented Businesses**

45 **Orange County Planning Department**

46
 47 **Background:**

- 48 • Local governments cannot prohibit sexually oriented businesses outright.
- 49
- 50 • Courts and State law allow local governments to regulate their location and certain
 51 operational characteristics to ensure identified secondary impacts are mitigated.

Proposal:

- Amend the UDO to allow such businesses within light and medium intensity industrial districts (I-1 and I-2),
 - Staff is recommending these districts as there are typically less identified sensitive uses in proximity to industrial developments.
- Require mandatory setbacks from identified sensitive uses (i.e. church, school, single-family residence, etc.), and
- Prohibit the consumption and/or sale of alcohol.

Where Allowed (map)**Staff Findings:**

- Studies have found sexually oriented businesses can have negative secondary impacts on the surrounding area.
- Secondary impacts from such businesses can include increased levels of crime, sexual deviance, prostitution, and negative economic impacts.
 - STAFF COMMENT: These impacts can be addressed by the proposed regulations.
- Studies have found consumption of alcohol at sexually oriented businesses contributes to identified secondary impacts including crime, most notably prostitution, and increased blight.
 - STAFF COMMENT: This impact can be addressed by the proposed regulations.
- Proposed regulations are content neutral and do not restrict anyone's rights with respect to engaging in a sexually oriented business activity.

Recommendation:

Recommendation(s): The Planning Director recommends that the Board:

1. Receive the request.
2. Conduct the Public Hearing and accept public, BOCC, and Planning Board comments.
3. Refer the matter to the Planning Board with a request that a recommendation be returned to the BOCC in time for its February 2, 2016 regular meeting.
4. Adjourn the public hearing until February 2, 2016 in order to receive and accept the Planning Board's recommendation and any submitted written comments.

Commissioner Dorosin asked if the Planning Board had done any analysis, within the I-1 and I-2 zones, to determine how many parcels of land would meet the requirements of the mandatory setbacks. He asked if there are any locations where these businesses could operate given the restrictions.

Michael Harvey said there are currently two properties within Orange County that will allow for the development of sexually oriented businesses.

Commissioner Dorosin asked the County Attorney if having only two parcels of available land would survive a legal challenge.

James Bryan said it is a risk and the more sites available the less risk there is. He said there is no magic number. He said another variable to consider is the size of the property and whether it could hold only one business, or be subdivided.

Michael Harvey said there are currently two properties but that does not prevent more properties from being zoned for the use of sexually oriented businesses. He said existing sexually oriented businesses would still be allowed to operate legally even if future construction were to cause them to fall out of compliance with the required setbacks.

1 Commissioner Dorosin asked if the two currently identified sites could hold more than
2 one business.

3 Michael Harvey said the parcels could be subdivided with two or three businesses.

4 Commissioner Pelissier referred to the risk of alcohol consumption at sexually oriented
5 businesses and asked if there are provisions in place to insure that alcohol is not being
6 consumed in other businesses next door.

7 Michael Harvey said the industrial districts do not allow restaurants or bars as permitted
8 uses of property.

9 Commissioner Rich asked if the wording in the amendment could be changed to "place
10 of worship" rather than "church and/or place of worship".

11 Michael Harvey said yes.

12 Commissioner Rich referred to page 21 and asked for the source of the definition of the
13 "state of nudity".

14 Michael Harvey said from State law and example ordinances throughout the State.

15 Commissioner Rich said the wording of this definition was strange and discriminatory to
16 the female body by identifying the bare female chest as obscene but not the bare male chest as
17 such.

18 Michael Harvey said this stems from the obscenity statute.

19 Commissioner Rich asked if the language must follow the statute. She said the
20 woman's body is constantly being put down and this reinforces that a woman's breasts should
21 not be seen.

22 James Bryan said he could review the issue.

23 Commissioner Rich asked if there could be clarity regarding the definition of male
24 genitalia.

25 Michael Harvey said he is unsure of her question.

26 Commissioner Rich said she does not understand why male genitalia is listed as
27 obscene, and that her teenage sons were naked in their home.

28 Michael Harvey said these definitions are referring to sexually oriented businesses and
29 an effort to keep these businesses operating appropriately.

30 Commissioner Dorosin said the ordinance is designed to keep actual live sex shows
31 from taking place.

32 Commissioner Rich said is struggling with the definition and she would like it to be more
33 general.

34 Michael Harvey said the specificity insures that some of the concerns expressed by
35 Commissioner Rich do not fall into an over ambiguous category, where unnecessary regulation
36 occurs; while allowing for the regulation of activities that have been deemed to be classified as
37 sexually oriented businesses.

38 Commissioner Dorosin said nude dancing cannot be regulated as it is protected by the
39 first amendment; but actual live sex shows can be regulated.

40 Commissioner Rich said the language requires that a woman, who is dancing nude,
41 must cover her breasts.

42 Michael Harvey said the language says that a woman wearing pasties is not considered
43 to be nude, or in a state of nudity.

44 Commissioner Rich said she would like to see the language include both male and
45 female.

46 Commissioner Jacobs asked if alcohol could be sold if the business is a private club.

47 Michael Harvey said he would refer to the attorney, but added that a private club could
48 serve alcohol but a private club could not be a sexually oriented business as alcohol is being
49 sold and consumed.

1 Commissioner Jacobs gave the example of a country club that served alcohol. He
2 asked if a man swimming topless at the country club pool would be in violation of the ordinance,
3 as alcohol is being served and he is shirtless.

4 Michael Harvey said the man would not be at a sexually oriented business or engaging
5 in a sexual activity.

6 Commissioner Jacobs asked if the country club would be a sexually oriented business if
7 the wait staff were to be topless.

8 Michael Harvey said yes. He said if one is engaging in a business practice or activity
9 where one is enjoying a meal while also ogling naked members of the opposite sex then the
10 nature of the business meets the standard of a sexually oriented business. He said getting out
11 of the pool without a shirt has nothing to do with offering a service for compensation or for any
12 form of pay.

13 Commissioner Jacobs asked what would happen if the wait staff were dressed in bathing
14 suits.

15 Michael Harvey said the line gets crossed when a business model starts providing
16 specific activities that meet the definition of a sexually oriented business. He gave the example
17 that the restaurant Hooters does not meet the definition of a sexually oriented business.

18 Commissioner Jacobs said we get closer and closer to a preposterous line.

19 Commissioner Jacobs asked if there are any qualifying properties in the speedway
20 economic development area.

21 Michael Harvey said this property is not zoned industrial.

22 Commissioner Jacobs asked if this area could be rezoned.

23 Michael Harvey said no, not in his opinion.

24 Commissioner Rich asked if there are currently any sexually oriented businesses in
25 Orange County.

26 Michael Harvey said none of which he is aware.

27 Commissioner Rich asked if there are any businesses that would like to apply to come to
28 Orange County.

29 He said there have been several inquiries during his tenure but no one has followed
30 through. He said these businesses cannot be banned but they can be regulated.

31 Commissioner Dorosin referenced an all-girl staff establishment near I-85.

32 Michael Harvey said this business closed down, and that property is zoned economic
33 development Hillsborough, medium intensity and would not be allowed to reopen as a sexually
34 oriented business.

35 Commissioner Dorosin asked how the business opened in the first place.

36 Michael Harvey said it probably pre-dated zoning.

37 Commissioner Dorosin said there are a lot of negatives about these businesses,
38 especially how women are exploited, and he is glad that the County is regulating them. He
39 added that he does not support the banning of alcohol in these businesses.

40 Chair McKee said a reason for banning alcohol would be to add one more step in the
41 process of establishing a sexually oriented business, thus making it harder to do so. He said he
42 is in favor of banning the sale of alcohol at sexually oriented businesses.

43
44 A motion was made by Commissioner Pelissier, seconded by Commissioner Rich to
45 refer the matter to the Planning Board with a request that a recommendation be returned to the
46 BOCC in time for its **February 2, 2016** regular meeting and to adjourn the public hearing until
47 **February 2, 2016** in order to receive and accept the Planning Board's recommendation and any
48 submitted written comments.

49 VOTE: Ayes, 5; Nays, 1 (Commissioner Dorosin)

51 MOTION PASSES

1
2 Chair McKee noted that Commissioner Price was unable to attend the meeting this
3 evening.
4

5 **2. Unified Development Ordinance (UDO) Text Amendment** - To review government-
6 initiated amendments to the text of the UDO regarding car sales and rental operations.

7 Michael Harvey reminded the Board that this is the last item that will be heard under the
8 joint public hearing process. He said the UDO was amended, beginning January 1, 2016, and
9 items will begin in Planning Board Meeting. He said this is the last meeting where an item will
10 be referred to the Planning Board.

11 Michael Harvey noted that page 27 of the abstract provides a background; pages 32
12 through the 37 show some examples of existing automotive businesses; and page 38 shows the
13 proposed text amendment.
14

15 **BACKGROUND:**

16 Staff has seen an increase in the number of automotive sale/rental business operating
17 within the County and has begun receiving complaints related to the storage and display of
18 vehicles (i.e. too many cars being displayed, parking over septic fields, parking in required
19 buffer areas, parking in public road rights-of-way, etc.). Currently, the County limits only the total
20 number of cars that can be parked and/or displayed for an automotive sales business located
21 within the Neighborhood Commercial (NC-2) general use zoning district.

22 Staff is proposing to develop comprehensive regulations designed to limit the
23 overcrowding of automotive sales operations within all general use zoning districts where such
24 land uses are permitted. Staff has also provided pictures of existing motor vehicles sales/rental
25 businesses in Attachment 2 to assist in illustrating the concern(s).
26

27 Michael Harvey made the following PowerPoint presentation:
28

29 **November 23, 2015**

30 **Agenda Item: C-2**

31 **Public Hearing-Unified Development Ordinance (UDO) Text Amendment**

32 **Display of Vehicles at Motor Vehicle Sales/rental Land Uses**

33 **Orange County Planning Department**
34

35 **Background**

- 36 • 2012 text amendment petition by local property owner limited display of cars to 12 within
- 37 Neighborhood Commercial (NC-2) district,
- 38 • Staff has seen an increase in number of vehicles stored on sites throughout County,
- 39 • Believe there is room to increase number of allowable cars and require property
- 40 owner/applicant to definitively delineate car display areas on a site plan to avoid
- 41 confusion.
42

43 **Proposal:**

- 44 • Amend the UDO to base number of vehicles stored on property on acreage.
 - 45 – Staff is recommending a limit of 25 cars per acre for property zoned Nc-2, EC-5,
 - 46 E-I to address exiting issues.
 - 47 – Staff is recommending a limit of 45 cars per acre for property in urbanizing areas.
- 48 • Require mandatory designation of vehicle display area, and
- 49 • Allow for incidental storage of additional vehicles so long as they are screened from
- 50 view.
51

1 **Example (aerial photo)**

2
3 **Staff Findings:**

- 4 • Proposed amendments will create a distinction between vehicles displayed for sale and
5 stored for other purposes,
6 • Will help to address existing congestion at automotive sales operations,
7 • The proposal will create a necessary distinction between automotive sales/rental
8 businesses within urban and non-urban areas of the County, and
9 • Firms up language requiring display/storage areas to be properly delineated and
10 screened.

11
12 **Recommendation:**

13 Recommendation(s): The Planning Director recommends that the Board:

- 14 1. Receive the request,
15 2. Conduct the Public Hearing and accept public, BOCC, and Planning Board
16 comments.
17 3. Refer the matter to the Planning Board with a request that a recommendation be
18 returned to the BOCC in time for its February 2, 2016 regular meeting.
19 4. Adjourn the public hearing until February 2, 2016 in order to receive and accept
20 the Planning Board's recommendation and any submitted written comments.
21

22 Commissioner Dorosin referred to the aerial photo and asked if Michael Harvey could
23 please explain the difference between the shaded areas, the not shaded areas, and the red
24 area.

25 Michael Harvey said the aerial photo is of an existing site which attempts to show what
26 would be allowable. He said the shaded area would allow for the display of cars, the un-shaded
27 area would be for parking, and the red area would be where cars could be stored.

28 Commissioner Dorosin asked if the road could be pointed out in the photo.

29 Michael Harvey did so.

30 Michael Harvey said this photo is just a snap shot in time and there may be several
31 options that could meet the requirements. He said the black line on the photo does not indicate
32 a set back.

33 Commissioner Dorosin asked if the cars in the red area would count towards the 25-car
34 limit.

35 Michael Harvey said no.

36 Commissioner Rich said the image on page 32 looks like a lot more than 25 cars.

37 Michael Harvey said yes that is significantly more than 25 cars, which would not be
38 allowed under the proposed text amendment.

39 Michael Harvey said the only zoning district that has a limit on the number of cars that
40 can be displayed is the neighborhood commercial district. He said the example on page 32 is
41 currently acceptable and the proposed amendment would seek to avoid such examples.

42 Commissioner Rich asked if the proprietor of the site shown on page 32 knows about the
43 proposed amendment.

44 Michael Harvey said yes.

45 Chair McKee asked if there is a reason that the limit of land covered by vehicles is set at
46 20 percent. He said it would make more sense to him to have five car lots with 30 or 40 percent
47 coverage, rather than 15 car lots with 20 percent coverage. He said if there is a demand for a
48 certain number of cars, the need could be met by increasing the number of lots or increasing the
49 density on a smaller number of lots.

50 Michael Harvey said there must be a distinction between zoning designations in the
51 predominantly rural areas of the County versus the predominantly urban areas. He noted that

1 45 cars per acre are permitted in the economic development districts in the general commercial
2 district. He said the proposed amendment is a compromise.

3 Chair McKee said there should be equity between the lots. He referred to the two
4 examples in the packet and said it would seem more reasonable to allow a bit more density in
5 the number of vehicles rather than forcing the owner to go through what he would assume is a
6 Class A special use permit process to change a business to a commercial zone.

7 Michael Harvey said a number limit had to be chosen and if the Board would like to see
8 a higher number, it should direct staff and the Planning Board accordingly.

9 Chair McKee asked if there is an existing commercial property designation.

10 Michael Harvey said yes and would require going through the rezoning process.

11 Chair McKee said this is to what he was referring.

12 Michael Harvey said this would require a property owner to petition for a legislative
13 hearing asking the Board to rezone their property as general commercial.

14 Commissioner Burroughs asked if there are challenges that exist with the lots having
15 excess cars, such as emergency vehicle access or parking cars over septic tanks.

16 Michael Harvey said concerns include access, use of required parking spaces for the
17 display of vehicles, adequate buffering and open space, quantity of impervious surfaces, etc.
18 He said it is a balancing act between allowing a business to flourish and insuring that there is
19 adequate area to support the business.

20 Commissioner Burroughs said the question is to find the right number of vehicles.

21 Michael Harvey said it is more about finding the right percentage of land usage for cars
22 that can allow for the business to safely operate.

23 Chair McKee referred to one of the properties in the PowerPoint presentation and asked
24 if the storage area would be screened.

25 Michael Harvey said yes. He said the cars in the screened area would be those that are
26 not yet ready for sale and would allow them to be screened from view.

27 Chair McKee said he accepted the rationale for the screening but does not necessarily
28 agree with it.

29 Michael Harvey said the goal of the screened area is to provide a space for vehicles that
30 are not counted in the number of allowable allotment of vehicles displayed for sale per site.

31 Commissioner Rich asked if the building on page 36 is a person's home.

32 Michael Harvey said no, it is a commercial business with a residential property next
33 door.

34 Commissioner Dorosin asked if the idea behind this text amendment is that it is currently
35 too difficult to enforce the existing rules to keep people from parking in the right of way or
36 encroaching on neighboring properties.

37 Michael Harvey said no, the problem is two-fold: the first issue is that there is a feeling
38 that the 12-vehicle limit is too arduous; the second issue is to determine what number of
39 vehicles is acceptable. He said staff picked a number that it deemed reasonable which could be
40 more or less. He said a middle ground is being sought. He said it is also important to insure
41 some level of equity across zoning districts.

42 Commissioner Dorosin asked if a complaint came in regarding the number of cars in an
43 area, where there is currently no regulation on the number of cars, is there an enforcement
44 mechanism by which the County can go out and address the concern.

45 Michael Harvey said yes.

46 Commissioner Dorosin asked if this is being done.

47 Michael Harvey said yes.

48 Commissioner Dorosin asked if it would be easier to have no vehicle limits across the
49 board and simply respond to concerns as they arise.

50 Michael Harvey said easy is a loaded word. He said this idea would help address the
51 equity issue and would be viewed as more reasonable. He said allowing a storage area for

1 vehicles, not included in the permitted amount of vehicles, would also help. He said he feels the
2 Board suggesting that the limit of 25 vehicles may not be viable.

3 Commissioner Dorosin said he is not so interested in the right number but rather
4 understanding the connection between the harms that are seeking to be addressed and this
5 means of addressing them.

6 Commissioner Dorosin asked if these regulations would only apply to commercial
7 businesses. He asked if he were to fix cars at his home, as a side business, would he be
8 subject to these regulations.

9 Michael Harvey said no he would not be subject to these regulations, with one caveat:
10 he said the goal is not to prevent people from selling a car, but there are prohibitions in the UDO
11 that prohibit one from engaging in an automotive repair business from one's property. Thus
12 working on one's own car is not an issue and selling a car on one's property is not an issue but
13 having 30 or 40 cars puts you into a questionably commercial establishment.

14 Commissioner Rich asked if there is currently a limit to the number of vehicles that may
15 be at one household.

16 Michael Harvey said no and the only prohibition is that junked vehicles cannot be stored
17 on one's property.

18 Commissioner Rich asked if one could have 10 cars parked in one's front yard.

19 Michael Harvey said yes, and he said that would not be a land issue, but rather a
20 general ordinance issue should the Board choose to address it.

21 Paul Guthrie asked if there is any distinction in existing zoning regulations between cars
22 for sale on site, cars stored on site for future sale and cars that are stored at another location,
23 but of the same ownership, waiting to be delivered to the original site or shipped out of state.

24 Michael Harvey said the only current regulation regarding display of vehicles is on NC
25 zoned 2 property, and that limit is 12 vehicles. He said if one is selling vehicles, one must be
26 appropriately zoned and display those vehicles consistent with an approved site plan. He said
27 this proposed ordinance memo will establish limits and allowances across the board in every
28 district where car sales are allowed. He said if one is storing vehicles off site, that property must
29 have been recognized and approved through section 2.5, the site plan review process, to
30 establish a recognized legal land use per the Orange County UDO.

31 Michael Harvey asked if the Board of County Commissioners (BOCC) has a specific
32 number of permissible vehicles in mind.

33 Chair McKee said he would like to ask the Planning Board to consider a higher number.
34 He suggested 45 vehicles across the board.

35
36 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
37 refer the matter to the Planning Board with a request that a recommendation be returned to the
38 BOCC in time for its **February 2, 2016** regular meeting and to adjourn the public hearing until
39 **February 2, 2016** in order to receive and accept the Planning Board's recommendation and any
40 submitted written comments.

41
42 VOTE: UNANIMOUS

43
44 **D. ADJOURNMENT OF PUBLIC HEARING**

45 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
46 adjourn the public hearing at 8:11 p.m.

47
48 VOTE: UNANIMOUS

49
50 Chair McKee called the BOCC Work Session to order at 8:22 p.m.

51 *NOTE: John Roberts replaced James Bryan as County Attorney.*

1
2 **E. BOCC WORK SESSION**

- 3 **1. Impact of 2015 Legislative Updates on Orange County's Erosion**
4 **Control/Stormwater Programs and Riparian Buffer Regulations** – To review how
5 legislative changes made in 2015 have or will impact the County's Erosion
6 Control/Stormwater programs and riparian buffer regulations.
7

8 Craig Benedict, Orange County Planning Director, said this item was a product of work
9 amongst planning staff and the County Attorney's office. He said there have been meetings
10 over the past month regarding legislative changes that have been passed. He said some of
11 these changes would be reviewed this evening, as well as some short-term actions that will help
12 the County adapt to these new regulations.
13

14 **BACKGROUND:**

15 • **Session Law (SL) 2015-149 (H634)** - An act to clarify the definition of built-upon area
16 (BUA) for purposes of stormwater programs.

17 The basic change per this SL is, for the purposes of implementing stormwater programs,
18 "built-upon area" does not include...a surface of number 57 stone, as designated by the
19 American Society for Testing and Materials, laid at least four inches thick over a geotextile
20 fabric; or a trail as defined in G.S. 113A-85 that is either unpaved or paved as long as the
21 pavement is porous with a hydraulic conductivity greater than 0.001 centimeters per second
22 (1.41 inches per hour)."Please refer to Attachment 4 for a copy of the legislation. This only (at
23 this time in our planning opinion) affects the stormwater calculations for runoff retention which
24 would require less storage. This BUA will likely not be widely used.
25

26 • **Session Law 2015-246 (H44)** - An act to reform various provisions of the law related to local
27 government including modifications to riparian buffer standards and changes to the enforcement
28 of voluntary State regulations (i.e. stormwater).

29 A copy of the legislation is contained in Attachment 5. An analysis on the legislations impact on
30 the County's stormwater program in contained
31 in Attachment 1 and Attachment 3 contains our assessment of its impacts on our riparian buffer
32 program.

33 This **will** greatly affect the existing stormwater program in the Jordan Lake watershed where we
34 implemented rules in advance of pending state regulations (which have been delayed).

35 A primary consideration relates to what regulations should be implemented if current ordinances
36 are determined to be non-enforceable?
37

38 • **Session Law 2015-286 (H765)** - An act to provide further regulatory relief to the citizens of
39 North Carolina by providing for various administrative reforms, by eliminating certain
40 unnecessary or outdated statutes and regulations and modernizing or simplifying cumbersome
41 or outdated regulations, and by making various other statutory changes.

42 A copy of the legislation is contained in Attachment 6. An analysis on the legislations impact on
43 the County's stormwater program in contained in Attachment 2.
44

45 Craig Benedict made the following Power Point presentation:

46 **November 23, 2015**

47 **Work Session Item E-1**

48 **Synopsis of Impact(s) of 2015 State Legislation on Orange County's Erosion**

49 **Control/Stormwater Program and Land Use Program**

50 **Orange County Planning Department**
51

<u>Nutrient Rules</u>	<u>Nutrient Rules</u>	<u>Stream Buffer</u>
Neuse River Basis		
- Falls Lake	New Dev. Implemented No Issue	
		Under OC Study
	Existing Dev. Under (UNRBA) Study	
<hr/>		
Cape Fear Basin		
- Jordan Lake	Questionable	
- Haw River	SL (2015-246) (H44)	Under OC Study
Existing Orange County Rules	New Dev. Reg's Implemented June 1, 2012	Under Study
Decision	Under Review case-by-case	January 2017 deadline w/ prior EMC Submittal
<u>Orange County Watersheds (map)</u>		
<u>Area of County Impacted (map)</u>		
<u>Session Laws:</u>		
<ul style="list-style-type: none"> • Session Law (SL) 2015-149 (H634) – Clarifies built-upon area (BUA) RE: Stormwater Permitting. (i.e. 1" Affects design calcs.) <ul style="list-style-type: none"> – Number 57 ASTM stone with at least four inches over a geotextile fabric is not considered BUA. – Certain trails can also be exempt 		
<u>NOTE:</u>		
<i>Orange County zoning (Current Planning enforced), still recognizes all gravel/stone as an 'IMPERVIOUS SURFACE' area.</i>		
<ul style="list-style-type: none"> • Session Law 2015-246 (H44) – Reforms laws related to enforcement of voluntary State regulations (i.e. stormwater nutrient rules) and riparian buffer standards 		
<u>STORMWATER IMPACTS:</u>		
<ul style="list-style-type: none"> – North Carolina Department of Environment and Natural Resources Energy Mineral and Land Resources (DEMLR) comprehensive re-review and of stormwater regulations. – County stormwater management program enforces 2012 state suggested Jordan Lake nutrient load thresholds. – However, due to state implementation delays our 'Advanced UDO' rules may be subject to review and amendment. 		
<u>Land Disturbance Thresholds (chart)</u>		
<ul style="list-style-type: none"> • Session Law 2015-286 (H765) – Omnibus legislation; most impactful language is in paragraph (d) of NCGS 143-214.7, Stormwater Runoff Rules and Programs, is the striking of two words "or exceed". 		

1
2 (d) The Commission shall review each stormwater management program submitted by a State
3 agency or unit of local government and shall notify the State agency or unit or local government
4 that submitted the program that the program has been approved, approved with modifications,
5 or disapproved. The ~~Commission shall approve a program only if it finds that the standards of~~
6 ~~the program equal or exceed those of the model program adopted by the Commission pursuant~~
7 ~~to this section.~~

- 8
9 • **Section 4.20.(c)** ~~No later than March 1, 2016, a State agency or local government that~~
10 ~~implements a stormwater program approved pursuant to subsection (d) of G.S. 143-~~
11 ~~214.7 shall its current stormwater management program or a revised stormwater~~
12 ~~management program to the Environmental Management Commission.~~ No later than
13 December 1, 2016, the Environmental Management Commission shall review and act on
14 each of the submitted stormwater management programs with subsection (d) of G.S.
15 143-214.7, as amended by this section.

16 Streams (map)

17
18
19 Michael Harvey continued the PowerPoint presentation:

20 Session Laws

- 21 • **Session Law 2015-246 (H44) RIPARIAN BUFFER IMPACTS:**
22 – Local governments are prohibited from adopting, implementing, and enforcing
23 riparian buffer (i.e. stream buffer) regulations that exceed State requirements.
24 Unless...
25 – If a local government wants to be more restrictive, then:
26 • Represents a condition of a permit, certificate, or other approval issued by
27 a Federal or State agency
28 - STAFF COMMENT: Does not apply.
29 • Was enacted prior to August 1, 1997 and meets specific criteria
30 - STAFF COMMENT: Our regulations were not adopted using
31 that criteria.

32 **However....**

33 “Submission of a scientific study providing documentation on the need for increased/more
34 restrictive standards based on local physical and environmental conditions.”

35 **STAFF IS WORKING ON FINALIZING A PROPOSAL ON THE SCIENTIFIC STUDY. STAFF**
36 **IS ALSO REVIEWING OTHER OPTIONS WITH STATE OFFICIALS TO DEMONSTRATE**
37 **OUR ORDINANCE IS ALREADY COMPLIANT WITH THE LAW**

38 UDO amendments may be inevitable to ensure compliance with new State Law.
39

40 Recommendation:

41 The Manager recommends that the Board receive the information and provide comments:

- 42 • **Stormwater Rules:** Collaborate with the Attorney’s Office and seek guidance from NC
43 DEMLR and DEQ as to what “rules Orange County should default to, if we need to
44 amend present UDO Jordan Lake nutrient regulations
45 • **Riparian Buffers:** Proceed with study to justify present standards.

46
47 Commissioner Dorosin asked if there were some typical uses for the number 57 ASTM
48 stone.

49 Craig Benedict said it could be used for a temporary parking area, with very intermittent
50 driving. He said this type of gravel is so loose that it would fall out of location if driven upon. He
51 said it is sometimes used where someone may want to have a reservoir underneath sub-grade.

1 Chair McKee added that some agricultural operations, for feeding cattle, use this type of
2 stone to prevent erosion and mud build up and run off.

3 Chair McKee asked if there are regulations that the County may need to adjust.

4 Craig Benedict said amendments or defense of existing practices might be needed. He
5 said stream buffers are one example where this may occur. He said there are some unknowns
6 at this time.

7 Craig Benedict said the cities and counties must explain their stormwater program to the
8 State no later than March 1, 2016. He said the County has asked for guidance from the State
9 regarding this matter.

10 Michael Harvey spoke regarding the riparian buffers, saying the State currently
11 recognizes a 50-foot buffer. He said Orange County enforces a 50-foot buffer with an additional
12 15 to 30 being added depending on the slope of a property.

13 Michael Harvey said staff is investigating several options of how to proceed next. He
14 said the two options are a scientific study, which will require a budget amendment to complete
15 or proof that the current UDO is in compliance with the State's regulations. He said there has
16 been a comingling of regulations over the last 10 years and resolving these issues will not be
17 straightforward. He said it is the hope that the majority of the County's current buffer program
18 can be maintained as a watershed protection standard.

19 Commissioner Dorosin clarified that the two options are to have a scientific study that
20 vindicates everything or shows proof that these are not riparian buffers, but rather are part of a
21 watershed management program. He asked if the latter option were possible, would only a
22 portion of the current stream buffers be protected.

23 Michael Harvey said yes, it would only protect portions of streams located in a protected
24 or critical watershed boundary. He said the State law allows for certain encroachments and
25 certain clearing of the mandated 50-foot buffer. He said the County's stream buffer regulations
26 allow for certain types of development in a stream buffer, but there is not the overall reaching list
27 that the State currently recognizes.

28 Commissioner Rich asked if any other counties are involved in this process.

29 Michael Harvey said Orange County would probably be the first. He said Orange
30 County is unique in the methodic nature that it took in the 1980s and 1990s to link a lot of
31 protections to the watershed program.

32 Commissioner Rich asked if the cost of the study is known.

33 Michael Harvey said it would cost between \$40,000 to \$75,000, due to the scientific
34 specificity of the study. He said his reading of the statute shows the requirement of scientific
35 evidence.

36 Commissioner Pelissier asked if much of the justification for the buffers being related to
37 watershed management is due to Orange County being a headwaters county.

38 Michael Harvey said yes.

39 Commissioner Pelissier asked if there are other headwaters counties in the State, and, if
40 so, what is their status. She said perhaps such counties could team up and present a united
41 front to the State.

42 Michael Harvey said there are other counties, but he is unsure which ones they are. He
43 said the Upper Neuse River Basin Association (UNRBA) would be consulted for assistance, as
44 it is coordinating with all of its member counties. He said many other agencies will be partnered
45 with as well, and the hope is that Orange County will not even need to conduct a study.

46 Commissioner Jacobs asked if staff had a chance to get copies of the University Lake
47 Watershed study or the Cane Creek Watershed study.

48 Michael Harvey said these have not been fully read.

49 Commissioner Jacobs suggested that these studies might have some useful information.

50 Chair McKee asked if County Attorney or Manager had any comments.

1
2
3 DRAFT

4 **MINUTES**
5 **BOARD OF COMMISSIONERS**
6 **REGULAR MEETING**
7 **December 15, 2015**
8 **7:00 p.m.**

9 The Orange County Board of Commissioners met in regular session on Tuesday, December 15,
10 2015 at 7:00 p.m. at the Southern Human Services Center, in Chapel Hill, N.C.

11
12 **COUNTY COMMISSIONERS PRESENT:** Chair McKee and Commissioners Mia Burroughs,
13 Mark Dorosin, Barry Jacobs, Bernadette Pelissier, Renee Price and Penny Rich

14 **COUNTY COMMISSIONERS ABSENT:**

15 **COUNTY ATTORNEYS PRESENT:** John Roberts

16 **COUNTY STAFF PRESENT:** County Manager Bonnie Hammersley, Deputy Manager Travis
17 Myren and Clerk to the Board Donna Baker (All other staff members will be identified
18 appropriately below)

19
20 Chair McKee called the meeting to order at 7:00 p.m.

21
22 **1. Additions or Changes to the Agenda**

- 23
24 - White sheet for item 5-a: Final revised ordinance for Joint Public Hearing with the Historic
25 Preservation Commission (HPC)
26 - PowerPoint for item 7-a: Unified Animal Control Ordinance
27 - White handout for item 8-a: Jail Population Profile and Projections for Future Growth
28 - White handout for item 8-a: Comparable County Jail Statistics
29 - PowerPoint for item 8-b: Facilities accessibility self-assessment
30

31 **Appointments:**

- 32 - Green-membership roster for item 11-b (in old format with position #s)
33 - Yellow-membership roster for item 11-c (in old format with position #s)
34 - Peach-membership roster for item 11-d (in old format with position #s)
35 - Blue-membership roster for item 11-e (in old format with position #s)
36

37 **PUBLIC CHARGE**

38 *Chair McKee dispensed with the reading of the Public Charge.*
39

40 **2. Public Comments**

41
42 **a. Matters not on the Printed Agenda**

43 Barbara Driscoll, President of the Eno River Association, said the group is celebrating its
44 50th anniversary. She said there will be 50 hikes on the Eno River this year, and she hoped the
45 Commissioners would join them on some of these hikes.

46 Robin Jacobs, Executive Director of the Eno River Association, thanked the Board of
47 County Commissioners' (BOCC) commitment and support throughout the years. She said there
48 will be a celebration of the 50th Anniversary on February 20, 2016. She distributed the
49 Association's yearly calendar to all of the Commissioners.

50 Chair McKee acknowledged the long-term commitment of the Eno River Association and
51 thanked them for their work.

1
2
3 **b. Matters on the Printed Agenda**

4 (These matters will be considered when the Board addresses that item on the agenda
5 below.)
6

7 **3. Announcements and Petitions by Board Members**

8 Commissioner Pelissier petitioned the Board to add an additional member-at-large
9 position to the Board.

10 Commissioner Jacobs had no petitions.

11 Commissioner Rich said the Orange Durham Chapel Hill Work Group met last week and
12 heard a presentation from the Durham Planning Board regarding the preservation of 15% of
13 affordable housing around the light rail stations. She asked if the manager could get this
14 information to share with the Board and suggested the Board should start talking with their
15 partners about implementing this plan in Orange County.

16 Commissioner Rich said, at the same meeting, there was discussion about preserving
17 the old general store at Hollow Rock. She said there is an effort to raise \$25,000 to move the
18 general store across the street, in order to turn it into a museum about the area. She asked if
19 this information could be obtained, and put on the website

20 Commissioner Rich said she and Commissioner Pelissier talked about Air BnBs and
21 reported that Orange County should be getting their first taxes from these establishments soon.

22 Commissioner Dorosin said he is the Board representative to the Small Loan Program,
23 which has been a very successful program, and very aggressive in making more loans. He said
24 he previously raised the idea about creating a sticker that commercial businesses can put in
25 their windows acknowledging that they are a recipient of a loan. He said this would be a visible
26 way to highlight the resource. He said the Committee seemed to embrace this idea.

27 Commissioner Price said yesterday the Town of Hillsborough approved Indigenous
28 Peoples Day, and as such, all three municipalities have adopted it. She petitioned the Board to
29 also recognize the second day in October as Indigenous Peoples Day. She requested that this
30 petition be approved at the Board meeting in Hillsborough in January, with Tribal Chiefs, and
31 other stakeholders, being invited to attend.

32 Chair McKee said this is the second resolution the Board has received on this, and he
33 will refer it to the agenda review team requesting a timely turn around.

34 Commissioner Burroughs had no petitions.

35 Chair McKee said he received an email today from the Humans Relations Commission
36 (HRC) about the possibility of bringing a resolution forward regarding Syrian refugees. He said
37 this will be discussed as quickly as possible.
38

39 **4. Proclamations/ Resolutions/ Special Presentations**

40
41 **a. Presentation of Comprehensive Annual Financial Report for FYE 6/30/2015**

42 The Board received the Comprehensive Annual Financial Report (CAFR) for the fiscal
43 year ended June 30, 2015.

44 Gary Donaldson, Orange County Chief Financial Officer, acknowledged the Finance
45 team that worked on the CAFR report and noted that they were awarded the Certificate of
46 Achievement for Excellence Financial Reporting.

47 Gary Donaldson reviewed the following background information:
48

49 **BACKGROUND:** The CAFR reports on all financial activity of the County for the fiscal year July

1 1, 2014 through June 30, 2015. Martin Starnes and Associates, a firm of Certified Public
 2 Accountants, audited the financial statements. The financial statements and audit are required
 3 by Chapter 159-34 of the North Carolina General Statutes. The County prepares a
 4 Comprehensive Annual Financial Report (CAFR) that meets the standards set by the
 5 Government Finance Officers Association (GFOA). The CAFR is submitted to the GFOA in
 6 order to be awarded the Certificate of Achievement for Excellence in Financial Reporting.
 7 Orange County has received this award for thirty consecutive fiscal years. The financial report
 8 for the Orange County SportsPlex, as required under the management contract, is included in
 9 the County's CAFR.

10 The audit results for the fiscal year ended June 30, 2015 indicates a strong financial
 11 position for Orange County. The County received an unqualified (clean) audit opinion on the
 12 financial statements received from the audit. The Chief Financial Officer and representatives of
 13 Martin Starnes and Associates will cover highlights of the report and answer any questions.
 14

15 **FINANCIAL IMPACT:** The financial report indicates a strong financial position for Orange
 16 County. The County Board policy is to maintain the unassigned fund balance at 17% of General
 17 Fund expenditures. At the end of FY2014-15 the unassigned fund balance was 18.5% of
 18 General Fund expenditures, or \$2.8 million in excess of the Board policy. The unassigned fund
 19 balance policy and target levels enable the County to prevail through uncertain economic and
 20 financial periods.

21 Marcie Spivey, Audit Partner with Starnes and Associates, made the following
 22 PowerPoint presentation, regarding the results of the 2015 Audited Financial Statements. Many
 23 of the slides are incorporated by reference and this presentation is a part of the permanent
 24 agenda file in the Clerk's office.
 25

26 Orange County 2015 Audited Financial Statements

27 Audit Highlights

- 28 • Unmodified opinion
- 29 • Implementation of GASB68

30 Budget vs. Actual- General Fund

31	32	33	34	35
	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>	
36	Revenues	\$ 196,316,799	\$ 201,390,558	\$ 5,073,759
37	Expenditures	200,705,722	192,078,545	8,627,177
38	Other Financing Sources (Uses)			
39	Bond Refunding	-	605,000	605,000
40	Transfers In	1,057,160	1,057,160	-
41	Transfer Out	(8,080,699)	(8,080,699)	-
42	Appropriated Fund Balance	<u>11,412,462</u>	<u>-</u>	<u>(11,412,462)</u>
43	Net Change in Fund Balance	<u>\$ -</u>	<u>\$ 2,893,474</u>	<u>\$ 2,893,474</u>

44 Transfers out Summary

45 Transfers from the General Fund
 46
 47
 48
 49
 50
 51

1	School Capital Improvements Fund	\$4,727,236
2	County Capital Improvements Fund	460,240
3	Nonmajor government funds	516,480
4	Enterprise Funds:	
5	Major Solid Waste Landfill	1,856,543
6	Major SportsPlex	376,450
7	Nonmajor Enterprise Fund	143,750
8		
9	Total transfers out	<u>\$8,080,699</u>

10
11 **Transfers in Summary**
12 Transfers to the General Fund

14	Nonmajor governmental funds	\$1,052,600
15	County Capital Improvement Fund	4,560
16		
17	Total Transfers In	<u>\$1,057,160</u>

18
19 **Tax Collection Percentages (graph)**

20
21 **Fund Balance Position-General Fund**

22		<u>2015</u>		<u>2014</u>
23	Total Fund Balance	\$ 65,019,581		\$ 62,114,947
24	Non spendable	(20,306)		(29,242)
25	Stabilization by State Statute	<u>(11,255,821)</u>		<u>(12,102,492)</u>
26	Available Fund Balance	53,743,454		49,983,213
27	Committed	(7,543,841)		(6,001,641)
28	Assigned	<u>(10,650,770)</u>		<u>(10,068,343)</u>
29	Unassigned	\$ 35,548,843		\$ 33,913,229

30
31 **Unassigned Fund Balance as a Percent of Expenditures-General Fund (graph)**

32
33 **Major Enterprise Funds**

34		SportsPlex	Solid Waste
35		Fund	Fund
36	Total Operating Revenues	\$ 3,134,557	\$ 5,173,915
37	Total Operating Expenses	(3,112,253)	(10,857,943)
38	Non-operating	(103,112)	1,155,000
39	Other Financing Sources	376,450	1,856,543
40	Beginning Net Position	<u>3,275,136</u>	<u>6,686,741</u>
41	Ending Net Position	\$ 3,570,778	\$ 4,014,256

42
43 **Orange County**

44
45 Gary Donaldson said Orange County is in a strong fiscal position. He said the Board
46 policy for the fund balance is 17%, and there is currently 18.5%. He said he would return to the
47 Board seeking direction for this excess fund balance.

48 He referred to the Report to Residents at their places and reviewed some of the 2014-
49 2015 metrics in the report.

50 Commissioner Burroughs asked if last year's additional fund balance amount was
51 known.

1 Gary Donaldson said it was about \$2.5 million.

2 Commissioner Burroughs asked if the Report to the Residents is a new initiative.

3 Gary Donaldson said it is new, but will be recurring with updated information going
4 forward.

5 Commissioner Burroughs referred to the management letter and asked if there could be
6 further clarification regarding the Other Post Employment Benefits (OPEB) underfunding.

7 Gary Donaldson said underfunding is a misleading statement. He said the County has
8 not taken formal action to have an irrevocable trust. He said the County is on target with its
9 contributions to the OPEB funding.

10 Commissioner Rich referred to the economic metrics and asked if the numbers for Blue
11 Cross and Blue Shield (BCBS) refer to their presence in Chapel Hill.

12 Gary Donaldson said at the time of the production of the report, the numbers were
13 accurate. He said since the report was produced, some BCBS employees have been relocated
14 to Durham.

15 Commissioner Rich said the East 54 are principal taxpayers and noted that it is one of
16 the County's largest, despite public criticism of the development.

17 Commissioner Rich referred to the Schedule of Findings and Costs and asked if there
18 were reasons that the housing voucher cluster deadline of March 31 was missed.

19 Gary Donaldson said there are a number of reports the finance department has to
20 produce, and he is looking to have a desk procedure manual with due dates which has not
21 existed before. He said the deadline was simply missed. He said the letter cited the housing
22 and urban development department, but it is a function of the finance department.

23 Commissioner Price asked if there is any leeway regarding the spending of the
24 unassigned fund balance.

25 Gary Donaldson said this is a rainy day fund for unexpected or catastrophic events.

26 Commissioner Price asked if the Board should plan on spending this extra fund balance
27 between now and the end of the fiscal year.

28 Bonnie Hammersley said staff would bring back a recommendation for the spending of
29 the \$2.8 million of unassigned fund balance, as is done every year. She said the Board will be
30 asked to approve, amend or change the staff's recommendation.

31 Commissioner Dorosin asked if the excess funding is definitely going to be spent this
32 year, rather than folding it into the budget for next year.

33 Bonnie Hammersley said staff has yet to have any discussions regarding a
34 recommendation. She said that could be one of the recommendations, and the Board of County
35 Commissioners has the final decision. She said last year the funds were split between OPEB
36 and the social justice fund. She clarified that OPEB funds are for the health insurance benefits
37 of retirees.

38 Commissioner Dorosin said the report to the residents is a great thing, but noted it is
39 heavy on the finances. He suggested that going forward to report on other activity within the
40 County, like new businesses. He noted that almost all of the top employers are public
41 employers, and suggested adding a listing of the top private employers.

42 Commissioner Price said this is a great report. She asked when staff comes back with a
43 recommendation for the excess funds, if staff would also bring an overview of what was done
44 last year regarding the OPEB.

45 Commissioner Dorosin said the excess money is from last year, which was technically
46 part of FY 2014-2015. He suggested reviewing programming or items that were cut during that
47 fiscal year, which may be worth revisiting and possibly refunding.

48 Commissioner Rich said it is important to replenish the social justice fund.

49 Commissioner Jacobs said there has always been money in the social justice fund. He
50 suggested not spending money just because it is available, but rather putting excess funding
51 toward the next budget in order to assist the residents by lower taxes.

1 Commissioner Jacobs asked if investments that give a return due to higher interests
2 rates are being considered.

3 Gary Donaldson said yes these investments are being considered and there have been
4 meetings with financial entities and a review of statutory requirements and how investment
5 income can be optimized. He said staff will be following up on how this can improve down the
6 road and will return to the Board with an investment report.

7 Commissioner Pelissier noted that the staff report in January will be given just prior to
8 the Board's retreat. She said the Board may want to put the funds towards their identified
9 priorities, as determined at the retreat.

10 Chair McKee asked if the report is available on line.

11 Gary Donaldson said yes.

12 Chair McKee said he would like the Board to discuss moving the OPEB needs into the
13 budget. He thanked the finance department for their excellent work.

14 5. Public Hearings

15 a. Joint Public Hearing with the Historic Preservation Commission Regarding the 16 Proposed Designation of the Nicholas Corbett Hester House as an Orange County 17 Local Historic Landmark

18 The Board considered conducting a joint public hearing with the Historic Preservation
19 Commission (HPC) to receive public comment on the application and proposed ordinance to
20 designate the Nicholas Corbett Hester House as an Orange County Local Historic Landmark,
21 and then adopt the ordinance and authorize the Chair to sign.

22 Peter Sandbeck, Department of Environment, Agriculture, Parks and Recreation's
23 (DEAPR) Cultural Resources Coordinator, reviewed the background information:
24

25 **BACKGROUND:** In 1991, Orange County adopted the "Ordinance Creating the Historic
26 Preservation Commission (HPC) of Orange County", also referred to as the "Historic
27 Preservation Ordinance". In 1997, the County adopted the Local Landmark Program, a
28 voluntary program allowing the HPC to designate properties of local historic and/or architectural
29 significance, as authorized by NC General Statute 160A-400.1-400.14. One of the HPC's duties
30 is to recommend properties to the BOCC for local landmark designation. Properties must meet
31 a high standard of historic and/or architectural significance to be designated as an individual
32 landmark. The higher standard is appropriate since landmark property owners are eligible for a
33 50 percent property tax deferral as provided by state law, as long as the property is preserved
34 and retains its historic character.
35

36 The historic landmark designation process, outlined in Article 3 of the County's Historic
37 Preservation Ordinance, involves several steps culminating with the adoption of an ordinance by
38 the BOCC for each individual landmark. At its October 28, 2015 meeting the HPC accepted a
39 Part 2 application (Attachments 1 and 2) from owner Ms. Mimi Logothetis to consider her
40 property, the Nicholas Corbett Hester House, for designation as an Orange County Local
41 Historic Landmark. The HPC approved a motion stating that the Hester House possesses
42 special significance and is worthy of consideration for local landmark designation. The
43 application materials were then submitted to the State Historic Preservation Office (SHPO) for
44 review and comment as required by state law. The SHPO provided the letter at Attachment 5.
45 The HPC also voted to request a joint public hearing with the BOCC, as required by Section 3.7
46 of the Historic Preservation Ordinance.
47

48 **This is a routine joint public hearing required by state enabling legislation and the**
49 **County's Historic Preservation Ordinance.** Following this joint public hearing, the BOCC and
50 the HPC will take into consideration public comments, if any. No comments that would cause a
51 delay or note opposition to the designation are expected, so the HPC has already taken action

1 to refer the ordinance directly to the BOCC for consideration and adoption following the close of
2 the joint public hearing.

3 **If the Board** should adopt the proposed ordinance designating the Hester House as a
4 Local Landmark, the owner of the property would be eligible for a 50-percent property tax
5 deferral. A preliminary calculation by DEAPR staff shows that the property tax would be
6 reduced from the present amount of \$2,241 to approximately \$1,350. Tax Administration staff
7 will determine a final calculation. (The current assessed value for the home and land - 18.17
8 acres total - equals \$235,500. The estimated assessed value after Landmark designation
9 equals \$140,000 based on the house plus approximately 7 acres being included in the final
10 designation.)

11 Peter Sandbeck made a PowerPoint presentation containing photographs of the site,
12 and recognized the HPC members in attendance tonight. He also recognized the owners of the
13 property in question this evening.

14 Peter Sandbeck said the public hearing will be held, and then the Board of County
15 Commissioners will be asked to adopt the proposed revised ordinance.

16 Commissioner Price asked if Peter Sandbeck or the property owners were going to go
17 for National Historic Designation.

18 The owner said the previous owner had tried, but it was found that the property did not
19 have enough significance. She said the property is sitting on the study list for the National
20 Register.

21
22 **PUBLIC COMMENT:**
23 **NONE**

24 Commissioner Price commended the property owners. She said she served on the HPC
25 and wondered how this couple would accomplish this feat, but noted they have done a
26 phenomenal job.

27
28 A motion was made by Commissioner Price, seconded by Commissioner Burroughs for
29 the Board to close the public hearing.

30
31 VOTE: UNANIMOUS

32
33 A motion was made by Commissioner Dorosin, seconded by Commissioner Rich for the
34 Board to approve and authorize the Chair to sign the designation ordinance.

35
36 VOTE: UNANIMOUS

37
38 **b. Orange County Consolidated Plan - Annual Action Plan Needs Hearing**

39 The Board considered receiving comments from the public regarding the housing and
40 non-housing needs to be included in the Annual Action Plan Update of the 2016-2017
41 Consolidated Housing Plan for Housing and Community Development Programs in Orange
42 County.

43 Audrey Spencer-Horsley, Director of the Housing, Human Rights and Community
44 Development, reviewed the following information:

45 In May 2015 a Consolidated Plan for Housing and Community Development
46 Programs in Orange County was developed and approved by the U.S. Department of Housing
47 and Urban Development (HUD). This document details the housing needs of very low income,
48 low income and moderate-income families and special population groups in addition to outlining
49 the strategies and plans for addressing those needs.

50 Each year, local communities are required to reassess the needs of the community. This
51 public hearing provides an opportunity for the public, public agencies and other interested

1 parties to provide input into the Annual Action Plan Update. In addition, the public may comment
 2 on proposed uses of an estimated \$311,832 in 2016-2017 funds. Information regarding the
 3 actual Congressional allocation is not available at this time. Eligible HOME Program activities
 4 include: acquisition; new construction; housing rehabilitation; and rental assistance.

5 The Orange County Board of Commissioners, as a member of the Orange County
 6 HOME Consortium, approved \$450,317 in HOME Program funds for FY 2014 – 2015. All
 7 program funds have been allocated to projects and 51% has been expended to-date. The Board
 8 of Commissioners approved \$412,638 in HOME Program Funds for FY 2015 - 2016. This year's
 9 allocation of HOME funds is pending environmental assessments/reviews and subsequent
 10 contractual agreements. The HOME compliance deadlines are a two (2) year commitment
 11 reservation of funds and a five (5) year expenditure requirement.

12 An application form has been designed for agencies interested in accessing HOME
 13 funds for local housing projects. HOME funding will be awarded through a joint application
 14 process. The deadline for completing the application form is January 25, 2016. The Home
 15 Program Review Committee will then review the applications received and make
 16 recommendations regarding funding for consideration by the local elected officials in April 2016.
 17 The 2016 Annual Action Plan will be submitted to HUD on or before May 13, 2016.

18 In order to inform the general public of this opportunity and encourage participation,
 19 notices have been placed in The Chapel Hill News, News of Orange, and The Herald-Sun, and
 20 also sent to local non-profit agencies and placed on local websites.

21 **FINANCIAL IMPACT:**

22 The Orange County HOME Consortium expects to receive an allocation of \$311,832 in
 23 HOME Program funds for 2016-2017; the same level as last fiscal year.
 24
 25

26 Chair McKee opened the public hearing.

27 Commissioner Rich asked if the members of the Home Program Review Committee
 28 could be identified.

29 Audrey Spencer Horsley said Commissioner Dorosin is one member, and the remainder
 30 of the Committee is made up of other officials from the municipalities, plus support staff.

31 Commissioner Rich asked if this is an on-going committee.

32 Audrey Spencer Horsley said the Committee meets as needed to decide on funding.

33 Commissioner Dorosin referred to page 3 of the consolidated plan summary and asked if
 34 the highest identified needs are low wealth elderly residents, rental housing for low income, and
 35 housing for low-income residents with disabilities.

36 Audrey Spencer Horsley said that is correct.

37 Commissioner Dorosin asked if those priorities would be driving the consideration of how
 38 funds are distributed.

39 Audrey Spencer Horsley said it is the intent of the consolidated plan for the community
 40 to talk about the needs in the community, and how HOME funding should be used.

41 Commissioner Dorosin said there are more requests than there are funds available, and
 42 the purpose of having this consolidated plan is to determine the priorities on which to focus.

43 Commissioner Jacobs asked if this is this going to be folded into Audrey Spencer
 44 Horsley's presentation regarding the bond package after the New Year.

45 Audrey Spencer Horsley said yes.

46 Commissioner Pelissier referred to the statements made about the need for greater code
 47 enforcement in lower income, rural areas. She asked if there are plans to address these needs.

48 Audrey Spencer Horsley said the County would address portions of the plan, while other
 49 portions will be given to the private sector to address.

50 Commissioner Jacobs said he has raised this issue before, and that he was told for
 51 many years that there are residents in northern Orange County that do not have running water.

1 He said staff response has been that people do not want the County to look at these issues
 2 because their land may not perk. He said he finds this response inadequate, and he asked Ms.
 3 Spencer Horsley if this need is being reviewed and if there are any policies that may be written
 4 moving forward.

5 Commissioner Jacobs said this may no longer be an issue, but he would like to know.
 6 He suggested doing some outreach in these areas to assess the current status.

7 Audrey Spencer Horsley noted his comments.
 8

9 **PUBLIC COMMENT:**

10 Robert Dowling, Executive Director of Community Home Trust, said he was reviewing
 11 older information, as they are currently moving their offices, and he reviewed many of the
 12 accomplishments of the Community Housing Trust. He said many mistakes have been made
 13 over the years. He noted four main themes: how much need there continues to be for
 14 affordable housing, how much money is needed, how difficult it is to resolve issues and how
 15 easy it is to spend money inefficiently. He said we are in a vexing business and as they move
 16 forward with their strategic planning, there are better and worse uses of HOME funding. He
 17 asked the Board to try to focus its efforts on what is feasible to get done with limited resources.
 18 He said there are other assets in the County, and he encouraged the Board to make use of all
 19 of them: non-profits, for profits, school governments, etc.

20 Eviva Scully, School Social Worker, asked if the criteria to identify someone as
 21 extremely low wealth could be clarified.

22 Audrey Spencer Horsley said the national standard of affordable housing is HUD's
 23 definition: 30% of one's income is considered as affordable. She said extreme low income is
 24 based on the county's median income, and 80% would be considered moderate income, 50%
 25 would be considered low income, and 30% of the county's median income would be considered
 26 extremely low income. She said the poverty line is also another benchmark.

27 Mark Marcoplos said there are a lot of unknowns regarding poverty conditions in Orange
 28 County, and information is needed. He said since there is not a large amount of HOME funding,
 29 perhaps it may be valuable to fund a position to go around and look at and investigate these
 30 issues.

31 Susan Levy's via email:

32 Dear Orange County Commissioners,
 33

34 I regret that I am unable to attend tonight's public hearing due to a prior commitment, but I
 35 would like to offer the following comments on the use of HOME 2016-17 HOME funds, and ask
 36 that they be entered into the record.
 37

38 HOME funding continues to be a critical factor in Habitat's home and community building efforts
 39 throughout Orange County. To date, Habitat has provided affordable homeownership for 270
 40 families in Orange County, and used HOME funds to leverage millions of dollars in private
 41 funding for the majority of those 270 homes.

42 Today, in part because of HOME funding,

- 43 • 50 families call Phoenix Place home. We completed this subdivision **of green certified**
 44 **home in the** Rogers Road community in 2014.
- 45 • The Fairview community has seen a rise in its homeownership rate and a reduction in its
 46 crime rate with the addition of 50 Habitat homes,
- 47 • 9 homes have been completed in Tinnin Woods, our subdivision in Efland-Cheeks
 48 Township, and another 10 are under construction.

49
 50 This year, we are requesting approximately \$285,000 in HOME funding for two projects.

- 1 1. \$165,000 in second mortgages for the final 11 homes in Tinnin Woods. The
 2 funds will be used as second mortgages for Habitat homebuyers, and will have a
 3 long-term positive impact on the lives of the eleven families. Owning a home has
 4 been shown in recent studies to be a predictor of future success, especially for
 5 children. Children who live in homes like those that Habitat offers will have a
 6 greater chance of graduating from high school, and acquiring post-secondary
 7 education. Their early adult earnings will be higher, and they are more likely to
 8 own their own home in 10 years. Those who apply to build and purchase a home
 9 through Habitat live in overcrowded apartments, pay considerably more than
 10 30% of their income for rent, and/or deal with high utility costs and lack of
 11 repairs. This in spite of the fact that they are hardworking members of our
 12 community, often working more than one full time job trying to make ends
 13 meet. For those homeowners fortunate enough to purchase a home through
 14 Habitat, they usually find themselves paying less for their mortgage than they did
 15 for their rent, and are able to save considerable money on utilities as well,
 16 leaving them more money to spend on other basic necessities and on education
 17 for themselves and their children.
 18
- 19 2. We will also be requesting approximately \$120,000 in HOME funds for
 20 engineering, design, and some of the infrastructure costs for a new project in
 21 the Waterstone community in Hillsborough. We are in the process of planning
 22 for 18 new attached homes for seniors on land originally deeded to the
 23 Community Home Trust by the developer of Waterstone. The Home Trust will
 24 transfer the property to Habitat in the next few weeks. Affordable senior housing
 25 has been identified in the Consolidated Plan as one of the priority needs for the
 26 county, with an estimated 450 units of affordable senior housing needed. Habitat
 27 is excited to help address this need. We will be working with the Orange County
 28 Department on Aging and other senior housing experts to design the
 29 project. Infrastructure construction will begin in 2017 and the homes will be
 30 constructed in 2018.
 31

32 Thank you for your consideration of our request, and for your support for affordable housing in
 33 Orange County.
 34

35 In partnership,
 36

37 *Susan Levy*
 38 Executive Director
 39 Habitat for Humanity, Orange County, NC
 40 88 Vilcom Center Dr., #L110
 41 Chapel Hill, NC 27514
 42 919-932-7077x211; 919-697-1905 (mobile)
 43

44 Commissioner Dorosin said the area median income according to 2015 HUD guidelines
 45 for Orange County is \$67,400. He said a family of four would be at 80% median incoming
 46 earning \$53,900; 50% median income earning \$33,700; and 30% median income earning
 47 \$20,200.
 48

49 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
 50 close the Public Hearing.

1
2 VOTE: UNANIMOUS
3

4 **6. Consent Agenda**
5

- 6 • Removal of Any Items from Consent Agenda
- 7 NONE
- 8
- 9 • Approval of Remaining Consent Agenda

10
11 A motion was made by Commissioner Burroughs, seconded by Commissioner Rich to
12 approve the remaining items on the Consent Agenda.
13

14 VOTE: UNANIMOUS
15

- 16 • Discussion and Approval of the Items Removed from the Consent Agenda

17
18 **a. Minutes**

19 The Board approved the minutes from November 17, 2015 as submitted by the Clerk to the
20 Board.

21 **b. Fiscal Year 2015-16 Budget Amendment #4**

22 The Board approved budget, grant, and capital project ordinance amendments for fiscal year
23 2015-16 for Animal Services; Department of Social Services; Economic Development-Orange
24 County Arts Commission; Department on Aging; Department of Environment, Agriculture, Parks
25 and Recreation; Visitors Bureau; Health Department; School Capital Projects; and the Sheriff's
26 Department.

27 **c. Authorization for County Manager to Execute Leases of County Property**

28 The Board delegated authority to the County Manager to execute leases of County property up
29 to \$90,000 in total initial lease term revenue according to the Manager's Third Party Tenancy
30 and Outleasing Policy.

31 **d. Public Records Retention and Disposition Schedules**

32 The Board approved the records retention and disposition schedules involving County
33 Management, Public Libraries, Tax Administration, Public Transportation Systems and
34 Authorities, and Veterans Services and authorized the Chair to sign pending review by the
35 County Attorney.

36 **e. Computer Surplus Declaration and Donation to the Chapel Hill-Carrboro City Schools**

37 The Board adopted a resolution, which is incorporated by reference, declaring, as surplus, items
38 listed in the abstract and authorizing the donation of those items to the Board of the Chapel Hill-
39 Carrboro City Schools; and authorized the Chair to sign the Resolution on behalf of the Board
40 upon County Attorney review.
41

42 **7. Regular Agenda**
43

44 **a. Unified Animal Control Ordinance**

45 The Board considered approving the proposed Unified Animal Control Ordinance
46 ("UAO") and adoption of the Resolution of Amendment "A Resolution Amending Chapter 4 of
47 the Orange County Code of Ordinances".

48 Bob Marotto, Orange County Animal Services Director, introduced members from the
49 Animal Services Advisory Board.

50 Bob Marotto and Staff Attorney Annette Moore made the following PowerPoint
51 presentation:

1
2 **Unified Animal Ordinance**
3 **BOCC Meeting Presentation**
4 **December 15, 2015**
5 **Agenda Item 7-a**
6

7 **What it does**

- 8 • Takes away some of the inconsistency of having 3 separate (and varying) ordinances
- 9 • Adds clarity and consistency where needed based upon the experience of officers,
10 Animal Services staff, and legal proceedings over the years
- 11 • Where interpretations in readings differed, the unified version uses the most accurate,
12 legal, and clear interpretation and/or language

13
14 **What it doesn't do**

- 15 • It does not ignore that there still remains a need to have some differences in different
16 areas (i.e.: livestock, tethering, township-specific laws)
- 17 • With only one exception, it does not add new law, but rather fills in gaps and provides
18 better clarity in the existing ordinances
- 19 • The exception is the different recovery fees for reproductive and sterilized dogs and cats
20 (including a sterilization deposit for animals recovered 3 or more times)

21
22 **History**

- 23 • When the ordinance came before the BOCC last (April, 2014), four issues were
24 discussed with commissioners
- 25 • Our attorneys have resolved these and revisions have been guided by BOCC feedback
- 26 • In its final form, the ordinance has been adopted by Chapel Hill and Carrboro, and it has
27 the full support of Hillsborough

28
29 **Issues from 2014**

- 30 • Trespass
- 31 • Watchdog
- 32 • Livestock and Public Nuisance
- 33 • Administrative Appeal

34
35 Annette Moore continued the presentation:

36
37 **Trespass**

- 38 • Section 4-42 Control of Vicious Animal: Security Dog
- 39 • Issue: needed to be better defined
- 40 • Solution: moved into the exceptions portion of the ordinance, where exceptions include a
41 dog on a property that is posted with warning and/or no trespass signage; as well as a
42 dog that is on property and bites someone committing a 'willful trespass'
- 43 ○ Willful trespass "which shall be determined by looking at the totality of
44 circumstances."

45
46 **Watchdog**

- 47 • Section 4-37 Definitions: Security Dog
- 48 • Issue: needed to be better defined

- Solution: watchdog found to be an unnecessary term and moot based on the definition of a vicious dog and how a dog would have to behave in order to be declared as one

Livestock and Public Nuisance

- Section 4-45 Public Nuisance
- Issue: Does a special provision for livestock need to exist under nuisance ordinance
- Solution: All off-property large animals are considered a nuisance.
 - An exception exists for off-property domesticated livestock (see definition): these may be deemed a nuisance by the discretion of the Animal Services Director or his/her designee.
 - These livestock may be deemed a nuisance when they:
 - ❖ Present a danger to the public
 - ❖ Destroy or damage property or violate property rights
 - ❖ Have been habitually at large

Administrative Appeal

- Section 4-54 Appeals
- Issue: needed clarification and better formatting
- Background: Presently, there is no appeal available for significant portions of the county's ordinance
- Solution: Any appeal of the chapter will be overseen by 2 members of the Animal Services Advisory Board, and 1 member of either the township where the dog resides or a public citizen appointed by the BOCC.
 - Testimony will be sworn by the officiating board
 - Cross-examination is allowed
 - Neither a party nor Animal Services shall be represented by an attorney
 - Timelines:
 - ❖ Appeals must be made within 5 days of the final action appealed
 - ❖ A hearing must be scheduled within 10 days of receipt of a notice of appeal
 - ❖ A decision must be made and forwarded within 7 days of the hearing

Conclusion

- The Unified Animal Ordinance is an important step in making Orange County's animal laws complete, easy to access, easy to understand, and relevant to the modern landscape
- In general, it aims to protect pets and people, give them due process to appeal citations and orders, and communicate clearly the responsibilities and obligations that exist in Orange County for those owning or coming into contact with pets

Bob Marotto said this is a valuable step forward in making Orange County's animals laws. He said it is not perfect, and can be re-visited at anytime.

PUBLIC COMMENT:

Dr. Susan Elmore, Member of the Animal Services Advisory Board (ASAB), said the UAO first came to their board in 2013 as a draft, and she recognized the hard work of the attorney's office. She said the ASAB provided input and also received input from stakeholders, the University of North Carolina (UNC), and the Board of County Commissioners. She said it has been a process, and everyone involved has done due diligence. She said it is not a perfect

1 document, but can be amended as needed going forward, and is a great improvement of the
2 process currently in place.

3 Michelle Walker said she had served as either Chair or Vice Chair of the ASAB through
4 this process and appreciated the hard work of all the staff involved in reviewing the information
5 to create the current proposed UAO. She said the ASAB made efforts to get input from their
6 public partners.

7 Commissioner Pelissier said she appreciated all of their efforts. She referred to page
8 149 in the electronic copy, which discusses the appeals process. She asked if it would be
9 practically possible for the Board of County Commissioners to appoint someone to this panel.

10 Annette Moore suggested that the Board would designate someone ahead of time. She
11 said if the issue is in the county, then that person would be from the County, while the third
12 person would be from the area in question.

13 Commissioner Pelissier asked if the Board would follow the same boards and
14 commissions' applicant process.

15 Annette Moore said yes and suggested adding an alternate as well.

16 Commissioner Price said she had several concerns. She said she is concerned with
17 giving sole discretion to one person.

18 Annette Moore said the sections that include discretion also have appeal processes
19 attached to them.

20 Commissioner Price said she understood that an example of sole discretion could be
21 destroying an animal prior the appeals process.

22 Annette Moore said destroying an animal is always a last resort.

23 Commissioner Price referred to page 26 of the hard copy where Section h-2 and 3 say
24 an animal can be destroyed.

25 Bob Marotto said there is not any intention to give the Animal Services Director
26 unmeasured power. He said discretion is subject to judicial review as well as the appeal
27 process. He said the administering of this code will be done most judiciously to insure public
28 safety but not by destroying an animal prior to a judicial process.

29 Commissioner Price asked if there is a specific purpose for the microchip and if the
30 public can decline it.

31 Bob Marotto said there was one complaint circulated in an email and there was a
32 sustained response to that concern that noted the absence of medical complications of a
33 microchip.

34 Bob Marotto said the only exception would be a medical opinion that implanting the chip
35 would be detrimental to an animal. He said the chip is for identification for both the owners and
36 Animal Services.

37 Commissioner Price referred to Section 4.33 and asked if there could be clarification of
38 the statement, "only Orange County employees shall be designated as an animal cruelty
39 investigator."

40 Annette Moore said the statute allows for the designation of non-employees to be animal
41 cruelty investigators and she said the County will only allow employees to fill this role.

42 Commissioner Price asked if one must first be an employee or could one be hired to fill
43 this role.

44 Bob Marotto said one could be hired as a County employee to fill the position. He said
45 cruelty investigator is a designation in the North Carolina General Statute.

46 Commissioner Rich said she has concerns about the appeals process, noting two ASAB
47 members sit on the panel. She asked if it would be possible to separate what the Board
48 members do on the ASAB from their role on the appeals panel. She asked if there is a conflict
49 of interest.

50 John Roberts said individuals serving on the ASAB are favorable for serving on the
51 appeals panel since they are familiar with the ordinance, instead of a random person.

1 Commissioner Rich said she is still uncomfortable with this make up of the appeals
2 board.

3 Annette Moore said she did some research about what other entities are doing and John
4 Roberts is correct that ASAB members have specialized knowledge, such as being a
5 veterinarian. She said these individuals can also get the training to have technical knowledge of
6 the UAO. She said the third person on the appeals panel would have the same training but is
7 not a member of the ASAB.

8 Commissioner Rich said she is not comfortable with the fairness of this yet.

9 Annette Moore said this due process offers a notice and an opportunity to be heard.
10 She added that the people on the appeals board should be able to identify what is a violation,
11 and what is not. She said having board members with specialized knowledge has added value.

12 Bob Marotto said an appeals board with expertise is needed. He said it is a combination
13 of members of the ASAB as well as independent appointees. He said having a process by
14 which executive authority can be appealed is necessary. He said it may not be perfect at this
15 time but some codified due process must be put in place, as none exists currently. He said it
16 can be reviewed and amended as needed. He said Carrboro elected not to use this appeal
17 board for actions that arise within Carrboro but rather will maintain its own animal control board.
18 He said Carrboro will review this decision in a year.

19 Bob Marotto reiterated that there are several actions routinely taken by Animal Services
20 that currently have no appeals process. He said this is not acceptable.

21 Commissioner Burroughs referred to the administrative appeals process and said she
22 has had experience when she was on the school board of a dual role. She said with her
23 experiences an attorney was always present and asked if there is a reason why an attorney will
24 not be present.

25 Annette Moore said it is an administrative procedure and therefore is acceptable not to
26 have an attorney. She said the ASAB will have an attorney present, but there procedure is not
27 under the rules of evidence. She said allowing attorneys usually increases the stakes and
28 makes things unnecessarily formal.

29 Commissioner Burroughs clarified that the ASAB would have an attorney to make sure
30 the processes are followed correctly and asked if the other party would not be encouraged to
31 have an attorney.

32 Annette Moore said an attorney can be present and confer with their client, but the
33 clients are encouraged to speak for themselves.

34 Commissioner Burroughs said this sounds similar to the school board process and
35 having been a part of that system for seven years, she believes it can work.

36 Commissioner Jacobs said he too appreciated all of this work and noted that people
37 have strong feelings about their animals. He said he too feels concern about the attorney issue.
38 He said if an animal's life is at stake, the owner is likely to want any and all help they can
39 muster. He said it seems inappropriate for the County to limit what an owner can bring to bear
40 to protect the animal's life. He suggested that different language in the ordinance may offer
41 clarification on the process.

42 Annette Moore asked if Commissioner Jacobs is suggesting similar language to that in
43 the personnel ordinance, which states that a third party can be present, such as an attorney,
44 and confer with the client, but not speak for them. She said anyone could come to the
45 proceeding and confer but cannot participate in the process.

46 Commissioner Jacobs said that seems more reasonable to him rather than a blanket
47 prohibition.

48 Annette Moore said if changing the language is the Board's pleasure, it could be done.

49 Commissioner Dorosin asked if these proceedings are quasi-judicial hearings.

1 John Roberts said no, it is an administrative hearing, but some of the formal rules of
2 judicial process may apply. He said once the appeals process is done, anyone would have
3 access to a court process if need be.

4 Commissioner Dorosin asked if moving on to the court system would be in the form of an
5 appeal of the administrative process.

6 John Roberts said it is does not specifically say that, and it could be in the form of an
7 injunction to get the County to stop the outcome of the administrative process.

8 Commissioner Dorosin summarized his understanding of process as being proposed.
9 He asked if the third member of the appeals panel would receive training in order to be informed
10 and equipped.

11 Bob Marotto said yes. He added that the Towns would appoint people to serve on the
12 appeals panel, when the owner of the animal is a resident of said town.

13 Commissioner Dorosin clarified that the panel would be made up of three people: two
14 from the ASAB, and one outside citizen. He said someone from Animal Services would present
15 the case. He said it seemed reasonable to think that the owner in question may feel at a bit of a
16 disadvantage. He said due process should include a meaningful opportunity to be heard by an
17 impartial decision maker.

18 Commissioner Dorosin suggested the possibility of appointing two people from the
19 community, allowing the appeals panel to be made up of one ASAB person and two non-ASAB
20 persons. He said a group of people could be appointed and could rotate. He asked if this
21 would work.

22 Annette Moore said it is more important to establish the appeals process, rather than
23 who serves on this panel. She said she is speaking for the Attorney's Office and it is the
24 pleasure of the Board as to who serves on this appeals panel.

25 Bob Marotto said it is absolutely the Board of County Commissioners' decision. He said
26 in the past five years, about 65 potentially dangerous dog hearings have been heard. He added
27 that, to the best of his knowledge, no one has ever voiced an appeal about how those hearings
28 were conducted or their outcome. He said it is difficult now to convene an appeal board due to
29 the level of commitment that is required.

30 John Roberts said this is not a perfect document and it could be adopted tonight giving
31 authorization to staff to make non-substantive changes. He said the appeals process may not
32 be perfect but he does not see it to be lacking in fairness or equity. He said the Board could
33 adopt the ordinance and give it a trial run in its current form. He said it could be amended on
34 very short notice.

35 Commissioner Dorosin thanked the staff for their input. He noted it is important as they
36 are the experts.

37 Commissioner Dorosin asked if the dangerous dog-hearing appeals are currently heard
38 by a particular group of people.

39 Bob Marotto said three members of the ASAB, including a veterinarian, an at large non-
40 municipal member, and any other member of the ASAB. He said this group has consistently
41 heard these appeals. He said over time the sophistication of the ASAB members has grown
42 immensely.

43 Commissioner Dorosin asked if Carrboro's process is different.

44 Bob Marotto said Carrboro has an appointed animal control appeals board which has
45 no other function. He said this board is made up of one alderman and two residents at this time.

46 Commissioner Dorosin said if the BOCC is interested in changing the make-up of the
47 appeals board, there could be a pool of potential hearing officers that are required to get training
48 in the ordinance and have categorical expertise as well.

49 Annette Moore read the language in the personnel ordinance: "neither the employee
50 nor the County shall be represented by counsel at the hearing; however, the employee may be

1 accompanied by an individual of the employee's choosing to witness the proceeding. The
2 accompanying individual may not participate in the hearing."

3 Commissioner Jacobs asked if it is clear that the accompanying person can advise, but
4 not speak.

5 Annette Moore said yes. She said she has been a part of such hearings and that is how
6 they occur.

7 Commissioner Jacobs asked if this ordinance could be worded as plainly.

8 Annette Moore said yes.

9 Commissioner Jacobs said this would have been a lot easier for the Board if the
10 PowerPoint had been put in the agenda packet ahead of time.

11 Commissioner Jacobs referred to the top of page 71, which discussed the issue of
12 odor. He said determining what is a noxious odor is very subjective, and questions how to
13 define the "odor" of a dog or cat Sec. 4-44- (b) (2).

14 Bob Marotto said the answer is not simple, but that a pattern of corroborative evidence
15 would be needed. He said the odor would need to interfere with the reasonable enjoyment of
16 the neighboring property. He said these assessments would never be made in a cavalier
17 manner.

18 Commissioner Jacobs said he would like a definition of odor, as it is too subjective the
19 way it is written now. He suggested including public areas.

20 Commissioner Jacobs said it appears that if one has a security dog, the owner must
21 post it on their property; otherwise they will be unable to defend themselves if their dog bites
22 someone.

23 Bob Marotto said the proposed ordinance offers two subdivisions of security dogs: a
24 sentry dog and a patrol dog. He said both of these dogs have specific requirements of
25 established records of training and being registered with the County.

26 Commissioner Jacobs asked if Bob Marotto could walk him through the exceptions in
27 Section 4.42. The discussion ensued about vicious dog versus guard dog.

28 Commissioner Jacobs asked if there are reasons why one would post a no trespassing
29 sign.

30 Bob Marotto said if one posts a no trespassing sign and you choose to walk on the
31 property and are bitten by a dog, said dog will not be considered vicious.

32 Commissioner Jacobs said he still finds it unclear. He said posting a sign seems to
33 afford owners extra protection should something happen.

34 Annette Moore said a sign does afford extra protection if something were to happen.

35 Commissioner Jacobs said it is confusing, as this information is listed under exceptions
36 to vicious dogs.

37 Commissioner Rich said this is a live document and asked if any changes have to go
38 back to the Towns.

39 Annette Moore said the Towns were told that if there were significant changes she
40 would notify them.

41 John Roberts said both Chapel Hill and Carrboro adopted the UAO in whatever form
42 the BOCC adopts. He said if there are major changes then the Towns will be made aware.

43 Commissioner Rich asked if this ordinance would help someone who lives next door to
44 an excessively barking dog.

45 Annette Moore said this ordinance did not seek to make new laws but rather tried to
46 merge the three ordinances and there is a process in place already for this issue.

47 Bob Marotto reiterated some instances on how Animal Services handles issues like
48 this.

49 Commissioner Pelissier said this item has been before the Board twice and suggested
50 to bring it to some type of closure. She said she is fine with the proposed appeals process and
51 supports Commissioner Jacobs' proposal about the wording of the attorney issue.

1 Commissioner Jacobs suggested adding a paragraph at the top of the UAO about their
2 intention, as Bob Marotto eloquently said earlier.

3 Chair McKee said there were several changes made but the conversation got into the
4 weeds some tonight. He said he intended to vote against the UAO, based on the appeals panel
5 having two members from the ASAB; however, Commissioner Dorosin's proposed suggestion is
6 a good accommodation. Chair McKee said he did have a concern about the lack of an attorney
7 being present but he would be satisfied if it can be resolved with the proposed language from
8 the personnel ordinance.

9 Chair McKee said this document is very thin compared to the UDO. He said he would
10 like to see two citizens and one ASAB member on this appeal panel.

11 Commissioner Jacobs said if the composition of the appeals board is changed he
12 would like the ASAB member to be the Chair of the appeals board.

13 Chair McKee and Commissioner Dorosin agreed.

14 Commissioner Rich said she is fine with this compromise.

15
16 A motion was made by Commissioner Dorosin, seconded by Commissioner Jacobs for
17 the Board to send the document back to include these additional changes (below) and to bring
18 back at their January 21, 2016 meeting.

- 19
20
- The question about the attorneys
 - Language about odor
 - Barking
 - Composition of the hearing panel: two non- board members, and one ASAB member
that would serve as Chair
 - Add a purpose to the ordinance
- 25

26
27 Annette Moore said there needs to be a pool of panel members from which to choose,
28 if the appeal board's composition is to be two to one.

29 Commissioner Rich asked if Animal Services would help the Board draft a "job
30 description" for potential non-ASAB members of the appeals board.

31 Annette Moore said yes.

32 Annette Moore said they will review the meeting and will ask for clarification if need be
33 copying the entire Board.

34
35 VOTE: UNANIMOUS

36
37 **8. Reports**

38
39 **a. Jail Population Profile and Projections for Future Growth**

40 The Board received a presentation providing a profile of the Orange County jail
41 population and projections for growth to inform the Board of Commissioners' discussion about
42 construction of a detention facility.

43 Travis Myren made the following PowerPoint presentation:

44
45 **ORANGE COUNTY**

46 **Profile of the Orange County Jail Population and Projections for Future Growth**
47 **Presentation to the Board of Orange County Commissioners**

48
49 **Jail Population Profile and Projections**

- 50
- Arrest and Jail Admission History and Trends

- 1 • Jail Population
 - 2 ○ Average Daily Population
 - 3 ○ Average Length of Stay
- 4 • Jail Population Profile
 - 5 ○ Custody Status
 - 6 ○ Security Classification
 - 7 ○ Demographic Characteristics
- 8 • Cost of Confinement
- 9 • Population Projections

10
11 **County Jail Admissions – Local Arrests (chart)**

- 13 • Jail admissions have declined more slowly than arrests since 2006, averaging 1.6% annually
- 15 • The difference between arrests and admissions has increased since 2011

17 **Arrests by Agency (chart)**

- 18 • Chapel Hill had the highest number of arrests in the County in 2014, consistent with the proportion of the population
- 20 • Orange County Sheriff contributed 28% of total arrests in the County in 2014

22 **County and Federal Jail Admissions (chart)**

- 23 • County admissions have declined by an average of 1.6% annually
- 24 • Federal admissions have declined by an average of 4.5% annually
- 25 • Combined admissions have decreased by an average of 2.3% annually

27 **County and Federal Average Daily Population (chart)**

29 **Average Length of Stay (chart)**

- 31 • Federal inmates have comprised an average of 43% of the jail population since 2012
- 32 • County inmates have stayed an average of 10 days
- 33 • Federal inmates stay longer, an average of 37 days

35 **Inmate Profile 2014 – Custody Status (chart)**

37 **Inmate Profile 2014 – Gender (chart)**

39 **Inmate Profile 2014 – Race (chart)**

42 **Cost of Confinement**

Jail Expense Summary	
Personnel Costs	\$ 3,415,749
Operating Costs	\$ 948,839
Recurring Capital	\$ 10,374

Facility Costs	\$	192,145
Risk Mgmt. (including WC)	\$	238,031
Indirect Cost Allocation	\$	61,191
TOTAL Expenses	\$	4,866,329

Jail Revenue Summary		
Outside Revenue (ABC Grant; Fac. Fees)	\$	279,407
Inmate Charges (Phone; Commissary)	\$	170,795
Federal Inmate Reimbursement	\$	1,540,821
TOTAL Revenue	\$	1,991,023

Net Cost of Jail Operations	\$	2,875,305
------------------------------------	-----------	------------------

1

Orange County Cost Metrics		
Annual Cost per Inmate 131 ADP	\$	37,147.55
Cost per Inmate per Day	\$	101.77
Federal Reimbursement Rate	\$	66.00

2

3

Compared to State Prison Costs as a Benchmark

Cost of State Prison Incarceration <i>for fiscal year ending June 30, 2014</i>		
	Daily cost	Yearly cost
Minimum Custody	\$70.18	\$25,616
Medium Custody	\$82.14	\$29,981
Close Custody	\$95.78	\$34,960

Average	\$79.89	\$29,160
<i>Source: www.ncdps.gov – Cost of Corrections</i>		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

Misdemeanor Sentencing

- Changes to sentencing of misdemeanants started in 2011 through the Justice Reinvestment Act
 - Moved some misdemeanants from prison to local confinement facilities (County Jails) through the Misdemeanant Confinement Program
 - Did not apply to sentences over 180 days or to sentences for impaired driving
 - Participation in the program as a receiving County is voluntary
 - Orange County has not volunteered as a receiving County; no impact on jail population to date
- Beginning January 1, 2015
 - Applies to all misdemeanor sentences, including impaired driving of any length
 - Misdemeanant Confinement Program capacity currently sufficient
 - Future changes are unclear if bed demand exceeds supply

Population Projections (chart)

- Inmate population projections are for County inmates only
- Inmate population projections are driven by projected population growth and current confinement rates
- Confinement rates have decreased in recent years resulting in lower projections using a five year history compared to a ten year history
- Impact of misdemeanor sentencing changes not included. Future changes could add between 10 and 24 ADP if Misdemeanant Confinement Program is not available
- Jail Bed Projection assumes a jail management factor of approximately 17% to account for peak populations and inmate separation
- County inmate jail bed needs should be satisfied through 2035 with a 144 bed facility
- Federal inmates will be crowded out over time as the County inmate population grows

Commissioner Price asked why the Latino population is not represented in the race demographics.

Sheriff Blackwood said on their federal and state reporting there is not a check box for Latinos, unless a person identifies himself or herself as Latino, in which case it is recorded as such.

Commissioner Jacobs asked if there is an update on the review of the payments for federal inmates.

Sheriff Blackwood said this is ongoing, and data is being gathered. He said the federal program instructed them not to present this information until the jail has been built. He said this information will be submitted both now and at that future time.

Bonnie Hammersley said the County has received a contract from a consultant who has worked with a number of jails across the State. She said this consultant will go to the U.S. Marshal's office for the County. She said the contract is yet to be executed, but doing so is within her authority, and there is money in her appropriation.

Bonnie Hammersley said the last contract with the U.S. Marshal's office was executed in 2008. She said prior to 2007, contracts were done on an annual basis but are now done every three years.

1 Commissioner Burroughs asked if the contract will potentially change the price the
2 County is paid for federal inmates.

3 Bonnie Hammersley said this will be negotiated. She said the federal government used
4 to pay the exact costs annually, along with an audit; however, now that contracts are done every
5 three years, the process is more of a negotiation.

6 Commissioner Jacobs said another consultant working for the jail alternatives, noted that
7 the County was only reporting income for housing federal inmates, but failed to note the
8 expenses.

9 Commissioner Pelissier asked if there is access to information on the ages of the
10 inmates.

11 Sheriff Blackwood said it is available, and he can get it to the Board.

12 Commissioner Dorosin asked if there is a process for identifying comparable counties.

13 Bonnie Hammersley said population is the main factor, but noted that many counties do
14 not have data readily available.

15 Sheriff Blackwood said Orange County is socially, educationally, philosophically, and
16 geographically unique, and this drives how law enforcement works.

17
18 **b. Orange County Facilities Accessibility Self-Assessment Update**

19 The Board received an update and provided feedback to staff on the County's ongoing
20 comprehensive Facility Accessibility Self-Assessment.

21 Brennan Bouma, Orange County Sustainability Coordinator, reviewed the following
22 information, and PowerPoint presentation:

23
24 **BACKGROUND:** On June 2, 2015 the Board of County Commissioners adopted a
25 "Proclamation Supporting the Implementation of the Americans with Disabilities Act (ADA)", and
26 expressed an interest in engaging the disabled community to help County staff identify any
27 facilities access issues. Asset Management Services (AMS) and the Department of Housing,
28 Human Rights and Community Development (HHRCD) came together to organize this
29 subcommittee of the Space Study Work Group to conduct a self-assessment of the physical
30 accessibility of all County facilities.

31 This advisory subcommittee includes representatives from the Orange County Human
32 Relations Commission (HRC), the North Carolina Council on Developmental Disabilities
33 (NCCDD) and the Disability Awareness Council (DAC) along with County staff and the County
34 building inspectors. Some of the members of the committee are disabled, and have brought
35 essential first-hand experience to guide the accessibility assessments.

36 County building inspectors conducted the most recent comprehensive accessibility
37 assessment in 2007, and other focused accessibility assessments have been conducted more
38 recently for some County facilities. Now is an appropriate time to integrate these focused
39 assessments and update our comprehensive assessment of County facilities.

40 **Progress:**

41 To date, assessments have been conducted for the Southern Human Services Center,
42 the Richard L. Whitted Human Services Center and the Robert & Pearl Seymour Center, with
43 the Library just having been done yesterday. Self-assessment teams include a disabled person
44 or disabilities advocate, a County building inspector, and a County staff person familiar with the
45 facility being assessed.

46 The accessibility obstacles identified in these assessments will be prioritized by the
47 members of the subcommittee to inform final recommendations to the Board of Commissioners.

48 Initial progress in conducting these assessments has been deliberate, as Staff has
49 thoughtfully developed the knowledge, tools, and collaborative process to conduct these
50 assessments in an accurate and standardized manner. During the initial assessments,
51 improvements to the procedures and tools were identified, which will help to improve and

1 streamline future assessments. The committee plans to further accelerate the remaining
 2 assessments by engaging the Safety Committees from each facility in conducting initial
 3 assessments so that the accessibility assessment teams will only need to verify the results.

4 **Initial Findings:**

5 These initial assessments have identified several areas for improvement in County
 6 facilities. Some of these will require only minor adjustments (Low-level) to improve accessibility
 7 and others will require a greater investment.

8
 9 Example Findings from Initial Assessments:

10 Low-level (repairs ongoing)

- 11 • Reducing door-opening pressures
- 12 • Marking walking surface to highlight transitions
- 13 • Landscape management for facility visibility and accessibility (tree pruning, hedge
 14 maintenance, etc.)
- 15 • Patching damaged sidewalks
- 16 • Replacing faded parking signage and striping

17 Mid-level

- 18 • Repairing minor trip hazards
- 19 • Adding wayfinding signage
- 20 • Adjusting heights of restroom accessories and features

21 High-level

- 22 • Addressing slope issues along accessible routes
- 23 • Installing additional railings

24
 25 The low-level and mid-level items are those that require only minor adjustments or
 26 repairs. These are continuously addressed within AMS Corrective Maintenance repair
 27 processes, the grounds maintenance provided by the Department of Environment, Agriculture,
 28 Parks and Recreation, and AMS Building Improvement projects. The high-level items would
 29 likely be best addressed within the Capital Investment Plan (CIP). As discussed in the Space
 30 Study Update to the Board during the November 10, 2015 work session, staff is preparing these
 31 results to inform the CIP discussion in March 2016.

32 As assessments are completed, the results will be summarized and prioritized within a
 33 framework modeled on the ADA Transition Plan. The Transition Plan lists physical obstacles
 34 that limit the accessibility of public programs or activities to individuals with disabilities, and then
 35 describes the methods that will be used to remove these obstacles, and specifies when each
 36 step will be taken and by whom. As noted in the ADA statute, all facilities do not have to meet
 37 each accessibility component, but rather all persons with disabilities must be able to participate
 38 in and benefit from the services, programs, and activities provided by Orange County.
 39 Therefore, as a plan is created for the removal of obstacles, actions that improve accessibility to
 40 County programs will be prioritized over other types of facilities improvements.

- 41
 42 • Organizations represented
 - 43 ○ Orange County Human Relations Commission (HRC)
 - 44 ○ North Carolina Council on Developmental Disabilities (NCCDD)
 - 45 ○ Disability Awareness Council (DAC)
 - 46 ○ County Building Inspectors
 - 47 ○ 12 County Departments plus NC Courts
- 48 • Follow accessible route from parking lot into all areas
 - 49 ○ Identify, Verify, Record

50
 51 **Timeline and Next Steps**

1 Prepare

- 2 • Engage County departments and disabled community,
- 3 • Prepare standard checklist, Conduct pilot assessments.

4 Timeline August –October 2015**6 Identify & Prioritize**

- 7 • Evaluate all County facilities.
- 8 • Prioritize buildings that have programs serve the most disabled residents.
- 9 • Inventory and prioritize all accessibility issues at these facilities using established ADA standards.

11 Timeline October 2015–February 2016**13 Plan**

- 14 • Propose solutions for accessibility issues.
- 15 • Estimate costs for planning and budgeting purposes.

16 Timeline: December 2015 – February 2016**18 Propose Implementation Plan**

- 19 • Present a proposal to the Board of Commissioners to review as part of the Manager's Recommended CIP.

21 Timeline: March - June 2016

23 Chair McKee asked if a low, moderate, or high number of overall issues have been found thus far.

25 Brennan Bouma said the team has been very thorough and conscientious. He said there have been a high number of low-level issues found.

27 Chair McKee asked if people with disabilities are continuing to be engaged in the process.

29 Brennan Bouma said yes, which has been tremendously helpful.

31 9. County Manager's Report

32 NONE

34 10. County Attorney's Report

35 NONE

37 11. Appointments**39 a. Upper Neuse River Basin Association – Appointment(s)**

40 The Board considered making an appointment(s) to the Upper Neuse River Basin Association (UNRBA).

43 Voting Director:

44 A motion was made by Commissioner Jacobs, seconded by Commissioner Pelissier to leave Pam Hemminger, who is currently on UNRBA, in place for a term not to exceed one year.

47 VOTE: Ayes, 6; Nays, 1 (Commissioner Rich)

49 MOTION PASSES

50

1 First Alternate Director:

2

3 A motion was made by Commissioner Price, seconded by Commissioner Pelissier to
4 nominate Chair McKee to serve as First Alternate Director.

5

6 VOTE: UNANIMOUS

7

8 Second Alternate Director:

9

10 A motion was made by Commissioner Rich, seconded by Commissioner Price to
11 nominate Commissioner Jacobs to serve a three-year term as Second Alternate Director.

12

13 VOTE: UNANIMOUS

14

15 **b. Adult Care Home Community Advisory Committee – Appointments**

16 The Board considered making appointments to the Adult Care Home Community
17 Advisory Committee.

18

19 A motion was made by Commissioner Price, seconded by Commissioner Jacobs to
20 appoint the following to the Adult Care Home Community Advisory Committee:

21

- 22 • Appointment to a first full term (Position #6) At-Large for Suzanne Haff expiring
23 10/31/2017.
- 24 • Appointment to a first full term (Position #7) At-Large for A. Yvonne Medenhall expiring
25 10/31/2017.
- 26 • Appointment of Stephen Bank to a one year training term (Position #1) expiring
27 12/15/2016.
- 28 • Appointment of Gloria Brown to a one year training term (Position # 8) expiring
29 12/15/2016.

30

31 VOTE: UNANIMOUS

32

33 A motion was made by Commissioner Price, seconded by Commissioner Jacobs to
34 appoint William Lang to a one-year training term (Position #9) expiring 12/15/2016.

35

36 VOTE: Ayes, 2 (Commissioner Jacobs and Commissioner Price); Nays, 5 (Chair McKee,
37 Commissioner Rich, Commissioner Burroughs, Commissioner Dorosin, Commissioner Pelissier)

38

39 MOTION FAILS

40

41 A motion was made by Commissioner Dorosin seconded Commissioner Pelissier to
42 appoint Danielle Mosely to a one year training term (Position #9) expiring 12/15/16.

43

44 VOTE: Ayes, 5 (Chair McKee, Commissioner Rich, Commissioner Burroughs, Commissioner
45 Dorosin, Commissioner Pelissier); Nays, 2 (Commissioner Jacobs, Commissioner Price)

46

47 MOTION PASSES

48

49 **c. Affordable Housing Advisory Board – Appointments**

50 The Board considered making appointments to the Affordable Housing Advisory Board.

51

1 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
 2 appoint the following to the Affordable Housing Advisory Board.

- 3
- 4 • Appointment to a first full term (Position #6) At-Large representative for Tammy Jacobs
- 5 expiring 06/30/2018.
- 6 • Appointment to a first full term (Position #12) At-Large representative for Daniel Bullock
- 7 expiring 06/30/2018.
- 8 • Appointment to a first full term (Position #15) At-Large representative for Jason O'Quinn
- 9 expiring 09/30/2018.

10
 11 VOTE: UNANIMOUS

12
 13 A motion was made by Commissioner Price, seconded by Commissioner Dorosin to
 14 appoint Brika Eklund to first full term (Position # 3) At-Large expiring 6/30/2018.

15
 16 VOTE: UNANIMOUS

17
 18 A motion was made by Commissioner Dorosin, seconded by Commissioner Jacobs to
 19 appoint Kolby Herndon to a first full term (Position # 9) At-Large expiring 6/30/2018.

20
 21 VOTE: UNANIMOUS

22
 23 **d. Chapel Hill / Orange County Visitors Bureau – Appointments**

24 The Board considered making appointments to the Chapel Hill/Orange County Visitors
 25 Bureau.

26
 27 A motion was made by Commissioner Rich, seconded by Commissioner Pelissier to
 28 appoint the following to the Chapel Hill/Orange County Visitors Bureau:

- 29
- 30 • Appointment to a second full term (Position #4) At-Large UNC Chapel Hill representative
- 31 for Dr. Aaron Bachenheimer expiring 12/31/2018.
- 32 • Appointment to a first full term (Position #11) At-Large O/C Lodging Assoc.
- 33 representative for Nitin Khana expiring 12/31/2018.
- 34 • Appointment to a second full term (Position #17) At-Large representative for Lee Pavao
- 35 expiring 12/31/2018.

36
 37 VOTE: UNANIMOUS

38
 39 **e. Commission for the Environment – Appointments**

40 The Board considered making appointments to the Commission for the Environment.

41
 42 A motion was made by Commissioner Rich, seconded by Commissioner Price to appoint
 43 the following to the Commission for the Environment:

- 44
- 45 • Appointment to a first full term (Position #5) Water Resources representative for William
- 46 Kaiser expiring 12/31/2018.
- 47 • Appointment to a first full term (Position #13) At-Large representative for Caroline Cook
- 48 expiring 12/31/2018.
- 49 • Appointment to a first full term (Position #14) At-Large representative for Lynne
- 50 Gronback expiring 12/31/2018.

- Appointment to a second full term (Position #15) At-Large representative for Rebecca Ray expiring 12/31/2018.

VOTE: UNANIMOUS

Commissioner Dorosin noted that many boards are lacking in diversity. He encouraged a concerted effort to address this. He also encouraged reaching out to students, via the Daily Tar Heel newspaper.

12. Board Comments

Commissioner Burroughs had no comments.

Commissioner Price said the Chapel Hill Chamber recognized some of the EMS, Sheriff and Fire Department personnel. She offered her congratulations.

Commissioner Dorosin had no comments.

Commissioner Rich had no comments.

Commissioner Jacobs thanked staff and advisory board members for the work they have put in this year.

Commissioner Jacobs said he has not received the agricultural summit draft agenda.

Bonnie Hammersley said she would resend it, although other Commissioners noted they had received it already.

Commissioner Pelissier had no comments.

Chair McKee had no comments.

13. Information Items

- December 7, 2015 BOCC Meeting Follow-up Actions List
- Memo Regarding Rural Recycling Service Area Expansion Details
- Memo Regarding Dr. Pauli Murray Human Rights Award Winner Display Area

14. Closed Session

NONE

15. Adjournment

A motion was made by Commissioner Jacobs, seconded by Commissioner Dorosin to adjourn the meeting at 11:01 p.m.

VOTE: UNANIMOUS

Earl McKee, Chair

Donna Baker, Clerk to the Board

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: January 21, 2016

**Action Agenda
Item No.** 6-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 six (6) taxpayers with a total of six (6) 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 \$1,266.65 to Orange County, the towns, and school and fire districts. Financial impact year to date for FY 2015-2016 is \$31,751.51.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The 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 release/refund resolution.

NORTH CAROLINA

RES-2016-001

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 _____, 2016.

Clerk to the Board of Commissioners

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

BOCC REPORT - REGISTERED MOTOR VEHICLES JANUARY 21, 2016

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT
Hopkins, Karin	27053538	2014	21,350	-	(387.78)	Situs error (illegal tax)
Hopkins, Michael	28737559	2014	9,280	-	(185.52)	Situs error (illegal tax)
Ryall, Kimberley O'Quinn (O'Quinn, Jason)	28894947	2015	26,260	26,260	(220.18)	Situs error (illegal tax)
Stensland, Mitchell	5770769	2015	28,033	17,990	(161.73)	Price paid (appraisal appeal)
Whitaker, Alan	29331254	2015	19,000	500	(177.21)	Antique plate (appraisal appeal)
Wolfgang, Holly	26584717	2014	13,140	13,140	(134.23)	Situs error (illegal tax)
				Total	(1,266.65)	

November 18, 2015 thru December 28, 2015

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: January 21, 2016

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

SUBJECT: Property Tax Releases/Refunds

DEPARTMENT: Tax Administration

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Resolution
Releases/Refunds Data Spreadsheet

INFORMATION CONTACT:

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

PURPOSE: To consider adoption of a resolution to release property tax values for eleven (11) taxpayers with a total of fourteen (14) bills that will result in a reduction of revenue.

BACKGROUND: The Tax Administration Office has received nine 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 \$10,854.10 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.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The 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-2016-002

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 _____, 2016.

Clerk to the Board of Commissioners

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

BOCC REPORT - REAL/PERSONAL JANUARY 21, 2016

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT
American Tower Management, Inc	240172	2015	136,650	118,650.0	(173.09)	Illegal tax
Campbell, Ethelyne	185604	2015	101,108	65,533.0	(342.09)	Clerical error
Cedar Cove Workshop	226497	2015	20,053	20,053.0	(136.77)	Illegal tax
Durham, Betty Lou	261700	2014	124,501	62,250.0	(598.61)	Clerical error
Hoffman, Christopher Adam	308250	2015	441,200	373,100.0	(648.04)	Illegal tax
Hoffman, Christopher Adam	308250	2014	441,200	373,100.0	(648.04)	Illegal tax
Hoffman, Christopher Adam	308250	2013	441,200	373,100.0	(634.42)	Illegal tax
Lewis, Anita M.	279577	2015	178,909	89,454.0	(1,393.71)	Clerical error
Lynch Claude H. Jr.	117393	2015	10,625	-	(102.62)	Illegal tax
McDaniel, Tony T.	1057730	2015	527,500	87,869.0	(4,183.53)	Clerical error
McVay, James	321005	2010	13,440	-	(363.35)	Illegal tax
McVay, James	321005	2011	19,060	9,530.0	(172.46)	Illegal tax
Moore, Johnny T.	154662	2015	217,017	178,654.0	(873.17)	Clerical error
R. H. Cecil Logging, Inc.	305673	2015	54,279	529.0	(584.20)	Illegal tax
				Total	(10,854.10)	

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: January 21, 2016

**Action Agenda
Item No. 6-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 untimely applications from eight (8) taxpayers for exemption/exclusion from ad valorem taxation for thirty-five (35) bills for the 2015 tax year.

BACKGROUND: North Carolina General Statutes (NCGS) typically require applications for exemption to be filed during the listing period, which is usually during the month of January. Applications for Elderly/Disabled Exclusion, Circuit Breaker Tax Deferment and Disabled Veteran Exclusion should be filed by June 1st of the tax year for which the benefit is requested. NCGS 105-282.1(a1) 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 provision applies only to property taxes levied by the county or municipality in the calendar year in which the untimely application is filed.

Including these thirty-five (35) applications, the Board will have considered a total of seventy-five (75) untimely applications for exemption of 2015 taxes since the 2015 Board of Equalization and Review adjourned on May 28th. Taxpayers may submit an untimely application for exemption of 2015 taxes to the Board of Commissioners through December 31, 2015.

Six 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.

One of the applicants is applying for exclusion based on NCGS 105-277.1C, which allows for an exclusion of \$45,000 for an honorably discharged Disabled American Veteran.

One applicant filed twenty-eight (28) applications for exemption from taxation based on NCGS 105-278.6 (a)(8), which allows an exemption from taxation for a nonprofit organization providing housing for individuals or families with low or moderate incomes.

Based on the information supplied in the applications and based on the above-referenced General Statutes, the applications may be approved by the Board of County Commissioners.

NCGS 105-282.1(a1) permits approval of such application if good cause is demonstrated by the taxpayer.

FINANCIAL IMPACT: The reduction in the County's tax base associated with approval of the exemption application will result in a reduction of FY 2015/2016 taxes due to the County, municipalities, and special districts in the amount of \$12,709.86.

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with this item.

RECOMMENDATION(S): The Manager recommends the Board approve the attached resolution for the above-listed applications for FY 2015/2016 exemption.

NORTH CAROLINA

RES-2016-003

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 2015 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 2015 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 _____, 2016.

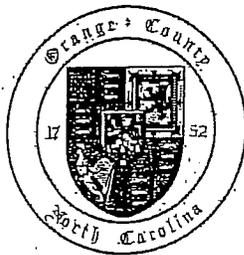
Clerk to the Board of Commissioners

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

**BOCC REPORT - REAL/PERSONAL
JANUARY 21, 2016**

NAME	ABSTRACT NUMBER	BILL YEAR	ORIGINAL VALUE	TAXABLE VALUE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT
Dowdee, Marie Patrick	237944	2015	85,789	42,894	(408.18)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
Habitat for Humanity Orange Co. NC Inc	1054738	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054752	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054753	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054754	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054755	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054756	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054732	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054733	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054735	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054736	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054746	2015	65,600	0	(621.89)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co NC Inc	1054739	2015	700	0	(6.64)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co NC Inc	1054728	2015	1,300	0	(12.32)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054751	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054740	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054734	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054737	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054742	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054743	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054757	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054760	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054761	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054764	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054765	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054766	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054763	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1054762	2015	30,000	0	(284.40)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Habitat for Humanity Orange Co. NC Inc	1057704	2015	33,100	0	(420.79)	Late application for exemption G.S. 105-278.6 (a)(8) (Low-or moderate-income housing)
Jones, Mary C.	262663	2015	221,203	110,601	(1,781.13)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
McAdoo, Adriene	140960	2015	211,306	105,653	(1,001.59)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
McDevitt, Gary D.	284626	2015	132,560	87,560	(431.06)	Late application for exemption G.S. 105-277.1C (Veteran's Exemption)
Overbey, James	81720	2015	99,420	50,714	(463.49)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
Swann, Willard H.	5050	2015	96,330	48,165	(456.60)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
Sykes, Clyde David	209538	2015	227,200	197,288	(280.57)	Late application for exemption G.S. 105-277.1 (Homestead Exemption)
				Total	(12,709.86)	

November 18, 2015 thru December 28, 2015



FILED
NOV 19 2015
ORANGE CO TAX OFFICE

Request for Tax Relief Late Application Filing

Date: 11-19-15

To Whom It May Concern:

I, (PRINT NAME) Marie Patrick Dowdee, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # 9847449202.

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,

Marie Patrick Dowdee
(Signature)

How did you learn of this exemption?

friend



88 Vilcom Center Drive, Suite L110
Chapel Hill, NC 27514
P (919) 932-7077, F (919) 932-7079
www.orangehabitat.org
info@orangehabitat.org

Shavonda McLean
Orange County Tax Administration
P O Box 8181
Hillsborough NC 27278

December 1, 2015

Dear Shavonda,

Please accept and approve our application for exemption from property taxes as submitted to you via email earlier today. I sincerely apologize for the lateness of this application.

When we obtained the entire parcel of land in 2011, we applied for and were granted an exemption from property taxes. We subsequently put in all the infrastructure and in 2014 subdivided the property into smaller lots for affordable housing construction. But it seems that we overlooked applying for tax exemptions on all of the newly-created individual lots and open spaces. This was an oversight on our part and we apologize.

Please let me know if you have further questions, and thank you for your attention to this.

Respectfully,

Randy McNeill, CPA
Finance Director
Habitat for Humanity of Orange County
88 Vilcom Center Drive, Suite L110 Chapel Hill, NC 27514
Office: 919-932-7077 ext. 230
Email: rmcneill@orangehabitat.org



FILED

AUG 24 2015

ORANGE COUNTY
TAX ADMINISTRATION

Request for Tax Relief Late Application Filing

Date: Aug 20, 2015

To Whom It May Concern:

I, (PRINT NAME) Mary C Jones, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # 9788095041

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)

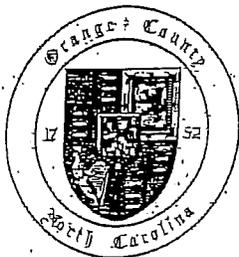
I am a brain injury survivor & wasn't aware of when or how to complete application. I just got assistance with the application

Thank you,

Mary C Jones
(Signature)

How did you learn of this exemption?

Orange Co Tax Office



FILED

DEC 10 2015

ORANGE COUNTY TAX ADMINISTRATION

Request for Tax Relief
Late Application Filing

Date: 12/10/15

To Whom It May Concern:

I, (PRINT NAME) Adriene McAdoo, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2014-2016 on Parcel Identification Number (PIN) # 9845201503

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,

Adriene G. McAdoo
(Signature)

How did you learn of this exemption?

From the tax office



Request for Tax Relief Late Application Filing

Date: 12-18-15

To Whom It May Concern:

I, (PRINT NAME) Gary Daniel McDevitt, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # _____.

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.

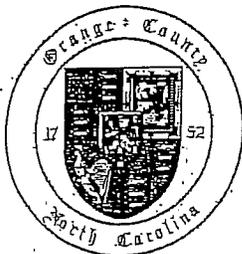
- I was not aware that this exemption was available to me.
- I just found out about the Property Tax Relief Program.
- Other (please explain)

Thank you,

Gary D. McDevitt
(Signature)

How did you learn of this exemption?

VA



DEC 09 2015

STAGG COUNTY, NC
TAX DEPARTMENT

Request for Tax Relief Late Application Filing

Date: 11-26-2015

To Whom It May Concern:

I, (PRINT NAME) James E Overbey, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # 9849884537.

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,

James Edward Overbey
(Signature)

How did you learn of this exemption?

FILED
AUG 19 2015
ORANGE CO TAX OFFICE



Request for Tax Relief Late Application Filing

Date: 8-18-15

To Whom It May Concern:

I, (PRINT NAME) WILLARD H SWANN SR., wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # 9835415495.

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)

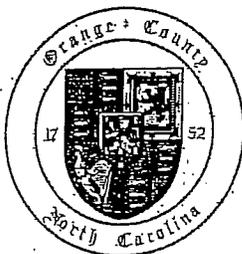
Thank you,

Willard H Swann
(Signature)

How did you learn of this exemption?

By calling when my taxes double in increase this year to the tax office.

FILED
NOV 11 2015
ORANGE COUNTY
TAX ADMINISTRATION



Request for Tax Relief Late Application Filing

Date: 11/11/15

To Whom It May Concern:

I, (PRINT NAME) Clyde David Sykes, wish to be considered for Property Tax Relief Exemption or Exclusion for the year 2015 on Parcel Identification Number (PIN) # 9842045212.

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)

I DIDN'T NO IT WAS LATE

Thank you,

Clyde Sykes
(Signature)

How did you learn of this exemption?

OH BILL

ORD-2016-002

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

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

SUBJECT: Fiscal Year 2015-16 Budget Amendment #5

DEPARTMENT: Finance and Administrative
Services

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

- Attachment 1. Budget as Amended
Spreadsheet
- Attachment 2. Year-To-Date Budget
Summary

INFORMATION CONTACT:

Gary Donaldson, (919) 245-2453
Paul Laughton, (919) 245-2152

PURPOSE: To approve budget ordinance amendments for fiscal year 2015-16.

BACKGROUND:

Health Department

1. The Health Department has received the following additional revenues:
 - An additional \$1,000 from the North Carolina Association of County Commissioners (NCACC) and the Local Government Federal Credit Union (LGFCU) to be used to purchase additional doses of Naloxone to be distributed to law enforcement and emergency medical services (EMS).
 - An additional \$16,000 from North Carolina Division of Public Health Oral Health Section to be used to help create a strong oral health team and expand the Fluoride Mouth Rinse program and Dental Sealant Project in Orange County.
 - An additional \$1,500 from the Delta Dental Foundation to be used to purchase pediatric supplies for the dental clinic and printing of pediatric dental health materials.

This budget amendment provides for the receipt of these additional funds. (See *Attachment 1, column 1*)

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this agenda item:

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.
- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**
The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.
- **GOAL: CREATE A SAFE COMMUNITY**
The reduction of risks from vehicle/traffic accidents, childhood and senior injuries, gang activity, substance abuse and domestic violence.

Animal Services

2. The Animal Services Department has received the following additional revenues:
 - An additional \$1,000 from the Community Giving Fund to promote spaying/neutering related to the free roaming cat initiative.
 - Receipt of a grant award of \$3,944 from the American Society for the Prevention of Cruelty to Animals (ASPCA) to be used to purchase various items needed for legal purposes, including: cameras to be used for court cases, forensic kits for veterinarians, field binoculars, and crime scene items involving animals and livestock.

This budget amendment provides for the receipt of these additional funds. (See *Attachment 1, column 2*)

SOCIAL JUSTICE IMPACT: There is no Orange County Social Justice Goal impact associated with these items.

FINANCIAL IMPACT: Financial impacts are included in the background information above.

RECOMMENDATION(S): The Manager recommends the Board approve the budget ordinance amendments for fiscal year 2015-16.

Original Budget	Encumbrance Carry Forwards	Budget as Amended	Budget as Amended Through BOA #4	#1 Health Department - additional Naloxone funds (\$1,000), additional funds for dental projects (\$16,000); additional funds from Delta Dental Foundation (\$1,500)	#2 Animal Services - spay/netuer promotion (\$1,000), ASPCA grant award (\$3,944)	Budget as Amended Through BOA #5
-----------------	----------------------------	-------------------	----------------------------------	--	---	----------------------------------

General Fund

Revenue

Property Taxes	\$ 147,551,332	\$ -	\$ 147,551,332	\$ 147,551,332	\$ -	\$ -	\$ 147,551,332
Sales Taxes	\$ 20,652,132	\$ -	\$ 20,652,132	\$ 20,652,132	\$ -	\$ -	\$ 20,652,132
License and Permits	\$ 313,000	\$ -	\$ 313,000	\$ 313,000	\$ -	\$ -	\$ 313,000
Intergovernmental	\$ 15,000,278	\$ -	\$ 15,000,278	\$ 18,535,600	\$ 18,500	\$ 3,944	\$ 18,558,044
Charges for Service	\$ 10,766,030	\$ -	\$ 10,766,030	\$ 10,799,064	\$ -	\$ -	\$ 10,799,064
Investment Earnings	\$ 52,500	\$ -	\$ 52,500	\$ 52,500	\$ -	\$ -	\$ 52,500
Miscellaneous	\$ 737,468	\$ -	\$ 737,468	\$ 938,074	\$ -	\$ 1,000	\$ 939,074
Transfers from Other Funds	\$ 1,052,600	\$ -	\$ 1,052,600	\$ 1,052,600	\$ -	\$ -	\$ 1,052,600
Fund Balance	\$ 10,650,770	\$ 1,317,958	\$ 11,968,728	\$ 12,144,024	\$ -	\$ -	\$ 12,144,024
Total General Fund Revenues	\$ 206,776,110	\$ 1,317,958	\$ 208,094,068	\$ 212,038,326	\$ 18,500	\$ 4,944	\$ 212,061,770

Expenditures

Governing & Management	\$ 17,114,396	\$ 215,612	\$ 17,330,008	\$ 17,392,187	\$ -	\$ 4,944	\$ 17,397,131
General Services	\$ 21,381,050	\$ 104,494	\$ 21,485,544	\$ 21,485,544	\$ -	\$ -	\$ 21,485,544
Community & Environment	\$ 8,339,213	\$ 148,310	\$ 8,487,523	\$ 8,510,119	\$ -	\$ -	\$ 8,510,119
Human Services	\$ 34,132,636	\$ 727,958	\$ 34,860,594	\$ 37,806,961	\$ 18,500	\$ -	\$ 37,825,461
Public Safety	\$ 23,316,875	\$ 120,396	\$ 23,437,271	\$ 23,535,712	\$ -	\$ -	\$ 23,535,712
Culture & Recreation	\$ 2,866,171	\$ 1,188	\$ 2,867,359	\$ 2,890,839	\$ -	\$ -	\$ 2,890,839
Education	\$ 94,484,256	\$ -	\$ 94,484,256	\$ 94,484,256	\$ -	\$ -	\$ 94,484,256
Transfers Out	\$ 5,141,513	\$ -	\$ 5,141,513	\$ 5,932,708	\$ -	\$ -	\$ 5,932,708
Total General Fund Appropriation	\$ 206,776,110	\$ 1,317,958	\$ 208,094,068	\$ 212,038,326	\$ 18,500	\$ 4,944	\$ 212,061,770
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Solid Waste Fund

Revenues

Sales & Fees	\$ 7,805,439	\$ -	\$ 7,805,439	\$ 7,805,439	\$ -	\$ -	\$ 7,805,439
Intergovernmental	\$ 243,000	\$ -	\$ 243,000	\$ 243,000	\$ -	\$ -	\$ 243,000
Miscellaneous	\$ 107,500	\$ -	\$ 107,500	\$ 107,500	\$ -	\$ -	\$ 107,500
Licenses & Permits	\$ 110,000	\$ -	\$ 110,000	\$ 110,000	\$ -	\$ -	\$ 110,000
Interest on Investments	\$ 15,000	\$ -	\$ 15,000	\$ 15,000	\$ -	\$ -	\$ 15,000
From General Fund (Sanitation Opers)	\$ 1,718,018	\$ -	\$ 1,718,018	\$ 1,718,018	\$ -	\$ -	\$ 1,718,018
Appropriated Fund Balance	\$ 1,362,061	\$ 846,081	\$ 2,208,142	\$ 2,314,842	\$ -	\$ -	\$ 2,314,842
Total Revenues	\$ 11,361,018	\$ 846,081	\$ 12,207,099	\$ 12,313,799	\$ -	\$ -	\$ 12,313,799

Expenditures

General Services	\$ 11,361,018	\$ 846,081	\$ 12,207,099	\$ 12,313,799	\$ -	\$ -	\$ 12,313,799
-------------------------	----------------------	-------------------	----------------------	----------------------	-------------	-------------	----------------------

Attachment 1. Orange County Proposed 2015-16 Budget Amendment

The 2015-16 Orange County Budget Ordinance is amended as follows:

Original Budget	Encumbrance Carry Forwards	Budget as Amended	Budget as Amended Through BOA #4	#1 Health Department - additional Naloxone funds (\$1,000), additional funds for dental projects (\$16,000); additional funds from Delta Dental Foundation (\$1,500)	#2 Animal Services - spay/neuter promotion (\$1,000), ASPCA grant award (\$3,944)	Budget as Amended Through BOA #5
-----------------	----------------------------	-------------------	----------------------------------	--	---	----------------------------------

Emergency Telephone System Fund

Revenues

Charges for Services	\$ 562,338		\$ 562,338	\$ 562,338			\$ 562,338
Grant Funds	\$ -		\$ -	\$ -			\$ -
From General Fund	\$ -		\$ -	\$ -			\$ -
Appropriated Fund Balance	\$ 362,761	\$ 39,174	\$ 401,935	\$ 401,935			\$ 401,935
Total Revenues	\$ 925,099	\$ 39,174	\$ 964,273	\$ 964,273	\$ -	\$ -	\$ 964,273

Expenditures

Emergency Telephone System Fund	\$ 925,099	\$ 39,174	\$ 964,273	\$ 964,273			\$ 964,273
---------------------------------	------------	-----------	------------	------------	--	--	------------

SportsPlex Enterprise Fund

Program Fees	\$ 3,170,000		\$ 3,170,000	\$ 3,170,000			\$ 3,170,000
Transfer from General Fund			\$ -	\$ -			\$ -
Transfer from County Capital Projects	\$ -		\$ -	\$ -			\$ -
Appropriated Fund Balance	\$ 106,278	\$ 212,714	\$ 318,992	\$ 318,992			\$ 318,992
Grant Funds	\$ -		\$ -	\$ -			\$ -
Total SportsPlex Enterprise Fund Revenues	\$ 3,276,278	\$ 212,714	\$ 3,488,992	\$ 3,488,992	\$ -	\$ -	\$ 3,488,992

Expenditures

SportsPlex Operations	\$ 3,276,278	\$ 212,714	\$ 3,488,992	\$ 3,488,992			\$ 3,488,992
-----------------------	--------------	------------	--------------	--------------	--	--	--------------

Spay/Neuter Fund

Revenues

Charges for Services	\$ 31,000		\$ 31,000	\$ 31,330			\$ 31,330
Intergovernmental	\$ 12,000		\$ 12,000	\$ 12,000			\$ 12,000
Miscellaneous	\$ 10,000		\$ 10,000	\$ 11,266			\$ 11,266
Appropriated Fund Balance	\$ 11,150	\$ 8,760	\$ 19,910	\$ 19,910			\$ 19,910
Total Revenues	\$ 64,150	\$ 8,760	\$ 72,910	\$ 74,506	\$ -	\$ -	\$ 74,506

Expenditures

Operating	\$ 64,150	\$ 8,760	\$ 72,910	\$ 74,506			\$ 74,506
Transfer to County Capital	\$ -		\$ -	\$ -			\$ -
Total Expenditures	\$ 64,150	\$ 8,760	\$ 72,910	\$ 74,506	\$ -	\$ -	\$ 74,506

Attachment 1. Orange County Proposed 2015-16 Budget Amendment

The 2015-16 Orange County Budget Ordinance is amended as follows:

Original Budget	Encumbrance Carry Forwards	Budget as Amended	Budget as Amended Through BOA #4	#1 Health Department - additional Naloxone funds (\$1,000), additional funds for dental projects (\$16,000); additional funds from Delta Dental Foundation (\$1,500)	#2 Animal Services - spay/netuer promotion (\$1,000), ASPCA grant award (\$3,944)	Budget as Amended Through BOA #5
-----------------	----------------------------	-------------------	----------------------------------	--	---	----------------------------------

4-H Fund

Revenues

Donations	\$ 6,500		\$ 6,500	\$ 6,500			\$ 6,500
Charges for Services	\$ 8,000		\$ 8,000	\$ 8,000			\$ 8,000
Intergovernmental	\$ 5,000		\$ 5,000	\$ 5,000			\$ 5,000
Miscellaneous	\$ 5,500		\$ 5,500	\$ 5,500			\$ 5,500
Appropriated Fund Balance	\$ 5,000	\$ 765	\$ 5,765	\$ 5,765			\$ 5,765
Total 4-H Fund Revenues	\$ 30,000	\$ 765	\$ 30,765	\$ 30,765	\$ -	\$ -	\$ 30,765

Expenditures

4-H Program	\$ 30,000	\$ 765	\$ 30,765	\$ 30,765			\$ 30,765
-------------	-----------	--------	-----------	-----------	--	--	-----------

Vehicle Replacement Fund

Revenues

Transfers From General Fund	\$ -		\$ -	\$ -			\$ -
Appropriated Fund Balance	\$ -	\$ 415,299	\$ 415,299	\$ 415,299			\$ 415,299
Debt Financing	\$ 793,209		\$ 793,209	\$ 793,209			\$ 793,209
Total Revaluation Fund Revenues	\$ 793,209	\$ 415,299	\$ 1,208,508	\$ 1,208,508	\$ -	\$ -	\$ 1,208,508

Expenditures

Vehicle Replacement Fund	\$ 793,209	\$ 415,299	\$ 1,208,508	\$ 1,208,508			\$ 1,208,508
--------------------------	------------	------------	--------------	--------------	--	--	--------------

Grant Project Fund

Revenues

Intergovernmental	\$ 697,161		\$ 697,161	\$ 1,476,585			\$ 1,476,585
Charges for Services	\$ 34,000		\$ 34,000	\$ 61,000			\$ 61,000
Transfer from General Fund	\$ 49,120		\$ 49,120	\$ 127,076			\$ 127,076
Miscellaneous	\$ -		\$ -	\$ 60,000			\$ 60,000
Transfer from Other Funds	\$ -		\$ -	\$ 21,250			\$ 21,250
Appropriated Fund Balance	\$ -	\$ 30,069	\$ 30,069	\$ 30,069			\$ 30,069
Total Revenues	\$ 780,281	\$ 30,069	\$ 810,350	\$ 1,775,980	\$ -	\$ -	\$ 1,775,980

Expenditures

NCACC Employee Wellness Grant			\$ -	\$ -			\$ -
Electric Vehicle Charging Stations			\$ -	\$ -			\$ -
Governing and Management	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
NPDES Grant (Multi-year)		\$ -	\$ -	\$ -			\$ -
NC Tomorrow CDBG (Multi-year)		\$ -	\$ -	\$ -			\$ -
Jordan Lake Watershed Nutrient Grant		\$ -	\$ -	\$ -			\$ -
Growing New Farmers Grant			\$ -	\$ -			\$ -
Historic Resources Inventory Grant	\$ 15,000	\$ 25,000	\$ 40,000	\$ 45,000			\$ 45,000
Community and Environment	\$ 15,000	\$ 25,000	\$ 40,000	\$ 45,000	\$ -	\$ -	\$ 45,000
Child Care Health - Smart Start	\$ 65,574		\$ 65,574	\$ -			\$ -

Attachment 1. Orange County Proposed 2015-16 Budget Amendment

The 2015-16 Orange County Budget Ordinance is amended as follows:

	Original Budget	Encumbrance Carry Forwards	Budget as Amended	Budget as Amended Through BOA #4	#1 Health Department - additional Naloxone funds (\$1,000), additional funds for dental projects (\$16,000); additional funds from Delta Dental Foundation (\$1,500)	#2 Animal Services - spay/netuer promotion (\$1,000), ASPCA grant award (\$3,944)	Budget as Amended Through BOA #5
Scattered Site Housing Grant			\$ -	\$ -			\$ -
Carrboro Growing Healthy Kids Grant			\$ -	\$ -			\$ -
Healthy Carolinians			\$ -	\$ -			\$ -
Health & Wellness Trust Grant			\$ -	\$ -			\$ -
Senior Citizen Health Promotion(Wellness)	\$ 98,120	\$ 2,065	\$ 100,185	\$ 134,935			\$ 134,935
CARES Grant - Aging (Multi-Year)			\$ -	\$ 897,298			\$ 897,298
Dental Health - Smart Start			\$ -	\$ -			\$ -
Intensive Home Visiting			\$ -	\$ -			\$ -
Human Rights & Relations HUD Grant			\$ -	\$ -			\$ -
Senior Citizen Health Promotion (Multi-Yr)			\$ -	\$ -			\$ -
SeniorNet Program (Multi-Year)			\$ -	\$ -			\$ -
Enhanced Child Services Coord -SS			\$ -	\$ -			\$ -
Diabetes Education Program (Multi-Year)			\$ -	\$ -			\$ -
Specialty Crops Grant			\$ -	\$ -			\$ -
Local Food Initiatives Grant			\$ -	\$ -			\$ -
Reducing Health Disparities Grant (Multi-Yr)	\$ 63,000		\$ 63,000	\$ 56,906			\$ 56,906
Triple P Initiative Grant (Multi-Yr)			\$ -	\$ -			\$ -
Meaningful Use Incentive Grant (Multi-Yr)				\$ 40,250			\$ 40,250
Emergency Solutions Grant - DSS (Multi-Yr)	\$ 103,583		\$ 103,583	\$ 103,583			\$ 103,583
FY 2009 Recovery Act HPRP			\$ -	\$ -			\$ -
Community Response Program - DSS (Multi-Yr)	\$ 68,156		\$ 68,156	\$ 68,156			\$ 68,156
Susan G Komen Grant	\$ -		\$ -	\$ -			\$ -
Building Futures Program - DSS (Multi-Yr)	\$ 366,848	3004	\$ 369,852	\$ 369,852			\$ 369,852
Foster Youth Opportunities- DSS (1-yr, may be renewable)				\$ 60,000			\$ 60,000
Human Services	\$ 765,281	\$ 5,069	\$ 770,350	\$ 1,730,980	\$ -	\$ -	\$ 1,730,980
Hazard Mitigation Generator Project			\$ -	\$ -			\$ -
Buffer Zone Protection Program			\$ -	\$ -			\$ -
800 MHz Communications Transition			\$ -	\$ -			\$ -
Secure Our Schools - OCS Grant			\$ -	\$ -			\$ -
Citizen Corps Council Grant			\$ -	\$ -			\$ -
COPS 2008 Technology Program			\$ -	\$ -			\$ -
COPS 2009 Technology Program			\$ -	\$ -			\$ -
EM Performance Grant			\$ -	\$ -			\$ -
2010 Homeland Security Grant - ES			\$ -	\$ -			\$ -
2011 Homeland Security Grant - ES			\$ -	\$ -			\$ -
Justice Assistance Act (JAG) Program			\$ -	\$ -			\$ -
FEMA Assistance to Firefighters Grant			\$ -	\$ -			\$ -
Public Safety	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Expenditures	\$ 780,281	\$ 30,069	\$ 810,350	\$ 1,775,980	\$ -	\$ -	\$ 1,775,980

Year-To-Date Budget Summary

Fiscal Year 2015-16

General Fund Budget Summary

Original General Fund Budget	\$206,776,110
Additional Revenue Received Through Budget Amendment #5 (January 21, 2016)	
Grant Funds	\$36,005
Non Grant Funds	\$3,756,401
General Fund - Fund Balance for Anticipated Appropriations (i.e. Encumbrances)	\$1,317,958
General Fund - Fund Balance Appropriated to Cover Anticipated and Unanticipated Expenditures	\$175,296
Total Amended General Fund Budget	\$212,061,770
Dollar Change in 2015-16 Approved General Fund Budget	\$5,285,660
% Change in 2015-16 Approved General Fund Budget	2.56%

Paul:

includes \$5,000 for Orange County's additional share of the Historic Resources Inventory Grant, and \$72,956 in County funds toward the OC Building Futures Program Grant (BOA #1); \$75,340 for the Purchase of Mobile Field Computing Units for the Sheriff's Department (BOA #1-B); \$22,000 for the Purchase of a motorcycle unit from drug forfeiture funds for the Sheriff's Department

Authorized Full Time Equivalent Positions

Original Approved General Fund Full Time Equivalent Positions	862.625
Original Approved Other Funds Full Time Equivalent Positions	88.450
Position Reductions during Mid-Year	(1.000)
Additional Positions Approved Mid-Year	
Total Approved Full-Time-Equivalent Positions for Fiscal Year 2015-16	950.075

Paul:

elimination of a vacant Senior Public Health Educator position in the Smart Start Grant Project (BOA #1)

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

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

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

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

N

ATTACHMENT(S):

1. Vicinity Maps of Crabapple Lane
2. Birchwood Lake Subdivision Final Plat
3. NCDOT Petition Information for Crabapple Lane

INFORMATION CONTACT:

Abigaile Pittman, 245-2567
Tom Altieri, 245-2575
Craig Benedict, 245-2585

PURPOSE: To make a recommendation to the North Carolina Department of Transportation (NCDOT), and the North Carolina Board of Transportation (NC BOT), concerning a petition to add Crabapple Lane in Birchwood Lake Estates Subdivision to the State Maintained Secondary Road System.

BACKGROUND: This request includes one (1) petition for one (1) road addition to the State Maintained Secondary Road System. The road and its respective length and width are as follows:

Road Name	Length in Miles	Pavement/Right-of-way Widths in Feet
Crabapple Lane	0.06	20/60

Birchwood Lake Estates Subdivision

Four (4) platted lots for single-family residential use currently are developed and take their access from Crabapple Lane. There are no undeveloped lots with frontage along Crabapple Lane. Crabapple Lane is situated west of Mimosa Drive, north of Whitfield Road (Attachment 1).

Birchwood Lake Estates Subdivision is a major subdivision originally approved in 1974 in the Chapel Hill Township. There were multiple phases to the project and, as a result, multiple final plats. In 1979 a final plat was recorded revising the right-of-way for the subdivision; however this revision did not affect Crabapple Lane. Phase 2 of the subdivision which created Crabapple Lane was recorded with the Orange County Register of Deeds on September 10, 1974 (Attachment 2).

As this project was approved in 1974 and predates subdivision regulations, with multiple right-of-way dedications and phases with the County, it does not fall within current regulatory processes with respect to the BOCC needing to approve the roadway for eventual dedication. NCDOT has investigated this request and has submitted a petition to the BOCC for its recommendation (Attachment 3). 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).

Conclusion

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

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

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is associated with this item:

- **GOAL: CREATE A SAFE COMMUNITY**

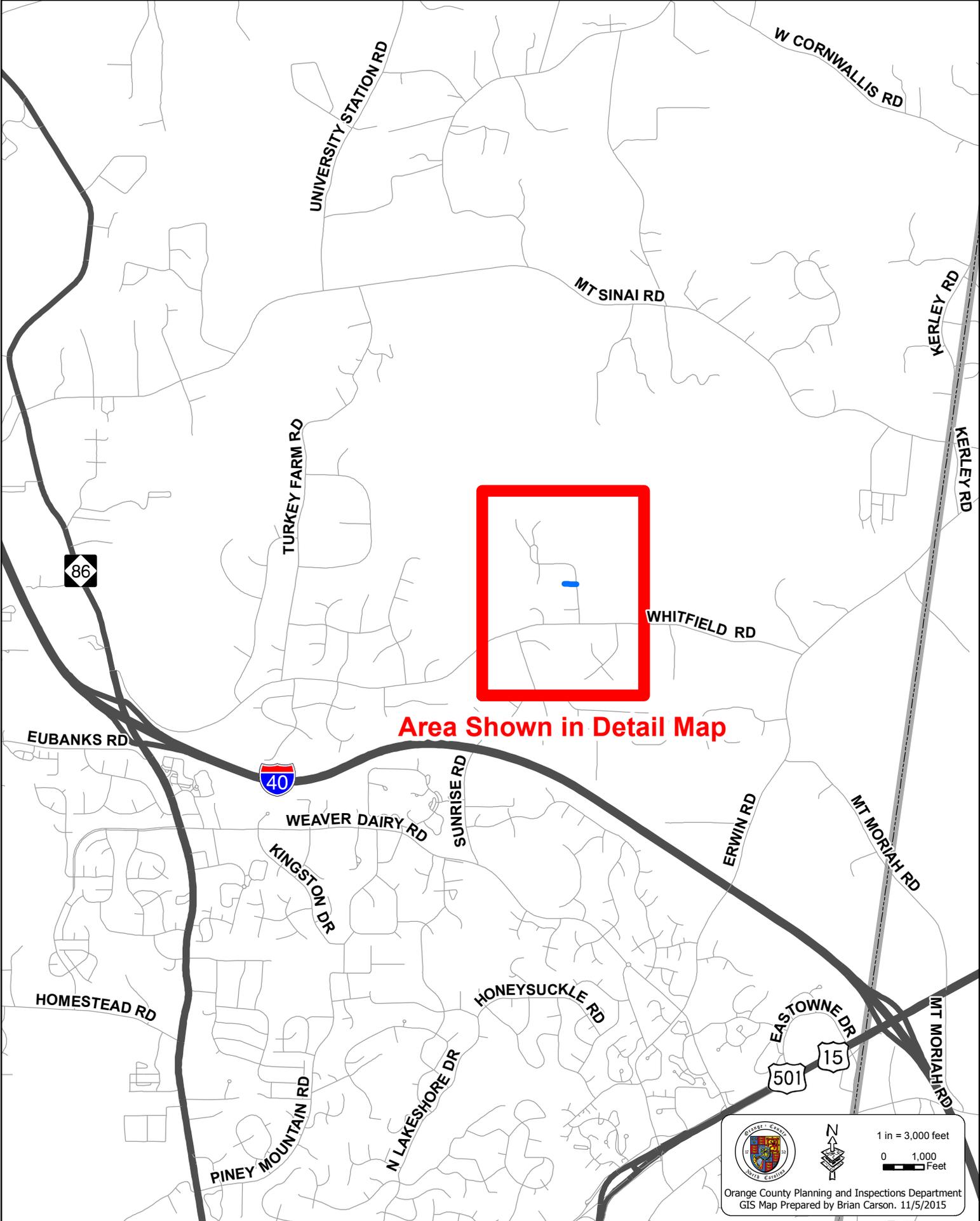
The reduction of risks from vehicle/traffic accidents, childhood and senior injuries, gang activity, substance abuse and domestic violence.

The addition of county private residential streets to the State Maintained Secondary Road System results in positive outcomes related to the above goal.

RECOMMENDATION(S): The Manager recommends the Board:

1. Forward the Petition for Addition to the State Maintained System to the North Carolina Department of Transportation for Crabapple Lane in Birchwood Lake Subdivision; and
2. Recommend the Department of Transportation accept the road for maintenance as a State Secondary Road.

Attachment 1
Crabapple Lane

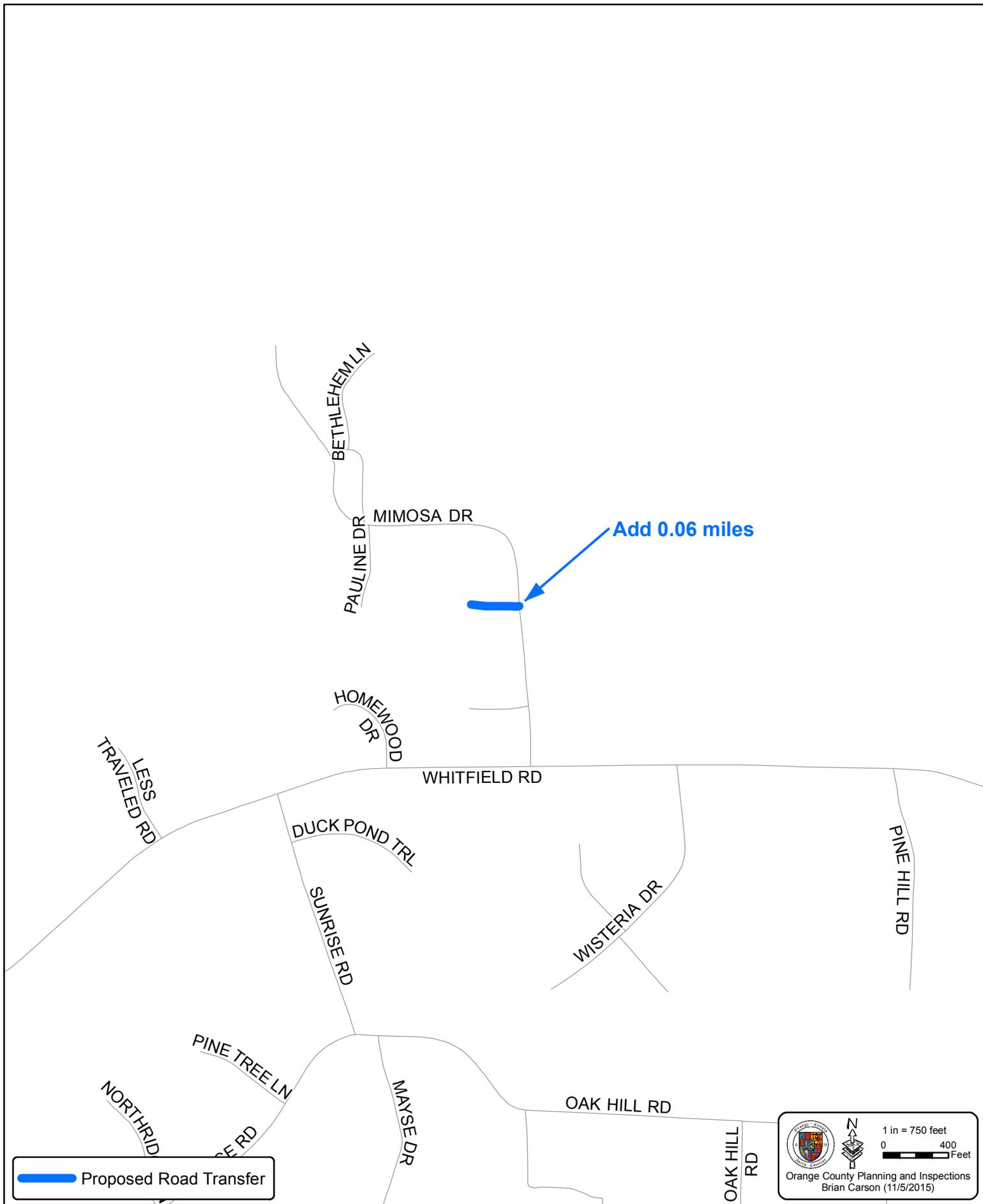


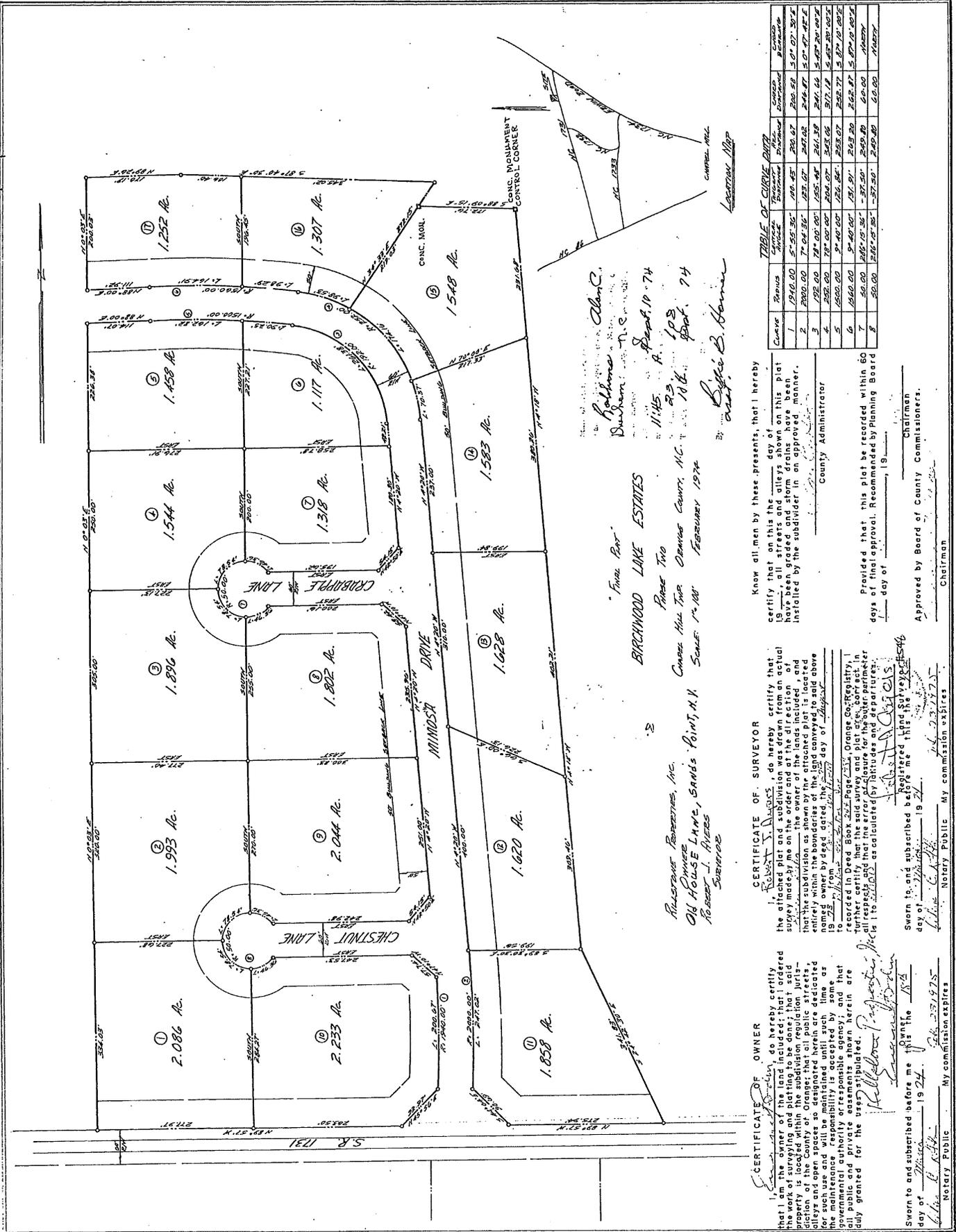
Area Shown in Detail Map

  1 in = 3,000 feet
0 1,000 Feet

Orange County Planning and Inspections Department
GIS Map Prepared by Brian Carson. 11/5/2015

Detail Map of Crabapple Lane





CERTIFICATE OF SURVEYOR
 I, Robert J. Rogers, do hereby certify that the attached plat and subdivision was drawn from an actual survey made by me on the order of the Board of Commissioners of the County of Orange, North Carolina, and that the subdivision as shown by the attached plat is located entirely within the boundaries of the land conveyed to said above named owner by deed dated the 15th day of August 1974 to P. House Lane, Sands Point, N.C. recorded in Deed Book 22, Page 211, Orange County, N.C. I further certify that the said survey and plat are correct in all respects and that the area of the land is as calculated by latitude and departure.

Sworn to and subscribed before me this 19th day of February 1974.
 Notary Public My commission expires 1975

CERTIFICATE OF OWNER
 I, Eugene Podin, do hereby certify that I am the owner of the land included; that I ordered the work of surveying and plating to be done; that I understand the contents of this plat and the laws of the State of North Carolina and the County of Orange; that all public streets, alleys and open spaces so designated herein are dedicated for such use and will be maintained until such time as governmental authority or responsible agency; and that all public and private easements shown herein are duly granted for the uses stipulated.

Sworn to and subscribed before me this 19th day of February 1974.
 Notary Public My commission expires 1975

CERTIFICATE OF OWNER
 I, Eugene Podin, do hereby certify that I am the owner of the land included; that I ordered the work of surveying and plating to be done; that I understand the contents of this plat and the laws of the State of North Carolina and the County of Orange; that all public streets, alleys and open spaces so designated herein are dedicated for such use and will be maintained until such time as governmental authority or responsible agency; and that all public and private easements shown herein are duly granted for the uses stipulated.

Sworn to and subscribed before me this 19th day of February 1974.
 Notary Public My commission expires 1975

CERTIFICATE OF SURVEYOR
 I, Robert J. Rogers, do hereby certify that the attached plat and subdivision was drawn from an actual survey made by me on the order of the Board of Commissioners of the County of Orange, North Carolina, and that the subdivision as shown by the attached plat is located entirely within the boundaries of the land conveyed to said above named owner by deed dated the 15th day of August 1974 to P. House Lane, Sands Point, N.C. recorded in Deed Book 22, Page 211, Orange County, N.C. I further certify that the said survey and plat are correct in all respects and that the area of the land is as calculated by latitude and departure.

Sworn to and subscribed before me this 19th day of February 1974.
 Notary Public My commission expires 1975

BIRCHWOOD LAKE ESTATES
 Final Plat
 Phase Two
 Orange County, N.C.
 February 1974

Approved by Board of County Commissioners.
 Chairman

Approved by Board of Planning Board
 Chairman

Sworn to and subscribed before me this 19th day of February 1974.
 Notary Public My commission expires 1975



Eugene Podin
 Old House Lane, Sands Point, N.C.



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

NICHOLAS J. TENNYSON
SECRETARY

October 19, 2015

ORANGE COUNTY

Ms. Bonnie Hammersley
County Manager
Orange County
P.O. Box 8181
Hillsborough, North Carolina 27278

SUBJECT: Request for Road Addition
Crabapple Lane
Birchwood Lake Estates Phase 2

Dear Ms. Hammersley,

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,

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

Attachments
/tcs



**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

October 13, 2015

MEMO TO: Chuck Edwards, District Engineer

MEMO FROM: Alan Rothrock

COUNTY: Orange

SUBJECT: Addition to System—Birchwood Lake Est. Ph. 2 Subdivision

I have the plats of the Orange County Registry furnished by your office. Based on my examination of the plats it appears that the Right of Way for the roads is as follows, as well as sight distances as shown on plats.

Crabapple Ln.

60 ft.

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

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

County: Orange Co. File No: O-15-03 Date: 10-01-2015
Township: Chapel Hill Div. File No: _____ Div. No: 7

Local Name: Crabapple Lane Subdivision Name: Birchwood Lake Estates Ph. 2
Length: 0.06 miles Width: 20 feet Surface: 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: 09-10-1974 Book: 23 Page: 108

Number of homes having entrances into road: 4

Other uses having entrances into road: None

Right-of-Way Width: 60 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, Jr. PE Reviewed and Approved: J.M. Mills, PE
DISTRICT ENGINEER DIVISION ENGINEER

Reviewed and Approved

BOARD OF TRANSPORTATION MEMBER: _____

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

**ORANGE COUNTY
BOARD OF COMMISSIONERS
ACTION AGENDA ITEM ABSTRACT**
Meeting Date: January 21, 2016

**Agenda
Item No.** 6-g

SUBJECT: Orange Unified Transportation Board (OUTBoard) Policies and Procedures

DEPARTMENT: Planning and Inspections
& County Clerk's Office

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

1. Proposed Revision to OUTBoard Policies and Procedures
2. Resolution Adopting Amended OUTBoard Policies and Procedures

INFORMATION CONTACT:

Abigaile Pittman, 245-2567
Thom Freeman, 245-2125
Donna Baker, 245-2130

PURPOSE: To consider the attached resolution amending OUTBoard Policies and Procedures to add a seventh (7th) at-large position to encourage membership with expertise or interest in Public Health.

BACKGROUND: At the December 15, 2015 BOCC meeting, Commissioner Bernadette Pelissier made a petition to the Board to add another at-large position to the OUTBoard with expertise or specific interest in Public Health.

In response to the Commissioner Pelissier's request, Planning Department staff has prepared a proposed amendment to Section III.B. of the Board's Policies and Procedures (Attachment 1) that would add an additional at-large position to encourage membership with expertise or interest in Public Health. Adoption of this modification will increase the number of at-large members from six (6) to seven (7), and the total number of members from thirteen (13) to fourteen (14). Additionally, the required quorum for a meeting of the OUTBoard would be increased from seven (7) to eight (8) members.

Public health representation on the OUTBoard could be a benefit to the Board in the following ways:

1. Address improving the built environment for safe and accessible physical activity and transportation, which is a key component of addressing obesity and its related health effects.
2. Address transportation concerns, which are frequently cited by clients of the Health Department as accessing its services, as well as services around the county.
3. Further the Board's capacity to examine transportation planning and funding decisions with a public health perspective.
4. Provide regular opportunities for continuous communication between public health, planning and transportation, to enhance decision making, data sharing, and to conduct mutually reinforcing activities.

However, other considerations include:

1. The OUTBoard has historically had difficulty entirely filling its membership composition. For this reason, revisions to the Policies and Procedures made in 2012 revised the prior requirement for several of the at-large positions to be from County boards related to a specific expertise/area of interest (e.g., environmental, planning, economic development). This revision, reflected in the current version of the Policies and Procedures, more liberally requires at-large members to have expertise and specific interests in the articulated areas without specific representation on other County boards.
2. The Rules and Procedures were again revised in March 2015 to add Public Health as one of the seven (7) areas of expertise or specific interest for the existing six (6) at-large positions. This revision was intended to enhance opportunities to complete membership composition by providing that the six (6) at-large members may have expertise or specific interest in as many of the following seven areas as possible:
 - Bicycle transportation
 - Pedestrian access and safety
 - Public transit
 - Environmental issues
 - Economic development
 - Planning
 - Public health

The current proposed revision would add a seventh (7th) at-large position, and specific representation of the areas of interest would be encouraged but not required.

FINANCIAL IMPACT: There is no financial impact associated with consideration of the resolution approving the proposed amendment to the OUTBoard Policies and Procedures.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are associated with this item:

GOAL: CREATE ECONOMIC SELF-SUFFICIENCY

The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.

GOAL: CREATE A SAFE COMMUNITY

The reduction of risks from vehicle/traffic accidents, childhood and senior injuries, gang activity, substance abuse and domestic violence.

The addition of an OUTBoard at-large position with expertise or specific interests in public health results in positive outcomes related to the above goals.

RECOMMENDATION(S): The Manager recommends the Board approve the attached resolution to the OUTBoard specific Policies and Procedures (Attachment 2).

Orange Unified Transportation (OUT) BOARD POLICIES AND PROCEDURESAmendment Note:

Proposed additions/changes to existing text are depicted in red and underscored.

SECTION III: MEMBERSHIP

A. Authority

1. North Carolina General Statute 153A-76 grants boards of county commissioners the authority to establish advisory boards and to appoint members to and remove members from those advisory boards. In acting on this authority the Orange County Board of Commissioners hereby establishes certain general conditions to which applicants and members of advisory boards should conform.

B. Composition

1. The OUT Board is composed of ~~thirteen (13)~~ fourteen (14) voting members.
2. The OUT Board does not have alternate members.
3. Members shall represent demographic, geographic, cultural and professional characteristics, as follows:
 - a. Seven members, one from each township:
 - b. ~~Six (6)~~ Seven (7) at-large members, with expertise or specific interests in as many of the following areas as possible:
 - Bicycle transportation
 - Pedestrian access and safety
 - Public Transit
 - Environmental issues
 - Economic Development
 - Planning
 - Public Health

Attachment 2**ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS****RESOLUTION ADOPTING AMENDED ORANGE UNIFIED TRANSPORTATION BOARD (OUTBOARD) POLICIES AND PROCEDURES**

WHEREAS, on November 8, 2012 the Orange County Board of County Commissioners approved a specific Policies and Procedures document for the OUTBoard, with the intent to give guidance in the performance of its duties, establishing its membership, charge and goals; and

WHEREAS, the OUTBoard Policies and Procedures were amended on March 3, 2015 to add Public Health as one of seven (7) areas of expertise or specific interest for the six (6) at-large positions; and

WHEREAS, the current proposed amendments to the OUTBoard Policies and Procedures document would add a seventh (7th) at-large position, bringing the total number of voting members to fourteen (14), and that at-large members have expertise or specific interests in as many of the following areas as possible:

- Bicycle transportation
- Pedestrian access and safety
- Public transit
- Environmental issues
- Economic development
- Planning
- Public health

WHEREAS, North Carolina General Statute 153A-76 grants to boards of county commissioners the broad authority to organize county government, including the authority to “create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the county government, may impose ex officio the duties of more than one office on a single officer, may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government....”;

NOW, THEREFORE, BE IT RESOLVED, the Orange County Board of County Commissioners, pursuant to North Carolina General Statute 153A-22, adopts the amendment to Section III.B. of the Orange Unified Transportation Board (OUTBoard) Policies and Procedures; and

BE IT FURTHER RESOLVED, in determining whether there is a conflict between or among a governing ordinance and the terms of the amended Orange Unified Transportation Board (OUTBoard) Policies and Procedures document, staff may consult with the County attorney, who shall take into consideration the intent of the Board of County Commissioners, in assisting staff to resolve the conflict.

Attachment 2

Adopted this 21st day of January, 2016.

Attest:

Earl McKee, Chair
Orange County Board of County Commissioners

Clerk to the Board of County
Commissioners

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

Action Agenda

Item No. 6-h

SUBJECT: Unified Development Ordinance Amendment Outline and Schedule – Mailed Notification Requirements

DEPARTMENT: Planning and Inspections

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Amendment Outline Form

INFORMATION CONTACT:

Perdita Holtz, Planner III, 245-2578
Craig Benedict, Planning Director,
245-2592

PURPOSE: To consider and approve process components and schedule for an upcoming government-initiated amendment to the Unified Development Ordinance (UDO) regarding mailed notification requirements.

BACKGROUND: The purpose of these proposed amendments is as follows:

- Correct omissions in Sections 2.7.5, 2.9.1, and 2.9.2 of the UDO that should have been part of the materials adopted on November 5, 2015 which revised the public hearing process. Specifically, the requirement for certified mail is proposed to be revised to use first class mail.
- Update mailed notice requirements in Sections 2.15 and 2.24 which relate to the required Neighborhood Information Meeting for Major Subdivisions (2.15) and Governmental Uses (2.24). Specifically, the mailed notification boundary is proposed to be increased from 500 feet to 1,000 feet. Also, for governmental uses, the requirement for certified mail is proposed to be revised to use first class mail.

Please see Section B of the attached Amendment Outline Form for analysis related to this proposed UDO text amendment.

FINANCIAL IMPACT: See Financial Impact included in Section C.3 of the attached Amendment Outline form.

SOCIAL JUSTICE IMPACT: The following Social Justice Goal is applicable to this agenda item:

• **GOAL: ENABLE FULL CIVIC PARTICIPATION**

Ensure that Orange County residents are able to engage government through voting and volunteering by eliminating disparities in participation and barriers to participation.

RECOMMENDATION(S): The Manager recommends the Board approve the attached Amendment Outline and direct staff to proceed accordingly.

COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE

UDO / Zoning-2016-01

Mailed Notification Requirements

A. AMENDMENT TYPE

Map Amendments

- Land Use Element Map:
From: - - -
To: - - -
- Zoning Map:
From: - - -
To: - - -
- Other:

Text Amendments

- Comprehensive Plan Text:

Section(s):

- UDO Text:

- UDO General Text Changes
 UDO Development Standards
 UDO Development Approval Processes

Section(s): 2.7.5, 2.9.1, 2.9.2, 2.15.2, 2.24.2

- Other:

B. RATIONALE

1. Purpose/Mission

- Correct omissions in Sections 2.7.5, 2.9.1, and 2.9.2 of the UDO that should have been part of the materials adopted on November 5, 2015 which revised the public hearing process.
- Update mailed notice requirements in Sections 2.15 and 2.24 which relate to the required Neighborhood Information Meeting for Major Subdivisions (2.15) and

Governmental Uses (2.24).

2. Analysis

As required under Section 2.8.5 of the UDO, the Planning Director is required to: *'cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners'*.

While updating the Unified Development Ordinance to incorporate amendments adopted on November 5, 2015, staff discovered inadvertent omissions in three sections: 2.7.5, 2.9.1, and 2.9.2. Text in these three sections was changed to increase the mailed notification distance from 500 to 1,000 feet but was not updated to modify the type of mailing from certified to first class mail, as was done in other sections and which was the intent of this aspect of the November 5th amendments.

Additionally, staff has analyzed other sections of the UDO that were not part of the November 5th amendments to determine if additional modifications are warranted as a result of changing the mailed notification boundary from 500 feet to 1,000 for certain types of review processes. Staff is recommending that the mailed notification requirements for the Neighborhood Information Meetings that are held for Major Subdivisions and Governmental Uses be updated to change the notification boundary from 500 feet to 1,000 feet and, in the case of governmental uses, to require first class mail rather than certified mail. Having consistency throughout the UDO in regards to distance requirements and the type of mailing should result in less potential confusion.

Staff notes that Section 5.10.8(2) requires a neighborhood information meeting in conjunction with a balloon test for telecommunication facilities. The current (unchanged in 2015) mailed notification distance for this type of facility is 1,000 feet and applicants are required to mail the notice via certified mail. Staff is not recommending a change to this particular process because a non-governmental entity is responsible for the mailings.

3. Comprehensive Plan Linkage (i.e. Principles, Goals and Objectives)

Land Use Goal 6: A land use planning process that is transparent, fair, open, efficient, and responsive.

4. New Statutes and Rules

N/A

C. PROCESS

1. TIMEFRAME/MILESTONES/DEADLINES

- a. BOCC Authorization to Proceed

January 21, 2016

b. Quarterly Public Hearing

February 18, 2016 – also possible decision

c. BOCC Updates/Checkpoints

January 6, 2016 – Planning Board meeting (agenda materials are available to all interested persons)

d. Other

2. PUBLIC INVOLVEMENT PROGRAM

Mission/Scope: Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements.

a. Planning Board Review:

January 6, 2016 - recommendation

b. Advisory Boards:

c. Local Government Review:

Proposed text amendments were sent to JPA partners (Towns of Chapel Hill and Carrboro) on December 28, 2015 in accordance with the JPA Agreement since any project in the Rural Buffer would be subject to the amended sections.

d. Notice Requirements

Consistent with NC State Statutes – legal ad prior to public hearing

e. Outreach:

- General Public: _____
- Small Area Plan Workgroup: _____
- Other: _____

3. FISCAL IMPACT

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from FY2015-16 Departmental funds budgeted for this purpose. Existing Planning

staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

D. AMENDMENT IMPLICATIONS

If adopted, the amendments would update the mailed notification requirements for neighborhood information meetings that take place for the type of project review/approval process in the amended sections.

E. SPECIFIC AMENDMENT LANGUAGE

Will be part of quarterly public hearing materials. Draft language was included in January 6, 2016 Planning Board materials: [http://www.orangecountync.gov/departments/planning_and_inspections/orange_county_planning_board_\(pb\).php#](http://www.orangecountync.gov/departments/planning_and_inspections/orange_county_planning_board_(pb).php#)

Primary Staff Contact:

Perdita Holtz, AICP

Planning Department

919-245-2578

pholtz@orangecountync.gov

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

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

SUBJECT: Unified Animal Control Ordinance

DEPARTMENT: Animal Services and County
Attorney

PUBLIC HEARING: No

No

ATTACHMENT(S):

- 1) Strikethrough-Underline Version of Animal Control Ordinance
- 2) Clean Copy of Animal Control Ordinance
- 3) Animal Services Appeal Board Policies and Procedures
- 4) Resolution of Amendment
- 5) Public Awareness Plan
- 6) December 15, 2015 BOCC Abstract, Powerpoint and Excerpt of Draft Minutes

INFORMATION CONTACT:

Bob Marotto, Animal Services Director,
919.968.2287
Annette Moore, Staff Attorney, 919.
245.2317

PURPOSE: To consider approval of the proposed Unified Animal Control Ordinance (“UAO”) and adoption of the Resolution of Amendment “Amending Chapter 4 of the Orange County Code of Ordinances”.

BACKGROUND: At its December 15, 2015 meeting the Board of County Commissioners (BOCC) considered adopting the proposed UAO. After a lengthy discussion, the BOCC requested that based on the discussion staff make several changes to the proposed UAO. Staff has made the changes to the proposed UAO as follows:

1. Section 4-31 Authority and Purpose (Page 3). The Board requested that a “purpose” be added to the UAO. The following language was added to Section 4-31:

“The purpose of this Ordinance is to protect the health, safety and welfare of Orange County residents and the animals residing within the County and to regulate and control the conduct, keeping and care of those animals.”

2. Section 4-37 Definitions (Page 7). The BOCC requested further clarification of an act defining Cruel and Cruel Treatment found in Section 4-37(j) of the proposed UAO. The term “outdoor” was added to the phrase:

“confining in a closed vehicle without functioning air conditioning or ventilation whenever the ambient outdoor temperature exceeds seventy (70) degrees Fahrenheit.”

3. Section 4-41 Mistreatment of Animals (Page 14). To be consistent with Section 4-37(j) the term “outdoor” was also added to Section 4-41(h) as follows:

“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 outdoor temperature in the vicinity of the vehicle or trailer is greater than or equal to 70 degrees Fahrenheit.”

4. Section 4-45 Public Nuisance (Page 22). The BOCC requested further clarification of the term “odor” found in Section 4-45(b)(2). The following sentence was added Section 4-45(b)(2):

“For purposes of this subsection odor shall include, but is not limited to, a distinctive or particularly unpleasant smell of animal urine or feces, that is lingering or lasting in nature.”

5. Section 4-53 Appeals (Page 27-28). The BOCC requested a number of changes to the appeal process including providing the Board with a separate policy governing the appointment of pool of members to serve on an appeals panel. Staff has made the changes to the Section 4-53 of the proposed UAO as follows:

Sec. 4-53. - Appeals.

Except as provided herein any appeals provided by this Chapter shall be to a three member hearing panel ~~comprised of two members of the Orange County Animal Services Advisory Board and one member of either Carrboro, Chapel Hill or Hillsborough so designated by the respective Town or a member of the public designated by the Board of County Commissioners for this purpose within 5 days of the final decision made in the action.~~

- (a) A person who has been found to be in violation of this Chapter may appeal the final decision made by the Animal Services Director to the appeal board by filing a notice of appeal containing a concise statement of the reason for the appeal and delivering it to the Animal Services Director within five (5) days of receipt of the final decision.
- (b) A hearing shall be scheduled within ten (10) days of the receipt of notice of appeal.
- (c) Neither a party nor the Department shall be represented by an attorney. A party alleged to be in violation of this Chapter may be accompanied by an individual of their choosing. Such individual may be an attorney and may communicate with the party but the attorney may not participate in the appeal.
- (d) The chair of the hearing panel shall administer oaths to all witnesses and make any ruling necessary to preserve fairness, order and proper decorum.
- (e) A person appealing a decision may present competent, relevant and material evidence or testimony, cross-examine witnesses, inspect documents, and offer evidence or testimony in explanation or rebuttal.
- (f) Any member of the hearing panel may call as a witness and question any interested party who has competent, relevant and material comments about the matters contained within the appeal.

- (g) Members of the hearing panel may exclude and not factor into their decision any evidence, testimony, or statements deemed incompetent, irrelevant, immaterial or unduly repetitious and therefore fail to reasonable address the issues before the hearing panel.
- (h) Within seven (7) days of the hearing the hearing panel shall issue a decision and cause that decision to forward to the person making the appeal and all other interested parties.
- (i) Appeal under Section 4-42 of this Chapter (Vicious Animals and Dangerous Dogs) shall be to a three member hearing panel consisting of one member of the Animal Services Advisory Board, who shall serve as Chair, and two members drawn from the remainder of the pool. At least one member of the panel shall be from either the Town or County where the incident occurred.

~~The Animal Services Advisory Board may make additional rules~~ Board of County Commissioners shall adopt a policy, which may be amended from time to time, governing the appointment of appeals panel members and any additional processes necessary to carry out appeals in fair and equitable manner. The Towns of Chapel Hill, Carrboro and Hillsborough may appoint one person from their respective jurisdictions to serve in the pool of prospective hearing board members. (Does not apply in the Town of Carrboro)

In addition to the changes made above, a separate document was created entitled “Animal Services Appeal Board Policies and Procedures” (see attached) to include changes made by the BOCC.

The Resolution of Adoption proposes an effective date of March 1, 2016 for the proposed UAO. This timeframe allows for implementation of the public awareness plan in all of the jurisdictions in which it would apply. A revised timetable for the public awareness plan is attached.

FINANCIAL IMPACT: There is no financial impact associated with the adoption of the proposed unified animal control ordinance. The ordinance has not created new regulatory responsibilities but rather only filled critical gaps and incorporated the best practices from the ordinance that precede it in the county.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this agenda item:

- **GOAL: ENABLE FULL CIVIC PARTICIPATION**

Ensure that Orange County residents are able to engage government through voting and volunteering by eliminating disparities in participation and barriers to participation.

The ordinance will help to enable fuller civic participation by creating a common framework within the County and ensuring more adequate due process procedures.

RECOMMENDATION(S): The Manager recommends the BOCC consider the adoption of the proposed Unified Animal Control Ordinance and approve the Resolution of Amendment “A Resolution Amending Chapter 4 of the Orange County Code of Ordinances”.

Animal Control Ordinance

Contents

DIVISION 1. - GENERALLY 3

 Sec. 4-31. – Authority and Purpose. 3

 Sec. 4-32. - Applicability to animal shelter. 3

 Sec. 4-33. - Animal control officers..... 3

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

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

 Sec. 4-36. - Ordinance..... 5

 Sec. 4-37. - Definitions. 6

 Sec. 4-38. - Animal control program..... 10

 Sec. 4-39. - Relation to hunting laws. 12

 Sec. 4-40. - Notice in case of physical harm..... 13

 Sec. 4-41. - Mistreatment of animals unlawful..... 13

 Sec. 4-42. - Control of vicious animals; security dogs..... 16

 Sec. 4-43. - Impoundment of animals..... 21

 Sec. 4-44. - Handling of stray animals..... 22

 Sec. 4-45. - Public nuisance..... 22

 Sec. 4-46. - Rabies control..... 25

 Sec. 4-47. - Rabies vaccination tag..... 25

 Sec. 4-48. - Applicability to veterinarians. 25

 Sec. 4-49. - Reserved..... 26

 Sec. 4-50. - Reserved..... 26

 Sec. 4-51. - Penalties..... 26

 Sec. 4-52. – Effective date..... 27

 Sec. 4-53. - Appeals..... 27

 Secs. 4-54—4-70. - Reserved. 28

DIVISION 2. - KENNEL AND PET SHOP STANDARDS 28

 Sec. 4-71. – Class I kennels..... 28

 Sec. 4-72. - Class II kennels. 29

 Sec. 4-73. - Pet shops..... 32

Animal Control Ordinance

Sec. 4-74 - Permit procedures..... 34

Secs. 4-74—4-95. - Reserved. 34

DIVISION 3. - ANIMAL COLLECTION 35

Sec. 4-96. - Permit required..... 35

Sec. 4-97. - Permit application..... 35

Sec. 4-98. - Permit requirements..... 36

Sec. 4-99. - Records..... 37

Sec. 4-100. - Quality assurance program..... 38

Sec. 4-101. - Application and enforcement of division..... 38

Secs. 4-102—4-130. - Reserved. 38

DIVISION 4. - DISPLAY OF WILD AND EXOTIC ANIMALS..... 39

Sec. 4-131. - Repealed..... 39

Sec. 4-132. - Display of wild or exotic animals prohibited..... 39

Sec. 4-133. - Enforcement..... 39

Secs. 4-134—4-180. - Reserved. 40

DIVISION 5. - KEEPING OF WILD ANIMALS DANGEROUS TO PERSONS AND PROPERTY 41

Sec. 4-181. - Definitions..... 41

Sec. 4-182. - Keeping of wild and dangerous animals prohibited. 41

Sec. 4-183. - Exemptions..... 41

Sec. 4-184. - Enforcement..... 41

Sec. 4-185. - Severability..... 42

Animal Control Ordinance

DIVISION 1. - GENERALLY

Sec. 4-31. – Authority and Purpose.

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. The purpose of this Ordinance is to protect the health, safety and welfare of Orange County residents and the animals residing within the County and to regulate and control the conduct, keeping and care of those animals.

(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 an Animal Cruelty Investigator. Only Orange County employees shall be designated as an Animal Cruelty Investigator.
- (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 in accordance with applicable law:
 - (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 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 people, animals, or domesticated livestock and to assist in locating those persons owning or harboring the attacking animals.

Animal Control Ordinance

(5) Animal Control Officers shall not have the power to arrest.

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 its 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.

Animal Control Ordinance

(1) The Redemption Privilege Tax shall be:

Number of Prior Incidents	Redemption or Impoundment Privilege Tax	Redemption or Impoundment Privilege Tax
	<u>Sterilized Animal</u>	<u>Reproductive Animal</u>
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 considered 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

Animal Control Ordinance

Control and Protection in Orange County, adopted May 15, 1979, as amended October 3, 1983, is hereby repealed.

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

Sec. 4-37. - Definitions.

As used in this Chapter, the following terms mean:

- (a) *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.
- (b) *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. Does not apply to the following domesticated livestock: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry (except within municipal corporate limits the term "poultry" applies only to poultry flocks greater than 20 birds).
- (c) *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.
- (d) *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.
- (e) *Animal*: Any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish, livestock, and reptiles.
- (f) *Animal Services Director*: That person designated by the Board of Commissioners and the County Manager in Orange County, and where appropriate, his or her

Animal Control Ordinance

designee, charged with the responsibility, discretion and authority to interpret, implement and enforce the Animal Control program in Orange County.

- (g) *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.
- (h) *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 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.
- (i) *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.
- (j) *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 outdoor 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.
- (k) *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.
- (l) *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

- (m) *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.
- (n) *Educational Purposes*: Teaching and instructing with the intent and effect of imparting knowledge to others.
- (o) *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.
- (p) *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.
- (q) *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.
- (r) *Health Department*: Orange County Health Department.
- (s) *Health Director*: Director of the Orange County Health Department.
- (t) *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 legally "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.
- (u) *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.
- (v) *Other Local Government Body (Bodies)*: The Towns of Carrboro, Chapel Hill and Hillsborough and those parts of the City of Durham located in Orange County.
- (w) *Owner*: Any person who owns any animal and is responsible for its care, actions, and behavior.
- (x) *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.
- (y) *Person*: Any individual, family, group of individuals, corporation, partnership, organization, or institution recognized by law as a person.
- (z) *Physical Harm*: Any injury which is serious enough to require immediate medical attention.

Animal Control Ordinance

- (aa) *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.
- (bb) *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 device is further regulated under this Ordinance.
- (cc) *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.
- (dd) *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.
- (ee) *Serious physical harm*: Any physical injury that results in broken bones, disfiguring lacerations, or requires cosmetic surgery or hospitalization.
- (ff) *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.
- (gg) *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.
- (hh) *Suspected of Having Rabies*: An animal which has bitten a person or another animal.

Animal Control Ordinance

- (ii) *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.
- (jj) *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.
- (kk) *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 out the enforcement of this Ordinance as Animal Control Officers including the duties of Rabies Control Officers and Animal Cruelty Investigators.
- (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 officers, 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

Animal Control Ordinance

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 reasonable 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.
 - (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.

Animal Control Ordinance

- (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.
- (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 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

Animal Control Ordinance

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 physical harm.

It shall be unlawful for any person who causes physical harm 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:

- a. The owner(s) or keeper(s) of the animal (if known or ascertainable with reasonable efforts made to locate the owner or keeper),
- b. An Animal Control Officer,
- c. Local law enforcement agency, or
- d. 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 failures 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.

Animal Control Ordinance

- 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)
- 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 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 outdoor temperature in the vicinity of the vehicle or trailer is greater than or equal to 70 degrees Fahrenheit.
- 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 physical harm 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.

Animal Control Ordinance

- (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 physical harm 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 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

Animal Control Ordinance

- 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. 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 which:
 - (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

Animal Control Ordinance

- (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 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;

Animal Control Ordinance

- (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 reasonably 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 who 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 physical harm was to a species or type of domestic animal appropriate to the work of the dog; or
 - (4) A dog where the physical harm inflicted by the dog was sustained by a person who, at the time of the physical harm was:
 - a. On the Owner's or Keeper's 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, which shall be determined by looking at the totality of the circumstances;

Animal Control Ordinance

- c. Tormenting, abusing, or assaulting the dog or 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 previously declared vicious was off the Owner's or Keeper's 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 sole discretion of the Animal Services Director, or their designee, they are 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 Animal Control 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 4-42(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 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

Animal Control Ordinance

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's 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 as provided in Section 4-53 of this Chapter.

Animal Control Ordinance

Sec. 4-43. - Impoundment of animals.

Any animal found at large, found not to be wearing a currently valid rabies tag, has been declared vicious and is outside not in a secure pen or on a restraint, that is a danger to the public or for any other reason designated in this Chapter is a public nuisance and 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.
- (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 Services 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 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 of 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 that 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, prior to the end of the required redemption or adoption period.
- (e) Confinement Order. In lieu of impoundment, the Animal 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

Animal Control Ordinance

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.

- (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 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) 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

Animal Control Ordinance

- 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 odor shall include, but is not limited to, a distinctive or particularly unpleasant smell of animal urine or feces, that is lingering or lasting in nature. For purposes of this subsection, excessive noise making shall include repeated episodes of barking, howling, whining, crying, or crowing only if the rooster is within the town limits of 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 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 physical harm to domesticated livestock or pets.
 - (5) Without provocation, inflicts on any person serious physical harm requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.
 - (6) Any large animal off the premises of the Owner or Keeper; except in the case of domestic livestock, the Animal Services Director, or their designee, shall have the discretion to determine a violation when the animal, in their judgment, presents a danger to the public, is destroying or damaging property, is violating property rights, or has been habitually at large.
 - (7) The provisions of subsections (1) through (5) above of this section shall not apply to cats. However, a cat may be deemed a public nuisance when off the premises of its owner or keeper when it:
 - i. Habitually or repeatedly defecate or urinate in children's sandboxes, gardens, flower beds or other private property without the permission of the property owner;
 - ii. Habitually or repeatedly injure or kill 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;

Animal Control Ordinance

- 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 serious physical harm 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.

(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 their reoccurrence within twenty-four (24) hours or such lesser time as

Animal Control Ordinance

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.
- (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 Keeper of such animal shall provide proof that the cat or ferret has been vaccinated against rabies. The Owner or Keeper 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.

Animal Control Ordinance

(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.

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 or her 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:

Animal Control Ordinance

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

- (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 or Keeper 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. – Effective date.

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. 4-53. - Appeals.

~~Except as otherwise provided herein any appeals provided by this Chapter shall be to a three member hearing panel comprised of two members of the Orange County Animal Services Advisory Board and one member of either Carrboro, Chapel Hill or Hillsborough so designated by the respective Town or a member of the public designated by the Board of County Commissioners for this purpose within 5 days of the final decision made in the action.~~

- (a) A person who has been found to be in violation of this Chapter may appeal the final decision made by the Animal Services Director to the appeal board by filing a notice of appeal containing a concise statement of the reason for the appeal and delivering it to the Animal Services Director within five (5) days of receipt of the final decision.
- (b) A hearing shall be scheduled within ten (10) days of the receipt of notice of appeal.

Animal Control Ordinance

- (c) Neither a party nor the Department shall be represented by an attorney. A party alleged to be in violation of this Chapter may be accompanied by an individual of their choosing. Such individual may be an attorney and may communicate with the party but the attorney may not participate in the appeal.
- (d) The chair of the hearing panel shall administer oaths to all witnesses and make any ruling necessary to preserve fairness, order and proper decorum.
- (e) A person appealing a decision may present competent, relevant and material evidence or testimony, cross-examine witnesses, inspect documents, and offer evidence or testimony in explanation or rebuttal.
- (f) Any member of the hearing panel may call as a witness and question any interested party who has competent, relevant and material comments about the matters contained within the appeal.
- (g) Members of the hearing panel may exclude and not factor into their decision any evidence, testimony, or statements deemed incompetent, irrelevant, immaterial or unduly repetitious and therefore fail to reasonable address the issues before the hearing panel.
- (h) Within seven (7) days of the hearing the hearing panel shall issue a decision and cause that decision to forward to the person making the appeal and all other interested parties.
- (i) Appeal under Section 4-42 of this Chapter (Vicious Animals and Dangerous Dogs) shall be to a three member hearing panel consisting of one member of the Animal Services Advisory Board, who shall serve as Chair, and two members drawn from the remainder of the pool. At least one member of the panel shall be from either the Town or County where the incident occurred.

The ~~Animal Services Advisory Board may make additional rules~~ Board of County Commissioners shall adopt a policy, which may be amended from time to time, governing the appointment of appeals panel members and any additional processes necessary to carry out appeals in fair and equitable manner. The Towns of Chapel Hill, Carrboro and Hillsborough may appoint one person from their respective jurisdictions to serve in the pool of prospective hearing board members. (Does not apply in the Town of Carrboro)

Secs. 4-54—4-70. - Reserved.

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.

Animal Control Ordinance

- (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 4-53.

(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

Animal Control Ordinance

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, 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 physical harm, 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.

Animal Control Ordinance

- (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 owning, operating, or 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.

Animal Control Ordinance

- (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 4-53.

(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.
 - (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.

Animal Control Ordinance

- (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 Division, and/or the issuance of an abatement order to comply with the provisions of this Division.
 - (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 a 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 4-53.

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

Animal Control Ordinance

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.
 - (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.

Animal Control Ordinance

- 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.
 - 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.

Animal Control Ordinance

- 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.
 - (4) The name, address and telephone number of the collector.
 - (5) The name, address and telephone number of the person surrendering the animal.

Animal Control Ordinance

- (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.

DIVISION 4. - 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. Wild or Exotic animals designated as rabies vector species may only 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 Division 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 Division 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

Animal Control Ordinance

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 fourteen (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 Division, 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)

Secs. 4-134—4-180. - Reserved.

Animal Control Ordinance

DIVISION 5. - KEEPING OF WILD ANIMALS DANGEROUS TO PERSONS AND PROPERTY**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 Animal Services Advisory 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 Animal Services Advisory 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 Division constitutes a misdemeanor and shall be punishable as provided in North

Animal Control Ordinance

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 Division 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 fourteen (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 declaration of 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)

Animal Control Ordinance

Contents

DIVISION 1. - GENERALLY 3

 Sec. 4-31. – Authority and Purpose. 3

 Sec. 4-32. - Applicability to animal shelter. 3

 Sec. 4-33. - Animal control officers..... 3

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

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

 Sec. 4-36. - Ordinance..... 5

 Sec. 4-37. - Definitions. 6

 Sec. 4-38. - Animal control program..... 10

 Sec. 4-39. - Relation to hunting laws. 12

 Sec. 4-40. - Notice in case of physical harm..... 13

 Sec. 4-41. - Mistreatment of animals unlawful..... 13

 Sec. 4-42. - Control of vicious animals; security dogs..... 16

 Sec. 4-43. - Impoundment of animals..... 21

 Sec. 4-44. - Handling of stray animals..... 22

 Sec. 4-45. - Public nuisance..... 22

 Sec. 4-46. - Rabies control..... 25

 Sec. 4-47. - Rabies vaccination tag..... 25

 Sec. 4-48. - Applicability to veterinarians. 25

 Sec. 4-49. - Reserved..... 26

 Sec. 4-50. - Reserved..... 26

 Sec. 4-51. - Penalties..... 26

 Sec. 4-52. – Effective date..... 27

 Sec. 4-53. - Appeals..... 27

 Secs. 4-54—4-70. - Reserved. 28

DIVISION 2. - KENNEL AND PET SHOP STANDARDS 28

 Sec. 4-71. – Class I kennels..... 28

 Sec. 4-72. - Class II kennels. 29

 Sec. 4-73. - Pet shops..... 32

Animal Control Ordinance

Sec. 4-74 - Permit procedures..... 33

Secs. 4-74—4-95. - Reserved. 33

DIVISION 3. - ANIMAL COLLECTION 34

 Sec. 4-96. - Permit required..... 34

 Sec. 4-97. - Permit application..... 34

 Sec. 4-98. - Permit requirements..... 35

 Sec. 4-99. - Records..... 36

 Sec. 4-100. - Quality assurance program..... 37

 Sec. 4-101. - Application and enforcement of division..... 37

 Secs. 4-102—4-130. - Reserved. 37

DIVISION 4. - DISPLAY OF WILD AND EXOTIC ANIMALS..... 38

 Sec. 4-131. - Repealed..... 38

 Sec. 4-132. - Display of wild or exotic animals prohibited..... 38

 Sec. 4-133. - Enforcement..... 38

 Secs. 4-134—4-180. - Reserved. 39

DIVISION 5. - KEEPING OF WILD ANIMALS DANGEROUS TO PERSONS AND PROPERTY 40

 Sec. 4-181. - Definitions..... 40

 Sec. 4-182. - Keeping of wild and dangerous animals prohibited. 40

 Sec. 4-183. - Exemptions..... 40

 Sec. 4-184. - Enforcement..... 40

 Sec. 4-185. - Severability..... 41

Animal Control Ordinance

DIVISION 1. - GENERALLY**Sec. 4-31. – Authority and Purpose.**

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. The purpose of this Ordinance is to protect the health, safety and welfare of Orange County residents and the animals residing within the County and to regulate and control the conduct, keeping and care of those animals.

(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 an Animal Cruelty Investigator. Only Orange County employees shall be designated as an Animal Cruelty Investigator.
- (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 in accordance with applicable law:
 - (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 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 people, animals, or domesticated livestock and to assist in locating those persons owning or harboring the attacking animals.

Animal Control Ordinance

(5) Animal Control Officers shall not have the power to arrest.

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 its 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.

Animal Control Ordinance

(1) The Redemption Privilege Tax shall be:

Number of Prior Incidents	Redemption or Impoundment Privilege Tax	Redemption or Impoundment Privilege Tax
	<u>Sterilized Animal</u>	<u>Reproductive Animal</u>
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 considered 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

Animal Control Ordinance

Control and Protection in Orange County, adopted May 15, 1979, as amended October 3, 1983, is hereby repealed.

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

Sec. 4-37. - Definitions.

As used in this Chapter, the following terms mean:

- (a) *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.
- (b) *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. Does not apply to the following domesticated livestock: cattle, oxen, bison, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, llamas, alpacas, lagomorphs, ratites, and poultry (except within municipal corporate limits the term “poultry” applies only to poultry flocks greater than 20 birds).
- (c) *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.
- (d) *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.
- (e) *Animal*: Any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish, livestock, and reptiles.
- (f) *Animal Services Director*: That person designated by the Board of Commissioners and the County Manager in Orange County, and where appropriate, his or her

Animal Control Ordinance

designee, charged with the responsibility, discretion and authority to interpret, implement and enforce the Animal Control program in Orange County.

- (g) *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.
- (h) *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 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.
- (i) *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.
- (j) *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 outdoor 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.
- (k) *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.
- (l) *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

- (m) *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.
- (n) *Educational Purposes*: Teaching and instructing with the intent and effect of imparting knowledge to others.
- (o) *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.
- (p) *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.
- (q) *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.
- (r) *Health Department*: Orange County Health Department.
- (s) *Health Director*: Director of the Orange County Health Department.
- (t) *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 legally "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.
- (u) *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.
- (v) *Other Local Government Body (Bodies)*: The Towns of Carrboro, Chapel Hill and Hillsborough and those parts of the City of Durham located in Orange County.
- (w) *Owner*: Any person who owns any animal and is responsible for its care, actions, and behavior.
- (x) *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.
- (y) *Person*: Any individual, family, group of individuals, corporation, partnership, organization, or institution recognized by law as a person.
- (z) *Physical Harm*: Any injury which is serious enough to require immediate medical attention.

Animal Control Ordinance

- (aa) *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.
- (bb) *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 device is further regulated under this Ordinance.
- (cc) *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.
- (dd) *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.
- (ee) *Serious physical harm*: Any physical injury that results in broken bones, disfiguring lacerations, or requires cosmetic surgery or hospitalization.
- (ff) *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.
- (gg) *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.
- (hh) *Suspected of Having Rabies*: An animal which has bitten a person or another animal.

Animal Control Ordinance

- (ii) *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.
- (jj) *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.
- (kk) *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 out the enforcement of this Ordinance as Animal Control Officers including the duties of Rabies Control Officers and Animal Cruelty Investigators.
- (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 officers, 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

Animal Control Ordinance

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 reasonable 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.
 - (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.

Animal Control Ordinance

- (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.
- (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 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

Animal Control Ordinance

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 physical harm.

It shall be unlawful for any person who causes physical harm 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:

- a. The owner(s) or keeper(s) of the animal (if known or ascertainable with reasonable efforts made to locate the owner or keeper),
- b. An Animal Control Officer,
- c. Local law enforcement agency, or
- d. 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 failures 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.

Animal Control Ordinance

- 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)
- 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 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 outdoor 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 physical harm 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.

Animal Control Ordinance

- (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 physical harm 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 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

Animal Control Ordinance

- 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. 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 which:
 - (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

Animal Control Ordinance

- (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 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;

Animal Control Ordinance

- (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 reasonably 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 who 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 physical harm was to a species or type of domestic animal appropriate to the work of the dog; or
 - (4) A dog where the physical harm inflicted by the dog was sustained by a person who, at the time of the physical harm was:
 - a. On the Owner's or Keeper's 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, which shall be determined by looking at the totality of the circumstances;

Animal Control Ordinance

- c. Tormenting, abusing, or assaulting the dog or 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 previously declared vicious was off the Owner's or Keeper's 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 sole discretion of the Animal Services Director, or their designee, they are 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 Animal Control 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 4-42(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 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

Animal Control Ordinance

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's 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 as provided in Section 4-53 of this Chapter.

Animal Control Ordinance

Sec. 4-43. - Impoundment of animals.

Any animal found at large, found not to be wearing a currently valid rabies tag, has been declared vicious and is outside not in a secure pen or on a restraint, that is a danger to the public or for any other reason designated in this Chapter is a public nuisance and 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.
- (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 Services 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 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 of 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 that 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, prior to the end of the required redemption or adoption period.
- (e) Confinement Order. In lieu of impoundment, the Animal 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

Animal Control Ordinance

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.

- (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 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) 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

Animal Control Ordinance

- 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 odor shall include, but is not limited to, a distinctive or particularly unpleasant smell of animal urine or feces, that is lingering or lasting in nature. For purposes of this subsection, excessive noise making shall include repeated episodes of barking, howling, whining, crying, or crowing only if the rooster is within the town limits of 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 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 physical harm to domesticated livestock or pets.
 - (5) Without provocation, inflicts on any person serious physical harm requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.
 - (6) Any large animal off the premises of the Owner or Keeper; except in the case of domestic livestock, the Animal Services Director, or their designee, shall have the discretion to determine a violation when the animal, in their judgment, presents a danger to the public, is destroying or damaging property, is violating property rights, or has been habitually at large.
 - (7) The provisions of subsections (1) through (5) above of this section shall not apply to cats. However, a cat may be deemed a public nuisance when off the premises of its owner or keeper when it:
 - i. Habitually or repeatedly defecate or urinate in children's sandboxes, gardens, flower beds or other private property without the permission of the property owner;
 - ii. Habitually or repeatedly injure or kill 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;

Animal Control Ordinance

- 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 serious physical harm 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.

(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 their reoccurrence within twenty-four (24) hours or such lesser time as

Animal Control Ordinance

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.
- (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 Keeper of such animal shall provide proof that the cat or ferret has been vaccinated against rabies. The Owner or Keeper 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.

Animal Control Ordinance

(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.

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 or her 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:

Animal Control Ordinance

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

- (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 or Keeper 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. – Effective date.

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. 4-53. - Appeals.

Except as otherwise provided herein any appeals provided by this Chapter shall be to a three member hearing panel.

- (a) A person who has been found to be in violation of this Chapter may appeal the final decision made by the Animal Services Director to the appeal board by filing a notice of appeal containing a concise statement of the reason for the appeal and delivering it to the Animal Services Director within five (5) days of receipt of the final decision.
- (b) A hearing shall be scheduled within ten (10) days of the receipt of notice of appeal.
- (c) Neither a party nor the Department shall be represented by an attorney. A party alleged to be in violation of this Chapter may be accompanied by an individual of

Animal Control Ordinance

- their choosing. Such individual may be an attorney and may communicate with the party but the attorney may not participate in the appeal.
- (d) The chair of the hearing panel shall administer oaths to all witnesses and make any ruling necessary to preserve fairness, order and proper decorum.
 - (e) A person appealing a decision may present competent, relevant and material evidence or testimony, cross-examine witnesses, inspect documents, and offer evidence or testimony in explanation or rebuttal.
 - (f) Any member of the hearing panel may call as a witness and question any interested party who has competent, relevant and material comments about the matters contained within the appeal.
 - (g) Members of the hearing panel may exclude and not factor into their decision any evidence, testimony, or statements deemed incompetent, irrelevant, immaterial or unduly repetitious and therefore fail to reasonable address the issues before the hearing panel.
 - (h) Within seven (7) days of the hearing the hearing panel shall issue a decision and cause that decision to forward to the person making the appeal and all other interested parties.
 - (i) Appeal under Section 4-42 of this Chapter (Vicious Animals and Dangerous Dogs) shall be to a three member hearing panel consisting of one member of the Animal Services Advisory Board, who shall serve as Chair, and two members drawn from the remainder of the pool. At least one member of the panel shall be from either the Town or County where the incident occurred.

The Board of County Commissioners shall adopt a policy, which may be amended from time to time, governing the appointment of appeals panel members and any additional processes necessary to carry out appeals in fair and equitable manner. The Towns of Chapel Hill, Carrboro and Hillsborough may appoint one person from their respective jurisdictions to serve in the pool of prospective hearing board members. (Does not apply in the Town of Carrboro)

Secs. 4-54—4-70. - Reserved.

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:

Animal Control Ordinance

- (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 4-53.

(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

Animal Control Ordinance

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, 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 physical harm, 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.

Animal Control Ordinance

- (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 owning, operating, or 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.

Animal Control Ordinance

- (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 4-53.

(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.
 - (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.

Animal Control Ordinance

- (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 Division, and/or the issuance of an abatement order to comply with the provisions of this Division.
 - (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 a 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 4-53.

(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.
 - (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.

Animal Control Ordinance

- 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.
 - 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

Animal Control Ordinance

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.
 - (4) The name, address and telephone number of the collector.
 - (5) The name, address and telephone number of the person surrendering the animal.

Animal Control Ordinance

- (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.

Animal Control Ordinance

DIVISION 4. - 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. Wild or Exotic animals designated as rabies vector species may only 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 Division 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 Division 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

Animal Control Ordinance

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 fourteen (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 Division, 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)

Secs. 4-134—4-180. - Reserved.

Animal Control Ordinance

DIVISION 5. - KEEPING OF WILD ANIMALS DANGEROUS TO PERSONS AND PROPERTY**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 Animal Services Advisory 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 Animal Services Advisory 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 Division constitutes a misdemeanor and shall be punishable as provided in North

Animal Control Ordinance

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 Division 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 fourteen (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 declaration of 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)

ANIMAL SERVICES HEARING PANEL POOL

POLICIES AND PROCEDURES

SECTION I: SCOPE

A. Purpose

1. For the Orange County Board of Commissioners to establish the specific policies and procedures governing the Animal Services Hearing Panel Pool ("Pool").
2. For the Orange County Board of Commissioners to appoint a pool of residents within Orange County whose duty it is to hear appeals as provided in Chapter 4 of the Orange County Code of Ordinances, Animal Control Ordinance.

B. Authority

1. North Carolina General Statute 153A-76 grants boards of county commissioners the authority to establish advisory boards.
2. The Orange County Advisory Board Policy serves as the underlying policy document to which the Animal Services Hearing Panel Pool, in addition to this policy and procedure document, is subject. The Orange County Advisory Board Policy is attached hereto as "Exhibit A".
3. In the event that there is a conflict between the Orange County Advisory Board Policy and this Policies and Procedures document this Policies and Procedures document shall control.

C. Charge

The charge of the Animal Services Hearing Panel Pool is as follows:

1. To hear appeals from violations of the Orange County Code of Ordinances, Chapter 4 ("Animal Control Ordinance"), as provided in the Orange County Code of Ordinances, Section 4-53 Appeals.
2. To hear appeals as prescribed by N.C. Gen. Stat. §67-4.1(c).

SECTION II: GOALS AND OBJECTIVES

A. Goals

1. To protect the health, safety and welfare of Orange County residents and the animals residing in Orange County.

B. Objectives

1. Conduct fair and impartial hearings of appeals of potentially dangerous dog declaration and any other appeals as may be required by the Animal Control Ordinance.

SECTION III: MEMBERSHIP

A. Authority

1. North Carolina General Statute 153A-76 grants boards of county commissioners the authority to establish advisory boards and to appoint members to and remove members from those advisory boards. In acting on this authority the Orange County Board of Commissioners hereby establishes certain general conditions to which applicants and members of advisory boards should conform.
2. Orange County Code of Ordinances, Chapter 4, Section 4-53 provides for an appeal panel appointed by the Orange County Board of Commissioners.

B. Composition

1. The Animal Services Hearing Board is composed of twelve (12) members.
2. Members shall represent:
 - a. The Townships of Carrboro (1), Chapel Hill (1) and Hillsborough (1) shall each appoint a member from their respective jurisdictions;
 - b. One (1) member who shall have experience in the field of public health;
 - c. One (1) member who shall have experience in the field of public safety;
 - d. Three (3) at-large representatives, two (2) of which reside in the unincorporated areas of the county shall be members of the public with some relevant knowledge of animal behavior;
 - e. One (1) veterinarian;
 - f. Three (3) members of the Animal Services Advisory Board;

SECTION IV. HEARING PANELS

1. Vicious and Potentially Dangerous Dog Appeal Panel. The Vicious and Potentially Dangerous Dog Appeal Panel shall consist of three individuals drawn from the pool by the Animal Services Director. This Panel shall hear appeals from Section 4-42 of the Animal Control Ordinance and appeals of Potentially Dangerous Dog Declarations. The panel shall consist of individuals drawn from the pool from the following categories:
 - a. One (1) member of the panel shall be from the Animal Services Advisory Board and shall serve as Chair of the Panel
 - b. The remaining two (2) members shall come from the other groups represented in the Pool.
 - c. At least one of the members serving on the Panel shall come from either the Town or County where the incident occurred.
 - d. The responsibility of this committee is to determine whether or not a potentially dangerous dog declaration is warranted based upon the definition(s) set out by either the North Carolina General Statute or the Animal Control Ordinance, whichever is applicable.
 - e. The Potentially Dangerous Dog Appeal Committee shall be convened as needed by the Animal Services Director.
 - f. In the event that a member is unable to attend within the timeline mandated by the North Carolina General Statute for a Potentially Dangerous Dog Appeal, the Animal Services Director may designate another member of the Pool to fill his or her place.

- g. The appeal committee chair shall be responsible for coordinating with the Animal Services Director to ensure that any such appeal is conducted in a timely manner.
2. Other Appeal Committees
- a. Committees for other appeals may be formed as needed.
 - b. These committees shall have no fewer than three individuals drawn from the Pool by the Animal Services Director. Members shall be rotated so that all have an opportunity to serve on a panel.
 - c. A chair for such an appeal committee shall be designated by the Chair of the Animal Services Advisory Board.
 - d. The appeal committee chair shall be responsible for coordinating with the Animal Services Director to ensure that any such appeal is conducted in a timely manner.

SECTION VI. TRAINING

- A. Upon appointment each member of the Pool shall attend training on the Animal Control Ordinance and their responsibilities in the administrative appeal process provided by the Orange County Attorney's Office.
- B. Each member shall complete the training prior to serving on a hearing panel.

SECTION VII. RULES

- A. The Animal Services Hearing Panel Pool shall be governed by Orange County Code of Ordinances § 4-53.
- B. Should the Animal Services Hearing Panel Pool determine modifications to policies and procedures are necessary they may petition the Board of County Commissioners for such modifications.

RESOLUTION OF AMENDMENT

**A RESOLUTION AMENDING CHAPTER 4 OF THE ORANGE COUNTY
CODE OF ORDINANCES**

Be it Resolved by the Board of Commissioners of Orange County, North Carolina:

WHEREAS, Orange County, through ordinance, regulates among other things the possession, care, and treatment of animals; and

WHEREAS, in an effort to provide for the uniform regulation of animals within Orange County the municipalities of Carrboro, Chapel Hill, and Hillsborough have participated in the development of the ordinance and have, to the extent it is not in conflict with their own ordinances, adopted the attached ordinance for enforcement within their territorial jurisdictions; and

WHEREAS, the Orange County Board of Commissioners, believing it to be in the best interest of the citizens and residents of Orange County, hereby determines that Chapter 4 of the Orange County Code of Ordinances should be amended to reflect a more unified approach to the regulation of animals in Orange County.

NOW THEREFORE, the Orange County Board of Commissioners hereby amends Chapter 4 of the Orange County Code of Ordinances as shown in the attached ordinance.

This Amendment to Chapter 4 shall become effective March 1, 2016.

Ordained and adopted by the Orange County Board of Commissioners this ____ day of _____, 2016.

By:

Attest:

Earl McKee, Chair
Orange County Board of Commissioners

Donna Baker, Clerk to the Board

[SEAL]

Unified Animal Ordinance Public Information and Education Timeline

January 21, 2016	Anticipated adoption of the new Unified Animal Control Ordinance by the Board of Orange County Commissioners
Week of February 1, 2016	Begin coordination with Public Information Officers from the Town of Carrboro, Town of Chapel hill, and Town of Hillsborough
Week of February 8, 2016	County issues press release informing the public of the new ordinance through Community Relations and Animal Services communication channels
Week of February 15, 2016	Animal Services conducts staff training on new ordinance and creates of a Frequently Asked Questions (FAQ) for websites and other electronic and print media
February 29, 2016	County website is updated with new links and narrative explaining the transition to the new ordinance
March 1, 2016	New ordinance is effective
Week of March 7, 2016	Solicit and receive feedback on the effectiveness of the public information and education effort and the accessibility of information
Week of March 14, 2016	Follow up with Town Public Information Officers to ensure things are working on all ends and that everyone has correct links and consistent messaging.

COPY

ORANGE COUNTY BOARD OF COMMISSIONERS

ACTION AGENDA ITEM ABSTRACT

Meeting Date: December 15, 2015

Action Agenda Item No. 7-a

SUBJECT: Unified Animal Control Ordinance

DEPARTMENT: Animal Services and County Attorney

PUBLIC HEARING: No

No

ATTACHMENT(S):

- 1) Strikethrough-Underline Version of Animal Control Ordinance
2) Clean Copy of Animal Control Ordinance
3) Resolution of Amendment
4) Public Information and Education Timeline
5) BOCC Work Session Abstract and Minutes from April 8, 2014

INFORMATION CONTACT:

Bob Marotto, Animal Services Director, 919.968.2287
Annette Moore, Staff Attorney, 919.245.2317

PURPOSE: To consider approval of the proposed Unified Animal Control Ordinance ("UAO") and adoption of the Resolution of Amendment "A Resolution Amending Chapter 4 of the Orange County Code of Ordinances".

BACKGROUND: Orange County Animal Services provides animal control services to all areas of the County except in the part of Mebane located in Orange County. Currently, the County, Carrboro and Chapel Hill all have separate animal control ordinances for their respective jurisdictions. The County Animal Control Ordinance is used not only within the County's jurisdiction, but also in Hillsborough and the section of City of Durham that is in Orange County as well. The differences between the ordinances have proven to be confusing, not only for staff responsible for their administration and the Court system, but also for Orange County residents.

Several years ago, County staff initiated an effort to discuss and find ways to resolve the differences by convening a work group comprised of staff representatives of the towns of Chapel Hill and Carrboro. The work group found that a unified animal control ordinance would be more comprehensible to the general public and allow the best use of available resources for the provision of animal services. Staff set a goal of not only combining the three ordinances into

1 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 the Town Manager and Police Chief received regular updates; they are fully supportive of the ordinance

one unified ordinance, but also of providing a way for each jurisdiction to retain the unique features contained within its own ordinances (e.g. prohibiting dogs in the farmer's market, prohibition against breaking up a bird's nest). Also, provisions were retained in the towns' ordinances for more restrictive measures because of the urban nature of their respective jurisdictions. Once the ordinances were combined, staff updated some of the language in the proposed UAO and filled in some gaps or deficiencies made necessary by law or for health and safety reasons (e.g. changing Health Department to Animal Services, adding an appeal process and providing authority to humanely euthanize animals in exigent circumstances). The proposed UAO has also incorporated any changes required by the North Carolina General Statutes.

Prior to completion of the draft UAO, the Animal Services Advisory Board ("ASAB") met on several occasions to both approve the concept of the unified ordinance and to discuss and recommend changes to the proposed UAO. The caveat to the ASAB was the intent to combine current ordinances without creating new law. On March 13, 2013, the ASAB unanimously approved the final draft of the UAO which included the changes it recommended.

Staff has presented the proposed UAO to the Board of County Commissioners ("BOCC") on several occasions:

- June 4, 2013 - Comments were received from the BOCC, seven members of the public and Chair and Vice-Chair of the ASAB. The BOCC decided that staff would 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."²
- October 1, 2013 – As requested by the BOCC, staff presented highlighted changes in the UAO and addressed point by point the concerns made by the BOCC and the public. The BOCC decided that the staff should provide Board members with additional information concerning the appeal process, watch dogs, trespassing, dog bites and make changes to language that individual commissioners had suggested. The BOCC also suggested seeking input from the School of Government on these issues.
- April 8, 2014 – Work Session – To adequately address the BOCC's remaining concerns with the proposed UAO, staff sought input from Aimee Wall with the UNC School of Government and the officers and staff of the Agriculture Preservation Board. Staff and ASAB officers met with Ms. Wall and based upon the information received, they presented proposed changes to the BOCC at the Work Session. The BOCC direction to staff indicated that staff had addressed three of the four remaining BOCC concerns. The remaining issue to be addressed was the appeal process.

Under the proposed UAO, § 4-54 Appeals applies to the following sections of the ordinance: § 4-42 Control of Vicious Animals, § 4-45 Public Nuisance, § 4-71 Class I Kennels, § 4-72 Class II Kennels, and § 4-73 Pet Shops. Residents receive citations for violations of these sections of the current Animal Control Ordinance and the proposed UAO. The sections of the proposed UAO identified above are the sections of the ordinance where residents are most likely to request appeals. Under the proposed UAO residents will have the option to appeal their citations. Other sections of the proposed UAO where residents are cited for violations currently have alternative methods to be heard either through an administrative or a court process. The

² Board of County Commissioners Approved Minutes, June 4, 2013.

ASAB has also worked on and implemented training and procedures to ensure the integrity of the appeal process and to instill the perception in the public that they are a separate and independent entity from Animal Services.

At the direction of the County Manager, County staff worked with the staff of the Towns of Chapel Hill and Carrboro to present the proposed UAO to their elected officials. This approach was intended to ensure that the towns had the opportunity to propose changes to the UAO before it was considered in final form by the BOCC; and also to ensure that there was strong mutual support for a unified ordinance. Both the Towns of Chapel Hill and Carrboro have approved the UAO subject to approval and implementation by the County. The Chapel Hill Town Council approved the proposed UAO at its April 13, 2015 meeting without any changes. The Carrboro Board of Aldermen approved the proposed UAO on November 10, 2015 with one exception – namely, that appeals would continue to be heard by the town's Animal Control Appeal Board. Staff has had ongoing communication with the Hillsborough Town Manager and Chief of Police, and these officials have been very supportive of the proposed UAO.

Staff has continued to work closely with the ASAB throughout the process of developing and revising the proposed UAO. The ASAB continues to strongly support the BOCC's adoption of the proposed UAO. Most recently, ASAB officers appeared at meetings of Carrboro Board of Aldermen to answer questions and provide support.

The UAO as proposed incorporates changes that staff has made based on comments and concerns communicated by the BOCC, the ASAB, the School of Government, the public and other elected officials. Each jurisdiction has had their attorney review the proposed UAO and any recommendations have been included.

Finally, staff has developed the attached Public Information and Education Timeline to ensure that County residents are aware of the unified ordinance and able to easily access the ordinance. It is expected that there will be continued coordination with town staff to raise awareness during the implementation of the ordinance if it is approved by the BOCC.

The public awareness effort will include the following key messages:

- The Unified Animal Control Ordinance will provide consistency, clarification and eliminate existing confusion arising from unnecessary differences between the County and Town of Chapel Hill and Carrboro's town ordinances.
- Each jurisdiction has retained the unique features of its own ordinance and those features will be identified in a way as to cause clarity rather than confusion (including laws involving tethering, livestock, and poultry).
- That overall delivery of animal services to all county residents will be enhanced by the Unified Animal Control Ordinance.

The Resolution of Adoption proposes an effective date of February 1, 2016 for the proposed UAO. This timeframe allows for implementation of the public awareness plan in all of the jurisdictions in which it would apply.

FINANCIAL IMPACT: There is no financial impact associated with the adoption of the proposed Unified Animal Control Ordinance. The ordinance has not created new regulatory

responsibilities but rather sought only to fill critical gaps and incorporate the best practices from the ordinance that precede it in the County. In addition, Animal Services will continue to recover the direct and indirect costs of animal control and protection services from the towns Hillsborough, Chapel Hill and Carrboro via annual service agreements.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goal is applicable to this agenda item:

- **GOAL: ENABLE FULL CIVIC PARTICIPATION**

Ensure that Orange County residents are able to engage government through voting and volunteering by eliminating disparities in participation and barriers to participation.

The ordinance will help to enable fuller civic participation by creating a common framework within the County and ensuring more adequate due process procedures.

RECOMMENDATION(S): The Manager recommends the Board consider the adoption of the proposed Unified Animal Control Ordinance and approve the Resolution of Amendment “A Resolution Amending Chapter 4 of the Orange County Code of Ordinances”.

Unified Animal Ordinance

BOCC Meeting Presentation

December 15, 2015

Agenda Item 7.a.

- Takes away some of the inconsistency of having 3 separate (and varying) ordinances
- Adds clarity and consistency where needed based upon the experience of officers, Animal Services staff, and legal proceedings over the years
- Where interpretations in readings differed, the unified version uses the most accurate, legal, and clear interpretation and/or language

What it does

- It does not ignore that there still remains a need to have some differences in different areas (ie livestock, tethering, township-specific laws)
- With only one exception, it does not add new law, but rather fills in gaps and provides better clarity in the existing ordinances
- The exception is the different recovery fees for reproductive and sterilized dogs and cats (including a sterilization deposit for animals recovered 3 or more times)

What it doesn't do

- When the ordinance came before the BOCC last (April, 2014), four issues were discussed with commissioners
- Our attorneys have resolved these and revisions have been guided by BOCC feedback
- In its final form, the ordinance has been adopted by Chapel Hill and Carrboro, and it has the full support of Hillsborough

History

- Trespass
- Watchdog
- Livestock and Public Nuisance
- Administrative Appeal

Issues from 2014

- Section 4-42 Control of Vicious Animal: Security Dog
- Issue: needed to be better defined
- Solution: moved into the exceptions portion of the ordinance, where exceptions include a dog on a property that is posted with warning and/or no trespass signage; as well as a dog that is on property and bites someone committing a ‘willful trespass’
 - Willful trespass “which shall be determined by looking at the totality of circumstances.”

Trespass

- Section 4-37 Definitions: Security Dog
- Issue: needed to be better defined
- Solution: watchdog found to be an unnecessary term and moot based on the definition of a vicious dog and how a dog would have to behave in order to be declared as one

Watchdog

- Section 4-45 Public Nuisance
- Issue: Does a special provision for livestock need to exist under nuisance ordinance
- Solution: All off-property large animals are considered a nuisance.
 - An exception exists for off-property domesticated livestock (see definition): these may be deemed a nuisance by the discretion of the Animal Services Director or his/her designee.
 - These livestock may be deemed a nuisance when they:
 - Present a danger to the public
 - Destroy or damage property or violate property rights
 - Have been habitually at large

Livestock and Public Nuisance

- Section 5-54 Appeals
- Issue: needed clarification and better formatting
- Background: Presently, there is no appeal available for significant portions of the county's ordinance

Administrative Appeal

- Solution: Any appeal of the chapter will be overseen by 2 members of the Animal Services Advisory Board, and 1 member of either the township where the dog resides or a public citizen appointed by the BOCC.
 - Testimony will be sworn by the officiating board
 - Cross-examination is allowed
 - Neither a party nor Animal Services shall be represented by an attorney
 - Timelines:
 - Appeals must be made within 5 days of the final action appealed
 - A hearing must be scheduled within 10 days of receipt of a notice of appeal
 - A decision must be made and forwarded within 7 days of the hearing

Administrative Appeal continued

- The Unified Animal Ordinance is an important step in making Orange County's animal laws complete, easy to access, easy to understand, and relevant to the modern landscape
- In general, it aims to protect pets and people, give them due process to appeal citations and orders, and communicate clearly the responsibilities and obligations that exist in Orange County for those owning or coming into contact with pets

Conclusion

7. Regular Agenda

a. Unified Animal Control Ordinance

The Board considered approving the proposed Unified Animal Control Ordinance (“UAO”) and adoption of the Resolution of Amendment “A Resolution Amending Chapter 4 of the Orange County Code of Ordinances”.

Bob Marotto, Orange County Animal Services Director, introduced members from the Animal Services Advisory Board.

Bob Marotto and Staff Attorney Annette Moore made the following PowerPoint presentation:

Unified Animal Ordinance BOCC Meeting Presentation December 15, 2015 Agenda Item 7-a

What it does

- Takes away some of the inconsistency of having 3 separate (and varying) ordinances
- Adds clarity and consistency where needed based upon the experience of officers, Animal Services staff, and legal proceedings over the years
- Where interpretations in readings differed, the unified version uses the most accurate, legal, and clear interpretation and/or language

What it doesn't do

- It does not ignore that there still remains a need to have some differences in different areas (i.e.: livestock, tethering, township-specific laws)
- With only one exception, it does not add new law, but rather fills in gaps and provides better clarity in the existing ordinances
- The exception is the different recovery fees for reproductive and sterilized dogs and cats (including a sterilization deposit for animals recovered 3 or more times)

History

- When the ordinance came before the BOCC last (April, 2014), four issues were discussed with commissioners
- Our attorneys have resolved these and revisions have been guided by BOCC feedback
- In its final form, the ordinance has been adopted by Chapel Hill and Carrboro, and it has the full support of Hillsborough

Issues from 2014

- Trespass
- Watchdog
- Livestock and Public Nuisance
- Administrative Appeal

Annette Moore continued the presentation:

Trespass

- Section 4-42 Control of Vicious Animal: Security Dog
- Issue: needed to be better defined

- Solution: moved into the exceptions portion of the ordinance, where exceptions include a dog on a property that is posted with warning and/or no trespass signage; as well as a dog that is on property and bites someone committing a 'willful trespass'
 - Willful trespass "which shall be determined by looking at the totality of circumstances."

Watchdog

- Section 4-37 Definitions: Security Dog
- Issue: needed to be better defined
- Solution: watchdog found to be an unnecessary term and moot based on the definition of a vicious dog and how a dog would have to behave in order to be declared as one

Livestock and Public Nuisance

- Section 4-45 Public Nuisance
- Issue: Does a special provision for livestock need to exist under nuisance ordinance
- Solution: All off-property large animals are considered a nuisance.
 - An exception exists for off-property domesticated livestock (see definition): these may be deemed a nuisance by the discretion of the Animal Services Director or his/her designee.
 - These livestock may be deemed a nuisance when they:
 - ❖ Present a danger to the public
 - ❖ Destroy or damage property or violate property rights
 - ❖ Have been habitually at large

Administrative Appeal

- Section 4-54 Appeals
- Issue: needed clarification and better formatting
- Background: Presently, there is no appeal available for significant portions of the county's ordinance
- Solution: Any appeal of the chapter will be overseen by 2 members of the Animal Services Advisory Board, and 1 member of either the township where the dog resides or a public citizen appointed by the BOCC.
 - Testimony will be sworn by the officiating board
 - Cross-examination is allowed
 - Neither a party nor Animal Services shall be represented by an attorney
 - Timelines:
 - ❖ Appeals must be made within 5 days of the final action appealed
 - ❖ A hearing must be scheduled within 10 days of receipt of a notice of appeal
 - ❖ A decision must be made and forwarded within 7 days of the hearing

Conclusion

- The Unified Animal Ordinance is an important step in making Orange County's animal laws complete, easy to access, easy to understand, and relevant to the modern landscape
- In general, it aims to protect pets and people, give them due process to appeal citations and orders, and communicate clearly the responsibilities and obligations that exist in Orange County for those owning or coming into contact with pets

Bob Marotto said this is a valuable step forward in making Orange County's animals laws. He said it is not perfect, and can be re-visited at anytime.

PUBLIC COMMENT:

Dr. Susan Elmore, Member of the Animal Services Advisory Board (ASAB), said the UAO first came to their board in 2013 as a draft, and she recognized the hard work of the attorney's office. She said the ASAB provided input and also received input from stakeholders, the University of North Carolina (UNC), and the Board of County Commissioners. She said it has been a process, and everyone involved has done due diligence. She said it is not a perfect document, but can be amended as needed going forward, and is a great improvement of the process currently in place.

Michelle Walker said she had served as either Chair or Vice Chair of the ASAB through this process and appreciated the hard work of all the staff involved in reviewing the information to create the current proposed UAO. She said the ASAB made efforts to get input from their public partners.

Commissioner Pelissier said she appreciated all of their efforts. She referred to page 149 in the electronic copy, which discusses the appeals process. She asked if it would be practically possible for the Board of County Commissioners to appoint someone to this panel.

Annette Moore suggested that the Board would designate someone ahead of time. She said if the issue is in the county, then that person would be from the County, while the third person would be from the area in question.

Commissioner Pelissier asked if the Board would follow the same boards and commissions' applicant process.

Annette Moore said yes and suggested adding an alternate as well.

Commissioner Price said she had several concerns. She said she is concerned with giving sole discretion to one person.

Annette Moore said the sections that include discretion also have appeal processes attached to them.

Commissioner Price said she understood that an example of sole discretion could be destroying an animal prior the appeals process.

Annette Moore said destroying an animal is always a last resort.

Commissioner Price referred to page 26 of the hard copy where Section h-2 and 3 say an animal can be destroyed.

Bob Marotto said there is not any intention to give the Animal Services Director unmeasured power. He said discretion is subject to judicial review as well as the appeal process. He said the administering of this code will be done most judiciously to insure public safety but not by destroying an animal prior to a judicial process.

Commissioner Price asked if there is a specific purpose for the microchip and if the public can decline it.

Bob Marotto said there was one complaint circulated in an email and there was a sustained response to that concern that noted the absence of medical complications of a microchip.

Bob Marotto said the only exception would be a medical opinion that implanting the chip would be detrimental to an animal. He said the chip is for identification for both the owners and Animal Services.

Commissioner Price referred to Section 4.33 and asked if there could be clarification of the statement, "only Orange County employees shall be designated as an animal cruelty investigator."

Annette Moore said the statute allows for the designation of non-employees to be animal cruelty investigators and she said the County will only allow employees to fill this role.

Commissioner Price asked if one must first be an employee or could one be hired to fill this role.

Bob Marotto said one could be hired as a County employee to fill the position. He said cruelty investigator is a designation in the North Carolina General Statute.

Commissioner Rich said she has concerns about the appeals process, noting two ASAB members sit on the panel. She asked if it would be possible to separate what the Board members do on the ASAB from their role on the appeals panel. She asked if there is a conflict of interest.

John Roberts said individuals serving on the ASAB are favorable for serving on the appeals panel since they are familiar with the ordinance, instead of a random person.

Commissioner Rich said she is still uncomfortable with this make up of the appeals board.

Annette Moore said she did some research about what other entities are doing and John Roberts is correct that ASAB members have specialized knowledge, such as being a veterinarian. She said these individuals can also get the training to have technical knowledge of the UAO. She said the third person on the appeals panel would have the same training but is not a member of the ASAB.

Commissioner Rich said she is not comfortable with the fairness of this yet.

Annette Moore said this due process offers a notice and an opportunity to be heard. She added that the people on the appeals board should be able to identify what is a violation, and what is not. She said having board members with specialized knowledge has added value.

Bob Marotto said an appeals board with expertise is needed. He said it is a combination of members of the ASAB as well as independent appointees. He said having a process by which executive authority can be appealed is necessary. He said it may not be perfect at this time but some codified due process must be put in place, as none exists currently. He said it can be reviewed and amended as needed. He said Carrboro elected not to use this appeal board for actions that arise within Carrboro but rather will maintain its own animal control board. He said Carrboro will review this decision in a year.

Bob Marotto reiterated that there are several actions routinely taken by Animal Services that currently have no appeals process. He said this is not acceptable.

Commissioner Burroughs referred to the administrative appeals process and said she has had experience when she was on the school board of a dual role. She said with her experiences an attorney was always present and asked if there is a reason why an attorney will not be present.

Annette Moore said it is an administrative procedure and therefore is acceptable not to have an attorney. She said the ASAB will have an attorney present, but there procedure is not under the rules of evidence. She said allowing attorneys usually increases the stakes and makes things unnecessarily formal.

Commissioner Burroughs clarified that the ASAB would have an attorney to make sure the processes are followed correctly and asked if the other party would not be encouraged to have an attorney.

Annette Moore said an attorney can be present and confer with their client, but the clients are encouraged to speak for themselves.

Commissioner Burroughs said this sounds similar to the school board process and having been a part of that system for seven years, she believes it can work.

Commissioner Jacobs said he too appreciated all of this work and noted that people have strong feelings about their animals. He said he too feels concern about the attorney issue. He said if an animal's life is at stake, the owner is likely to want any and all help they can muster. He said it seems inappropriate for the County to limit what an owner can bring to bear to protect the animal's life. He suggested that different language in the ordinance may offer clarification on the process.

Annette Moore asked if Commissioner Jacobs is suggesting similar language to that in the personnel ordinance, which states that a third party can be present, such as an attorney, and confer with the client, but not speak for them. She said anyone could come to the proceeding and confer but cannot participate in the process.

Commissioner Jacobs said that seems more reasonable to him rather than a blanket prohibition.

Annette Moore said if changing the language is the Board's pleasure, it could be done.

Commissioner Dorosin asked if these proceedings are quasi-judicial hearings.

John Roberts said no, it is an administrative hearing, but some of the formal rules of judicial process may apply. He said once the appeals process is done, anyone would have access to a court process if need be.

Commissioner Dorosin asked if moving on to the court system would be in the form of an appeal of the administrative process.

John Roberts said it does not specifically say that, and it could be in the form of an injunction to get the County to stop the outcome of the administrative process.

Commissioner Dorosin summarized his understanding of process as being proposed. He asked if the third member of the appeals panel would receive training in order to be informed and equipped.

Bob Marotto said yes. He added that the Towns would appoint people to serve on the appeals panel, when the owner of the animal is a resident of said town.

Commissioner Dorosin clarified that the panel would be made up of three people: two from the ASAB, and one outside citizen. He said someone from Animal Services would present the case. He said it seemed reasonable to think that the owner in question may feel at a bit of a disadvantage. He said due process should include a meaningful opportunity to be heard by an impartial decision maker.

Commissioner Dorosin suggested the possibility of appointing two people from the community, allowing the appeals panel to be made up of one ASAB person and two non-ASAB persons. He said a group of people could be appointed and could rotate. He asked if this would work.

Annette Moore said it is more important to establish the appeals process, rather than who serves on this panel. She said she is speaking for the Attorney's Office and it is the pleasure of the Board as to who serves on this appeals panel.

Bob Marotto said it is absolutely the Board of County Commissioners' decision. He said in the past five years, about 65 potentially dangerous dog hearings have been heard. He added that, to the best of his knowledge, no one has ever voiced an appeal about how those hearings were conducted or their outcome. He said it is difficult now to convene an appeal board due to the level of commitment that is required.

John Roberts said this is not a perfect document and it could be adopted tonight giving authorization to staff to make non-substantive changes. He said the appeals process may not be perfect but he does not see it to be lacking in fairness or equity. He said the Board could adopt the ordinance and give it a trial run in its current form. He said it could be amended on very short notice.

Commissioner Dorosin thanked the staff for their input. He noted it is important as they are the experts.

Commissioner Dorosin asked if the dangerous dog-hearing appeals are currently heard by a particular group of people.

Bob Marotto said three members of the ASAB, including a veterinarian, an at large non-municipal member, and any other member of the ASAB. He said this group has consistently heard these appeals. He said over time the sophistication of the ASAB members has grown immensely.

Commissioner Dorosin asked if Carrboro's process is different.

Bob Marotto said Carrboro has an appointed animal control appeals board which has no other function. He said this board is made up of one alderman and two residents at this time.

Commissioner Dorosin said if the BOCC is interested in changing the make-up of the appeals board, there could be a pool of potential hearing officers that are required to get training in the ordinance and have categorical expertise as well.

Annette Moore read the language in the personnel ordinance: "neither the employee nor the County shall be represented by counsel at the hearing; however, the employee may be accompanied by an individual of the employee's choosing to witness the proceeding. The accompanying individual may not participate in the hearing."

Commissioner Jacobs asked if it is clear that the accompanying person can advise, but not speak.

Annette Moore said yes. She said she has been a part of such hearings and that is how they occur.

Commissioner Jacobs asked if this ordinance could be worded as plainly.

Annette Moore said yes.

Commissioner Jacobs said this would have been a lot easier for the Board if the PowerPoint had been put in the agenda packet ahead of time.

Commissioner Jacobs referred to the top of page 71, which discussed the issue of odor. He said determining what is a noxious odor is very subjective, and questions how to define the "odor" of a dog or cat Sec. 4-44- (b) (2).

Bob Marotto said the answer is not simple, but that a pattern of corroborative evidence would be needed. He said the odor would need to interfere with the reasonable enjoyment of the neighboring property. He said these assessments would never be made in a cavalier manner.

Commissioner Jacobs said he would like a definition of odor, as it is too subjective the way it is written now. He suggested including public areas.

Commissioner Jacobs said it appears that if one has a security dog, the owner must post it on their property; otherwise they will be unable to defend themselves if their dog bites someone.

Bob Marotto said the proposed ordinance offers two subdivisions of security dogs: a sentry dog and a patrol dog. He said both of these dogs have specific requirements of established records of training and being registered with the County.

Commissioner Jacobs asked if Bob Marotto could walk him through the exceptions in Section 4.42. The discussion ensued about vicious dog versus guard dog.

Commissioner Jacobs asked if there are reasons why one would post a no trespassing sign.

Bob Marotto said if one posts a no trespassing sign and you choose to walk on the property and are bitten by a dog, said dog will not be considered vicious.

Commissioner Jacobs said he still finds it unclear. He said posting a sign seems to afford owners extra protection should something happen.

Annette Moore said a sign does afford extra protection if something were to happen.

Commissioner Jacobs said it is confusing, as this information is listed under exceptions to vicious dogs.

Commissioner Rich said this is a live document and asked if any changes have to go back to the Towns.

Annette Moore said the Towns were told that if there were significant changes she would notify them.

John Roberts said both Chapel Hill and Carrboro adopted the UAO in whatever form the BOCC adopts. He said if there are major changes then the Towns will be made aware.

Commissioner Rich asked if this ordinance would help someone who lives next door to an excessively barking dog.

Annette Moore said this ordinance did not seek to make new laws but rather tried to merge the three ordinances and there is a process in place already for this issue.

Bob Marotto reiterated some instances on how Animal Services handles issues like this.

Commissioner Pelissier said this item has been before the Board twice and suggested to bring it to some type of closure. She said she is fine with the proposed appeals process and supports Commissioner Jacobs' proposal about the wording of the attorney issue.

Commissioner Jacobs suggested adding a paragraph at the top of the UAO about their intention, as Bob Marotto eloquently said earlier.

Chair McKee said there were several changes made but the conversation got into the weeds some tonight. He said he intended to vote against the UAO, based on the appeals panel having two members from the ASAB; however, Commissioner Dorosin's proposed suggestion is a good accommodation. Chair McKee said he did have a concern about the lack of an attorney being present but he would be satisfied if it can be resolved with the proposed language from the personnel ordinance.

Chair McKee said this document is very thin compared to the UDO. He said he would like to see two citizens and one ASAB member on this appeal panel.

Commissioner Jacobs said if the composition of the appeals board is changed he would like the ASAB member to be the Chair of the appeals board.

Chair McKee and Commissioner Dorosin agreed.

Commissioner Rich said she is fine with this compromise.

A motion was made by Commissioner Dorosin, seconded by Commissioner Jacobs for the Board to send the document back to include these additional changes (below) and to bring back at their January 21, 2016 meeting.

- The question about the attorneys
- Language about odor
- Barking
- Composition of the hearing panel: two non- board members, and one ASAB member that would serve as Chair
- Add a purpose to the ordinance

Annette Moore said there needs to be a pool of panel members from which to choose, if the appeal board's composition is to be two to one.

Commissioner Rich asked if Animal Services would help the Board draft a "job description" for potential non-ASAB members of the appeals board.

Annette Moore said yes.

Annette Moore said they will review the meeting and will ask for clarification if need be copying the entire Board.

VOTE: UNANIMOUS

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

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

SUBJECT: Mountains-to-Sea Trail – Master Plan for Segment 11

DEPARTMENT: Environment, Agriculture, Parks and Recreation (DEAPR) **PUBLIC HEARING: (Y/N)**

No

ATTACHMENT(S):

MST Master Plan Segment Map
Proposed Process / Timeline of Activity

INFORMATION CONTACT:

David Stancil, 919-245-2510

PURPOSE: To review a proposed process for the planning and identification/creation of the Mountains-to-Sea Trail “Segment 11,” from Occoneechee Mountain to the Alamance County line.

BACKGROUND: On November 18, 2015 representatives from the NC Division of Parks and Recreation presented the Mountains-to-Sea Trail (MST) Statewide Master Plan to the Board. Responding to petitions from the Board and members of the public, staff was asked to return with a draft plan for addressing the MST in Orange County.

The topic of the MST location in Orange County dates back a number of years. A regional planning process with State Parks ca 2005 began by identifying general corridors or “swaths” on maps where the trail might best connect Clingman’s Dome on the North Carolina/Tennessee border in the west to Jockey’s Ridge State Park on the North Carolina Outer Banks. Some segments of the trail – mainly ones that exist in state or federal park or forest land – already exist. Other segments in urban areas have utilized city greenways as segments of the MST.

One of the more-challenging segments, and the subject of trail planning efforts in the last five years, is the Eastern Piedmont Section from Bryan Park (north of Greensboro) to Falls Lake. Much of this identified corridor runs alongside river courses such as the Haw and Eno rivers, but a way to connect the Haw River corridor to the Eno (Neuse) requires bridging the two major river watersheds of the Cape Fear and the Neuse.

Orange County, as a headwaters county, contains much of the boundary between the Neuse and Cape Fear, and this is the area where this “over-ridge” segment of the trail is needed. This portion of the MST is addressed and proposed for completion in both the Orange County Parks and Recreation Master Plan 2030 and the 2015-2020 Capital Investment Plan (CIP).

There are two segments in the MST Master Plan within Orange County. Segment 11 connects the Haw River in Alamance County to Occonechee Mountain State Natural Area southwest of Hillsborough. This segment is proposed to follow the Cane Creek corridor (including OWASA land around Cane Creek Reservoir) and connect to the Eno River at Occonechee Mountain. This is the segment that must cross over the ridge between the Cape Fear and Neuse river basins.

Segment 12 picks up the trail and runs east along Riverwalk in Hillsborough and other public trails on privately-owned conservation lands sites east of town, before entering Eno River State Park on its way to Durham County and Falls Lake. The trail location in Segment 12 between Hillsborough and Durham County is essentially identified and in some places the trail exists. Final efforts to connect the corridor are underway using the Eno River State Park master plan, and as such, no planning effort is needed for this segment.

Segment 11, however, contains 7-10 miles of corridor and thus must either cross private land or (in the interim or long-term) utilize public road rights-of-way to connect Orange Water & Sewer Authority-owned lands at Cane Creek Reservoir to the County's Seven Mile Creek Nature Preserve. There is also a smaller segment from Seven Mile Creek Nature Preserve and the Moorefields historic site across Interstate 85 to Occonechee Mountain that will need to be planned and built.

Using previous discussion, staff has prepared the attached process and timeline to complete the work of locating, securing and building the trail for Segment 11. This plan proposes to begin with community meetings with identified stakeholders and members of the public invited to participate. The trail location or options would then be identified and mapped, with further public review and discussion planned before presenting the Segment 11 plan for Board approval.

FINANCIAL IMPACT: The creation of the Segment 11 plan would involve time and resources on the part of staff and stakeholder groups to hold community meetings, prepare maps and trail cross-section designs and develop a plan. Staff from DEAPR will coordinate the trail segment plan effort, but assistance from Planning, the Sheriff's Office, Emergency Services and other departments will also be needed. There are funds in future years for both trail easement acquisition (via the Lands Legacy Program) and trail construction in the adopted CIP. The timing of these funds will be revisited as part of this spring's new CIP consideration as needed based on the Board's action.

SOCIAL JUSTICE IMPACT: The following two Orange County Social Justice Goals are applicable to this agenda item:

- **GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES**

The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.

- **GOAL: ENABLE FULL CIVIC PARTICIPATION**

Ensure that Orange County residents are able to engage government through voting and volunteering by eliminating disparities in participation and barriers to participation.

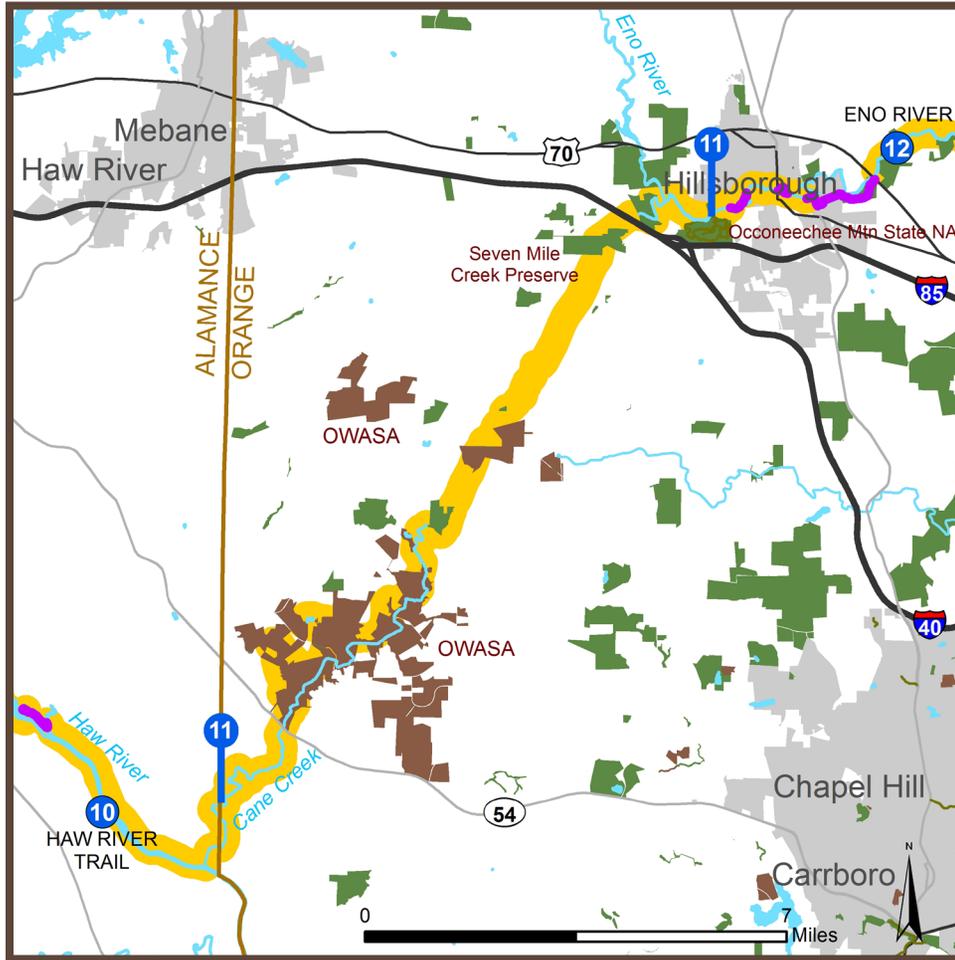
The creation of this trail will enhance opportunities for all persons to engage in the environmental policies of a trail connecting different sections of the county. Residents would also be encouraged to participate in the civic dialogue that will help plan the trail.

RECOMMENDATION(S): The Manager recommends that the Board receive the report and provide input on the proposed plan for identifying, securing and building the MST Segment 11.

SEGMENT 11: Southwest Orange County

Planning Priority

Near-Term Mid-Term Long-Term



Legend

- MST Status
- Constructed (purple line)
- Designated (green line)
- Planned Route (1/4 mi. buffer) (yellow line)
- Adjacent Segment (# in blue circle)
- Segment Start and End Points (# in blue circle with vertical line)
- County Boundary (orange outline)
- State Park (light green)
- Open Space (dark green)
- Institutional (brown)
- Municipal Boundary (grey)
- State Boundary (dashed line)
- Interstate (# in blue shield)
- NC Route (# in white circle)
- US Route (# in white shield)
- Major Hydrography (blue line)
- Proposed Trail (dashed line)
- Other Trail (green line)

Description

From: Alamance County line

To: Hillsborough (I-40/I-85 south of Occoneechee Mountain State Natural Area)

This segment runs from the Haw River Trail at the Alamance/Orange County line to the Occoneechee Mountain State Natural Area just near Hillsborough. The trail is undeveloped with a considerable amount of public land available at the Orange Water and Sewer Authority (OWASA) and the Seven Mile Creek Preserve.

Planning Strategies

The Orange County Parks and Recreation Master Plan (adopted November 2014) addresses the current status of the MST and the need for detailed alignment planning in Orange County. Current planning in Orange County is focused on completing gaps between Hillsborough and Durham County. Planning for the trail on OWASA property will occur in the future.

Opportunities

OWASA landholdings and Seven Mile Creek offer future route opportunities. Completion of this segment is an opportunity to connect Eno River State Park, the Hillsborough River Walk, Occoneechee Mountain, and Seven Mile Creek Preserve.

Large Landholdings	x	Stream/River Corridors	x	Staff Resources
Public Land		Sidewalk/Bicycle Network		Federal Property
Local Planning		Floodplain/Wetlands		Abandoned RR ROW

Challenges

Local planning is needed to identify the alignment between OWASA property and the Seven Mile Creek Preserve. How to best cross I-85/I-40 is another planning consideration.

Stream/River Crossings	x	Coordinating Easements	x	Local Planning
Detailed Alignment		Urbanized Corridor		Federal Property
Major Roadway Crossing		Floodplain/Wetlands		

Segment Details

Constructed Trails: None

Route Alignment: Cane Creek/OWASA

Key Properties: OWASA

Approximate Length: 19 miles

Designated Segments within Planning Segment: None

Potential Section Sponsors(s):

Orange County, Orange Water and Sewer Authority (OWASA)

Additional Planning Stakeholders:
Triangle Area RPO, Durham-Chapel Hill-Carrboro MPO, Friends of the MST, DPR

Proposed “MST Segment 11” Planning Timetable

Date	Activity	Notes
January-February 2016	Staff work	Prepare Mapping, Conduct Field Reconnaissance and Environmental Scan. Notify stakeholder groups and public of upcoming meeting.
February	Community Meeting	Review background, available data and planned process
February-March	Staff, stakeholder meetings	Refine initial map based on community meeting. Meet with stakeholders and stakeholder groups to identify issues.
March	Community Meeting	Design charrette – break into small groups and identify trail location option(s). Identify infrastructure and resource needs for the MST. Identify resource opportunities (trail-building, other)
April	Staff work	Develop narrative on amenities and infrastructure, public safety items, and complete draft map. Combine into Draft Segment 11 Master Plan (map and brief narrative).
Late-April	Community Meeting	Present Segment 11 Master Plan. Receive comments and feedback.
May	BOCC Meeting	Present Segment 11 Master Plan, with implementation plan, to BOCC for approval. Begin formal negotiations with NCDOT and OWASA for trail easements or authorization.
June	Budget and CIP approval	Adjust funding needed to begin trail construction. Complete any needed negotiations.
July	Implementation	Begin trail construction as per approved plan.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

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

SUBJECT: Creation of a Criminal Case Assessment Specialist Position

DEPARTMENT: County Manager's Office

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S): None

INFORMATION CONTACT:

Travis Myren, Deputy County Manager
919-245-2308

Caitlin Fenhagen, Criminal Justice
Resource Manager, 919-245-2303

PURPOSE: To approve the creation of a new 1.0 full time equivalent (FTE) position titled Criminal Case Assessment Specialist to conduct mental health and substance abuse assessments and treatment coordination for individuals in the jail and those who are participating in jail alternative programming.

BACKGROUND: In October 2015, the County appointed its first Criminal Justice Resource Manager to manage and coordinate jail alternative programming. The vision for the new Manager was to internalize jail alternative programming that had previously been contracted out and to broaden opportunities for jail diversion and interventions intended to reduce recidivism. The new office has recently completed its initial charge of internalizing the Pretrial and Drug Court programs through the recruitment of two new County employees to administer those programs.

The Criminal Justice Resource Manager has also conducted a needs assessment for future programming. This research relied on best practices in other jurisdictions as well as interviews with partners in the Orange County criminal justice system. The assessment revealed a need to supplement and enhance assessment and treatment services for individuals in the system that are experiencing mental health and substance abuse issues. This need is consistent with a policy goal of the Board of County Commissioners as codified in a Resolution Supporting "Stepping Up Initiative to Reduce the Number of People with Mental Illnesses in Jails" which was adopted in September 2015. Through that Resolution, the Board signed on to a call to action to reduce the number of people with mental illness in county jails and to share lessons learned with other counties in North Carolina.

One of the strategies identified to satisfy the need for enhanced mental health and substance abuse services in the criminal justice system is to create a position responsible for providing these services. In an effort to promote pretrial release, the position would conduct evaluations, assessments, and referrals for treatment for individuals awaiting trial or disposition of criminal charges. These additional services would provide greater assurance to the judiciary that individuals can safely remain in or return to the community while accessing necessary treatment

resources. Allowing an individual to remain in the community will increase employment stability, avoid disruptions in treatment and education, preserve family stability, and as a result, reduce the likelihood of re-arrest. For individuals participating in the pretrial release program, the position will also provide case management support in treatment or diversionary programs with the expectation that this higher level of therapeutic support will increase successful outcomes in these programs and reduce recidivism.

Finally, this position will support inmates remaining in the jail with counseling for ongoing mental health issues and will create discharge plans for those being released. The goal of these efforts is to promote immediate engagement in community resources upon release in an effort to reduce rates of recidivism.

Funding for this position will be supported through reimbursement from Cardinal Innovations. Annually, the County provides maintenance of effort funding to Cardinal Innovations to support selected mental health, substance abuse, and intellectual/developmental disability services. In Fiscal Year 15-16, Orange County allocated \$1.3 million to its maintenance of effort payment which includes a \$107,500 reserve to support unforeseen needs. The County would use \$31,200 of this reserve to finance the costs associated with Criminal Case Assessment Specialist. The position started in January as an unbenefitted, temporary position but would be converted to a full time, benefitted position upon approval by the Board of County Commissioners.

FINANCIAL IMPACT: The expenses for the Criminal Case Assessment Specialist are estimated to be \$31,200. This includes funding for a temporary position for 60 days and funding for a full time, benefitted position for the balance of the fiscal year. These costs would be fully offset by reimbursement from Cardinal Innovations of \$31,200, resulting in no net cost to the County.

SOCIAL JUSTICE IMPACT: The following Orange County Social Justice Goals are applicable to this agenda item

- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.
- **GOAL: CREATE A SAFE COMMUNITY**
The reduction of risks from vehicle/traffic accidents, childhood and senior injuries, gang activity, substance abuse and domestic violence.
- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**
The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.

RECOMMENDATION(S): The Manager recommends that the Board approve the creation of a 1.0 FTE Criminal Case Assessment Specialist and accept revenue from Cardinal Innovations to offset the cost of the position.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

**Action Agenda
Item No. 8-a**

SUBJECT: Analysis of Impediments to Fair Housing Choice

DEPARTMENT: Housing/Human Rights and
Community Development

PUBLIC HEARING: (Y/N)

N

ATTACHMENT(S):

Summary: FY 2015-2020 Analysis of
Impediments (A.I.)

INFORMATION CONTACT:

Audrey Spencer-Horsley, Director
(919)245-2490

PURPOSE: To receive a report, approve the FY 2015-2020 Analysis of Impediments to fair housing choice (A.I.), and authorize the Manager to certify the necessary documents.

BACKGROUND: As the lead agency of the Orange County HOME Consortium, the County administers funding allocated through the U.S. Department of Housing and Urban Development's (HUD's) HOME Investment Partnerships Program (HOME). The County also occasionally receives Community Development Block Grant (CDBG) funds. As such, the County is a Participating Jurisdiction (PJ). In addition to the allocation of these block grants, the County's Housing, Human Rights and Community Development Department operates as a Public Housing Authority (PHA) through its administration of the federal Housing Choice Voucher program.

All PJ's and PHA's are required to engage in activities that "affirmatively further fair housing". To meet this long-standing obligation, the County completes and submits an Analysis of Impediments (A.I.) to identify barriers to fair housing choice and for planning an approach to take meaningful actions to overcome these barriers. This analysis is completed every five (5) years, consistent with the County's quinquennial submission of its Consolidated Plan for Affordable Housing.

The County's objectives parallel HUD's objectives to:

- Promote fair housing choice for all persons;
- Provide opportunities for inclusive patterns of housing occupancy regardless of race, color, religion, sex, familial status, disability and national origin;
- Promote housing that is structurally accessible to, and usable by, all persons, particularly persons with disabilities; and
- Foster compliance with the nondiscrimination provisions of the Fair Housing Act.

A draft A.I. was made available for public comment beginning Friday, August 14, 2015 and continuing until 5 p.m. on Monday, September 14, 2015. Electronic copies of the draft plan were available to the public via the County's website. Hardcopies were made available at the

County's Department of Housing, Human Rights and Community Development, the Townships of Chapel Hill, Carrboro and Hillsborough, the Chapel Hill Public Library and each branch of the Orange County Public Library. In addition, a newspaper posting soliciting comments was issued in the *News of Orange*, the *Durham Herald Sun* and *La Noticia*, a Spanish bi-lingual newspaper. There were additional surveys returned by non-English speaking community members and one public comment received. These surveys and the public comment were inserted in the Final A.I., which is available on-line at the following URL:

[http://www.orangecountync.gov/departments/hhracd/Final Orange County 2015 AI.pdf](http://www.orangecountync.gov/departments/hhracd/Final%20Orange%20County%202015%20AI.pdf)

FINANCIAL IMPACT: There is no financial impact regarding the approval and certification of the Analysis of Impediments.

SOCIAL JUSTICE IMPACT: The following four (4) Orange County Social Justice Goals are applicable to this agenda item and the attached Analysis of Impediments:

- **GOAL: FOSTER A COMMUNITY CULTURE THAT REJECTS OPPRESSION AND INEQUITY**
The fair treatment and meaningful involvement of all people regardless of race or color; religious or philosophical beliefs; sex, gender or sexual orientation; national origin or ethnic background; age; military service; disability; and familial, residential or economic status.
- **GOAL: ENSURE ECONOMIC SELF-SUFFICIENCY**
The creation and preservation of infrastructure, policies, programs and funding necessary for residents to provide shelter, food, clothing and medical care for themselves and their dependents.
- **GOAL: ESTABLISH SUSTAINABLE AND EQUITABLE LAND-USE AND ENVIRONMENTAL POLICIES**
The fair treatment and meaningful involvement of people of all races, cultures, incomes and educational levels with respect to the development and enforcement of environmental laws, regulations, policies, and decisions. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies.
- **GOAL: ENABLE FULL CIVIC PARTICIPATION**
Ensure that Orange County residents are able to engage government through voting and volunteering by eliminating disparities in participation and barriers to participation.

RECOMMENDATION (S): The Manager recommends that the Board receive a report, approve the Orange County 2015-2020 Analysis of Impediments, and authorize the Manager to certify the same.

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE FOR THE ORANGE COUNTY, NC HOME CONSORTIUM



The Fair Housing Act makes it illegal to discriminate in the sale, rental, financing, or insurance of a dwelling, or in any other type of housing related transaction on the basis of race, sex, religion, national origin, color, disability, or familial status (the presence of children under the age of 18 in the household). In addition, certain multifamily dwellings, constructed after 1991, are required to be accessible to persons with disabilities.

As a HUD grantee, the Orange County HOME Consortium is required to “affirmatively further fair housing.” In order to demonstrate that the community is “affirmatively furthering fair housing,” each grantee must conduct an Analysis of Impediments to Fair Housing Choice (AI) which identifies any impediments to fair housing choice and what steps the community will take to affirmatively further fair housing. HUD advises communities that the Analysis of Impediments to Fair Housing should also address “Visitability,” the Section 504 Rehabilitation Act, the Americans with Disabilities Act, as well as the Fair Housing Act.

HUD defines “fair housing choice” as:

“The ability of persons, regardless of race, color, religion, sex, national origin, familial status, or handicap, of similar income levels to have available to them the same housing choices.”

The Orange County HOME Consortium has prepared an Analysis of Impediments to Fair Housing Choice for 2015. The analysis focuses on the status

and interaction of six (6) fundamental conditions within the community:

- The sale or rental of dwellings (public or private);
- The provision of housing brokerage services;
- The provision of financial assistance for dwellings;
- Public policies and actions affecting the approval of sites and other building requirements used in the approval process for the construction of publicly assisted housing;
- The administrative policies concerning community development and housing activities, which affect opportunities of minority households to select housing inside or outside areas of minority concentration; and
- Where there is a determination of unlawful segregation or other housing discrimination by a court or a finding of noncompliance by HUD regarding assisted housing in a recipient’s jurisdiction, an analysis of the actions which could be taken by the recipient to remedy the discriminatory condition, including actions involving the expenditure of funds made available under 24 CFR Part 570.

□ METHODOLOGY

The methodology employed to undertake this Analysis of Impediments included:

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE FOR THE ORANGE COUNTY, NC HOME CONSORTIUM



- **Research**

- A review of the County's Zoning Ordinance, Comprehensive Plan, land use policies and procedures was undertaken.
- Demographic data for the County was analyzed from the U.S. Census and the HUD-CHAS data and tables.
- A review of the real estate and mortgage practices was undertaken.

- **Interviews & Meetings**

- Meetings and/or interviews were conducted with County Staff, representatives from each of the members of the HOME Consortium, Orange County and the Town of Chapel Hill public housing providers, community and social service/advocacy agencies for the disabled, housing providers, the local Board of Realtors, and real estate firms.

- **Analysis of Data**

- Locations with a majority of low- and moderate-income residents were identified.
- Locations with a concentration of minority populations were identified.
- Fair housing awareness in the community was evaluated.

- **Potential Impediments**

- Public sector policies that may be viewed as impediments.
- Private sector policies that may be viewed as impediments.

- **FINDINGS: ACS DATA**

According to the 2007-2011 American Community Survey (the most current complete set of census estimates):

- 60.2% of households were owners and 39.8% of households were renters.
- When comparing homeowners and renters by race, "White" households represent the largest percentage of homeownership (84.1%) with "Black or African American" households comprising (9.4%) of the total homeowners.
- Of the total number of "White" households, 65.52% are homeowners and 34.48% are renters. In comparison, of all "Black and African American" households, 42.85% are homeowners and 57.15% are renters.
- The per capita income for the County is \$25,256.
- The median household income for Orange County is \$56,055, compared to \$46,291 for North Carolina.
- 39.74% of all residents in Orange County are considered low- to moderate-income.
- 16.9% of the population in Orange County is living below the poverty level. This has increased from 14.1% in 1999.
- The percentage of some families with children living below the poverty level is as follows:
 - Families with related children under the age of 18 is 14.5%.

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE FOR THE ORANGE COUNTY, NC HOME CONSORTIUM



- Female-headed families with related children under the age of 18 is 35.2%.
- Families with a householder who is White is 6.1%
- Families with a householder who is Black or African American is 20.6%.
- Families with a householder who is Asian is 15.4%.
- Families with a householder who is Hispanic or Latino is 29.4%.
- 44.1% of all renter households are cost burdened by 30% or more, and 12.1% of all owner households are cost burdened by 30% or more.
- 28.4% of all renter households are cost burdened by 50% or more, and 7.7% of all owner households are cost burdened by 50% or more.
- The median monthly rent in Orange County increased by 22.81% between 2000 and 2011, from \$684 to \$840, respectively.
- 47% of all disabled renters have a housing problem that includes cost burdened by 30% or more or another type of housing problem.
- 32% of disabled homeowners have a housing problem that includes cost burdened by 30% or more or another type of housing problem.
- 43.4% of renter households and 32.5% of owner-occupied households experienced one of the four housing problems (incomplete kitchen facilities, incomplete plumbing facilities, more than 1 person per room, and cost burdened by 30% or more).
- In Carrboro 51.1% of renter households and 30.7% of owner occupied households experienced a housing problem.
- In Chapel Hill 54.9% of renter households and 20.5% of owner-occupied households experienced a housing problem.
- In Hillsborough 47.3% of renter households and 39.0% of owner-occupied households experienced a housing problem.
- Throughout Orange County, the number of renter households experiencing one of the four housing problems is greater than the number of owner-occupied households experiencing a housing problem.
- In the Town of Chapel Hill renter households are almost three times more likely to experience a housing problem than owner-occupied households.

□ FINDINGS – CHAS DATA

According to the 2006-2010 Comprehensive Housing Affordability Strategy (CHAS) data (the most current complete set of the data):

□ FINDINGS – HMDA DATA

According to the Home Mortgage Disclosure Act (HMDA) data:

- The percentage of total applications by Whites accounts for almost three-quarters (74.3%) of the total number of applications, regardless of income.

ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE FOR THE ORANGE COUNTY, NC HOME CONSORTIUM



- Loan origination rates are higher for White applicants than for minority applicants as a whole, and minority denial rates are higher than White denial rates.
- Conventional mortgages in Orange County made up 32.4% of the conventional mortgages in the Durham-Chapel Hill MSA for 2013.

□ IMPEDIMENTS

Orange County's 2015 Analysis of Impediments to Fair Housing Choice has identified the following impediments:

Impediment 1: Fair Housing Education and Outreach

There is a need to continue educational and outreach programs so persons will become aware of their rights under the Fair Housing Act and to raise community awareness to affirmatively further fair housing choice, especially for low-income residents, minorities and the disabled population.

Impediment 2: Quality of Rental Housing vs. Affordability

Orange County has a large supply of rental housing that does not meet the minimum property standards, according to U.S. Census and American Community Survey Data. Over 27% (1,209) of all vacant units are not habitable and 9.9% (5,016) of all individuals are on limited incomes from social security, supplemental

social security and public assistance. Furthermore, 44.1% (8,923) of the total rental households are cost burdened by 30% or more of their monthly income for housing cost.

Impediment 3: Continuing Need for Accessible Housing Units

There is a need for more accessible housing that is decent, safe, and sound.

Impediment 4: Economic Issues Affect Housing Choice

There is a lack of economic opportunities in the County which prevents low-income households from improving their income and ability to live outside areas with concentrations of low-income households, which makes this a fair housing concern.

Impediment 5: Public Policy

There is a need to improve public policies that affirmatively further fair housing.

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

**Action Agenda
Item No.** 11-a

SUBJECT: Adult Care Home Community Advisory Committee – Appointment

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S): Under Separate Cover

Board Roster
Recommendation
Application for Person Recommended
Interest List
Applications of Persons on the Interest
List

INFORMATION CONTACT:
Clerk's Office, 245-2130

PURPOSE: To consider making an appointment to the Adult Care Home Community Advisory Committee.

BACKGROUND: The following information is for Board consideration:

NOTE: These positions are all 2 year terms with a maximum of 3 terms (6 years total).

- Appointment to a one year training term (Position #9) At-Large for William Lang expiring 01/21/2017.

POSITION NO.	NAME	SPECIAL REPRESENTATIVE	EXPIRATION DATE
9	William Lang	At-Large One Year Training Term	01/21/2017

NOTE - If the individuals listed above are appointed, the following vacancies remain:

- *Position #1--- "At-Large" position----- expiring 03/31/2017. **This position has been vacant since 09/21/2015.**
- * All positions require a one year training period from date of appointment.
- * **There are no additional applicants for Adult Care Home Community Advisory Committee. A Public Service Announcement has been sent out.**

FINANCIAL IMPACT: None.

SOCIAL JUSTICE IMPACT: Enable Full Civic Participation. Ensure that Orange County residents are able to engage government through voting and volunteering by eliminating disparities in participation and barriers to participation.

RECOMMENDATION(S): The Manager recommends that the Board consider making an appointment to the Adult Care Home Community Advisory Committee.

Board and Commission Members

And Vacant Positions

Adult Care Home Community Advisory Committee

Meeting Times: 3:30 pm - 5:00 pm Bi-monthly

Terms: 3

Contact Person: Charlotte Terwilliger

Meeting Place:

Positions: 12 Length: 2 years

Contact Phone: 919-558-9401

Description: Members are appointed by the Board of Commissioners to at-large positions. There is an initial one-year training term with subsequent eligibility for three additional two-year terms. This committee works to maintain the intent of the Adult Care Home Residents' Bill of Rights for those residing in licensed adult care homes. The members of this committee also promote community involvement and cooperation with these homes to ensure quality care for the elderly and disabled adults.

1	VACANT	Day Phone:	Sex:	First Appointed:
		Evening Phone:	Race:	Current Appointment:
		FAX:	Township:	Expiration: 03/31/2017
		E-mail:	Resid/Spec Req: At-Large	Number of Terms:
			Special Repr:	
2	Mr. Daniel Hatley	Day Phone: 919-200-0822	Sex: Male	First Appointed: 08/17/2010
		Evening Phone: 309-252-1169	Race: Caucasian	Current Appointment: 10/06/2015
	317 W. University	FAX: 888-514-4878	Township: Chapel Hill	Expiration: 10/31/2017
	Chapel Hill NC 27516	E-mail: dan@hatleylawoffice.com	Resid/Spec Req: At-Large	Number of Terms: 3
			Special Repr: DD/MR	
3	Ms. Deborah Rider	Day Phone: 919-818-6489	Sex: Female	First Appointed: 06/19/2012
		Evening Phone: 919-732-9476	Race: Caucasian	Current Appointment: 09/17/2013
	2314 Red Oak CT.	FAX:	Township: Hillsborough	Expiration: 06/30/2016
	Hillsborough NC 27278	E-mail: drider1736@gmail.com	Resid/Spec Req: At-Large	Number of Terms: 1
			Special Repr:	
4	Mr. Max Mason	Day Phone: 919-649-7937	Sex: Male	First Appointed: 06/07/2011
	Chair	Evening Phone:	Race: Caucasian	Current Appointment: 10/06/2015
	821 Tinkerbell Rd.	FAX:	Township: Chapel Hill	Expiration: 06/30/2017
	Chapel Hill NC 27517	E-mail: maxomason@yahoo.com	Resid/Spec Req: At-Large	Number of Terms: 2
			Special Repr:	
5	Dr. Anthony John Vogt	Day Phone: 919-929-8646	Sex: Male	First Appointed: 10/16/2012
		Evening Phone: 919-929-8646	Race: Caucasian	Current Appointment: 10/06/2015
	713 W. Barbee Chapel Road	FAX:	Township: Chapel Hill	Expiration: 10/31/2017
	Chapel Hill NC 27517	E-mail: ajvogt@earthlink.net	Resid/Spec Req: At-Large	Number of Terms: 2
			Special Repr:	

Board and Commission Members

And Vacant Positions

Adult Care Home Community Advisory Committee

Meeting Times: 3:30 pm - 5:00 pm Bi-monthly

Terms: 3

Contact Person: Charlotte Terwilliger

Meeting Place:

Positions: 12

Length: 2 years

Contact Phone: 919-558-9401

Description: Members are appointed by the Board of Commissioners to at-large positions. There is an initial one-year training term with subsequent eligibility for three additional two-year terms. This committee works to maintain the intent of the Adult Care Home Residents' Bill of Rights for those residing in licensed adult care homes. The members of this committee also promote community involvement and cooperation with these homes to ensure quality care for the elderly and disabled adults.

6	Mrs Suzanne Haff 107 Hunter Hill Road Chapel Hill NC 27516	Day Phone: 919-933-9329 Evening Phone: 919-933-9329 FAX: E-mail: suzhaff@gmail.com	Sex: Female Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 12/09/2014 Current Appointment: 12/15/2015 Expiration: 10/31/2017 Number of Terms: 1
7	A Yvonne Mendenhall 304 W Barbee Chapel Rd Chapel Hill NC 27517	Day Phone: 919-968-7874 Evening Phone: 919-968-7874 FAX: E-mail: menholiday@aol.com	Sex: Female Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 12/09/2014 Current Appointment: 12/15/2015 Expiration: 10/31/2017 Number of Terms: 1
8	Mrs. Gloria Brown MSW 2200 Old Forest Drive Hillsborough NC 27278	Day Phone: 919 537-7485 Evening Phone: 919 245-1025 FAX: E-mail: browng@piedmonthealth.org	Sex: Female Race: African American Township: Hillsborough Resid/Spec Req: At-Large Special Repr:	First Appointed: 12/15/2015 Current Appointment: 12/15/2015 Expiration: 12/15/2016 Number of Terms:
9	VACANT	Day Phone: Evening Phone: FAX: E-mail:	Sex: Race: Township: Resid/Spec Req: At-Large Special Repr:	First Appointed: Current Appointment: Expiration: 03/31/2016 Number of Terms:
10	Dr. Beverly Foster 2454 Springview Trail Chapel Hill NC 27514	Day Phone: 919 966-4995 Evening Phone: 919 967-2930 FAX: 919 843-6212 E-mail: Bev_Foster@unc.edu	Sex: Female Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 06/18/2013 Current Appointment: 06/17/2014 Expiration: 06/30/2016 Number of Terms: 1

Board and Commission Members

And Vacant Positions

Adult Care Home Community Advisory Committee

Meeting Times: 3:30 pm - 5:00 pm Bi-monthly

Terms: 3

Contact Person: Charlotte Terwilliger

Meeting Place:

Positions: 12

Length: 2 years

Contact Phone: 919-558-9401

Description: Members are appointed by the Board of Commissioners to at-large positions. There is an initial one-year training term with subsequent eligibility for three additional two-year terms. This committee works to maintain the intent of the Adult Care Home Residents' Bill of Rights for those residing in licensed adult care homes. The members of this committee also promote community involvement and cooperation with these homes to ensure quality care for the elderly and disabled adults.

<p>Mr James Bartow</p> <p>11 118 Collums Rd Chapel Hill NC 27514</p>	<p>Day Phone: 919 932-2682</p> <p>Evening Phone: 919 932-2682</p> <p>FAX:</p> <p>E-mail: jmsbartow@gmail.com</p>	<p>Sex: Male</p> <p>Race: Caucasian</p> <p>Township: Chapel Hill</p> <p>Resid/Spec Req: At-Large</p> <p>Special Repr:</p>	<p>First Appointed: 02/18/2014</p> <p>Current Appointment: 10/21/2014</p> <p>Expiration: 10/31/2017</p> <p>Number of Terms: 1</p>
<p>Deborah Stewart</p> <p>12 1405 Buckhorn Rd. Mebane NC 27302</p>	<p>Day Phone: 919-210-4857</p> <p>Evening Phone: 919-210-4857</p> <p>FAX:</p> <p>E-mail: deb.k.stewart@gmail.com</p>	<p>Sex: Female</p> <p>Race: Caucasian</p> <p>Township: Cheeks</p> <p>Resid/Spec Req: At-Large</p> <p>Special Repr:</p>	<p>First Appointed: 12/09/2014</p> <p>Current Appointment: 12/09/2014</p> <p>Expiration: 10/30/2017</p> <p>Number of Terms:</p>

Thom Freeman

From: Charlotte Terwilliger <cterwilliger@tjcog.org>
Sent: Thursday, December 17, 2015 2:53 PM
To: Thom Freeman
Subject: App't Recommendation for Mr Lang

Dear Thom,

The Adult Care Home Community Advisory Committee would like to recommend Mr. William Lang for a one year training term. Mr. Lang has a Masters in Public Health and has extensive experience with community based programs and services both at the state and federal levels. He has strong advocacy skills and is interested in working with all stakeholders to implement services that improve quality of care at adult care homes.

Please let me know if you need any additional information to move this recommendation forward.

Best Regards,
Charlotte

Charlotte Terwilliger, MSW
Regional Long Term Care Ombudsman

Area Agency on Aging
Triangle J Council of Governments
4307 Emperor Blvd., Suite 110, Durham, NC 27703
(o) 919-558-9401 / (f) 919-998-8101
cterwilliger@tjcog.org / www.tjcog.org

E-Mail correspondence to and from this address is subject to the North Carolina Public Records Act and may be disclosed to third parties unless made confidential under applicable law.

Volunteer Application Orange County Advisory Boards and Commissions

Name: Mr William Lang
Name Called:
Home Address: 106 Hayes Street
 Hillsborough NC 27278
Phone (Day): 2022151131
Phone (Evening): 2022151131
Phone (Cell): 2022151131
Email: wglang1954@gmail.com
Place of Employment: American Association of Colleges of Pharmacy
Job Title: Senior Policy Advisor
Year of OC Residence: 2013
Township of Residence: Hillsborough
Zone of Residence: Hillsborough Town Limits
Sex: Male
Ethnic Background: Caucasian

Community Activities/Organizational Memberships:

Volunteer- Meals on Wheels/OCIM

Past Service on Orange County Advisory Boards:

None

Boards/Commissions applied for:

Adult Care Home Community Advisory Committee

Background, education and experience relevant to this board:

Extensive experience in law and regulation associated with home and community-based programs and services both at the state (NC) and federal levels. Masters in Public Health. Former Director of Government Affairs for Association of home and hospice care of NC. Mentored by Karen Gottovi and Betty Wiser (former state representatives/Director of State Agency for Aging)...important advocates for older adults, disabled and those served by adult care homes and other community-based programs.

Reasons for wanting to serve on this board:

Adult care homes play an important role in the continuum of care for older adults and the disabled. The challenges of effective and efficient operation of adult care homes can only be met through partnership between home operators, regulators and community advocates. Bringing stakeholders together to create positive and sustained efforts for service and program improvement is an important aspect of my work that can be translated easily to my role as an advisory board member.

Conflict of Interest:

No

Supplemental Questions:

Other Comments:

This application was current on: 11/4/2015 9:54:23 AM

Date Printed: 11/5/2015

Applicant Interest Listing

by Board Name and by Applicant Name

Adult Care Home Community Advisory Committee

Contact Person: Charlotte Terwilliger

Contact Phone: 919-558-9401

Mr William Lang

106 Hayes Street

Hillsborough NC 27278

Day Phone: 2022151131

Evening Phone: 2022151131

Cell Phone: 2022151131

E-mail: wglang1954@gmail.com

Sex: Male

Race: Caucasian

Township: Hillsborough

Res. Eligibility: Hillsborough Town Lim

Date Applied: 11/04/2015

Skills:

Also Serves On:

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: January 21, 2016

**Action Agenda
Item No.** 11-b

SUBJECT: Arts Commission – Appointment

DEPARTMENT: Board of Commissioners

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S): Under Separate Cover
Membership Roster
Recommendation
Application for Person Recommended
Interest List (**Public Service
Announcement has been submitted**)

INFORMATION CONTACT:
Clerk's Office, 919-245-2130

PURPOSE: To consider making an appointment to the Arts Commission.

BACKGROUND: The following appointments are for Board consideration:

- Appointment to a first full term (position #1) At-Large for Jen Rogers 03/31/2018.

POSITION NO.	NAME	SPECIAL REPRESENTATIVE	EXPIRATION DATE
1	Jen Rogers	At-Large	03/31/2018

NOTE - If the individuals listed above are appointed, the following vacancies remain:

- None

*** There are no additional applicants for the Arts Commission. A Public Service Announcement has been sent out.**

FINANCIAL IMPACT: None

SOCIAL JUSTICE IMPACT: Enable Full Civic Participation. Ensure that Orange County residents are able to engage government through voting and volunteering by eliminating disparities in participation and barriers to participation.

RECOMMENDATION(S): The Manager recommends that the Board consider making an appointment to the Arts Commission.

Board and Commission Members

And Vacant Positions

Arts Commission

Meeting Times: 6:00 pm second Monday of each month

Terms: 2

Contact Person: Martha Shannon

Meeting Place: Alternating

Positions: 15 Length: 3 years

Contact Phone: 919-968-2011

Description: The members of this commission are appointed by the Board of Commissioners. The Arts Commission is housed with the Economic Development Department. It recommends strategies to promote the artistic and cultural growth of Orange County, advises the Board of Commissioners on matters involving the arts, and acts as the granting panel for two annual funding programs available to individual artists and non-profit groups sponsoring arts projects in Orange County. To learn more, go to the following web address: www.artsorange.org/

1	VACANT	Day Phone: Evening Phone: FAX: E-mail:	Sex: Race: Township: Resid/Spec Req: At-Large Special Repr:	First Appointed: Current Appointment: Expiration: 03/31/2018 Number of Terms:
2	Mr. Tim Hoke Chair 100 Ironwood Place Chapel Hill NC 27514	Day Phone: 9193837426 Evening Phone: 9194893547 FAX: E-mail: tim@hnva.us	Sex: Male Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 09/16/2014 Current Appointment: 04/07/2015 Expiration: 03/31/2018 Number of Terms:
3	Ms. Jennifer Shelton 5705 Field Court Mebane NC 27302	Day Phone: 919-304-6557 Evening Phone: 919-304-6557 FAX: E-mail: jshelton@email.unc.edu	Sex: Female Race: Caucasian Township: Cheeks Resid/Spec Req: At-Large Special Repr:	First Appointed: 10/06/2015 Current Appointment: 10/06/2015 Expiration: 03/31/2017 Number of Terms:
4	Mr. Geoffrey Hathaway 605 Jones Ferry Rd., Apt. TT-10. Carrboro NC 27510	Day Phone: 919-270-1899 Evening Phone: 919-270-1899 FAX: E-mail: G_Lloyd_007@msn.com	Sex: Male Race: African American Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 11/08/2012 Current Appointment: 03/18/2014 Expiration: 03/31/2017 Number of Terms: 2
5	Ms Tinka Jordy 1902 Borland Rd Hillsborough NC 27278	Day Phone: 919 757 2181 Evening Phone: 919 757 2181 FAX: E-mail: tinkajordy@gmail.com	Sex: Female Race: Caucasian Township: Bingham Resid/Spec Req: At-Large Special Repr:	First Appointed: 09/16/2014 Current Appointment: 09/16/2014 Expiration: 03/31/2017 Number of Terms: 1

Board and Commission Members

And Vacant Positions

Arts Commission

Meeting Times: 6:00 pm second Monday of each month

Terms: 2

Contact Person: Martha Shannon

Meeting Place: Alternating

Positions: 15 Length: 3 years

Contact Phone: 919-968-2011

Description: The members of this commission are appointed by the Board of Commissioners. The Arts Commission is housed with the Economic Development Department. It recommends strategies to promote the artistic and cultural growth of Orange County, advises the Board of Commissioners on matters involving the arts, and acts as the granting panel for two annual funding programs available to individual artists and non-profit groups sponsoring arts projects in Orange County. To learn more, go to the following web address: www.artsorange.org/

6	Ms. Lynne Albert 2700 Forest Creek Road Chapel Hill NC 27514	Day Phone: 919-969-5549 Evening Phone: 919-969-5549 FAX: E-mail: lynnetalbert@hotmail.com	Sex: Female Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 01/22/2015 Current Appointment: 01/22/2015 Expiration: 09/30/2016 Number of Terms:
7	Ms. Doris A. Friend 5812 Dodson's Crossroads Hillsborough NC 27278	Day Phone: 919-968-1013 Evening Phone: FAX: E-mail: dfriend3@bellsouth.net	Sex: Female Race: Caucasian Township: Bingham Resid/Spec Req: At-Large Special Repr:	First Appointed: 11/19/2013 Current Appointment: 11/19/2013 Expiration: 09/30/2016 Number of Terms: 1
8	Ms. Bronwyn Merritt 113 Creekview Circle Carrboro NC 27510	Day Phone: 919-923-1058 Evening Phone: 919-967-1486 FAX: E-mail: Bronwyn@BronwynMerritt.com	Sex: Female Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 09/16/2014 Current Appointment: 04/07/2015 Expiration: 03/31/2018 Number of Terms:
9	Ms. Joy Salyers 1563 Riverside Drive Hillsborough NC 27278	Day Phone: 919-383-6040 Evening Phone: 919-998-8041 FAX: E-mail: joysalyers@ncfolk.org	Sex: Female Race: Caucasian Township: Hillsborough Resid/Spec Req: At-Large Special Repr:	First Appointed: 09/16/2014 Current Appointment: 09/16/2014 Expiration: 03/31/2017 Number of Terms: 1
10	Mrs. Andrea Riley 1204 Brookhollow Road Efland NC 27243	Day Phone: 919-644-2604 Evening Phone: 919-644-2604 FAX: E-mail: ateuteriley44@gmail.com	Sex: Female Race: Caucasian Township: Cheeks Resid/Spec Req: At-Large Special Repr:	First Appointed: 10/06/2015 Current Appointment: 10/06/2015 Expiration: 03/31/2017 Number of Terms:

Board and Commission Members

And Vacant Positions

Arts Commission

Meeting Times: 6:00 pm second Monday of each month

Terms: 2

Contact Person: Martha Shannon

Meeting Place: Alternating

Positions: 15 Length: 3 years

Contact Phone: 919-968-2011

Description: The members of this commission are appointed by the Board of Commissioners. The Arts Commission is housed with the Economic Development Department. It recommends strategies to promote the artistic and cultural growth of Orange County, advises the Board of Commissioners on matters involving the arts, and acts as the granting panel for two annual funding programs available to individual artists and non-profit groups sponsoring arts projects in Orange County. To learn more, go to the following web address: www.artsorange.org/

11	Mrs. Ashley Nissler 2313 Woodbury Drive Hillsborough NC 27278	Day Phone: 919-245-3695 Evening Phone: FAX: E-mail: ranissler@mindspring.com	Sex: Female Race: Caucasian Township: Hillsborough Resid/Spec Req: At-Large Special Repr:	First Appointed: 04/23/2013 Current Appointment: 03/18/2014 Expiration: 03/31/2017 Number of Terms: 1
12	Mr. Ian Bowater 125 Windsor Circle Chapel Hill NC 27516	Day Phone: 9192405839 Evening Phone: 9192405839 FAX: E-mail: ianbowater7@gmail.com	Sex: Male Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 01/22/2015 Current Appointment: 04/07/2015 Expiration: 03/31/2018 Number of Terms:
13	Kim Roberts Secretary 908 Grove Street Chapel Hill NC 27517	Day Phone: 919-240-7994 Evening Phone: 919-240-7994 FAX: E-mail: kimcusic@aol.com	Sex: Female Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 01/22/2015 Current Appointment: 04/07/2015 Expiration: 03/31/2018 Number of Terms: 1
14	Dr. Scott Van Manen Vice-Chair 300 Orchard Ln Chapel Hill NC 27514	Day Phone: 919-237-2796 Evening Phone: 919-237-2796 FAX: E-mail: sfvanmanen@gmail.com	Sex: Male Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 09/16/2014 Current Appointment: 09/16/2014 Expiration: 09/30/2016 Number of Terms:
15	Ms. Deborah Hepp 20 Dogwood Acres Drive Chapel Hill NC 27516	Day Phone: 919-260-4495 Evening Phone: 919-942-3398 FAX: E-mail: debbie@ballyhoostudio.com	Sex: Female Race: Caucasian Township: Chapel Hill Resid/Spec Req: At-Large Special Repr:	First Appointed: 06/18/2013 Current Appointment: 06/18/2013 Expiration: 03/31/2016 Number of Terms: 1

Thom Freeman

From: Martha Shannon - Orange County Arts Commission
Sent: Tuesday, December 15, 2015 9:46 AM
To: Thom Freeman
Subject: RE: Orange County Volunteer Application

Importance: High

Hi Thom,

At the Arts Commission's board meeting last night (12/14/15), they voted to suggest Volunteer Applicant Jen Rogers to the BOCC to fill our 1 current open seat.

Please let me know when this item will be on the BOCC's meeting agenda for possible appointment. Thanks so much!

Martha

From: Thom Freeman
Sent: Thursday, November 19, 2015 3:48 PM
To: jlrogers29@gmail.com
Cc: Martha Shannon - Orange County Arts Commission; Donna Baker
Subject: Orange County Volunteer Application

Ms. Rogers,

We have received your application to serve on the Art Commission. By copy of this e-mail I am notifying Martha Shannon of your interest in serving.

Although you have not yet been appointed to serve as a volunteer for this Board, your willingness to volunteer your time is very much appreciated. Your name will be kept on the interest list for this Board for two (2) years and will be considered as openings occur. Appointments are made to various boards monthly. You will be notified if appointed. If you are not initially appointed to a board for which you have applied, your application will be resubmitted automatically until such time that you are appointed, or your application expires (2 years). There is a 75% attendance requirement for all advisory board members that must be adhered to in order to maintain membership.

You may also check our web site at orangecountync.gov/boards/apply.asp under "Volunteer Boards" and "Vacancies on Advisory Boards and Commissions" for a listing of advisory boards and commissions of the Orange County Board of Commissioners and any new vacancies that may occur.

Again, thank you for your application.

Thom Freeman
 Assistant to the Clerk
 Orange County Board of Commissioners
 200 Cameron Street
 PO Box 8181
 Hillsborough, NC 27278
 919-245-2125
 FAX – 919-644-0246

tfreeman@orangecountync.gov



Volunteer Application Orange County Advisory Boards and Commissions

Name: Ms. Jen Rogers
Name Called:
Home Address: 601 W. Rosemary St, Apt 802
 Chapel Hill NC 27516
Phone (Day): 9199622489
Phone (Evening): 2022132815
Phone (Cell): 2022132815
Email: jlrogers29@gmail.com
Place of Employment: PlayMakers Repertory Company
Job Title: General Manager
Year of OC Residence: 2015
Township of Residence: Chapel Hill
Zone of Residence:
Sex: Female
Ethnic Background: Caucasian

Community Activities/Organizational Memberships:

Member of Theater Communications Group, Performance Arts Alliance. Volunteer at the Triangle Radio Reading Service.

Past Service on Orange County Advisory Boards:

I have not worked on an Orange County Advisory board, but would love to work on the Orange County Arts Commission.

Boards/Commissions applied for:

Arts Commission

Background, education and experience relevant to this board:

I have worked in the arts for my entire career and feel that I could bring a new perspective to the arts community as I have just moved to the area.

Reasons for wanting to serve on this board:

While the focus of my career has been the making of art, I also feel that advocating/supporting local art is very important and I feel that I can contribute to the field in an expanded way in the local community.

Conflict of Interest:

Supplemental Questions:

Other Comments:

Applicant Interest Listing

by Board Name and by Applicant Name

Arts Commission

Contact Person: Martha Shannon

Contact Phone: 919-968-2011

Ms. Jen Rogers

601 W. Rosemary St, Apt 802

Chapel Hill NC 27516

Day Phone: 9199622489

Evening Phone: 2022132815

Cell Phone: 2022132815

E-mail: jlr Rogers29@gmail.com

Sex: Female

Race: Caucasian

Township: Chapel Hill

Res. Eligibility:

Date Applied: 11/19/2015

Skills:

Also Serves On:

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
12/15/15	Review and consider request by Commissioner Pelissier that an additional at-large position be added to the OUTBoard	2/2/2016	Chair, Vice Chair, Manager, Abigaile Pittmann, & Donna Baker	DONE Item on January 21, 2016 Regular Board meeting agenda
12/15/15	Review and consider request by Commissioner Rich that the County get a copy of the Durham affordable housing plan for land around future transit stations and land-banking and evaluate the opportunity to work together	2/2/2016	Audrey Spencer-Horsley & Craig Benedict	Staff to obtain copy of Durham plan and evaluate
12/15/15	Review and consider request by Commissioner Rich that the County consider helping with moving the Hollow Rock General Store to the other side of the road	2/2/2016	David Stancil	Staff to contact Friends of Hollow Rock to determine status
12/15/15	Review and consider request by Commissioner Rich that the Board receive a report on airbnbs sometime after January 2016	4/1/2016	Laurie Paolicelli	Report being provided to Visitors Bureau Board; Copy to be provided to BOCC
12/15/15	Review and consider request by Commissioner Dorosin that the County develop a sticker that users of the Small Business Loan Pool Program can put in storefront windows to educate customers about the County's assistance to the business	2/2/2016	Steve Brantley	Staff to move forward with development of Program sticker
12/15/15	Review and consider request by Commissioner Price that the Board consider a draft Indigenous People's Day resolution at the January 21, 2016 regular meeting	2/28/2016	Chair, Vice Chair, Manager	Currently proposed for February 2016 Regular Meeting
12/15/15	Incorporate revisions to Unified Animal Control Ordinance as discussed by the Board and bring proposed Ordinance back to the Board at the January 21, 2016 meeting for further consideration	1/21/2016	Bob Marotto Annette Moore	DONE Item on January 21, 2016 Regular Board meeting agenda
12/15/15	Provide the Board with additional demographic information about County residents in County Jail	4/1/2016	Travis Myren Sheriff Charles Blackwood	Information to be provided

INFORMATION ITEM

Tax Collector's Report - Numerical Analysis

Effective Date of Report: December 31, 2015						
Tax Year 2015	Amount Charged in FY 15-16	Amount Collected	Accounts Receivable	Amount Budgeted in FY 15-16	Remaining Budget	% of Budget Collected
Current Year Taxes	\$ 136,413,322.00	115,361,909.83	\$ 22,261,911.40	\$ 136,413,322.00	\$ 21,051,412.17	84.57%
Prior Year Taxes	\$ 3,551,444.86	692,191.33	\$ 2,771,037.04	\$ 1,150,000.00	\$ 457,808.67	60.19%
Total	\$ 139,964,766.86	116,054,101.16	\$ 25,032,948.44	\$ 137,563,322.00	\$ 21,509,220.84	84.36%
Tax Year 2014	Amount Charged in FY 14-15	Amount Collected	Accounts Receivable	Amount Budgeted in FY 14-15	Remaining Budget	% of Budget Collected
Current Year Taxes	\$ 135,734,649.00	111,553,069.58	\$ 24,256,820.17	\$ 135,734,649.00	\$ 24,181,579.42	82.18%
Prior Year Taxes	\$ 3,764,940.44	922,696.94	\$ 2,814,771.97	\$ 994,130.00	\$ 71,433.06	92.81%
Total	\$ 139,499,589.44	112,475,766.52	\$ 27,071,592.14	\$ 136,728,779.00	\$ 24,253,012.48	82.26%
Current Year Overall Collection Percentage Tax Year 2015			83.84%			
Current Year Overall Collection Percentage Tax Year 2014			82.16%			

INFORMATION ITEM

Tax Collector's Report - Measures of Enforced Collections

Fiscal Year 2015-2016

Effective Date of Report: December, 2015													
	July	August	September	October	November	December	January	February	March	April	May	June	YTD
Wage garnishments	26	11	127	94	34	3							295
Bank attachments	12	6	27	3	1	-							49
Certifications	-	-	2	-	-	-							2
Rent attachments	-	-	-	-	-	-							-
Housing/Escheats/Monies	4	-	4	6	8	-							22
Levies	1	-	8	1	2	-							12
Foreclosures initiated	-	-	1	1	-	-							2
NC Debt Setoff collections	\$ 799.74	\$ 833.06	\$ 684.47	\$ 143.15	\$ 175.65	\$ 51.94							2,688

This report shows the Tax Collector's efforts to encourage and enforce payment of taxes for the fiscal year 2015-2016. It gives a breakdown of enforced collection actions by category, and it provides a year-to-date total.

The Tax Collector will update these figures once each month, after each month's reconciliation process.

NAME	ABSTRACT NUMBER	BILLING YEAR	ORIGINAL VALUE	ADJUSTED VALUE	TAX	FEE	FINANCIAL IMPACT	REASON FOR ADJUSTMENT	TAX CLASSIFICATION	ACTION	Approved by CFO
Byars, Elizabeth	1005111	2015	6,190	0	(65.47)		(65.47)	Assessed in error (illegal tax)	Personal	Approved	12/3/2015
								Assessed in error (illegal tax)			
Cannada, Christopher W.	299009	2015	388,258	387,258	(10.43)		(10.43)		Personal	Approved	12/31/2015
Carrillo, Leon Gonzalez	298911	2015	950	0	(9.17)		(9.17)	Assessed in error (illegal tax)	Personal	Approved	12/3/2015
Clark, Martin	303425	2015	500	0	(5.29)		(5.29)	Assessed in error (illegal tax)	Personal	Approved	12/3/2015
Cotton, Wayne	1033969	2015	950	0	(16.83)		(16.83)	Double billed (illegal tax)	Personal	Approved	12/10/2015
Cotton, Wayne	1033969	2014	950	0	(18.55)		(18.55)	Double billed (illegal tax)	Personal	Approved	12/10/2015
Cotton, Wayne	1033969	2013	950	0	(19.70)		(19.70)	Double billed (illegal tax)	Personal	Approved	12/10/2015
Davis, Erica Frazier	29236681	2015	990	990	(7.07)	(30.00)	(37.07)	Situs error (illegal tax)	RMV-VTS	Approved	12/10/2015
Dempsey, Charles C Jr.	1055181	2015	2,444	0	(23.41)		(23.41)	Clerical error (illegal tax)	Personal	Approved	12/10/2015
								Assessed in error (illegal tax)			
Dillard, Nancy L.	324214	2015	1,890	1,390	(6.60)		(6.60)		Personal	Approved	12/31/2015
Hughes, James	317126	2015	4,870	0	(52.94)		(52.94)	Situs error (illegal tax)	Personal	Approved	12/10/2015
Hughes, James	317126	2014	5,460	0	(65.42)		(65.42)	Situs error (illegal tax)	Personal	Approved	12/10/2015
Johnson, Andrew Bernard	29361264	2015	5,620	5,620	(43.64)	(30.00)		Situs error (illegal tax)	RMV-VTS	Approved	12/31/2015
Latta's Egg Ranch	29378925	2015	3,440	3,440	(24.57)	(30.00)		Situs error (illegal tax)	RMV-VTS	Approved	12/31/2015
Latta's Egg Ranch Inc	29378974	2015	3,480	3,480	(24.85)	(30.00)		Situs error (illegal tax)	RMV-VTS	Approved	12/31/2015
Latta's Egg Ranch Inc	29378862	2015	3,830	3,830	(27.35)	(30.00)		Situs error (illegal tax)	RMV-VTS	Approved	12/31/2015
Latta's Egg Ranch Inc	29380695	2015	11,192	11,192	(79.93)	(30.00)		Situs error (illegal tax)	RMV-VTS	Approved	12/31/2015
McFarland, Nelan	990884	2015	4,340	0	(41.15)		(41.15)	Assessed in error (illegal tax)	Personal	Approved	11/25/2015
Munnier, Catherine	29225267	2015	12,010	12,010	(85.78)	(30.00)	(115.78)	Situs error (illegal tax)	RMV-VTS	Approved	12/10/2015
Munnier, Catherine	29225479	2015	3,080	3,080	(22.00)	(30.00)	(52.00)	Situs error (illegal tax)	RMV-VTS	Approved	12/10/2015
Reed, Scott	268426	2015	950	0	(10.32)		(10.32)	Double billed (illegal tax)	Personal	Approved	12/3/2015
Rothrock Law Firm Pa	257452	2015	15,102	15,102	(99.07)		(99.07)	Situs error (illegal tax)	Personal	Approved	12/10/2015

INFORMATION ITEM



ORANGE COUNTY

NORTH CAROLINA

MEMORANDUM

Date: January 21, 2016

TO: Board of Orange County Commissioners

FROM: Bonnie B. Hammersley
County Manager

RE: Changes to FY2016-17 Budget Calendar

In an effort to provide more time for the budget consideration and deliberation, the FY 16-17 Manager's Recommended Budget will be presented to the Board of Orange County Commissioners on May 5th instead of May 17th as currently scheduled.

I am also proposing to change the purpose of two of the Budget meetings by moving the Public Hearing to May 12th and conducting a work session on May 26th. This will provide the Board of Commissioners with the benefit of gathering public input prior to starting budget deliberations in a work session. These changes do not alter the budget original deliberation schedule. Only the purpose of the meetings would change.

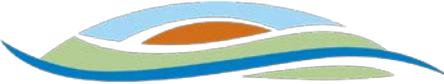
Finally, the May 19th Budget Public Hearing would move from the Whitted facility to Southern Human Services to assure that a budget public hearing is held in the southern part of the County. The Clerk to the Board of Commissioners has drafted an abstract to change the public meeting calendar for consideration at the Board's February 2nd meeting.

The revised FY2016-17 Budget Calendar is attached for your review. Please do not hesitate to contact me if you have any questions or concerns regarding this matter.

Annual Operating Budget Calendar
Fiscal Year 2016-17 (Budget Presented on May 5, 2016)

	Due Dates
FY 2016-17 Operating Budget Discussion with Department Directors	January 7, 2016
Operating Budget Kick-off Meetings for Departments	January 13 & 14, 2016
Revenues & Expenditures - Final date to enter year end estimates for current year and revenue and expenditure requests for fiscal year 2016-17 into MUNIS. Expenditure Supporting Documentation - Final date to submit forms to Finance and Administrative Services (including Budget Request Excel spreadsheets, and applicable personnel related detail)	February 19, 2016
Manager Meetings With Department Heads to Discuss Budget Requests	March/early April 2016
Joint Meeting with BOCC/Schools	April 26, 2016
Manager Presents Fiscal Year 2016-17 Annual Operating Budget to Board of County Commissioners	May 5, 2016
Budget and Capital Investment Plan Public Hearings	May 12, 2016 May 19, 2016
Budget/CIP Work Sessions	May 26, 2016 June 9, 2016 June 14, 2016 June 16, 2016
FY 2016-17 Operating and CIP Budget Adoption	June 21, 2016
Contingency Planning with Department Directors	July 2016

January 13, 2016



ORANGE COUNTY
NORTH CAROLINA
COUNTY MANAGER'S OFFICE

200 South Cameron Street
Post Office Box 8181
Hillsborough, North Carolina 27278

Bonnie B. Hammersley, County Manager

Phone (919) 245-2300
Fax (919) 644-3004

MEMORANDUM

To: Orange County Board of Commissioners
From: Caitlin Fenhagen, Criminal Justice Resource Manager
Date: 1/13/16
RE: Health in All Policies Pilot Project with Criminal Justice Resource Office and Jail Alternatives Work

At a recent joint meeting between the Board of County Commissioners and the Board of Health, information was shared about the American Public Health Association's "Introduction to Health in All Policies: A Guide for State and Local Governments." The Health in All Policies concept incorporates a collaborative approach to improving the health of all people by embedding health considerations into decision-making in all sectors and policy areas of government. As the responsibility for many of the social determinants of health, including housing, education, employment and the criminal justice system, fall to non-traditional health partners, the HiAP concept recognizes the need for public health agencies to work with stakeholders in these other sectors to improve health outcomes. The goal of this framework is to ensure that decision-makers in all areas of local government are informed about the health, equity and sustainability consequences of various policy options as they are being considered.

At the request of the Board of Health and with the support of the BOCC for the HiAP framework, Health Director Dr. Colleen Bridger met with the County Manager to discuss a pilot for operationalizing this collaborative decision-making process. It was determined that the pilot HiAP collaboration should be with the newly-created Criminal Justice Resource Office and the jail alternatives work that is underway in Orange County. On December 18, 2015, I went to the Health Department and met for the first time with Dr. Bridger, Meredith Stewart, the Public Health Program Manager and Donna King, the Director of Health Promotion and Education Services. We discussed the critical link between healthy communities and reduced incarceration rates and effective jail alternatives and brainstormed about how the collaboration between us should proceed. This initial meeting was followed by a more in-depth session this week between Ms. Stewart, Adebukola Oni, a research consultant working with the Health Department and myself.

As we move forward with this pilot, it is our recommendation that Dr. Bridger should be added as a member of the BOCC Jail Alternatives Working Group. This group is expected to reconvene next month. I have discussed the HiAP pilot with Sheriff Blackwood and members of the court stakeholders Jail/Mental Health group and they expressed support for this framework. Dr. Bridger, Ms. Stewart and I have scheduled a meeting with Sheriff Charles Blackwood to discuss the collaboration in more detail and to learn more about jail practices, policies and considerations which could benefit from an evaluation of health impacts. I am in the process of arranging a tour of the jail for Ms. Oni and Ms. Stewart. In addition, as the pilot gets underway, Ms. Oni will be conducting informational interviews with key stakeholders to try and assess the primary physical and mental health needs of current and former jail clients. I will be working with Ms. Oni to help identify key informants to assist her with this research.

The Criminal Justice Resource office has assumed oversight of pretrial release services and drug treatment court coordination. Ted Dorsi, a 14-year veteran of pretrial release case management work, started on January 4th in our office as the Pretrial Release Service Case Manager. Courtney Kennedy Pair, who has administered the Orange County drug treatment courts since 2003, started the same day in the position of Drug Treatment Coordinator. With funding support from Cardinal Innovations, a temporary therapeutic position has been created in the office for a Criminal Case Assessment Specialist to conduct mental health and substance abuse assessments and treatment coordination for individuals in the jail and those participating in jail alternative programming. Allison Zirkel, a licensed clinical social worker and addictions specialist, has filled the temporary position.

I am currently in the process of evaluating the work of these positions to ensure that we are incorporating best practice models and providing effective jail alternatives work. Our office's collaboration with the Health Department comes at an opportune time as we consider new policies and procedures for the delivery of these jail alternative services. In the second meeting, we specifically discussed addressing drug treatment court administration and policies in advance of a late January steering committee date, but our office looks forward to incorporating the HiAP framework to inform all our work as we seek to standardize our policies and procedures as an office committed to reducing our jail population and effectively assisting those individuals in jail or in jail alternative programs.

INFORMATION ITEM



EARL MCKEE, CHAIR
MARK DOROSIN, VICE CHAIR
MIA BURROUGHS
BARRY JACOBS
BERNADETTE PELISSIER
RENEE PRICE
PENNY RICH

Orange County Board of Commissioners
Post Office Box 8181
200 South Cameron Street
Hillsborough, North Carolina 27278

January 13, 2016

Dear Commissioners,

At the Board's December 15, 2015 regular meeting, 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 a request by Commissioner Pelissier that an additional at-large position be added to the OUTBoard.

Response: Item scheduled for January 21, 2016 Regular Board meeting.

- 2) Review and consider a request by Commissioner Rich that the County get a copy of the Durham affordable housing plan for land around future transit stations and land-banking and evaluate the opportunity to work together.

Response: Staff to obtain a copy of the Durham plan and evaluate.

- 3) Review and consider a request by Commissioner Rich that the County consider helping with moving the Hollow Rock General Store to the other side of the road.

Response: Staff to contact Friends of Hollow Rock to determine status.

- 4) Review and consider a request by Commissioner Rich that the Board receive a report on Airbnbs sometime after January 2016.

Response: Report being provided to Visitors Bureau Board; copy to be provided to BOCC.

- 5) Review and consider a request by Commissioner Dorosin that the County develop a sticker that users of the Small Business Loan Pool Program can put in storefront windows to educate customers about the County's assistance to the business.

Response: Staff to move forward with development of Program sticker.

- 6) Review and consider a request by Commissioner Price that the Board consider a draft Indigenous People's Day resolution at the January 21, 2016 regular meeting.

Response: Currently proposed for a February 2016 Regular Meeting.

Regards,

Earl McKee, Chair
Board of County Commissioners