



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Meeting Agenda Board of Aldermen



Tuesday, January 26, 2016

7:30 PM

Board Chambers - Room 110

7:30-7:35

A. CONSENT AGENDA

1. [16-033](#) Approval of Previous Meeting Minutes
2. [16-001](#) Authorization to Renew Lease Agreement for Communication Antenna Co-Location on Town Hall Tower

PURPOSE: AT&T (New Cingular Wireless PCS, LLC) has expressed interest in renewing their antenna co-location lease agreement for the Town's telecommunications tower. The current lease will expire in 2017 and staff has been working with the applicant to negotiate a lease renewal and the proposed lease has been reviewed by the Town Attorney. The Board of Aldermen is requested to adopt the attached resolution authorizing the Town Manager to execute the lease agreement.

Attachments: [Attachement A: ATT Lease Amendment](#)

B. PUBLIC HEARING

7:35-7:50

1. [16-034](#) Opening and Continuation of a Public Hearing for Major Modification to Conditional Use Permit for The Butler to allow Hilton Garden Inn to February 23rd, 2016.

PURPOSE: The purpose of this item is for the Board of Aldermen to open the public hearing for review of an application for a major modification to the existing Conditional Use Permit (with associated conditional use rezoning) for 107 Padgett Lane. The applicant has requested that the public hearing scheduled to open on this date be continued to the Board's February 23, 2016 meeting to allow additional time to address Advisory Board recommendations from the January 7th Joint Review meeting.

Attachments: [HGI Vicinity Map](#)

7:50-8:10

2. [16-028](#) A Public Hearing To Obtain Community Input on Town Needs and Budget For Upcoming FY 2016-17

PURPOSE: This is a public hearing to receive comments from the public regarding the upcoming budget for the Town beginning July 1, 2016.

Attachments: [NOTICE OF PUBLIC HEARING](#)

C. OTHER MATTERS

8:10-8:25

1. [16-032](#) **Capital Improvement Program Update**

PURPOSE: To provide Board of Aldermen with an update on the Town's Capital Improvement Program (CIP),

Attachments: [SUMMARY OF PROPOSED CIP PROJECT COSTS - UPDATE 12-2015](#)
[SUMMARY OF TOTAL COSTS AND FUNDING SOURCES](#)
[STATUS OF CURRENT PROJECTS](#)

8:25-8:45

2. [16-030](#) Consideration of Proposed Changes to the Unified Animal Ordinance

PURPOSE: The purpose of this item is to allow the Board to discuss, and adopt, changes made to the Unified Animal Control Ordinance (UAO).

Attachments: [Attachment A: Agenda version Draft Ordinance v 11.1.pdf](#)
[Attachment B: Resolution Authorizing Orange County UAO \) rev reh 1-21-2016.pdf](#)

D. MATTERS BY BOARD MEMBERS

E. MATTERS BY TOWN MANAGER

F. MATTERS BY TOWN ATTORNEY

G. MATTERS BY TOWN CLERK



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:16-033

Agenda Date: 1/26/2016

File Type:Agendas

In Control: Board of Aldermen

Version: 1

Approval of Previous Meeting Minutes



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:16-001

Agenda Date: 1/26/2016

File Type:Agendas

In Control: Board of Aldermen

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TITLE:

Authorization to Renew Lease Agreement for Communication Antenna Co-Location on Town Hall Tower

PURPOSE: AT&T (New Cingular Wireless PCS, LLC) has expressed interest in renewing their antenna co-location lease agreement for the Town's telecommunications tower. The current lease will expire in 2017 and staff has been working with the applicant to negotiate a lease renewal and the proposed lease has been reviewed by the Town Attorney. The Board of Aldermen is requested to adopt the attached resolution authorizing the Town Manager to execute the lease agreement.

DEPARTMENT: Manager's Office, Town Attorney

CONTACT INFORMATION: Julie Eckenrode 919-918-7308, Bob Hornik

INFORMATION: N.C. G.S. 160A-272 requires Board approval of contracts leasing or renting town property. The proposed lease with AT&T is for five years with the possibility of automatic renewal for one additional five-year term. An additional requirement for such leases is that the Town provide public notice of the intent to enter into such a lease agreement. A notice was published January 16th, 2016 in the Chapel Hill News.

FISCAL & STAFF IMPACT: The contract stipulates an annual payment to the Town of \$34,500 for the first year, plus an additional amount based on CPI in the following years for each year of the lease. Staff deems this lease amount to be appropriate for the size of the antenna. The total rental payments will not be less than \$172,000 for the lease term.

RECOMMENDATION: Town staff recommends that the Board authorize the Town Manager to execute a renewal lease agreement with AT&T.

Cell Site No. 368-130
Cell Site Name: Carrboro
Fixed Asset No. 10017450
Market: NC/SC
Address: 301 West Main Street, Carrboro, NC 27510

FIRST AMENDMENT TO CO-LOCATION AGREEMENT

THIS FIRST AMENDMENT TO CO-LOCATION AGREEMENT ("**First Amendment**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is by and between Town of Carrboro, a North Carolina municipal corporation, having a mailing address of 301 West Main Street, Carrboro, NC 27510 (hereinafter referred to as "**Lessor**"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive NE, Atlanta, GA 30324 (hereinafter referred to as "**Lessee**").

WHEREAS, Lessor and Lessee entered into a Co-Location Lease Agreement dated September 21, 2007 (the "**Agreement**"), whereby Lessor granted to Lessee an exclusive and non-revocable license to maintain and operate their Equipment, on and around the base of the Tower (hereinafter referred to as the "**Premises**") located at 301 West Main Street (Town Hall), Carrboro, NC 27510 (hereinafter referred to as the "**Property**"); and

WHEREAS, the term of the Agreement will expire on August 20, 2017 and the parties mutually desire to renew the Agreement, memorialize such renewal period and modify the Agreement in certain other respects, all on the terms and conditions contained herein; and

WHEREAS, Lessor and Lessee desire to amend the Agreement to extend the term of the Agreement; and

WHEREAS, Lessor and Lessee desire to amend the Agreement to adjust the Base Fee in conjunction with the modifications to the Agreement contained herein; and

WHEREAS, Lessor and Lessee desire to modify, as set forth herein, the Lessee's obligations to pay the Base Fee to Lessor for a Base Fee Guarantee Period; and

WHEREAS, Lessor and Lessee desire to amend the Agreement to modify the notice section thereof; and

WHEREAS, Lessor and Lessee desire to amend the Agreement to clarify scope of Lessee's permitted use of the Premises; and

WHEREAS, Lessor and Lessee, in their mutual interest, wish to amend the Agreement as set forth below accordingly.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree that the recitals set forth above are incorporated herein as if set forth in their entirety and further agree as follows:

1. **Extension of Term.** The Term of the Agreement shall be extended to provide that the Agreement has a new initial term of five (5) years ("**New Initial Term**") commencing on August 21, 2017. The Agreement will automatically renew, commencing on the expiration of the New Initial Term, for one (1) separate consecutive additional period of five (5) years (such five (5) year additional period is hereinafter referred to as an "**Additional Extension Term**" and shall be considered an Extension Term

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under the Agreement), upon the same terms and conditions of the Agreement, as amended herein, unless Lessee notifies Lessor in writing of Lessee's intention not to renew the Agreement at least sixty (60) days prior to the expiration of the then current Additional Extension Term. The New Initial Term and the Additional Extension Term are collectively referred to as the Term ("**Term**").

2. **Termination.** In addition to any rights that may exist in the Agreement, after the Base Fee Guarantee Period, as defined below, Lessee may terminate the Agreement at any time with twelve (12) months prior written notice to Lessor for any or no reason.

3. **Base Fee.** Commencing on August 21, 2017, the current Base Fee payable under the Agreement shall be Thirty-Four Thousand Five Hundred and No/100 Dollars (\$34,500.00) payable annually in advance, and shall continue during the Term, subject to adjustment as provided herein.

4. **Modification of Lessee's Obligation to Pay – Base Fee Guarantee.** Notwithstanding Lessee's obligations to pay the Base Fee set forth under the Agreement, for a twenty-four (24) month period commencing August 21, 2017 and ending August 20, 2019 ("Base Fee Guarantee Period"), Lessee's obligation to pay the Base Fee is guaranteed and such obligation will not be subject to offset or cancellation by Lessee, except as due to loss from casualty or condemnation. Notwithstanding the foregoing, if Lessor exercises any of Lessor's rights to terminate the Agreement, if any, Lessee will be released from any and all of its obligations to pay Base Fee during the Base Fee Guarantee Period as of the effective date of the termination. In addition, Lessee shall be released from any and all of its obligations to pay the Base Fee during the Base Fee Guarantee Period if any of the following shall occur: (a) Lessor is in breach of the Agreement, including but not limited to any default under the terms of the Agreement beyond any applicable grace and cure period; (b) there is a foreclosure of the Property; (c) the Lessor shall require Lessee to relocate Lessee's equipment and facilities to a location that is not acceptable to Lessee in its reasonable business judgment if allowed for in the Agreement, (d) any existing government permits and/or approvals cannot be obtained or maintained, at no fault of the Lessee or (e) Lessee terminates the Agreement pursuant to the terms of the Permitted Use section as modified below. If this Agreement is further modified in the future with an obligation for Lessee to pay an additional Base Fee, the payment of base fee guarantee established in this paragraph will not be diminished or limited, but such base fee guarantee will not extend to that future additional Base Fee obligation.

5. **Future Base Fee Increase / Extension Term Increase.** The Agreement is amended to provide that commencing on August 21, 2022, the Base Fee shall increase by fifteen percent (15%)..

6. **Acknowledgement.** Lessor acknowledges that: 1) this First Amendment is entered into of the Lessor's free will and volition; 2) Lessor has read and understands this First Amendment and the underlying Agreement and, prior to execution of this First Amendment, was free to consult with counsel of its choosing regarding Lessor's decision to enter into this First Amendment and to have counsel review the terms and conditions of this First Amendment; 3) Lessor has been advised and is informed that should Lessor not enter into this First Amendment, the underlying Agreement between Lessor and Lessee, including any termination or non-renewal provision therein, would remain in full force and effect.

7. **Notices.** Paragraph 12 of the Agreement is hereby deleted in its entirety and replaced with the following:

"All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier,

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postage prepaid, to be effective when properly sent and received, refused or returned undelivered.
Notices will be addressed to the parties as follows:

If to Lessee:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration
Re: Cell Site #: 368-130; Cell Site Name: Carrboro (NC)
Fixed Asset No: 10017450
575 Morosgo Drive NE
Atlanta, GA 30324

With a required copy of the notice sent to the address above to:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department – Network Counsel
Re: Cell Site #: 368-130; Cell Site Name: Carrboro (NC)
Fixed Asset No: 10017450
208 S. Akard Street
Dallas, Texas, 75202-4206

As to Lessor:

Town of Carrboro
301 West Main Street
Carrboro, NC 27510
Attn: Town Manager

With a copy to:

The Brough Law Firm, PLLC
1526 East Franklin Street, Suite 200
Chapel Hill, NC 27514

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.”

8. **Expansion of the Premises.** Lessor grants, to the extent practicable and on a space available basis, the Lessee the right to enlarge the Premises so that Lessee or its authorized sub lessees may implement any necessary modifications, supplements, replacements, refurbishments, or expansions to the communication facility or to any equipment related thereto, or for any other reasons, as determined by Lessee in its sole discretion. Should Lessee exercise the right to expand the Premises, Lessee will pay and Lessor will accept as additional Base Fee under the Agreement an amount equal to the then current Base Fee calculated on a per square foot basis as multiplied by each additional square foot added to the Premises. Upon notice to Lessor, a description and/or depiction of the modified Premises ground will become part of the Agreement without any additional action on the part of Lessee and Lessor; however, at the request of Lessee, the parties will execute a Memorandum of Lease in recordable form memorializing

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the modification of the ground space of Lessor's Property, which either party may record at its option. Any new space taken must have the consent of the Landlord which will not be unreasonably withheld.

9. **Permitted Use.** Lessee, its personnel, invitees, contractors, agents, sublessees, or its authorized sub lessees, or assigns may use the Premises, at no additional cost or expense, for the transmission and reception of any and all communications signals and to modify, supplement, replace, upgrade, expand, including but not limited to the number and type(s) of antennas, or refurbish the equipment and/or improvements thereon, or relocate the same within the Premises at any time during the term of the Agreement for any reason, or in order to be in compliance with any current or future federal, state or local mandated application, including but not limited to emergency 911 communication services or for any other reason. Lessor shall reasonably cooperate in obtaining governmental and other use permits or approvals necessary or desirable for the foregoing permitted use. If Lessor does not comply with the terms of this section, in addition to any other rights it may have at law, Lessee may terminate the Agreement and shall have no further liability to Lessor. If Lessor does not comply with the terms of this section, Lessee will have the right to exercise any and all rights available to it under law and equity, including the right to cure Lessor's default and to deduct the costs of such cure from any monies due to Lessor from Lessee.

10. **Exhibit A-1.** Exhibit 1 to the Agreement is hereby deleted in its entirety and replaced with the new Exhibit A-1, which is hereby attached hereto and made part of this Third Amendment.

11. **Memorandum of Lease.** Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease substantially in the form of the Attachment 1. Either party may record this memorandum at any time, in its absolute discretion.

12. **Sale of Property.**

(a) Lessor shall not be prohibited from the selling, leasing or use of any of the Property or the surrounding property except as provided below.

(b) If Lessor, at any time during the Term of the Agreement, decides to rezone or sell, subdivide or otherwise transfer all or any part of the Premises, or all or any part of the Property or surrounding property, to a purchaser other than Lessee, Lessor shall promptly notify Lessee in writing, and such rezoning, sale, subdivision or transfer shall be subject to the Agreement and Lessee's rights hereunder. In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Lessor or its successor shall send the documents listed below in this subsection (b) to Lessee. Until Lessee receives all such documents, Lessee shall not be responsible for any failure to make payments under the Agreement and reserves the right to hold payments due under the Agreement.

- i. Old deed to Property
- ii. New deed to Property
- iii. Bill of Sale or Transfer
- iv. Copy of current Tax Bill
- v. New IRS Form W-9
- vi. Completed and Signed AT&T Payment Direction Form
- vii. Full contact information for new Lessor including phone number(s)

Cell Site No. 368-130
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(c) The provisions of this Section shall in no way limit or impair the obligations of Lessor under the Agreement, including interference and access obligations.

13. **Base Fee Stream Offer.** If at any time after the date of this First Amendment, Lessor receives a bona fide written offer from a third party seeking an assignment or transfer of the Base Fee payments associated with the Agreement ("**Base Fee Stream Offer**"), Lessor shall immediately furnish Lessee with a copy of the Base Fee Stream Offer. Lessee shall have the right within ninety (90) days after it receives such copy to match the Base Fee Stream Offer and agree in writing to match the terms of the Base Fee Stream Offer. Such writing shall be in the form of a contract substantially similar to the Base Fee Stream Offer. If Lessee chooses not to exercise this right or fails to provide written notice to Lessor within the ninety (90) day period, Lessor may assign the right to receive Base Fee payments pursuant to the Base Fee Stream Offer, subject to the terms of the Agreement. If Lessor attempts to assign or transfer Base Fee payments without complying with this Section, the assignment or transfer shall be void. Lessee shall not be responsible for any failure to make payments under the Agreement and reserves the right to hold payments due under the Agreement until Lessor complies with this Section.

14. **Charges.** All charges payable under the Agreement such as utilities and taxes shall be billed by Lessor within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Lessor, and shall not be payable by Lessee. The foregoing shall not apply to the Base Fee which is due and payable without a requirement that it be billed by Lessor. The provisions of this subsection shall survive the termination or expiration of the Agreement.

15. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this First Amendment, the terms of this First Amendment shall control. Except as expressly set forth in this First Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this First Amendment.

16. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

[SIGNATURES APPEAR ON THE NEXT PAGE]

Cell Site No. 368-130
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IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute this First Amendment on the dates set forth below.

LESSOR:

Town of Carrboro

By: _____
Name: _____
Title: _____
Date: _____

LESSEE:

New Cingular Wireless PCS, LLC,
A Delaware limited liability company
By: AT&T Mobility Corporation
Its: Manager

By: _____
Name: _____
Title: _____
Date: _____

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

Cell Site No. 368-130
Cell Site Name: Carrboro
Fixed Asset No. 10017450
Market: NC/SC
Address: 301 West Main Street, Carrboro, NC 27510

LESSOR ACKNOWLEDGEMENT

STATE OF _____)
)
COUNTY OF _____) SS.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of _____, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____

Notary Seal

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary Public in and for the State of _____

My appointment expires: _____

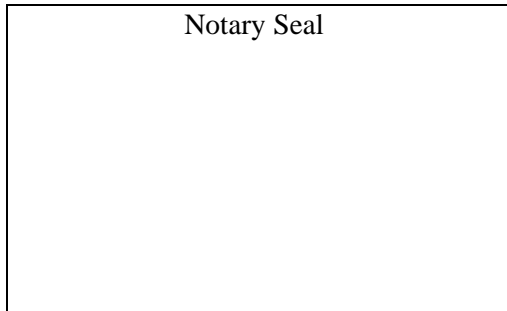
Cell Site No. 368-130
Cell Site Name: Carrboro
Fixed Asset No. 10017450
Market: NC/SC
Address: 301 West Main Street, Carrboro, NC 27510

LESSEE ACKNOWLEDGEMENT

STATE OF)
) SS.
COUNTY OF)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____.



(Signature of Notary)

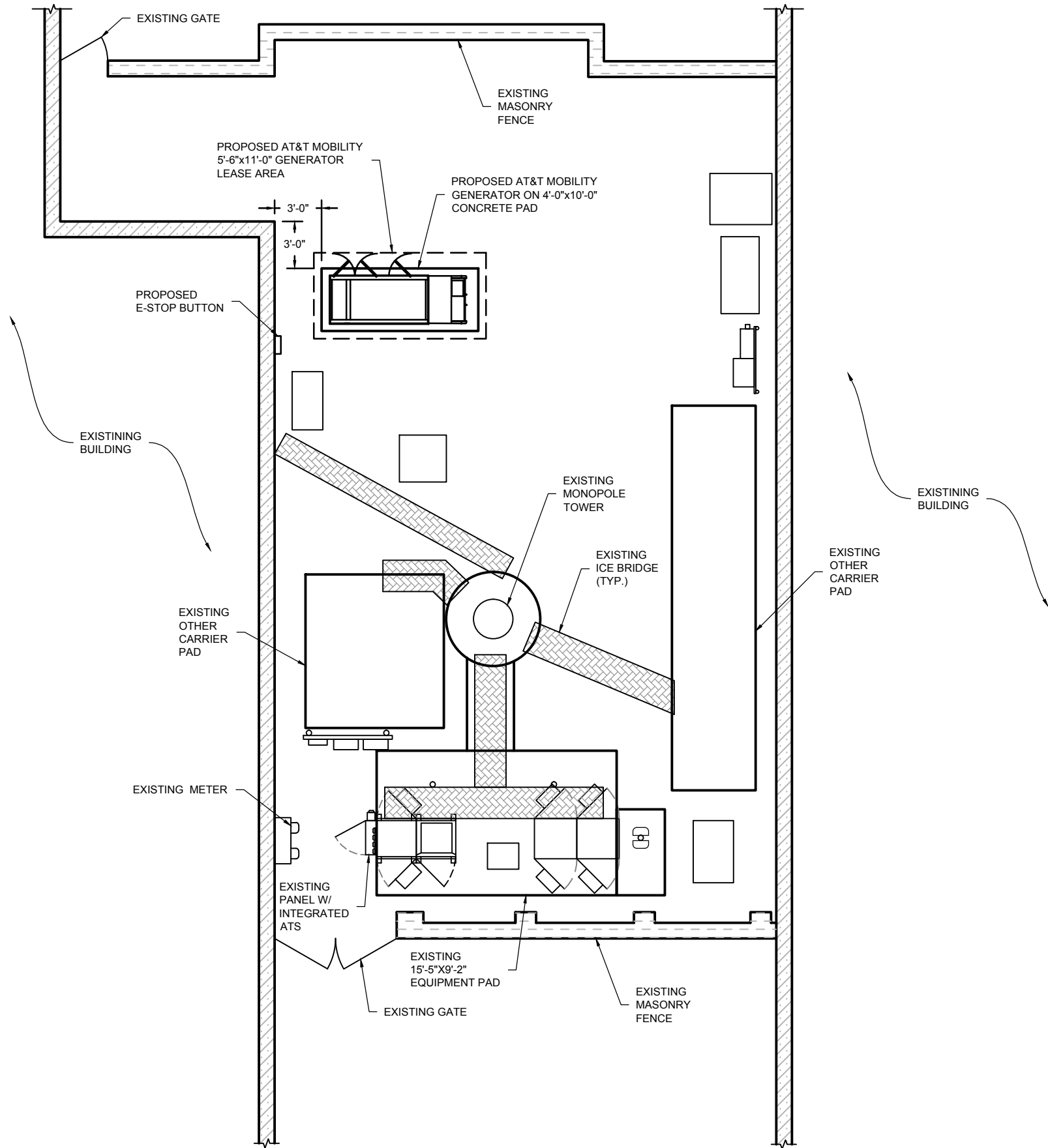
(Legibly Print or Stamp Name of Notary)

Notary Public in and for the State of _____

My appointment expires: _____

Cell Site No. 368-130
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Address: 301 West Main Street, Carrboro, NC 27510

EXHIBIT A-1



1 SITE PLAN
SCALE: 1/8" = 1'



ENGINEER:



PREPARED FOR:



CONSULTANT:

**GENERAL
DYNAMICS**
Wireless Services

SEAL:

FA NUMBER: 10017450 SITE NUMBER: 368-130
SITE NAME: CARRBORO
SITE ADDRESS: 301 WEST MAIN STREET
CARRBORO, NC 27510
WAKE COUNTY

THE INFORMATION CONTAINED IN THIS SET OF DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO THE CLIENT IS STRICTLY PROHIBITED.

CLIENT PROJECT NO: TBD

0	01/07/13	GENERATOR LAYOUT
NO.	DATE	SUBJECT

REVISION OR ISSUE

SSOE, Inc.
320 Seven Springs Way, Suite 350
Brentwood, TN 37027
T 615-661-7585

PROJECT NO: 013-00178-00
PROJECT MANAGER: Floyd White
DESIGNED: Greg Dulnik
CHECKED: Travis Leute

DRAWING TITLE:

ENLARGED SITE PLAN

DRAWING NO:

A1

C:\dgn\0355589\10017450_A&E_SiteSketch_20130107.dwg
DATE: Jan 07, 2013 - 5:00pm USER: 14200

ATTACHMENT 1

Prepared by and When

Recorded Return to:

Black Dot Wireless

27271 Las Ramblas, Suite 300

Mission Viejo, CA 92691

Re: Cell Site #368-130; Cell Site Name: Carrboro (NC)
Fixed Asset Number: 10017450
State: North Carolina
County: Orange

MEMORANDUM OF LEASE

This Memorandum of Lease is entered into on this ____ day of _____, 2016, by and between Town of Carrboro, a North Carolina municipal corporation, having a mailing address at 301 West Main Street, Carrboro, NC 27510 (hereinafter referred to as "**Lessor**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 575 Morosgo Drive NE, Atlanta, GA 30324 (hereinafter referred to as "**Lessee**").

1. Lessor and Lessee entered into a Co-Location Lease Agreement dated September 21, 2007, as amended by that certain First Amendment to Co-Location Lease Agreement dated _____, 2016 (hereinafter, collectively the "**Agreement**") for the purpose of installing, operating and maintaining a communications facility and other improvements at Lessor's real property located in the City of Carrboro, County of Orange, commonly known as 301 West Main Street (Town Hall), Carrboro, NC 27510. All of the foregoing are set forth in the Agreement.
2. The Agreement commenced and has been in effect since August 21, 2007 and the parties agree to continue the Agreement with a new initial lease term of five (5) years ("**New Initial Term**") commencing on August 21, 2017, with one (1) successive five (5) year Additional Extension Term, unless Lessee notifies Lessor in writing of Lessee's intention not to renew the Agreement at least sixty (60) days prior to the expiration of the then current Additional Extension Term.
3. The portion of the land being leased to Lessee (the "**Premises**") is described in **Exhibit 1** annexed hereto.
4. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between

the provisions of this Memorandum of Lease and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

LESSOR:
Town of Carrboro

LESSEE:
New Cingular Wireless PCS, LLC
a Delaware limited liability company
By: AT&T Mobility Corporation
Its: Manager

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

LESSOR ACKNOWLEDGEMENT

STATE OF _____)
)
COUNTY OF _____) SS.

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the _____ of _____, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____.

Notary Seal

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary Public in and for the State of _____

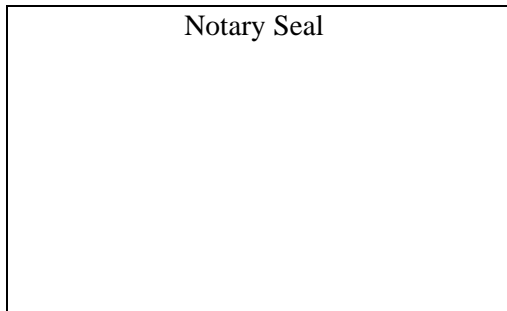
My appointment expires: _____

LESSEE ACKNOWLEDGEMENT

STATE OF)
) SS.
COUNTY OF)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the _____ of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: _____.



(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary Public in and for the State of _____

My appointment expires: _____

Exhibit 1 to Memorandum of Lease

Premises

The Premises is located on a portion of the Property described and/or depicted as follows:

Property Address:

301 West Main Street (Town Hall)
Carrboro, NC 27510

Assessor's Parcel Number: 216330



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:16-034

Agenda Date: 1/26/2016

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Opening and Continuation of a Public Hearing for Major Modification to Conditional Use Permit for The Butler to allow Hilton Garden Inn to February 23rd, 2016.

PURPOSE: The purpose of this item is for the Board of Aldermen to open the public hearing for review of an application for a major modification to the existing Conditional Use Permit (with associated conditional use rezoning) for 107 Padgett Lane. The applicant has requested that the public hearing scheduled to open on this date be continued to the Board's February 23, 2016 meeting to allow additional time to address Advisory Board recommendations from the January 7th Joint Review meeting.

DEPARTMENT: Planning

CONTACT INFORMATION: Jeff Kleaveland - 919-918-7332; Marty Roupe - 919-918-7333

INFORMATION: The subject property includes one parcel further identified by Orange County PIN number 9778-96-8060 and shown on a vicinity map (Attachment B).

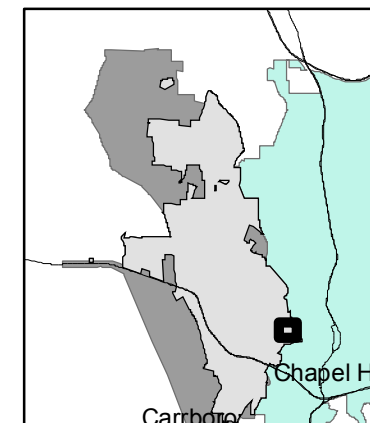
The property is .97 acres in size and is currently zoned B-1(c)-CU in association with a conditional use permit for The Butler mixed use project.

The permit modification request is for authorization to construct a hotel on the site in lieu of the previously approved mixed use project.

The applicant is preparing materials in response to advisory board recommendations and will be available to attend meetings of the boards over the next month to discuss the recommendations and responses.

FISCAL & STAFF IMPACT: Costs of continuing the public hearing are considered to be minimal.

RECOMMENDATION: Staff recommends that the Board of Aldermen open the public hearing and continue it to February 23rd, 2016.



**THIS MAP IS NOT A CERTIFIED SURVEY
NO RELIANCE MAY BE PLACED IN ITS
ACCURACY**

The Town of Carrboro assumes no liability for damages caused by inaccuracies in this map or supporting data and makes no warranty, expressed or implied, as to the accuracy of the information presented. The fact of distribution does not constitute such a warranty.



TOWN OF CARRBORO
301 W. Main St.
Carrboro, NC 27510

Printed Jan 3, 2012



Town of Carrboro

Town Hall
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Agenda Item Abstract

File Number:16-028

Agenda Date: 1/26/2016

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

A Public Hearing To Obtain Community Input on Town Needs and Budget For Upcoming FY 2016-17

PURPOSE: This is a public hearing to receive comments from the public regarding the upcoming budget for the Town beginning July 1, 2016.

DEPARTMENT: Town Manager

CONTACT INFORMATION: David Andrews, Town Manager

INFORMATION: Each year the Board of Aldermen is required to adopt an annual operating budget by July 1st. As part of Town's budget development process, the Board schedules a public hearing at the beginning of the process to receive comments from residents about Town services. These comments will be considered in developing the FY 2016-17 operating and capital budgets.

A notice of this public hearing was advertised in [The Chapel Hill Herald](#) and on the Town's website. The advertisement notifies residents of a public hearing to receive public input and invites residents to submit written comments about the budget for the upcoming year. Residents may also email their comments to the Town Clerk via the Town's website (townofcarrboro.org). Residents will have another opportunity to speak about the Town Manager's Recommended Budget for FY 2016-17 at a public hearing planned for Tuesday, May 17, 2016.

In addition, the Board of Aldermen is requested to provide input to the Town Manager on needs or service improvements they consider important in developing the budget for FY 2016-17.

FISCAL & STAFF IMPACT: None

RECOMMENDATION: Staff recommends that the Board hold a public hearing to receive community comments on Town services and needs for the upcoming budget year and provide input to the Town Manager on needs and service improvements to consider in developing the budget for FY 2016-17.

**NOTICE OF PUBLIC HEARING
TO
RECEIVE COMMENTS AND SUGGESTIONS ON CARRBORO COMMUNITY NEEDS AND
PRIORITIES FOR FISCAL YEAR 2016-17 BUDGET BEGINNING JULY 1**

On January 26, 2016 the Board of Aldermen will hold a public hearing to receive comments and suggestions on Carrboro community needs and priorities for the budget beginning July 1, 2016.

The Town Manager plans to submit a Recommended Budget to the Board of Aldermen on May 3, 2016. A public hearing to receive comments on the Manager's Recommended Budget will be held on May 17, 2016. The final budget is planned for adoption on June 21, 2016.

The Board of Aldermen and Town Manager welcome feedback from Town residents throughout the budget process. Carrboro residents may send written suggestions and comments to the Town Clerk at 301 West Main Street, Carrboro, NC 27510; or fax them to (919) 918-4456. Residents may also email written suggestions to the Town Clerk at Cwilson@townofcarrboro.org



Agenda Item Abstract

File Number:16-032

Agenda Date: 1/26/2016

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Capital Improvement Program Update

PURPOSE: To provide Board of Aldermen with an update on the Town's Capital Improvement Program (CIP),

CONTACT INFORMATION: Arche McAdoo, 918-7439

INFORMATION: The Capital Improvement Program (CIP) is a planning tool that seeks to develop a plan for meeting the Town's immediate and long-term capital needs. It identifies needed capital investments for property, plant or equipment acquisitions and renovations to implement the Board of Aldermen's vision and strategic priorities for the Town. The Board's ultimate goal is to create and maintain Carrboro as a sustainable community that is a highly desirable place to live, with emphasis on quality of life policies such as walkability, environmental protection, recreation and local economic development.

Funding for projects and activities in the CIP is done through appropriation in the operating budget or enactment of project ordinance by the Board of Aldermen. Adjustments for project costs may be made each year during development of the annual operating budget.

Town staff develops and maintains a projection of capital projects for the next six years based on previous capital plans, community needs assessments, and projects approved by the Board of Aldermen.

The CIP includes:

1. Renovation, replacement or construction projects that cost \$100,000 or more; large in size; irregular in frequency; and involve assets that last for many years;
2. Vehicles and capital equipment that cost \$25,000 or more per item for additions and/or replacements;
3. Information Technology (IT) projects which cost \$50,000 or more and are designed to increase or provide new technological capacity. IT projects related to software replacements, upgrades or maintenance costs are provided for in the annual operating budget.

Attachment A includes list of all projects by category with projected revenue sources that equal expenditures.

Agenda Date: 1/26/2016

File Type:Agendas

In Control: Board of Aldermen

Version: 1

Funds appropriated for study or evaluation of facilities and infrastructure that total less than \$50,000 are not included as part of a project's cost. The CIP document includes a financial analysis and impact of the CIP on the Town's operating budget and debt levels. Issuing debt is appropriate when facilities have a long life. Debt service payments spread the costs over the life of the facility.

On February 3, 2015 the Board of Aldermen received a comprehensive Capital Improvements Program (CIP) for FY 2015-16 through FY 2020-21. This year we have not compiled a comprehensive document. Rather we present an update of the adopted CIP for FY 2015-16 through 2020-21. In addition to a status of current capital projects, we have identified new projects or major changes that may need to be considered in formulating the FY 2016-17 operating budget.

Overall the total cost of the CIP has increased by \$558,159 or 1% from \$49.3 to \$49.9 million. The increase in Current Projects reflects projects that were funded in the FY 2015-16 budget that were previously in the New Projects category.

In terms of anticipated revenues for CIP projects, the mix of funding remains essentially unchanged. Additional intergovernmental revenues have been acquired or identified that will require additional Town revenues as a match for the additional revenues. See Attachment B for summary of total costs by category and identified funding sources.

CURRENT PROJECTS

Attachment C shows the status of each current project (i.e. funds have been appropriated by the Board in whole or part for the project).

STOMWATER MANAGEMENT

In addition to the mandated retrofits under current projects, the Town is exploring options to address a number of flood prone areas in Town. One option under review is the possible creation of a storm water utility.

VEHICLES/EQUIPMENT

The schedule of vehicles and equipment replacement is essentially unchanged. As in the past, all vehicles and/or equipment for replacement will be re-prioritized during development of the FY 2016-17 operating budget. The Town does not intend to add to the current fleet of vehicles and equipment.

TECHNOLOGY

In addition to the current technology projects noted above, the Police Department has proposed the acquisition of a Firearms Training Simulator (FATS) in FY 2016-17. This will provide reality based use of force training in-house for officers that focuses on threat recognition, decision making under stress, and de-escalation techniques. The estimated cost to acquire a FATS is \$92,000 would be paid for using federal seizure funds carried over from last fiscal year.

FISCAL AND STAFF IMPACT: None at this time.

Agenda Date: 1/26/2016

File Type:Agendas

In Control: Board of Aldermen

Version: 1

RECOMMENDATION: That Board of Aldermen accept this update on the Capital Improvement Program.

ATTACHMENT A

SUMMARY OF CIP COSTS, FY 2015-16 THROUGH 2021-22

	Previous Expenditures	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22 & BEYOND	TOTAL
CURRENT PROJECTS									
Century Center HVAC	-	180,000							180,000
Homestead-CHHS MUP	223,957	667,979	350,794						1,242,730
Morgan Creek MU Path	302,296	145,675	531,200	533,329				2,181,281	3,693,781
Jones Creek Greenway	-	46,000	308,569	-	-	-	-	1,115,504	1,470,073
Martin Luther King Park	596,250	150,000	1,291,146						2,037,396
Park Maintenance and Repair	57,726	893,626	353,195	248,000	201,747	270,000	192,365	250,000	2,466,659
Rogers Road Remediation	-	200,000	200,000	250,000	250,000	-	-	-	900,000
Sidewalks	4,024,142	363,835	864,000	-	-	-	-	-	5,251,977
South Greensboro Sidewalk	-	105,130	440,896	405,756	242,774	-	-	-	1,194,556
Street Resurfacing	-		601,400		601,400		601,400		1,804,200
Town Commons		107,300	464,300	353,500		-	-	-	925,100
Technology Projects		476,000							476,000
Stormwater Management		80,000							80,000
Wilson Park MUP (completed)	371,282								371,282
TOTAL CURRENT PROJECTS	5,575,653	3,415,545	5,405,500	1,790,585	1,295,921	270,000	793,765	3,546,785	22,093,754
MANDATED STORMWATER MANAGEMENT									
Anderson Park		25,000	158,000						158,000
Carrboro Elementary/Shetley Bike Path						80,000	334,400		414,400
Carrboro Plaza			15,000	85,000					100,000
Carrboro High School					41,487	261,625			303,112
McDougle School Retrofit				82,974	523,249	389,463			995,686
MLK Retrofit		15,000	65,000						65,000
Morgan Creek Retrofit		40,000	245,000						245,000
Future Projects			40,000				345,000	1,135,000	1,520,000
MANDATED STORMWATER MANAGEMENT	-		523,000	167,974	564,736	731,088	679,400	1,135,000	3,801,198

SUMMARY OF CIP COSTS, FY 2015-16 THROUGH 2021-22

	Previous Expenditures	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22 & BEYOND	TOTAL
VEHICLES / EQUIPMENT	-	642,180	1,852,904	1,433,114	351,624	866,202	733,113	584,027	6,463,164
TEHCNOLOGY PROJECTS	298,198		92,000	-	-	-	-	-	390,198
NEW PROJECTS									
Greensboro-Lloyd Street Bike Way	-	-	40,000		160,512	-	-	-	200,512
PW Facility	756,236	-	-	-	-	-	-	11,814,833	12,571,069
Replacement of Street Lights w/ LED Lights	-		100,000	-	-	-	-	-	100,000
Town Hall Improvements	-		450,480	1,401,600	981,120	-	-	-	2,833,200
Storm Water Flooding Mitigation			432,800	718,000	310,800				1,461,600
TOTAL NEW PROJECTS	756,236	-	1,023,280	2,119,600	1,452,432	-	-	11,814,833	17,166,381
TOTAL ALL PROJECTS	6,630,087	4,057,725	8,896,684	5,511,273	3,664,713	1,867,290	2,206,278	17,080,645	49,914,695

SUMMARY OF CIP REVENUES

	Previous Expenditures	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22 & BEYOND	TOTAL
Capital Reserves	383,811	387,300	1,888,700	771,474	1,416,136	731,088	1,280,800	1,135,000	7,994,309
Capital Reserves - Matching Funds	-	9,200	61,714	-	32,102	-	-	602,371	705,387
General Fund Operating Funds	411,874	1,720,626	878,052	966,000	512,547	270,000	192,365	250,000	5,201,464
GO Bonds	2,890,993	366,280	628,229	295,606	48,555	-	-	370,337	4,600,000
Installment Financing	1,030,236	621,180	3,594,530	2,834,714	1,332,744	866,202	733,113	12,398,860	23,411,579
Intergovernmental	1,317,628	905,093	1,745,459	643,479	322,629	-	-	2,324,077	7,258,365
Miscellaneous (e.g., Payment in Lieu)	595,545	48,046	100,000	-	-	-	-	-	743,591
TOTAL REVENUES	6,630,087	4,057,725	8,896,684	5,511,273	3,664,713	1,867,290	2,206,278	17,080,645	49,914,695

REVENUES OVER (UNDER) COSTS

- - - - - - - - - -

ATTACHMENT B**SUMMARY OF CIP COSTS BY CATEGORY**

	ADOPTED CIP THRU FY 2021-22 & BEYOND	UPDATED COSTS FY2016-17 THRU 2020-21	CHANGE \$	CHANGE %
Current Projects	\$ 15,421,738	\$ 22,093,754	\$ 6,672,016	30%
Mandated Storm Water Management	3,881,198	3,801,198	\$ (80,000)	-2%
Vehicles/Equipment	6,492,393	6,463,164	\$ (29,229)	0%
Technology	625,198	390,198	\$ (235,000)	-60%
New Projects	22,936,009	17,166,381	\$ (5,769,628)	-34%
TOTAL	\$ 49,356,536	\$ 49,914,695	\$ 558,159	1%

SUMMARY OF FUNDING SOURCES

	PROPOSED CIP FINANCING FY 2021-22 & BEYOND	UPDATED CIP THRU FY 2020- 21	CHANGE \$	CHANGE %
Installment Financing	\$ 23,590,923	\$ 23,411,579	\$ (179,344)	-1%
Capital Reserves	8,460,871	7,994,309	\$ (466,562)	-6%
Intergovernmental	6,684,198	7,258,365	\$ 574,167	8%
General Obligation Bonds	4,600,000	4,600,000	\$ -	0%
General Fund Operating	4,651,888	5,201,464	\$ 549,576	11%
Miscellaneous	666,591	743,591	\$ 77,000	10%
Capital Reserves - Matching Funds	702,065	705,387	\$ 3,322	0%
TOTAL	\$ 49,356,536	\$ 49,914,695	\$ 558,159	1%

STATUS OF CURRENT CAPITAL IMPROVEMENT PROGRAM PROJECTS

PROJECT	APPROVED BUDGET	STATUS
Century Center HVAC Upgrade	\$180,000	Contractor to provide report in January with recommendations for improvements
Homestead-CHHS MUP (between Estes Drive and Homestead Road)	\$1,242,730	Bid concurrence package submitted to NCDOT on 11/25/15.
Information Technology Projects		
- Planning Permitting Software	\$230,000	Assessing department needs and potential vendors
- Police Body Worn Cameras	\$91,000	On hold pending adoption of body worn camera policy
- Rogers Road Conduit	\$155,000	To be installed during sidewalk construction
Jones Creek Greenway (connect to Twin Creek Greenway)	\$46,000	Municipal Agreement expected to be executed with NCDOT January 2016.
Martin Luther King Park	\$150,000	Researching items brought forth by Board of Aldermen related to park master plan update. Will report back to Board before moving on with design
Morgan Creek MUP (between Smith Level Road and University Lake)	\$1,512,500	Approximately 95% of design completed
Park Maintenance and Repair		
- Anderson Park Bathroom Replacement	\$251,459	Completed August 21, 2015. Ribbon cutting October 8th.
- Wilson Park Tennis Court Replacement	\$168,087	Completed July 31, 2015
- Anderson Park Field Lights	\$140,000	Completed September 18, 2015.
- Anderson Park Field Renovation	\$181,400	Completed September 18, 2015. Field will re-open April 2016.
- Anderson Park Shelter and Fence Replacement	\$156,880	Carolina Recreation & Design selected for shelter replacement. Reviewing quotes for fence replacement. Expected completion for both project March 30, 2016.
Public Safety Radio Upgrade	\$273,000	First of three set asides for the replacement of 136 police and fire radios. Estimated total cost of \$819,000.
Rogers Road Remediation	\$900,000	Working with Orange County, OWASA, Town of Chapel Hill, and Jackson Center and Rogers-Eubanks Neighborhood Association on structure of utility district.
Rogers Road Sidewalk	\$1,371,658	Obtaining right of ways and easements. Construction expected to be completed December 2017.
South Greensboro Sidewalk	\$105,130	Expect to initiate municipal agreement in January 2016.
Stormwater Management	\$80,000	Initially planned for 2 retrofits. This is on hold since the Town is researching the possibility of a Stormwater Utility
Street Resurfacing	\$601,400	Next scheduled paving in 2016-17.
Town Commons Design	\$107,300	Bids for design contract expected January 2016 with design completion in June, and construction beginning in FY16-17.



Town of Carrboro

Town Hall
301 W. Main St.
Carrboro, NC 27510

Agenda Item Abstract

File Number:16-030

Agenda Date: 1/26/2016

File Type:Agendas

In Control: Board of Aldermen

Version: 1

TITLE:

Consideration of Proposed Changes to the Unified Animal Ordinance

PURPOSE: The purpose of this item is to allow the Board to discuss, and adopt, changes made to the Unified Animal Control Ordinance (UAO).

CONTACT INFORMATION: Chief Walter Horton

INFORMATION: On November 10, 2015, The Board was presented the Unified Animal Ordinance, which amended Chapter 10 of the Carrboro Town Code (Animal Control). A motion was made to approve the ordinance and was carried with a unanimous vote, and become in effect when adopted by the Orange County Board of County Commissioners (BOCC).

The UAO went before the BOCC on December 15, 2015 for consideration. After discussion, the BOCC requested that several changes be made to the UAO. The changes made filled in critical gaps and incorporates best practices that precede it in the county. The UAO was updated as requested and presented at the BOCC meeting on January 21, 2016 and was approved. The UAO will take effect March 1, 2016, which allows time to make all jurisdictions aware of the change by a public awareness campaign.

Changes made in the UAO are listed below, and draft UAO is attached for review (Attachment A).

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)

FISCAL AND STAFF IMPACT: The unified animal ordinance has no financial impacts in and of itself. Because it does not create new laws but rather brings together the best elements of existing ordinances, its enactment will not entail additional services or additional layers for existing services. To the extent that there is a unified ordinance in the county for the first time, it is hoped and expected that that service will become more effective and efficient as a result of there being more coherence and clarity about the general regulatory framework for animal care and control in the county.

RECOMMENDATION: Staff recommends that the Board review and, approve the changes to the UAO Ordinance and the Resolution authorizing Orange County Animal Control Ordinance to be Applicable within the Town of Carrboro.

Agenda Date: 1/26/2016

File Type:Agendas

In Control: Board of Aldermen

Version: 1

Animal Control Ordinance

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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 <u>Sterilized Animal</u>	Redemption or Impoundment Privilege Tax <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

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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

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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.

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- (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.

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- (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.

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- (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

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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.

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- (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

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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.

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- 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.

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- (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

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- 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

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- (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;

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- (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;

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- 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

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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.

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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

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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

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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;

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- 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

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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.

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(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:

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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.

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- (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 reasonably 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 be forwarded 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 a 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.

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- (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

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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.

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- (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.

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- (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.

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- (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)

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Sec. 4-74 - Permit procedures.

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

Secs. 4-74—4-95. - Reserved.

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DIVISION 3. - ANIMAL COLLECTION

Sec. 4-96. - Permit required.

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

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

Sec. 4-97. - Permit application.

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

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- 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.

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- 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.

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- (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

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violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Administrator shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 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.

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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

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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)

**RESOLUTION AUTHORIZING ORANGE COUNTY ANIMAL CONTROL
ORDINANCE TO BE APPLICABLE WITHIN THE TOWN OF CARRBORO**

Dated: January 26, 2016

WHEREAS, the Town of Carrboro (the “Town”) and Orange County (the “County”) have heretofore each had separate animal control ordinances regulating the keeping and maintaining of domestic animals, pets, wild animals, and livestock; and

WHEREAS, the Town and the County consider it to be in their mutual best interests to work cooperatively with respect to the adoption and enforcement of ordinances regulating domestic animals, pets, wild animals and livestock;

WHEREAS, the Orange County Board of County Commissioners is now considering the adoption of a revised Animal Control Ordinance, to be found at Section 4-31 *et seq* of the Orange County Code of Ordinances;

WHEREAS, the Town has heretofore adopted and enforced regulations regarding keeping of domestic animals, pets, wild animals and livestock pursuant to Chapter 10 of the Town of Carrboro Code of Ordinances;

WHEREAS, pursuant to N.C. Gen. Stat. § 153A-122, the Town of Carrboro Board of Aldermen may by resolution permit the County’s Animal Control Ordinance to be applicable within the city;

WHEREAS on November __, 2015, pursuant to the aforesaid statutory authority the Town of Carrboro Board of Aldermen adopted a “Resolution Authorizing Orange County Animal Control Ordinance to be Applicable within the Town of Carrboro” in anticipation that the Orange County Board of County Commissioners would adopt the then-current County draft of the Orange County Animal Control ordinance;

WHEREAS there have been subsequent amendments to the Orange County Animal Control Ordinance, and it remains the Town of Carrboro Board of Aldermen’s intention to authorize the enforcement of the Orange County Animal Control Ordinance within Carrboro to the extent that the County Ordinance is not inconsistent with Chapter 10 of the Town of Carrboro Code of Ordinances, as amended on November __, 2015.

NOW, THEREFORE, the Town of Carrboro Board of Aldermen resolves as follows:

1. That upon the effective date of the revised Orange County Animal Control Ordinance, adopted by the Board of County Commissioners on January 21, 2016, the revised Orange County Animal Control Ordinance shall be applicable within the

corporate limits of the Town of Carrboro to the extent that the County Ordinance is not inconsistent with Chapter 10 of the Town of Carrboro Code of Ordinances, as amended on November __, 2015.

2. This Resolution shall remain in full force and effect until the Town of Carrboro Board of Aldermen withdraws the permission granted herein, in accordance with N.C. Gen. Stat. § 153A-122.

This Resolution shall become effective upon the effective date of the revised Orange County Animal Control Ordinance.