

**Office of the County  
Attorney**

**ORANGE COUNTY  
P.O. BOX 8181  
200 S. CAMERON STREET  
HILLSBOROUGH, NC 27278**



**MEMORANDUM**

TO: Chief Walter Horton, Carrboro Police Chief

FROM: Annette M. Moore, Staff Attorney

RE: Unified Animal Control Ordinance

DATE: June 1, 2015

Attached please find the responses to the questions asked by the Carrboro Town Board.

**1. Security Dog**

Question: Alderman Haven O'Donnell asked about the term "security dog." County staff explained that the definition for the security dog was so broad that it captured any dog that barks when a person enters the property and the amended ordinance is now written to determine those types of situations on a case by case basis. The Town Attorney suggested additional review of the use of the term in the draft unified ordinance.

Answer: In the Unified Animal Control Ordinance "UAO" § 4-42(e)(5) exempt security dogs from the "vicious dog" section of the Ordinance while on the property of its owner or keeper; however, if it's off the property or its owner or keeper and it commits an offense it is subject to the Ordinance as if were not an security dog..

§ 4-42(e) Exceptions. The provisions of this Section do not apply to: (5) Security dogs are subject to all other provisions of this Ordinance while off the premises of their owner or keeper. (See Page 22)

A security dogs (§ 4-37) is defined as "[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." The term "watch dog" was removed from the definition of security dog because a dog on its owner's or keeper's property that approaches an intruder and barks or threatens to bite the intruder is neither vicious nor dangerous under the provisions of the Ordinance. The definition of "vicious," "dangerous" or "potentially dangerous" in the Ordinance and the North Carolina General Statutes does not provide for a designation of "vicious" or "dangerous" to a dog that was on its owner's

or keeper's property and barked or threatened to bite an intruder. The term "watch dog" didn't provide property owners any greater or fewer rights, require registration or training and caused undue confusion, therefore it was removed because it was superfluous. (See Page 10)

## 2. Appeals Process

Questions: Alderman Haven O'Donnell asked if there was room to allow the Carrboro Appeals Board to function in its current role. Ms. Moore stated that it is possible and that the draft can be amended to reflect the Board's comments.

Alderman Seils expressed concern with the change in the Carrboro Animal Control Board's role in the draft unified ordinance. Staff from Orange County stated that there would be a one Appeal Board for everything other than the livestock section that remains unique to Carrboro. All livestock appeals would be handled by Carrboro's Appeal Board. Alderman Seils suggested that the draft ordinance be amended to describe the changes to the County Appeals Board and to expand the membership to include majority members from each appeal jurisdiction. County staff stated that they would draft an amendment that addresses those concerns.

Answer: Section 4-54 of the Unified Animal Control Ordinance provides for an appeal to the UAO. The Carrboro Town Attorney drafted language revising § 4-54:

"Any appeal of this Chapter shall be filed within 5 days of the final decision made in the action. Appeals shall be heard by a three-member hearing panel. If the appealing party is not a resident of Carrboro, Chapel Hill or Hillsborough, the hearing panel shall consist of three members of the Orange County Animal Services Advisory Board. If the appealing party is a resident of Carrboro, Chapel Hill or Hillsborough, the hearing panel shall consist of two members of the Orange County Animal Services Advisory Board and one member of the Town, designated by such Town, in which the appealing party is a resident."

Chapel Hill and Hillsborough have approved the language currently in the UAO. I would recommend that if the Carrboro Board of Alderman would like the Carrboro Animal Control Advisory Board to continue in its present form, they could not adopt § 4-54 of the UAO and instead keep their appeals process. In § 4-54 I would the following language to that section "does not apply in Carrboro."

## 3. Amendments to the Unified Ordinance

Question: Alderman Chaney asked for clarification on how the unified ordinance gets amended by all jurisdictions.

Answer: Any amendments would first be discussed by staff within the respective jurisdictions and then brought before the governing bodies before going to the Board of County Commissioners. The Town Board would have the option of adopting the amendments, making modifications or not adopting them at all.

Please let me know if you have any additional questions.