



Legislation Text

File #: 16-030, **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 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 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.