



FAYETTEVILLE CITY COUNCIL
AGENDA
NOVEMBER 7, 2011
5:00 P.M.
LAFAYETTE ROOM

1.0 CALL TO ORDER

2.0 INVOCATION

3.0 APPROVAL OF AGENDA

4.0 OTHER ITEMS OF BUSINESS

4.1 Amending Chapter 6, Animals and Fowl

Presented By: Karen M. McDonald, City Attorney Rick Moorefield, County Attorney

4.2 Police - Teen Crime

Presented By: Tom Bergamine, Chief of Police

4.3 RAMP - Rental Action Management Program

Presented By: Doug Hewett, Assistant City Manager

4.4 City Council Agenda Item Request

Presented By: Council Member Keith Bates

5.0 ADJOURNMENT

CLOSING REMARKS

POLICY REGARDING NON-PUBLIC HEARING AGENDA ITEMS

Anyone desiring to address the Council on an item that is not a public hearing must present a written request to the City Manager by 10:00 a.m. on the Wednesday preceding the Monday meeting date.

POLICY REGARDING PUBLIC HEARING AGENDA ITEMS

Individuals wishing to speak at a public hearing must register in advance with the City Clerk. The Clerk's Office is located in the Executive Offices, Second Floor, City Hall, 433 Hay Street, and is open during normal business hours.

Citizens may also register to speak immediately before the public hearing by signing in with the City Clerk in the Council Chamber between 6:30 p.m. and 7:00 p.m.

POLICY REGARDING CITY COUNCIL MEETING PROCEDURES SPEAKING ON A PUBLIC AND NON-PUBLIC HEARING ITEM

Individuals who have not made a written request to speak on a non-public hearing item may submit written materials to the City Council on the subject matter by providing twenty (20) copies of the written materials to the Office of the City Manager before 5:00 p.m. on the day of the Council meeting at which the item is scheduled to be discussed.

Notice Under the Americans with Disabilities Act (ADA): *The City of Fayetteville will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. The City will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities so they can participate equally in the City's programs, services, and activities. The City will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all City programs, services, and activities. Any person who requires an auxiliary aid or service for effective communications, or a modification of policies or procedures to participate in any City program, service, or activity, should contact the office of Ron McElrath, ADA Coordinator, at rmcelrath@ci.fay.nc.us, 910-433-1696, or the Office of the City Clerk at cityclerk@ci.fay.nc.us, 910-433-1989, as soon as possible but no later than 72 hours before the scheduled event.*

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Karen M. McDonald, City Attorney
DATE: November 7, 2011
RE: **Amending Chapter 6, Animals and Fowl**

THE QUESTION:

Whether to adopt proposed changes to County's Animal Control Ordinance within the municipal limits of Fayetteville.

RELATIONSHIP TO STRATEGIC PLAN:

More Efficient City Government

BACKGROUND:

The County Attorney presented proposed changes to Cumberland County's Animal Control Ordinance to the Policy Committee of the Cumberland County Board of Commissioners at their October 6, 2011, meeting. Both the City and the County have expressed an interest in the City adopting the County's entire Animal Control Ordinance within the municipal limits of Fayetteville to remove enforcement issues for the Animal Control Department within the City.

ISSUES:

Whether the Council has an interest in adopting the County's Ordinance for the municipal limits of Fayetteville.

BUDGET IMPACT:

None

OPTIONS:

Provide feedback regarding proposed revisions to the City Code.

RECOMMENDED ACTION:

Consider the proposed ordinance changes and provide feedback and further direction to staff regarding the ordinance.

ATTACHMENTS:

Draft Animal Control Ordinance

**AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS
REPEALING CHAPTER 3, ANIMALS, OF THE CUMBERLAND COUNTY CODE AND RE-
ADOPTING A REVISED CHAPTER 3, ANIMALS, OF THE CUMBERLAND COUNTY CODE**

WHEREAS, the Cumberland County Board of Commissioners adopted a revised County Animal Control Ordinance in August, 2000, and has amended it from time to time; and

WHEREAS, the Cumberland County Animal Control Ordinance has been codified as Chapter 3, Animals, of the Cumberland County Code; and

WHEREAS, the Board of Commissioners wishes to make a comprehensive revision of the Cumberland County Animal Control Ordinance by the repeal of Chapter 3, Animals, of the Cumberland County Code and the adoption of the revised Chapter 3, Animals, of the Cumberland County Code as set forth below; and

Whereas, the Board of Commissioners finds the comprehensive revision of Chapter 3, Animals, of the Cumberland County Code to be in the public interest and to promote the public health, safety and welfare,

NOW, THEREFORE, BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Chapter 3, Animals, of the Cumberland County Code is hereby repealed in its entirety and a revised Chapter 3, Animals, of the Cumberland County Code is hereby adopted.

**CHAPTER 3
ANIMALS**

- Art. I. Administration**
- Art. II. General Provisions**
- Art. III. Dangerous Dogs.**
- Art. IV. Rabies Control and Animal Bites**
- Art. V. Licensing of Dogs and Cats**
- Art. VI. Injured Animal Stabilization Fund**
- Art. VII. Miscellaneous**
- Art. VIII. Enforcement**

ARTICLE I. ADMINISTRATION

Sec. 3-1. Animal Control Department established.

There is hereby established in the government of the County an Animal Control Department.

Sec. 3-2. Animal Control Director.

The Animal Control Department shall be supervised by the Animal Control Director, who shall be the director of that department, appointed by the county manager.

Sec. 3-3. Functions of Animal Control Department.

The Animal Control Department shall have and perform the duties and responsibilities set forth herein, shall enforce the provisions of this Chapter and of state law relating to animal control and animal welfare, shall administer and enforce an animal control program within such municipalities within the county as by interlocal agreement may contract with the County for such services and apply this Chapter in their municipal jurisdictions, and shall maintain and operate the county animal shelter.

Sec. 3-4. Animal Control Board established; Dangerous Dog Appeal Board established.

- A. There is established the Cumberland County Animal Control Board.
- B. The Animal Control Board shall be composed of seven (7) members to be appointed by the Board of Commissioners. Of the seven members, two shall be residents of the City of Fayetteville appointed by the Board of Commissioners from among the names of four persons nominated by the Fayetteville City Council, that is, two nominations for each seat. At least one member shall be a person with knowledge and experience in dog behavior and/or handling, one member shall be *ex officio* the veterinarian on contract to the Animal Control Department, one member shall have an interest in promoting the goals of the Animal Protection Society or the Humane Society or another such broadly-based and representative organization interested in the care and protection of animals, and the other members shall represent the public at large. The members shall serve staggered two-year terms; four members shall have terms that expire on June 30 in even-numbered years following the year of their initial appointment and three members shall have terms that expire on June 30 of odd-numbered years.
- C. The powers and duties of the Animal Control Board shall include:
- (1) appointing one of its members to sit on the Dangerous Dog Appeal Board;
 - (2) hearing any appeals provided for in this ordinance other than appeals of the Director's determinations of potentially dangerous dogs;
 - (3) providing advice and information to the Animal Control Department;
 - (4) upon coordination with the Animal Control Director, making recommendations to the Board of Commissioners or the Fayetteville City Council, as appropriate, for the betterment of the County's animal control program;
 - (5) in conjunction with the Animal Control Department and the County's Public Information Director, providing for a program of public education, information and outreach concerning responsible pet ownership, animal cruelty, and the County's animal control program; and
 - (6) selecting officers of the board, including a chairperson, and adopting rules of procedure.
- D. A majority of the members shall constitute a quorum for the Animal Control Board to conduct its meetings. The Animal Control Board shall adopt a schedule of regular meetings and post and file it with the Clerk to the Board of Commissioners and otherwise as required by the Open Meetings Law. The Animal Control Board shall schedule at least four regular quarterly meetings, at which meetings the Animal Control Director or his designee shall appear and participate. In addition, the Animal Control Board may hold such special or emergency meetings, upon the call

of the chairperson or any three members, as may be appropriate in the circumstances, subject to compliance with the Open Meetings Law.

- E. There is established the Dangerous Dog Appeal Board.
- F. The Dangerous Dog Appeal Board shall consist of three (3) members, with two to be appointed by the Board of Commissioners and one to be appointed by the Animal Control Board from among its members. The members shall serve staggered two-year terms with the member appointed by the Animal Control Board having a term that expires on June 30 in even-numbered years and the members appointed by the Board of Commissioners having terms that expire on June 30 of odd-numbered years. Any two (2) members of the Dangerous Dog Appeal Board shall constitute a quorum for conducting a meeting.
- G. The powers and duties of the Dangerous Dog Appeal Board shall include:
 - (1) selecting a chairperson to preside over its appeal hearings;
 - (2) hearing the appeals of the determinations of potentially dangerous dogs by the Animal Control Director (or his designee) pursuant to Article III of this ordinance or Chapter 67 of the General Statutes.
- H. The administrative assistant to the Animal Control Director shall be the Clerk to the Animal Control Board and the Dangerous Dog Appeal Board.

Sec. 3-5 through Sec. 3-9. Reserved.

ARTICLE II. GENERAL PROVISIONS.

Sec. 3-10. Definitions

- A. As used in this ordinance, the following terms shall have the meanings respectively ascribed to them in this section:

"Abandon" means to cease providing for the care, control or maintenance of an animal without the transfer of ownership of such animal.

"Animal Shelter or Department's Shelter" means the premises operated by the Animal Control Department for the purposes of impounding, sheltering or caring for animals or any other premises operated by another entity with which the county contracts for such purposes.

"Animal Control Department" means the Cumberland County Animal Control Department.

"Animal Control Director" means the Director of the Animal Control Department, or his/her designee.

"Animal Control Officer" means the person or persons employed by the Animal Control Department as its enforcement officer[s] in the impoundment of animals, controlling of animals running at large, and as otherwise provided or required in this chapter.

"At large" or "running at large" means any animal which is not confined on the property of its owner, the leased premises of the animal's owner, or under the actual physical control of a competent person, other than a licensed, currently privilege tax paid, hunting dog under supervision while engaged in a lawful actual or simulated hunt.

“Chapter” means the provisions of this Animal Control Ordinance as may be in effect in Cumberland County or any municipal jurisdiction located therein.

"Confinement" means to secure an animal in a locked house, run, enclosure or fenced yard within the boundaries of the owner's, leaseholder's, or keeper's property (i.e., house, fenced yard).

"County Manager" shall mean the duly appointed County Manager of the County or his/her designee.

"Cruelty" means to endanger by any act of omission or commission the life, health or safety of an animal.

“Director” means the Director of the Animal Control Department.

"Exposed to rabies" means any animal that has been bitten by or exposed in a manner proven to be able to transmit rabies, to any other animal known to have been infected with rabies or any other animal reasonably suspected of being infected with rabies that is not available for laboratory diagnosis.

"Fee Schedule" means any schedule of fees related to the administration of this ordinance, which may be adopted by the Board of Commissioners.

"Fowl" means chickens, guineas, geese, ducks, pigeons, and other avian animals.

“Harboring” means regularly feeding, sheltering or caring for an animal.

"Impoundment" means placing an animal in an animal control vehicle or unit, or holding an animal at the animal shelter, or holding an animal at any other location at the written direction of the Director of Animal Control.

"Keeper" means any person, acting in the capacity of the owner, or at the owner's request, who is responsible for the care, welfare and maintenance of the animal.

"Kennel" means any place where any combination of eight (8) or more dogs or cats more than six (6) months of age are sheltered, fed and watered.

"Livestock" includes, but is not limited to, equine animals, bovine animals, sheep, goats, llamas and swine.

"Neuter" means to render a male dog or cat unable to reproduce.

"Owner" shall mean anyone taking care of or having custody of an animal, such as by providing food, water, shelter or medical care, but shall not include taking care or having custody of the animal for compensation.

"Permit" means a permit issued by the Animal Control Department or similar agency of any applicable governmental unit having jurisdiction.

"Potentially Dangerous Dog" and "Dangerous Dog" shall have the meanings set forth in Section 3-30 hereof.

"Restraint" means that an animal is actually physically controlled by leash or tether held by a competent person or within any vehicle, trailer or other conveyance being driven, pulled or

parked on the street or confined within the property limits of its owner or keeper.

"Run" means an area used to confine a dog or dogs of a size that complies with any of the requirements of this Chapter.

"Sanitary" means a condition of good odor and cleanliness, which precludes the probability of disease transmission and insect breeding and which preserves the health of the public.

"Spay" means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce.

"State law" means the General Statutes of North Carolina.

"Stray" means any animal reasonably presumed not to have any owner, including but not limited to an animal running at large or not under restraint.

"Tethered" or "tethering" means attaching an animal to a stationary object by means of a chain, cable, rope or similar device.

"Vaccination" means an injection of United States Department of Agriculture approved rabies vaccine administered by a licensed veterinarian or certified rabies vaccinator as defined in G.S. 130A-186.

"Transfer" means to convey or change ownership from one person to another with or without the exchange of money or other consideration.

- B. All other words or phrases used herein shall be defined and interpreted according to their common usage.

Sec. 3-11. Applicability of state laws to custody of animals.

No person owning or having in his custody any animal shall violate any laws, rules, or regulations of the state applicable thereto. The provisions of this ordinance shall govern where the provisions of the rules and regulations of the state are less restrictive than the provisions of this chapter.

Sec. 3-12. Injuring, poisoning or trapping animals prohibited.

- A. A person who accidentally or otherwise strikes an animal with an automobile and injures it shall promptly notify the Animal Control Department or any law enforcement agency having jurisdiction.
- B. No person shall knowingly expose or give to any animal any poisonous substance, whether mixed with food or not. This provision, however, does not apply to the eradication or population control of certain species of rodents.
- C. No person shall set or expose an open jaw type trap, leg hold trap, snare trap or any type trap which would likely cause physical harm or injury to any animal. This provision shall not apply to persons who are licensed by the state to trap animals, to Animal Control Officers or to persons using humane live capture traps.

Sec. 3-13. Diseased animals; injured or sick animals.

- A. Every person owning or having any animal under his charge which he knows or suspects to be

sick or injured shall isolate the animal from other animals, shall obtain or provide appropriate treatment for such animal within two days or may have the animal humanely euthanized.

- B. Any animal which comes into possession of the Department's shelter which is seriously injured, sick or exhibiting symptoms of contagious disease shall be humanely euthanized by the shelter personnel without waiting for the expiration of the period in which such animal may be placed for adoption. Provided, however, that before such sick, diseased or injured animal is euthanized, the shelter personnel shall contact the animal's owner, if known, to determine the disposition of such animal. If the owner indicates that the animal will be reclaimed but fails to reclaim the animal within two business days of such notification, or if the owner of such animal is not known, the sick or injured animal shall be euthanized by the shelter personnel. The shelter supervisor shall keep a record of such animal, to include breed and sex of the animal, when the animal came into possession of the shelter, the type of injury, disease or sickness of such animal, the date the animal was destroyed, and any other information relevant to the health, condition and description of such animal.

Sec. 3-14. Property owner may impound animal.

- A. Any person who finds a domesticated animal or fowl on his property to his injury or annoyance may:
- (1) take such animal to the Department's shelter; or
 - (2) retain possession of such animal or fowl and, within one business day, notify the Animal Control Department of this custody, giving a description of the animal and the owner's name, if known. Any person removing the animal from the impounder's property shall remove the animal in such a manner so as not to cause injury to the animal.
- B. No person shall knowingly and intentionally harbor, feed or keep in possession by confinement or otherwise any stray animal which does not belong to him, unless he shall have within one business day from the time such animal came into his possession notified the Animal Control Department of his intention either to: (i) surrender the animal to the animal shelter, or (ii) advertise for five (5) consecutive days such stray animal in the local newspaper with the greatest average daily circulation in the community. If the person possessing such stray animal elects to so advertise and the owner thereof shall not have responded by the tenth (10) day after the date of the first publication, the person so advertising shall be presumed the legal owner of such animal. If the advertisement of a stray animal shall not have been first published within seventy-two (72) hours after so notifying the Animal Control Department, then the animal shall be surrendered to the Animal Control Department.

Sec. 3-15. Nuisance animals.

- A. For the purposes of this section, "nuisance" means the conduct or behavior resulting from any act of omission or commission by the owner or keeper of any small or large animal, fowl, cat or dog which molests passersby or passing vehicles, damages private or public property; barks, whines, howls, crows or makes other noises in an habitual or continuous fashion which annoys the comfort, repose, health or safety of the people in the community; is unconfined in season; habitually defecates on the property of someone other than the owner; habitually eats or otherwise destroys the plants, shrubs or similar landscaping on the property of someone other than the owner.
- B. For the purposes of this section, "nuisance animal" means any animal that commits any of the acts, conduct or behaviors defined as nuisance in this ordinance.

- C. No person shall keep any animal which is a nuisance animal or which causes a nuisance as defined in this section.
- D. A violation of this section shall constitute a criminal misdemeanor punishable by a maximum fine of \$100 for a first offense and a maximum fine of \$250 for each subsequent violation occurring within twelve months of the first violation. Each day of a continuing violation shall constitute a separate offense.
- E. Enforcement of this section shall solely be by the complainant or complainants obtaining a criminal summons or by criminal process instituted by any law enforcement officer.

Sec. 3-16. Animal fighting and animal fighting paraphernalia prohibited.

- A. No person shall permit or conduct any dog fights, cock fights, or other combat between animals, or between animal and human.
- B. It shall be unlawful for any owner or person to keep, own, possess, maintain, control, or use materials used or intended to be used in dog fighting or cock fighting. Such items shall include but are not limited to treadmills; fighting or fight training pit; wooden sticks or handles used or capable of being used to pry open jaws; magazines, photographs, film, or videotapes depicting animal fighting or animal fight training; breeding stands; jaw strengthening devices; spurs; gaffs or slasher cases; gaff or knife gauges; mounting blocks; leather wraps; scabbards and leg or wing bands; training, conditioning, or fight contracts or records; veterinary drugs; suture kits, needles; and syringes and other veterinary supplies used for the administration of veterinary treatment for wounds or injuries from animal fighting or animal fight training.
- C. Upon criminal charges being brought for violations of this section, the Animal Control Director may petition the court for the confiscation of any animals kept or involved, or materials used or intended to be used in such fighting.

Sec. 3-17. Keeping of wild or exotic animals.

- A. For the purpose of this section, a wild or exotic animal means an animal which is usually not a domestic animal and which can normally be found in the wild state, including, but not limited to alligators, apes, bats, bears, crocodiles, deer, elephants, foxes, leopards, lions, lynxes, monkeys, panthers, raccoons, rhinoceroses, wolves, poisonous snakes, skunks, tigers, and like animals. [Hybrids or cross-breeds of any wild or exotic animals shall also be considered as wild or exotic animals.](#)
- B. It is unlawful to keep, harbor, breed, sell or trade any wild or exotic animal for any purpose, except as may be licensed by the state Wildlife Resources Commission under its regulations pertaining to wildlife rehabilitators.
- C. This section shall not apply to zoological parks, zoos, or educational or medical institutions which have registered with and obtained a permit from the Animal Control Director, or circuses that perform in Cumberland County for not more than seven (7) days. If a circus is scheduled to be in Cumberland County for more than seven (7) days, then the circus may apply to the Animal Control Director for an extension permit for a period not to exceed an additional seven (7) days, on such terms as the Animal Control Director shall determine will protect the public health, safety and welfare.

Sec. 3-18. Inhumane or cruel treatment prohibited; control of animals required; at large;

impoundment; confinement in season.

- A. It is unlawful for any owner or person to:
- (1) perform, do or carry out any inhumane or cruel treatment against any animal;
 - (2) keep, possess, own, control, maintain, use or otherwise exercise dominion over any animal or animals which by reason of noise, odor or sanitary conditions become offensive to a reasonable and prudent person of ordinary tastes and sensibilities or which constitute or become a health hazard as determined by the Animal Control Director, the Inspections Director or the Cumberland County Environmental Health Supervisor, as appropriate; or
 - (3) permit or negligently allow any domestic animal or livestock to run at large. Any dog or cat that is not confined as provided in this ordinance, and not under the actual physical control or restraint of its owner or keeper, shall be presumed to be running at large. Any such animal found running at large shall be either:
 - (a) impounded by an Animal Control Officer at the Department's shelter subject to being reclaimed by its owner or keeper in accordance with the Department's policies; or
 - (b) in the discretion of the Animal Control Officer, a dog or cat found at large which is licensed by the county and vaccinated for rabies, except a dangerous dog, as that term is defined in Article III of this ordinance, may be released to its owner, upon such terms and conditions as the Animal Control Officer deems appropriate.
- B. No impounded animal shall be returned to its owner until any applicable impoundment and boarding, vaccination, other fees or costs and any penalties are paid.
- C. Any impounded animal not claimed by its owner after a three day holding period, exclusive of Sundays and county-observed holidays, shall become the property of the county and shall be adopted or disposed of in accordance with the Department's policies.
- D. Every female dog or cat in season (heat) shall be kept confined in such a manner that such female dog or cat cannot come in contact with other animals, except for controlled breeding purposes. Female animals picked up by the Animal Control Department which are in season (heat) shall be kept separate from male animals at all times.

Sec. 3-19. Dogs prohibited from park trails.

Dogs are prohibited, whether running at large or restrained, from the jogging trails at any public park within the jurisdiction of this ordinance which has an established walking or jogging trail. Dogs may be walked in such parks when on a leash under the control of a competent person.

Sec. 3-20. Records; disposition of animals; adoption.

- A. An Animal Control Officer, upon receiving any animal for impoundment, shall record or cause to be recorded the description, breed, color and sex of the animal and whether or not it is licensed and the date and time of impoundment. If the animal is licensed or if the owner is known, the officer shall enter the name and address of the owner or the county license or rabies tag number as may be shown on the impoundment records. If the owner is known, the Animal Control

Department shall telephone the owner or, if unsuccessful in attempting to telephone such owner, shall mail notice at the address shown on the Department's records to notify the owner that unless reclaimed within seventy-two (72) hours after impoundment, Sundays and county-observed holidays excluded, the animal will be adopted or humanely disposed of by the Department's shelter. Attempts to contact the owner will be recorded on the impoundment record.

- B. After the seventy-two (72) hours of impoundment as prescribed above, animals that have not been reclaimed by the owner thereof shall be adopted or otherwise disposed of in a humane manner and as required by law. Provided, however, in the discretion of the Animal Control Director, a healthy animal may be retained for an additional period for the purpose of adoption or transferred to an approved local animal adoption or rescue agency.
- C. Before any dog or cat is released for adoption from the Department's shelter, the adopter shall pay such fee(s) as may be prescribed therefore in any fee schedule adopted from time to time by resolution by the board of commissioners. Such dog or cat also shall be issued any required county license, as provided for in this chapter, if such dog or cat has not previously been licensed, and vaccinated for rabies, if not affirmatively shown to have a current vaccination.
- D. No employee may adopt an animal from the Department's shelter, nor may any employee of the shelter adopt, give away, or sell any animal from the shelter except as provided in this chapter. Provided, however, any employee may adopt one cat and one dog per employee in any calendar year and such number of other animals as the Animal Control Director may by written policy prescribe.
- E. There is hereby established a grace period of five (5) days beginning on the day of adoption and ending at the close of business of the fifth (or the first business day which falls after the fifth day if such fifth day is a Sunday or legal holiday) day thereafter, during which period an animal adopted from the animal shelter may be returned to the animal shelter without refund for a replacement animal, conditioned solely upon the presentation of written certification of a licensed veterinarian that the adopted animal is in poor health.

Sec. 3-21. Redemption of impounded animals.

- A. An owner shall be entitled to resume possession of his impounded dog or cat or other small animal kept as a house pet, upon compliance with the vaccination provisions of this chapter and payment of any applicable impoundment, boarding, vaccination or other fees. Such dog or cat also shall be issued any required county license, as provided for in this chapter, if such dog or cat has not previously been licensed. Animals four (4) months old and older will be vaccinated for rabies by shelter rabies vaccinators. New owners of adopted animals less than four (4) months old shall have three (3) business days from the time that the animal reaches the age of four (4) months, in which to have the animal vaccinated against rabies and return the proof to the Department's shelter. Failure to obtain the required rabies vaccination shall constitute a violation of this section.
- B. When a law enforcement officer takes a person into custody who is in possession of an animal, and no other competent person is immediately present at the scene to take care of the animal, the animal will be impounded for its welfare. The animal will be impounded at the Department's shelter until contact can be made with the animal's owner and an appropriate disposition of the animal determined. Once an Animal Control Officer makes contact with the owner, the owner will have seventy-two (72) hours to arrange for the appropriate disposition of the animal. After the seventy-two (72) hour period expires, the animal shall become the property of the county and shall be disposed of as provided in this chapter.

Sec. 3-22. Spaying or neutering as condition for adoption or release of dogs and cats; violations.

- A. No dog or cat may be adopted from the animal shelter unless the animal has been surgically spayed or neutered, or the adopting owner agrees to do have the animal surgically spayed or neutered in accordance with any time limit imposed by the Animal Control Director.
- B. No dog or cat which has been impounded for any reason may be re-claimed from the animal shelter and released to its owner unless the animal has been surgically spayed or neutered, or the owner agrees to do have the animal surgically spayed or neutered in accordance with any time limit imposed by the Animal Control Director.
- C. The Animal Control Director shall implement procedures to enforce this Section.
- D. The failure of any owner re-claiming or adopting an impounded animal to comply with this Section shall constitute a violation of this Section.

Sec. 3-23. Keeping of animals; mistreatment, abandonment prohibited; care; restraining of dogs; exercise area for dogs.

- A. All dogs, cats and other small animals kept as house pets shall be housed, fed and protected from the weather in such a manner as not to create a nuisance.
- B. No person shall willfully or negligently:
 - (1) torture, cruelly beat, injure, maim, mutilate or without good cause destroy or kill any animal, whether wild or tame, belonging to himself or to another;
 - (2) deprive any animal of food, drink or shelter; or
 - (3) cause any other person to do any of the above acts.
- C. If an animal is found by any Animal Control Officer to be in one of the above described conditions in subsection 3-23.A or B, the officer shall take appropriate measures, including civil or criminal enforcement, to protect the welfare of the animal. If the Animal Control Officer determines that a confined animal's life is in immediate danger or the animal has been abandoned, the Animal Control Officer shall seize such animal if such seizure is not prohibited by applicable law and shall report the conditions to an appropriate law enforcement agency if seizure is not permitted. The Animal Control Officer shall leave a notice for the owner or keeper advising why the animal has been taken.
- D. No dog, cat or other small animal shall be confined within or on a motor vehicle under such conditions as may endanger the health or well-being of the animal, including, but not limited to, dangerous temperature, or lack of adequate food or water.
- E. No person shall abandon or cause or be abandoned any dog, cat or any other type of animal.
- F. Owners and keepers of dogs, cats and other small animals shall provide food, shelter and medical attention to such animals, including but not limited to the following:
 - (1) sufficient wholesome food that is nutritious for the species;

- (2) fresh, potable drinking water;
- (3) medical attention to relieve such animals from suffering;
- (4) shade from the sun; and
- (5) shelter to allow the animal to remain dry and protected from the elements. Such shelter shall be fully enclosed on three (3) sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the animal's entry and exit, and sturdy enough to block entry of wind or rain. The shelter shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and in good repair.

G. It shall be unlawful to tether a dog except in accordance with this subsection.

- (1) No dog shall be tethered outdoors unless the keeper or owner of the dog is holding the tether.
- (2) It shall be an affirmative defense to a violation of this subsection that the tethering is required to protect the safety or welfare of a person or the dog, provide that the keeper or owner of the dog remains with the dog throughout the period of tethering.
- (3) The provisions of this subsection shall not apply to a temporary tether:
 - (a) during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity, or
 - (b) to a keeper or owner walking a dog with a hand-held leash, or during lawful hunting activities if reasonably necessary for the safety of the dog, or while a dog is actively engaged in shepherding or herding livestock, or
 - (c) when meeting the requirements of a camping or recreation facility, or
 - (d) when the animal's caretaker is outside and within eyesight of the animal, or
 - (e) after taking possession of a dog that appears to be a stray dog and after having advised the Animal Control Department of the stray.
- (4) The provisions of subsection 2 and 3 above shall apply only if:
 - (a) the tether is not placed directly round the dog's neck and is attached to a properly fitting collar or harness of nylon or leather worn by the dog, and
 - (b) the weight of the tether does not exceed more than one-tenth of the dog's body weight, and
 - (c) the tether is unlikely to become tangled or twisted, and
 - (d) the tether is arranged to be free of any obstacles which may limit the moveable length of the tether, and
 - (e) the dog is tethered in a manner that permits access to necessary shelter and water.

- (5) Any dog that remains tethered in violation of this subsection for more than fourteen (14) days after the owner receives a notice of violation may be seized by an Animal Control Officer or law enforcement officer and impounded at the Department's shelter. If the dog's owner does not show that an adequate confinement enclosure complying with the requirements of this ordinance has been installed on the owner's property within 72 hours of the impoundment, exclusive of Sundays and county government holidays, the dog shall be deemed to have been forfeited to the county and shall be disposed of in accordance with the Department's policy.
- I. Any dog confined within a fenced yard or run must have an adequate space for exercise. Provided, however, that where dogs are kept or housed on property without a fenced yard and such dogs are kept in an enclosure or run, such enclosure or run shall provide adequate space for exercise. Such an enclosure or run shall be constructed of chain link or similar type of materials with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping from such enclosure. The top of such enclosure shall be sufficiently covered to provide the dog with adequate shade and protection from the elements.
- J. No person shall transport an animal in the back of a motor vehicle in a space intended for a load on the vehicle on a public way unless such space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, or the animal is cross tethered to the vehicle, or the animal is protected by a secured container or cage, or the animal is otherwise protected in a manner which will prevent the animal from being thrown or from falling or jumping from the vehicle.

Sec. 3-24. Dead animal pickup; relinquishing animals to the shelter.

- A. Dead animals may be picked up from residences by waste/ sanitation haulers as provided by the Cumberland County Solid Waste Department's policies as in effect from time to time.
- B. Owners may relinquish their animals to the Department's shelter provided the owner signs an impoundment card releasing possession of the animal to the shelter. Once the animal is released to the shelter, the animal shall become the property of the county and may be adopted or humanely disposed of in accordance with the Department's policies.

Sec. 3-25. Apprehension of wild dogs.

If the Animal Control Director shall determine that:

- (a) a dog or dogs are running wild in any area within the jurisdiction of this ordinance; such dogs are feral and do not have an owner, keeper or custodian; such dogs appear not to have been vaccinated for rabies because such dogs are not wearing current and valid rabies tags; such dogs are substantially interfering with the use and enjoyment of property or the conduct of business, or are harassing or threatening persons; and that such dogs cannot after extraordinary effort be apprehended, or
- (b) a wild animal or animals are running wild and appear to be rabid or terminally diseased, present an imminent threat to any person or to livestock or domestic pets, or are harassing and threatening persons, and cannot be apprehended without extraordinary effort,

then the Director shall be authorized to cause deadly force to be used to humanely euthanize said dogs or

wild animals. Prior to making such a determination, in case of wild dogs, the Director shall have documented that persistent and repeated efforts to apprehend such dogs through use of traps, baited food, and tranquilizer darts have been ineffective. After making such a determination, the Animal Control Director may:

- (c) authorize any Animal Control Officer that has, in the discretion of the Animal Control Director, received appropriate training and certification in firearms to use deadly force; or
- (d) request assistance from the Sheriff or from appropriate municipal police authorities in order that the application of deadly force shall be effected by a sworn law enforcement officer that has a marksman rating and/or qualification; or
- (e) seek the services of any private business, corporation, organization or other governmental organization or agency as may be approved by the County Manager for the application of deadly force.

If such deadly force is proposed to be effected, the Animal Control Director shall take every precaution to assure the safety of persons and property in the area within which the dogs or animals are running wild.

Sec. 3-26. Regulation of more than seven dogs and/or cats.

Any person or business entity which owns, possesses, keeps, maintains or harbors more than seven dogs or cats or any combination of more than seven dogs and cats at any premises shall be deemed to be operating a kennel and shall be subject to the zoning regulations for kennels as defined in the applicable zoning regulations.

Sec. 3-27 through Sec. 3-29. Reserved.

ARTICLE III. DANGEROUS DOGS

Sec. 3-30. Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

“Attack by a dog” means any behavior or action by a dog which could reasonably be expected to cause physical injury to a person or domestic animal, to include biting, felling or toppling, tearing of clothing, or provoking flight to escape attack.

“Bite by a dog” means any seizing, gripping or grasping, no matter how slight or momentary by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal.

“Dangerous dog” means any of the following dogs:

- (a) a dog that without provocation has killed or inflicted severe injury on a person; or
- (b) a dog that has been determined as provided herein to be potentially dangerous; or

- (c) a dog that is owned or harbored primarily, or in part, for the purpose of dog fighting or a dog trained for dog fighting.

“Dog” means a domesticated animal (*canis familiaris*) of the Canidae family; provided that no wild specie of the Canidae family, such as a wolf, fox or coyote, shall be considered a domesticated animal, even though raised by humans in domestic surroundings.

“Guard dog” means a dog trained by a skilled trainer to recognized security industry or other reasonable standards and presently used under the control of trained handlers to protect persons and property.

“Law enforcement dog” means a dog, trained for police work to recognized law enforcement standards and presently used by and under the control of a law enforcement officer to carry out the law enforcement officer's official duties.

“Lawful hunt” means a hunt for lawful game conducted on private or public property with the consent of the owner or custodian of the property by a person with a valid license (if required) during the lawful season for the game concerned using dogs customarily employed and suitable for such game.

“Owner of a dog” or “owning a dog” means any person or legal entity that has a possessory property right in a dog, including the harborer or keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of its owner.

“Owner or keeper's real property” means any real property owned or leased by the owner or keeper of the dog, not including any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

“Potentially dangerous dog” means a dog that had been determined, as provided herein, to have:

- (a) inflicted a bite on a person that required medical care more than first aid,
- (b) killed or inflicted severe injury upon a domestic animal when not on the real property of the owner of the dog; or
- (c) attacked a person or approached a person in an area of the keeper's property open and accessible to invitees, or when not on the owner's property, in a vicious or terrorizing manner in an apparent attitude of attack.

“Severe injury” means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.

“Territorial jurisdiction of Cumberland County” means all territory within the boundaries of the County of Cumberland, North Carolina, except the incorporated area of a municipality, unless such municipality has consented to the application and enforcement of this Chapter in its jurisdiction.

Sec. 3-31. Application of ordinance; exceptions.

The provisions of this Article do not apply to:

- (a) a law enforcement dog or guard dog being used by a law enforcement officer or the conduct of a bona fide professional security guard's official duties or professional responsibilities;
- (b) a dog being used in a lawful hunt;

- (c) a dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under control of its owner, and the damage or injury was to a species or a type domestic animal appropriate to the work of the dog; or
- (d) a dog where the injury inflicted by the dog was sustained by a person who at the time of the injury, was tormenting, abusing, or cruelly treating the dog, or had tormented, abused, or cruelly treated the dog, or was committing or attempting to commit a crime.

Sec. 3-32. Reporting requirements.

- A. Reporting required. (i) An owner of a dog that has attacked or bitten a person or domestic animal; (ii) a victim of an attack or biting by a dog; (iii) the owner of any domestic animal that has been attacked or bitten by a dog; (iv) any person witnessing such an attack or biting; (v) a veterinarian treating a domestic animal for such an attack or biting; or (vi) a health care professional treating a person for such an attack or biting, shall report the following events to the Animal Control Department within three (3) business days after the event has occurred:
 - (1) any attack or biting by a dog upon any person or domestic animal, or
 - (2) the transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the county, or its death.
- B. Report data required. The data required in the report and the format thereof shall be as set forth in administrative procedures promulgated by the Animal Control Director.

Sec. 3-33. Determination that a dog is potentially dangerous; appeals.

- A. Generally. Upon receipt of a report submitted in accordance with subsection 3-32, or upon the receipt of any other complaint, or when he has reasonable suspicion that a dog is potentially dangerous, the Director or his designee shall make a determination whether or not such dog is a potentially dangerous dog. Any determination that a dog is potentially dangerous shall be made in a writing stating the facts relied upon by the Director to make his determination. The written declaration shall be personally delivered to the owner of the subject dog or shall be mailed by certified mail, return receipt requested, to the owner. If the determination is made that the subject dog is potentially dangerous, the written determination shall order compliance with the appropriate provisions of this Article and the Director may impose reasonable conditions to maintain the public health and safety. The Director may pursue such other civil or criminal penalties and remedies as authorized by this chapter or state law.
- B. If, at any time after the receipt of any report or complaint made pursuant to section 3-32, the Director determines that the conditions under which the subject dog is being kept or confined do not adequately protect the public health or safety, the Director shall require that the subject dog be impounded at the Department's shelter until completion of the investigation and any appeal of the decision of the Director.
- C. Appeals from determinations.
 - (1) The owner of any dog determined by the Director to be potentially dangerous may appeal the decision of the Director to the Appeal Board within three (3) business days of

receiving notice of the determination. Appeal to the Appeal Board may be taken by filing written objections to the Director's determination with the Clerk for the Appeal Board.

- (2) The Appeal Board shall schedule and hear such appeal within ten (10) days of the filing of the written objections or at such later time as the appellant consents.
- (3) The vote of the Appeal Board shall be taken, and the announcement of its decision shall be made, in an open public meeting. A written statement of the decision of the Appeal Board shall be delivered to the Director and the appellant. The notice shall be sent by certified mail, return receipt requested, and filed concurrently with the Director and the Cumberland County Attorney.
- (4) An appeal hearing before the Appeal Board shall be conducted as follows:
 - (a) the hearing shall be subject to the Open Meetings Law, and the required notice shall be posted and given as applicable;
 - (b) the Chairperson of the Appeal Board shall preside at the hearing;
 - (c) the Director shall be represented by the County Attorney;
 - (d) the County Attorney shall present the Director's case;
 - (e) the appellant may be represented by an attorney;
 - (f) the Director and the appellant may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;
 - (g) the Chairperson of the Appeal Board shall rule on the admissibility of any evidence and on any procedural issues that might arise;
 - (h) the Director and the appellant shall be entitled to cross-examine any witnesses;
 - (i) the hearing shall be quasi-judicial in nature and all testimony shall be under oath;
 - (j) the appellant shall be entitled to obtain a transcript of the proceeding at his own cost;
 - (k) the Appeal Board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.
- (5) The purpose of the hearing before the Appeal Board shall be to determine whether or not the determination of the Director is in the best interests of the public health, safety and welfare.
- (6) The function of the Appeal Board shall be to affirm, reverse, or modify the determination of the Director which has been appealed. Any conditions imposed by the Appeal Board shall be reasonable, relevant to the issues in the matter, and have the effect of promoting the public health, safety and welfare.

- (7) The hearing shall be administrative in nature and the decision of the Appeal Board shall be final

Sec. 3-34. Registration required.

- A. Generally. Any person owning a dangerous dog as defined by this chapter or Chapter 67 of the General Statutes, shall register such dog with the Animal Control Department within five (5) days of such event which established the dog to be dangerous or may, in lieu of any hearing, register such dog voluntarily, which shall constitute an admission and final determination that the dog is dangerous.
- B. Permanent identification mark required. Each dog registered pursuant to this section shall be assigned a registration number by the Animal Control Department, which shall be affixed to the dog by permanent chip implant, at the expense of its owner. No person shall remove such identification once it is assigned and affixed.

Sec. 3-35. Permit required.

- A. Generally. After registration of a dangerous dog, or after a final determination that such dog is potentially dangerous in accordance with this chapter or Chapter 67 of the General Statutes, no person shall own such dog thereafter within the territorial jurisdiction of this Article without applying for and obtaining a permit from the Animal Control Department.
- B. Issuance of permit. The Animal Control Department shall issue a permit for a dangerous dog only upon submission of a complete, verified application, payment of the permit fee and a finding by the Director or his designee that: (i) the required conditions for keeping and housing the dog and other public health and safety protective measures are in effect, and (ii) the dog for which a permit is issued does not pose an unreasonable threat to the public health, safety and general welfare if the permittee shall comply with the provisions of this Article and the conditions of the permit. Issuance of a permit shall be conditioned on continued compliance with the provisions of this Article and other provisions of state law, on continued compliance with and maintenance of the conditions for housing the dog and public safety set forth in the permit, and any special conditions the Director may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of the dog for which the permit is issued.
- C. Temporary permits. Following the registration of a dangerous dog or the impoundment of a dog declared to be potentially dangerous, upon application therefore and for good cause, the Director may issue a temporary permit allowing the owner of a registered dangerous dog or a dog declared to be potentially dangerous to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the Director. The Director may also issue a temporary permit to allow the transport of a dangerous or potentially dangerous dog from the territorial jurisdiction of this Article. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the Director may deem necessary to protect the public health, safety and welfare consistent with the provisions of this Article. A temporary permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of this section.
- D. Term of permits and renewal thereof. No permit shall be issued under this section for a term of more than three (3) years but may, in the Director's discretion, be issued for a shorter period. Permits may be renewed, subject to the same terms and conditions required for initial permits.
- E. Revocation of permits. The Director may, upon notice and hearing and for good cause shown,

revoke any permit or modify any terms, conditions or provisions thereof. If the Director deems it necessary to protect the public health or safety from any imminent threat or danger thereto, he may, without hearing, suspend any permit or any portion thereof for not more than thirty (30) days. Good cause for revocation or modification of a permit shall include, without limitation, violation of or failure to comply with any provision of this Article or with any term, condition or provision of a permit.

- F. Inspections. The Director shall cause periodic inspections to be made of the premises of a permittee to assure compliance with the provisions of this Article and the applicable permit.
- G. Insurance. Every person owning a dangerous dog, as determined in accordance with this Article or Chapter 67 of the General Statutes, shall purchase and maintain a policy of liability insurance covering any injury or property damage caused by the dog. Minimum policy limits shall be one hundred thousand dollars (\$100,000.00) for personal injury or property damage, per occurrence. Such owner shall cause a certificate or declaration of insurance to be furnished to the Director annually. Every calendar day that the required insurance is not in full force and effect shall constitute a violation of this Article.

Sec. 3-36. Regulation of dangerous dogs; security and restraint requirements.

No person shall own a dangerous dog except in compliance with all provisions of this Article, including the following regulations:

- A. While on the real property of its owner, such dog shall be kept, secured and restrained as follows:
 - (1) in a building with doors, windows and other exits securely fastened shut and under the supervision and control of a responsible, capable adult person; or
 - (2) securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children; or
 - (3) while outside a building or enclosure described above, securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- B. Such dog shall only be removed from the real property of its owner as follows:
 - (1) for transportation to and from a veterinarian or the Department's shelter; or
 - (2) for its permanent removal from the territorial jurisdiction of this Chapter; or
 - (3) to provide bona fide exercise necessary for its continued good health.
- C. While off its owner's real property such dog shall be securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- D. Notwithstanding the foregoing, no person shall own a dangerous dog that has killed a person, except in the care and custody of a veterinarian for the purposes of treatment or quarantine; or in the custody of the Department's shelter pending disposition in accordance with the provisions of

this Chapter, the Department's policies, or the order of any court.

- E. Signage. The owner of a dangerous dog shall erect a sign with dimensions of at least 2' x 2' on the enclosure housing such dog which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!

Sec. 3-37. Impoundment of dangerous dogs.

- A. Apprehension and surrender. Upon an initial determination of a dog as potentially dangerous or upon registration of a dog to be dangerous, or if the Director has reasonable suspicion to believe that a dangerous, or potentially dangerous dog is being kept or harbored within the territorial jurisdiction of this Article in violation of it or of a permit issued hereunder, Animal Control Officers and law enforcement officers of Cumberland County and of any municipality subject to this Article shall impound such dog. It shall be a violation of this Article to fail or refuse to surrender such dog to such officers upon their lawful demand. The officer impounding such a dog shall deliver the same to the Department's shelter.
- B. Surrender. Hiding, removing or failing to surrender a dangerous or potentially dangerous dog, or impeding any investigation concerning the same shall be a violation of this Article.
- C. Confinement. A dog impounded by or surrendered to an Animal Control Officer or law enforcement officer as provided herein shall be confined in the Department's shelter or, upon request of the owner or a permittee hereunder, and at such person's expense, at a private veterinary facility or kennel approved by the Director, subject to the following conditions:
- (1) Costs of impoundment. Impoundment shall be at the expense of the owner of the dog or of the permittee. Costs of impoundment at the Department's shelter shall be paid by the person liable therefore at the daily rate. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefore pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall Cumberland County or any municipality subject to this Chapter be liable for or pay for impoundment at such private facility or kennel.
 - (2) Release from impoundment. No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance of a permit or temporary permit allowing such release. No such dog shall be released from the Department's shelter until costs of confinement of such dog, any registration and permit fees for such dog, and any civil penalties assessed in connection with such dog have been paid in full.
 - (3) Disposition of unclaimed or abandoned dogs. The following dogs impounded at the Department's shelter pursuant to this article shall be deemed abandoned and shall be disposed of in accordance with the provisions of this Chapter and the rules and regulations of the Department:
 - (i) any dog which remains unclaimed by its owner or permittee thereof for a period more than ten (10) days or a period of lawful quarantine, whichever is longer; and
 - (ii) any dog claimed by its owner or permittee which is confined for a period in

excess of ten (10) days, or a period or lawful quarantine, whichever is longer, during which no application has been made for a permit or temporary permit; provided, however, the Director shall extend such time upon a showing of justifiable delay in such action by the owner or permittee thereof.

Sec. 3-38. Violations, penalties and other remedies.

- A. Violations. Each act or conduct prohibited by this Article and each failure to comply with a mandatory provision hereby and each day's continuing failure to comply shall constitute a separate and distinct offense.
- B. State law violations.
 - (1) Nothing in this ordinance shall be constructed to prevent an Animal Control Officer or any other person from pursuing remedies under Chapter 67, Article IA, of the North Carolina General Statutes.
 - (2) The Director or his designee is designated as the person responsible for making the determination required under Section 67-4.1(c) of the North Carolina General Statutes. In making such determinations, the Director or his designee shall follow the procedure set forth herein for determinations.
 - (3) The Dangerous Dog Appeal Board is designated as the appellate board to hear appeals of determinations made pursuant to N.C.G.S., Section 67-4.1(c).

Sec. 3-39. Administrative provisions.

- A. Responsibility. The Director shall administer and enforce this Article and shall promulgate rules and regulations for such administration and enforcement as may be necessary or desirable to such end.
- B. Authority to enter upon premises. Animal Control Officers shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings any part of the curtilage thereof, or any yard or other enclosure to:
 - (1) conduct any investigation of a dog alleged or suspected of being potentially dangerous or dangerous, or
 - (2) apprehend a dog determined to be potentially dangerous or dangerous or as to which there is reasonable suspicion to believe is potentially dangerous or dangerous, or
 - (3) to investigate any violation of this Article, or
 - (4) to serve a citation upon a person for violation of this Article.
- C. Notwithstanding the foregoing, an Animal Control Officer shall only make such entry upon consent, pursuant to an administrative search warrant under G.S. 15-27.2, or otherwise as authorized by law.
- D. Authority to immobilize or kill a dangerous or vicious dog.
 - (1) If in the course of investigating, apprehending or otherwise taking custody of a potentially dangerous or dangerous dog, or a dog as to which there is reasonable

suspicion to believe is potentially dangerous or dangerous, such dog is not securely restrained and an Animal Control Officer or a law enforcement officer has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, said officer shall have authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then the officer may humanely dispose of said dog.

- (2) If a potentially dangerous or dangerous dog impounded in the Department's shelter cannot be cared for or handled without risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the Department shall have the authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then the Department may humanely dispose of said dog.
- (3) The Animal Control Department may humanely dispose of any dog being investigated under the provisions of this article at the request of or with the consent of its owner.

ARTICLE IV. RABIES CONTROL AND ANIMAL BITES

Sec. 3-40. Rabies control.

- A. Enforcement authority. The Animal Control Director and the Cumberland County Health Director are authorized to enforce the rabies control provisions in Part 6 of Chapter 130A of the North Carolina General Statutes.
- B. Procedures. The Animal Control Director and the Cumberland County Health Director are also authorized to implement any reasonable administrative procedures necessary to enforce said laws locally.
- C. Impoundment term. The impoundment period for animals held pursuant to this section shall be seventy-two (72) hours, excluding Sundays and legal holidays.
- D. Compliance with rabies law. It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.
- E. Provisions supplementary to state law. It is the purpose of this section to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control in addition to the criminal penalties provided by the state statutes.
- F. Animals bitten by rabid animal.
 - (1) If the Animal Control Director determines that an animal that is not vaccinated against rabies has been exposed to rabies, the animal so exposed shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six (6) months at the owner's or keeper's expense.
 - (2) If the Animal Control Director determines that an animal with a current rabies vaccination has been exposed to rabies, the animal so exposed shall be re-vaccinated and returned to the owner or keeper who shall pay for the rabies vaccination.
- G. Unlawful to kill or release animal under observation. It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal under observation for biting a

human, or to remove such animal from the county without written permission from the County Health Director, provided that a licensed veterinarian or the County Health Director or other person duly authorized by the County Health Director, may authorize any animal to be killed for rabies diagnosis.

- H. Unlawful to fail to surrender animal. It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this section, when demand is made therefore by the County Health Director or the Animal Control Director.
- I. Animals subject to impoundment.
 - (1) Any animal which appears to be lost, stray, unwanted, not wearing a currently valid tax tag or a currently valid rabies vaccination tag as required by state law or this Article, or not under restraint in violation of this section, may be seized, impounded and confined in a humane manner in the animal shelter.
 - (2) Any dog or cat that has bitten or scratched a human must be quarantined for ten days, either at the home of the animal's owner or keeper, if an Animal Control Officer determines that the public health and safety shall be maintained by such quarantine, or otherwise in a veterinary hospital at such owner's or keeper's expense. If such dog or cat is quarantined at its owner's or keeper's home and escapes from its owner's or keeper's property, any Animal Control Officer shall seize such dog or cat and impound it at the animal shelter for ten days; and such owner or keeper shall be subject to a civil penalty.
- J. Owner liable. Impoundment of such animal shall not relieve the owner/keeper thereof from any penalty which may be imposed for violation of this Article.

Sec. 3-41. Killing or removing rabid animal prohibited.

- A. No person shall fail or refuse to surrender any animal for quarantine or destruction, or the carcass of an animal exposed to rabies, when demand is made by an Animal Control Officer or law enforcement officer. Such refusal shall be a violation of this Article.
- B. The County Health Director shall direct the disposition of any animal found to be infected with rabies.

Sec. 3-42. Reports of bite cases; report by veterinarian.

- A. Every physician, veterinarian or health care provider shall report to the Animal Control Director the names and addresses of persons treated for bites and scratches inflicted by animals that break the skin, together with such other information as will be helpful in rabies control.
- B. Every licensed veterinarian shall report to the Animal Control Director his diagnosis of any animal observed by him to be a suspect rabid animal.

Sec. 3-43. Records.

The Animal Control Director shall keep or cause to be kept:

- (a) an accurate and detailed record of the licensing, impounding and disposition of all live animals, fowl and domestic birds coming into his custody and any dead dogs or cats picked up that possess rabies tags or county license; and

- (b) an accurate and detailed record of all bite cases reported to him, with a complete report of the investigation or disposition of each case.

Sec. 3-44. Exemptions from article. Repealed.

Sec. 3-45. Interference.

No person shall interfere with, hinder, delay or obstruct any Animal Control Officer or authorized representative of the county in the performance of any duty under this Article or seek to release any animal in the custody of the Animal Control Department or its shelter impounded pursuant to this Article, except as provided by law.

Sec. 3-46 through Sec. 3-49. Reserved.

ARTICLE V. LICENSING OF DOGS AND CATS.

Sec. 3-50. Rabies vaccinations and licenses for dogs and cats.

- A. Every person who is responsible for any puppy or kitten shall have such puppy or kitten vaccinated against rabies and licensed as provided in this Article on or before the puppy or kitten reaches four months of age, but no earlier than three months of age.
- B. Every dog and cat shall be vaccinated as required by the state and the county. No dog or cat shall be exempted from this section due to advanced age.
- C. Veterinary hospitals may use their own computer certificates as approved by the Animal Control Director. Veterinary hospitals may use their own rabies tag number for the county tag when issuing a county license and rabies vaccination certificate
- D. The Board of Commissioners shall establish the amount of the annual license fee which shall be the preset fee for each combined set comprising a vaccination-license certificate and a tag. This fee shall be in addition to the amount the veterinarian may charge for their supplies and services in vaccinating a dog or cat.
- E. No veterinarian practicing in the county shall vaccinate a dog or cat without complying with the requirements of this Article.
- F. Each veterinarian shall forward the fee to the Animal Control Director for each set of certificates and tags used for each month's vaccinations by the tenth day of the following month.
- G. When vaccinating any dog or cat for rabies, a veterinarian shall completely fill out the vaccination certificate with the required information. The veterinarian shall provide one copy to the person responsible for the dog or cat and who is presenting the dog or cat for vaccination-licensing and present another copy to the Animal Control Director by the tenth day of the following month. The remaining copy of the certificate shall be retained by the veterinarian performing the vaccination.
- H. The copy of the certificate given to a person responsible for the dog or cat shall be retained by that person and be available for inspection by any Animal Control Officer or any law enforcement officer.

- I. At the time of vaccination of any dog or cat, the veterinarian shall deliver the tag to the person responsible for the dog or cat. It is the responsibility of every person responsible for a dog or cat to attach the tag to the collar or harness of the vaccinated dog or cat and determine that such collar or harness is worn by that dog or cat at all times when the dog or cat is outside the residence of a person responsible for the dog or cat. Any dog or cat found without a tag may be deemed to be not vaccinated under this chapter.
- J. A veterinarian shall be paid the fee for each certificate and tag by the person responsible for the dog or cat being vaccinated and licensed, and the administrative cost portion of the payment shall be retained by the veterinarian in addition to the veterinarian's fee for vaccinating the animal.
- K. The first vaccination of a dog or cat shall be valid for one year from the date of vaccination. The second vaccination may be valid for three years from the date of the second vaccination.
- L. Dog or cat county licenses shall be valid for one year or three years from the date of the vaccination. County licenses shall be renewed during the same month as the rabies vaccination annually or every three [3] years. The Animal Control Director or his designee shall mail out a license renewal notice to the owner of each licensed dog and cat one month before their dog or cat license expires.
- M. It shall be the responsibility of the person responsible for the dog or cat to have the dog or cat vaccinated-licensed before or at the vaccination expiration date..
- N. A dog or cat brought into the county which has been vaccinated in accordance with the requirements of the state pursuant to G.S. 130A-193, shall be registered in the county within 30 days of initial entry into the county. All other dogs and cats brought into the county shall be vaccinated and licensed immediately. This licensing shall be accomplished in either of the following ways:
- (1) A person responsible for the dog or cat may have the animal vaccinated under the procedure previously described in this section.
 - (2) A person responsible for the dog or cat may present a valid vaccination certificate from a veterinarian licensed by a state of the United States to a veterinarian which licenses dogs and cats for the county or the Animal Control Director or his designee for the purpose of obtaining a valid County license. Upon presentation of a vaccination certificate, the person responsible for the dog or cat shall be issued a tag and license certificate to expire no later than the period the rabies vaccination is effective, upon payment of the license fee.
- O. The Animal Control Director shall provide at least an annual rabies clinic for the purpose of obtaining compliance with this Article and the state law requiring an annual rabies clinic. Rabies vaccination fees at this clinic shall be established by the county commissioners and shall include an administrative charge. County dog and cat licenses shall be made available at the rabies clinic.
- P. Any Animal Control Officer or law enforcement officer who discovers that a person responsible for a dog or cat does not have valid proof of rabies vaccination shall issue a citation. The person who owns, redeems or adopts a dog or cat shall vaccinate such dog or cat within 72 hours. If the rabies vaccination is administered within the 72 hours, and the certificate presented to Animal Control the citation may be voided. Those persons who fail to vaccinate their dog or cat within the 72 hours shall be issued another citation. It is the owner's responsibility to notify animal control that the rabies vaccination has been administered..

- Q. An Animal Control Officer who discovers that a person responsible for a dog or cat does not have valid proof of a current county pet license shall issue that person a citation for failure to purchase a county pet license and cause the person who owns, redeems or adopts a dog or cat to purchase such dog or cat a county pet license within 72 hours. Individuals who fail to purchase the county pet license within 72 hours shall be issued another citation for failure to purchase the required license. It is the owner's responsibility to submit to the Director of Animal Control proof of compliance with the licensing requirements of this Article. No county pet license shall be issued without proof of a current rabies vaccination.
- R. In addition to all other penalties prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this chapter if the dog or cat is found off the owner's property not wearing a currently valid dog or cat vaccination-license tag.
- S. It shall be unlawful for any person to use for any dog or cat a vaccination-license tag issued to any other dog or cat.

Sec. 3-51. Applicability; exemptions.

- A. County residents may obtain a permanent license at no cost for a bona fide seeing-eye or aid dog by making application to the Animal Control Department
- B. During the calendar year 2011, the dog and cat license provisions of this Article shall not apply to any dog or cat which the owner has listed with the Cumberland County Tax Office and for which a county privilege tax has been paid. The dog and cat license provisions of this Article shall apply to all dogs and cats subject to this Chapter in calendar year 2012 and thereafter unless exempted by this Article.

Sec. 3-52. Use of revenues collected from license fees.

The revenues collected for the licensing or adoption of dogs and cats shall be specifically expended for physical improvements to the animal shelter or the equipment of the Animal Control Department, for the cost of administration and enforcement of this Chapter, and for costs associated with public education programs and activities.

Sec. 3-53. Transfer of cats and dogs.

When ownership of a dog or cat is transferred within the county's jurisdiction, the new owner will have thirty days to obtain a new privilege license for the animal.

Sec. 3-54 through 3-59. Reserved.

ARTICLE VI. INJURED ANIMAL STABILIZATION FUND

Sec. 3-60. Control of injured animals; stabilization fund.

- A. Any Animal Control Officer or law enforcement officer is authorized to take possession of any seriously injured dog, cat, wildlife, livestock, bird or other animal which has suffered a painful and potentially mortal injury and which is found in any location open or accessible to the public,

any public or private vehicular right of way, or apparently off the property of its owner. Any such animal which does not have a current rabies tag or identification tag shall be conclusively presumed abandoned for purposes of this Article.

- B. Any Animal Control Officer or law enforcement officer finding any such animal shall make reasonable efforts to locate the owner of any such animal. If the owner is promptly located, the owner shall immediately seek veterinary care of the animal or shall authorize such officer to humanely euthanize such animal. If the owner cannot be promptly located or contacted, the Animal Control Officer or law enforcement officer is authorized, in his or her discretion, to (i) humanely euthanize such animal in an emergency situation where safe, humane transport of the animal is not possible, or (ii) promptly transport such animal to a veterinarian participating in the Injured Animal Stabilization Fund for stabilization of such animal's injuries. Every owner of any animal so found shall conclusively be presumed to have irrevocably appointed any such officer, or veterinarian participating in the Injured Animal Stabilization Fund, his or her authorized agent for any purposes under this Article. Every such owner also shall be deemed to have released any such officer, or veterinarian participating in the Injured Animal Stabilization Fund, from any cause of action or claim arising out of or related to any action such officer or veterinarian may take under this Article, except for actions which constitute gross negligence.
- C. Each Animal Control Officer or law enforcement officer acting under this Article shall within a reasonable time report to the Animal Control Department the nature and extent of the injuries of each such animal and the disposition thereof. The Animal Control Department shall maintain a record of the nature and extent of each such animal's injuries and of the disposition thereof.
- D. There is hereby established the Cumberland County Injured Animal Stabilization Fund, to which contributions, grants, donations, or restitution may be made for the purpose of reimbursing veterinarians agreeing to participate with the Fund in stabilizing the injuries of injured animals transported to them for such stabilization under this Article. The Director may solicit or raise funds for such Fund. The Fund shall be administered by a committee which shall include the Cumberland County Finance Officer or his or her designee and a veterinarian designated by the Cumberland County Animal Control Board. Funds shall be disbursed from the Fund by the Finance Officer under guidelines established by the committee and the Cumberland County Veterinarians Association.
- E. Any Animal Control Officer or law enforcement officer, or any veterinarian to which an injured animal may be transported under this Article for stabilization of injuries, shall be deemed to be an authorized agent of and acting on behalf of Cumberland County and its Animal Control Department pursuant to the authority of this Article. Any such officer or veterinarian acting pursuant to this Article shall be entitled to all the defenses, immunities and rights afforded by law or available to Cumberland County and its officers, employees or agents.
- F. If any owner of an animal transported under this section to a veterinarian participating in the Injured Animal Stabilization Fund shall subsequently be identified by the Animal Control Department, he or she shall make restitution to such Fund of the amount disbursed by it to such veterinarian.

Sec. 3-61 through Sec. 3-69. Reserved.

ARTICLE VII. MISCELLANEOUS

Sec. 3-70. Keeping chickens or rabbits - Sanitation requirements.

It shall be unlawful to keep, house or pen chickens or rabbits on premises which fail to meet sanitary standards approved by the Cumberland County Board of Health.

Sec. 3-71. Stables to be kept clean.

Every stable or other place where cattle, horses or animals are kept shall be maintained at all times in a clean and healthful condition.

Sec. 3-72. Grazing animals.

It shall be unlawful for any owner or keeper to stake or graze any cow, horse or other animal in any park, cemetery or other public place or near any public sidewalk. This section shall not apply to horses used by any law enforcement agency for mounted patrol.

Sec. 3-73. Disposition of dead animals.

The owner of any animal dying from any cause within the jurisdiction of the county shall cause the same to promptly be buried in a sanitary manner within 24 hours after such owner has knowledge of such death.

Sec. 3-74 Selling live animals in public rights of way and other public property prohibited.

It is unlawful for anyone to sell, auction, trade, barter, and display for commercial purposes or give away any live animal within the right of way of any public highway, public vehicular area, public sidewalk, public property or street within Cumberland County. The Animal Control Department may immediately take custody of and impound any live animals found being sold in violation of this section. This section shall not apply to any animal welfare organization or humane society qualified under Section 501(c)(3) of the Internal Revenue Code acting pursuant to a permit issued by the Animal Control Director, which permit may be conditioned on reasonable conditions to assure the health, welfare and safety of the animals being sold, auctioned, traded, bartered, displayed or given away.

Sec. 3-75 through Sec. 3-79. Reserved.

ARTICLE VII. ENFORCEMENT

Sec. 3-80. Enforcement, generally.

- A. The primary responsibility for the enforcement of this Chapter shall be vested in the Animal Control Department.
- B. Any person authorized to enforce this Chapter may do so by issuing a notice of violation or civil penalty citation, or by applying to the General Court of Justice for a temporary restraining order, a preliminary injunction, a permanent injunction or an order to abate a nuisance, as may be appropriate in the circumstances.

- C. Upon information made known to or complaint lodged with the Animal Control Department that any owner, possessor, or custodian of any dog or animal is in violation of this chapter, an Animal Control Officer may issue a notice of violation (citation) requiring the owner, possessor or custodian of the dog or animal to pay the stated civil penalty and abate the nuisance specified.
- D. If the owner, possessor or custodian of any dog or animal is not known and the dog or animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises, or another's property without that property owner's permission, in violation of this Chapter, the dog or animal shall be impounded in the animal shelter.
- E. Any decision of the Animal Control Director or his designee to seize or impound any animal, other than a decision made pursuant to the provisions of Article III, may be appealed to the Animal Control Board for review and final decision upon the owner or keeper of such seized or impounded animal giving written notice of appeal within three business days of receiving notice of the Director's decision. The Animal Control Board shall afford the opportunity for a hearing to any person giving notice of appeal and shall conduct the hearing for the purpose of either affirming, reversing, or modifying the decision of the Director.

Sec. 3-81. Penalties for violations.

- A. Any violation of this Chapter shall subject the offender to a civil penalty to be recovered by the Animal Control Department in a civil action in the nature of a debt, to include the cost of abating a public nuisance. Any costs of abatement and civil penalties shall be paid within seven days of issuance of a notice of violation. Each day's continuing violation shall be a separate and distinct offense.
- B. A notice of violation shall specify the nature of the violation and the sections of this Chapter violated, and further notify the offender that the civil penalty specified therein shall be paid to the Animal Control Director at the animal shelter within seven days.
- C. Unless otherwise provided in this chapter, the civil penalty for a violation of this Chapter, shall be \$100 for a first violation or for a violation more than 12 months after a previous violation. For subsequent violations within 12 months of a previous violation, the penalty shall \$200 for a second violation, and \$300 for a third or subsequent violation within a 12-month period of the first violation.
- D. In addition to the civil penalties prescribed in this section, any violation of this Chapter, also designated as Chapter 3 of the Cumberland County Code, shall also constitute a Class 3 misdemeanor punishable by a fine of \$100 or less and imprisonment of not more than 20 days.

Sec. 3-82. Severability.

- A. If any section, sentence, clause or phase of this Chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.
- B. The Board of Commissioners intends, and it hereby ordains, that the provisions of this ordinance shall become and be made part of the Code of Ordinances of Cumberland County, North Carolina, and the sections of this ordinance may be renumbered to accomplish such intention.
- C. This ordinance shall become effective upon final adoption as by law provided.

Ordinance adopted at the regular meeting of the Board of Commissioners held
_____, 2011.

DRAFT

CITY COUNCIL ACTION MEMO

TO: Mayor and Members of City Council
FROM: Tom Bergamine, Chief of Police
DATE: November 7, 2011
RE: **Police - Teen Crime**

THE QUESTION:

Powerpoint presentation to discuss Teen Crime

RELATIONSHIP TO STRATEGIC PLAN:

- Growing City, Liveable Neighborhoods - A Great Place to Live
- More Attractive City - Clean & Beautiful
- Greater Community Unity - Pride in Fayetteville
- Revitalized Downtown - a Community Focal Point

BACKGROUND:

On November 1, 2010, Chief Bergamine was asked to brief City Council regarding a Youth Protection Ordinance (Curfew). During Chief's briefing to update the City Council regarding new initiatives for the Community Wellness Plan on September 6, 2011, this issue was raised again.

ISSUES:

Update to City Council on Teen Crime in the City of Fayetteville. As the Police Department continues to enhance new initiatives to the Community Wellness Plan, this analysis will provide an understanding of strategies which need to be developed to curtail teen crime.

BUDGET IMPACT:

None at this time.

OPTIONS:

Development of strategies.

RECOMMENDED ACTION:

Input, suggestions, direction.

CITY COUNCIL ACTION MEMO

TO: Mayor & Members of City Council
FROM: Doug Hewett, Assistant City Manager
DATE: November 7, 2011
RE: **RAMP - Rental Action Management Program**

THE QUESTION:

Does the following update meet City Council's interest for the development of a rental management program to address problem residential rental properties that is compliant with revised State Law?

RELATIONSHIP TO STRATEGIC PLAN:

Supports city goal #2: Growing City, Livable Neighborhoods – A Great Place to Live, and this issue was a Target for Action on last fiscal year's City strategic plan.

BACKGROUND:

On April 26, 2011, the City Council adopted a Probationary Rental Occupancy Permit (PROP) program. That program was designed to allow the City to more closely monitor and regulate rental properties that were the site of repeated or severe code violations or that were the site of certain criminal acts. The program was to be implemented July 1, 2011.

On June 18, 2011, Senate Bill 683 was ratified by the Legislature. The purpose of this Bill was to limit the level of local regulation of rental properties as well as limit the use of periodic inspections. Specifically, it prohibits cities from enforcing an ordinance that requires permitting of rental properties unless the property is the site of more than three violations in a 12-month period or is identified as being in the top 10 percent of properties with crime or disorder problems as set forth in a local ordinance. The language regarding the top 10 percent of properties with crime or disorder problems is based on a program currently utilized in Charlotte.

This Bill had a direct impact on the functionality and substance of the City's PROP program as outlined by staff on August 1, 2011. Given the substantial changes needed to make the City's PROP ordinance compliant with NC Law, staff recommended, and City Council approved rescission/repeal of the PROP ordinance on August 8, 2011. City Council also directed staff to revise the PROP program, consistent with state law, and bring back program alternatives as soon as possible.

Staff provided an update on October 3 with a draft ordinance for PROP II, now titled RAMP (Rental Action Management Plan). In developing the draft ordinance and program overview, staff has met several times with counterparts in Charlotte regarding their program to determine how we might be able to replicate it in Fayetteville. Additionally, staff has conducted 5 stakeholder meetings to explain RAMP and solicit feedback.

ISSUES:

As discussed at the October 3 briefing to City Council, there are two avenues by which properties can gain entry into RAMP:

1. Code Violations - 3+ in a 12-month period; and/or
2. Crime and Social Disorder in the top 10% in a 6-month period.

Tracking of code violations is a relatively straightforward process. From October 2010 through October 2011, there were more than 500 residential properties with 3+ code violations. Of that number, staff estimates that half were owner occupied. The remaining properties that were offered for rent could be subject to RAMP, if enacted. Issues surrounding how to track code violations at condominium complexes with rental units and mobile home parks may present some challenges,

but tracking 3+ violations is again relatively straightforward.

Additionally, once a property is in RAMP for code violations, the goal is to ensure there are no additional code violations within a 12-month period. If there are no additional violations, then the property can be removed from RAMP.

As it relates to tracking the top 10% of crime and social disorder, tracking is more complicated. To determine the percentiles for crime and social disorder (csd), we must first identify csd violations for which we believe the property owner can help influence - draft list attached. The list of csd occurrences must be assigned a criteria weight to be measured uniformly against all csd occurrences that happen in a 6-month period for similar rental properties in the City by the 4 housing categories established in the ordinance - draft ordinance attached.

Once in RAMP for csd, the goal is to ensure that there are no additional csd occurrences within 6-months, or at a minimum that the csd rating for the property falls below the top 10% for similar properties in the city. If there are no additional violations, then the property can be removed from RAMP.

To achieve the reduction in the csd rating for the property, the property owner would enter into a remedial action plan agreement with the City that would specify actions the owner will complete during the evaluation period. The draft ordinance provides avenues for the owner to demonstrate good faith efforts and continue renting the property, even if the csd rating doesn't appreciably reduce.

Despite the latitude the ordinance provides to owners, many of the rental property owners and property managers that have reviewed the ordinance have reservations about RAMP. While many were opposed to the program there main reservations are centered on the csd rating than on the code violations components.

From an operational standpoint, staff is still refining the program design, resource needs and fee schedule recommendations. Given those issues, staff anticipates having the ordinance and program design ready for City Council consideration at the December 12, 2011 meeting. As such, staff is recommending City Council set a public hearing for that night to hear from stakeholders.

BUDGET IMPACT:

City Council approved approximately \$132,500 in the FY 2012 budget to fund our earlier version of PROP. Given the uncertainty of the program and the rescission/repeal of the PROP ordinance, staff has delayed expensing those funds or hiring the budgeted 2.5 staff positions (1 full-time housing inspector, 1 paralegal/crime analyst, and .5 office assistant.)

Currently staff is unsure what resources will be needed to operate RAMP, as we are still working on program design issues. However, the FY 2012 funds are still available pending action by City Council.

OPTIONS:

As this is an update, no action is required. However, staff recommends City Council call for a public hearing on December 12, 2011 to solicit feedback from stakeholders..

RECOMMENDED ACTION:

As this is an update, no action is required. However, staff recommends City Council call for a public hearing on December 12, 2011 to solicit feedback from stakeholders..

ATTACHMENTS:

RAMP Ordinance
Ramp Code Violations
crime points

Please note the following is not the entire chapter. A new article V is being created as follows.

Chapter 14

HOUSING, DWELLINGS AND BUILDINGS

ORDINANCE NUMBER: _____

AMENDING CHAPTER 14

WHEREAS, the City of Fayetteville has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, G.S. 160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of the public, and the peace and dignity of the city; and

WHEREAS, there are residential rental properties in the City of Fayetteville that have become a haven for various criminal or disruptive activities that cause disorder in our community; and

WHEREAS, the City Council desires to minimize and control the adverse effects caused by illegal activities occurring on and in these properties and thereby protect the health, safety, and welfare of the citizens, preserve the quality of life and property values and the character of neighborhoods and businesses, and deter the spread of urban blight; and

WHEREAS, the City Council recognizes that it is necessary for the City to apply its limited police and other municipal resources in accordance with the needs of the community at large, and to adjust the application of those resources as necessary to address activity that is injurious to the health, safety and welfare of the public; and

WHEREAS, the City Council recognizes that deterring crime in residential rental properties is a dynamic partnership between police, property owners, property managers, residents, and neighbors, each with responsibilities in cooperation with the other; and

WHEREAS, the City Council desires to implement a registration requirement for those residential rental property owners whose rental property has an unacceptable level of disorder activity occurring on or in the property; and

WHEREAS, there is a significant and demonstrative need to implement a program designed to assist residential rental property owners and managers who have experienced excessive levels of criminal activity and disorder; and

WHEREAS, the City Council desires to enact a remedial residential rental action program for residential rental property owners in order to implement recommended measures to curb excessive levels of criminal activity and disorder at rental properties; and

WHEREAS, the City Council, finds that a residential rental property owner's failure or refusal to successfully complete the remedial action program is injurious to the public's health, safety and welfare.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Chapter 14 "Housing, Buildings and Dwellings" of the Fayetteville City Code is amended by creating Article V entitled "Residential Rental Remedial Action Program", to read as follows:

"ARTICLE XII. Residential Rental Remedial Action Program.

Section 14-63. Purpose.

The purpose of this article is to establish a requirement that Owners of Residential Rental Property whose property is within the Disorder Risk Threshold as established by this ordinance or in repeated violation of the Fayetteville City Code as defined and established by this ordinance must register with the City sufficient identification information so that the City may expeditiously identify and contact the Owner when excessive levels of disorder activity or code violations have occurred on or in the property. In addition, the City desires to establish a method to hold Owners of Residential Rental Property accountable for failing to use effective methods to reduce Disorder Activity and code violations on their property. It is not the intent of this article to determine the rights and liabilities of persons under agreements to which the City is not a party. This article shall not be construed to alter the terms of any lease or other agreement between a landlord and a tenant or others relating to property that is the subject of this Article; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this article. Additionally, a violation of this article shall not in and of itself create a negligence per se standard or otherwise expand existing liability in tort for either a landlord or a tenant.

Section 14-64. Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

Development Services Official: A person designated by the Development Services Director of the City of Fayetteville who is primarily responsible for the administration of this Article.

Disorder Activity: Activity occurring on or in a Residential Rental Property categorized as either reported violent crimes as listed in this ordinance entitled “Appendix A-Violent Crimes”, reported property crimes as listed in this ordinance entitled “Appendix B – Property Crimes”, and certain types of disorder-related, person or officer-initiated requests for police service only as listed in the appendix of this ordinance entitled “Appendix C – Disorder Activity.” A domestic violence call for service is not a Disorder Activity.

Disorder Activity Count: A number assigned to a Residential Rental Property that represents the amount of Disorder Activity occurring within a specified time period in or on the Property. For purposes of determining a Disorder Activity Count, the number of violent crimes is multiplied by 1, the number of property crimes is multiplied by 0.25, and the number of disorder calls for service is multiplied by 0.10.

Disorder Risk Threshold: For each Residential Rental Property Category, the Disorder Activity Count for the Residential Rental Property that is at the 90th percentile of Residential Rental Properties within the Residential Rental Property Category.

In Need of Remedial Action: (INRA): A designation by the Police Official that a Residential Rental Property has been identified for enforcement action under this ordinance.

Manager: The person, persons or legal entity appointed or hired by the Owner to be responsible for the daily operation of the Residential Rental Property.

Owner: The person, persons or legal entity that holds legal title to a Residential Rental Property.

Police Official: A person designated by the Chief of Police who is primarily responsible for the administration of this Article.

Registered Agent: The person identified by the Owner of the Residential Rental Property in the registration filed pursuant to this Article who is authorized to receive legal process and/or notice required or provided for in this Article.

Remedial Action Plan: A written plan agreed upon and signed by both the Police Official and Owner whereby the Owner agrees to implement remedial measures on a Residential Rental Property whose Disorder Activity Count exceeds the Disorder Risk Threshold for its Residential Rental Property Category.

Remedial Measures: Mandatory and voluntary measures as stated within the Remedial Action Plan Manual, a copy of which is on file at the City Clerk's Office.

Residential Rental Property: Property that contains a single-family rental dwelling unit or multi-family rental dwelling units for use by residential tenants including but not limited to the following: mobile homes, mobile home spaces, townhomes, and condominium unit(s).

Residential Rental Property Category: Residential Rental Properties will be categorized by the number of residential units contained in the property as follows:

- Category 1 – 1 unit or single family home
- Category 2 – 2 to 10 units
- Category 3 – 11 to 100 units
- Category 4 – 100 units or more

Residential Rental Property Review Board: The Board created pursuant to this Article.

Verified Violation. A violation of the Fayetteville City Code of Ordinances as determined by the Development Services Official.

Section 14-65. Registration of Residential Rental Property Due to Verified Violations.

(a) Each Owner of Residential Rental Property that has been found with three (3) or more verified violations in the previous twelve (12) month period, whether those violations have been resolved by corrective action or not, shall register that property by providing the following information to the Development Services Official:

- (1) The address(es) for the Residential Rental Property which shall include the street name(s), number(s) and zip code;

- (2) The name(s), business or personal address, telephone number, and email address of the Owner;
 - a. If the property is owned by multiple natural persons, then the required information shall be that of one person who has legal authority to act on behalf of the other Owners.
 - b. If the property is owned by a corporation, whether foreign or domestic, then the required information shall be that of a Registered Agent and of an officer who has authority to act on behalf of the corporation.
 - c. If the property is owned by a partnership, then the required information shall be that of the managing partner and one alternate who have legal authority to act on behalf of the partnership.
 - d. If the property is owned by an unincorporated association or any other legal entity not mentioned above, then the required information shall be that of a person who has legal authority to act on behalf of that association or entity.
- (3) The number of units located on the residential property.

(b) The address(s) required in subsection (a) (2) shall not be a public or private post office box or other similar address.

(c) An Owner that is required to register under this ordinance who sells the property shall notify the Development Services Official of all purchaser information within thirty (30) days from the date of change of ownership. Purchaser information shall include the name, address, phone number and e-mail address for the purchaser.

(d) An Owner that is required to register under this ordinance shall post proof of registration as provided by the City in the business office of the property or in a common area or other conspicuous place accessible at all times to the tenant(s).

(e) Each residential rental property parcel shall be registered separately.

(f) The Owner of Residential Rental Property that is the site of three (3) verified violations in the previous twelve (12) month period shall be sent a

notice by certified mail to the name and address listed with the Cumberland County's Office of Tax Assessor.

- (g) The notice shall include the following information:
 - (1) A description of the verified violations of the Fayetteville City Code that have occurred at the property in the past twelve (12) months as well as the dates of said violations; and
 - (2) The amount of the registration fee.

Section 14-66. Grounds for Revocation of Rental Registration as Required by Section 14-65.

- (a) Each Owner of Residential Rental Property that has been found with four (4) or more verified violations in the previous twelve (12) month period, whether those violations have been resolved by corrective action or not, shall have the rental registration for that property revoked by the Development Services Official.
- (b) Each Owner of Residential Rental Property that is required by this ordinance to register his or her property and either fails to do so or fails to pay the required registration fee shall have the rental registration revoked by the Development Services Official.

Section 14-67. Notice of Revocation.

A notice of revocation shall be sent by certified mail or delivered in person to the address listed on the rental registration.

Section 14-68. Period of Revocation.

Revocation of an Owner's rental registration shall remain in place for a period of one (1) year. If an Owner fails to register his or her property as required by this ordinance then that property shall be ineligible for registration for a period of one (1) year.

Section 14-69. Registration of Residential Rental Property Due to Disorder Activity.

- (a) Each Owner of Residential Rental Property that falls at or above the Disorder Risk Threshold for its Residential Rental Property Category shall register by providing the following information at the initial mandatory meeting:

- (1) The address(s) for the Residential Rental Property which shall include the street name(s), number(s) and zip code;
- (2) The name(s), business or personal address, telephone number, and email address of the Owner;
 - a. If the property is owned by multiple natural persons, then the required information shall be that of one person who has legal authority to act on behalf of the other Owners.
 - b. If the property is owned by a corporation, whether foreign or domestic, then the required information shall be that of a Registered Agent and of an officer who has authority to act on behalf of the corporation.
 - c. If the property is owned by a partnership, then the required information shall be that of the managing partner and one alternate who have legal authority to act on behalf of the partnership.
 - d. If the property is owned by an unincorporated association or any other legal entity not mentioned above, then the required information shall be that of a person who has legal authority to act on behalf of that association or entity.
- (3) The number of units located on the residential property.

(b) The address(s) required in subsection (a) (2) shall not be a public or private post office box or other similar address.

(c) An Owner that is required to register under this ordinance who sells the property shall notify the Police Official of all purchaser information within thirty (30) days from the date of change of ownership. Purchaser information shall include the name, address, phone number and e-mail address for the purchaser.

(d) An Owner that is required to register under this ordinance shall post proof of registration as provided by the City in the business office of the property or in a common area or other conspicuous place accessible at all times to the tenant(s).

(e) Each residential rental property parcel shall be registered separately.

Section 14-70 Disorder Risk Threshold and Disorder Activity Count.

The Police Official shall determine the Disorder Activity Count for each Residential Rental Property and the Disorder Risk Threshold for each Residential Rental Property Category on a semi-annual basis, by January 1 of each calendar year and by June 1 of each calendar. These determinations shall be made using Disorder Activity during the previous six month period .

Section 14-71. Notification of Mandatory Meeting.

(a) The Owner of Residential Rental Property that falls at or above the Disorder Risk Threshold shall be sent a notice by certified mail to the name and address listed with the Cumberland County's Office of Tax Assessor.

(b) The notice shall include the following information:

- (1) The date, time and location for the mandatory initial meeting between the Police Official and the Owner; and
- (2) The Disorder Activity Count for the Residential Rental Property; and
- (3) A statement that the Owner may provide additional evidence at the initial mandatory meeting to be considered by the Police Official; and
- (4) A detailed summary of the Disorder Activity that has occurred on or in the property.
- (5) The amount of the registration fee.

Section 14-72. Mandatory Initial Meeting.

(a) Unless otherwise agreed to by the Owner and Police Official, within thirty (30) days after notice has been provided to the Owner that a property falls at or above the Disorder Risk Threshold, a mandatory initial meeting shall be held between the owner and the Police Official. The initial meeting may be held in person or by telephone. In the event there are multiple property Owners, the Owner attending the initial meeting must have power of attorney to execute the remedial action plan on behalf of the other Owners.

(b) At the mandatory initial meeting, the Police Official and the Owner shall, at a minimum, review the following:

- (1) The data that established the Disorder Activity Count for that property; and
- (2) Any relevant evidence provided by the Owner that may establish that the property does not fall at or above the Disorder Risk Threshold.

(c) After reviewing all the evidence, any previously identified Disorder Activity that is found to either not have occurred on or in the property or does not clearly meet the definition of a Disorder Activity shall be discounted and an adjusted Disorder Activity Count shall be determined. In the event that the adjusted Disorder Activity Count for the property falls at or above the Disorder Risk Threshold, then the Owner and Police Official shall develop and sign a Remedial Action Plan and the property will be set for a six (6) month review date pursuant to section 14-73. In the event the adjusted Disorder Activity Count is below the Disorder Risk Threshold, then no further action shall be taken by the Police Official.

(d) In the event the Owner fails to attend the initial meeting without just cause, the Police Official shall review all the evidence concerning the property pursuant to Subsections (b) and (c) of this Section. Upon a finding that the adjusted Disorder Activity Count for the property is at or above the Disorder Risk Threshold, the Police Official shall refer the property to the City Attorney's Office for determination of whether a public nuisance action or any other legal or equitable remedy is warranted.

(e) The Owner of Residential Rental Property that is required to register under this ordinance shall pay a registration fee on or before the Mandatory Meeting in the amount established pursuant to the fee schedule adopted by City Council.

Section 14-73. Remedial Action Plan and Review.

(a) At the first six (6) month review, the Owner and Police Official shall review the Disorder Activity in or on the property since the date of the Remedial Action Plan and determine the Disorder Activity Count for the property during that time period. If the Disorder Activity Count is no longer at or above the Disorder Risk Threshold, then no further action will be taken and the Owner of the property will not be required to continue to pay for registration the following year unless at that time the property is again at or above the Disorder Risk Threshold. If the Disorder Activity count continues to fall at or above the Disorder Risk Threshold, then the property will be designated In Need of Remedial Action (INRA) and the Police Official and the Owner shall amend and sign the Remedial Action Plan and a second six (6) month review date will be set.

(b) At the second six (6) month review, the Owner and Police Official shall review the Disorder Activity in or on the property since the date of the amended Remedial Action Plan and determine the Disorder Activity Count for the property during that time period. If the Disorder Activity Count is no longer at or above the Disorder Risk Threshold, then no further action will be taken. If the Disorder Activity Count continues to fall at or above the Disorder Risk Threshold, then the Police Official shall revoke the rental registration for the property unless it is determined that the Owner has complied in good faith with the remedial action plans.

- (1) In determining whether the Owner has acted in good faith, the Police Official shall weigh the following factors:
 - a. Whether the Owner has regularly met with the Police Official; and
 - b. Whether the Owner has exhausted all resources reasonably available to the Owner in order to comply with the terms of the Remedial Action Plans; and
 - c. Whether the Owner has intentionally ignored a term of a Remedial Action Plan; and
 - d. Whether the Disorder Activity on the property constitutes a public nuisance.
- (2) If the Owner has been found to have acted in good faith, then the Police Official may remove the designation of INRA and continue to work with the Owner. A property that continues to fall at or above the Disorder Risk Threshold for a second year will be referred to the City Attorney's Office for determination as to whether a public nuisance action or any other legal or equitable remedy is warranted.

(d) All Remedial Action Plans will be based on the procedures and practices set forth in the Fayetteville Police Department *Remedial Action Plan Manual; A Guide to Managing Rental Properties to Prevent Crime*.

Section 14-74. Additional Grounds for Revocation of Rental Registration.

In addition to the grounds stated in Section 14-73(b), the Police Official may revoke the Owner's rental registration based on a determination that:

- (a) The Owner provided materially false or misleading information during the registration process; or
- (b) The Owner refused to meet with the Police Official and/or develop a Remedial Action Plan as required under Section 14-73 without just cause; or
- (c) The Owner failed to pay the required registration fee on or before the date of the Mandatory Initial Meeting as required under Section 14-72(e).

Section 14-75. Notice of Revocation.

A notice of revocation shall be sent by certified mail or delivered in person to the address listed on the rental registration.

Section 14-76. Period of Revocation.

Revocation of an Owner's rental registration shall remain in place for a period of one (1) year. If an Owner fails to register his or her property as required by this ordinance then that property shall be ineligible for registration for a period of one (1) year.

Section 14-77. Transition Plan and Notification of Tenants.

Upon revoking a rental registration, the Police Official or Development Services Official shall develop a transition plan for the Owner's lawful disengagement from the operation and management of the rental property. The transition plan may include a referral to the City Attorney for the evaluation of the property as a public nuisance or for any other legal or equitable remedy available under law necessary to fairly assist in the disengagement process. Upon revocation and issuance of a transition plan, the Police Official or Development Services Official shall take reasonable steps to notify the residents of the property.

Section 14-78. Residential Rental Property Review Board.

(a) A Residential Rental Property Review Board (hereinafter "Board") is hereby established, to be composed of seven members: four members to be appointed by the City Council, two members to be appointed by the mayor and one to be appointed by the City Manager. The appointing authorities shall ensure that the members of the Board are representative of the residential rental, tenant and homeowner community.

(b) One member from the Fayetteville Police Department who has obtained the rank of captain or above and one employee of the City's Development Services Department who has the authority to investigate code violations will sit on the Board as advisors only.

(c) Individuals with a felony conviction within the last ten (10) years shall not be eligible to serve on the Board. Further, conviction of or a plea of *nolo contendere* to a felony during the term of office shall automatically terminate membership on the Board, irrespective of any appeals. Board members charged with a felony during a term of office shall be automatically suspended until disposition of the charge, and a quorum shall be established from the remaining membership.

(d) Board members shall keep all information about criminal investigations confidential.

(e) The Board shall elect a chairperson and vice-chairperson from its membership.

(f) All members of the Board serve without compensation.

(g) The terms of office shall be for two (2) years with no member serving more than two consecutive full terms. The terms of one-third of the Board shall expire each year. If a vacancy occurs, the original appointing authority shall appoint a person to serve for the unexpired term of the vacant position.

(h) Five voting members shall constitute a quorum. Members are required to attend all business meetings and hearings in accordance with the attendance policies promulgated by the City Council. Vacancies resulting from a member's failure to attend the required number of meetings shall be filled as provided in this section.

(i) Members shall be subject to removal from the Board with or without cause by the appointing authority.

Section 14-79. Duties and Responsibilities of the Residential Rental Property Review Board.

The Board shall hear appeals from an Owner of Residential Rental Property whose registration has been revoked.

Section 14-80. Notice of Appeal of Revocation.

A Residential Rental Property owner may appeal a notice of revocation of rental registration to the Board. All revocation appeals to the Board must be filed in writing with the City Clerk's office within ten (10) calendar days of the date the notice of revocation is served on the Owner. The Owner shall provide a valid current address for the purpose of all notifications required to be made pursuant to this ordinance. The request must state the reason for the appeal.

Section 14-81. Hearing Procedure and Appeal of Board's Findings.

(a) The City Clerk shall forward an appeal of revocation of rental registration to the Police Official, Development Services Official and to the Chair of the Board. The Police Official or Development Services Official shall prepare a summary of the case, including all relevant data. The summary shall be provided to the Board and the Owner at least five working days before the hearing.

(b) Unless a quorum cannot be obtained or as otherwise agreed to by the Owner and Police Official or Development Services Official, the Board shall hold a hearing within thirty (30) calendar days of the date the appeal is received by the City Clerk. Should the Owner or the Police Official or Development Services Official desire a hearing date other than that set by the Board, the Owner or the Police Official or Development Services Official shall submit a written request for a change of the hearing date, stating the reason for the request. The Chair shall approve or disapprove such request, provided that such request is received by the Board at least seven (7) calendar days prior to the date of the hearing. For good cause, the Chair may continue the hearing from time to time. The hearing shall be conducted with at least five (5) voting members of the Board present.

(c) The Owner shall appear at the hearing in person and shall have the right to representation by a person of his or her choice. The North Carolina Rules of Evidence, G.S. Chapter 8C, shall not strictly apply to the hearing, but all parties shall have an opportunity to offer evidence, cross-examine witnesses, and inspect documents. Only sworn testimony shall be accepted. The Chair of the Board, as well as any Board member designated by the Chair, shall have the authority to administer the oath as set forth for witnesses in a civil matter by G.S. § 11-11. All hearings before the Board shall be *de novo* and recorded. The Board has the authority to develop rules and regulations consistent with this ordinance to facilitate the hearing process.

(d) The City shall have the burden of proof and must establish by the preponderance of the evidence that the Owner's property is In Need of Remedial Action and the owner has failed to act in good faith to comply with the Remedial Action Plan. After reviewing the evidence and hearing testimony from the witnesses, the Board shall issue findings of fact and conclusions of law and issue an order either affirming or reversing the decision of the Police Official or Development Services Official.

(e) An Owner has the right to appeal the Board's decision to the City Council by filing a notice of appeal with the City Clerk within (10) ten days after the Board issues its written decision. When feasible, the matter will be set for review by the City Council at the next regularly scheduled business meeting. The City Council shall make its decision based on the record below, and no additional evidence will be considered. A majority vote by the City Council in favor of the Board's decision is required to uphold the Board's decision to revoke the Owner's registration. An appeal to City Council will stay the proceedings until it completes its review.

(f) If the City Council upholds the Board's decision, the Owner shall have the right to seek judicial review of the Board's decision in a proceeding in the nature of certiorari instituted in the Superior Court of the county within 30 days after the City Council votes to uphold the Board's decision. Judicial review shall not automatically stay the revocation.

Section 14-82. INRA Designation Binding on Subsequent Owner.

The designation of a property as INRA and the application of the procedures set forth in this article shall be binding upon all subsequent Owners or other transferees of an ownership interest in the Rental Residential Property. However, the revocation may be stayed during the implementation of a transition plan.

Section 14-83. Enforcement, Remedies and Penalties.

(a) The remedies provided herein are not exclusive and may be exercised singly, simultaneously, or cumulatively. In addition, the remedies provided herein may be combined with any other remedies authorized by law and exercised in any order. This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.

(b) It shall be a civil violation of this ordinance for any Owner of Residential Rental Property or person or entity on behalf of that Owner to commit any of the following acts:

- (1) Lease or rent Residential Rental Property to another person or entity when the rental registration for that property has either been revoked or never obtained as required by this ordinance, except pursuant to a transition plan as set forth in Section 14-77 of this ordinance.
- (2) Lease or rent Residential Rental Property to another person or entity after the Owner has been served with notice of the

mandatory meeting and fails to attend the meeting without just cause as set forth in Section 14-72 of this ordinance.

- (3) Lease or rent Residential Rental Property to another person or entity after the Owner has been served with notice of the mandatory meeting and fails to pay the required registration fee prior to or on the date of the mandatory meeting as set forth in Section 14-72(e) of this section.

(c) Notwithstanding that the Owner's property registration has been revoked or the Owner has failed to attend the mandatory meeting as set forth in Section 14-72 of this ordinance, the owner shall not commit the following acts:

- (1) Refuse or fail to comply with any order of the City to repair a dwelling pursuant to Chapter 14 of the Fayetteville City Code, or
- (2) Terminate the utility services of any occupants or otherwise violate the rights of residential tenants under Article 2A, Article 5, or Article 6 Chapter 42 of the General Statutes.

(d) Notwithstanding that the Owner's property registration has been revoked, the Owner's compliance with its obligations in subsection (c)(1) and (2) hereinabove shall not be deemed as offenses under subsection (e) below.

(e) Failure to comply with the provisions of this section shall subject the offender to a civil penalty of fifty dollars (\$50.00) a day for the first 30 days, one hundred dollars (\$100.00) a day for the next thirty days, and five hundred dollars (\$500.00) a day for each subsequent day.

(f) A civil penalty that is assessed under this ordinance may be recovered by the City in a civil action in the nature of a debt if the owner does not pay the penalty fee within thirty (30) days after a notice of the penalty is issued by the Police Official or the Development Services Official.

Section 14-84. Adoption of Remedial Action Plan Manual.

The Remedial Action Plan Manual, a copy of which is on file in the Office of the City Clerk, is hereby adopted. The City Council hereby finds and determines the remediation strategies set out therein to be reasonable and appropriate to address the public health, safety and welfare issues addressed by this article entitled the "Remedial Action Plan Manual; a Guide to Managing

Rental Properties to Prevent Crime”. The Chief of Police or his designee is hereby authorized to amend the Remedial Action Plan Manual.

RAMP Code Violations

Chapter 6 - Animals and Fowl*

Article III - Animals and Fowl within the City Limits

Division 2. - Dogs

Sec. 6-241. - Sanitary conditions.

Chapter 14 - Housing, Dwellings and Buildings

Article II - Standards of Fitness and Responsibilities of Owners and Occupants

Sec. 14-31. - Space and use standards.

Sec. 14-32. - Light and ventilation standards.

Sec. 14-33. - Exit standards.

Sec. 14-34. - Structural standards.

Sec. 14-35. - Property maintenance.

Sec. 14-36. - Electrical standards.

Sec. 14-37. - Plumbing standards.

Sec. 14-38. - Heating standards.

Sec. 14-39. - Responsibilities of owners and occupants.

Chapter 16 - Motor Vehicles and Traffic

Article XII - Abandoned, Junked and Nuisance Vehicles

Sec. 16-354. - Abandoned vehicles unlawful; removal authorized.

Sec. 16-355. - Public nuisance vehicles unlawful; removal authorized.

Sec. 16-356. - Junked motor vehicles unlawful; removal authorized.

Chapter 22 - Solid Waste

Article I - In General

Sec. 22-16. - Illegal dumping; owners and occupants required to keep premises free from public health and safety nuisances.

**Chapter 6 – Animals and Fowl is currently being reviewed by the City Attorney's Office for possible modification.*

RAMP

Crime Social Disorder Criteria

UCR Code	Offense Description	Point Value
O410	Aggravated Assault	3
O810	Simple Assault	2
O820	Simple Non-Physical Threat Intimidation	1
O890	All Other Simple Assaults	2
1310	Buying / Receiving Stolen Property	2
1330	Possessing / Concealing Stolen Property	2
1530	Possessing / Concealing Weapons	2
1550	Using Weapons (Illegal Discharge)	3
1610	Prostitution	1
1810	Drug Violations	3
1834	Equipment / Paraphernalia - Possessing	1
1990	All Other Gambling	1
2030	Child Neglect	2
2040	Child Abuse	2
2211	Selling / Distributing Tax Paid Liquor	1
2212	Possessing / Concealing Tax Paid Liquor	1
2214	Using / Consuming Tax Paid Liquor	1
2410	Disorderly Conduct	2
2420	Disturbing the Peace	2
2430	Fighting (Affray)	2
2440	Unlawful Assembly	2
2450	Drunk and Disruptive	2
2660	Parole & Probation Violations	2
2680	City Ordinance Violations	1

CITY COUNCIL ACTION MEMO

TO: Mayor and City Council
FROM: Dale Iman, City Manager
DATE: November 7, 2011
RE: **City Council Agenda Item Request**

THE QUESTION:
See Attachment

RELATIONSHIP TO STRATEGIC PLAN:
See Attachment

BACKGROUND:
See Attachment

ISSUES:
See Attachment

BUDGET IMPACT:
Not know at this time

OPTIONS:
N/A

RECOMMENDED ACTION:
N/A

ATTACHMENTS:
Keith Bates Agenda Item Request



City Council Agenda Item Request

SEP 27 2011

RECEIVED

Date of Request: 27 SEP 2011

Name of Requester: Keith A. Bates

Agenda Item Title: Yard Waste Back Yard Pick-up

What do you want to accomplish with this item?

Clean and attractive city. Citizen services.

How does this item connect to the City's Strategic Plan?

Principle A, means 1
Principle D, means 3
Principle I, means 1,2, 4, 8, 10

Comments:

Disabled citizens that have backyard household waste and recycling pick-up need to have containerized yard debris picked up the same as HH waste and recycling. Sanitation Department will be about \$68,000 under budget from purchase of new one arm trucks.

