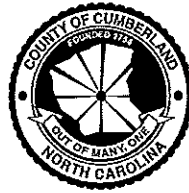


MARSHALL FAIRCLOTH
Chairman

JIMMY KEEFE
Vice Chairman

JEANNETTE M. COUNCIL
KENNETH S. EDGE
CHARLES E. EVANS
BILLY R. KING
EDWARD G. MELVIN



CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

BOARD OF COMMISSIONERS

CANDICE WHITE
Clerk to the Board

KELLIE BEAM
Deputy Clerk

MEMORANDUM

TO: Policy Committee Members (Commissioners Council, Keefe, and Evans)
FROM: Kellie Beam, Deputy Clerk to the Board
DATE: March 30, 2012
SUBJECT: Policy Committee Meeting – April 5, 2012

There will be a regular meeting of the Policy Committee on Thursday, April 5, 2012 at 10:30 AM in Room 564 of the Cumberland County Courthouse.

AGENDA

1. Approval of Minutes – March 1, 2012
 2. Consideration of Approval to Increase Animal Control Department Shelter Fees – Dr. John Lauby
 3. Consideration of Recommendation for a Smoke Free Campus for Certain County Facilities – Buck Wilson, Rodney Jenkins
 4. Consideration of Planning and Inspections Department Proposed Minimum Housing Ordinance Changes – Tom Lloyd, Cecil Combs
 5. Other Items of Business
- cc: Board of Commissioners
Administration
Legal
Communications Manager
County Department Head(s)
Sunshine List

DRAFT

CUMBERLAND COUNTY POLICY COMMITTEE
NEW COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
MARCH 1, 2012 – 10:30 A.M.
MINUTES

MEMBERS PRESENT: Commissioner Jeannette Council, Chairman
Commissioner Charles Evans
Commissioner Jimmy Keefe

OTHER COMMISSIONERS

PRESENT: Commissioner Kenneth Edge
Commissioner Marshall Faircloth

OTHERS PRESENT:

James Martin, County Manager
Amy Cannon, Deputy County Manager
James Lawson, Assistant County Manager
Rick Moorefield, County Attorney
Sally Shutt, Communications and Strategic Initiatives
Manager
Candice White, Clerk to the Board
Tom Lloyd, Planning Director
Cecil Combs, Deputy Planning Director
Kellie Beam, Deputy Clerk to the Board
Press

Commissioner Council called the meeting to order.

1. APPROVAL OF MINUTES – JANUARY 5, 2012

MOTION: Commissioner Keefe moved to approve the minutes as presented.
SECOND: Commissioner Evans
VOTE: UNANIMOUS (3-0)

2. CONSIDERATION OF THE PLANNING BOARD'S RECOMMENDATION
TO TERMINATE THE INTERLOCAL AGREEMENT WITH THE CITY OF
FAYETTEVILLE REGARDING THE MUNICIPAL INFLUENCE AREA

James Martin, County Manager, stated this item is a recommendation from the Cumberland County Joint Planning Board to terminate the Inter-local Agreement with the City of Fayetteville regarding the Municipal Influence Area (MIA). Mr. Martin introduced Tom Lloyd and Cecil Combs from the Cumberland County Planning Department to further discuss this item.

DRAFT

Mr. Lloyd referenced a map showing the MIA. Mr. Lloyd stated the Joint Planning Board feels the inter-local agreement with the City of Fayetteville regarding the MIA is outdated and no longer serves the needs of the city or the county. Mr. Lloyd further stated the Joint Planning Board recommends terminating the inter-local agreement because only three of the city's development standards currently apply and with the new annexation policy adopted by the city, all of the city's standards will apply. Mr. Lloyd stated the city no longer needs this inter-local agreement in order to enforce its standards.

Following discussion regarding the Joint Planning Board's recommendation, Mr. Lloyd suggested the Board of Commissioner's consider renegotiating the agreement with the City of Fayetteville. Mr. Lloyd stated this issue came up when the City of Fayetteville developed a new annexation policy due to the new statute on annexation. Questions and discussion followed.

Commissioner Keefe stated he does not think the county needs to look at abolishing the MIA. Commissioner Council asked if there have been any discussions between the city and county about terminating the agreement. Mr. Lloyd stated there has been some discussion between the city and county in reference to terminating the agreement. Mr. Lloyd further stated if you have an agreement based on existing policy and the policy is changed, it would be beneficial to revisit the agreement and address new policy. Questions and discussion followed.

Rick Moorefield, County Attorney, stated it would be beneficial for the city and county to discuss how to handle the MIA issues because it is a different set of rules now because the legislation has been changed. Mr. Moorefield further stated the legislation is not over. Mr. Moorefield stated it is time for the city and county to discuss details of the MIA. Commissioner Edge stated he feels the best approach is to renegotiate the agreement rather than terminate the agreement. Questions and discussion followed.

The consensus of the Policy Committee was to direct county management and county staff to meet with the city and come back to the Policy Committee within six (6) months, with an alternate approach.

3. DISCUSSION REGARDING MOBILE HOMES

Commissioner Council informed the Policy Committee that Commissioner Evans would like to table the discussion regarding mobile homes to the April 5, 2012, Policy Committee meeting. Consensus favored the request.

4. CONSIDERATION OF REVISED WRECKER AND TOW SERVICE ORDINANCE

DRAFT

Mr. Moorefield referenced the memorandum that detailed a summary of changes in each section of the proposed revised Wrecker and Tow Service Ordinance. Mr. Moorefield stated there are not any significant changes in the revised Wrecker and Tow Service ordinance. Mr. Moorefield stated the Wrecker Review Board voted unanimously to recommend the draft revisions to the Wrecker and Tow Service Ordinance, a revised fee schedule, and revisions to the Rules and Regulations adopted pursuant to the ordinance. Mr. Moorefield further stated the Wrecker Review Board has been studying the revisions since August, 2011.

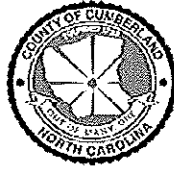
Mr. Moorefield stated he recommends to the Policy Committee that the proposed changes be adopted. Questions and discussion followed.

MOTION: Commissioner Keefe moved to approve the proposed changes as presented by the county attorney.
SECOND: Commissioner Evans
VOTE: UNANIMOUS (3-0)

5. OTHER ITEMS OF BUSINESS

There were no further items of business.

MEETING ADJOURNED AT 11:28 AM

**COUNTY of CUMBERLAND***Animal Control Department*

March 20, 2012

MEMORANDUM**TO: CUMBERLAND COUNTY POLICY COMMITTEE****FROM: DR. JOHN A. LAUBY, DIRECTOR****SUBJECT: PROPOSAL TO INCREASE SHELTER FEES****BACKGROUND**

Cumberland County Animal Control currently charges privilege licensing and shelter fees as listed below:

Privilege License = \$ 7.00 If spayed or neutered
 = \$25.00 If not altered

Shelter Fees: = \$ 7.00 per day of impoundment

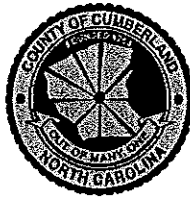
The above fees were established many years ago. I want to request an increase as follows:

Privilege License = \$ 10.00 If spayed or neutered
 = \$ 30.00 If not altered

Shelter Fees: = \$30.00 For 1st day of impoundment, \$10.00 per day thereafter. It should be noted that all animals that come into the shelter with no proof of vaccination are administered the distemper vaccine, parvo vaccine, bordatella vaccine and are de-wormed.

RECOMMENDATION/PROPOSED ACTION

Request that Policy Committee approve increase in privilege licensing and shelter fees in order to recoup some of the increase cost in maintaining shelter and providing vaccines/medications for the animals.



ITEM NO. 3

CUMBERLAND
★ **COUNTY** ★
NORTH CAROLINA

DEPARTMENT OF PUBLIC HEALTH

MEMORANDUM

TO: Policy Committee

FROM: Buck Wilson, Health Director
Rod Jenkins, Deputy Health Director

DATE: March 21, 2012

RE: Smoke Free Information

Handwritten signatures of Buck Wilson and Rod Jenkins, the Health Director and Deputy Health Director respectively, are written over the "FROM:" line.

We look forward to the meeting on April 5, 2012 at 10:30 a.m. and the opportunity to share information with each of you regarding smoke free government facilities.

Should you have any questions, please do not hesitate to contact me at 433-3707.

/tlb

Policy Committee

April 5, 2012

AGENDA

1. Recommendation from Board of Health and Board of Social Services
 - a. Memo from Board of Health
 - b. Memo from Department of Social Services
 - i. Smoking Cessation
 - ii. Enforcement
 - iii. Designated Smoking area during transition
2. Wellness
 - a. Promoting Health
 - b. Healthier Employees
 - c. Setting a standard
3. Community Transformation Grant
 - a. \$400k per year for 5 years – 10 counties
 - b. One of the Four Strategic Directions
 - i. Increase smoke free regulations of local government buildings/grounds and indoor public places.
4. NC Heart Attack Rates Down Since Passage of Smoke-Free Law - Press Release of Nov 11, 2009.
5. Center for Disease Control (CDC) efforts
6. Other examples:
 - a. Cape Fear Valley Health System – Smoke-free Campus
 - b. Durham County Ordinance
 - c. Town of Boone Ordinance
 - d. Counties reporting written regulations prohibiting smoking or tobacco use in all county buildings

1a



DEPARTMENT OF PUBLIC HEALTH

1235 Ramsey Street • Fayetteville, North Carolina 28301
(910) 433-3600 • Fax: (910) 433-3659

MEMORANDUM

TO: Policy Committee

FROM: Board of Health

DATE: March 5, 2012

RE: Recommendation for a smoke free campus

BACKGROUND

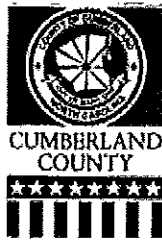
The Board of Health recommends the implementation of a smoke free campus to include the following agencies: Health Department, Old Courthouse (which houses Health Department employees), and Department of Social Services. This recommendation is based on what is required of us for Accreditation.

Should you have any questions, please do not hesitate to contact me at 433-3707.

/tlb

Celebrating Our Past...Embracing Our Future

EASTOVER - FALCON - FAYETTEVILLE - GODWIN - HOPE MILLS - LINDEN - SPRING LAKE - STEDMAN - WADE



DEPARTMENT OF SOCIAL SERVICES
P.O. Box 2429 • Fayetteville, North Carolina 28302-2429
(910) 323-1540 • Fax: (910) 677-2801

February 2, 2012

MEMORANDUM

Emailed

TO: Cumberland County Board of Health
C/O: Buck Wilson, Cumberland County Health Director
FM: Brenda Reid Jackson, DSS Director *BRJ*
RE: Recommendation for Smoke Free Campus

The regular meeting of the Cumberland County Board of Social Services was held on Wednesday, January 25, 2012. Your request for consideration of a Smoke Free Campus was one of the agenda items. The Cumberland County Board of Social Services and DSS Management Team has agreed to support your efforts to secure a Smoke Free Campus. However, we feel that the process should be gradual and that staff should have our support in assisting them with the transition. Therefore, we recommend the following:

1. Implementation target date of January 2013 or after;
2. Provide smoking cessation assistance to our employees at no cost and at reasonable hours via classes, etc. during the transition period leading up to any effective date of implementation;
3. Clarification around what identifies the campus (i.e., sidewalk to sidewalk);
4. Identify who will be responsible for policy enforcement/monitoring of customers;
5. In addition, we would specifically ask to move the current DSS smoking areas to one designated smoking area in the rear of the DSS building during the transition period. This recommended smoking area could be reasonably accessed by customers and employees.

If you have any question please feel free to contact my office at (910) 677-2035. We wish you the best in achieving compliance with accreditation standards.

BJ/at

cc: Cumberland County Social Services Board
DSS Management Team
James Lawson, Assistant County Manager
File



**North Carolina Department of Health and Human Services
Office of Public Affairs**

2001 Mail Service Center • Raleigh, North Carolina 27699-2001

Tel 919-855-4840 • Fax 919-733-7447

Beverly Eaves Perdue, Governor

Lanier M. Cansler, Secretary

For release: Immediate

Date: Nov. 9, 2011

Contact: Mark Van Sciver (919) 707-5059

N.C. Heart Attack Rates Down Since Passage of Smoke-Free Law

RALEIGH – Emergency room visits by North Carolinians experiencing heart attacks have declined by 21 percent since the January 2010 start of the state's Smoke-Free Restaurants and Bars Law. State Health Director Dr. Jeffrey Engel reported the results to the Justus-Warren Heart Disease and Stroke Prevention Task Force this morning.

"We pushed for passage of this law because we knew it would save lives," said Governor Bev Perdue, who signed the law into effect. "Our goal was to protect workers and patrons from breathing secondhand smoke and we are seeing positive results."

The N.C. Division of Public Health report cites studies from numerous communities, states and countries that show similar declines in heart attack rates after enacting tobacco-free policies as well as a 2008 Institute of Medicine report concluding smoke-free laws are a proven way to decrease heart attack rates.

According to U.S. Surgeon General's Reports from 2006 and 2010, chemicals in tobacco smoke narrow the blood vessels, raise blood pressure and heart rate, and trigger chemical changes in the blood that make cardiovascular events, such as heart attacks, more likely to happen in the hours following breathing the smoke.

"The Institute of Medicine has evaluated the effects of indoor smoking bans world-wide, and data consistently show that smoke-free laws reduce heart attacks," Dr. Engel said. "The Centers for Disease Control acknowledges that secondhand smoke exposure causes heart attacks; even a brief stay in a smoky area can trigger a heart attack in someone who is at risk, such as those with heart disease, a family history of heart disease, high blood pressure, or high cholesterol."

Engel reported that the decline in heart attacks in North Carolina in 2010 represents an estimated \$3.3 to \$4.8 million in health care cost savings. Secondhand smoke is a known trigger for other health conditions like asthma, stroke, and chest pain, and is a major risk factor for lung cancer, the state's leading cancer killer.

A team of researchers from the Division of Public Health and the University of North Carolina Department of Emergency Medicine used statewide emergency department data from the North Carolina Disease Event Tracking and Epidemiologic Collection Tool (NCDETECT) to examine rates of heart attacks before the law in 2008 and 2009 compared to rates after the law took effect in 2010. These results add to a growing number of studies documenting the health benefits of smoke-free legislation across the nation and the world.

"North Carolina's experience in seeing reduced heart attack rates after implementation of smoke-free legislation is consistent with others that have taken this important step to enhance the population's health," Dr. David Goff of the Justus Warren Heart Disease and Stroke Task Force said. "Informed by this strong evidence, we should now act to protect all workers in North Carolina, not just those working in restaurants and bars, from the hazards of second hand smoke."

The heart attack study is posted at [N.C. Report on Heart Attack Rate After Smoke-Free Law](#).

####

Free, confidential quit coaching for any tobacco user who wishes to quit is available through QuitlineNC at 1-800-QUIT-NOW (784-8669). QuitlineNC is available daily 7 a.m. until 3 a.m. Translation service is available.



Location: 101 Blair Drive • Adams Building • Raleigh, N.C. 27603

www.ncdhhs.gov

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Durham County Board of Health Rule

Regulation of Smoking in Prescribed Public Areas.

Section I. Findings and Purpose

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), tobacco use and secondhand smoke exposure are leading preventable causes of illness and premature death in North Carolina and the nation; and

WHEREAS, Healthy North Carolina 2020 Tobacco Use Objectives are 1) decrease the percentage of adults who are current smokers, 2) decrease the percentage of high school students reporting current use of any tobacco product, and 3) decrease the percentage of people exposed to secondhand smoke in the workplace in the past seven days; and

WHEREAS, the CDC advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and

WHEREAS, tobacco is a recognized carcinogen in humans, and health risks associated with the use of tobacco products include myocardial infarction, stroke, and adverse reproductive outcomes; and

WHEREAS, in 2006, a report issued by the United States Surgeon General stated that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke and that secondhand smoke has been proven to cause cancer, heart disease, and asthma attacks in both smokers and nonsmokers; and

WHEREAS, the 2006 Surgeon General's Report also determined that children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma; and that smoking by parents causes respiratory symptoms and slows lung growth in their children; and

WHEREAS, research indicates that, during active smoking, outdoor levels of secondhand smoke may be as high as indoor levels and may pose a health risk for people in close proximity (such as sitting next to someone on a park bench, or children accompanying a smoking parent or guardian); and

WHEREAS, the CDC reports that smoking and smokeless tobacco use are frequently initiated and established during adolescence, that most people who begin smoking during adolescence are addicted by the age of 20, and that adolescent smokeless tobacco users are more likely than nonusers to become adult cigarette smokers; and

WHEREAS, everyday an estimated 3,900 young people between 12 and 17 years of age try their first cigarette and an estimated 1,000 youth become daily cigarette smokers; and

WHEREAS, children model adult behavior and benefit from positive models of non-smoking behavior and positive reinforcement of healthy lifestyle messages through exposure to smoke free public areas; and

WHEREAS, environmental organizations, including Keep America Beautiful, the Ocean Conservancy, and NC Big Sweep, consistently report cigarette butts as a leading cause of litter; and

WHEREAS, small children playing in city athletic fields and playgrounds are more likely to ingest cigarette butts if they are discarded and accessible; and in 2008, American Poison Control Centers received over 7,000 reports of children under the age of 6 being poisoned by contact with tobacco products; and

WHEREAS, the Durham County Health Department provides support to employees and residents who want to quit the use of tobacco products. Employees and residents are also encouraged to talk to their health care provider about quitting; ask about appropriate pharmacotherapy available through their health insurance plan or employee's insurer and to use the free quitting support services of the North Carolina Tobacco Use Quitline at 1-800-QUIT-NOW (1-800-784-8669); and

WHEREAS, on January 2, 2010, "An Act To Prohibit Smoking In Certain Public Places And Certain Places Of Employment," North Carolina Session Law 2009-27, became effective, authorizing local governments to adopt and enforce ordinances "that are more restrictive than State law and that apply in local government buildings, on local government grounds, in local vehicles, or in public places;" and

WHEREAS, pursuant to G.S. 130A-39(a), local boards of health have the responsibility to protect and promote the public's health and to adopt rules necessary for that purpose; and

WHEREAS, the Durham County Board of Health wishes to minimize the harmful effects of tobacco use among Durham County and the City of Durham employees and eliminate secondhand smoke exposure for employees and the public in certain buildings and grounds controlled by the county and city; and

WHEREAS, the Durham County Board of Health is committed to protecting the health of children and adults on city athletic fields and playgrounds by eliminating exposure to secondhand smoke and providing an environment that decreases the likelihood of children ingesting cigarette butts; and

WHEREAS, Durham County and the City of Durham government buildings, health care facilities and health care facility grounds in Durham County, hospitals and hospital grounds in Durham County, and Durham County Schools are currently operating under smoke-free or tobacco-free policies; and this Board finds and declares that, in order to protect the public health and welfare, it is in the best interest of the citizens of Durham County to expand these smoke-free policies by adopting a rule prohibiting smoking on Durham County grounds; on the City of Durham grounds; on the City of Durham's Park System; in City or County bus stops; in the Durham Station Transportation Center and grounds; at the Durham Train Station and on all sidewalks abutting Durham County grounds, the City of Durham grounds; any Public School; and Hospital grounds;

NOW, THEREFORE, THE DURHAM COUNTY BOARD OF HEALTH
ADOPTS THE FOLLOWING RULES:

Section II. Definitions

The following definitions are applicable to this rule.

1. "Bus Stop" – A designated area, whether enclosed or unenclosed, where buses stop for passengers to board or exit a bus. This term shall include areas at bus stops and bus shelters, beginning at the bus stop sign and extending for a radius of one hundred (100) feet around the bus stop sign. This area expressly excludes any private property that might fall within the one hundred (100) foot radius of the bus stop sign.
2. "City of Durham Grounds" – An unenclosed area owned, leased, or occupied by the City of Durham.
3. "City of Durham Park System" – An enclosed or unenclosed area owned, leased, maintained or occupied by the City of Durham that is part of the City of Durham Parks System including all city greenways and trails.
4. "City or County Bus Stops" - Any bus stop that is owned, leased, maintained or occupied by the City or County of Durham.
5. "Durham County Grounds" – An unenclosed area owned, leased, or occupied by Durham County.
6. "Durham Station Transportation Center" – The buildings and unenclosed areas owned, leased or occupied by the City of Durham that are used as the hub and home of local, regional, and intercity bus service.
7. "Enclosed Area" – An area with a roof or other overhead covering of any kind and walls or side coverings of any kind, regardless of the presence of openings for ingress and egress, on all sides or on all sides but one.
8. "Hospital grounds" - Any unenclosed area, which is owned, leased, or occupied by an institution that is licensed to administer medical treatment or the primary function of which is to provide medical treatment in this State and which provides inpatient, outpatient, and emergency medical treatment.
9. "Sidewalk" - Any sidewalk that is owned, leased, maintained or occupied by the City or County of Durham and abuts Durham County grounds, the City of Durham Grounds, any public school or hospital grounds.
10. "Smoking". – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.
11. "Tobacco Use" – The use of any product containing tobacco.
12. "No Smoking Symbol" – Symbol consisting of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it.
13. "Human Services Facility and Campus" - The Durham County Human Services Building located at 414 E. Main Street, Durham North Carolina 27701 and all adjacent and affiliated buildings.

14. "Private Club" - A country club or an organization that maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the internal revenue code as defined in G.S. 105-130.2(1).

15. "Tobacco Shop" - A business establishment, the main purpose of which is the sale of tobacco, tobacco products, and accessories for such products, that receive no less than seventy-five (75%) of its total annual revenues from the sale of tobacco, tobacco products, and accessories for such products, and does not serve food or alcohol on its premises.

16. "Cigar Bar" - An establishment with a permit to sell alcoholic beverages pursuant to subdivision (1),(3),(5) or (10) of G.S. 18B-1001 that satisfies all of the following:

- a. Generates sixty percent (60%) or more of its quarterly gross revenue from the sale of alcoholic beverages and twenty-five percent (25%) or more of its quarterly gross revenue from the sale of cigars;
- b. Has a humidor on the premises; and
- c. Does not allow individuals under the age of 21 to enter the premises.

Revenue generated from other tobacco sales, including cigarette vending machines, shall not be used to determine whether an establishment satisfies the definition of cigar bar.

Section III Smoking Prohibited.

Smoking is prohibited in/on all of the following:

- (a) City of Durham Grounds;
- (b) City of Durham Parks System including playgrounds and athletic fields;
- (c) City or County Bus Stops;
- (d) Durham County Grounds;
- (e) Durham Station Transportation Center (except as specifically designated);
- (f) Sidewalks as defined above;
- (g) Hospital Grounds;
- (h) Child Care Facilities;
- (i) Enclosed Shopping Malls;
- (j) Elevators;
- (k) Polling Places;
- (l) Public Restrooms;
- (m) Public Areas of Retail Stores;
- (n) Service Lines;
- (o) Public Transportation;
- (p) Public Areas of Galleries, Libraries and Museums;

- (q) Lobbies, Hallways and other Common Areas in Apartment Buildings, Condominiums, Retirement Facilities, Nursing Homes and Other Multi-Unit Residential Facilities;
- (r) Durham Train Station (except as specifically designated);
- (s) Durham County Trails and Parks.

Section IV All Tobacco Use Prohibited.

All tobacco use is Prohibited on County of Durham Human Services Facilities and Campus.

Section V: Actions to Implement Required

The City or County shall:

(1) Educate the public about the rule and the reasons for the new rule prior to its implementation date through the news media, website, and educational media. This education shall include information on resources for quitting smoking or tobacco use, including information about the free quitting support services of the North Carolina Tobacco Use Quitline (1-800.QUIT-NOW (1-800-784-8669)).

(2) Educate the employees of city and county facilities covered under this rule about this rule, the reasons for this rule, and how employees can assist with compliance prior to its implementation date. The city and county shall also provide the city and county employees with resources for quitting smoking or tobacco use, including information about the free quitting support services of the North Carolina Tobacco Use Quitline (1-800-QUIT-NOW (1-800-784-8669)).

(3) Post Signs that meet all the requirements of Section VI in the Durham Station Transportation Center; on the City of Durham Grounds; on Durham County Grounds; on City of Durham Parks System Grounds; on City or County bus stops; and on sidewalks.

(4) Remove all ashtrays and other smoking receptacles from the Durham Station Transportation Center; the City of Durham Grounds; Durham County grounds; the City of Durham Parks System Grounds; City or County bus stops; and sidewalks.

(5) Have the person in charge of Durham County grounds; the City of Durham grounds; the City of Durham Parks System; City or County bus stops; the Durham Station Transportation Center; or sidewalks direct a person who is smoking in a prohibited area to cease and, if the person does not comply, contact the designated enforcement officer for the City and/or County of Durham.

Section VI. Signage

The signs required in Section V must:

- (a) State in English that smoking is prohibited and include the "No Smoking" symbol.
- (b) Be of sufficient size to be clearly legible to a person of normal vision.
- (c) Be posted on Durham County and the City of Durham grounds including the City of Durham Parks System in locations and at intervals reasonably calculated to inform the employees and the public of the prohibition.
- (d) Be posted on sidewalks at intervals so as to reasonably inform the public of the prohibition.
- (f) Be posted in the Durham Station Transportation Center and Train Station in locations and at intervals reasonably calculated to inform the public and employees of the prohibition.
- (g) Be posted on city or county bus stops in areas visible to the public.

Section VII Compliance and Penalties

Violations by persons smoking in prohibited areas. Following oral or written notice by any duly appointed enforcement official, or his or her designee, failure to cease smoking constitutes an infraction punishable by a fine of not more than fifty dollars (\$50.00). A person duly authorized by the Board of County Commissioners or the City Council, shall be authorized to send a civil penalty citation to the violator by certified mail or personally deliver such citation to the violator stating the nature of the violation, the amount of the penalty, and directing that the violator pay the penalty to the County or City tax collectors office within 14 days of receipt of the citation. Conviction of an infraction under this section has no consequence other than payment of a penalty, and no court costs may be assessed.

Section VIII Public Education

Durham County and the City of Durham shall engage in a continuing program to explain and clarify the purposes and requirements of these rules to citizens affected by it and to city or county employees in their compliance with it. In doing so, the County and City may rely upon materials and information provided by the Durham County Health Department.

Section IX Exceptions

The following areas shall not be subject to the restrictions of this article.

- (1) Private residences.

- (2) Private vehicles
- (3) A tobacco shop if smoke from the business does not migrate into an enclosed area where smoking is prohibited pursuant to State law.
- (4) All of the premises, facilities, and vehicles owned, operated, or leased by any tobacco products processor or manufacturer, or any tobacco leaf grower, processor, or dealer.
- (5) A designated smoking guest room in a lodging establishment. No greater than twenty percent (20%) of a lodging establishment's guest rooms may be designated smoking guest rooms.
- (6) A cigar bar if smoke from the cigar does not migrate into an enclosed area where smoking is prohibited pursuant to State law.
- (7) A private club as defined by State law.
- (8) A motion picture, television, theater, or other live production set. This exemption applies only to the actor or performer portraying the use of tobacco products during the production.
- (9) State and Federal facilities.

Section X Effective Date

These rules shall become effective upon adoption by the Durham County Board of Health and upon adoption of this as an ordinance of the Durham Board of County Commissioners.

ADOPTED by the Durham County Board of Health this ____ day of _____
2012

EFFECTIVE DATE:

SIGNED: _____.

Adopted by the Durham County Board of Commissioners as an Ordinance this
____ day of _____, 2012.

SIGNED:

Michael D. Page, Chairman
Durham County Board of Commissioners

CHAPTER 97: SMOKING

Section

- 97.01 Findings, Purpose and Authority
- 97.02 Definitions
- 97.03 Prohibition of Smoking in All Places Where Smoking Is Prohibited under North Carolina Law
- 97.04 Prohibition of Smoking in Places in Addition to Those Where Smoking Is Prohibited under North Carolina Law
- 97.05 Smoking Refuse.
- 97.99 Penalties and Enforcement.

§ 97.01 FINDINGS, PURPOSE AND AUTHORITY

(a) Findings: The Town seeks to protect the health and well-being of its employees and the general public. The Town has concluded that second hand smoke has been proven to cause cancer, heart disease, and asthma attacks in both smokers and nonsmokers. In 2006, a report issued by the United States Surgeon General concluded based upon the scientific evidence that there is no risk-free level of exposure to second hand smoke.

(b) Intent: The Town seeks to protect the health and well-being of children by banning, to the extent possible, smoking in their presence. It is further the intent of the Town to protect the health of all individuals in public places, places of employment, and working in or visiting Town buildings from the risks related to secondhand smoke. It is further the intent of the Town to protect the health of individuals driving or riding in Town-controlled passenger vehicles assigned permanently or temporarily to Town employees for official Town business.

(c) Authority: This Chapter is adopted pursuant to the authority provided in N.C. Gen. Stat. § 130A-491, et seq.

§ 97.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BAR – An establishment with a permit to sell alcoholic beverages pursuant to subdivision (1), (3), (5), or (10) of N. C. Gen. Stat. § 18B-1001.

CHILD - For purposes of this Chapter, a child shall be considered any person under the age of eighteen.

CHILD CARE FACILITY – Any nursery, day care center, preschool, or other facility engaged in the practice of providing care for children.

CIGAR BAR – An establishment with a permit to sell alcoholic beverages pursuant to subdivision (1), (3), (5), or (10) of N. C. Gen. Stat. § 18B-1001 that satisfies all of the following:

- a. Generates sixty percent (60%) or more of its quarterly gross revenue from the sale of alcoholic beverages and twenty-five percent (25%) or more of its quarterly gross revenue from the sale of cigars;
- b. Has a humidor on the premises; and
- c. Does not allow individuals under the age of 21 to enter the premises.

However, revenue generated from other tobacco sales, including cigarette vending machines, shall not be used to determine whether an establishment satisfies the definition of cigar bar.

EMPLOYEE – A person who is employed by an employer, or who contracts with an employer or third person to perform services for an employer, or who otherwise performs services for an employer with or without compensation.

EMPLOYER – An individual person, business, association, political subdivision, or other public or private entity, including a nonprofit entity, that employs or contracts for, or accepts the provision of services from one or more employees.

ENCLOSED AREA – An area with a roof or other overhead covering of any kind, and walls or side coverings of any kind, regardless of the presence of openings for ingress and egress, on all sides or on all sides but one.

GROUND – An unenclosed area owned, leased, or occupied by a local government, including the Town.

LOCAL GOVERNMENT – A local political subdivision of North Carolina, including the Town of Boone, or an authority or body created by an ordinance, joint resolution, or rules of any such entity.

LOCAL GOVERNMENT BUILDING – A building owned, leased as lessor, or the area leased as lessee and occupied by the Town of Boone or other local government.

LODGING ESTABLISHMENT – An establishment that provides lodging for pay to the public.

LOCAL VEHICLE – A vehicle owned, leased, or otherwise controlled by a local government, including the Town, and assigned permanently or temporarily by a local government to local government to an employee(s), agency, institution, or facility for official local government business, designed, used or intended for use carrying passengers.

PLACE OF EMPLOYMENT – Any enclosed area under the control of an employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias and hallways. A private residence is not a place of employment unless it is used as a child care facility or health care facility.

PRIVATE CLUB – A country club or an organization that maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest, and is either incorporated as a nonprofit corporation in accordance with Chapter 55A of the General Statutes or is exempt from federal income tax under the Internal Revenue Code as defined in N. C. Gen. Stat. § 105-130.2(1). For the purposes of this Chapter, private club includes country club.

PRIVATE RESIDENCE – A private dwelling that is not a child care facility, as defined in N. C. Gen. Stat. § 110-86(3), and not a long-term care facility, as defined in N. C. Gen. Stat. § 131E-114.3(a)(1).

PRIVATE VEHICLE – A privately owned vehicle that is not used for commercial or employment purposes.

PUBLIC PLACE – An enclosed area to which the public is invited or in which the public is permitted.

RESTAURANT – A food and lodging establishment that prepares and serves drink or food as regulated by the Commission pursuant to Part 6 of Article 8 of North Carolina General Statutes Chapter 130A.

SERVICE LINE – Any line at which one or more persons is waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

SMOKING – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

SPORTS ARENA – Gymnasiums, health spas, arenas, swimming pools, roller and ice rinks, stadiums and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

STATE GOVERNMENT – The political unit for the State of North Carolina, including

all agencies of the executive, judicial, and legislative branches of government.

STATE GOVERNMENT BUILDING – A building owned, leased as lessor, or the area leased as lessee and occupied by State government.

STATE VEHICLE – A passenger-carrying vehicle owned, leased, or otherwise controlled by the State and assigned permanently or temporarily to a State employee or State agency or institution for official State business.

TOBACCO SHOP – A business establishment, the main purpose of which is the sale of tobacco, tobacco products, and accessories for such products, that receives no less than seventy-five percent (75%) of its total annual revenues from the sale of tobacco, tobacco products, and accessories for such products, and does not serve food or alcohol on its premises.

TOWN – The Town of Boone, North Carolina, a municipal corporation.

TOWN OF BOONE VEHICLE – A vehicle owned, leased, or otherwise controlled by the Town of Boone and assigned permanently or temporarily to an employee(s) of the Town of Boone, its agencies, institutions, or facilities for official town business, designed, used or intended for use carrying passengers.

§ 97.03 PROHIBITION OF SMOKING IN ALL PLACES WHERE SMOKING IS PROHIBITED UNDER NORTH CAROLINA LAW

- (A) Smoking is prohibited in all places where smoking is prohibited under State law, including but not limited to:
- (1) State government buildings and vehicles.
 - (2) State government buildings except when used for medical or scientific research to the extent that smoking is an integral part of the research, but in such instances confined to the area where the research is being conducted.
 - (3) State vehicles.
 - (4) All enclosed areas of restaurants, lodging establishments, and bars, except:
 - (a) In a designated smoking guest room in a lodging establishment, provided that no greater than twenty percent (20%) of a lodging establishment's guest rooms may be designated smoking guest rooms;
 - (b) A cigar bar if smoke from the cigar bar does not migrate into an

enclosed area where smoking is prohibited pursuant to North Carolina Chapter 130A, provided that a cigar bar that begins operation after July 1, 2009 may only allow smoking if it is located in a freestanding structure occupied solely by the cigar bar and smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited, and otherwise complies with State law; or

- (c) A private club.

**§ 97.04 PROHIBITION OF SMOKING IN PLACES IN ADDITION TO THOSE WHERE
SMOKING IS
PROHIBITED
UNDER NORTH
CAROLINA LAW**

- (A) Exemptions. The following provisions shall not be read or interpreted to restrict or prohibit smoking in the following places:
 - (1) A private residence as defined above.
 - (2) A private vehicle.
 - (3) A tobacco shop if smoke from the business does not migrate into an enclosed area where smoking is prohibited under State law except for a tobacco shop that began operation after July 1, 2009, which is exempt only if it is located in a freestanding structure occupied solely by the tobacco shop and smoke from the shop does not migrate into an enclosed area where smoking is prohibited pursuant to State law and it otherwise complies with the reporting requirements under State law.
 - (4) All of the premises, facilities, and vehicles owned, operated, or leased by any tobacco products processor or manufacturer, or any tobacco leaf grower, processor, or dealer.
 - (5) A designated smoking guest room in a lodging establishment so long as no greater than twenty percent (20%) of the lodging establishment's guest rooms are designated smoking guest rooms.
 - (6) A cigar bar if smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to State law, except for a cigar bar that began operation after July 1, 2009, which is exempt only if it is located in a freestanding structure occupied solely by the cigar bar and

smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to State law, and it otherwise complies with the reporting requirements under State law.

- (7) A private club.
 - (8) A motion picture, television, theater, or other live production set, but this exemption applies only to an actor or performer portraying the use of tobacco products during the production.
- (B) In addition to those places where smoking is prohibited under North Carolina law, and except for those places exempted under § 97.04 (A), smoking is prohibited in the following locations:
- (1) Inside all enclosed areas of every public place. ~~except for an enclosed area of a public place in which:~~
 - ~~(a) Signs clearly establish and designate the boundaries for smoking, and~~
 - ~~(b) The public place has at least two established and designated areas for the public, including at least one in which no smoking is permitted, and~~
 - ~~(c) The no-smoking and smoking areas are equipped with separate ventilation systems so that air containing smoke is kept out of all no-smoking areas.~~
 - (2) Inside all local government and Town buildings.
 - (3) On the following grounds and locations:
 - (a) On all sidewalks in front of any Town or other local government building;
 - (b) On every Town and local government owned sidewalk within a six foot radius of any public entrance to a public place during all times when the public place is open to the public;
 - (c) Within a six foot radius of any public entrance to any Town or local government building;
 - (d) Within a six foot radius of any child who is on local government or Town grounds;

- (e) In or on every local government and Town location primarily used for or by children, even when no child is present;
 - (f) Within or on the grounds of any Town park or garden, including but not limited to the Greenway trail system, Daniel Boone Native Gardens, Strawberry Hill Arboretum, Horn in the West property, and Jimmy Smith Park;
 - (g) On the grounds of the Jones House and the downtown post office;
 - (h) At any other Town or local government place or location designated and posted as a "no smoking area;" and
 - (i) Within any area designated and posted by the owner or tenant of private property as a no-smoking area.
- (4) In any local government or Town of Boone vehicle;

§ 97.05 SMOKING REFUSE.

- (A) It shall be unlawful for anyone to deposit any portion of a cigarette, cigar, smoking device, or any refuse related to smoking on Town property, except in a receptacle designated for that purpose.

§ 97.99 PENALTIES AND ENFORCEMENT.

- (A) After an initial warning, any person continuing to smoke in violation of this Chapter shall be guilty of an infraction, and the person committing the infraction is subject to a fine of fifty dollars (\$50.00). Conviction of an infraction under this section shall have no consequence other than payment of the penalty, and a person smoking in violation of this Chapter, excluding § 97.05, shall not be assessed court costs.
- (B) The director of the Appalachian District Health Department may take the following actions and may impose the following administrative penalty on a person who manages, operates, or controls a public place or place of employment and fails to comply with the provisions of this ordinance. **However, nothing herein shall be construed to in any way limit or negate the powers conferred upon the director of the Appalachian District Health Department under State law, it being the intent of this ordinance to authorize enforcement actions by the director to the full extent permissible:**
 - (1) First violation. – Provide the person in violation with written notice of the

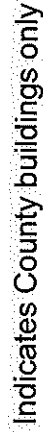
person's first violation and notification of action to be taken in the event of subsequent violations.

- (2) Second violation. – Provide the person in violation with written notice of the person's second violation and notification of administrative penalties to be imposed for subsequent violations.
- (3) Subsequent violations. – Impose on the person in violation an administrative penalty of not more than two hundred dollars (\$200.00) for the third and subsequent violations. Each day on which a violation of this chapter occurs shall be considered a separate and distinct violation.

(C) Violation of §97.05 shall be enforced as follows:

- (1) After an initial written warning, a second violation of this chapter within any twelve month rolling period by any person shall subject the offender to a civil penalty in the amount of \$50.00, and each subsequent violation within a twelve month rolling period shall subject the offender to a civil penalty for each violation of \$100.00. In addition to the civil penalties, a fourth and any subsequent violation within a twelve month rolling period shall be punishable as an infraction punishable by a fine in the amount of \$50.00. Violators shall be issued written notice of any violation. If a violator does not pay any civil penalty incurred under this paragraph within thirty days, the Town may recover such penalty in a civil action, along with court costs and attorney's fees incurred by the Town, and this paragraph may also be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

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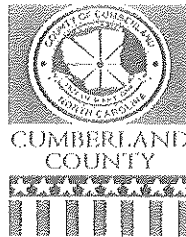
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Last updated: September 2011

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COUNTY of CUMBERLAND

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February 29, 2012

MEMORANDUM

To: Policy Committee Members (Commissioners Council, Evans, and Keefe)

Thru: Thomas Lloyd, Director Planning & Inspection

From: Cecil P. Combs, Deputy Director Planning & Inspection

PC

Re: Minimum Housing Ordinance Proposed Changes

In response to inquiries concerning Cumberland County's Minimum Housing Ordinance and its effectiveness, staff has examined the document and has suggested changes based on field observations and complaints received by tenants. These changes will hopefully enhance the living conditions of the dwelling and grounds as well as their overall appearance.

- **Sec. 4-67 Definitions:** Add definition of "garbage receptacle". Garbage shall be stored in a durable, rust resistant, non absorbent, watertight, rodent proof and easily cleanable container with a close-fitting, insect tight cover. Container must be large enough to contain one full weeks refuse.
- **Sec. 4-72 Space and Use Standards:** Add requirement for carbon monoxide detectors if a gas appliance exists in the dwelling
- **Sec. 4-75 Heating Standards:** Add that the installation of more than one portable heating appliance shall not be construed as meeting the minimum standard for the heating of an occupied dwelling
- **Sec. 4-79 Property Maintenance:** Add "Protective Treatment". All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from

the elements and decay by painting or other protective covering or treatment. peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

- **Sec. 4-79 Liability, Responsibility of Owner:** Strengthen section to include adding "should it become necessary to board the windows and/or doors, it must be done with boards fitted to the openings, screwed in place and painted a color consistent with the surrounding wall area." This provision will aid in the continued enforcement of unoccupied dwellings that are not necessarily uninhabitable but pose a threat to the surrounding community by being left unsecured by owners and thus attracting undesirables.