

**PERSON COUNTY BOARD OF COMMISSIONERS**  
**MEMBERS PRESENT**

**OCTOBER 2, 2017**  
**OTHERS PRESENT**

Tracey L. Kendrick  
Gordon Powell  
Jimmy B. Clayton  
Kyle W. Puryear  
B. Ray Jeffers

Heidi York, County Manager  
C. Ronald Aycock, County Attorney  
Brenda B. Reaves, Clerk to the Board

The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, October 2, 2017 at 7:00pm in the Commissioners' meeting room in the Person County Office Building.

Chairman Kendrick called the meeting to order. Vice Chairman Powell gave an invocation and Commissioner Puryear led the group in the Pledge of Allegiance.

**DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:**

Chairman Kendrick requested the Board to add an item to the agenda for the sale of surplus property. He also requested Board consideration in the agenda approval motion for the County to lower its flags in response to the shooting in Las Vegas being consistent with state and federal guidelines.

A **motion** was made by Commissioner Jeffers and **carried 5-0** to add an item to the agenda for the sale of surplus property and to approve the agenda as adjusted as well as for County flags to be lowered consistent with state and federal guidelines.

**RECOGNITION:**

**PROCLAMATION FOR RACE UNITY WEEK:**

Chairman Kendrick read and presented a Race Unity Week Proclamation to members of the Brothers and Sisters in Conversations Committee, present in the audience, Charles Bullock, Rachel Winstead Warren, Maxine Galloway, and Ronnie Dunevant.

On behalf of the group, Mr. Bullock gave a handout to the Clerk to the Board for distribution to the Board of Commissioners outlining the activities scheduled for Person County's Race Unity Week October 8 – 15, 2017.

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**Proclamation  
Race Unity Week**

Whereas, Person County is now in the midst of celebrating its 225th year of existence; and,

Whereas, during those 225 years, Person County has been the home of a variety of races, ethnicities, cultures and religions; and,

Whereas, the contributions of the people from each and every race, ethnicity, culture, and religion have played a significant role in making Person County a culturally rich and economically vibrant community; and,

Whereas, it is important that we recognize that the "unity" of that community is achieved through the appreciation for and celebration of our diversity; and,

Whereas, appreciation and celebration of diversity encourages understanding, acceptance, and peaceful co-existence among our citizens; and,

Whereas, it is to the benefit of all citizens of the county that we live peacefully together.

NOW, THEREFORE, the Person County Board of Commissioners hereby proclaims that the period from October 8, 2017 through October 15, 2017 shall be designated as "Race Unity Week" in Person County.

Adopted, this, the 2<sup>nd</sup> day of October, 2017.



Tracey L. Kendrick, Chairman  
Person County Board of Commissioners

Attest:

Brenda B. Reaves, NCCCC, MMC  
Clerk to the Board

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**PUBLIC HEARING:**

**TEXT AMENDMENT (TA-01-17) REQUEST BY KEVIN MOORE TO ADD DISTILLERY/BREWERY TO THE PERSON COUNTY ZONING ORDINANCE APPENDIX C - TABLE OF USES AND ALSO ADD A DEFINITION OF DISTILLERY/BREWERY TO APPENDIX B – DEFINITIONS:**

A **motion** was made by Commissioner Puryear and **carried 5-0** to open the duly advertised public hearing for a Text Amendment (TA-01-17) Request by Kevin Moore to add Distillery/Brewery to the Person County Zoning Ordinance *Appendix C - Table of Uses* and also add a definition of Distillery/Brewery to *Appendix B – Definitions*.

Planning Director, Lori Oakley stated all zoning ordinances and state statutes have been met for this public hearing. She said the applicant, Kevin Moore, came to the Planning Office to discuss opening a distillery at his current winery. Ms. Oakley noted the Zoning Ordinance as currently written does not address the proposed distillery use thus the reason for the text amendment request brought before the Board of Commissioners.

Ms. Oakley gave the group the following presentation for the Text Amendment (TA-01-17) Request by Kevin Moore to add Distillery/Brewery to the Person County Zoning Ordinance *Appendix C - Table of Uses* and also add a definition of Distillery/Brewery to *Appendix B – Definitions*:

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TA-01-17 – Request by Kevin Moore to add Distillery/Brewery to The Person County Zoning Ordinance *Appendix C - Table of Uses* and also add a definition of distillery/brewery to *Appendix B - Definitions*.

## APPLICANT'S PROPOSED TEXT

### ■ Appendix B- Definition-

Distillery: A legal establishment for the manufacture, blending, fermentation, processing and packaging of distilled alcohol spirits for distribution, retail, or wholesale, on or off premise. The establishment may have tours of the facility, tastings of the products produced on-site, and periodic events. Such facility must comply with all ABC commission laws and permits.

Brewery: A facility for the production and packaging of malt beverages for distribution, retail, wholesale, on or off premise.

### ■ Appendix C – Tables of Uses:

Distillery/Brewery =

S (Special Use) in R district

X (Permitted) in RC district

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## PLANNING STAFF ANALYSIS & RECOMMENDATION

- This text amendment request serves to add two uses that are not currently listed in the Person County Zoning Ordinance Table of Uses.
- In 2004, a similar text amendment was approved by the Board of Commissioners to allow a similar use, a winery, as a special use in the R (Residential) zoning district and permitted use in the RC (Rural Conservation) zoning district. The applicant is proposing the same regulations for the distillery/brewery use.
- Planning Staff supports TA-01-17. The proposed text amendment allows a use very similar to one that already exists in the Zoning Ordinance in the same zoning districts.

## PLANNING BOARD RECOMMENDATION

At the Planning Board meeting on Sept. 14, 2017, the board voted 4-1 to approve the requested text amendment TA-01-17 with three revisions (see attachment). The revisions consisted of:

- Under Appendix B - Definitions: revising the proposed definition of brewery to read a "legal establishment" for the production...
- Under Appendix C - Table of Uses: separating the uses Distillery/Brewery into two separate uses in the Zoning Table of Uses
- Under Appendix C - Table of Uses: Allow both distilleries and breweries as a Special Use (S) in the RC district in the Zoning Table of Uses

Board member Derrick Smith voted in opposition of the text amendment request as he supported allowing the distillery and brewery uses as a permitted use (X) in the RC district in order to be consistent with the current regulations for wineries in the county.

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## STATEMENT OF REASONABLENESS AND CONSISTENCY

- The NC General Statutes requires that when reviewing a text amendment, the board also include a statement as to whether the proposed text amendment is reasonable and consistent.
- Planning staff concludes that the proposed text amendment request is consistent with the Comprehensive Plan and future planning goals of Person County. It is reasonable and in the public interest as it will provide clear regulations for distilleries and breweries in Person County.

Ms. Oakley stated the Board could include its statement of reasonableness and consistency in its motion or by separate motion.

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Speaking in favor of the Text Amendment (TA-01-17) Request by Kevin Moore to add Distillery/Brewery to the Person County Zoning Ordinance *Appendix C - Table of Uses* and also add a definition of Distillery/Brewery to *Appendix B – Definitions* was the following:

Mr. Kevin Moore of 250 Charlie Long Road, Hurdle Mills, and the applicant requesting the Text Amendment before the Board, stated he was available for questions.

There were no individuals appearing before the Board to speak in opposition to the Text Amendment (TA-01-17) Request by Kevin Moore to add Distillery/Brewery to the Person County Zoning Ordinance *Appendix C - Table of Uses* and also add a definition of Distillery/Brewery to *Appendix B – Definitions*.

A **motion** was made by Commissioner Puryear and **carried 5-0** to close the public hearing for a Text Amendment (TA-01-17) Request by Kevin Moore to add Distillery/Brewery to the Person County Zoning Ordinance *Appendix C - Table of Uses* and also add a definition of Distillery/Brewery to *Appendix B – Definitions*.

**CONSIDERATION TO GRANT OR DENY REQUEST FOR A TEXT AMENDMENT (TA-01-17) BY KEVIN MOORE TO ADD DISTILLERY/BREWERY TO THE PERSON COUNTY ZONING ORDINANCE APPENDIX C - TABLE OF USES AND ALSO ADD A DEFINITION OF DISTILLERY/BREWERY TO APPENDIX B – DEFINITIONS.**

Commissioner Jeffers asked if the applicant was pursuing a brewery or a distillery. Mr. Moore stated ten years ago, the Board approved a permit for the winery. Mr. Moore noted their plans were to pursue the distillery business with no immediate plan for a brewery at this time. He further noted he requested the brewery text amendment as a potential future use.

A **motion** was made by Commissioner Clayton and **carried 5-0** to approve the Text Amendment (TA-01-17) Request by Kevin Moore to add Distillery/Brewery to the Person County Zoning Ordinance *Appendix C - Table of Uses* and also add a definition of Distillery/Brewery to *Appendix B – Definitions* as recommended by the Planning Board.

A **motion** was made by Commissioner Clayton and **carried 5-0** approved its statement that the Text Amendment (TA-01-17) Request by Kevin Moore to add Distillery/Brewery to the Person County Zoning Ordinance *Appendix C - Table of Uses* and also add a definition of Distillery/Brewery to *Appendix B – Definitions* as recommended by the Planning Board was reasonable and consistent.

**PUBLIC HEARING:**

**SPECIAL USE PERMIT (SUP-03-17) REQUEST BY KEVIN MOORE, ON BEHALF OF PROPERTY OWNERS, KEVIN AND KIMBERLY MOORE, TO OPERATE A DISTILLERY/BREWERY ON 9.84 ACRES LOCATED AT 1890 CHARLIE LONG ROAD (TAX MAP & PARCEL A31-172) IN THE RESIDENTIAL ZONING DISTRICT:**

A **motion** was made by Commissioner Clayton and **carried 5-0** to open the duly advertised public hearing for a Special Use Permit (SUP-03-17) Request by Kevin Moore, on behalf of property owners, Kevin and Kimberly Moore, to operate a Distillery/Brewery on 9.84 acres located at 1890 Charlie Long Road (Tax Map & Parcel A31-172) in the Residential Zoning District.

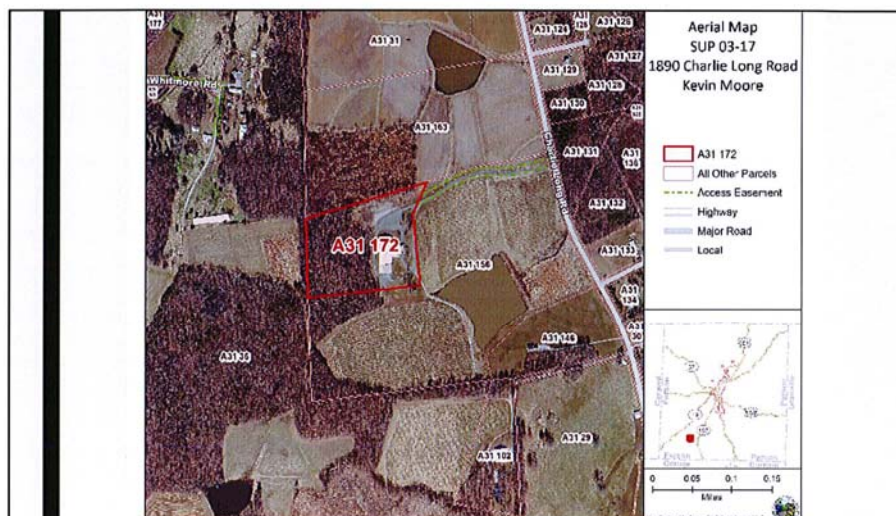
The public hearing set to hear a request by Kevin Moore, on behalf of property owners, Kevin and Kimberly Moore, for a Special Use Permit to operate a Distillery/Brewery on 9.84 acres located at 1890 Charlie Long Road (Tax Map & Parcel A31-172) in the Residential Zoning District required a quasi-judicial zoning decision whereby witnesses are to be sworn in and subject to cross examination, no ex parte communication and requires findings of fact. Chairman Kendrick administered the Oath of Sworn Testimony to the following individuals who would offer testimony during the public hearing: Lori Oakley and Kevin Moore.

Planning Director, Lori Oakley stated all zoning ordinances and state statutes have been met for this public hearing. She proceeded to give the group the following presentation:

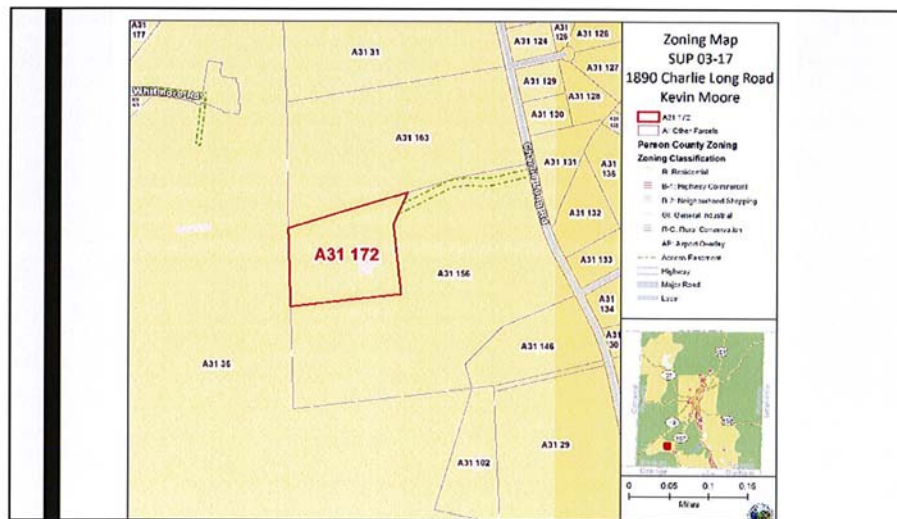
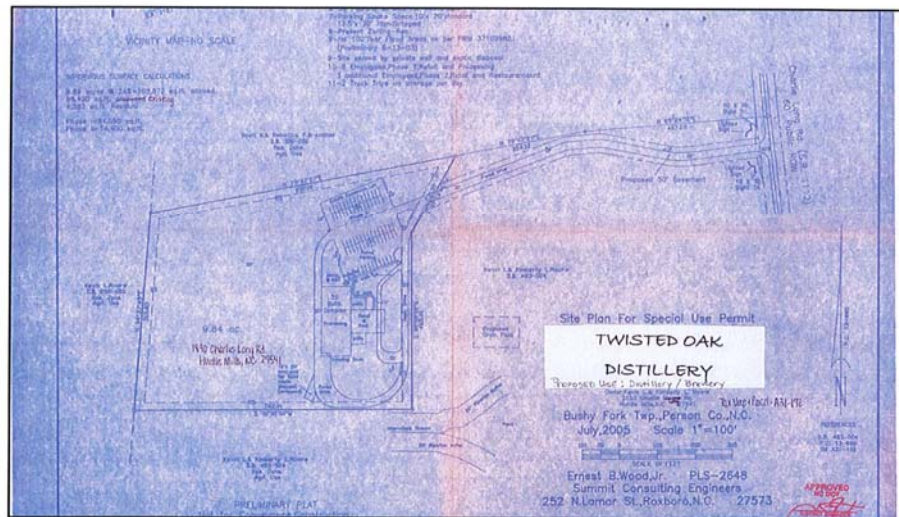
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SUP-03-17 – Request by Kevin Moore, on behalf of property owners Kevin and Kimberly Moore, for a special use permit to operate a distillery/brewery on 9.84 acres located at 1890 Charlie Long Road (Tax Map & Parcel A31-172) in the R (Residential) Zoning District.



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## PLANNING STAFF ANALYSIS

- The site is located within the Falls Watershed and is currently grandfathered because the development was approved and constructed prior to the adoption of the *Falls Watershed Stormwater Ordinance*. Any future additions to the site would be required to adhere to the *Falls Watershed Stormwater Ordinance*.
- The property does not lie within the 100-year special flood hazard area according to the FEMA map.

## COMPREHENSIVE PLAN

The Person County Land use Plan identifies the proposed site as Rural Residential. Rural Residential is defined as:

- Low-density residential (single site-built and manufactured homes); agriculture, forestry, churches; very limited commercial, office, or public/institutional uses meeting locational criteria. Most of the land within protected water supply watersheds should be placed in this category. Locational criteria for non-residential uses within this land use category would include frontage and access to a major State highway or secondary road, proximity to similar uses and spatial separation from non-compatible uses such as existing residential development. Land uses within this category would be expected to develop without public sewer, i.e., with private septic tank systems.

Appendix O of the Land Use Plan lists goals and objectives for the county including the following:

- 2.0 – Provide a strong local planning environment that supports and enhances the economic growth potential of Person County.
- 2.2 – Encourage well-planned commercial establishments to provide necessary goods and services to area employers and residents.

## PLANNING STAFF ANALYSIS

The property is zoned R (Residential) and the applicant is proposing a text amendment (Petition# TA-01-17) simultaneously with this special use permit application to amend the *Table of Permitted Uses* in Appendix C of the Zoning Ordinance to add "Distillery/Brewery" as a special use in the R (Residential) Zoning District. The text amendment must be approved by the Board of Commissioners in order for the Board to consider this request.

The applicant has an existing winery on site and plans on utilizing the existing building and associated parking for the proposed distillery / brewery. No changes are proposed for the site other than adding the new uses.

Planning staff recommends that if the Board approves the request, the following conditions be placed on the Special Use Permit:

- The applicant is to obtain all permits necessary from the County Planning and Zoning Department and Building Inspections Department.
- The applicant is to obtain all permits necessary from the state of North Carolina.

## PLANNING BOARD RECOMMENDATION

At the Planning Board meeting on Sept. 14, 2017, the board voted unanimously (5-0) to recommend approval of SUP-03-17 to include staff's recommended conditions.

## COMPREHENSIVE PLAN / FINDINGS OF FACT

- The Board needs to address the four Findings of Fact and whether this proposal is in keeping with the Person County Comprehensive Plan.

## FINDINGS OF FACT

The Board shall issue a special use permit if it has evaluated an application and determined:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
2. That the use meets all of the required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
4. That the location and character of the use of developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

Speaking in favor of the Request by Kevin Moore, on behalf of property owners, Kevin and Kimberly Moore, for a Special Use Permit to operate a Distillery/Brewery on 9.84 acres located at 1890 Charlie Long Road (Tax Map & Parcel A31-172) in the Residential Zoning District was the following:

Mr. Kevin Moore of 2150 Charlie Long Road, Hurdle Mills, and the applicant requesting the Special Use Permit, stated he was available for questions.

There were no individuals appearing before the Board to speak in opposition to the Request by Kevin Moore, on behalf of property owners, Kevin and Kimberly Moore, for a Special Use Permit to operate a Distillery/Brewery on 9.84 acres located at 1890 Charlie Long Road (Tax Map & Parcel A31-172) in the Residential Zoning District.

A **motion** was made by Commissioner Puryear and **carried 5-0** to close the public hearing for a Special Use Permit (SUP-03-17) Request by Kevin Moore, on behalf of property owners, Kevin and Kimberly Moore, to operate a Distillery/Brewery on 9.84 acres located at 1890 Charlie Long Road (Tax Map & Parcel A31-172) in the Residential Zoning District.

**CONSIDERATION TO GRANT OR DENY REQUEST FOR A SPECIAL USE PERMIT (SUP-03-17) BY KEVIN MOORE, ON BEHALF OF PROPERTY OWNERS, KEVIN AND KIMBERLY MOORE, TO OPERATE A DISTILLERY/BREWERY ON 9.84 ACRES LOCATED AT 1890 CHARLIE LONG ROAD (TAX MAP & PARCEL A31-172) IN THE RESIDENTIAL ZONING DISTRICT:**

A **motion** was made by Commissioner Puryear and **carried 5-0** to approve a Special Use Permit (SUP-03-17) Request by Kevin Moore, on behalf of property owners, Kevin and Kimberly Moore, to operate a Distillery/Brewery on 9.84 acres located at 1890 Charlie Long Road (Tax Map & Parcel A31-172) in the Residential Zoning District as recommended by the Planning Board.

**PUBLIC HEARING:**

**SPECIAL USE PERMIT (SUP-04-17) REQUEST BY PERSON COUNTY GOVERNMENT, ON BEHALF OF THE BOARD OF COUNTY COMMISSIONERS, FOR A 270' TALL SELF-SUPPORTING TELECOMMUNICATIONS TOWER ON 12.26 ACRES LOCATED AT 7909 BURLINGTON RD. (TAX MAP & PARCEL # A20-79) IN THE RURAL CONSERVATION ZONING DISTRICT:**

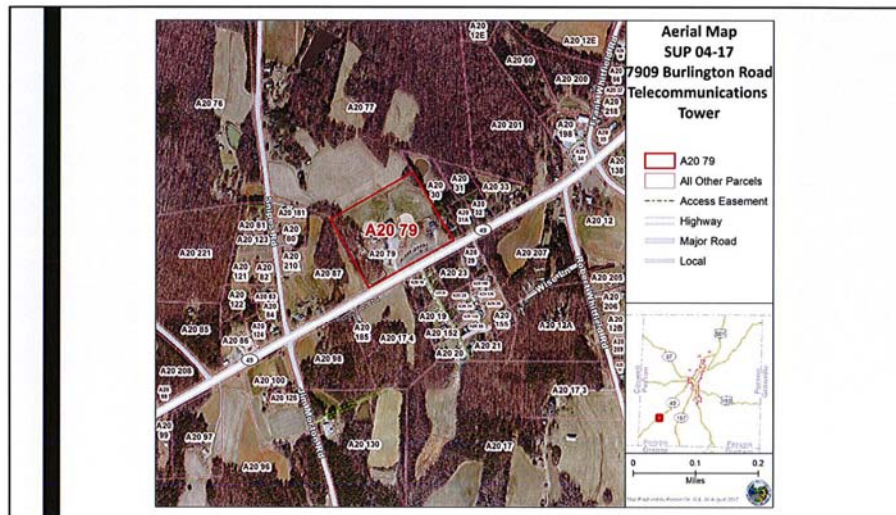
A **motion** was made by Commissioner Puryear and **carried 5-0** to open the duly advertised public hearing for a Special Use Permit (SUP-04-17) Request by Person County Government, on behalf of the Board of County Commissioners, for a 270' tall self-supporting telecommunications tower on 12.26 acres located at 7909 Burlington Rd. (Tax Map & Parcel # A20-79) in the Rural Conservation Zoning District.

The public hearing set to hear a request by Person County Government, on behalf of the Board of County Commissioners, for Special Use Permit for a 270' tall self-supporting telecommunications tower on 12.26 acres located at 7909 Burlington Rd. (Tax Map & Parcel # A20-79) in the Rural Conservation Zoning District required a quasi-judicial zoning decision whereby witnesses are to be sworn in and subject to cross examination, no ex parte communication and requires findings of fact. Chairman Kendrick administered the Oath of Sworn Testimony to the following individuals who would offer testimony during the public hearing: Lori Oakley, Caroline Darnell, Sybil Tate, John Goins and Linda Long.

Planning Director, Lori Oakley introduced newly hired County Planner, Caroline Darnell, who would be presenting this case, SUP-04-17. Ms. Oakley passed out revised agenda abstracts and staff analysis reports for this case.

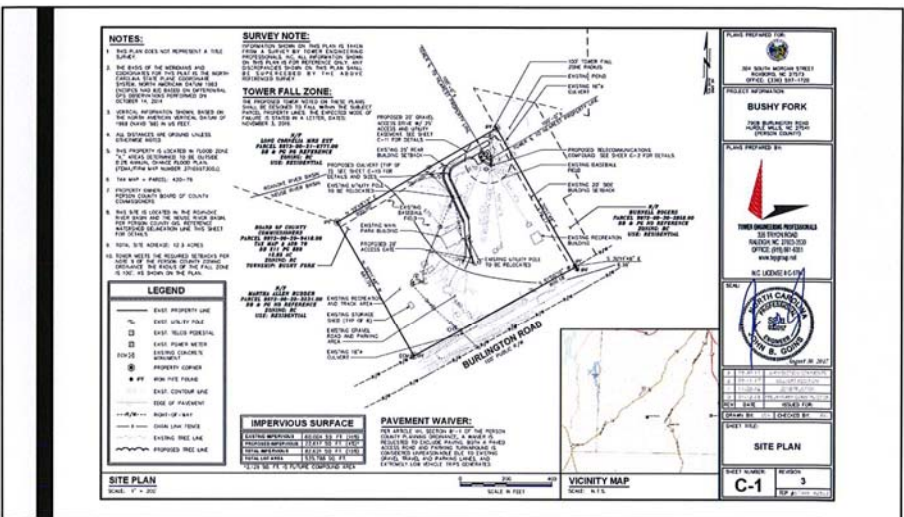
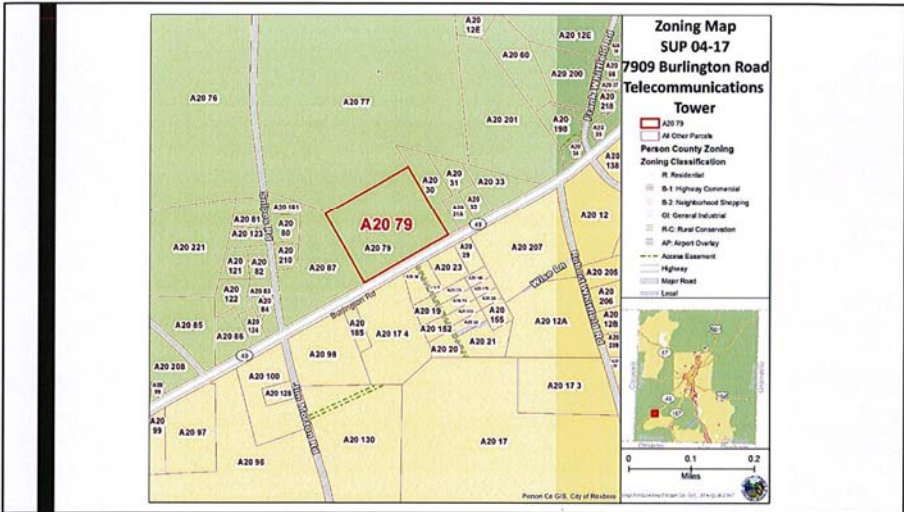
Planner, Caroline Darnell stated all zoning ordinances and state statutes have been met for this public hearing. Ms. Darnell proceeded to share the following presentation:

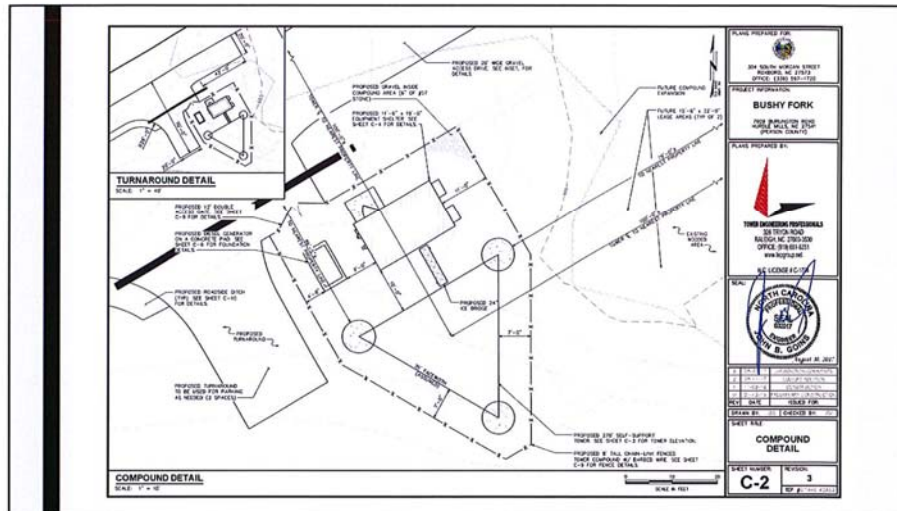
SUP-04-17 – Request by Person County Government, on behalf of the Board of County Commissioners, for a 270' tall self-supporting telecommunications tower on 12.26 acres located at 7909 Burlington Rd. (Tax Map & Parcel # A20-79) in the RC (Rural Conservation) Zoning District.



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## Land Use/Site Plan

- Note 9 to the *Table of Permitted Uses* in Appendix C of the Zoning Ordinance details specific setback requirements for Radio, Telephone and TV Transmitting Towers including:

"Setbacks for Radio, Telephone and TV Transmitting Towers will be equal to the height of the tower unless the fall-zone is certified to be less than the height of the tower.

Lattice towers, or self-supporting towers, with a triangular base tapered to the top and engineered with break-points may be setback a distance  $\frac{1}{2}$  their height."

- The proposed tower is set 79' from the eastern property line (100' from the tower centerline). A professional engineer has certified that the fall-zone for this tower is 100' from the tower centerline.
- The property is split between the Neuse/Falls Watershed and the Roanoke Watershed. All proposed changes to the lot are in the Roanoke Watershed and are not subject to restrictions.
- The property does not lie within the 100-year special flood hazard area according to the FEMA map.

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## COMPREHENSIVE PLAN

The Person County Land use Plan identifies the proposed site as Rural Residential. Rural Residential is defined as:

- Low-density residential (single site-built and manufactured homes); agriculture, forestry, churches; very limited commercial, office, or public/institutional uses meeting locational criteria. Most of the land within protected water supply watersheds should be placed in this category. Locational criteria for non-residential uses within this land use category would include frontage and access to a major State highway or secondary road, proximity to similar uses and spatial separation from non-compatible uses such as existing residential development. Land uses within this category would be expected to develop without public sewer, i.e., with private septic tank systems.

Appendix O of the Land Use Plan lists goals and objectives for the county including the following:

- 2.0 – Provide a strong local planning environment that supports and enhances the economic growth potential of Person County.
- 2.1 – Promote continued economic investment through retention and expansion of existing industrial concerns and the recruitment of new industries and commercial businesses.

## PLANNING STAFF ANALYSIS

- The property is zoned RC (Rural Conservation) and the *Table of Permitted Uses* in Appendix C of the Zoning Ordinance lists "Radio, Telephone and TV Transmitting Tower" as a special use in the RC (Rural Conservation Zoning District).
- The applicant is requesting to place a 270' tall telecommunications tower and necessary structures off of Burlington Road.

Planning staff recommends that if the Board approves the request, the following conditions be placed on the Special Use Permit:

- The applicant is to obtain all permits necessary from the County Planning and Zoning Department and Building Inspections Department.

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## Planning Board Recommendation

- At the September 14, 2017 meeting of the Planning Board, the Board voted unanimously, five to zero (5-0) to send SUP-04-17 to the Board of Commissioners. The Board voted that the special use permit request met Findings of Fact #2, #3, and #4. The Planning Board determined that more information was needed in order to better evaluate Finding #1 and requested that information regarding Radio Frequency Emissions be shared with the Board of Commissioners at their meeting on October 2, 2017. *The requested information has been included in your packet.*
- According to the project engineer, the NEPA survey determined that due to the elevation of the proposed antennas, any area on the ground will not be exposed to any radio frequencies outside of the FCC guidelines. The project cleared the NEPA process and was registered with the Federal Communications Commission.

## N.C.G.A Statue 160A-400.51A

- *A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities. (2013-185, s. 1.)*

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## COMPREHENSIVE PLAN / FINDINGS OF FACT

- The Board needs to address the four Findings of Fact and whether this proposal is in keeping with the Person County Comprehensive Plan.

## FINDINGS OF FACT

The Board shall issue a special use permit if it has evaluated an application and determined:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
2. That the use meets all of the required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
4. That the location and character of the use of developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

Speaking in favor of the Request by Person County Government, on behalf of the Board of County Commissioners, for a Special Use Permit for a 270' tall self-supporting telecommunications tower on 12.26 acres located at 7909 Burlington Rd. (Tax Map & Parcel # A20-79) in the Rural Conservation Zoning District were the following:

Mr. John Goins of 326 Tryon Road, Raleigh, Engineer of Record for Person County's tower projects told the group as noted in the Site Plan, the tower was more than 400 ft. from the right-of-way, sufficient for a fall zone. The tower will be located in the rear corner of the property. Ms. Darnell added the fall zone would be contained within the lot.

Ms. Sybil Tate, Assistant County Manager noted she was available for questions and further noted the project's primary purpose was for public safety.

Speaking in opposition to the Request by Person County Government, on behalf of the Board of County Commissioners, for a Special Use Permit for a 270' tall self-supporting telecommunications tower on 12.26 acres located at 7909 Burlington Rd. (Tax Map & Parcel # A20-79) in the Rural Conservation Zoning District was the following:

Ms. Linda P. Long of 1800 Jones Store Road, Roxboro stated she was in shock when she read state statute; she said the latest she found was 2013 where the Board's hands would be tied with this tower and she hoped the Board had read all the things the state statute was saying as there are things that the Board cannot do and cannot control with this state statute with building this tower. Ms. Long wanted to make the Board aware of these things. She proceeded to read the following statement:

*Dear Commissioners,*

*I know that what I say tonight may not change a thing, but I want this to be a part of public record that concerns were raised. I am not against the cell tower, just the fact that it is going to be placed in such a populated area. If you look at the property map, you can see that the area is surrounded by homes. The only area not occupied by homes is the back side of the ball field which we own. We have been approached by several people that want to purchase land and some of those people want to build homes. The twelve acres that make up the old Bushy Fork school grounds is unlike many of the other places that you have located towers. In that, it is a residential area and the site is full of activity, especially on the weekends using the various facilities. There are two ball fields that are widely used by many groups, a walking track, a gymnasium and a community center that is rented by many families. On a weekend that two events are going on at the same time, it is hard to find a parking place. I understand that a tower is needed and that by putting it on County property will save the County money. I also understand that after it is completed, the County is going to lease space on the tower to other companies to help with broadband communications and receive revenue from the rented space. My real concern is the combined effect of all the additional equipment that could be added to the tower. According to the 2013 state statute, the Board will lose control of how and what other companies are going to use the tower for. I know that we need a tower, but how would you like to look out your front door and see a 270 ft. tower. Finally, down the road, if there is a problem, where does responsibility of this tower finally rest? Thank you very much. Linda P. Long.*

A **motion** was made by Vice Chairman Powell and **carried 5-0** to close the public hearing for a Special Use Permit (SUP-04-17) Request by Person County Government, on behalf of the Board of County Commissioners, for a 270' tall self-supporting telecommunications tower on 12.26 acres located at 7909 Burlington Rd. (Tax Map & Parcel # A20-79) in the Rural Conservation Zoning District.

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**CONSIDERATION TO GRANT OR DENY REQUEST FOR A SPECIAL USE PERMIT (SUP-04-17) BY PERSON COUNTY GOVERNMENT, ON BEHALF OF THE BOARD OF COUNTY COMMISSIONERS, FOR A 270' TALL SELF-SUPPORTING TELECOMMUNICATIONS TOWER ON 12.26 ACRES LOCATED AT 7909 BURLINGTON RD. (TAX MAP & PARCEL # A20-79) IN THE RURAL CONSERVATION ZONING DISTRICT.**

Commissioner Jeffers asked for some of the things that Ms. Long brought up to be addressed. He asked if there was a liability issue, as the County owned the tower, would the County be the responsible party to which County Attorney, Ron Aycock stated yes. Commissioner Jeffers asked to compare the Woodland or Bethel Hill towers similar in proximity as far as to public structures and/or property. Mr. Goins addressed the proximity to structures noting each of the towers are located in the rear of each property with the fall zone within the parcel excluding any structures and designed under the NC Building Code. The fall zone is restricted within the property.

A **motion** was made by Commissioner Puryear and **carried 5-0** to approve the request for a Special Use Permit for a 270' tall self-supporting telecommunications tower on 12.26 acres located at 7909 Burlington Road as recommended by the Planning Board.

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**PUBLIC HEARING:**

**SPECIAL USE PERMIT (SUP-05-17) REQUEST BY PERSON COUNTY GOVERNMENT, ON BEHALF OF THE BETHEL HILL CHARTER SCHOOL, INC., FOR A 300' TALL SELF-SUPPORTING TELECOMMUNICATIONS TOWER ON 35.48 ACRES LOCATED OFF OF CLAUDE HALL RD. (TAX MAP & PARCEL # A67-44) IN THE RURAL CONSERVATION ZONING DISTRICT:**

A **motion** was made by Commissioner Puryear and **carried 5-0** to open the duly advertised public hearing for a Special Use Permit (SUP-05-17) Request by Person County Government, on behalf of the Bethel Hill Charter School, Inc., for a 300' tall self-supporting telecommunications tower on 35.48 acres located off of Claude Hall Rd. (Tax Map & Parcel # A67-44) in the Rural Conservation Zoning District.

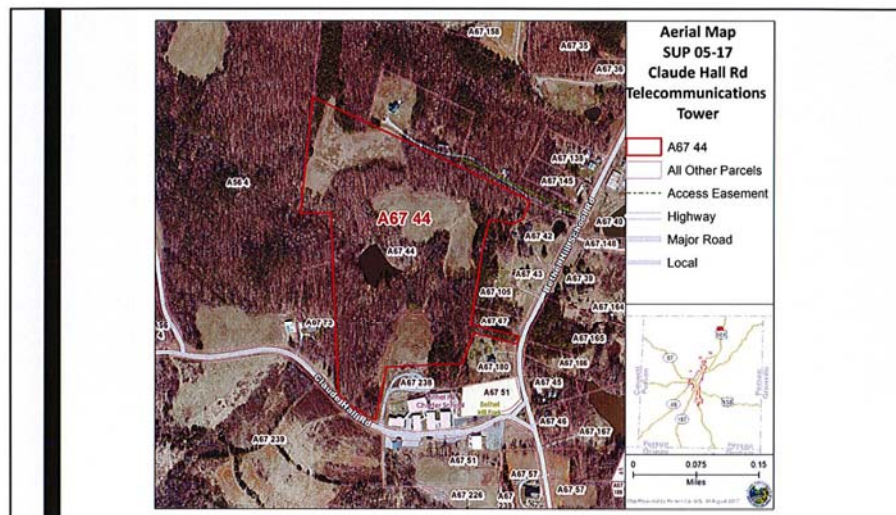
The public hearing set to hear a request by Person County Government, on behalf of the Bethel Hill Charter School, Inc., for a Special Use Permit for a 300' tall self-supporting telecommunications tower on 35.48 acres located off of Claude Hall Rd. (Tax Map & Parcel # A67-44) in the Rural Conservation Zoning District required a quasi-judicial zoning decision whereby witnesses are to be sworn in and subject to cross examination, no ex parte communication and requires findings of fact. Chairman Kendrick administered the Oath of Sworn Testimony to the following individuals who would offer testimony during the public hearing: Lori Oakley, Caroline Darnell, John Goins, and Sybil Tate.

Planning Director, Lori Oakley introduced County Planner, Caroline Darnell, who would be presenting this case, SUP-05-17. Ms. Oakley passed out revised agenda abstracts and staff analysis reports for this case.

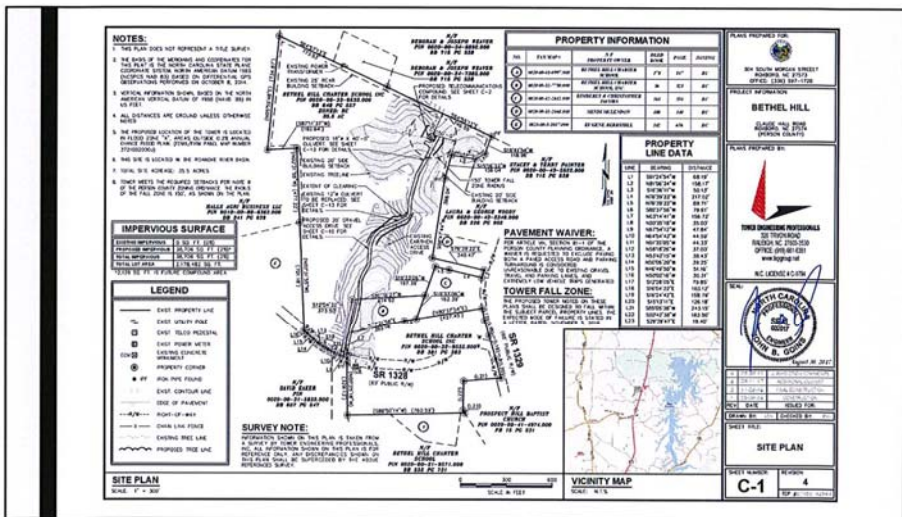
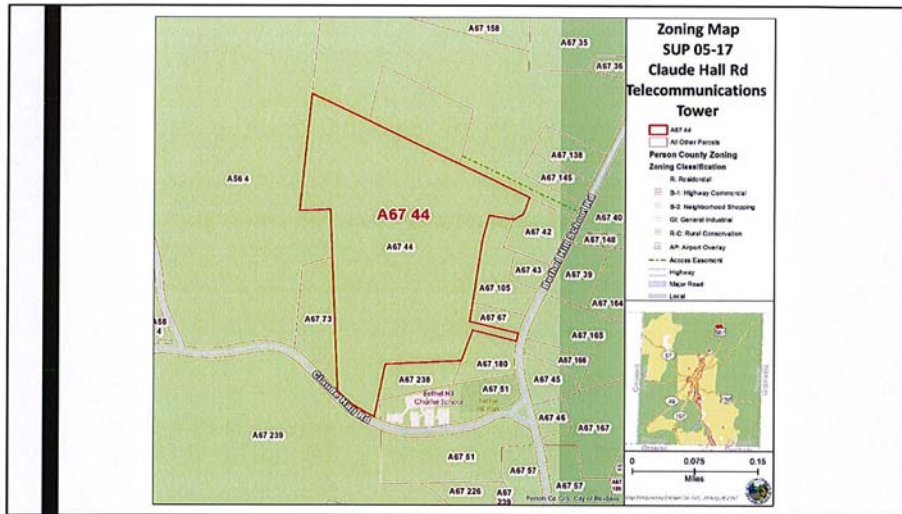
Planner, Caroline Darnell stated all zoning ordinances and state statutes have been met for this public hearing. Ms. Darnell proceeded to share the following presentation:

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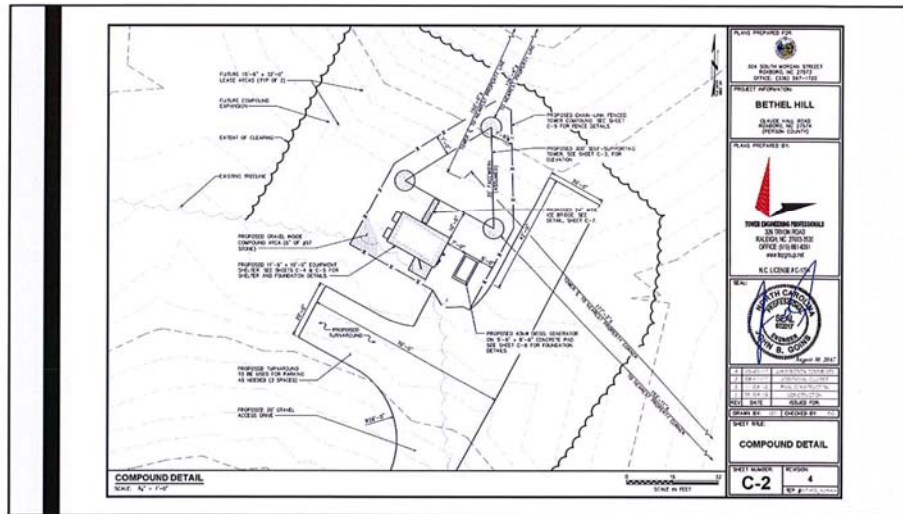
SUP-05-17 – Request by Person County Government, on behalf of the Bethel Hill Charter School, Inc., for a 300' tall self-supporting telecommunications tower on 35.48 acres located off of Claude Hall Rd. (Tax Map & parcel # A67-44) in the RC (Rural Conservation) Zoning District.



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## Land Use/Site Plan

- Note 9 to the *Table of Permitted Uses* in Appendix C of the Zoning Ordinance details specific setback requirements for Radio, Telephone and TV Transmitting Towers including:

"Setbacks for Radio, Telephone and TV Transmitting Towers will be equal to the height of the tower unless the fall-zone is certified to be less than the height of the tower.

Lattice towers, or self-supporting towers, with a triangular base tapered to the top and engineered with break-points may be setback a distance  $\frac{1}{2}$  their height."

- The proposed tower is set 126' from the eastern property line (150' from the tower centerline). A professional engineer has certified that the fall-zone for this tower is 150' from the tower centerline.
- The property does not lie within the 100-year special flood hazard area according to the FEMA map.

## COMPREHENSIVE PLAN

The Person County Land use Plan identifies the proposed site as Rural Residential. Rural Residential is defined as:

- Low-density residential (single site-built and manufactured homes); agriculture, forestry, churches; very limited commercial, office, or public/institutional uses meeting locational criteria. Most of the land within protected water supply watersheds should be placed in this category. Locational criteria for non-residential uses within this land use category would include frontage and access to a major State highway or secondary road, proximity to similar uses and spatial separation from non-compatible uses such as existing residential development. Land uses within this category would be expected to develop without public sewer, i.e., with private septic tank systems.

Appendix O of the Land Use Plan lists goals and objectives for the county including the following:

- 2.0 - Provide a strong local planning environment that supports and enhances the economic growth potential of Person County.
- 2.1 - Promote continued economic investment through retention and expansion of existing industrial concerns and the recruitment of new industries and commercial businesses.

## PLANNING STAFF ANALYSIS

- The property is zoned RC (Rural Conservation) and the *Table of Permitted Uses* in Appendix C of the Zoning Ordinance lists "Radio, Telephone and TV Transmitting Tower" as a special use in the RC (Rural Conservation Zoning District).
- The applicant is requesting to place a 300' tall telecommunications tower and necessary structures off of Burlington Road.

Planning staff recommends that if the Board approves the request, the following conditions be placed on the Special Use Permit:

- The applicant is to obtain all permits necessary from the County Planning and Zoning Department and Building Inspections Department.

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## Planning Board Recommendation

- At the September 14, 2017 meeting of the Planning Board, the Board voted unanimously, five to zero (5-0) to send SUP-05-17 to the Board of Commissioners. The Board voted that the special use permit request met Findings of Fact #2, #3, and #4. The Planning Board determined that more information was needed in order to better evaluate Finding #1 and requested that information regarding Radio Frequency Emissions be shared with the Board of Commissioners at their meeting on October 2, 2017. *The requested information has been included in your packet.*
- According to the project engineer, the NEPA survey determined that due to the elevation of the proposed antennas, any area on the ground will not be exposed to any radio frequencies outside of the FCC guidelines. The project cleared the NEPA process and was registered with the Federal Communications Commission.

## N.C.G.A Statue 160A-400.51A

- *A city may plan for and regulate the siting or modification of wireless support structures and wireless facilities in accordance with land development regulations and in conformity with this Part. Except as expressly stated, nothing in this Part shall limit a city from regulating applications to construct, modify, or maintain wireless support structures, or construct, modify, maintain, or collocate wireless facilities on a wireless support structure based on consideration of land use, public safety, and zoning considerations, including aesthetics, landscaping, structural design, setbacks, and fall zones, or State and local building code requirements, consistent with the provisions of federal law provided in G.S. 160A-400.50. For purposes of this Part, public safety includes, without limitation, federal, State, and local safety regulations but does not include requirements relating to radio frequency emissions of wireless facilities. (2013-185, s. 1.)*

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## COMPREHENSIVE PLAN / FINDINGS OF FACT

- The Board needs to address the four Findings of Fact and whether this proposal is in keeping with the Person County Comprehensive Plan.

## FINDINGS OF FACT

The Board shall issue a special use permit if it has evaluated an application and determined:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
2. That the use meets all of the required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
4. That the location and character of the use of developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.



Speaking in favor of the Request by Person County Government, on behalf of the Bethel Hill Charter School, Inc., for a Special Use Permit for a 300' tall self-supporting telecommunications tower on 35.48 acres located off of Claude Hall Rd. (Tax Map & Parcel # A67-44) in the Rural Conservation Zoning District were the following:

Mr. John Goins of 326 Tryon Road, Raleigh, and Person County's Engineer of Record for the tower projects, stated his availability to answer questions.

Ms. Sybil Tate, Assistant County Manager stated she was available for questions as well.

Commissioner Puryear asked for the location of the tower on the parcel to which Ms. Darnell said it would be located in the back corner. Mr. Goins added it was the northeast corner of the parcel. Ms. Tate said the school was located on a different parcel to the south of the tower.

There were no individuals appearing before the Board to speak in opposition to the Request by Person County Government, on behalf of the Bethel Hill Charter School, Inc., for a Special Use Permit for a 300' tall self-supporting telecommunications tower on 35.48 acres located off of Claude Hall Rd. (Tax Map & Parcel # A67-44) in the Rural Conservation Zoning District.

A **motion** was made by Commissioner Puryear and **carried 5-0** to close the public hearing for a Special Use Permit (SUP-05-17) Request by Person County Government, on behalf of the Bethel Hill Charter School, Inc., for a 300' tall self-supporting telecommunications tower on 35.48 acres located off of Claude Hall Rd. (Tax Map & Parcel # A67-44) in the Rural Conservation Zoning District.

**CONSIDERATION TO GRANT OR DENY REQUEST FOR A SPECIAL USE PERMIT (SUP-05-17) BY PERSON COUNTY GOVERNMENT, ON BEHALF OF THE BETHEL HILL CHARTER SCHOOL, INC., FOR A 300' TALL SELF-SUPPORTING TELECOMMUNICATIONS TOWER ON 35.48 ACRES LOCATED OFF OF CLAUDE HALL RD. (TAX MAP & PARCEL # A67-44) IN THE RURAL CONSERVATION ZONING DISTRICT:**

A **motion** was made by Commissioner Puryear and **carried 5-0** to approve the request for a Special Use Permit for a 300' tall self-supporting telecommunications tower on 35.48 acres located off of Claude Hall Rd as recommended by the Planning Board.

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**PUBLIC HEARING:**

**TEXT AMENDMENT (TA-02-17) REQUEST BY PLANNING STAFF, ON BEHALF OF THE BOARD OF COMMISSIONERS, TO AMEND *APPENDIX C TABLE OF PERMITTED USES* AND *APPENDIX B DEFINITIONS* OF THE PERSON COUNTY ZONING ORDINANCE BY ADDING SOLAR ENERGY SYSTEM AND DEFINITION:**

A **motion** was made by Vice Chairman Powell and **carried 5-0** to open the duly advertised public hearing for a Text Amendment (TA-02-17) Request by Planning Staff, on behalf of the Board of Commissioners, to amend *Appendix C Table of Permitted Uses* and *Appendix B Definitions* of the Person County Zoning Ordinance by adding Solar Energy System and definition.

Planning Director, Lori Oakley introduced County Planner, Caroline Darnell, who would be presenting this case, TA-02-17.

Planner, Caroline Darnell stated all zoning ordinances and state statutes have been met for this public hearing. She proceeded to give the group the following presentation:

TA-02-17 - Request by Planning Staff on behalf of the Board of Commissioners to amend *Appendix C Table of Permitted Uses* and *Appendix B Definitions* of the Person County Zoning Ordinance by adding Solar Energy System and definition.

## PROPOSED TEXT

### ■ Appendix B- Definition-

Solar Energy System (SES) - the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

## PROPOSED TEXT

■ Appendix C - Tables of Uses:

Add "Solar Energy Systems: (see Note 10)"

*Note 10: - Solar Energy Systems (SES)*

An SES established prior to the effective date of \_\_\_\_\_ shall not be subject to these special requirements with the following exception: modifications to existing SES that increase the area by more than 5% of the original footprint or change the solar panel type (e.g. photovoltaic to solar thermal) shall be subject to all requirements.

Solar Energy Systems must meet all requirements set forth in Note 2. Solar Energy Systems must meet all setback requirements (see Section 75).

Following a continuous period of six months in which no electricity is generated, the owner of the solar farm, or in the solar farm owner's absence, the owner of the real property upon which it is located, shall decommission the solar farm by removing within six months all solar panels, buildings, cabling, electrical components, and any other improvements and must return the property to a natural state with plantings approved by the planning director. Prior to the issuance of a zoning compliance certificate, the county must receive a performance guarantee in favor of the county in an amount equal to 1.25 times the estimated decommissioning cost as determined by a North Carolina licensed engineer. The performance guarantee must be satisfactory to the planning director and may include a performance bond, irrevocable letter of credit, cash deposit or other surety approved by the planning director.

## PLANNING STAFF ANALYSIS & RECOMMENDATION

- This text amendment request serves to add one use, Solar Energy System, that is not currently listed in the Person County Zoning Ordinance Table of Uses but is referenced in *Light Industrial* use.
- Planning Staff supports TA-02-17. The proposed text amendment keeps all existing requirements in place and additionally requires a decommissioning plan and performance guarantee.

## Planning Board Recommendation

- At the September 14, 2017 meeting of the Planning Board, the Board voted unanimously, five to zero (5-0) to send a favorable recommendation to the Board of Commissioners on TA-02-17.

## STATEMENT OF REASONABLENESS AND CONSISTENCY

- The NC General Statutes requires that when reviewing a text amendment, the board also include a statement as to whether the proposed text amendment is reasonable and consistent.
- Planning staff concludes that the proposed text amendment request is consistent with the Comprehensive Plan and future planning goals of Person County. It is reasonable and in the public interest as it will provide clear regulations for solar energy systems in Person County.

There were no individuals appearing before the Board to speak in favor of or in opposition to the Text Amendment (TA-02-17) Request by Planning Staff, on behalf of the Board of Commissioners, to amend *Appendix C Table of Permitted Uses* and *Appendix B Definitions* of the Person County Zoning Ordinance by adding Solar Energy System and definition.

A **motion** was made by Commissioner Puryear and **carried 5-0** to close the public hearing for a Text Amendment (TA-02-17) Request by Planning Staff, on behalf of the Board of Commissioners, to amend *Appendix C Table of Permitted Uses* and *Appendix B Definitions* of the Person County Zoning Ordinance by adding Solar Energy System and definition.

**CONSIDERATION TO GRANT OR DENY REQUEST FOR A TEXT AMENDMENT (TA-02-17) REQUEST BY PLANNING STAFF, ON BEHALF OF THE BOARD OF COMMISSIONERS, TO AMEND APPENDIX C TABLE OF PERMITTED USES AND APPENDIX B DEFINITIONS OF THE PERSON COUNTY ZONING ORDINANCE BY ADDING SOLAR ENERGY SYSTEM AND DEFINITION.**

A **motion** was made by Commissioner Jeffers and **carried 5-0** to approve a Text Amendment to amend *Appendix C Table of Permitted Uses* and *Appendix B Definitions* of the Person County Zoning Ordinance by adding Solar Energy System and Definition as recommended by the Planning Board noting the text amendment was reasonable and consistent.

**PUBLIC HEARING:**

**TEXT AMENDMENT (TA-03-17) REQUEST BY PLANNING STAFF TO AMEND SECTION 60-6 OF THE PERSON COUNTY ZONING ORDINANCE BY ADDING LANGUAGE TO ADDRESS THE NUMBER OF DWELLING UNITS ALLOWED ON EACH PARCEL:**

A **motion** was made by Commissioner Jeffers and **carried 5-0** to open the duly advertised public hearing for a Text Amendment (TA-03-17) Request by Planning Staff to amend Section 60-6 of the Person County Zoning Ordinance by adding language to address the number of dwelling units allowed on each parcel.

Planning Director, Lori Oakley stated all zoning ordinances and state statutes have been met for this public hearing. Ms. Oakley said when reviewing the Zoning Ordinance, the ordinance contained ambiguity with unclear information related to the number of principal dwelling units allowed on each parcel. She shared the following presentation:

TA-03-17 – Request by the Person County Planning staff to amend Section 60-6 of the Person County Zoning Ordinance by adding language to address the number of dwelling units allowed on each parcel.

## PLANNING STAFF ANALYSIS

- This text amendment request serves to clarify the number of principal dwellings allowed on each lot.
- In June 2013, the Zoning Ordinance contained the following language:  
Section 60-6  
*Unless otherwise specified by this ordinance, every principal building hereafter erected or moved shall be located on a separate lot and in no case shall there be more than one principal building and three permitted accessory buildings on all lots under three (3) acres.*
- While considering a text amendment to remove the limitations for accessory dwellings, Section 60-6 was removed from the Zoning Ordinance. Since the removal of Section 60-6, staff has relied on vague language in the definitions section to determine the number of dwellings allowed on a parcel of land.
- Staff is requesting language in the Zoning Ordinance that clearly states the number of principal dwellings allowed per parcel.

## PROPOSED TEXT

### OPTION A -

#### Section 60-6

Unless otherwise specified by this ordinance, every principal building hereafter erected or moved shall be located on a separate lot.

### OPTION B-

#### Section 60-6

Every building hereafter erected or moved shall be located on a lot. And in no case shall there be more than one (1) principal building and its customary accessory buildings on a lot except in the following cases:

- Multifamily residential developments, including townhomes; and planned building groups and shopping centers as approved and permitted in accordance with this Ordinance.
- Additional single-family detached dwellings when placed in such a way that all dwelling units meet all of the dimensional lot requirements of the applicable zoning district.

## PLANNING STAFF ANALYSIS

Staff recommends limiting the number of principal dwellings to one on each parcel and therefore recommends "Option A." Previous staff members have been enforcing one principal dwelling per parcel since the adoption of the Zoning Ordinance in 1991 and neighboring counties also limit the number of principal dwellings per parcel to one principal dwelling unit. Accessory dwellings ("garage apartment") will remain a permitted use in the RC zoning district and a conditional use in the R, B-1 and B-2 zoning districts.

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## DWELLING REQUIREMENTS IN OTHER NC COUNTIES

### One Detached Single-Family Dwelling per Parcel of Land

- Vance County
- Granville County
- Warren County
- Orange County
- Franklin County
- Johnston County
- Rockingham County
- Wilson County
- Yadkin County
- Anson County
- Camden County
- Catawba County

## DWELLING REQUIREMENTS IN OTHER NC COUNTIES

### Other Counties:

- Montgomery County – Allows up to three dwellings; however each dwelling must meet the minimum lot size and setback requirements of the ordinance.
- Harnett County – Allows a maximum of two dwellings per parcel of land and each dwelling must meet the minimum lot size and setback requirements.
- Chatham County – One principal dwelling per lot unless (1) the second dwelling is a manufactured home and each dwelling meets the minimum lot size or (2) each single family dwelling has a minimum of 10 acres.

## PLANNING STAFF ANALYSIS

- If the Board wishes to allow multiple principal dwellings per parcel, staff recommends the language contained in "Option B." State watershed regulations require a minimum land area of 40,000 square feet per dwelling that is served by a septic system and located in a watershed. Option B will better align with the state requirements if the Board chooses to allow multiple dwellings on a parcel of land.

## PLANNING STAFF RECOMMENDATION

- Planning Staff recommends approval of TA-03-17. Staff research of other counties in the area show that it is standard practice to only allow one principal dwelling per parcel of land and the proposed text will provide clear regulations for staff and citizens.

## PLANNING BOARD RECOMMENDATION

At the Planning Board meeting on Sept. 14, 2017, the board voted unanimously (5-0) to approve the requested text amendment TA-03-17 as presented in "Option A."

## STATEMENT OF REASONABLENESS AND CONSISTENCY

- The NC General Statutes requires that when reviewing a text amendment, the board also include a statement as to whether the proposed text amendment is reasonable and consistent.
- Planning staff concludes that the text amendment request is consistent with the Comprehensive Plan and future planning goals of Person County. It is reasonable and in the public interest as it will provide clear and concise regulations in the Zoning Ordinance.

## PROPOSED TEXT

### OPTION A -

#### Section 60-6

Unless otherwise specified by this ordinance, every principal building hereafter erected or moved shall be located on a separate lot.

### OPTION B-

#### Section 60-6

Every building hereafter erected or moved shall be located on a lot. And in no case shall there be more than one (1) principal building and its customary accessory buildings on a lot except in the following cases:

- Multifamily residential developments, including townhomes; and planned building groups and shopping centers as approved and permitted in accordance with this Ordinance.
- Additional single-family detached dwellings when placed in such a way that all dwelling units meet all of the dimensional lot requirements of the applicable zoning district.

Commissioner Jeffers asked Ms. Oakley to define a principal dwelling. Ms. Oakley stated a principal dwelling is the main building or use of a zoning lot.

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Ms. Oakley told the group that since 1991, staff have told citizens to cut off a lot for an additional use on the property that already has a dwelling. She said staff have been enforcing one principal dwelling per parcel based on the definitions noting Planning staff do not want to regulate accessory structures or well houses.

Ms. Oakley stated staff wanted to present the Board with two options in the case the Board felt multiple dwelling should be allowed. She said the Environmental Health Director provided her information that the state requires 40,000 sq. ft. in a state mandated watershed.

Commissioner Puryear asked what happens if the Board takes no action to which Ms. Oakley said it will be up to the Planning Director's interpretation noting her goal was to have clear regulations for principal dwellings for property owners to read in the Zoning Ordinance. Ms. Oakley confirmed all existing development with accessories would be grandfathered should the Board approve one of the options presented.

Commissioner Jeffers stated opposition to adding more hoops and expense for residents.

There were no individuals appearing before the Board to speak in favor of or in opposition to the Text Amendment (TA-03-17) Request by Planning Staff to amend Section 60-6 of the Person County Zoning Ordinance by adding language to address the number of dwelling units allowed on each parcel.

A **motion** was made by Commissioner Puryear and **carried 5-0** to close the public hearing for a Text Amendment (TA-03-17) Request by Planning Staff to amend Section 60-6 of the Person County Zoning Ordinance by adding language to address the number of dwelling units allowed on each parcel.

**CONSIDERATION TO GRANT OR DENY REQUEST FOR A TEXT AMENDMENT (TA-03-17) REQUEST BY PLANNING STAFF TO AMEND SECTION 60-6 OF THE PERSON COUNTY ZONING ORDINANCE BY ADDING LANGUAGE TO ADDRESS THE NUMBER OF DWELLING UNITS ALLOWED ON EACH PARCEL:**

Chairman Kendrick stated his opposition to amend Section 60-6 of the Zoning Ordinance noting additional facilities are held accountable for required setbacks and the number of septic uses to meet the state mandated guidelines.

Commissioner Jeffers stated his opposition for a text amendment but he would consider Option B due to the interpretation by the Director currently is Option A. He said if the Board does nothing, staff will continue to say one dwelling per parcel.

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Commissioner Clayton stated preference for Option A noting the 40,000 sq. ft. requirement per parcel within the watershed thereby mandating the same requirement for the non-watershed parts of the county to have the same guidelines. He added that each dwelling should be on a determined lot to avoid issues or those unintended consequences.

County Attorney, Ron Aycock explained to the Board that Option B allows what some of the Board members expressed preference for multiple dwellings per parcel with compliance of watershed and health requirements. In addition, if the ordinance remains as written currently, staff interprets for just one dwelling per parcel. In summary, Mr. Aycock concluded that Option B would give maximum options to the property owner.

Commissioner Puryear stated the County has an appeal process in place where residents that disagree can take their case to the Planning Board or the Board of Commissioners. Commissioner Puryear stated preference to leave the ordinance as written. Ms. Oakley said an appeal would go before the Board of Adjustment.

A **motion** was made by Commissioner Puryear to leave Section 60-6 of the Person County Zoning Ordinance as currently written without amendment of either option as presented by the Planning Director.

A **substitute motion** was made by Commissioner Jeffers and **failed 2-3** to approve Option B presented by the Planning Staff as the Text Amendment to Amend Section 60-6 of the Zoning Ordinance to address the number of dwelling units allowed on each parcel. Commissioner Jeffers and Chairman Kendrick voted in support of the substitute motion. Vice Chairman Powell and Commissioners Clayton and Puryear cast the dissenting votes to fail the motion.

The **original motion** to leave Section 60-6 of the Zoning Ordinance as currently written **carried 3-2**. Commissioners Puryear and Clayton along with Vice Chairman Powell voted in favor of the original motion. Chairman Kendrick and Commissioner Jeffers cast the dissenting votes. The text amendment was rejected and consistent with the plan.

**INFORMAL COMMENTS:**

There were no comments from the public.

**DISCUSSION/ADJUSTMENT/APPROVAL OF CONSENT AGENDA:**

A **motion** was made by Chairman Kendrick and **carried 5-0** to approve the Consent Agenda with the following items:

- A. Approval of Minutes of September 11, 2017,
- B. Budget Amendment # 6,
- C. Budget Amendment #6a, and
- D. NC Education Lottery Application Person High School Press Box in the amount of \$16,000.

**NEW BUSINESS:****ADDITIONAL MENTAL HEALTH FUNDING:**

Assistant County Manager, Sybil Tate informed the Board that Cardinal Innovations refunded maintenance of effort monies that was not spent in Fiscal Year 2017 for mental health services. The total amount of the refund was \$38,196.

Ms. Tate said staff gathered feedback from the Sheriff's Office, Health Department, EMS, the court system, and community groups about the community's mental health needs. Based on their input and feedback, Ms. Tate presented a list of one-time appropriations using the \$38,196 refund for Board consideration.

- Drug Court- \$20,000
- 40 Naloxone kits and training for first responders- \$3,500
- Safe room at the hospital for use in mental health crisis - \$5,000
- Drop boxes at pharmacies - \$8,000
- Red Ribbon Awareness Campaign through schools- \$1,696

Ms. Tate recommended all funds be managed by the Health Department. She asked the Board to provide staff with feedback about funding recommendation and to approve the funding, if appropriate.

Commissioner Jeffers requested consideration for mental health initiatives in the jail. Ms. Tate noted programs for the jail may necessitate recurring funding and/or an additional staff person.

It was the consensus of the Board for staff to gather information related to addressing mental health programs for the County's Jail as a trial for a pilot program.

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**NEW NC STATUTE REQUIRES CHANGES TO THE PERSON COUNTY ANIMAL SERVICES ORDINANCE:**

Ron Shaw, Person County Animal Services Director told the group that the North Carolina General Statute regarding the measures of rabies control changed effective October 1, 2017. He noted that in this new statute, North Carolina will be using the most current compendium released by the National Association of State Public Health Veterinarians in matters regarding Rabies exposure and control. Mr. Shaw presented an updated Person County Animal Services Ordinance reflecting these changes. Mr. Shaw requested the Board's consideration to adopt the Person County Animal Services Ordinance as presented.

A **motion** was made by Commissioner Puryear and **carried 5-0** to approve the Person County Animal Services Ordinance as presented.



## PERSON COUNTY ANIMAL SERVICES ORDINANCE

The Person County Board of Commissioners is authorized under the provisions of G.S. 153A-121, 153A-153 and 153A-442 to adopt ordinances.

### SECTION 1: DEFINITIONS

As used in this ordinance the following terms mean:

- A. **Animal Services Officer:** A county employee designated as Person County Animal Services Officer, Person County Animal Services official or other designations that may be used whose responsibility includes Person County Animal Services.
- B. **Owner:** Any person, group of persons, firm, partnership or corporation owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal. The owner is responsible for the care, actions, and behavior of his animals.
- C. **Kennel, Dealer, Breeder, or Pet Shop:** Any person, group of persons, partnership, or corporation engaged in buying, selling, breeding or boarding pet animals.
- D. **At Large:** Any animal shall be deemed to be at large when he is off the property of his owner and not under control of a competent person.
- E. **Restraint:** An animal is under restraint within the meaning of this ordinance if he is controlled by means of a chain, leash or other like device; or, is secured within a vehicle being driven or parked; or, is within a secure enclosure.
- F. **Spayed Female:** Any female which has been operated upon to prevent conception.
- G. **Neutered Male:** Any male which has been operated upon to prevent reproduction.
- H. **Animal Shelter:** Any premises designated by the County for the purpose of impounding and caring for animals found running at large or otherwise subject to impoundment in accordance with the provisions of this ordinance.
- I. **Exposed to Rabies:** An animal has been exposed to rabies within the meaning of this ordinance, if it has been bitten by, or been exposed to any animal known or suspected to have been infected with rabies.
- J. **Potentially Dangerous Dog:** A dog that:
  - 1. Inflicted a bite on a person either upon public or private real property
  - 2. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property.

3. Approached a person when not on the owner's property in a vicious or terrorizing manner, or an apparent attitude of attack.
- K. **Dangerous Dog:** A dog that:
1. Without provocation has killed or inflicted severe injury on a person; or animal.
  2. Is declared vicious by the Director of Person County Animal Services pursuant to N.C.G.S. 130A-200.
  3. Is determined by the Director of Person County Animal Services to be dangerous and, after this determination, engages in one or more of the behaviors listed in subsection J of this section.
- L. **Stray Dog or Cat:** Any dog or cat, within the County wandering at large or lost and does not have an owner, or any dog or cat, within the County, whose owner fails to list animal for license purposes, or fails to have said dog or cat vaccinated against rabies by a veterinarian, or any dog or cat not wearing a collar and current rabies tag.
- M. **Acts Deemed Public Nuisance:** An act of public nuisance is defined as any animal that repeatedly chases snaps at, or attacks pedestrians, bicyclists or vehicles and also includes animals that turn over garbage pails, damages gardens flowers or vegetables. Public nuisance includes the owner permitting a female animal to run at large during the estrous stage of reproduction.
- N. **Rabies Vaccination:** the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator. Rabies vaccines given by a certified rabies vaccinator are only valid for one year. Rabies vaccines given by a veterinarian are valid for one year to three years as determined by State Law.
- O. **Animal:** refers primarily to domestic cats and dogs unless provided for by state law. Domestic livestock is part of the jurisdiction of Person County Animal Services as set out by state law. Ferrets are included for the purpose of rabies vaccines.
- P. **Proof of Ownership:** Can include but is not limited to veterinary records, photos, registration papers, bill of sale, microchip or adoption contract.

## **SECTION 2: DUTIES OF PERSON COUNTY ANIMAL SERVICES DEPARTMENT:**

The State laws regarding the care of animals will be enforced by the Person County Animal Services Department of Person County.

The Person County Animal Services Department shall be further charged with the responsibility of:

- A. Enforcing all State or County laws, ordinances and resolutions relating to dogs and cats, and the care, custody and control of animals.

- B. Aiding the Health Director to insure public safety and assisting in the enforcement of the laws of the State of North Carolina with regard to animals and especially with regard to vaccination of animals against rabies and the confinement or leashing of dangerous and potentially dangerous animals.
- C. Investigating animal cruelty, neglect or abuse.
- D. Making such canvasses of the county, including the homes in the county, as it deems necessary for the purpose of ascertaining that all dogs, cats and ferrets are vaccinated against rabies.
- E. Operating, pursuant to policies of the Board of County Commissioners;
- F. Maintaining a reference file of rabies vaccination all in accordance with the provisions of this ordinance and the policies of the Board of County Commissioners.

### **SECTION 3: DOGS, CATS AND FERRETS MUST WEAR COLLAR AND RABIES TAG**

- A. It shall be unlawful for any dog, cat or ferret owner to fail to comply with the State laws relating to the control of rabies. It shall be unlawful for any dog, cat or ferret owner to fail to provide any dog, cat or ferret he or she owns with a suitable collar or harness for the wearing of the rabies tag to be issued upon vaccination.
- B. The rabies tag is to be worn by said dog or cat at all times except as otherwise provided by State Law. Exceptions include but are not limited to performing at shows, obedience trials, tracking tests, field trials, training schools or other events sanctioned and supervised by a recognized organization and a hunting dog owned by a person who has a valid license to hunt in Person County or in the state of North Carolina and the dog is engaged on a hunt or training for a hunt and the dog has been vaccinated against rabies. Proof of rabies must be presented upon request of the Person County Animal Services Officer as required by the NC G.S. 130A-192.
- C. Unless proof of rabies vaccination is available, it shall be the duty of the Person County Animal Services staff to insure that any redeemed animal over the age of four months is vaccinated against rabies at the owner's expense before release and that a record be maintained of the vaccination.
- D. A dog, cat or ferret is subject to impoundment in accordance with the provisions of this ordinance if it is not wearing a current rabies tag or if the owner cannot furnish evidence of vaccination.
- E. It shall be unlawful for any person to use for any animal a rabies vaccination tag not issued for that animal.
- F. It is recommended that animals be micro-chipped in the event that the collar and tags are lost for identification purposes.

- G. It is the purpose of this ordinance to supplement the State law by providing a procedure for the enforcement of State laws relating to rabies control.

#### **SECTION 4: POSSESSION OF DOGS OR CATS**

It shall be unlawful for any person knowingly to harbor, feed, or keep in his possession, by confinement or otherwise, any dog or cat that does not belong to him unless he has:

- A. The consent of the owner or custodian of the dog or cat.
- B. If a dog or cat is not wearing tags, or other mode of identification indicating its owner, and is delivered to an animal shelter by;
  - 1. A person who has found and captured the dog or cat.
  - 2. By an approved rescue organization that received the dog or cat from a person who found and captured the dog or cat.
  - 3. The Person County Animal Services' shelter may, in writing, appoint the finder or approved rescue organization to be the agent of the Person County Person County Animal Services' shelter.
  - 4. For purposes of this subsection, the term "approved rescue organization" means a nonprofit corporation or association that cares for stray animals that has been favorably assessed by the Director of Person County Animal Services through the application of written standards.
    - a. The finder or approved rescue organization shall hold the dog or cat for the 72-hour holding period.
    - b. After the expiration of the applicable holding period, the shelter may:
      - 1) Transfer the dog or cat to the person or organization that has held it as agent.
      - 2) Extend the period of time the finder or rescue organization holds the dog or cat as agent of the shelter.
    - c. The privilege to act as an agent for the shelter may be revoked during the holding period at any time by directing the finder or rescue organization to deliver the animal to the shelter.
    - d. The city, county, or organization operating the animal shelter, as principal in the agency relationship, shall not be liable to reimburse the agent for the costs of care of the animal and shall not be liable to the owner of the animal for harm to the animal caused by the agent.

- e. During the 72-hour or longer holding period established an animal shelter may place an animal it is holding in foster care.
- f. If the Person County Animal Services' shelter transfers physical possession of an animal under subsections of this section a photograph which depicts the head and face of the animal shall be displayed at the shelter in a conspicuous location that is available to the general public during hours of operation. This will remain posted for the 72-hour or longer holding period.

*Comments: Humane traps may be obtained from Person County Person County Animal Services on a first come first serve basis for domestic dogs or cats only. There will be a deposit fee. See Appendix A.*

#### **SECTION 5: POSSESSION OF LIVESTOCK**

The Person County Animal Services Department shall enforce the applicable State Laws in reference to the care and possession of livestock.

#### **SECTION 6: POST RABIES EXPOSURE MANAGEMENT**

- A. The Person County Animal Services Department shall enforce the applicable state laws related to post rabies exposure management. As of October 1, 2017, The General Assembly enacted General Statute 130A-197 which reads as rewritten:

§ 130A-197. Management of dogs, cats, and ferrets exposed to rabies.

When the local health director reasonably suspects that an animal required to be vaccinated under this Part has been exposed to the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis, the animal shall be considered to have been exposed to rabies. The recommendations and guidelines for rabies post-exposure management specified by the National Association of State Public Health Veterinarians in the most current edition of the Compendium of Animal Rabies Prevention and Control shall be the required control measures.

- B. The current compendium of animal rabies prevention and control can be found at the National Association of Public Health Veterinarians website [www.nasphv.org](http://www.nasphv.org) and posted at the Animal Services Department offices.

#### **SECTION 7: POTENTIALLY DANGEROUS OR DANGEROUS ANIMALS**

The behaviors that can result in a dog being considered potentially dangerous or dangerous are listed in the definitions.

- A. The provisions of this Section do not apply to a dog being used by a law enforcement officer to carry out the law enforcement officer's official duties. A working dog will be handled in accordance with state law. A dog shall not be considered a dangerous dog under this Article if the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or

assaulting the dog, had been observed or reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

- B. The Director of Person County Animal Services must notify the owner of a potentially dangerous dog in writing giving the reasons for his determination that the animal is dangerous under this Section. The owner may appeal the determination of the Person County Animal Services Director by giving written notice of the appeal within 5 days of receiving this notification. Written notice of appeal should be sent to the Director of Person County Animal Services. The dog will be considered potentially dangerous pending the appeal. The appeal will be reviewed by the Person County Animal Services Advisory Committee within 2 weeks. The owner will be notified of the Committee's decision within 10 days. The committee's decision can be appealed to Superior Court within 10 days pursuant to NC G.S. 67-4.1 Chapter 10.
- C. It is unlawful for an owner to:
  - 1. Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog.
  - 2. Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.
- D. If the owner of a dangerous dog or a potentially dangerous dog transfers ownership or possession of the dog to another person, the owner shall provide written notice to the Director of Person County Animal Services, stating the name and address of the new owner of the dog and to the person taking possession of the dog; specifying the dog's dangerous behavior and the Director of Person County Animal Services' determination.
- E. A dog that has been determined to be dangerous or potentially dangerous may be humanely destroyed in the following instances:
  - 1. If the Director of Person County Animal Services determines that a dog that was previously determined to be dangerous or potentially dangerous either bit a person so as to cause a break in the skin or was at large on two or more separate occasions after such determination, the Director of Person County Animal Services may seek a court order that the dog to be humanely destroyed.
  - 2. If the Director of Person County Animal Services in determining that a dog is dangerous or potentially dangerous also determines that the dog, without provocation, has killed or inflicted severe injury on a person, the Director of Person County Animal Services may seek a Court Order that the dog be humanely destroyed.
- F. A dog that has been determined to be dangerous or potentially dangerous may not be released from the animal shelter except to original owner.
- G. The owner or custodian of any dog that has been determined to be dangerous or potentially

dangerous, shall report immediately to the Person County Animal Services Officer if the dog gets loose or is otherwise unconfined or it attacks a person or another animal.

- H. An Person County Animal Services Officer shall inspect the premises where a dog determined to be dangerous is kept to insure it conforms to the requirements of this ordinance.
- I. If an animal is observed engaged in any of the acts identified as a public nuisance as defined in the definition section of this ordinance, and an official complaint is filed and the owner, if known, is notified the owner is required to keep said animal contained. Each day said animal is not contained, constitutes a separate violation of this ordinance and the owner shall be so charged with violation of this ordinance.

#### **SECTION 8: NOISY DOGS**

It shall be unlawful for the owner or custodian of any dog to allow it to bark, whine, howl, or make any other noise for a protracted period so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.

#### **SECTION 9: PUBLIC NUISANCE**

It shall be unlawful for the owner or custodian of any domestic animal to repeatedly chase, snap at, or attack pedestrians or vehicles or to turn over garbage pails, damage garden flowers or vegetables. It shall also be unlawful for the owner or custodian to permit a female animal to run at large during the estrous stage of reproduction.

#### **SECTION 10: INJURING ANIMALS, NOTICE REQUIRED**

It shall be unlawful for any person to injure a domestic animal by running over, into, or coming into contact with animal, by automobile, motorcycle, bicycle, or other vehicle and fail to notify immediately, the owner of the animal or Emergency Communications for the appropriate response.

#### **SECTION 11: CRUEL TREATMENT**

It shall be unlawful for any person to tease, bait, molest, torture, deprive of necessary sustenance, or cruelly beat, mutilate or kill, wound, injury, poison, abandon or subject to conditions detrimental to its health or general welfare any animal or to cause or procure such action. The words "torture, or cruelly" shall be held to include every act omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful shooting of birds, deer and other game for human food nor to prohibit the lawful trapping of game pursuant to the provisions of the NC General Statutes and the regulations of the Wildlife Resources Commission; nor to prohibit the Person County Animal Services Department or their agents or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner.

#### **SECTION 12: MANNER OF KEEPING AND TREATING ANIMALS GENERALLY**

In accordance with State Laws any person must provide domesticated animals with adequate shelter, proper food, adequate water and space in accordance with the standards set out in subsections A-C below. In addition, the provisions of subsections D and E shall apply to dogs and cats and sick or

injured animals.

- A. Adequate shelter means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is properly lighted; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and for dogs and cats, provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelters whose wire, grid, or slat floors: (i) permit the animals feet to pass through the openings; (ii) sag under the animals' weight; or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.
- B. Provide proper food and adequate water means provision of and access to clean, fresh potable water of a drinkable temperature that is provided in a suitable manner, in sufficient volume, and at suitable intervals appropriate for the weather and temperature, to maintain normal hydration for the age, species, condition, size and type of each animal, except as prescribed by a veterinarian or as dictated by naturally occurring states of hibernation or fasting normal for the species; and is provided in clean, durable receptacles that are accessible to each animal are placed so as to minimize contamination of the water by excrement and pests or an alternative source of hydration consistent with generally accepted husbandry practices.
- C. Adequate space means sufficient space to allow each animal to: (i) easily stand, sit, lie, turn about, and make all other animal body movements in a comfortable, normal position for the animal; and (ii) interact safely with other animals in the enclosure. When an animal is tethered "adequate space" means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; and is at least three times the length of the animal, as measured from the tip of its nose to the base of its tail, except when the animal is being walked on a leash or is attached by a tether to a lead line. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.
- D. Dogs and cats must not be in extended contact with wet surroundings.
- E. Sick or injured animals:
  - 1. Where an illness has affected the quality of life or is life threatening shall be taken to a licensed veterinarian and treatment administered or humanely euthanized within a 24 hour period.
  - 2. Diseased animals that are contagious to other animals or humans should be quarantined in an area that can be properly disinfected. They shall be treated until determined to no longer be contagious or humanely euthanized.
  - 3. Diseased animals that are contagious to humans shall be reported to the state veterinarian and treated as directed by the state and local veterinarians.



4. Animals infested with parasites shall be treated along with the environment as to avoid re-infestation.
5. Injured animal with an open wound that exposes deeper tissue, fractured bones, or persistent pain caused by soft tissue damage, should be treated by a veterinarian, or humanely euthanized.

The provisions above are in accordance with State Laws for each type of animal under the jurisdiction of Person County Animal Services. It is recommended that animals have adequate vaccination against disease, according to the species of the animal. See Appendix A. Animals are required to be on the owner's property and under control at all times. The City of Roxboro requires animals to be on a leash or physically restrained.

### **SECTION 13: IMPOUNDING ANIMALS**

Any animal which appears to be lost, stray or unwanted, or which is found not wearing a current valid rabies vaccination tag as required by State law, shall be confined in the Animal Shelter in a humane manner for a minimum of (3) business days, for redemption by the owner and a maximum of 15 business days for adoption. Animals may be redeemed once it is established to the satisfaction of the Person County Animal Services Director that it has been vaccinated against rabies. If the animal has not been vaccinated against rabies, the animal will be vaccinated before release at the owner's expense. The owner will be given a date by which the vaccine must be given to any animal under 4 months. (Refer to section on Rabies control)

- A. **Sale or Destruction:** If an impounded animal is not redeemed by the owner within three (3) business days, it becomes the property of the county. As such it may be offered for adoption, placed with a rescue group or humanely euthanized by the Person County Animal Services Department. Animals that are sick injured, from a quarantine area, being held for legal reasons or a danger to the public will not be available unless provided for elsewhere in this ordinance. Animals may be humanely euthanized in order to comply with regulations governing space requirements when there is insufficient space and that situation will be noted on the records.
- B. **Adoption:** The animal can be adopted by any responsible adult who is willing to comply with the Person County Animal Services ordinances and the conditions of the adoption contract. Identification will be required. The adoption fees and spay/neuter deposit must be paid at the time of adoption. (See Appendix A)
- C. **Notifying Owner:** Immediately upon impounding an animal, the Person County Animal Services Department will make reasonable efforts to notify the owner, and inform such owner of the conditions under which the animal may be reclaimed.
- D. **Animal Rescue Organizations:** It is the county's policy to make animals available to organizations in order to attempt to find homes for as many animals as possible, reduce euthanasia rates and for all organizations that care for homeless animals to work together to provide the greatest opportunity for adoption without prejudice towards organizations that are forced to euthanize animals. It is further the County's policy to foster a community cooperative approach to reducing pet overpopulation with all shelters and rescue groups working together to place all healthy, adoptable animals with families in their community. Animal protection and rescue organizations that possess an IRS Code section 501 designation and meet the requirements of Appendix B shall have the right to obtain possession of any animal in the possession of the

County set out in this ordinance except for animals which are rabid or suspected to be so, necessary for criminal or civil judicial purposes, necessary for the disposition of law enforcement investigations, required to be held or disposed of to protect the public health or safety of the citizens of the county or ordered to be held or disposed of by a court of competent jurisdiction. In making animals available to organization as provided for in this subsection, the County does not warrant the physical condition or disposition of any animal. The organization obtaining animals hereunder shall be responsible for any and all damages and injuries sustained by any person or animal on account of such animals and shall hold the County harmless for any claims of damages and injuries sustained by any person or animal on account of such animals. (Refer to Appendix B for guidelines and information for animal rescue organizations who want to take possession of an animal at the shelter.)

- E. **Intact Dogs and Cats:** The Person County Animal Services Department shall require that at the appropriate age all dogs and cats adopted from the Animal Shelter be spayed or neutered. The owner must provide proof from the veterinarian that surgery has been completed.
- F. **Suspected Rabies:** Animals impounded which have been bitten by a rabid animal or which the Person County Animal Services Officer has reasonable grounds to suspect has been exposed to a suspect rabid animal, or appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with as provided in Section 6 entitled "Rabies Vaccination and Control" of these Ordinances. Unvaccinated animals from a rabies quarantine area cannot be released.

*Comments: When quarantine for County has been activated, no animals will be released from the shelter, unless it has a current rabies vaccination.*

- G. **Unwanted Animals:** If an animal is officially surrendered by the owner to the Person County Animal Services Department, it may be offered for adoption, placed with a rescue or humanely euthanized without waiting three (3) days if the owner provides proof of ownership. If animal is sick or injured, the animal will be euthanized humanely without a waiting period.
- H. **Diseased or Injured Animals:** Any animal impounded which is badly wounded or diseased (not a rabies suspect) and has no identification shall be humanely euthanized immediately. If the animal has identification, the Person County Animal Services Department will attempt to notify the owner before the animal is euthanized, but if the owner cannot be reached, and the animal is suffering, the Person County Animal Services Department may euthanize the animal at its discretion, in a humane manner.
- I. **Feral Animals:** The Person County Animal Services Director is primarily responsible for public health including the employees of the Person County Animal Services Department. If it is determined that there is a danger to people to hold an animal for three days, the animal may be humanely euthanized without a waiting period.

#### **SECTION 14: RECLAIM AND ADOPTION PROCEDURE FOR IMPOUNDED ANIMALS**

Every person must provide proof of rabies vaccination at the time of reclaim or the animal will be vaccinated by a certified rabies vaccinator at the owner's expense. If not four months of age at the time of reclaim, owner must provide proof of rabies vaccination when animal reaches four months of age.

**A. Reclaim Procedure**

1. The owner shall be entitled to reclaim his animal, except as provided for in this ordinance, upon compliance with the provisions of this ordinance and the payment of shelter fees incurred. In addition to the reclaim fee, a holding fee per day must be paid before animals may be reclaimed. A rabies vaccine shall be administered at the shelter before the animal can be reclaimed unless the owner provides proof of a current rabies vaccine. Owner will be charged for this rabies vaccine. A list of fees is found in Appendix A.
2. If the dog or cat is under four months, the owner will be given a proof of rabies vaccination card at the time of the reclaim. This will include the date stating the time limit allowed to have the dog or cat vaccinated for rabies. The owner must provide proof of the rabies vaccine and submit a copy to Person County Animal Services. If this is not returned to Person County Animal Services within the time limit, a Person County Animal Services' officer will be dispatched to retrieve the dog or cat and the owner can be cited for violation of state law.

**B. Adoption Procedure**

1. All animals will be vaccinated against rabies before leaving the shelter unless they are under four months of age. Rabies vaccines that are given by a certified rabies vaccinator are for one year only.
2. Adoption fee covers age appropriate vaccinations and will be paid at the time of adoption.
3. There will be a spay/neuter deposit for all animals adopted from the shelter unless already spayed/neutered. This deposit will be returned once the proof of sterilization has been returned unless have opted for voucher. The sterilization must be completed within 30 days if the animal is 6 months of age or older. If the animal is under six months, a date will be set and listed on the adoption papers. In order to receive a refund of the deposit, surgery must be done by the date set unless there is a documented medical reason to delay surgery. (See Appendix C)
4. Documentation from a veterinarian will be required for any spay/neuter deposits to be returned.

*Comments: For a list of these fees, see Appendix A.*

**SECTION 15: EXEMPTIONS**

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this ordinance except for the sections on cruel treatment and the manner of keeping animals as per state law.

#### **SECTION 16: INTERFERENCE**

It shall be unlawful for any person to interfere with a member of the Person County Animal Services Department or Person County Animal Services Officers or Veterinarians in the performance of any duty authorized by this ordinance, or to seek to release any animal in the custody of said agents.

#### **SECTION 17: RECORDS**

It shall be the duty of the Person County Animal Services Department to keep accurate and detailed records of:

- A. Impoundment and disposition of all animals coming into the Person County Animal Services;
- B. Bite cases, violations, and complaint investigations;
- C. All monies belonging to County which were derived from impoundment fees, penalties and adoption of animals;
- D. All other records deemed necessary by the County Manager and/or State law.

#### **SECTION 18: FEES**

Fees shall be charged in accordance with schedule of fees adopted from time to time by the Person County Board of Commissioners. (See Appendix A).

#### **SECTION 19: PENALTIES**

This ordinance may be enforced by any and all of the procedures set out below:

- A. Under authority of NC G.S. 153A. 123 (b) violation of this ordinance is a misdemeanor punishable by a fine and/or imprisonment for not more than thirty days.
- B. The Animal Services Officer may institute an action for injunctive relief and an order of abatement as provided for in NC G.S. 153 A-123 (e) for any condition found unlawful in this ordinance.
- C. The Animal Services Officer may also enforce this Ordinance by issuing a Notice of Civil Penalty pursuant to NC GS 153A-123(c).

1) The Civil penalties provided for herein shall be as set forth in the schedule of fees and penalties adopted from time to time by the Person County Board of County Commissioners. Such Civil Penalties shall be in addition to, and not in lieu of, the Criminal penalties and other remedies provided by this Ordinance or by State law. The animal services officer shall be authorized to issue a citation to the person(s), violating this ordinance and shall give notice of the violation in the manner prescribed below. Citations so issued may be delivered in person or mailed by registered or certified mail, return receipt requested, to the person charged. The civil penalty or penalties set forth in the citation must be paid within seventy-two (72) hours of the receipt of the citation and shall be paid to the Animal Services Department. The Animal Services Department shall forward all such penalties collected to the Finance Office for the County of Person for application as by law provided.

2) If the person charged fails to pay the civil penalty within seventy-two (72) hours from the time the citation was issued an additional civil penalty as provided for in the schedule of fees and penalties shall be assessed.

3) Such civil penalties may be recovered by Person County in a civil action in the nature of debt or may be collected in such other manner as prescribed herein.

4) Such notice shall, among other things:

a) State upon its face the amount of the penalty, and

b) Provide that such offender may answer the said notice by mailing said notice, and paying the stated penalty to the Person County Animal Services Department at its mailing address stated in the notice or by making payment to the Person County Animal Services Department directly and that upon payment, such case or claim and right of action by Person County will be deemed compromised and settled, and

c) State that such penalties must be paid within seventy-two (72) hours from issuance of such notice, and

d) State that if such notice of violation is not paid within said seventy-two (72) hour period, civil action to recover the debt may be instituted to include but not be limited to the debt collection procedures of NC GS Chapter 105A Setoff Debt Collection Act, ( interception of state income tax refunds), and

e) State that the Person County Animal Services Department is authorized to accept such payments in full and final settlement of the claim or claims, right or rights of action which Person County may have. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such contended violation or violations, and

D. Each day of continued violation of this ordinance is a separate and distinct offense as provided for in NC G.S.153A-123(g).

#### **SECTION 20: PERSON COUNTY ANIMAL SERVICES DEPARTMENT**

The Person County Animal Services Department of Person County, as created the 21<sup>st</sup> day of April, 1981, shall be composed of such positions as shall be determined by the Board of County Commissioners. The said employees shall be hired and compensated in accordance with the Person County Personnel Policy.

#### **SECTION 21: ADVISORY COMMITTEE**

An Advisory Committee shall advise the Board of County Commissioners and the County Manager with respect to Person County Animal Services matters. The Advisory Committee is composed of members appointed by the Board of County Commissioners to serve at the pleasure of said Board.

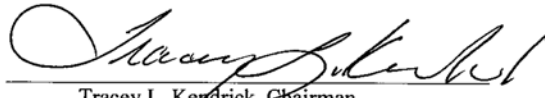
**SECTION 22: SEVERABILITY**

If any section or part of this ordinance should be held invalid for any reason, such determination shall not affect the remaining sections or parts, and to that end the provisions of this ordinance are severable.

**SECTION 23: EFFECTIVE DATE**

This ordinance shall become effective the 2nd day of October 2017 and supersedes any previous versions of the ordinance.

Adopted, this, the 2nd day of October 2017.



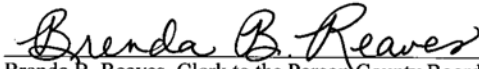
Tracey L. Kendrick, Chairman  
Person County Board of Commissioners

Date

10/2/2017



Attested by:



Brenda B. Reaves, Clerk to the Person County Board of Commissioners

Attachments:  
Appendix A  
Appendix B  
Appendix C  
Appendix D

## Appendix A Fees

### Adoption Fees

Adoption Fee - includes age appropriate vaccinations	\$25.00
Deposit required for unaltered animal	\$75.00

(Deposit will be refunded if completed before the deadline that is stated on adoption contract)

### Reclaim Fees

1st Offense Reclaim	\$25.00
2nd Offense Reclaim (in one year period)	\$50.00
3+ in one year period, reclaim fee per offense	\$100.00
Regular holding per night	\$5.00
Quarantine holding per night	\$10.00
Rabies Vaccination	\$8.00
(if unvaccinated or no proof of vaccination)	

### Animal Pick Up Fees

Pick up litter of puppies or kittens	\$25.00
Pick up injured or sick dogs and cats	\$25.00

### Rescue Pull Fees

Rabies Vaccination (4 months old or older)	\$8.00
5 way vaccine	\$6.00

### Rabies Clinic

Rabies Vaccination (Times to be announced)	\$8.00
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### Trap Deposit

Cat or Dog Trap	\$25.00
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### Citation Violation Fees

No current or displayed Rabies Tag	\$25.00
Permitting a dog to run at large	\$25.00
Allowing a female "in heat" to run at large	\$25.00
Cruelty to animals	\$100.00
Interfering with an Animal Services Officer	\$100.00
Nuisance	\$25.00
Leaving a dangerous dog unattended unless confined indoors or in securely enclosed and locked pen	\$100.00

October 2, 2017

## Appendix B

### Rescue Group Procedures

The purpose of this policy is to establish standard operating procedures for Person County Animal Services and all rescue groups that wish to pull animals from Person County Animal Shelter. In making animals available to organizations, the Person County Animal Service's goal is to improve the lives of animals in our county. In order to attempt to find homes for as many animals as possible and reduce euthanasia rates, all organizations that care for homeless animals must work together to provide the greatest opportunity for adoption without prejudice towards organizations that are forced to euthanize animals. A community cooperative approach to reducing pet overpopulation is the goal with all shelters and rescue groups working together to place all healthy, adoptable animals with families in their community. Animal protection and rescue organizations that possess an IRS Code section 501 designation and meet the requirements of Appendix B shall have the right to obtain possession of any animal in the possession of the County set out in this ordinance except for animals which are rabid or suspected to be so, necessary for criminal or civil judicial purposes, necessary for the disposition of law enforcement investigations, required to be held or disposed of to protect the public health or safety of the citizens of the county, or ordered to be held or disposed of by a court of competent jurisdiction. As provided for in this subsection, the County does not warrant the physical condition or disposition of any animal. The organization obtaining animals hereunder shall be responsible for any and all damages and injuries sustained by any person or animal on account of such animals and shall hold the County harmless for any claims of damages and injuries sustained by any person on account of such animals.

1. Rescue groups wishing to rescue animals must be a non-profit organization with 501 paperwork. Each rescue group must submit a copy of its 501 papers and a list of agents authorized to pick up animals from the Person County Animal Shelter.
2. All rescue groups must have an application approved by the Person County Animal Services Director (hereinafter "Director"). A rescue application may be denied by the Director, in which case he/she will send an explanation for the denial in writing.
3. Person County Animal Services will notify an applying rescue group of the approval or denial of its application and will do so within 10 business days of the receipt of the application.
4. In the event a rescue group's application is denied, the group may appeal the decision to the Animal Services Advisory Committee. The Committee will meet within 2 weeks and notify the group of its decision within 10 days after that meeting. If the Committee overturns the denial, the application will be forwarded to the Director, and will be signed by the Chairperson of the Committee signifying approval of the application.



5. A rescue group may have its privileges to pull animals from Person County Animal Shelter suspended by the Director. The Director will notify the Animal Advisory Committee. The Committee will meet within 2 weeks to review the suspension. The Animal Services Advisory Committee will notify the suspended rescue group within 10 days after that meeting of its decision.

The guidelines for rescue groups are as follows:

1. Adherence to animal pull procedures which include date and time limits.
2. Cordial interaction between all parties.
3. Not violating any of the other rules or provisions provided herein.
4. All rescue groups are to make arrangements to pull all animals they intend to rescue prior to the day the animals is scheduled for euthanasia.
5. All rescues are to be coordinated through the Rescue Coordinator.
6. All animals will be held at the Person County Animal Shelter for the mandatory 72 hours impoundment period after arriving at the shelter, and no animal is to be released prior to the expiration of this time. (Except as outlined in Section 4 of the Person County Animal Services Ordinance.)
7. The adoption agent will have 1<sup>st</sup> choice of animals that are in holding. If an animal is placed in adoption and does not get adopted, the rescue group will be notified that they may pull the animal.
8. Animals can be tentatively reserved while they are in the holding. The following information needs to be directed to the Rescue Coordinator:

Intake number, cage number, brief description to be sent to the Rescue Coordinator by email or by a written notice. Rescue Coordinator must be notified by 4:00 p.m. on day before animal is due to be released from holding.

*Example: Hold Until Date 7/2/10*

*Notify Rescue Coordinator no later than 4:00p.m. on 7/1/10*

9. You will be notified if the animal you reserved is put up for adoption, has been adopted, reclaimed or has become ill. If it is in the best interest of the animal due to unforeseen issues, the animal will be humanely euthanized before you are notified. If a qualified potential adopter and a rescue group are interested in the same animal, the adopter will be given preference according to NC G.S.130A-192(a).

10. If a rescue group reserves an animal, Person County Animal Shelter will place the animal in the rescue holding cages and will place a card on its cage stating the name of the group and the date by which the animal will be pulled by the rescue group.
11. Age appropriate vaccinations will be given upon request to animals when they are moved to Rescue Holding. Rescue Groups will be responsible for the cost of the vaccinations which will be billed on a monthly basis. See Appendix A for cost.
12. A rescue group's request to reserve an animal may be denied at the discretion of the Director.
13. Rescue group members are not allowed to euthanize or medicate animals at the Person County Animal Shelter.
14. Before leaving the Person County Animal Shelter with any animal, a rescue group member must notify a shelter employee.
15. Animals that have been reserved can be picked up during normal business hours.
16. Rescue groups must have procedures for sterilization of the animals that they adopt out.
17. Any questions regarding the animals will be directed to the Rescue Coordinator. If the coordinator is not available, the questions should be submitted in writing.

## Rescue Group Offenses

### Minor:

- Not following Rescue Group Procedures listed in Appendix B of the Animal Control Ordinances.
- Not following through after “tagging” pets for rescue.

### Offenses

- First Offense: written warning
- Second Offense: suspension of 30 days
- Third Offense: suspension of 90 days
- Fourth Offense: suspension of 180 days

### Major:

- Using a 501c3 IRS designation that is not current.
- Not adhering to state and federal animal welfare and cruelty laws.
- Not making sure all pets pulled by rescue are spayed/neutered as required.
- Not licensing rescue with the Department of Agriculture if required (more than 9 rescue pets in any foster home.)
- Pulling from the Shelter and then turning into other city or county-run shelters.
- Negative interaction with shelter as to cause disruption of normal everyday functions at shelter

### Offenses:

- First Offense: suspension of 30 days, 1 year probation\*
  - Second Offense: suspension of 90 days, 1 year probation\*
  - Third Offense: suspension of 180 days, 1 year probation\*
  - Fourth Offense: suspended indefinitely
- \*Rescue Groups on probation, if violate their probation will be suspended for 1 year

### Redemption

Rescue Groups with previous offenses who go 5 years with no additional offenses can have their record cleared and will be restored to a clean record status.

### Procedures for implementation of offenses to Rescue Groups:

Minor Offenses: as better defined in the Rescue Groups Procedures, Appendix B (attached to the Person County Animal Services Ordinances, Rescue Group will be sent a letter from PCAS Director and Director to notify PC Advisory Committee.

Major Offenses: PCAS Director to notify PC Advisory committee and Committee to meet within 2 weeks to review. Rescue Groups may appeal the Director's decision by notifying PC Animal Advisory Committee and will be invited to the next scheduled Committee meeting. PC Animal Advisory committee will render a decision and notify the Rescue Groups within 10 working days of that meeting as to their decision.

**Appendix C**

**Person County Animal Services  
2103 Chub Lake Road, Roxboro, NC 27574  
Spay or Neuter Voucher**

Person County Animal Services has partnered with three local veterinarians to offer you an opportunity for low cost spaying or neutering for your adopted animal(s).

The adopter will schedule an appointment with one of the veterinarians before the deadline date listed on this voucher. Please be sure to tell the veterinarian's office that you will be using your spay or neuter voucher on an adopted animal from the Animal Shelter. This voucher will be presented for payment to the veterinarian's office.

This voucher will **NOT** cover any complication costs associated with the spaying or neutering surgery (i.e. pregnancy or retained testicles) or will not cover any additional medical services. **Additional costs will be the animal owner's responsibility.**

This voucher only applies to the three veterinarians listed below. If you choose a different veterinarian, you will be responsible to pay for the spaying or neutering. You will still need to have the surgery performed by the deadline stated in your contract. Please submit a copy of the invoice from the veterinarian to Person County Animal Shelter to receive your \$75 deposit refund. If your veterinarian would like to participate in this voucher program, please have them contact Person County Animal Shelter at 336-597-1741.

**PARTICIPATING VETERINARIANS**

Roxboro Animal Hospital  
520 Burlington Road  
Roxboro, NC 27573  
336-599-8303

Woodsdale Animal Hospital  
430 S Morgan Street  
Roxboro, NC 27573  
336-599-0611

Halifax County Veterinary Center  
403 S. Main Street  
Halifax, VA 24558  
434-476-2166

Adopter's Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone Number \_\_\_\_\_

Animal Intake Number \_\_\_\_\_ Date Adopted \_\_\_\_\_

Breed \_\_\_\_\_ Color \_\_\_\_\_ Sex \_\_\_\_\_ Age \_\_\_\_\_

Deadline for spaying and neutering and voucher \_\_\_\_\_

**THIS VOUCHER IS REDEEMABLE ONLY  
FOR THE ADOPTER'S NAME AND ANIMAL LISTED ABOVE.  
NON TRANSFERRABLE.**

**If your veterinarian would like to participate in this voucher program, please have them  
contact Person County Animal Services at 336-597-1741.**

**October 2, 2017**



## CITATION

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### Person County Animal Services

Date: \_\_\_\_\_ Time: \_\_\_\_\_

2103 Chub Lake Road, Roxboro, NC 27574 • (336) 597-1741 • Fax: (336) 597-3319

☐ WARNING ONLY ( If checked you have 72 Hours to correct or you will be fined the fixed amount below)

Name: \_\_\_\_\_ Driver License No. \_\_\_\_\_

Address: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

City/State: \_\_\_\_\_ Phone Number: \_\_\_\_\_

### Animal Description

Breed: \_\_\_\_\_ Sex: \_\_\_\_\_ Color: \_\_\_\_\_ Rabies Tag: \_\_\_\_\_

Breed: \_\_\_\_\_ Sex: \_\_\_\_\_ Color: \_\_\_\_\_ Rabies Tag: \_\_\_\_\_

The violation for which you are being cited is in violation of either or both North Carolina Animal Control Laws and

Person County Animal Services Ordinance.

You are hereby cited for violation of the following:

- ☐ \$25 No current or displayed Rabies Tag ☐ \$100 Interfering with an Animal Services Officer  
☐ \$25 Permitting a dog to run at large ☐ \$25 Nuisance  
☐ \$25 Allowing a female "in heat" to run at large ☐ \$100 Leaving a dangerous dog unattended unless  
☐ \$100 Cruelty to animals confined indoors or in securely enclosed and locked pen  
☐ \$ \_\_\_\_\_ Other: \_\_\_\_\_

OFFICIAL USE ONLY	
<input type="checkbox"/>	Warning Corrected
<input type="checkbox"/>	Fine Paid
<input type="checkbox"/>	Sent to Magistrate
Court Date: _____	
Verdict: _____	

Number of violations: \_\_\_\_\_ Total Amount of fine: \$ \_\_\_\_\_ Mail or bring this citation with the amount of fine to

Said penalty shall be paid on or before : \_\_\_\_\_ the above address.

Animal Services Officer: \_\_\_\_\_ If Warning, must bring citation to shelter.

If the person charged fails to pay the civil penalty within seventy-two (72) hours from the time the citation was issued, an additional civil penalty as provided for in the schedule of fees and penalties shall be assessed.

Each day of continued violation of this Ordinance is a separate and distinct offence as provided for in NC G.S. 153A-123(g).

Animal Services Ordinance Appendix D

## **SALE OF SURPLUS PROPERTY:**

Chairman Kendrick stated the Board of Commissioners approved resolutions to begin the upset bid process for the “Old Hotel” property and the “Old Senior Center” property. A public notice of sale was advertised in the *Courier-Times* on September 16, 2017 with a deadline to submit sealed bids by September 25, 2017 at 5:00pm.

Chairman Kendrick updated the Board that no new bids were received for the “Old Hotel” property. The highest initial bidder, Mr. John Dixon of Roxboro submitted an offer of \$22,500 to purchase the property. The Board of Commissioners has the right to reject bids at any time; however, should the Board decide to move forward with the sale of the “Old Hotel” property, the clerk and county attorney can complete the purchasing process.

Chairman Kendrick told the group that the “Old Senior Center” property received two upset bids: 1) a bid in the amount of \$750 and 2) a bid in the amount of \$3,000. A new notice of sale was published in the *Courier-Times* on September 30, 2017 containing the new required minimum bid of \$3,200 to upset with sealed bids to be submitted to the Clerk of the Board of Commissioners by 5:00pm on October 9, 2017.

Chairman Kendrick requested Board action to approve the sale of the “Old Hotel” property and to authorize the execution of the appropriate documents for the sale of the property.

Chairman Kendrick provided full disclosure that Mr. Dixon is his father-in-law and asked the County Attorney to address any potential conflict of interest.

County Attorney, Ron Aycock noted Chairman Kendrick desired to recuse himself as the highest bidder was related to him however state statute mandated Chairman Kendrick to vote unless there was a personal financial interest to which he deemed was not present.

Commissioner Clayton supported rejecting the bid noting his preference to retain the property noting there was much activity in that area of town. Tax value on the “Old Hotel” property was noted at \$39,911 and \$271,949 for the “Old Senior Center” parcel. County Manager, Heidi York added that the “Old Senior Center” building had been condemned for occupancy but could be used for storage.

A **motion** was made by Commissioner Puryear and **carried 4-1** to accept the highest bid of \$22,500 from Mr. John Dixon of Roxboro and to approve the sale of the “Old Hotel” property and authorize execution of the appropriate documents for the sale. Commissioner Clayton cast the lone dissenting vote.

**October 2, 2017**

**CHAIRMAN'S REPORT:**

Chairman Kendrick thanked Vice Chairman Powell for leading the last board meeting while he was out of town.

**MANAGER'S REPORT:**

County Manager, Heidi York had no report.

**COMMISSIONER REPORT/COMMENTS:**

Commissioner Jeffers had no report.

Commissioner Clayton gave the Board and staff a copy of the Kerr Tar Regional Council of Governments Annual Report FY2016/2017 noting the annual banquet was held on September 28, 2017 in Henderson. He reported he also attended the Nano Technology Conference in Greensboro.

Commissioner Puryear congratulated the Person County Museum of History's Gala celebration of Person County 225<sup>th</sup> Anniversary.

Vice Chairman Powell commented that the Museum celebration was well represented.

**CLOSED SESSION#1**

A **motion** was made by Vice Chairman Powell and **carried 5-0** to enter into Closed Session per General Statute 143-318.11(a)(5) at 8:37pm to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease with the following individuals permitted to attend: County Manager, Heidi York, Clerk to the Board, Brenda Reaves, County Attorney, Ron Aycock, and Assistant County Manager, Sybil Tate.

A **motion** was made by Commissioner Jeffers and **carried 5-0** to return to open session at 8:41pm.

**ADJOURNMENT:**

A **motion** was made by Commissioner Puryear and **carried 5-0** to adjourn the meeting at 8:42pm.

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Brenda B. Reaves  
Clerk to the Board

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Tracey L. Kendrick  
Chairman