# COUNTY AGENDA REQUEST

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| Department: | Planning & Zoning | Presenter(s): | Pete Frisina |
| Meeting Date: | Wednesday, October 3, 2012 | Type of Request: | Old Business |

Wording for the Agenda:

Further discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding the limit on the number of animals.

Background/History/Details:

At the September 5, 2012 BOC Workshop, Commissioner Hearn proposed that the zoning ordinance be amended to remove the limit on the number of animals (cats and dogs) in the A-R zoning district. The current limit on the numbers of dogs and cats in all other residentially zoned property (excluding A-R zoned property) will remain unchanged.

Staff and the Planning Commission have reviewed the zoning ordinance and are recommending amendments to allow an unlimited number of animals in the A-R zoning district. There are still issues with kennels as they related to pet stores and vet clinics in non-residential districts that staff and the Planning Commission will continue to work on.

What action are you seeking from the Board of Commissioners?

No action is required. Staff is seeking direction for the Board on these proposed amendments. If the Board is in favor of the proposed amendments, staff seeks permission to have them considered under Public Hearing.

If this item requires funding, please describe:

Not Applicable.

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| Has this request been considered within the past two years? | Yes | If so, when? | Wednesday, September 5, 2012 |
| Is Audio-Visual Equipment Required for this Request?* | No | Backup Provided with Request? | Yes |

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

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| Approved by Finance | Not Applicable | Reviewed by Legal | |
| Approved by Purchasing | Not Applicable | County Clerk's Approval | Yes |
| Administrator's Approval | Yes | | |

Staff Notes:

To: Board of Commissioners

From: Pete Frisina

Date: September 25, 2012

Subject: Animals

This subject was discussed at the September 6, 2012 BOC Workshop concerning the elimination of the three Animal (dogs and cats) limit in the A-R zoning district. The BOC directed staff and the Planning Commission to review the zoning ordinance and bring recommendations back to the BOC.

Staff and Planning Commission have reviewed the zoning ordinance and are recommending amendments to allow an unlimited number of Animals in the A-R zoning district. There are still issues with kennels as they relate to pet stores and vet clinics in non-residential zoning districts that staff and Planning Commission will continue work on.

Staff and the Planning Commission are seeking direction from the BOC on whether these items can move forward to public hearings for adoption or back to staff and Planning Commission for additional work.

**PROPOSED AMENDMENTS TO THE FAYETTE COUNTY CODE OF ORDINANCES**
**CHAPTER 20 ZONING ORDINANCE**

## ARTICLE III. DEFINITIONS

*Animal.* For the purpose of this ordinance, the word animal shall mean either a domestic dog (canis familiaris) or domestic cat (felis catus.) ~~It~~ ***This term*** shall not include livestock (see *Livestock*) ***or household pets (see Household Pet.)*** ~~The number of animals kept shall be limited to three (3.)~~

***Hobby Breeder. A breeder of animals who sells less than 30 animals per year.***

***Household Pet. A household pet shall include rodent pets, such as gerbils, hamsters, mice, rats, and guinea pigs; small mammal pets such as rabbits, hares, and ferrets; avian pets, such as canaries, parakeets, and parrots; reptile pets, such as turtles, lizards and snakes; and aquatic pets, such as tropical fish and frogs that is customarily kept for personal use or enjoyment primarily within a principal residence.***

*Kennel.* ~~Any location where any combination of animals are kept in excess of three (3) shall be deemed to be a kennel. This definition does not include a location where one (1) litter of dogs or cats of not more than six (6) months of age are kept.~~ ***An establishment for the boarding, breeding and/or sale of animals for commercial gain that may in addition provide grooming and/or training services, and a pet rescue operation where the animals are primarily housed or kept outside of the principal residence in accessory structures, pens, or enclosures. A Hobby Breeder, as defined herein, shall not be considered a kennel.***

*Livestock.* Animals including, but not limited to: horses, cattle, goats, sheep, pigs, pot bellied pigs, chickens, ducks, geese, mules, rabbits, emu/ostrich, buffalo, chinchilla, fox, mink or other fur-bearing animal, and llamas. This term shall be deemed to specifically exclude ~~domestic dogs and domestic cats~~ ***animals(see Animal) and household pets(see Household Pet.)***

***Pet Rescue. A nonprofit organization or individual providing temporary welfare, protection, and humane treatment of animals while searching for permanent adoptive homes.***

***Pet Store. A retail establishment primarily engaged in the sale of animals and household pets, and may in addition provide grooming and/or training services.***

## ARTICLE V. GENERAL PROVISIONS

**Sec. 5-2?. Keeping of Animals in Residential and Agricultural-Residential Districts.**
The number of animals allowed per principal dwelling unit is limited to three in the following zoning districts: EST, C-S, R-85, R-80, R-78, R-75, R-72, R-70, R-55, R-50, R-45, R-40, R-20, DR-15, RMF, MHP, PUD-PRD, PUD-PRL, PUD-PEF, O-I, C-C, C-H, L-C, M-1, M-2, and BTP. One (1) litter of animals of not more than six (6) months of age shall not count toward this limit. The number of animals allowed in the A-R zoning district kept for personal use or hobby breeding is unlimited. Dog pens as regulated in Article V. and similar open air animal enclosures are allowed in side and rear yards only and shall meet setbacks.

adopt a corrected version of the Ordinance that includes the times when alcohol may be sold on Sundays in Fayette County. He added that the County Marshals are in the transition period of taking over the enforcement of the alcohol sales, and that the officers needed clarity on this issue. Discussion followed.

Commissioner McCarty moved to approve staff's recommendation to adopt proposed amendments to Ordinance 2012-11–Fayette County Code of Ordinances, Part II County Code, Chapter 3, Alcoholic Beverages, by establishing the correct time for Sunday sales to commence, and to authorize the Chairman to sign Ordinance 2012-11 as amended. Commissioner Brown seconded the motion. No discussion followed. The motion passed unanimously. A copy of the request, identified as "Attachment 1", follows these minutes and is made an official part hereof.

**NEW BUSINESS:**

1. **Discussion by Commissioner Lee Hearn to consider amending Fayette County's Zoning Ordinance as it pertains to the number of dogs and cats permitted on A-R zoned properties.**

Commissioner Hearn explained his concerns about Fayette County's Zoning Ordinance as it pertains to the number of dogs and cats permitted on A-R zoned properties. Specifically, Commissioner Hearn explained that the current Zoning Ordinance does not regulate the numbers of other animals such as pigs, sheep, horses, cows, llamas, or camels in an A-R zoned district, but that it does limit the number of dogs or cats to any combination of three animals in A-R zoned districts. He suggested that if the County is not going to regulate the number of pigs in A-R zoned properties, then it should not regulate how many dogs or cats a person has in the same zoning district.

Community Development Director Pete Frisina explained the current requirements of the current Zoning Ordinance as it regulates the numbers of dogs and cats permitted in A-R zoned properties, clarified issues associated with the deregulation of the numbers of dogs and cats in A-R zoned districts, and answered questions from the Board. Discussion followed.

The Board directed Mr. Frisina to return to a future workshop with recommendations on how to remove the regulations on the numbers of dogs and cats only in A-R zoned properties or districts. Commissioner Hearn added that he wanted to have this issue resolved by the end of the year. The Board took no formal action during this discussion. A copy of the request, identified as "Attachment 2", follows these minutes and is made an official part hereof.

2. **Fire and Emergency Services' staff will present architectural drawings of the proposed Fire Station Number 3 replacement design.**

Deputy Chief Tom Bartlett and his staff set up architectural drawings of the proposed replacement design of Fire Station Number 3, which will be located on a 6.6 acre site at the intersection of Jenkins Road and State Route 74 North in Tyrone. (The drawings were displayed for the attending audience at the end of the workshop meeting.) He updated the Board on the work involved during the Design Development phase of this project, and he informed the Board that the project had entered into the Construction Document phase. He mentioned that the 6.6 acres would also house a future water storage tank, but that the fire station would be constructed on the front half of the property. He then explained the proposed design of Fire Station Number 4, anticipated that it would be open for business around October 2013, and answered questions from the Board.

i. At least 50 percent of all exterior wall finishes shall be comprised of at least two (2) of the following facade types: brick/brick veneer, wood, fiber-cement siding (i.e.: Hardi-plank), rock, stone, cast-stone, split-face concrete masonry unit (rough textured face concrete block), architectural precast concrete wall panels, stucco (including synthetic stucco) or

any architecturally engineered facades which simulate these materials. Any metal facades used on the remaining portions of the exterior walls shall establish a horizontal seam pattern.

ii. No horizontal length of a roofline shall exceed 50 linear feet without a variation in elevation. Said variation in elevation shall not be less than two (2) feet.

iii. No blank or unarticulated horizontal length of a building facade shall exceed 25 linear feet without a variation in architectural elements, including but not limited to, building materials, colors, textures, offsets, or changes in planes.

Pete Frisina said that with the new zoning district there are other areas of the ordinance that need to reflect the new zoning district in Articles V and VII. Also he said in doing research he found a typo in the BTP zoning district so the correction would be included in the proposed amendments.

Pete Frisina said that he planned to take this back to the BOC in October with the changes that have been discussed and based on their input it will either come back for more work or move forward to public hearings.

**2. Discussion of proposed amendments to the Fayette County Code of Ordinances, Chapter 20. Zoning Ordinance regarding: Animals**

Pete Frisina reported that at the September 5, 2012 BOC workshop Commissioner Hearn brought up the subject of allowing unlimited animals (cats and dogs) in A-R but keeping the limit of three animals in the residential zoning districts. He said that staff and Planning Commission had worked on this issue previously but didn't come to a conclusion and got sidetracked onto other issues. He said he also had discussed this with Animal Control and the Marshals and they had apprehension in dealing with this issue purely on a nuisance basis because it becomes subjective and a number is easier to enforce.

Doug Powell asked if the county restricts the number of horses in A-R. Pete Frisina replied that the number of horses is restricted in the residential districts but not in A-R. He said Commissioner Hearn's point was if the county does not restrict the number of livestock in A-R why do we restrict the number of animals (dogs and cats). He went over the current ordinance and explained that the definition of Animals for the purpose of the zoning ordinance is cats and dogs and there is a sentence in the definition that says the limit is three. He added that is a regulation does not belong in a definition and it is incorrect because if you meet the conditional use for a kennel, basically the 300 foot setback, you can have more than three animals in A-R. He said that you have to read through

three different Articles to determine that you can't have more than three animals in a residential zoning district.

Doug Powell said he thinks a 300 foot setback is good for a lot of dogs because they don't belong right on the property line. Al Gilbert said that is what the BOC wants changed for pets and allow someone to have as many dogs and cats as they like. Chairman Thoms added as long as they are not operating a kennel. Doug Powell said then the county has to rely on a nuisance basis for animals that are running lose, leave the property and cause damage on other's property, noise, and health concerns.

Pete Frisina said he included definitions from the State and other ordinances to help staff and the Planning Commission to amend the county ordinance. He pointed out a state definition of a pet dealer that says anyone selling more than thirty pets a year has to have a State License and said that may be useful as threshold for what the county is trying to accomplish.

Pete Frisina discussed the following suggested amendments:

1. Take the three animal limit out of the animal definition
2. Develop a definition for a Hobby Breeder based on the State law of selling less than 30 animals a year and this would not constitute a kennel
3. Develop a definition for household pets
4. Redefine a kennel as an establishment where animals are breed or boarded for commercial gain including a pet rescue where the animals are kept outside of the principal residence, in addition a kennel may provide grooming and training services
5. Develop a definition or Pet Rescue
6. Add a section in Article V that states how many animals can be kept based on the zoning district. The objective is to keep the three animal limit in the residential zones and not limit the number of animals a person has as pets in A-R

Doug Powell asked how the county addresses dog pens and do they have to meet setbacks. Pete Frisina replied that under Article V they are considered accessory structures and have to meet the same setback and location requirements as a detached utility shed for example, however, it defines dog pens as enclosures of 200 square feet or less. He added that what we were trying to do was regulate those small enclosures as opposed to regulating someone that just fences in their yard to contain their animals. Chairman Thoms said if the structure is over 200 square feet it doesn't count as a dog pen. Pete Frisina replied that we had to have a number and 200 feet was some of the biggest dog pens that staff found for sale on the internet. Doug Powell asked what difference does the square footage have to do with it, can't we just define what pen is not using a dimension and have it comply with setbacks. Pete Frisina asked Doug Powell what the definition would be. Doug Powell replied I don't know. Pete Frisina said that is the problem so you have to have something

quantifiable like square footage. Doug Powell suggested containment for one or more dogs. Pete Frisina asked what if a person fences in an acre and a half, is that a pen. Doug Powell said it could be by definition and I see the problem.

Doug Powell said that the county needs to distinguish between a commercial kennel and a private kennel. Pete Frisina replied that these structures could just contain a person's pets or hunting dogs and not really be a kennel. Fred Sisson said that enclosures for hunting dogs could have a concrete of gravel floor and a chain link structure. Doug Powell said the county has to contain the nuisance aspect. Pete Frisina replied that at some point the county will have to rely on the nuisance and/or noise ordinance but it is not an easy way to regulate the problem. Pete Frisina said he thought the noise ordinance addressed barking dogs specifically and there was duration of 15 minutes before it is a violation. Hank Meyers said he didn't think there was a time limit in the noise ordinance for barking dogs and also it didn't require a noise meter reading for a barking dog as well.

Doug Powell asked the Marshals what they think of enforcing these different rules for dogs. Hank Meyers replied that it is difficult and he had dealt with a case where an individual had 12 hunting dogs in pens on his property but couldn't meet the 300 foot setbacks so he had to move his dogs somewhere in South Georgia.

Chairman Thoms asked if we are discussing a setback for a commercial kennel or for somebody in A-R that owns 15 dogs. Doug Powell said that the person with 15 dogs will have an A-R setback of 50 feet on the side and 75 feet in the rear, and a commercial kennel would have a 300 foot setback. Pete Frisina replied at some point the county will have to rely on the nuisance or noise ordinance but that is more difficult.

Pete Frisina said that the direction from the BOC was to look at allowing an unlimited number of pet animals in A-R and that pets and hobby breeding would be unlimited in A-R based on these amendments. Doug Powell stated that they would still be bound by the 30 sales a year and other applicable regulations like animal control and noise and that should be reiterated in the zoning ordinance

He added there are still some other issued that needed to be addressed like pet stores in commercial and whether they are a kennel or not, but staff is not there yet. Al Gilbert suggested taking back the A-R portion of the amendments to the BOC in October, but let the BOC know that there are still issues that need to be addressed in the near future. The Planning Commission concurred with Al Gilbert's suggestion to address the A-R amendments for now.

Eric Semon asked how other communities address this problem. Pete Frisina replied some use a similar number limit and some go strictly by nuisance on a case by cases basis but their nuisances thresholds are more detailed and numerous.

Fred Sisson said there is a big problem with cats as well and some years Animal Control collects more cats than dogs. Pete Frisina added that a citizen was suggesting that an incentive of allowing more pets if they are spayed and neutered. Fred Sisson said that is great but it is difficult to regulate. Pete Frisina said it doesn't mitigate a nuisance if there is one.

Chairman Thoms asked if the zoning of the surrounding property have any effect on the unlimited animals in A-R. Pete Frisina replied it would not unless you are a kennel as it would be defined.

Chairman Thoms asked if I were this gentleman with the 12 hunting dogs I would be legal with these amendments and do you think this will encourage property owners to seek rezoning to A-R. Pete Frisina replied it would probably encourage property owners to seek a rezoning if they could get unlimited animals.

Chairman Thoms said he is glad to see us work on this because he never felt comfortable with the three animal limits.

Hearing no further comments, Doug Powell made a motion to adjourn the Public Meeting/Workshop. The motion unanimously passed 3-0. Members voting in favor of adjournment were: Chairman Tim Thoms, Vice-Chairman Al Gilbert, and Doug Powell. The Public Meeting/Workshop adjourned at 9:30 P.M.

**PLANNING COMMISSION**

**OF**

**FAYETTE COUNTY**

**ATTEST:**

**TIM THOMS**
**CHAIRMAN**

**DENNIS DUTTON**
**PC SECRETARY**