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## AGENDA NOTES:

### **Agenda Item #16 – Amend the City’s Benefits Plans**

*Staff Resource: Cheryl Brown, Human Resources, 704-336-5703, [clbrown@charlottenc.gov](mailto:clbrown@charlottenc.gov)*

At the upcoming Council Business Meeting, Council will consider a change to the city benefits plan. In light of the recent United States Supreme Court decision in *Obergefell v. Hodges* relating to state recognition of same-sex marriages under the Equal Protection Clause of the United States Constitution, staff recommends ending the current policy offering coverage for same-sex domestic partners at the expiration of the current benefit plan year (December 31, 2015), and offering benefit coverage to legal spouses of all qualifying City employees, whether same-sex or opposite-sex spouses, effective at the beginning of the next benefit plan year (January 1, 2016).

With the recent ruling, same-sex couples now have the option of legally recognized marriage, therefore this change will treat both same-sex couples and opposite-sex couples the same. As of July 1, 2015, 19 employees and non-Medicare-eligible retirees have selected benefit coverage under this extension. An employee’s same-sex domestic partner who chooses not to get married, and thus not qualify for spousal coverage, will have the opportunity to obtain insurance coverage through the Health Insurance Marketplace, created by the Patient Protection and Affordable Care Act.

The Open Enrollment period for City employees will be held from October 1 – 15, 2015. Employees who subsequently get married after the conclusion of the City’s Open Enrollment period may then add their spouse, same-sex or opposite-sex, to the City’s health plan within 31 days from the date of marriage.

## INFORMATION:

### **July 17-31 – Online Bulky Item Scheduling Suspended**

*Staff Resource: Victoria O. Johnson, Solid Waste Services, 704-336-3410, [vojohnson@charlottenc.gov](mailto:vojohnson@charlottenc.gov)*

Citizens will not be able to schedule bulky items online from July 17 – July 31 because of work to upgrade the system that manages online scheduling. Customers who need to arrange bulky item collection during the impacted time should call CharMeck 311 to schedule their items.

A message advertising the change is posted on the front page of Solid Waste Services’ website.

## **New City Contractor to Partner with Charlotte Works for Staffing**

*Staff Resource: Barry Shearin, Charlotte Water, 704-391-5137, [bshearin@charlottenc.gov](mailto:bshearin@charlottenc.gov)*

On June 22, 2015 City Council awarded the first of two contracts to One Call Concepts Locating Services to provide supplemental underground utility locating services for Charlotte Water. Additional contracts will be considered for award by City Council at the July 27 meeting for similar locating services for Stormwater and Charlotte Department of Transportation.

One Call Concepts is new to the Charlotte area and in performing these contracts indicated to City staff that they would be building their workforce primarily from the local area. Given the size of these contracts they might need a total of approximately 7 -10 employees for their office and field operations.

The City Manager's office suggested that Charlotte Works might be a good source to assist One Call Concepts with their recruiting needs. After meeting with Charlotte Works staff, One Call Concepts indicated that they have been pleased with the assistance provided by Charlotte Works and have found well qualified applicants. One Call Concepts is working towards hiring for at least 5 of their initial open positions.

### **ATTACHMENTS:**

#### April 9 Community Safety Committee Summary



20150409 CSC  
Agenda Summary.pdf

#### June 11 Community Safety Committee Summary



20150611 CSC  
Summary Package.pdf



Charlotte City Council  
**COMMUNITY SAFETY  
COMMITTEE**

Meeting Summary for April 9, 2015

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## COMMITTEE AGENDA TOPICS

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- I. Subject: Digital Dispatch Services**  
Action: Motion made and passed unanimously - Committee recommends no action in regards to items 1-5 listed in the memo for Senate Bill 541, the Committee wishes the Council and General Assembly to consider the other observations 1-7 and include a further reconsideration of the surge pricing issue.
- II. Subject: Exclusionary Zones**  
Action: None
- III. Subject: Dance Hall and Computerized Criminal History Access Ordinances**  
Action: Motion made and passed unanimously to forward the amendment to the Dance Hall Ordinance and the DCI Access Ordinance to the full Council for approval.

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## COMMITTEE INFORMATION

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Present: Claire Fallon, Al Austin, and Greg Phipps  
Time: 12:05 pm – 1:35 pm

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## ATTACHMENTS

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1. Agenda Package

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## DISCUSSION HIGHLIGHTS

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Chairwoman Fallon called the meeting to order and asked everyone in the room to introduce themselves. She then turned it over to Assistant City Manager Debra Campbell who is sitting in for Assistant City Manager Ann Wall.

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# Community Safety Committee

Meeting Summary for April 9, 2015

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## **I. Digital Dispatch Services**

Ms. Campbell introduced Thomas Powers to discuss the Digital Dispatch Services agenda item. Mr. Powers reminded the Committee that this item was referred in the fall of 2013. The Committee has had numerous discussions in regards to the companies, such as Uber and Lyft. Staff has done nationwide research regarding this service. The General Assembly has put forth a bill that would regulate digital dispatching, which they are now calling Transportation Network Companies (TNC). The intent of today's meeting is to brief the Committee on the Bill introduced and how it addresses some of the previous issues that were brought forth by staff in previous meetings. Mr. Powers then began reading through the "Outline of Transportation Network Company Legislation" memo (copy attached). He also referenced Senate Bill 541 (copy attached).

Austin: Are the vehicle inspections that we do in the Passenger Vehicle for Hire (PVH) office greater than the state inspection?

Powers: Yes, they contract to a 3<sup>rd</sup> party. Those that are providing black car service or taxi cab service would take their vehicles to the 3<sup>rd</sup> party vendor. Under legislation 541 it only provides the minimal basis of state inspections for TNC. Uber and Lyft can be rated by the rider about the cleanliness or shape of the car through their app.

Austin: That is only if the customer actively does that.

Powers: That is correct. We also have the authority to have vehicles pulled out of service throughout the year for taxis and black cars if they are not meeting minimum standards.

Austin: But not for TNC's?

Powers: Correct.

Austin: So it still does not create, in my opinion, an even playing field.

Powers: This is scheduled to take effect July 1, 2015 if passed. Council will probably have discussions or requests from the PVH community to possibly modify the current ordinance to take into account some of these changes.

Austin: Do we have the power to do that?

Powers: It's my legal opinion that you would have the authority to do that.

Fallon: Representative Roy asked us to tell them what we wanted in regards to regulating digital dispatch. We previously sent up an addendum to this bill of things we would request they modify.

Austin: Do we have a copy of the addendums?

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# Community Safety Committee

Meeting Summary for April 9, 2015

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Powers: It is part of the memo before you. On the second page it lists items that staff has identified as issues in this regulation.

Mr. Powers read through the section of the memo titled “Other Observations on Senate Bill 541 as Introduced”.

Fallon: Regarding surge pricing under the first part of this memo, the State felt there was no reason to regulate surge pricing because the app tells you when the price is surging so you know ahead of time before you accept the ride. It is your choice to use them.

Austin: Are cabs allowed to do that?

Powers: We have a designated fare set by the PVH.

Austin: When we have big events like the CIAA and there is surge pricing going on, our cabs do not have the ability to surge?

Powers: Correct, the only time they have the ability to adjust their pricing is during high traffic times. If they are traveling less than 15 mph they can charge time and distance.

Austin: I still do not feel like this is a level playing field. This new entity is a cab with a different mode of communication.

Phipps: Are we aware of any other bills coming forth to address this? I know there is still time for them to be introduced.

Powers: I’ve been made aware of an Insurance Bill that has come forth, but I have not had an opportunity to look at it.

Dana Fenton: They are focused around Senator Raven’s Bill. The filing deadlines are next week. At this point, there is no house legislation that has been introduced.

Powers: So, depending on how this Committee wants to move forward, you may wish to defer to the State in regards to the potential adoption of this Bill which would resolve this referral for this Committee, or you may direct staff to continue drafting an ordinance that accounts for changes in the State law. The latter option would be potentially subject to challenge because of the State issue.

Fenton: I want to remind you that the situation is very fluid and they will be there through the end of July or maybe even August or September. There is a lot of time between now and the end of the session.

Austin: Can we change our ordinance to allow surge pricing?

Powers: If Council wishes to open it up and look at it then we can do that.

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# Community Safety Committee

Meeting Summary for April 9, 2015

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Phipps: Can you develop a template that will show what we asked for and our recommendations versus what the bill covers?

Powers: Yes.

Fallon: How do we want to proceed? Are we going to take this back to a Council Dinner meeting?

Campbell: This was a referral from Council so it is appropriate that the Committee bring back the information. The issue is what do you take back? Do you take back a recommendation that the City should not pursue a local ordinance to regulate TNC's and that we recommend that Senate Bill 541 appears to be adequate to address the issues and concerns we have locally?

Phipps: I would be hesitant to say it is adequate since we have other observations that we have concerns with.

Powers: The Bill has addressed six issues that staff was concerned with excluding the surge pricing.

Campbell: I would suggest that you all go back to Council with an update showing where the Committee stands and that you are comfortable with six items, but there are outstanding issues that you would like to continue to work with the General Assembly to address. We could add the surge pricing as an additional outstanding issue.

Austin: I would. We need to figure out a way that people are not being gauged or permit our taxis to surge, so again, it creates a level playing field.

Campbell: Items 1-6, minus number 5, are items that have been addressed. We will move item 5 to the observation list that we would like to continue to work on with the General Assembly.

Council member Austin made a motion and was seconded by Council member Phipps that the Committee recommends no action in regards to items 1-5 listed in the memo and that the Committee wishes the Council and General Assembly to consider the other observations numbered 1-7 and include also a further reconsideration of the surge pricing issue. (*Motion passed unanimously*)

## **II. Exclusionary Zones**

Ms. Campbell said the next item on the agenda is Exclusionary Zones and she introduced Mark Newbold, Police Attorney. Mr. Newbold gave a presentation (copy attached). He discussed with the Committee what exclusionary zones are, the purpose of them, the different types of exclusionary zones, legislative bans/exclusions, what the ordinance addresses and some concerns and issues with the ordinance.

Fallon: Did the Hidden Valley neighborhood have an exclusionary zone?

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# Community Safety Committee

Meeting Summary for April 9, 2015

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Newbold: Hidden Valley had something very similar; a type of exclusion. We attempted to interrupt younger males from hanging out with those convicted of criminal activities. We established that the gang existed and we had to show five or more felonies committed in furtherance of the gang and once we had that the court prohibited younger males from meeting and hanging out with gang members in public. We had 5 to 8 arrests. That was not through our ordinance, but a statute.

Phipps: Do we have exclusionary zones in place now?

Newbold: No.

Phipps: So, in 2005 we initiated a prostitution free zone on Wilkinson Blvd?

Newbold: Yes and that is expired.

Phipps: Do we only have these in place for a certain period of time?

Newbold: It is wise to only have them in place about a year. If the problem still exists then you would go back and amend the ordinance. The neighborhood has a label attached to it and we have to make sure the neighborhood is okay with that. When we dealt with the Hidden Valley Kings, most of the neighborhood leaders supported having the label.

Fallon: I worry about the fact that it moves the criminal activity somewhere else. It is like playing chess.

Austin: Are we able to design legislation that will allow us to move around if we so choose?

Newbold: We could come up with language to allow us to be able to quickly move it around if that is the direction. What has not been put into place is what if Council delegates to the Chief the ability to move these zones in the event that it is clear a group of folks have been pushed off into another area. That is a model we want to take a look at if the Committee would like us to. Only Washington, DC has done that so far. In talking with their counsel, it is more of putting a sign up and there has not been any criminal enforcement. It is just moving the signs around.

Austin: Are there restrictions on multiple zones activated at the same time?

Newbold: If you can identify the zones now there would not be. If you look at your current ordinance you see three pages of a legal description. If you had an area like that you could have more than one area set up.

Austin: Then the ability to move them around would be established at the outset?

Newbold: I would have to take a look at that but I would probably say the outset.

Austin: I had requested to refer this to the Committee for review so I'd like to see what Council member Phipps has in mind for his district.

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# Community Safety Committee

## Meeting Summary for April 9, 2015

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Phipps: I am skeptical that it will achieve the desired results we are looking for. CMPD is still dealing with the problem. My numbers may be down, but yours are up.

Austin: The Hidden Valley Kings were cleaned up and a feeling of safety was accomplished. They did not come over to the Beatties Ford Brothers. So, doing something changed the area and it helped. If we do nothing crime just continues.

Phipps: Gangs, as opposed to solicitation, may be a totally different issue.

Campbell: The request from staff is to simply look at models and research using this as a tool. This is not asking you to move forward with prostitution free zones. This tool allows us to focus on a certain type of criminal behavior.

Newbold: It is focused because that area has required the reputation or there is actual criminal activity there.

Fallon: How difficult is this research going to be?

Newbold: I think that the places that have these will have some data that I can have. I do not think this will be too difficult. There are many articles that talk about this as well.

Austin: At some point after the research, I want to get to an end where we get to some type of action so I can take care of some issues in my district.

Campbell: I think you are after an effective way to address prostitution and drugs and the research we need to do is to verify that this is the correct tool to do that. We need to know reasons why this would be effective or not effective.

Newbold: I can bring back statistics from the three models we would research.

Phipps: It is resource intensive and the stigma that it places on the neighborhood is something that has to be considered. How successful was the one on Wilkinson Blvd?

Campbell: From an economic perspective, it helped the area improve and some of the old uses are gone.

Captain Willis: It provided a chip away at the big rock to be able to deal with the issues. I was the Commander in Freedom Division during that time and it made a significant difference on the prostitution walking on the sidewalk. Visibly, you could see the difference.

Phipps: The key is the neighborhood has to get to the point that they are so fed up that they want that label.

Campbell: We have 10 minutes left for another agenda item. Staff will come back at another meeting with additional research.

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# Community Safety Committee

Meeting Summary for April 9, 2015

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### **III. Dance Hall and Computerized Criminal History Access Ordinances**

Ms. Campbell introduced Rusty Perlungher, Police Attorney. Mr. Perlungher reviewed his presentation (copy attached). He reviewed the definition of a dance hall and read through the exceptions, and told the Committee that the current definition is unconstitutionally vague and overbroad per a district court order. That puts us in a position that the ordinance is unenforceable so the solution is an amendment to the definition of the ordinance as shown on slide 4. Staff requests the Committee refer the amended Dance Hall Ordinance to Council for adoption.

Mr. Perlungher stated that they are requesting an additional recommendation from the Committee to do further research into public safety concerns primarily involved when a dance hall closes. There are some ABC licensed establishments that remain open after they have stopped serving alcohol. Sometimes they have large volumes of people that fill into the street and can be associated with public safety concerns. Staff would like to come up with more specific language to address that with the goal being that we request in the dance hall application a submission of a security plan and CMPD has final approval of that security plan before issuance of a permit. After some discussion the Committee decided that there was no need for a recommendation and that the Committee is comfortable with staff doing more research and bringing the data back.

Mr. Perlungher continued his presentation and said that staff is also requesting the Committee to forward a request to the Council to adopt the DCI Access Ordinance for dance halls and sexually oriented businesses. The prior ordinances are no longer in compliance with the current SBI requirements.

Council member Phipps made a motion and was seconded by Council member Austin to forward the amendment to the Dance Hall ordinance as recommended by staff to the full Council for adoption. (*Motion passed unanimously*)

Council member Phipps made a motion and was seconded by Council member Austin to forward the DCI Access ordinance to the full Council for adoption. (*Motion passed unanimously*)

Chairwoman Fallon thanked everyone for attending.

Meeting adjourned at 1:35 p.m.

**Community Safety Committee**  
**Thursday, April 9, 2015; 12:00 p.m. – 1:30 p.m.**  
**Room 280**

Committee Members: Claire Fallon, Chair  
Michael Barnes, Vice Chair  
Al Austin  
Greg Phipps  
Kenny Smith

Staff Resource: Ann Wall, Assistant City Manager

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**AGENDA**

**I. Digital Dispatch Services**

*Staff Resources: Thomas Powers, City Attorney's Office  
Tracy Evans, Police Attorney's Office*

The Committee will receive a presentation on issues related to digital dispatch companies. Staff will also provide the Committee a review of legislation recently introduced.

*Action: The Committee is requested to provide direction on further steps.*

Attachment: 1. Committee Memo

**II. Exclusionary Zones**

*Staff Resource: Mark Newbold, Police Attorney's Office*

The Committee will receive a presentation on Exclusionary Zones. The presentation will review what they are, how they work and their use in Charlotte.

*Action: None required.*

Attachment: 2. Exclusionary Zones.ppt  
3. Exclusionary Zones Ordinance

**III. Dance Hall and Computerized Criminal History Access Ordinances**

*Staff Resource: Rusty Perlungher, Police Attorney's Office*

Staff will brief the Committee on proposed changes to the Dance Hall ordinance and the Computerized Criminal History Access ordinances due to a recent District Court decision.

*Action: Forward recommendations to Council if ready.*

Attachment: 4. Dance Halls Ordinance.ppt

**IV. Future Agenda Items**

*Staff Resource: Ann Wall, City Manager's Office*

- Mobile Food Vendors

**Next Meeting:** Thursday, May 14 at Noon, Room 280

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Distribution: Mayor/City Council  
Bob Hagemann  
Jon Hannan

Ron Carlee, City Manager  
Stephanie Kelly  
Thomas Powers

Leadership Team  
Rodney Monroe  
Tracy Evans



**Memorandum**

TO: Community Safety Committee  
FROM: Ann Wall, Assistant City Manager  
Thomas E. Powers III, Assistant City Attorney  
Tracey Evans, Assistant City Attorney - Police  
DATE: April 2, 2015  
RE: Digital Dispatch Issues

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This memo discusses six major issues previously discussed by staff regarding digital dispatching service. In addition, staff presents seven minor issues for the Committee’s consideration that are directly impacted by inclusion of digital dispatching service into the Passenger Vehicle For Hire (“PVH”) ordinance. Each issue will provide a brief summary and a staff recommendation

• **MAJOR ISSUES**

1. **Definition of digital dispatch service and digital dispatch service companies**

North Carolina General Statutes § 160A-304 fails to define either term. Staff recommends that these terms be defined and have drafted the following definitions as such:

*Digital dispatch* means (i) a person identifying the location of any available passenger vehicle for hire through a mobile application, (ii) a person requesting a specific passenger vehicle for hire through the mobile application, and (iii) a passenger vehicle for hire driver receiving the request from the passenger through a mobile application.

*Ridesharing* means (i) two or more persons by any mode of vehicular transportation from one or more points of origin to one or more points of destination, and (ii) dispatched through a mobile application, and (iii) using a personal vehicle, and (v) providing for hire service similar to other passenger vehicles for hire.

*Ridesharing Companies* means an organization, whether a corporation, partnership, sole proprietor, or other form that provides for hire service through a mobile application to connect passengers with drivers using their personal vehicles.

2. **Vehicle Inspections**

Current PVH vehicle owners undergo vehicle inspections prior to being permitted by the PVH office. All PVH vehicles are inspected by vendors contracted with the City. Uber relies on the state inspection and asks drivers to submit pictures of their vehicles. No

physical checks are done by Uber staff. Lyft has its senior mentors inspect vehicles. This is done upon beginning with Lyft, but is not checked again.

*Staff recommendation:* Have annual inspections performed by the City's vendors for digital dispatching service vehicles.

**3. Criminal Background Checks**

PVH drivers, vehicle owners, and company owners currently undergo criminal history checks before being permitted by the PVH office. Each individual must submit his/her fingerprints to the PVH office, which are sent to the State Bureau of Investigation ("SBI"). This provides a criminal history that spans many decades. Both Uber and Lyft contract with private agencies to do criminal background checks. Uber and Lyft both use a seven year history.

*Staff recommendation:* Have their criminal background checks performed by the City for digital dispatching service drivers and vehicle owners.

**4. Surge Pricing**

Surge pricing is where the digital dispatching service company increases the price of the fare based on increased demand outweighing available supply. Instances where surge pricing would occur would be large scale events such as Panthers games, Halloween, New Year's Eve, or parades. Additionally, there is no cap on surge pricing. Uber has agreed to a cap for the fourth highest price over the two months preceding the natural disaster or event of terrorism in New York and has voluntarily implemented it in other areas.

*Staff recommendation:* Set a maximum amount for time and distance for all PVH providers, including digital dispatching service.

**5. Insurance**

PVH drivers currently must maintain an insurance policy as required by the State. PVH does not regulate insurance requirements.

Uber and Lyft currently provide a contingency insurance policy that varies based upon the status of the mobile app. When the mobile app is off (personal insurance), the mobile app is on with no passenger (minimum contingency coverage - \$50k/\$100k/\$25k), and the mobile app is on with a passenger (maximum contingency coverage - \$1M). A contingency insurance policy requires the driver's personal insurance carrier to deny any claims for the accident/injury prior to the claim being reviewed by the digital dispatching service company's insurance carrier.

*Staff recommendation:* Do not take any action on insurance requirements. The City does **not** have the authority to establish a minimum level of insurance for digital dispatching service companies.

**6. License plates**

The City has the authority under North Carolina General Statutes § 160A-304 to designate vehicles providing the Uber and Lyft service as a PVH. However, Division of Motor Vehicles (“DMV”)’s statutory authority under North Carolina General Statutes § 20-86 allows it to designate what, if any, license plate shall be used this PVH service. Currently, taxi drivers are required to have “T” license plates on their vehicles and black cars must have “Z” license plates, which indicate that they are commercial vehicles. Digital dispatch drivers are currently using their personal license plate.

*Staff recommendation:* The City should not take any action on license plates. The City does **not** have the authority to require a specific license plate for PVH.

• **MINOR ISSUES**

**1. Address Requirement**

The PVH Ordinance requires holders of company operating certificates and vehicle operating permits to have the “existence of and access to a lawfully zoned depot or terminal on private property.” With multi-county or state entities emerging that provides PVH services, this provision seems antiquated.

*Staff recommendation:* Change the requirement to the “existence of a legal address to receive correspondence.”

**2. Disability Accessible Vehicles**

The PVH Ordinance incentivizes all PVH transportation to provide accessible vehicles. For taxicabs, an accessible vehicle is equal to five regular vehicles. In addition, the PVH ordinance prohibits the refusal to provide transportation when such service can be provided to a person with a disability with reasonable accommodation. Digital dispatch drivers do not have any requirement to provide services to disabled passengers. There is a lack of accessible vehicles operated by digital dispatch.

*Staff recommendation:* Require digital dispatch service drivers and vehicle owners to immediately refer a disabled passenger to another permitted PVH company with an accessible vehicle.

**3. Logo or Insignia**

The PVH Ordinance requires limousines to have a front tag showing the company’s name and/or logo. Also, the PVH Ordinance requires taxi cab companies to have a designated color scheme. There is no requirement for vehicles providing digital dispatch service to have a specific logo, insignia, or color scheme.

*Staff recommendation:* Require a uniform identifying logo or insignia on any vehicle providing digital dispatch.

**4. Vehicle Age Limit**

The PVH Ordinance sets a vehicle age limit of ten years for limos and a vehicle age limit of eight years for taxicabs. There is no vehicle age limit for vehicles providing digital dispatch service.

*Staff recommendation:* Set a vehicle age limit for vehicles providing digital dispatch service.

**5. Driver Training Course**

The PVH Ordinance requires all applicants to enroll and complete a driver training course. The City's vendor conducts a two-day course identifying city landmarks, and reviewing the PVH ordinance requirements and contents. Each driver applicant must pass an exam in order for a driver's permit to be issued.

*Staff recommendation:* Require digital dispatch service drivers to complete a driver training course provided by the City.

The proposed revisions would only apply to digital dispatching services but would not apply to the traditional PVH industry. The different standards create confusion for city personnel to conduct enforcement and incentive traditional companies to convert to digital dispatching service to avoid current ordinance requirements. Staff will evaluate possible changes to the PVH Ordinance to establish equity between current PVH vehicles and digital dispatch.



  
**CHARLOTTE.**

**Exclusionary Zones**  
Community Safety Committee  
April 9, 2015



 **CHARLOTTE.**

## Exclusionary Zones

- **Definition**
  - An ordinance or judicial order that that limits or restricts a person(s) presence or movement in in a particular public or private area such as a sidewalk or vacant lot.



## Exclusionary Zones

- Purpose
  - The purpose of an exclusionary zone is to prevent and interrupt criminal behavior in a neighborhood that has unjustly acquired the reputation among criminal elements as a location where criminal activity can occur.



## Exclusionary Zones

- Types
  - Judicial
    - Bond/Pre Release
    - Probation
    - Chapter 19
      - Street Gangs
      - Violent breaches of the peace
      - Prostitution/drugs



## Exclusionary Zones

- Legislative Bans/exclusions
  - Drug Enhancement statutes
    - Safety Zones surrounding schools, parks/playgrounds
  - Sexual Offender
    - Restricted from area around schools
  - **An Ordinance passed by a City Council**
    - Prostitution or Drug Free Zones



## Ordinances

- Most Common
  - Safety or crime free zone
    - » Drugs, Prostitution, breaches of the peace
    - » Established in neighborhoods and commercial corridors where motels and hotels located that are used to facilitate drug sales and criminal activity.
  - Once zone established an offender can either be banned from the zone or their movement or behavior may be restricted.
  - If the offender returns or violates a restriction they can be arrested.



## Ordinances

- Charlotte's Prostitution Free Zone (expired)
  - Review of City Code Sec 15-253 et seq.
    - Sec 15-255
      - 90 day exclusion or restriction on behavior if subject arrested for targeted criminal behavior and magistrate finds PC
      - Exclusion/restriction ceases if case dismissed or person is acquitted.
      - 1 year exclusion/restriction if subject convicted on prostitution related behavior
      - 15-255 (d) Variances



## Ordinances

- Concerns/Issues
  - Requires staff to monitor/administer variances and appeals;
  - Subject to constitutional challenges;
  - Will exclusion move/push behavior to another location?



## Next Steps

- Staff to review current models used by other major cities.
- Staff to outline pro's and con's of various models.
- Staff to recommend model to CSC by ?

## ARTICLE XI. - PROSTITUTION-EXCLUSION ZONES

### Sec. 15-253. - Definitions.

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

*Appeals official* means the city manager, or his designee.

*Arrest* means to place a person under actual or constructive restraint or to take a person into custody for the purpose of charging that person with an offense.

*Conviction* means an adjudication of guilt following a trial or a plea of guilty or no contest in a criminal case.

*Essential needs* mean food, physical care, and medical attention.

*Prostitution-exclusion zone* means an area of the city as designated by city council under this article, which is an area where the number of arrests for any of the offenses enumerated in [section 15-255](#) for the preceding 12-month period is significantly higher than that for other similarly sized geographic areas of the city that are not located within a prostitution-exclusion zone.

*Right-of-way* means the area on a public roadway, highway, street, bicycle lane, or sidewalk, and associated adjacent land, in which the city has a property interest, whether by easement or fee and regardless of how acquired or established, for public travel purposes.

*Travel* means the movement on foot or within a vehicle within a prostitution-exclusion zone from one point to another without delay other than to obey traffic control devices.

(Ord. No. 2913, § 1, 2-28-2005)

**Sec. 15-254. - Designation of prostitution-exclusion zones.**

(a)

If the city council designates an area as a prostitution-exclusion zone, council shall do so by ordinance. The designation shall be valid for a period of three years and three months.

(b)

The chief of police of the Charlotte-Mecklenburg Police Department is directed to report to city council at least 90 days before the end of the three year and three month period, as to whether there is a need to reauthorize or reconfigure the prostitution-exclusion zones enumerated in [section 15-260](#)

*(Ord. No. 2913, § 1, 2-28-2005)*

• **Sec. 15-255. - Civil exclusions.**

(a)

A person is subject to exclusion for a period of 90 days from any public right-of-way within a prostitution-exclusion zone if that person has been arrested and a magistrate has issued a magistrate's order, pursuant to G.S. 15A-511(c), based upon probable cause to believe that the person has committed any of the following offenses within that prostitution-exclusion zone, unless the offense was committed entirely within a private residence:

(1)

Maintain or operate a conveyance for the purpose of prostitution or assignation, in violation of G.S. [14-204\(1\)](#);

(2)

Occupy a conveyance or permit a conveyance to be used for the purpose of prostitution or assignation, in violation of G.S. [14-204\(2\)](#);

(3)

Receive, offer or agree to receive any person into a conveyance for the purpose of prostitution or assignation, in violation of G.S. [14-204\(3\)](#);

(4)

Direct, take or transport, or offer or agree to take or transport any person to any place, structure, or building or to any other person, with knowledge or reasonable cause to know that the purpose of such directing, taking, or transporting is prostitution or assignation, in violation of G.S. [14-204\(4\)](#);

- (5) Procure or solicit, or offer to procure or solicit for the purpose of prostitution or assignation, in violation of G.S. [14-204](#)(5);
- (6) Enter or remain in any conveyance for the purpose of prostitution or assignation, in violation of G.S. [14-204](#)(6);
- (7) Engage in prostitution or assignation, or aid or abet prostitution or assignation, in violation of G.S. [14-204](#)(7);
- (8) Loitering for the purpose of engaging in prostitution or crime against nature, in violation of G.S. 14-204.1;
- (9) Crime against nature, in violation of G.S. 14-177; or
- (10) Soliciting crime against nature, in violation of G.S. 14-177 and the common law of the state.

The aforesaid 90-day exclusion will cease immediately if the person arrested or otherwise taken into custody for the offenses listed above is subsequently acquitted of the charge(s) or said charge(s) is/are dismissed.

- (b) A one-year exclusion from any public right-of-way within a prostitution-exclusion zone shall take effect upon the date of conviction for any of the offenses enumerated in subsection (a) if that offense was committed within that prostitution-exclusion zone. The fact that a conviction is being appealed shall not stay the exclusion.
- (c) A one-year exclusion from any public right-of-way within a prostitution-exclusion zone shall be a condition of deferred prosecution for any person entering the deferred prosecution program of the division of community corrections for any of the offenses enumerated in subsection (a) if that offense was committed within that prostitution-exclusion zone. There shall be no right of appeal from the issuance of such an exclusion.

(d)

Except as allowed under subsection [15-258](#)(c), a person excluded from a prostitution-exclusion zone under authority of this section may not enter that prostitution-exclusion zone except to:

(1)

Attend a meeting with an attorney;

(2)

Attend a scheduled initial interview with a social service provider;

(3)

Comply with court- or corrections-ordered obligations;

(4)

Contact criminal justice personnel at a criminal justice facility;

(5)

Attend any administrative or judicial hearing relating to an appeal of:

a.

The person's notice of exclusion; or

b.

The denial, revocation, or amendment of the person's variance;

(6)

Travel through that prostitution-exclusion zone on a public transportation vehicle; or

(7)

Travel through that prostitution-exclusion zone on the I-77, I-277, I-85 or I-485 freeways within its boundaries.

(e)

While in a prostitution-exclusion zone, a person who is otherwise excluded may travel only directly to and from the obligations enumerated in subsection (d).

(f)

If an excluded person is in the prostitution-exclusion zone from which that person is excluded, in violation of the exclusion during the exclusion period, that person is subject to arrest for second degree trespass pursuant to G.S. 14-159.13.

*(Ord. No. 2913, § 1, 2-28-2005)*

- **Sec. 15-256. - Issuance of exclusion notices.**

The chief of police and his designees are the persons in charge of the public rights-of-way in the prostitution-exclusion zones for purposes of issuing notices of exclusion in accordance with this article.

*(Ord. No. 2913, § 1, 2-28-2005)*

- **Sec. 15-257. - Procedure.**

(a)

If a person is arrested and a magistrate has issued a magistrate's order, pursuant to G.S. 15A-511(c), based upon probable cause to believe that the person has committed any of the offenses enumerated in subsection [15-255\(a\)](#) within a prostitution-exclusion zone, the chief of police or his designees shall exclude that person from that prostitution-exclusion zone. Every person excluded shall be provided a notice of exclusion and variances.

(b)

At the time a person is issued a notice of exclusion from a prostitution-exclusion zone, the chief of police or his designees shall issue those variances described in subsections [15-258\(c\)\(2\)](#) through (6), and may do a preliminary review with the excluded person of the need for an additional variance and may issue a general variance pursuant to the process described in subsection [15-258\(c\)](#).

(c)

The notice of exclusion shall be in writing and a copy delivered to the excluded person. The notice of exclusion shall specify the following:

(1)

The area designated as a prostitution-exclusion zone in [section 15-260](#) from which that person is excluded; and

(2)

Information concerning the right to appeal the exclusion to the appeals official.

*(Ord. No. 2913, § 1, 2-28-2005)*

- **Sec. 15-258. - Appeal and variances.**

(a)

Appeal of notice of exclusion, denial of variance, denial of amendment to variance, and revocation of variance. A person to whom a notice of exclusion is issued, whose request for a variance or an amendment to a variance is denied, or whose variance is revoked, shall have a right to appeal as follows:

(1)

Appeals shall be made to the appeals official.

(2)

Copies of documents in the city's control which are intended to be used at the hearing shall be made available, upon request, to the appellant.

(3)

An appeal of a 90-day notice of exclusion must be filed, in writing, within five calendar days following issuance of the notice of exclusion.

(4)

An appeal of a one-year conviction-based exclusion must be filed, in writing, within five calendar days following the date of conviction.

(5)

An appeal of:

a.

A denial of a request for a variance; or

b.

A denial of a request for an amendment to a variance; or

c.

A revocation of a variance must be filed, in writing, within five calendar days following the action regarding the variance.

(6)

Within five business days after the receipt of the appeal, or such longer period of time as agreed to by the appellant, the appeals official shall hold a quasi-judicial hearing on an appeal and shall render a decision on the appeal at the conclusion of the hearing. The decision of the appeals official shall be based solely on the criteria set forth in this section.

(7)

A 90-day exclusion shall not take effect during the time that an appeal of the 90-day exclusion is pending. If no appeal is taken, the initial 90-day exclusion shall take effect at 12:01 a.m. on the sixth calendar day following the issuance of the notice of exclusion.

(8)

A one-year conviction-based exclusion shall take effect at 12:01 a.m. on the calendar day following the date of conviction and, notwithstanding an appeal of the exclusion, shall remain in effect unless the appeals official issues a contrary decision.

(9)

At the hearing on an appeal of a 90-day exclusion, the city shall have the burden to show by a preponderance of the evidence that the appellant committed any of the offenses enumerated in subsection [15-255\(a\)](#), and that the conduct supporting the exclusion occurred within a prostitution-exclusion zone.

(10)

At the hearing on an appeal of a one year conviction-based exclusion, the city shall have the burden to show by a preponderance of the evidence that the appellant committed any of the offenses enumerated in subsection [15-255\(a\)](#), and that the conduct supporting the exclusion occurred within a prostitution-exclusion zone.

(11)

At the hearing on an appeal of a denial of a request for a variance provided in subsection [15-258\(a\)\(5\)a.](#), the city shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this section.

(12)

At the hearing on an appeal of a denial of a request for an amendment to a variance provided in subsection [15-258\(a\)\(5\)b.](#), the city shall have the burden to show by a preponderance of the evidence that the denial was in accordance with this section.

(13)

At the hearing on an appeal of a revocation of a variance provided in subsection [15-258\(a\)\(5\)c.](#), the city shall have the burden to show by a preponderance of the evidence that any of the conditions enumerated in this section supporting revocation existed at the time of revocation.

(14)

At the hearing on an appeal of a 90-day exclusion, the following shall be prima facie evidence that the exclusion was based on probable cause to believe that the appellant committed any of the offenses enumerated in subsection [15-255\(a\)](#):

a.

A determination by a judicial official having jurisdiction over the offense that forms the basis for the exclusion, that probable cause existed to arrest the person to whom the initial 90-day notice of exclusion was issued for violation of any of the offenses enumerated in subsection [15-255\(a\)](#); or

b.

Criminal process charging the person to whom a 90-day notice of exclusion was issued, for violation of any of the offenses enumerated in subsection [15-255\(a\)](#).

(15)

At the hearing on an appeal of a one year conviction-based exclusion, a judgment of conviction for any of the offenses that formed the basis for the exclusion, as enumerated in subsection [15-255\(a\)](#), shall be conclusive evidence that the described conduct occurred.

(b)

*Review of decision of appeals official.* The decision of the appeals official is subject to review in the superior court of the county by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after the appellant has received notice of the decision. Unless good cause exists to contest a petition for writ of certiorari, the city shall stipulate to certiorari no later than five business days after the petitioner requests such a stipulation. The city shall transmit the record to the court no later than five business days after receiving the order allowing certiorari. Notwithstanding the provisions of any local rule of the reviewing court that allows for a longer time period, the city shall file its brief within 15 days after it is served with the petitioner's brief. If the petitioner serves his brief by mail, the city shall add three days to this time limit, in accordance with G.S. 1A-1, rule 5. If the local rule is subsequently amended to provide for a shorter time period for the filing of any brief, then the shorter time period shall control. The North Carolina Rules of Appellate Procedure shall govern an appeal by an appellant from the superior court of the county.

(c)

*Variances.* Variances shall be granted, denied, amended, or revoked in accordance with the following provisions:

All variances shall be in writing, for a specific period and only to accommodate a specific purpose, all of which shall be stated on the variance.

The purpose of the variance is to allow only travel to and from locations within a prostitution-exclusion zone according to the terms of the variance. The variance must be carried on the person while in a prostitution-exclusion zone in order to be effective and must be presented to a Charlotte-Mecklenburg Police Department officer upon request.

An excluded person shall make a request for a variance during regular business hours at the Charlotte-Mecklenburg Police Department division office that was responsible for the arrest that resulted in the exclusion or at the main headquarters building.

(1)

*General variance.* The chief of police or his designees may, for any reason, grant an excluded person a variance from an exclusion at any time during an exclusion period. Except as described in subsection [15-257\(b\)](#), an appropriate variance shall be granted to an excluded person who presents a plausible need to engage in any non-criminal activity that is not associated with the behavior supporting the person's exclusion. A variance granted under this subparagraph allows travel within the prostitution-exclusion zone only in accordance with the terms specified in the variance.

(2)

*Residential variance.* The chief of police or his designees shall grant a residential variance to an excluded person. A residential variance allows travel within the prostitution-exclusion zone directly to or from the person's residence.

(3)

*Essential needs variance.* The chief of police or his designees shall grant an essential needs variance to an excluded person. An essential needs variance allows travel within the prostitution-exclusion zone in accordance with the terms of the variance:

a.

To access a public or private place within the prostitution-exclusion zone that provides an essential need;

b.

When the essential need sought by the excluded person cannot reasonably be accessed by the excluded person without entering the prostitution-exclusion zone.

(4)

*Employment variance.* The chief of police or his designees shall grant an employment variance to an excluded person. An employment variance allows an excluded person to travel to, from or for work within the prostitution-exclusion zone in accordance with the terms of the variance if the excluded person:

a.

Is an owner, principal, agent or employee of a place of lawful employment located in the prostitution-exclusion zone; or

b.

Is required to perform employment-related services in the prostitution-exclusion zone.

(5)

*Social services variance.* The chief of police or his designees shall grant a social services variance to an excluded person. A social services variance allows travel within the prostitution-exclusion zone in accordance with the terms of the variance if the excluded person:

a.

Is in need of social services in the prostitution-exclusion zone;

b.

The social services are sought for reasons relating to the health or well-being of the excluded person; and

c.

The social services agency has written rules and regulations prohibiting the unlawful use and sale of controlled substances by their clients.

(6)

*Educational variance.*

a.

The chief of police or his designees shall grant an educational variance to an excluded person. An educational variance allows travel within the prostitution-exclusion zone in accordance with the terms of the variance:

1.

To enroll as a student at an educational facility located within the prostitution-exclusion zone; or

2.

To attend school at an educational facility located within the prostitution-exclusion zone.

b.

The chief of police or his designees may grant an educational variance to an excluded person to allow travel within the prostitution-exclusion zone in accordance with the terms of the variance if the excluded person will be enrolled at an educational facility within the prostitution-exclusion zone if the variance is granted.

(d)

*Revocation or amendment of variances.* Variances may be revoked or amended in accordance with the following provisions:

(1)

A variance may be revoked or amended for the following reasons:

a.

The excluded person provided false information in order to obtain the variance;

b.

There is probable cause to believe the person has committed any of the offenses enumerated in subsection [15-255\(a\)](#) in the prostitution-exclusion zone subsequent to the issuance of the variance;

c.

If the circumstances giving rise to the issuance of the variance no longer support a continuation of the variance or a term thereof; or

d.

If the person has new circumstances that would support amending the variance.

(2)

Residential variance exception:

a.

A residential variance may be revoked only if the applicant provided false residential information in order to obtain the variance; or

b.

If the circumstances giving rise to the issuance of the variance no longer support the continuation of the variance.

(e)

It shall be unlawful for any person to violate any term of any variance issued pursuant to this section.

(f)

It shall be unlawful for any person to fail to carry a variance on his person or to present a variance to a Charlotte-Mecklenburg Police Department officer upon request while that person is in a prostitution-exclusion zone.

*(Ord. No. 2913, § 1, 2-28-2005)*

- **Sec. 15-259. - Penalty.**

Any person who violates any provision of this article shall be guilty of a misdemeanor as provided in G.S. [14-4](#).

*(Ord. No. 2913, § 1, 2-28-2005)*

- **Sec. 15-260. - Listing of prostitution-exclusion zones.**

The following description shall comprise the boundaries of the prostitution-exclusion zones listed, and the prostitution-exclusion zones shall include the entire area on and within the listed boundaries.

Metro Zone: Beginning within the northerly intersection of Camp Greene Street and Freedom Drive, said point also being described as the intersection point of the northerly right-of-way margin of Camp Greene Street and the northerly right-of-way margin of Freedom Drive; thence in a southeasterly direction crossing said Camp Greene Street along and with the northerly right-of-way margin of said Freedom Drive to a point located on the westerly right-of-way margin of Berryhill Road; thence crossing said Berryhill Road continuing in a southeasterly direction along and with the northerly right-of-way margin of Freedom Drive to a point located on the westerly right-of-way margin of Thrift Road, said point being located within the northwesterly intersection of said streets; thence crossing over the Thrift Road and Freedom Drive intersection along and with the extension of the aforesaid northerly right-of-way margin of said Freedom Drive to a point located on the easterly right-of-way margin of

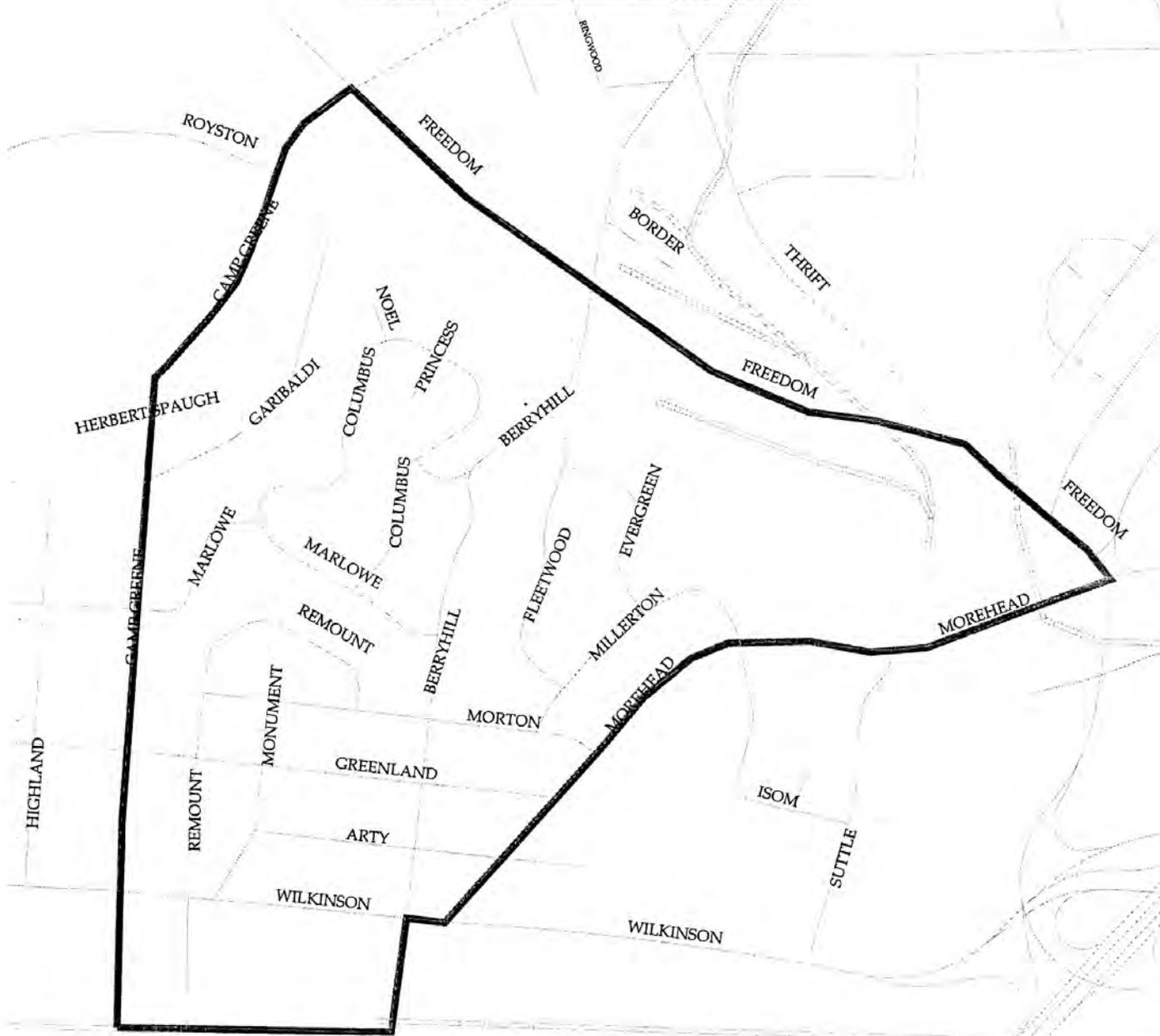
Thrift Road, also being the northerly right-of-way margin of Freedom Drive; thence in a southeasterly direction continuing along and with the northerly right-of-way margin of said Freedom Drive to a point located on the northwesterly right-of-way margin of Woodruff Place; thence crossing said Woodruff Place continuing in a southeasterly direction along and with the northerly right-of-way margin of Freedom Drive to a point located on the northwesterly right-of-way margin of Walnut Avenue; thence crossing over the Walnut Avenue and Freedom Drive intersection to a point located on the southeasterly right-of-way margin of said Walnut Avenue, said point marking the beginning of a curve to the left having a radius of 100 feet and an arc length of 168.72 feet, as shown on Map Book 3, Page 225, as recorded in the Mecklenburg County Register of Deeds Office; thence along and with said curve 168.72 feet to a point located on the northerly right-of-way margin of West Morehead Street; thence crossing said West Morehead Street in a south southwesterly direction to a point located on the southerly right-of-way margin of said street and also being located on the easterly right-of-way margin of Freedom Drive; thence crossing said Freedom Drive in a southwesterly direction along and with the southerly right-of-way margin of West Morehead Street to a point located on the easterly right-of-way margin of Bryant Street (not open); thence crossing said Bryant Street (not open) continuing in a southwesterly direction along and with the southerly right-of-way margin of West Morehead Street to a point located on the easterly right-of-way margin of Suttle Avenue; thence crossing said Suttle Avenue continuing in a southwesterly direction along and with the southerly right-of-way margin of West Morehead Street to a point located on the easterly right-of-way margin of Julian Price Place; thence crossing said Julian Price Place continuing in a southwesterly direction along and with the southerly right-of-way margin of West Morehead Street to a point located on the easterly right-of-way margin of Morton Street; thence crossing said Morton Street continuing in a southwesterly direction along and with the southerly right-of-way margin of West Morehead Street to a point located on the easterly right-of-way margin of Arty Avenue; thence crossing said Arty Avenue continuing in a southwesterly direction along and with the southerly right-of-way margin of West Morehead Street to a point located on the northerly right-of-way margin of Wilkinson Boulevard; thence crossing said Wilkinson Boulevard continuing in a southwesterly direction with the southerly right-of-way margin of West Morehead Street (extended) to a point located on the southerly right-of-way margin of said Wilkinson Boulevard; thence along and with the southerly right-of-way margin of Wilkinson Boulevard in a westerly direction to a point located on the easterly right-of-way margin of Berryhill Road; thence leaving

the said southerly right-of-way margin of Wilkinson Boulevard in a southerly direction along and with the easterly right-of-way margin of said Berryhill Road to a point located in the centerline of the Norfolk Southern Railroad right-of-way; thence leaving the easterly right-of-way margin of Berryhill Road and crossing said road in a westerly direction along and with the center line of the Norfolk Southern Railroad right-of-way to a point located on the easterly right-of-way margin of Remount Road; thence crossing said Remount Road continuing in a westerly direction along and with the center line of the Norfolk Southern Railroad approximately 411 feet to the southwest corner of Tax Parcel 117-011-09, also described as #2501 Wilkinson Boulevard; thence leaving the center line of the Norfolk Southern Railroad in a northerly direction along and with the westerly property line of Tax Parcel 117-011-09 approximately 434 feet to a point, said point being the westerly most corner of said Tax Parcel 117-011-09 and also being the southwest corner of Tax Parcel 117-011-10, also described as #2533 Wilkinson Boulevard; thence continuing in a northerly direction along and with the westerly property line of said Tax Parcel 117-011-10 approximately 150 feet to a point, said point being the northwest corner of said Tax Parcel 117-011-10, being located on the southerly right-of-way margin of Wilkinson Boulevard; thence crossing said Wilkinson Boulevard in a northerly direction to a point located on the northerly right-of-way margin of said Wilkinson Boulevard and the westerly right-of-way margin of Camp Greene Street; thence continuing in a northerly direction along and with the westerly right-of-way margin of said Camp Greene Street to a point located on the southerly right-of-way margin of Greenland Avenue; thence crossing said Greenland Avenue continuing in a northerly direction along and with the westerly right-of-way margin of Camp Greene Street to a point located on the southerly right-of-way margin of Marlowe Avenue; thence crossing said Marlowe Avenue continuing in a northerly direction along and with the westerly right-of-way margin of Camp Greene Street to a point located on the southerly right-of-way margin of Seabrook Drive; thence crossing said Seabrook Drive continuing in a northerly direction along and with the westerly right-of-way margin of Camp Greene Street to a point located on the southerly right-of-way margin of Herbert Spaugh Lane; thence crossing said Herbert Spaugh Lane continuing in a northerly direction along and with the westerly right-of-way margin of Camp Greene Street to a point located on the southerly right-of-way margin of Weyland Avenue; thence crossing said Weyland Avenue continuing in a northerly direction along and with the westerly right-of-way margin of Camp Greene Street to a point located on the southerly right-of-way margin of Royston Road; thence crossing said Royston Road continuing in a northerly direction along and with

the westerly right-of-way margin of Camp Greene Street to the point and place of beginning.

*(Ord. No. 2913, § 1, 2-28-2005)*

PROSTITUTION FREE ZONE

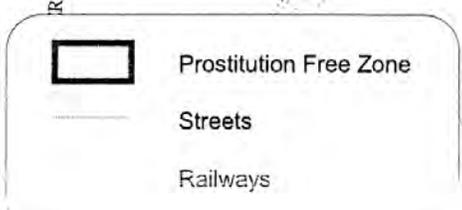
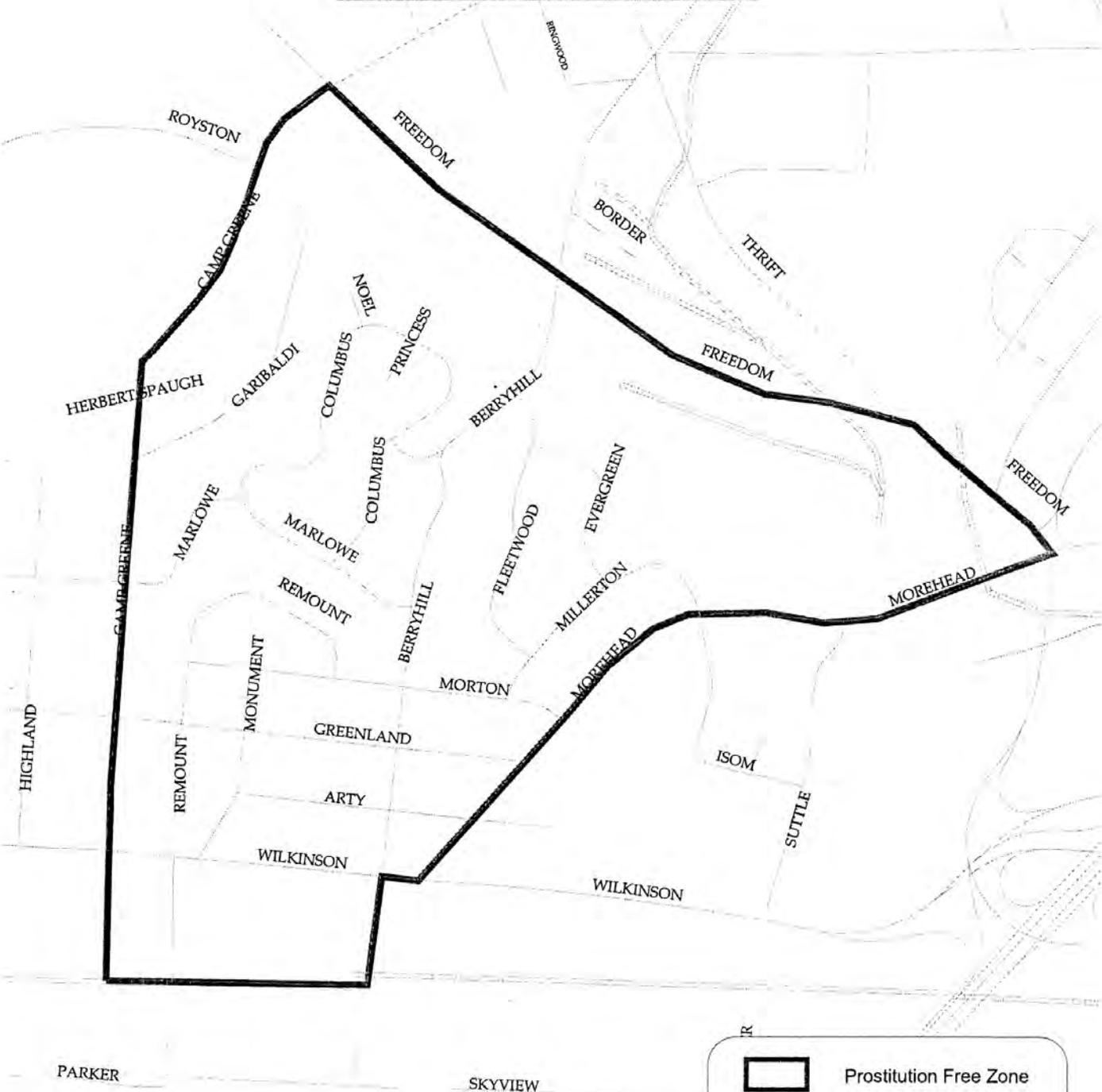


Legend:

-  Prostitution Free Zone
-  Streets
-  Railways

- Secs. 15-261

PROSTITUTION FREE ZONE



Secs. 15-261



Community Safety Committee  
April 9, 2015



Dance Hall Ordinance  
&  
Dance Hall and  
Sexually Oriented Businesses Computerized Criminal  
History Access Ordinances



## Dance Hall Ordinance

- Dance Hall (City Code § 6-252)
  - Any place or area of property operated as open to the public which:
    - Has music (live or electronic);
    - Space available for dancing or dancing is permitted (whether or not dancing takes place); and,
    - Allows admission by payment of charge, fee, etc.
  - Exceptions: private residences, government buildings, schools, religious buildings, places regulated by ABC law
- Must have a permit to operate a dance hall

2



## Dance Hall Ordinance

- District Court Order issued on 9/30/14 declared the Dance Hall Ordinance unconstitutionally vague and overbroad
- Court found that the definition of dance hall would include locations such as:
  - Harris YMCA
  - Regal Cinemas
  - NASCAR Hall of Fame
  - Discovery Place
  - Planet Fitness
- Current Ordinance is difficult to enforce



3



## Dance Hall Ordinance

- Amendment to Ordinance's definition of "dance hall"
  - Exclude locations identified in Court's Order without excluding locations that operate as dance halls

*Dance hall* means any place or area of property where a dance(s) open to the public is held which allows admission by payment of a direct or indirect charge, fee, donation, or any form of consideration, or by the purchase, possession, or presentation of a ticket or token.

- Add exception for *bona fide* non-profit charitable organizations (501(c)(3))

4



## Dance Hall Ordinance

- Additional recommendation
  - Security Plan requirement
  - Submission of security plan with dance hall permit application
  - Approval of security plan before issuance of permit

5



## Computerized Criminal History Access Ordinances

- Use of N.C. State Bureau of Investigation (SBI) Division of Criminal Information Network (DCIN) for non-criminal justice purposes requires access agreement with the SBI
  - Agreement would allow CMPD to use DCIN computerized Criminal History Record Information (CHRI) for Dance Hall permit and Sexually Oriented Businesses license applicants
- Access ordinances are required before SBI will establish agreement (12 NCAC 04I.0405)

6



## Computerized Criminal History Access Ordinances

- City Council adopted ordinances in 1999 (Sexually Oriented Businesses) and 2001 (Dance Hall), but ordinances are no longer in compliance with current SBI requirements
  - Requirement that applicant provide all necessary identification information, including a fingerprint card
  - Requirement for verification of CHRI by certified public record or submission of fingerprint card to SBI

7



## Computerized Criminal History Access Ordinances

- SBI has approved re-drafted access ordinances
- Once adopted by City Council access agreement process can begin

8



## Dance Hall and DCI Access Ordinances

- The Committee is requested to forward the following recommendations to the full City Council:
  - Amendment to Dance Hall Ordinance definition of Dance Hall
  - Adoption of DCI Access Ordinances
- Questions



Charlotte City Council  
**COMMUNITY SAFETY  
COMMITTEE**

Meeting Summary for June 11, 2015

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## COMMITTEE AGENDA TOPICS

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- I. Subject:**        **Towing and Booting Businesses Ordinance**  
**Action:**            The Committee directed staff to research ways to strengthen the Ordinance.
- II. Subject:**        **Public Safety Zones**  
**Action:**            The Committee directed staff to continue researching Public Safety Zones.

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## COMMITTEE INFORMATION

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Present:        Claire Fallon, Al Austin, and Kenny Smith  
Time:            12:00 pm – 12:50 pm

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## ATTACHMENTS

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1. Agenda Package
2. Presentations

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## DISCUSSION HIGHLIGHTS

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Chairwoman Fallon called the meeting to order and asked everyone in the room to introduce themselves. She then turned it over to Assistant City Manager Ann Wall.

**I.        Towing and Booting Businesses Ordinance**

Ms. Wall introduced Police Attorney Rusty Perlungher. Mr. Perlungher began reviewing the “Towing and Booting Businesses Ordinance” presentation (copy attached). Mr. Perlungher reviewed with the Committee the amendments that were made to the ordinance in 2011 based on community concerns. In summer of 2014, the Town of Chapel Hill’s ordinance was challenged and due to the Supreme Court’s decision our fee schedule for towing services is now unenforceable. The Supreme Court upheld the notice and signage requirements as well as the

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# Community Safety Committee

Meeting Summary for June 11, 2015

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payment requirements. The Supreme Court struck down the fee provisions or fee schedules that the tow companies were adhering to and struck down the provision preventing tow truck companies from charging the customer the extra surcharge for using a credit card or debit card. Staff proposes to delete the fee provisions from the Ordinance.

Austin: Does Chapel Hill have a list of fees?

Perlungher: Yes, they had a fee schedule that was set by the Town Manager's Office.

Austin: But we do not have that in Charlotte?

Perlungher: Our fees were capped depending on the size of the vehicle.

Fallon: If we cannot set it, but it is predatory, can the sign say something like, "you can appeal to a judge?"

Perlungher: We can advise that the citizen would have a civil cause of action.

Fallon: Could we put out contracts where the City can say we use these tow companies and then we can set the fee they charge?

Perlungher: We do that with the division wreckers that tow on public streets, but we cannot do that for private lots. We do not have that authority.

Fallon: We are going to have companies take advantage of the citizens.

Perlungher: We do have some proposals to strengthen the remaining provisions of the ordinance.

Fallon: Have you heard if the tow companies have increased their fees?

Pellicone: We've heard they have increased them to \$175. They were at \$150. Our existing ordinance helped with keeping their fees lower.

Austin: Explain why the Supreme Court ruled that we cannot cap fees.

Perlungher: The NC Supreme Court ruled cities cannot cap fees because it implicates the towing company's fundamental right to earn a living and they said there is no express authority in the General Statute for the City to regulate the fees. The City also cannot fit it under our general police power to protect the public safety and welfare because the amount they charge has to be rationally related to protection.

Smith: We are able to set limits to the Passenger Vehicle for Hire (PVH) Ordinance for a cab company, but not here?

Perlungher: The differentiating factor is the General Statute allows it for PVH, but not for towing.

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# Community Safety Committee

Meeting Summary for June 11, 2015

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Austin: Could we get something looked at in Raleigh?

Perlungher: We could get it on a legislative agenda.

Smith: The complaints I get are regarding the trucks just waiting to boot/tow a car. Can we make it harder on the tow trucks, meaning not allowing them to just sit and watch a parking lot?

Perlungher: We can do research to see about strengthening the remaining provisions in the ordinance. We may be able to establish some sort of waiting period. We could also look at amending the signage requirements to say the tow company has to post on the sign what they are going to charge when they tow or boot a car. Matthews established civil penalties and we could look into that as well.

Fallon: I think putting how much they can charge on the sign is good, because they cannot change the price. Then if you get towed, you have been notified by the sign.

Austin: At this point, right now, they can charge anything?

Perlungher: Yes.

Austin: Do they have a coordinated industry?

Newbold: They are politically well organized.

Austin: Do we know if they have gone to the General Assembly yet, similar to Uber and Lyft?

Newbold: Not that I am aware of.

Austin: So what are the recommendations from staff?

Perlungher: The recommendation is to move forward with an amendment to the ordinance to remove the fee provision which is unlawful. We can continue to research and see how we can strengthen this and just do one amendment.

Fallon: Can we get a maximum amount on the sign of what they are going to charge?

Perlungher: We can look at it.

Smith: My preference would be to strengthen the ordinance and remove the fee provision at one time. I think we need to relook at the hours of operations for the businesses that would be authorizing the tow as well.

Wall: Based on the Committee comments we will bring back language that deletes the fee provisions and look at different requirements in our ordinance regarding hours, signage, how other communities are treating predatory towing and also check with Mr. Fenton regarding the legislature.

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# Community Safety Committee

Meeting Summary for June 11, 2015

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Austin: It would be easiest if the legislature would just allow us to regulate fees and put that in the Statute.

Smith: My issue is less the fee cap, but more the issue of predatory towing.

Wall: Yes, we will look at what other communities are doing as well.

Newbold: I like the idea of raising fees for violations from the towing companies, like Matthews.

Smith: How many complaints do we get on predatory towing?

Pellicone: We average about 10-15 calls per week that are mostly related to booting.

Fallon: Great, staff will bring this back at our September meeting.

## **II. Public Safety Zones**

Mr. Newbold summarized the core sections of this proposed ordinance. The key change is how the zones are defined. The proposal would define the zone based on incidents of certain criminal activity and would allow the Chief of Police to adjust the perimeter based on that criminal activity. He discussed that there is a civil exclusion process, a variance process, and an appeal. Mr. Newbold also discussed the penalty and reviewed the different crimes that could be included. The signs in the zone would read what type of zone is in that particular problem area.

Council member Austin asked that we include the ACLU in any discussions regarding Zones and he assured the Committee he would do that. The Committee thanked Mr. Newbold for his quick update and voted 3-0 (in favor of) for staff to continue researching this and bring back to the Committee at a later meeting.

Ms. Wall stated that the next meeting is September 10 and at that meeting they will review towing, public safety zones and door-to-door solicitation.

Meeting adjourned at 12:50 p.m.

**Community Safety Committee**  
**Thursday, June 11, 2015; 12:00 – 1:30 p.m.**  
**Room 280**

Committee Members: Claire Fallon, Chair  
Michael Barnes, Vice Chair  
Al Austin  
Greg Phipps  
Kenny Smith

Staff Resource: Ann Wall, Assistant City Manager

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**AGENDA**

**I. Towing and Booting Businesses Ordinance**

*Staff Resources: Captain Rich Austin, Police*

*Rusty Perlungher, Police Attorney's Office*

Staff will provide a presentation to explain the purpose and intent of the Ordinance, to provide an explanation of the North Carolina Supreme Court case which invalidated fee provisions, and to explain the suggested revisions. Staff will also provide information on current concerns regarding towing and booting practices.

*Action: Recommend to Council for approval.*

**II. Public Safety Zones**

*Staff Resources: Rodney Monroe, Chief of Police*

*Mark Newbold, Police Attorney's Office*

Staff will provide a presentation discussing a model ordinance for setting up a Public Safety Zones.

*Action: No action at this time*

**Next Meeting:** Thursday, September 10 at Noon, Room 280



Community Safety Committee  
June 11, 2015

## Towing and Booting Businesses Ordinance



## Towing Ordinance

- Amendment adopted February 2011; effective April 2011
- Community Concerns
  - Predatory towing
  - Excessive charges
  - Inconsistent signs
  - Difficulty in retrieving vehicles
  - Stranded late at night

2



## Towing Ordinance

- Public Safety Concerns
  - Breach of Peace (BOP)
    - BOP between owner and tow driver
    - BOP over fees
    - BOP at storage lot
  - Physical interference with lawful tow
  - Late night stranded motorist
  - Reports of “stolen” vehicles

3



## Towing Ordinance

- Signage requirements
- Fee provisions
- Drop requirement
- Access to vehicle
- Method of payment

4



## Towing Ordinance

- On call
- Location of storage facility
- Authorization to tow
- Interference with tow
- Criminal penalty

5



## King v. Town of Chapel Hill

- Challenge to Town's towing ordinance regulating nonconsensual towing from private parking lots
- NC Supreme Court upheld
  - notice and signage requirements
  - requirement that towing companies accept cash, debit cards and at least two major credit cards

6



## King v. Town of Chapel Hill

- Court struck down
  - fee schedule for towing services
  - prohibition against passing the costs of accepting credit cards on to citizens
- Municipalities do not have authority to impose a fee schedule or otherwise cap fees for nonconsensual towing from private lots

7



## Towing Ordinance

- Sets maximum fees for towing services and for booting
  - \$120 for vehicles less than 9,000 pounds
  - \$500 for vehicles 9,000 pounds or more
  - \$15/day for storage
  - \$50 for booting
- Prohibits towing companies from charging fees for uncompleted trespass tows or retrieval of property from illegally parked vehicles

8



## Towing Ordinance

- In light of the Supreme Court's decision, these provisions are now unenforceable
- Proposed amendment would delete fee provisions from the Ordinance

9



## Towing Ordinance

- Current citizen concerns
  - Predatory towing
  - Fees
  - Signage
  - Identification of towing/booting services employees

10



## Towing Ordinance

- The Committee is requested to forward the following recommendation to the full City Council:
  - Adoption of ordinance amending the Towing and Booting Businesses Ordinance
- Questions ??



  
**CHARLOTTE.**  
Public Safety Zones  
Community Safety Committee  
June 11, 2015



 Public Safety Zones

- Proposed Core Sections
  - Definitions
  - Designation of Public Safety Zone
    - Outer Public Safety Zone
  - Civil Exclusion Process
  - Notice and Opportunity to be Heard
  - Variance Process
  - Appeal
  - Penalty