

Regular Session, June 16, 2014, 7:00 p.m.  
Catawba County Board of Commissioners

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**Appointments**

Salt Block Foundation 269 06/16/14

**Budget**

Budget Transfers 298 06/16/14

**Cooperative Extension**

Update on Eat, Drink and Be Local Week, May 18-24, 2014 298 06/16/14

**Emergency Services**

Proposed Amendments to Chapter 6 – Animals – Catawba County Code 270 06/16/14

**Ordinance**

Amendments to Chapter 6 – Animals – Catawba County Code 270 06/16/14

**Public Comments for Items Not on the Agenda**

Douglas Rink on Development Agreement between the County, Key Harbor and Crescent/  
Carolina Centers. 269 06/16/14

The Catawba County Board of Commissioners met in regular session on Monday, June 16, 2014 at 7:00 p.m. in the Robert E. Hibbitts Meeting Room of the 1924 Courthouse, 30 North College Avenue, Newton, North Carolina.

Present were Chair Katherine W. Barnes, Vice-Chair Randy Isenhower, and Commissioners Dan Hunsucker, Lynn M. Lail and Barbara G. Beatty.

Also present were County Manager J. Thomas Lundy, Assistant County Managers Dewey Harris and Mary Furtado, County Attorney Debra Bechtel, Assistant County Attorney Jodi Stewart and County Clerk Barbara Morris.

1. Chair Katherine W. Barnes called the meeting to order at 7:00 p.m.
2. Commissioner Lynn Lail led the Pledge of Allegiance to the Flag.
3. Vice-Chair Randy Isenhower offered the invocation.
4. Commissioner Dan Hunsucker made a motion to approve the minutes from the Board's Budget Hearings with Departments and Outside Agencies of May 27, 2014, Closed Session of May 27, 2014, Budget Public Hearing and Wrap-Up of May 29, 2014, and the Regular Session of June 2, 2014. The motion carried unanimously.
5. Recognition of Special Guests: Chair Barnes recognized County Commissioner Candidate Sherry Butler and indicated that both she and Randy Isenhower were incumbents in the upcoming election.
6. Public Comments for Items Not on the Agenda:  
Douglas Rink came forward and spoke about issues related to a Development Agreement between the County, Key Harbor and Crescent/Carolina Centers. He also voiced concerns regarding the noticing of the May 27, 2014 Planning Board Meeting. Chair Barnes thanked him for bringing the item to the attention of the Board.
7. Appointments:

Chair Barnes recommended the appointment of Susan King for a first term to succeed Helen Decuzzi on the Salt Block Foundation. This term will expire June 30, 2016. These recommendations came in the form of a motion, which carried unanimously.

8. Departmental Reports:

a. Emergency Services:

Emergency Services Director Bryan Blanton came forward and presented a request for the Board to adopt amendments to Chapter 6 – Animals - Catawba County Code of Ordinances. Staff worked with the Legal Department to thoroughly review and update Chapter 6 to incorporate current animal control practices and clarify points of confusion in the ordinance, which was adopted in 2007. In addition, the amendments seek to further ensure the safety of the public, while removing more onerous requirements from the ordinance.

In addition to removing the article regarding keeping swine, which the County, pursuant to state law, does not have authority to regulate, numerous revisions are related to Article VI – Dangerous and Potentially Dangerous Dogs. Dangerous Dogs has been subdivided into two categories – Level 1 and Level 2.

A dog will be deemed a Level 1 Dangerous Dog if the dog:

- Killed a person;
- When not on the owner's real property, inflicted severe injury to a person;
- Was previously declared a Level 2 Dangerous Dog and while out of the secure enclosure bit a person;
- Was previously declared a Level 2 Dangerous Dog and while out of the secure enclosure and not on the owner's real property bit another domestic animal;
- Was previously declared a Potentially Dangerous Dog and inflicted severe injury to a person; or
- Was previously declared a Potentially Dangerous Dog and when not on the owner's real property killed or inflicted severe injury to a domestic animal.

A dog will be deemed a Level 2 Dangerous Dog if the dog:

- When on the owner's real property inflicted severe injury to a person;
- Was owned or harbored primarily or in part for the purpose of dog fighting, or trained for dog fighting, in violation of NCGS 14-362.2;
- Was previously declared a Potentially Dangerous Dog and when not on the owner's real property bit another domestic animal but does not cause a severe injury; or
- Was previously declared a Potentially Dangerous Dog and bit a person but does not cause a severe injury.

A dog will be deemed a Potentially Dangerous Dog if the dog:

- When not on its owner's real property killed or inflicted severe injury upon a domestic animal; or
- When not on its owner's real property approached a person in a vicious or terrorizing manner in an apparent attitude of attack; or
- Inflicted an unprovoked bite to a human.

Since the amendments to the ordinance include a new designation for Dangerous Dogs, the consequences and requirements for Dangerous and Potentially Dangerous Dogs have been adjusted accordingly. The amendments require Level I Dangerous Dogs to be euthanized, and Level II Dangerous Dogs to be confined in a secure enclosure, which was previously the requirement for a Potentially Dangerous Dog. Additional requirements for Level II Dangerous Dogs include: microchip identification; securing the enclosure with a padlock instead of a child resistant lock; liability insurance in the amount of \$100,000 as opposed to the current requirement of \$500,000; physical restraint is limited to leashes, chains or tethers no longer than six feet; and electronic collars are not considered an adequate means of restraint.

Potentially Dangerous Dogs will be subject to new requirements, which include: microchip identification; payment of all outstanding fines and fees due to the animal services division; and the owner must keep the dog under restraint at all times. Restraint under this section includes: controlled by means of a chain or other approved tether no longer than twenty (20) feet or a leash no longer than six (6) feet; within a vehicle being driven or parked, and secured in such manner as to prevent the animal from escaping or causing injury to persons approaching or passing the vehicle; within a fenced enclosure adequate to secure the dog so as to prevent it from escaping from the owner's real property; and the dog cannot go beyond the owner's real property unless the dog is leashed and muzzled.

The amendments also include a requirement that owners register Potentially Dangerous and Dangerous Dogs annually with the animal service division. At a minimum, registration must include the name and address of the dog owner, identifying information about the dog, and a copy of the certificate of liability insurance. There will be no cost associated with the annual registration.

Commissioner Lail confirmed that the required liability insurance amount for a homeowner with a Level 2 dangerous dog was now \$100,000 (the previous amount for a owner of a potentially dangerous dog was \$500,000, which was found to cost-prohibited and not maintained by owners).

Commissioner Hunsucker raised a question about cows/calves on his farm – would they be considered a domestic animal should a dog attack? – Assistant Emergency Service Director Mark Pettit confirmed that would be the case just as they categorized chickens as domestic animals in potentially/dangerous dog cases.

Vice-Chair Isenhower questioned how an animal was categorized if that animal was protecting his/her owner when a crime was being committed. Mr. Blanton said this was addressed in the ordinance and the dog would not be deemed dangerous or potentially dangerous in that instance.

Chair Barnes said she thought the amendment gave much better definitions and staff had done a good job in amending the ordinance. Mr. Blanton stated that the Public Health Director had reviewed the amendments and joined in staff's recommendation.

Vice-Chair Isenhower made a motion to approve the amendments to Chapter 6 – Animals – Catawba County Code of Ordinance. The motion carried unanimously. The following ordinance applies:

ORDINANCE NO. 2014-

**BE IT ORDAINED that the Catawba County Code of Ordinances, Chapter 6, Animals, is hereby amended in its entirety to read as follows:**

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**Chapter 6 - ANIMALS <sup>[1]</sup>**

- ARTICLE I. IN GENERAL
  - ARTICLE II. RABIES CONTROL
  - ARTICLE III. ANIMAL CRUELTY
  - ARTICLE IV. ANIMAL NUISANCE
  - ARTICLE V. STRAY OR ABANDONED ANIMALS
  - ARTICLE VI. DANGEROUS AND POTENTIALLY DANGEROUS DOGS
  - ARTICLE VII. IMPOUNDMENT OF ANIMALS
  - ARTICLE VIII. DANGEROUS EXOTIC ANIMALS
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FOOTNOTE(S):

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**Editor's note**— *Ord. of 8-17-2009 amended ch. 6 in its entirety and enacted similar provisions as set out herein. The former ch. 6 derived from Code 1995, §§ 343.01—343.15, 343.21—343.23, 343.32—343.34, 343.41, 343.42, 343.46—343.51, 344.01—344.08, and 345.01—345.05; and Ord. No. 2003-14, adopted June 16, 2003. (Back)*

**Cross reference**— *Environment, ch. 16; animal hospitals and veterinary clinics, § 44-218. (Back)*

**State Law reference**— *Authority to prohibit the abuse of animals, NCGS 153A-127; authority to establish and operate animal shelters, NCGS 153A-442; vaccination of dogs and cats, NCGS 130A-185; rabies vaccination tags, NCGS 130A-190; time of rabies vaccination, 10A N.C. Admin. Code 41G.0101. (Back)*

**ARTICLE I. - IN GENERAL**

Sec. 6-1. - Authority.

Sec. 6-2. - Purposes and objectives.

Sec. 6-3. - Definitions.

Sec. 6-4. - Authority of health director.

Sec. 6-5. - Animal Services Division.

Sec. 6-6. - Assistant Director of Emergency Services.

Sec. 6-7. - Animal control officers.

Sec. 6-8. - Enforcement.

Sec. 6-9. - Interference with officers.

Sec. 6-10. - Sanctions and penalties.

Sec. 6-11. - Method of service of notices and citations.

Sec. 6-12. - Appeal procedures.

Secs. 6-13 - 6-25. - Reserved.

**Sec. 6-1. - Authority.**

This chapter is established pursuant to the following grants of statutory authority:

- (1) NCGS 153A-121 which delegates to counties the power to regulate, prohibit, or abate acts, omissions or conditions which are detrimental to the health, safety or welfare of its citizens and the peace and dignity of the county.
- (2) NCGS 153A-123 which authorizes counties to levy fines and penalties for violations of their ordinances and allows counties to secure injunctions and abatement orders to further ensure compliance with their ordinances.
- (3) NCGS 153A-127 which authorizes counties to define and prohibit the abuse of animals.
- (4) NCGS 153A-131 which authorizes counties to regulate, restrict or prohibit the possession or harboring of animals which are dangerous to persons or property.
- (5) NCGS 153A-442 which authorizes counties to establish, equip, operate and maintain animal shelters.
- (6) NCGS 130A-192 which authorizes animal control officers to determine if there are any dogs and cats not wearing valid rabies vaccination tags.
- (7) NCGS 67-4.5 which authorizes a county to adopt and enforce its own program for control of Dangerous Dogs.

- (8) NCGS 130A-186 which authorizes the local health director to appoint one or more certified rabies vaccinators.
- (9) NCGS 130A-197 which authorizes the local health director to order unvaccinated animals which have been exposed to rabies to be humanely destroyed.

(Ord. of 8-17-2009)

**Sec. 6-2. - Purposes and objectives.**

This chapter is established for the following purposes and objectives:

- (1) *Animal cruelty.* To define and prohibit the abuse of animals.
- (2) *Rabies.* To protect citizens and other animals from rabies transmitted by unconfined, uncontrolled or unimmunized dogs, cats or other animals.
- (3) *Dangerous and potentially dangerous dogs.* To regulate, restrict and/or prohibit the harboring of dogs which are dangerous or potentially dangerous to persons or property.
- (4) *Stray animals.* To regulate, restrict or prohibit the keeping of any stray domestic animals.
- (5) *Animal nuisance.* To regulate animals that may be a nuisance.
- (6) *Wild or exotic animals, poisonous reptiles and dangerous animals.* To regulate, restrict and/or prohibit the harboring or keeping or ownership of wild or exotic animals, poisonous reptiles, and dangerous animals.
- (7) *Animal bites.* To establish rules and procedures for dealing with animal bites.
- (8) *Impoundment of animals.* To regulate and establish procedures for the impoundment and confinement of animals.
- (9) *Redemption of impounded animals.* To regulate and establish procedures for redeeming animals impounded in the county's animal shelter.
- (10) *Destruction of animals.* To regulate and establish procedures for destroying diseased, stray, unwanted or unclaimed animals.

(Ord. of 8-17-2009)

**Sec. 6-3. - Definitions.**

*Abandon* means to intentionally, knowingly, recklessly or negligently leave an animal at a location without providing for the animal's care.

*Adequate shelter* means an enclosure having at least three solid sides, a roof and a floor, an igloo shaped enclosure, or a nonmetal cylinder with one enclosed end that remains dry inside, is ventilated and has sufficient room for an animal to move about freely and lie down comfortably, be structurally sound and in good repair, and promotes the retention of body heat.

*Animal* means every non-human species that has been domesticated by man.

*Assistant Director of Emergency Services* includes his or her designee.

*At large* means any animal found off of the property of its owner and not under restraint or any animal previously determined to be dangerous or potentially dangerous that is not under restraint or confined to a secure enclosure while on the property of its owner. This definition shall exclude any dog which is in a county designated dog park.

*Bite* means the act of an animal seizing flesh with its teeth or jaws, so as to tear, pierce or injure the flesh.

*Cat* means any and all domestic felines.

*Confinement* means impoundment within the county's animal shelter or other appropriate facility.

*Cruelty and cruel treatment* means every act, omission, or act of negligence whereby unjustifiable pain, suffering or death is caused or permitted, or attempted to be caused or permitted against animals, acts or attempted acts of teasing, molesting, baiting or trapping of animals unlawfully, or acts prohibited under NCGS 14-360.

*Dangerous Dog* means any dog that:

- (1) Has killed or inflicted severe injury to a person; or
- (2) Was owned or harbored primarily or in part for the purpose of dog fighting, or trained for dog fighting, in violation of NCGS 14-362.2; or
- (3) Has been declared a Potentially Dangerous Dog and while out of the secure enclosure bit a person or another domestic animal as described in sec. 6-131.

*Dangerous exotic animal* means any living animal as set forth in article IX.

*Dog* means any and all domestic canines.

*Domestic animal* means any animal domesticated by man for his use, e.g., horse, dog, cat.

*Estrus* means the period of maximum sexual receptivity of a female animal, commonly called "heat" or "rut."

*Exposed to rabies* means any person or animal that has bitten, been bitten by or otherwise came into contact or potentially came into contact with the bodily fluids of any animal known or suspected to have been infected with rabies.

*Feral cat* means a domestic cat which has adapted to survive in the wild, is homeless and ownerless.

*Ferret* means a domestic mammal of the genus, species, and subspecies *Mustela putorius furo*.

*Floodprone area* means an area in which two or more inches of standing water are likely to accumulate during a period of normal rainfall.

*Habitual violation* means more than three (3) violations of this chapter in a three (3) year period.

*Impoundment* means possession or seizure of an animal by the Animal Services Division for placement in the animal shelter or other appropriate facility.

*Nighttime* means the time from sunset until sunrise.

*Nuisance* means any act of an animal that annoys or disturbs rights and privileges common to the public or enjoyment of private property. The commission of a nuisance act on more than one occasion shall be evidence of a nuisance. A nuisance act includes, but is not limited to, the following:

- (1) Turns over garbage containers or removes garbage from a container.
- (2) Walks on or sleeps on automobiles of another person.
- (3) Damages gardens, foliage or other real personal property of another person.
- (4) Continuously or frequently roams or is found on the property of another person.
- (5) Is maintained in an unsanitary condition so as to be offensive to sight or smell.
- (6) Is not confined to a building or secure enclosure when in estrus.
- (7) Chases, snaps at, attacks, or otherwise molests pedestrians, cyclists, motor vehicle passengers, farm stock or domestic animals.
- (8) Eliminates on private property without the permission of the owner.
- (9) Is diseased or dangerous to the health of the public.
- (10) Is housed or restrained less than 5 feet from a public street, road or sidewalk and, in the discretion of the animal control officer, poses a threat to the general safety, health and welfare of the general public.

*Owner* means any person, group of persons, firm, partnership or corporation owning, keeping, having charge of or taking care of an animal or allowing an animal to remain on his/her property.

*Owner's property* means that area described in a deed of conveyance or the area described in a lease. In a situation involving town homes, condominiums or apartments, Animal Services will treat the common areas as being owned by the homeowners' association or lessor. A motor vehicle is not part of the owner's property unless it is physically located on the area described in a deed of conveyance or area described in a lease. A motor vehicle that is physically located in or on the common areas of town homes, condominiums or leased apartments, or other public areas shall be treated as being off the owner's property.

*Person* means any human being, firm, partnership or corporation, including non-profit corporation.

*Poisonous reptile* means any animal that crawls or moves on its belly as a snake or on small short legs such as a lizard and has the capability of injecting humans or animals with venom, which may cause death or physical injury.

*Potential rabies carrier* means any species commonly recognized to be a carrier of rabies, such as, but not limited to, raccoons, foxes, skunks, coyote and bats.

*Potentially Dangerous Dog* means any dog determined by the Assistant Director of Emergency Services to have:

- (1) When not on its owner's real property killed or inflicted severe injury upon a domestic animal; or
- (2) When not on its owner's real property approached a person in a vicious or terrorizing manner in an apparent attitude of attack; or

- (3) Inflicted an unprovoked bite to a human.

*Preventive measures* means those measures, as required by Animal Services, taken to effectively restrain a dog that has been deemed a public nuisance or has been declared Dangerous or Potentially Dangerous.

*Rabies vaccinator* means a person appointed and certified to administer rabies vaccine or a licensed veterinarian.

*Restraint* means a secure enclosure located on the owner's property, a chain or other tether no longer than twenty (20) feet in length, a leash no longer than six (6) feet in length, or other physical or electronic device of sufficient strength, which allows the owner to maintain control of an animal. Voice command is not recognized as adequate restraint.

*Secure enclosure* means an enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner. Space and height requirements and other specifications for secure enclosures may be obtained from Animal Services based on the breed, age, height and weight of the animal or as required by section 6-133.

*Stray, lost, or unwanted* means any animal found within the county wandering at large which does not appear to have an owner and does not bear evidence of identification of any owner, or any animal whose owner, if determinable, has failed to attach a valid rabies tag for the animal.

*Severe injury* means any physical injury that results in broken bones or disfiguring lacerations, requires reconstructive surgery or hospitalization, or injury determined to be severe by a physician or veterinarian.

*Vaccination* means the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

*Wild animal* means any animal that is not normally domesticated. A hybrid of any animal, regardless of genetic percentages, shall be deemed a wild animal.

*Working day* means any day of the week excluding Saturday, Sunday and county holidays. If the last day of the time period falls on a Saturday, Sunday or county holiday, then the action required shall be undertaken on the next day that is not a Saturday, Sunday or county holiday.

(Ord. of 8-17-2009; Ord. No. 2009-13, 11-16-2009)

*Cross reference*— *Definitions generally, § 1-2.*

#### **Sec. 6-4. - Authority of health director.**

The local health director shall have the authority to declare areas under quarantine against rabies when the lives of persons are endangered and to do any other act required or authorized by this chapter and the laws of this state.

(Ord. of 8-17-2009)

#### **Sec. 6-5. - Animal Services Division.**

Authority is hereby granted to the Animal Services Division to enforce this chapter. All employees of the Animal Services Division are hereby granted the following rights, powers and immunities, and such employees, through the Animal Services Division, shall:

- (1) Have the responsibility, along with law enforcement agencies, to enforce all laws of the state and all ordinances of the county pertaining to animals and shall cooperate with all law enforcement officers within the county in fulfilling this duty.
- (2) Enforce and carry out all laws of the state and all ordinances of the county pertaining to rabies control.
- (3) Be responsible for the investigation of all reported animal bites, for the quarantine and confinement of any dog or cat known to have, or suspected of having, rabies for a period of not less than ten (10) days, and for reporting to the local health director as soon as practicable the occurrence of any such animal bite and the condition of the quarantined animal.
- (4) Be responsible for monitoring the county animal shelter to ensure compliance with any and all contracts entered into by the county for the operation of the shelter and compliance with any applicable state and federal laws, rules and regulations.
- (5) Be responsible for the seizure and impoundment, when necessary, of any animal in the county involved in a violation of this chapter or any other ordinance or state law.
- (6) Investigate cruelty or abuse of animals and protect animals within the county from cruelty and abuse.
- (7) Make legal canvasses of property within the county as necessary for the purpose of ascertaining compliance with this chapter or state statute.
- (8) Maintain accurate and detailed records of seizures, impoundments, and dangerous animals, disposition of animals coming into the custody of the Animal Services Division, bite cases, violations, complaints, investigations and monies collected.
- (9) Be empowered to issue notices of violation, assess civil penalties for violations of this chapter and issue citations when authorized by law.
- (10) Be empowered to go upon private property to seize animals pursuant to the provisions of this chapter or an order of a court of competent jurisdiction of this state.

*(Ord. of 8-17-2009)*

**Sec. 6-6. - Assistant Director of Emergency Services.**

The Assistant Director of Emergency Services shall control, direct and supervise the Animal Services Division, its employees and officers. The Assistant Director of Emergency Services shall monitor the county animal shelter to ensure compliance with any and all contracts entered into by the county for the operation of the shelter and compliance with any applicable state and federal laws, rules and regulations. The Assistant Director of Emergency Services is hereby designated by the Board of Commissioners as the person responsible for determining when a dog is Dangerous or Potentially Dangerous. The Assistant Director of Emergency Services is hereby authorized to initiate legal action to enforce this chapter.

The Assistant Director of Emergency Services shall have the authority to delegate to the animal control officers or administrative staff any of the powers granted to the Assistant Director of Emergency Services by this chapter. Any act done by an animal control officer or a member of the administrative staff that is in compliance with or within the scope of this chapter, shall be considered the official act of the Assistant Director of Emergency Services.

The county manager, or his/her designee, shall have the authority to waive certain fines and fees related to Animal Services, when it is in the best interest of the county and its citizens to do so.  
(Ord. of 8-17-2009)

*Cross reference— Officers and employees, § 2-86 et seq.*

**Sec. 6-7. - Animal control officers.**

All persons employed by the Animal Services Division to enforce the animal control regulations shall be considered animal control officers and shall have the rights, powers and immunities granted under this chapter and by the laws of this state to enforce the provisions of this chapter. Animal control officers are authorized to store drugs, chemicals and equipment at the Animal Services administrative offices and on Animal Services Division vehicles as necessary to enforce the provisions of this chapter or other applicable law for the control of wild, vicious, dangerous or diseased animals. Animal control officers shall not have the power of arrest, but shall have all rights, powers and immunities as described in section 6-5.

(Ord. of 8-17-2009)

**Sec. 6-8. - Enforcement.**

The Assistant Director of Emergency Services, or any other person duly authorized to commence legal action on behalf of the county, may take necessary legal steps to enforce this chapter and collect any amount for outstanding costs, fees or penalties assessed pursuant to this chapter. This chapter shall be enforced by imposing the specific sanctions, penalties, fines and remedies described herein, by seeking injunctive relief, orders of abatement and any other means prescribed by statute or common law. In addition to any specific sanction, penalty or fine as outlined in this chapter, any violation of this chapter shall be punishable as a general criminal misdemeanor as defined by state law.

(Ord. of 8-17-2009)

**Sec. 6-9. - Interference with officers.**

It shall be unlawful for any person to interfere with, hinder or molest an employee of the Animal Services Division or any other person duly authorized by this chapter while in the performance of any duty as set out in this chapter. It shall also be unlawful for any person to seek to release, attempt to release, or to release any animal in the custody of the Animal Services Division, except as otherwise specifically provided in this chapter.

(Ord. of 8-17-2009)

**Sec. 6-10. - Sanctions and penalties.**

Unless otherwise provided for in a particular section, the Animal Services Division is authorized to assess civil penalties pursuant to the Catawba County Fee Schedule adopted by the Board of Commissioners.

A civil penalty is due and owing upon assessment. Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding civil penalty that was assessed prior to the animal being surrendered or as a result of the animal being impounded. If payment of a civil penalty is not received within five (5) working days of issuance, Animal Services may initiate legal proceedings to recover the amount of the penalty.

(Ord. of 8-17-2009)

**Sec. 6-11. - Method of service of notices and citations.**

Unless otherwise specified in this chapter, all notices or civil penalties required by this chapter to be sent or delivered shall be made by personal service, certified mail, first class mail, or affixing the notice to the last known residence of the person who violated this chapter.

*(Ord. of 8-17-2009)*

**Sec. 6-12. - Appeal procedures.**

- (1) An owner affected by any ruling or action taken by the Animal Services Division may request a review of the action by filing a written request for appeal with the Animal Services Division, except that:
  - (a) There shall be no right of appeal for the seizure of an animal pursuant to the order of a judicial official or magistrate.
  - (b) There shall be no right of appeal heard where the person requesting the appeal admits the violation and/or does not dispute the facts of the incident, and the sanction imposed for the violation is mandated by state law.
  - (c) Appeals for dogs declared to be Dangerous or Potentially Dangerous shall be made to the Dangerous Dog Appellate Board as outlined in section 6-132.
- (2) Any appeal pursuant to this section must be delivered in writing to the Animal Services Division within three (3) working days of the action taken by Animal Services Division.
- (3) An appeal pursuant to this section shall be heard and decided by the Emergency Services Director. The Emergency Services Director shall issue a decision in writing within ten (10) days of the filing of the appeal.
- (4) All decisions by the Emergency Services Director pursuant to this section are final.
- (5) If the decision is in favor of the appellant, the Animal Services Division shall immediately cease efforts to implement the sanction(s). Any decision rendered by the Emergency Services Director applies only to the violation(s) and sanction(s) appealed and does not prevent the Animal Services Division from enforcing a subsequent violation of the same provision or any other provision of this chapter.
- (6) If the decision is against the person making the appeal, the owner of the dog remains responsible for any outstanding boarding and redemption fees, veterinary bills, or civil penalties that are not satisfied.

*(Ord. of 8-17-2009)*

**Secs. 6-13—6-25. – Reserved**

**ARTICLE II. - RABIES CONTROL**

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- Sec. 6-26. - Compliance with state law; article as supplement to state law.
- Sec. 6-27. - Vaccination of dogs, cats, and ferrets.
- Sec. 6-28. - Vaccination tag.
- Sec. 6-29. - Evidence of vaccination of cats and ferrets.
- Sec. 6-30. - Confinement of all biting dogs, cats and ferrets.

Sec. 6-31. - Destruction or confinement of animal bitten by rabid animal.

Sec. 6-32. - Unlawful killing, releasing of certain animals.

Sec. 6-33. - Failure to surrender animal for quarantine or destruction.

Secs. 6-34—6-40. – Reserved.

**Sec. 6-26. - Compliance with state law; article as supplement to state law.**

(1) It shall be unlawful for an animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(2) The purpose of this article is to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

*(Ord. of 8-17-2009)*

**Sec. 6-27. - Vaccination of dogs, cats, and ferrets.**

(1) It shall be unlawful for an owner to fail to provide current vaccination by a licensed veterinarian or certified rabies vaccinator against rabies for any dog, cat or ferret four (4) months of age or older. Should it be deemed necessary by the local health director or the state public health veterinarian that other animals be vaccinated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner to fail to provide current inoculation by a licensed veterinarian or certified rabies vaccinator against rabies for that animal.

(2) An animal shall be considered current only after twenty-eight (28) days have passed after the initial rabies vaccination or the current vaccination has not expired.

*(Ord. of 8-17-2009; Ord. No. 2009-13, 11-16-2009)*

**Sec. 6-28. - Vaccination tag.**

(1) The person who administers a rabies vaccine must issue a rabies vaccination tag to the owner of the animal. The rabies vaccination tag must show the year issued, a vaccination number, the words “North Carolina” or the initials “N.C.” and the words “rabies vaccine.”

(2) Dogs must wear a collar or harness with a rabies vaccination tag at all times, unless the dog is confined in a secure enclosure. Upon determining that a dog is not wearing a rabies vaccination tag and the owner cannot promptly display a valid rabies vaccination tag, the animal control officer may issue a written warning instructing the owner to display the rabies vaccination tag or to have the dog vaccinated. If an additional violation of this article occurs after the owner of the dog has been issued a written warning, the dog shall be impounded and the owner shall be subject to a civil penalty as indicated in section 6-10.

(3) It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for another animal.

*(Ord. of 8-17-2009)*

**Sec. 6-29. - Evidence of vaccination of cats and ferrets.**

Cats and ferrets shall not be required to wear the rabies vaccination tag referred to in section 6-28, but the owner of a cat or ferret must maintain the rabies vaccination certificates as written evidence

to prove that the cat or ferret has a current rabies vaccination. Upon determining that the owner of a cat or ferret cannot promptly provide the rabies vaccination certificate, the animal control officer may issue a written warning instructing the owner to provide the rabies vaccination certificate or to have the cat or ferret vaccinated. If an additional violation of this article occurs after the owner of the cat or ferret has been issued a written warning, the cat or ferret shall be impounded and the owner shall be subject to a civil penalty as indicated in section 6-10.

*(Ord. of 8-17-2009; Ord. No. 2009-13, 11-16-2009)*

**Sec. 6-30. - Confinement of all biting dogs, cats and ferrets.**

- (1) Every dog, cat or ferret which has bitten any person must be confined immediately and must be promptly reported to Animal Services. The dog, cat or ferret must be securely quarantined, at the direction of Animal Services for a period of ten (10) calendar days and shall not be released from quarantine except by written permission from Animal Services.
- (2) At the expense of the owner, dogs, cats and ferrets quarantined under this section must be confined in the county animal shelter or an approved licensed veterinary hospital.
- (3) In the case of feral or stray dogs, cats or ferrets whose ownership is not known, the animal shall be quarantined for a minimum of 72 hours. If the owner has not been identified within 72 hours, the animal may be euthanized and sent for rabies testing.
- (4) If rabies symptoms do not develop within ten (10) calendar days after a dog, cat or ferret is quarantined under this section, the animal may be returned to the owner.
- (5) If the dog, cat or ferret has been confined in the county animal shelter, all fees and costs associated with the care of the animal shall be paid by the owner at the time of redemption. Animals not redeemed within twenty-four (24) hours of the ending date of confinement shall become the property of Catawba County. Animal Services is authorized to initiate legal proceedings to recover the costs of caring for an animal confined at the shelter pursuant to this section if the animal is not redeemed.

*(Ord. of 8-17-2009; Ord. No. 2009-13, 11-16-2009)*

**Sec. 6-31. - Destruction or confinement of animal bitten by rabid animal.**

- (1) If a dog, cat or ferret has a current rabies vaccination and is bitten by or exposed to a rabid or potentially rabid animal, the owner of the animal must get it a booster rabies vaccination within five (5) days after contact with the possibly rabid animal. Animals are not considered vaccinated until the 28<sup>th</sup> day after the first vaccination.
- (2) If a dog, cat or ferret does not have a current rabies vaccination and is bitten by or exposed to a known rabid animal, Animal Services shall impound the animal.
  - (a) If the animal suspected of having rabies is available for testing, the unvaccinated dog, cat or ferret bitten by or exposed shall be confined at the county animal shelter until rabies test results have been received. If the test results are negative, the animal can be returned to its owner. All fees shall be paid by the owner at the time of redemption. If the test results are positive or inconclusive, the unvaccinated dog, cat, or ferret may be euthanized. As an alternative to euthanization, the animal may be quarantined at a facility approved by the local health director for a period up to six (6) months under reasonable conditions imposed by the local health director.

- (b) If the animal suspected of having rabies is not available for testing, the unvaccinated cat, dog or ferret shall be considered to have been exposed to rabies and may be euthanized. Pursuant to NCGS 130A-197, as an alternative to destruction, the animal may be quarantined at a facility approved by the local health director for a period up to six (6) months under reasonable conditions imposed by the local health director. The owner of the animal shall be responsible for the cost of quarantining the animal.

*(Ord. of 8-17-2009; Ord. No. 2009-13, 11-16-2009)*

**Sec. 6-32. - Unlawful killing, releasing of certain animals.**

It is unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies, or any animal that has bitten a human, or to remove such animal from the county without written permission from the county health director.

*(Ord. of 8-17-2009)*

**Sec. 6-33. - Failure to surrender animal for quarantine or destruction.**

It is unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required in this article when demand is made by the Animal Services Division or the county health director.

*(Ord. of 8-17-2009)*

**Secs. 6-34—6-40. - Reserved**

**ARTICLE III. - ANIMAL CRUELTY**

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Sec. 6-41. - General care; prohibited acts.

Sec. 6-42. - Sanctions, penalties, fines, remedies.

Sec. 6-43. - Exemptions.

Secs. 6-44—6-70. - Reserved.

**Sec. 6-41. - General care; prohibited acts.**

All animals shall be kept and treated under sanitary and humane conditions, and it is unlawful for any person to engage in one or more of the following acts:

- (1) *Failure to provide adequate food.* All animals, unless otherwise indicated in this chapter, must be given at suitable intervals, at least once in a 24- hour period, a quantity of wholesome foodstuff in a container suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition.
- (2) *Failure to provide adequate water.* All animals must have access to a supply of clean, fresh, potable water. If access is not constant, then adequate amounts of water must be provided at least twice in a 24-hour period.
- (3) *Failure to provide adequate shelter.* Animals must be provided with adequate shelter to reasonably protect them from the elements and from the weather at all times. It shall be within the discretion of Animal Services to determine what constitutes adequate shelter. This section does not apply to aquatic animals or livestock and other large animals which are normally pastured or otherwise live in the open. Examples of inadequate shelter include, but are not limited to, the following:
  - (a) Underneath outside steps, decks and stoops.
  - (b) Underneath houses.
  - (c) Inside or underneath motor vehicles.
  - (d) Inside metal barrels.

- (e) Inside cardboard boxes.
  - (f) Inside temporary animal carriers or crates.
  - (g) Shelters located in floodprone areas or areas that lack a suitable method of draining so as to eliminate excess water or moisture.
  - (h) Shelters surrounded by waste, debris, obstructions or impediments that may endanger an animal.
- (4) *Failure or refusal of an owner of a sick, diseased or injured animal to provide proper medical treatment for the animal.* The owner of an animal must provide the animal with adequate veterinary care and must take steps necessary to protect the health of the animal.
- (5) *Animal cruelty.* Examples of animal cruelty include, but are not limited to, the following:
- (a) Allowing a collar, rope or chain to become embedded in or cause injury to an animal's neck.
  - (b) Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised.
  - (c) Allowing a dog or cat to be left outside in inclement weather or extreme temperatures without adequate shelter.
  - (d) Intentionally allowing animals to engage in a fight.
  - (e) Allowing animals to live in unsanitary conditions.
  - (f) Allowing animals to live in crowded conditions.
  - (g) Failure or refusal to obtain medical treatment for an animal when in an animal control officer's opinion treatment is needed.
  - (h) Trapping a dog or cat without the use of a recognized humane live animal trap.
  - (i) Permitting any exhibit, function or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or themselves. The Animal Services Division shall have the authority to inspect and to close down public exhibits of animals which are part of fairs, carnivals, festivals, fundraising events, petting zoos and any other activity or function carried out in the county if it is determined that animals are being cruelly treated, abused or run the risk of causing injury to the public or themselves.
  - (j) Animals being confined to or restrained on the premises of a vacant or abandoned structure.
  - (k) Failure to provide adequate drainage to prevent surface water from standing in the area where the animal is kept or restrained. It shall be within the discretion of Animal Services as to what constitutes adequate drainage.
- (6) *Chaining or tethering an animal to a stationary object for a period of time or under conditions that an animal control officer deems harmful or potentially harmful to the animal.* Examples of improper chaining or tethering include, but are not limited to, the following:
- (a) Using a length or weight of a chain or other tether that is not appropriate for the size, weight and age of the animal. Note: Under no circumstances should the weight of the tether exceed ten (10) percent of the total body weight of the animal, but the tether must be of sufficient strength to prevent breakage.

- (b) Using a chain or tether made of rope, twine, cord or similar material, unless such chain or tether is sold commercially for the purpose of chaining or tethering an animal.
- (c) Using a chain or tether that is less than ten (10) feet in length and/or does not have swivels on both ends. All chains or tethers must be attached to the animal by means of a properly fitting harness or collar of not less than one (1) inch in width.
- (d) Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property or the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter.
- (e) Using a chain as a primary collar. All collars used for the purpose of chaining or tethering an animal must be made of nylon or leather.
- (7) *Leaving an animal in a closed vehicle, etc.* Leaving an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer deems harmful or potentially harmful to the animal.
- (8) *Failure or refusal to report injured domestic animals.*
  - (a) All persons who injure a domestic animal by running over, into or otherwise coming into contact with an animal with an automobile, motorcycle, bicycle or other vehicle must notify the owner of the animal immediately.
  - (b) If the owner is unknown, the person who injured the animal must immediately notify Animal Services through the 911 center by giving his or her name and address, a description of the animal and the location of the incident.

*(Ord. of 8-17-2009)*

**Sec. 6-42. - Sanctions, penalties, fines, remedies.**

An animal control officer may undertake one or more of the following when a person fails or refuses to abide by or otherwise violates this article:

- (1) Obtain a magistrate's order to take possession of the animal.
- (2) Immediately seize the animal if the conditions pose an immediate threat to the health or safety of the animal or the public. A notice of seizure describing the exigent circumstances warranting the seizure will be left with the owner or affixed to the premises.
- (3) Issue a written notice of violation directing the owner or possessor of the animal to correct the problem within 72 hours, in lieu of subsection (1) or (2) above, if it is determined by the animal control officer that the animal is not in immediate danger, or the problem which gives rise to the inadequate treatment or abuse can be corrected within 72 hours. If the condition or problem is not corrected within 72 hours, the animal control officer may take action as outlined in subsection (1) or (2) above.
- (4) Issue a civil penalty for violation of any provision of this section in accordance with section 6-10.
- (5) Obtain a criminal summons or warrant.

*(Ord. of 8-17-2009)*

**Sec. 6-43. - Exemptions.**

This article shall not apply to agencies conducting biomedical research or training, the production of livestock or poultry for sale as a consumer product and the lawful destruction of any animal for the purpose of protecting livestock, poultry or humans.

*(Ord. of 8-17-2009)*

**Secs. 6-44—6-70. - Reserved.**

**ARTICLE IV. - ANIMAL NUISANCE**

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Sec. 6-71. - Animal creating a nuisance.

Sec. 6-72. - Sanctions, penalties, fines, and remedies.

Sec. 6-73. - Animal housed or restrained near public way.

Sec. 6-74. - Intentionally or willfully causing animal to violate article.

Secs. 6-75 - 6-100. - Reserved.

**Sec. 6-71. - Animal creating a nuisance.**

It shall be unlawful for an owner to allow any of the acts listed in section 6-3 in the definition of the term "nuisance" to occur. Upon receipt of a written, detailed and signed complaint, an animal control officer shall investigate to determine whether a violation of this article has occurred. A complaint may be submitted electronically, subject to the approval of the Assistant Director of Emergency Services.

*(Ord. of 8-17-2009)*

**Sec. 6-72. - Sanctions, penalties, fines, and remedies.**

- (1) Upon determining that a violation of this article has occurred, the animal control officer may issue a written warning instructing the owner of the animal to abate the nuisance.
- (2) If an additional violation of this article occurs after the owner of the animal has been issued a written warning, the animal control officer may issue a declaration of nuisance to the owner of the animal along with a civil penalty in accordance with section 6-10. The owner must cause the animal to abate the nuisance immediately and may be required by Animal Services to physically restrain the animal. If the nuisance for which the warning is issued is a condition which is offensive to sight or smell, the owner shall have 72 hours within which to abate the condition before a written declaration of nuisance is issued.
- (3) Subsequent violations of this article may subject the owner of the animal to civil penalties in accordance with section 6-10 or criminal penalties as provided by law or in the discretion of the Assistant Director of Emergency Services certain preventive measures may be prescribed.
- (4) Any animal found off of the property of its owner after having been declared a nuisance or any animal creating a nuisance for whom an owner is unknown and cannot be determined may be seized and impounded. A notice of impoundment shall be served upon the owner or affixed to the owner's premises. The animal may be redeemed pursuant to article VII.
- (5) Nothing in this article shall prevent a private citizen from bringing an action to abate a nuisance or from bringing an action for damage, loss or injury to the private citizen or his property resulting from the animal being a public nuisance.

*(Ord. of 8-17-2009)*

**Sec. 6-73. - Animal housed or restrained near public way.**

- (1) In addition to any penalties prescribed by section 6-10, when it has been determined that an animal housed or restrained less than five (5) feet from a public street, road or sidewalk constitutes a nuisance, but the animal is not in the street, road, or on the sidewalk, the animal control officer may issue a notice to the owner directing the owner to move the animal. If the animal is found in the public street, road or sidewalk and the owner is not at home or refuses to remove the animal from the street, road or sidewalk, the animal may be seized and impounded.
- (2) When an animal has been impounded three (3) times or the owner has been cited three (3) times for housing the animal less than five (5) feet from the public street, road or sidewalk, the animal control officer shall seize and impound the animal, and the animal shall become the property of the county.  
(*Ord. of 8-17-2009*)

**Sec. 6-74. - Intentionally or willfully causing animal to violate article.**

It shall be unlawful for any person to intentionally or willfully cause an animal to be a public nuisance. The animal control officer may seek a criminal summons and/or issue a civil penalty for violation of this section.  
(*Ord. of 8-17-2009*)

**Secs. 6-75 - 6-100. - Reserved.**

**ARTICLE V. - STRAY OR ABANDONED ANIMALS**

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- Sec. 6-101. - Abandoned animals.
- Sec. 6-102. - Notification to Animal Services Division.
- Sec. 6-103. - Stray animals.
- Secs. 6-104 - 6-130. - Reserved.

**Sec. 6-101. - Abandoned animals.**

- (1) It shall be unlawful for any person, owner or possessor to abandon an animal for any reason. Animal Services may impound any abandoned animal.
- (2) Notice of seizure shall be posted on the premises from which the animal was seized, and in the case of eviction, shall be sent to the last known address of the owner or possessor of the animal. It is the owner's responsibility to make a visual inspection of the animal shelter if he has reason to believe that his animal has been impounded at the shelter.
- (3) If an abandoned animal is not redeemed within three (3) working days of the date of impoundment, the animal shall become the property of the county.  
(*Ord. of 8-17-2009*)

**Sec. 6-102. - Notification to Animal Services Division.**

- (1) Any person who has knowledge of or keeps, feeds, harbors or possesses a stray or abandoned animal must notify Animal Services within 24 hours of having knowledge of the animal or the animal coming into his possession or control.
- (2) Any person required to notify Animal Services under subsection (1) must provide the following information to Animal Services:
  - (a) The name, address and telephone number of the person completing the lost/found report.

- (b) A description of the animal, including its color, breed, sex, age and any other identifying information.
- (c) The location where the animal was discovered.
- (3) Any person who gives away, sells or allows an otherwise stray or abandoned animal to be adopted without first surrendering the animal to the animal shelter shall have no authority over the animal and ownership shall remain with the previous owner to the extent the previous owner is able to be identified.  
(Ord. of 8-17-2009)

**Sec. 6-103. - Stray animals.**

- (1) Any person having knowledge of or keeping, feeding, harboring or possessing a stray animal must surrender the animal to the Animal Services Division.
- (2) All stray animals surrendered to Animal Services shall be taken to the county animal shelter. If the owner does not redeem the animal within three (3) working days, the animal shall become the property of the county and may be disposed of in accordance with this chapter.  
(Ord. of 8-17-2009)

**Secs. 6-104 - 6-130. - Reserved.**

**ARTICLE VI. – DANGEROUS AND POTENTIALLY DANGEROUS DOGS <sup>[2]</sup>**

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Sec. 6-131. - Determination of Dangerous and Potentially Dangerous Dogs.

Sec. 6-132. - Appeal procedure for Dangerous and Potentially Dangerous Dogs.

Sec. 6-133. - Confinement and restraint of Dangerous and Potentially Dangerous Dogs.

Sec. 6-134. - Transfer of ownership.

Sec. 6-135. - Exceptions.

Secs. 6-136—6-143. - Reserved.

**Sec. 6-131. - Determination of Dangerous and Potentially Dangerous Dogs.**

The Assistant Director of Emergency Services shall determine whether a dog is to be declared Dangerous or Potentially Dangerous. Once the dog is deemed Dangerous or Potentially Dangerous, the Animal Services Division shall impound the dog immediately. The Assistant Director of Emergency Services shall notify the owner in writing, giving the reason for the determination. The owner of a dog which has been declared to be Dangerous or Potentially Dangerous has the right to appeal the decision in the manner set forth in section 6-132.

- (1) *Dangerous Dog*. A Dangerous Dog will be classified as either a Level 1 or Level 2 Dangerous Dog.
  - (a) Level 1:
    - (i) The dog will be classified as Level 1 if the dog:
      - (a) Killed a person;
      - (b) When not on the owner's real property, inflicted severe injury to a person;
      - (c) Was previously declared a Level 2 Dangerous Dog and while out of the secure enclosure bit a person;

- (d) Was previously declared a Level 2 Dangerous Dog and while out of the secure enclosure and not on the owner's real property bit another domestic animal;
  - (e) Was previously declared a Potentially Dangerous Dog and inflicted severe injury to a person; or
  - (f) Was previously declared a Potentially Dangerous Dog and when not on the owner's real property killed or inflicted severe injury to a domestic animal.
- (ii) The Assistant Director of Emergency Services shall order the Level 1 Dangerous Dog to be humanely destroyed.
- (b) Level 2:
- (i) The dog will be classified as Level 2 if the dog:
    - (a) When on the owner's real property inflicted severe injury to a person;
    - (b) Was owned or harbored primarily or in part for the purpose of dog fighting, or trained for dog fighting, in violation of NCGS 14-362.2;
    - (c) Was previously declared a Potentially Dangerous Dog and when not on the owner's real property bit another domestic animal but did not cause a severe injury; or
    - (d) Was previously declared a Potentially Dangerous Dog and bit a person but did not cause a severe injury.
  - (ii) The owner must confine the Level 2 Dangerous Dog as outlined in sections 6-133(1) and (2).
- (2) *Potentially Dangerous Dog.* If a Potentially Dangerous Dog is redeemed by the owner, the owner must keep the dog under restraint and comply with section 6-133(3) below. A dog will be classified as a Potentially Dangerous if the dog:
- (a) When not on the owner's real property killed or inflicted severe injury upon a domestic animal; or
  - (b) When not on the owner's real property approached a person in a vicious or terrorizing manner in an apparent attitude of attack; or
  - (c) Inflicted an unprovoked bite to a human.
- (Ord. of 8-17-2009)

**Sec. 6-132. - Appeal procedure for Dangerous and Potentially Dangerous Dogs.**

- (1) The owner of a dog which has been declared Dangerous or Potentially Dangerous pursuant to this section has the right to appeal the determination by filing a written objection, stating the grounds for the appeal, with the Animal Services Division within three (3) working days of receipt of the Dangerous or Potentially Dangerous Dog determination letter. If the owner fails to file the written objection, a Level 1 Dangerous Dog shall become the property of the county and shall be disposed of in accordance with this chapter and a Level 2 Dangerous Dog or a Potentially Dangerous Dog must meet the requirements of this Article.
- (2) The Dangerous Dog Appellate Board, as designated by the county, shall hold a hearing within ten (10) working days of the filing of the written objection. The person requesting the appeal will be notified of the decision within ten (10) working days following the final decision of the appellate board. Any appeal from the final decision of the Appellate Board shall be to Superior Court by filing a notice of appeal and petition for review within ten (10) working days of receipt of the final decision of the Appellate Board. This written notice must be served on Animal Services as well as the Clerk of Superior Court.

- (3) The Dangerous Dog Appellate Board shall be composed of five (5) regular members and two (2) alternates. At least one (1) of the regular members shall be a licensed veterinarian. Members and alternates must be residents of Catawba County and appointed by the Catawba County Board of Commissioners to serve until a successor is appointed. A quorum of at least three (3) members (any combination of regular members and alternates) must be present at an appellate board hearing in order for the Appellate Board to conduct business. The members of the Dangerous Dog Appellate Board shall be expected to disclose any prior personal involvement they have had with the case or other conflicts of interest, and upon a motion of the board, the member making the disclosure may be recused.
- (4) All testimony offered at the appellate board hearing held pursuant to this chapter shall be given under oath and recorded by audio recording. The hearing shall be open to the public, and the person requesting the appeal may be represented by an attorney.
- (5) The Assistant Director of Emergency Services shall have the burden of demonstrating that this chapter has been violated. The person requesting the appeal will be given an opportunity to prove this chapter has not been violated. The Assistant Director of Emergency Services will be given a final opportunity to clarify any conflicts, ambiguities or inconsistencies created by or arising from the statements or evidence. The Dangerous Dog Appellate Board may ask questions at any time during the appeal hearing and may request additional evidence from either party, including continuing the hearing in the interest of fairness.
- (6) Any decision rendered by the Dangerous Dog Appellate Board applies only to the violation(s) appealed and does not prevent the Animal Services Division from enforcing a subsequent violation of the same provision or any other provision of this chapter. If the Dangerous Dog Appellate Board upholds or affirms the decision of the Assistant Director of Emergency Services the owner is responsible for all applicable boarding fees, redemption fees and civil penalties.
- (7) If the owner of the dog does not file a written appeal of the Dangerous Dog Appellate Board within the time period required by law or if the owner of the dog does not comply with the confinement requirements as specified in section 6-133 within twenty-one (21) calendar days of the final decision of the Dangerous Dog Appellate Board or Superior Court, then the dog becomes the property of the county.

(Ord. of 8-17-2009)

**Sec. 6-133. - Confinement and restraint of Dangerous and Potentially Dangerous Dogs.**

- (1) *Dangerous Dog Requirements.* The owner of a Dangerous Dog that is required to be confined pursuant to section 6-131(1)(b) may redeem the dog upon complying with the following:
  - (a) The owner of a dog which has been declared a Level II Dangerous Dog must file a written notice of intent to comply with the enclosure requirements outlined below with the Animal Services Division within three (3) working days of receipt of the Dangerous Dog determination letter. If the owner fails to file a written notice, the dog shall become the property of the county and shall be disposed of in accordance with this chapter.
  - (b) Before redemption, a Dangerous Dog must be fitted with microchip identification, at the owner's expense.
  - (c) The owner must pay all outstanding fines and fees owed to the Animal Services Division.
  - (d) From the initial notice from the Animal Services Division, the owner has twenty-one (21) days to erect the secure enclosure. If the owner appeals the determination in accordance with this ordinance to the Dangerous Dog Appellate Board or Superior

Court, and the decision is upheld, the owner has twenty-one (21) days to erect the secure enclosure from the date of the decision. The secure enclosure must conform to all of the following:

- (i) The structure must be a minimum size of fifteen (15) feet by six (6) feet by six (6) feet with a concrete pad at least two (2) inches thick. If more than one dog is to be kept in the enclosure, the floor area must provide at least forty five (45) square feet for each dog. The walls and roof of the structure must be constructed of welded chain link, of a minimum thickness of twelve (12) gauge, supported by galvanized steel poles at least two and one-half (2 ½) inches in diameter. The vertical support poles must be sunk in concrete-filled holes at least eighteen (18) inches deep and at least eight (8) inches in diameter. The chain link fencing must be anchored to the concrete pad with galvanized steel anchors at intervals of no more than twelve (12) inches along the perimeter of the pad. The entire structure must be freestanding and not attached or anchored to any existing fence, building, or structure. The structure must be secured by a pad lock.
  - (ii) A warning sign of at least one hundred twenty (120) square inches must be visible from each side of the structure and visible to any adjoining property.
  - (iii) The secure enclosure must be inspected and approved by the Assistant Director of Emergency Services.
  - (iv) The owner of the dog is responsible for ensuring that the enclosure is maintained in such a condition to continually meet the requirements of the article. Failure to maintain or repair the enclosure shall subject the owner to penalties under this chapter.
  - (v) Prior to inspection of the enclosure by the Assistant Director of Emergency Services, the dog shall not be returned to the owner's property until the shelter and warning signs have been approved. While the structure is being erected, the dog must be boarded at the county animal shelter at the owner's expense.
- (e) At the owner's expense, the owner of a Dangerous Dog shall procure and maintain liability insurance in the amount of at least \$100,000.00.
- (2) *Maintenance of a Dangerous Dog.* The owner of a Dangerous Dog that is required to be confined pursuant to section 6-131(1)(b) must comply with the following:
- (a) A Dangerous Dog shall not be permitted out of the enclosure unless the dog is under physical restraint by a competent person who by means of a leash, chain or tether no longer than six (6) feet has the dog firmly under control at all times. Voice command and electronic collars are not recognized as adequate restraints. A Dangerous Dog must be muzzled when not on the owner's real property.
  - (b) If the owner can provide detailed written instructions from a licensed veterinarian that the dog must remain out of the secure enclosure for a specified amount of time due to sickness or injury, then the dog shall immediately be housed at a veterinarian clinic until it is medically cleared, at which time the dog shall immediately be returned to the secure enclosure. Written instructions from a licensed veterinarian must be updated at least every thirty (30) days by a licensed veterinarian and provided to the Animal Services Division by the owner.
  - (c) In addition to criminal penalties provided by state law and civil penalties set forth in section 6-10, any person who violates the requirements set forth in sections 6-133(1) and (2) shall be subject to the following sanctions and remedies:

- (i) If a Dangerous Dog is found at large, it shall be seized and impounded. An animal control officer is authorized to go upon private property to seize the Dangerous Dog.
  - (ii) The Animal Services Division shall have the right to inspect the enclosure at any time. If an inspection of the enclosure reveals that the owner has not complied with the requirements for confining and/or restraining the dog, an animal control officer may issue a civil penalty and may impound the dog.
  - (iii) If the dog is not redeemed within three (3) working days of the impoundment pursuant to this section or if the owner does not request an appeal within the time limit provided in section 6-12, the dog shall become the property of the county and shall be disposed of in accordance with this chapter.
  - (iv) Upon a second violation of this section, the dog will be impounded immediately and will become the property of the county and will be disposed of in accordance with this chapter.
- (3) *Potentially Dangerous Dog.* The owner of any Potentially Dangerous Dog may redeem their dog upon complying with the following:
- (a) At the owner's expense and before redemption, a Potentially Dangerous Dog must be fitted with microchip identification.
  - (b) The owner must pay all outstanding fines and fees due to the Animal Services Division.
  - (c) The owner must keep the dog under restraint at all times. Restraint under this section includes:
    - (i) Controlled by means of a chain or other approved tether no longer than twenty (20) feet or a leash no longer than six (6) feet. Voice command and electronic collars are not recognized as adequate restraints.
    - (ii) Within a vehicle being driven or parked, and secured in such manner as to prevent the animal from escaping or causing injury to persons approaching or passing the vehicle. An animal is not under restraint if it is in the back of an open-bed pickup.
    - (iii) Within a fenced enclosure adequate to secure the dog so as to prevent it from escaping from the owner's real property.
    - (iv) Not permitting the dog to go beyond the owner's real property unless the dog is leashed and muzzled.
- (4) *Private Action.* Nothing in this article shall prevent a private citizen from bringing an action against the owner of a dog which has caused injury to the private citizen or his property for damages or any other loss resulting from the dog's conduct being dangerous.
- (5) *Penalties.* Any person who violates a provision of this article VI is subject to the penalties listed in section 6-10.

**Sec. 6-134. – Registration and Transfer of ownership.**

- (1) *Registration.* A current registration shall be maintained by the Animal Services Division for every dog determined to be Dangerous or Potentially Dangerous. The owner of the dog is responsible for ensuring that the dog is registered. Registrations must include the name and address of the owner, identifying information concerning the dog, a copy of the certificate of insurance, verification of current rabies vaccination, and any other information the Animal Services Division deems necessary. The owner shall register the dog annually with the Animal Services Division during the month of

January. If the dog dies, the owner is responsible for notifying Animal Services immediately. If ownership is transferred, subsection (2) below applies.

- (2) *Transfer.* If the owner of a Potentially Dangerous or Dangerous Dog transfers ownership or possession of the dog to another person, the owner must, ten (10) days prior to the transfer, provide written notice to the Assistant Director of Emergency Services stating the intent to transfer the dog and the name, telephone number, and address of the new owner or possessor of the dog. The new owner must assume all responsibilities regarding the Dangerous or Potentially Dangerous Dog. The Assistant Director of Emergency Services must inspect the new, proposed location to ensure compliance with the written order prior to the dog's relocation. If the location does not fall under the jurisdiction of this article, the Assistant Director of Emergency Services shall contact the appropriate animal control or law enforcement agency of the owner's intent to relocate the dog in question to a location within such agency's jurisdiction, and shall provide copies of all records pertaining to the dog to the agency prior to the dog's relocation.

*(Ord. of 8-17-2009)*

#### **Sec. 6-135. - Exceptions.**

This article does not apply to the following:

- (1) A law enforcement dog or guard dog being used by a law enforcement officer or bona fide professional security guard to carry out the law enforcement officer's or security guard's official duties or professional responsibilities;
- (2) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of its owner, keeper or harbinger, and the damage or injury was to a specific type of domestic animal appropriate to the work of the dog; or
- (3) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury was tormenting, abusing, or assaulting the dog; had tormented, abused or assaulted the dog; or was committing or attempting to commit a crime.

*(Ord. of 8-17-2009)*

#### **Secs. 6-136—6-143. - Reserved.**

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#### FOOTNOTE(S):

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--- (2) ---

*Cross reference— Environment, ch. 16. [\(Back\)](#)*

*State Law reference— Authority to restrict or prohibit the possession of harboring of animals which are dangerous to persons or property, NCGS 153A-131. [\(Back\)](#)*

#### **ARTICLE VII. - IMPOUNDMENT OF ANIMALS**

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DIVISION 1. - GENERALLY

DIVISION 2. - REDEMPTION

DIVISION 3. - DISPOSITION

## **DIVISION 1. - GENERALLY**

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Sec. 6-144. - Authority.

Secs. 6-145, 6-146. - Reserved.

### **Sec. 6-144. - Authority.**

- (1) Not inconsistent with the preceding articles of this chapter, any healthy animal which appears to be lost, stray or unwanted, or any dog or cat which is impounded pursuant to any provision of this chapter may be confined to the animal shelter or any other appropriate facility in a humane manner.
- (2) Animal Services is authorized to obtain suitable board, maintenance and care from any available source for any impounded animal for which the animal shelter is not equipped to care. Unless otherwise provided herein, the owner of any animal impounded and cared for under any provision of this chapter may redeem the animal upon payment of all fees, costs and penalties authorized by this chapter.

*(Ord. of 8-17-2009)*

**Secs. 6-145, 6-146. - Reserved.**

## **DIVISION 2. - REDEMPTION**

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Sec. 6-147. - Generally.

Sec. 6-148. - Proof and acknowledgment of ownership.

Sec. 6-149. - Time limits.

Sec. 6-150. - Payment of redemption fees and other fees, costs and penalties.

Secs. 6-151—6-153. - Reserved.

### **Sec. 6-147. - Generally.**

An owner of an animal that has been impounded by the Animal Services Division may redeem the animal, except as otherwise provided by this chapter, upon compliance with the provisions of this chapter.

*(Ord. of 8-17-2009)*

### **Sec. 6-148. - Proof and acknowledgment of ownership.**

- (1) Any person attempting to redeem an impounded animal shall present proof sufficient to satisfy Animal Services personnel of ownership of the animal. Evidence of ownership may include, but is not limited to, the following:
  - (a) A valid rabies tag for the animal; or
  - (b) Ownership documents, pedigree papers, bill of sale, veterinarian records, or any other document identifying the person as the owner of the animal; or
  - (c) Photographs of the animal with the person claiming ownership or their immediate family members.
- (2) In addition to the requirements set forth in subsection (1) above, any person attempting to redeem an animal on behalf of an owner shall present proof sufficient to satisfy Animal Services personnel that he/she is acting as an agent for the person claiming ownership.

*(Ord. of 8-17-2009)*

**Sec. 6-149. - Time limits.**

Unless otherwise provided by this chapter or state law, any animal impounded at the animal shelter, or other appropriate facility, must be redeemed within three (3) working days of the date of impoundment. Any person attempting to redeem an animal must appear in person at the animal shelter and make payment of all applicable costs, fees and penalties.

*(Ord. of 8-17-2009)*

**Sec. 6-150. - Payment of redemption fees and other fees, costs and penalties.**

(1) Any person attempting to redeem an impounded animal must pay all amounts owed prior to redeeming an impounded animal.

(2) Any person attempting to redeem an impounded animal must pay all costs for transportation, veterinary treatment and other costs associated with the care of the animal, in addition to boarding and redemption fees, and all outstanding civil penalties. Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding medical costs, penalties and fees that have accrued prior to the animal being surrendered or as a result of the animal being impounded.

*(Ord. of 8-17-2009)*

**Secs. 6-151—6-153. - Reserved.**

**DIVISION 3. - DISPOSITION**

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Sec. 6-154. - Surrendered animals.

Sec. 6-155. - Feral cats.

Sec. 6-156. - Notice.

Sec. 6-157. - Unredeemed, injured, sick or diseased animals.

Sec. 6-158. - Sale of impounded animals.

Sec. 6-159. - Disposal of dead animals.

Secs. 6-160—6-165. - Reserved.

**Sec. 6-154. - Surrendered animals.**

If the owner, or an individual with authority to act on behalf of the owner, officially surrenders an animal to Animal Services, after 24 hours the animal may be adopted, relocated to a nonprofit rescue group or destroyed in a humane manner without waiting three (3) working days.

*(Ord. of 8-17-2009)*

**Sec. 6-155. - Feral cats.**

Feral cats unsuitable for adoption, as determined by the Assistant Director of Emergency Services, will be held for 72 hours and may then be humanely destroyed.

*(Ord. of 8-17-2009)*

**Sec. 6-156. - Notice.**

A good-faith effort will be made to notify known owners of impounded animals.

*(Ord. of 8-17-2009)*

**Sec. 6-157. - Unredeemed, injured, sick or diseased animals.**

- (1) An impounded animal shall become the property of the county, without further notice to the owner, if the owner fails to pay all amounts due at redemption or if the owner fails to redeem the animal before the time limit for redemption has expired.
- (2) Once the animal becomes the property of the county, ownership shall transfer, by operation of law, to Catawba County.
- (3) Any animal impounded which is badly injured, sick or diseased and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, Animal Services shall attempt to notify the owner; but if the owner cannot be reached readily, and the animal is suffering, Animal Services may destroy the animal in a humane manner.

(Ord. of 8-17-2009)

**Sec. 6-158. - Sale of impounded animals.**

- (1) Fees shall be charged by the county for the sale of animals in accordance with the fee schedule of the county, which is kept on file in the office of the budget manager and the county animal shelter.
- (2) The fee for the sale of euthanized cats for research purposes will fluctuate due to the market.

(Ord. of 8-17-2009)

**Sec. 6-159. - Disposal of dead animals.**

- (1) *Domesticated animals.* Any person who owns or possesses any domesticated animal that has died shall comply with the requirements of NCGS 106-403 regarding the burial or removal of an animal carcass. When the owner of a dead domesticated animal is unknown, it shall be the responsibility of the property owner to dispose of the animal.
- (2) *Wildlife.* It shall be the responsibility of the property owner to dispose of dead wildlife, unless a human or domestic animal has been in contact with the wild animal and that wild animal is a potential rabies carrier, at which time the individual must notify the Animal Services Division.
- (3) *Dead animals in right-of-way.* Nothing in this section shall affect the department of transportation's responsibility to pick up dead animals that lie on the right-of-way.

(Ord. of 8-17-2009)

**Secs. 6-160—6-165. - Reserved.**

**Secs. 6-174—6-200. - Reserved.**

**ARTICLE VIII. - DANGEROUS EXOTIC ANIMALS**

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Sec. 6-201. - Definitions.

Sec. 6-202. - Unlawful possession.

Sec. 6-203. - Exceptions.

Sec. 6-204. - Impoundment; disposition of impounded animals.

Sec. 6-205. - Violations and penalty.

Secs. 6-206—6-210. - Reserved.

**Sec. 6-201. - 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:

- (1) *Dangerous exotic animal* means any animal which:
  - (a) Is not native or indigenous to this state;
  - (b) Would ordinarily be confined to a zoo;
  - (c) Does not have an established wild population in this state;
  - (d) Is not regulated by the state wildlife commission;
  - (e) Is likely to cause a reasonable person to be fearful of significant destruction of property or of bodily harm, including, but not limited to, non-human primates, ocelots, wolves, hybrid wolves, venomous reptiles, and other such animals; or
  - (f) All mammals designated by the Centers for Disease Control and Prevention, Department of Agriculture or other National or State public health protection agencies as embargoed or prohibited.
  
- (2) *Harboring of inherently dangerous exotic mammal or inherently dangerous reptile* means any person, regardless of ownership, who allows an inherently dangerous exotic mammal or inherently dangerous reptile to remain, lodge, be fed, or to be given shelter or refuge within the person's home, store, yard, enclosure, outbuilding, abandoned vehicle or building, place of business, or any other premises in which the person resides or over which the person has control.
  
- (3) *Inherently dangerous exotic mammal* means any member of the Canidae, Felidae, Ursidae, or Elephantidae families or any member of the order Primates, excluding humans, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans, are exotic animals, and include, but are not limited to the following:
  - (a) *Canidae* means any member of the dog (Canid) family not customarily domesticated by man or any hybrids of such Canidae, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis familiaris*).
  - (b) *Felidae* means any member of the cat family not customarily domesticated by man, or any hybrids of such Felidae, but not including domestic cats (*Felis catus*).
  - (c) *Ursidae* means any member of the bear family, or hybrids of such Ursidae.
  - (d) *Primate* means any member of the order primates.
  - (e) *Elephants* (members of the genus *Elaphus* or *Loxodonta*).
  
- (4) *Inherently dangerous reptile* means any member of the Reptilia class which:
  - (a) Is venomous. A venomous reptile shall include all members of the families Helodermodidae (gila monsters and Mexican beaded lizards), Viperidae vipers, Crotalidae (pit vipers), Atractaspidae (burrowing asps), Hydrophilidae (sea snakes), and Elapidae (cobras, coral snakes, and their allies), as well as any rear-fanged snakes of the family Colubridae that are known to be dangerous to humans, including, but not limited to, *Dispholidus typus* (boomslang), *Thebtonis kirtlandii* (twig snake), *Rhabdophis* (keelbacks).
  - (b) Is a member of the order Crocodylia (crocodiles and caiman).

(Ord. of 8-17-2009)

**Cross reference**— *Definitions generally, § 1-2.*

**Sec. 6-202. - Unlawful possession.**

At no time may a person harbor a dangerous exotic animal, inherently dangerous exotic mammal or inherently dangerous reptile.

*(Ord. of 8-17-2009)*

**Sec. 6-203. - Exceptions.**

This article does not apply to the following:

- (1) Veterinary clinics in possession of such animals or reptiles for treatment or rehabilitation purposes.
- (2) Nonresident circuses for no longer than one seven-day period per each separate location where such circus is held within the county per calendar year.
- (3) Persons temporarily transporting such mammals or reptiles through the county, provided that such transit time shall not be more than 24 hours.

*(Ord. of 8-17-2009)*

**Sec. 6-204. - Impoundment; disposition of impounded animals.**

- (1) A dangerous exotic animal, inherently dangerous exotic mammal or inherently dangerous reptile which is kept by any person in contravention of section 6-202 pertaining to possession of dangerous exotic animals and inherently dangerous exotic animals may be impounded by Animal Services for the protection of the animal or for the protection of the public.
- (2) If an animal is impounded pursuant to this section, the owner or harbinger of the animal shall be notified by Animal Services in person or by certified mail.
- (3) Any animal impounded pursuant to this section will be held three (3) working days for the owner to claim pursuant to subsection (4); however, if the animal cannot be impounded safely by the animal control officer or if proper and safe housing cannot be found for the animal, Animal Services can immediately destroy the animal.
- (4) The owner or harbinger of the animal can reclaim the animal if the person can satisfy the Assistant Director of Emergency Services that a safe transfer of the animal to an appropriate location outside of the county has been arranged.
- (5) If no owner or harbinger can be located or will claim the animal within three (3) working days after impoundment, the animal control officer may sell, adopt, or euthanize the animal at the discretion of the Assistant Director of Emergency Services.
- (6) All costs of impoundment and care of the animal will be charged to its owner or harbinger regardless of whether the animal is claimed by or returned to the owner or harbinger. If the animal is reclaimed, such costs shall be paid in full prior to the owner or harbinger reclaiming the animal pursuant to subsection (4).

*(Ord. of 8-17-2009)*

**Sec. 6-205. - Violations and penalty.**

Any person who is found guilty of a violation of this article shall be deemed guilty of a class 3 misdemeanor and a civil penalty may be issued.

*(Ord. of 8-17-2009)*

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**Secs. 6-206—6-210. - Reserved.**

b. Cooperative Extension:

Kellyn Montgomery, Local Foods Agent, presented the Board with an update on the Eat, Drink and Be Local event which took place May 18-24, 2014, and included a farm tour, gardening and cooking classes, a local beer and wine tasting and a local foods feast as well as area restaurants featuring local foods. The event proved to be a success, with great participation and lessons learned for future events.

9. Other Items of Business:

Budget Transfers: Pursuant to Board authority granted to the County Manager, the following budget transfers have been completed:

**County Manager Contingency Transfer:**

From:		
110-190100-994000	County Manager Contingency	\$18,766.23
To:		
110-190900-995202	Transfer to 911 Fund	\$18,766.23
Supplemental Appropriation:		
Appropriation:		
202-280100-695110	From General Fund	\$18,766.23
Revenue:		
202-280100-690100	Fund Balance Appropriated	(\$18,766.23)

6/17/14 – Transfer from Contingency to repay the 911 Fund for expenses determined to be ineligible in the annual NC 911 Board audit which took place after the Fiscal Year 2012/13 Catawba County audit was complete.

**County Manager Contingency Transfer:**

From:		
110-190100-994000	County Manager Contingency	\$397
To:		
110-190900-995204	Transfer to CAS Fund	\$397
Supplemental Appropriation:		
Appropriation:		
204-270100-812301	Optional Wages	\$397
Revenue:		
204-270100-695110	From General Fund	\$397

6/17/14 – Transfer from contingency to cover optional wages (flex out of insurance payment) that were budgeted lower than due to the employee based on FTE.

**County Manager Contingency Transfer:**

From:		
110-190100-994000	County Manager Contingency	\$40,000
To:		
110-190900-995410	Transfer to General Capital Projects Fund	\$40,000

Supplemental Appropriation:

Appropriation:  
410-460100-988000-11201      Roofing Projects      \$40,000

Revenue:  
410-460110-695110      From General Fund      \$40,000

6/30/14 – Transfer from contingency to cover cost of Social Services roof replacement, higher than originally projected.

10.      Attorney's Report: None.
11.      Manager's Report: Assistant County Mary Furtado introduced ICMA Fellow Megan Dale who will be working in the County Manager's office for the next year.
12.      Adjournment. Commissioner Beatty made a motion to adjourn at 7:40 p.m. The motion carried unanimously.

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Katherine W. Barnes, Chair  
Catawba County Board of Commissioners

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Barbara E. Morris  
County Clerk