

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
MAY 21, 2012 – 6:45 PM
117 DICK STREET, 1ST FLOOR, ROOM 118
REGULAR/REZONING MEETING
MINUTES

PRESENT: Commissioner Marshall Faircloth, Chairman
Commissioner Jimmy Keefe, Vice Chairman
Commissioner Jeannette Council
Commissioner Kenneth Edge
Commissioner Charles Evans
Commissioner Billy King
Commissioner Ed Melvin
James Martin, County Manager
Amy Cannon, Deputy County Manager/Finance Officer
James Lawson, Assistant County Manager
Rick Moorefield, County Attorney
Sally Shutt, Communication and Strategic Initiatives Manager
Tom Lloyd, Planning and Inspections Director
George Hatcher, Planning and Inspections
Jeffrey Thompson, County Engineer
Doug Peters, Fayetteville/Cumberland County Chamber of
Commerce President
Candice White, Clerk to the Board
Kellie Beam, Deputy Clerk to the Board
Press

Chairman Marshall Faircloth called the meeting to order.

INVOCATION

Commissioner King provided the invocation followed by the Pledge of Allegiance to the American flag led by Layla Marnae Fisher, a Kindergartener at Raleigh Road Elementary School.

PUBLIC COMMENT PERIOD (6:45 PM – 7:00 PM)

James Martin, County Manager, read the public comment period policy. Chairman Faircloth opened the public comment period and the Clerk to the Board called the following speakers:

Archie Barringer – Mr. Barringer stated conditions at the Sandhills State Veterans Cemetery on Murchison Road are deplorable and requested the Board's support for the introduction of a bill that would go from state legislators to the federal level and hopefully make it possible for improvements to be made to the cemetery.

Mr. Barringer responded to questions posed by the Board. Chairman Faircloth stated the Board is in sympathy of the request. Commissioner Melvin stated the Board would take the request under advisement.

Chris Mitchell – Mr. Mitchell appeared on behalf of the City/County Joint Appearance Commission, and explained the nominations process for the 4th Annual Community Appearance Awards Program and where to find additional information about the program. Mr. Mitchell stated the Town of Spring Lake is chairing this year's awards program and the awards ceremony will be held on July 26, 2012 in Spring Lake.

Dr. Jack Burks – Dr. Burks of Valley Veterinary Medicine expressed opposition for veterinarians' responsibilities for collecting license fees at the time of vaccinating animals under the proposed Animal Control ordinance. Dr. Burns requested that the Board not adopt the ordinance in its entirety at this meeting and set aside the collection of license fees until such time as issues can be addressed and questions can be answered.

Jan Spell – Mrs. Spell appeared as President of the Hope Mills Area Chamber of Commerce and stated she hoped the Board would give her budget request favorable consideration. Mrs. Spell stated the Town of Hope Mills continues to grow and the Hope Mills Area Chamber of Commerce continues to strengthen.

Lisa Silva – Ms. Silva expressed opposition to the proposed Animal Control ordinance with regard to the restrictions placed on the allowable number of pets. Ms. Silva asked what the Board could do for her and for military families moving into the area with more than the allowable number of pets. Ms. Silva also asked whether families with more than the allowable number of pets would come under a grandfather provision.

Rick Moorefield, County Attorney, stated the proposed Animal Control ordinance contains a grandfather provision for dogs that are legally within the county. Mr. Moorefield stated the Policy Committee removed restrictions on the number of cats. Mr. Moorefield stated the Animal Control ordinance will be available on the county's website, the Animal Control Department's website and through other applicable avenues of communication. Mr. Moorefield stated the ordinance would not specifically address those in the military.

Toshia Melvin – Ms. Melvin expressed concern for break-ins and the stealing of outdoor personal property on Pinpoint and Draper Roads. Ms. Melvin requested surveillance or a Sheriff's Deputy to conduct drive-throughs every now and then. Ms. Melvin stated the dirt roads are also full of potholes and asked the Board to assist residents with paving of the roads.

Commissioner Evans stated he met with residents of Draper and Pinpoint Roads on a number of occasions, as has Commissioner King, and he would be grateful for anything that could be done to assist these residents. Chairman Faircloth stated his understanding is that Pinpoint and Draper Roads are private streets and the biggest problem is that some of the residents refuse to give their permission to have the road paved. Chairman Faircloth stated until all residents give an easement, the road can not be paved. Chairman Faircloth clarified paving of roads is the state's

responsibility, not the responsibility of the county; however, the Board may have some influence on a patrol.

Recognition of CommuniCare Inc. for receiving a 3 year Accreditation from the Center for Accreditation of Rehabilitative Facilities (CARF)

Amy Cannon, Deputy County Manager/Finance Officer recognized Sarah Hallock, Director of CommuniCare, Inc. and provided background information on the establishment of and services offered by CommuniCare, Inc. over the past twelve years. Ms. Cannon stated CommuniCare, Inc. has achieved a full three year national accreditation from the Center for Accreditation of Rehabilitative Facilities (CARF); the survey team identified several strengths in the organization including:

- Facilities
- Values diversity and is inclusive throughout business practices
- Diverse funding and support for programs
- Consumer/Parent/Community partner interviews indicate demonstrate solid working relationships that are valued
- Knowledge, skill level and commitment of the organization staff
- Client documentation and record keeping
- Business practices
- Overall services are well organized, consistent in effort and supported by community collaboration

Ms. Cannon stated the narrative document also specifically states “CommuniCare has demonstrated substantial conformance to CARF standards and the persons served are benefitting greatly from the programming provided”. Ms. Cannon stated this is an outstanding achievement for the organization and significant feedback that state dollars and the community match are providing needed services in a consistent and well-organized manner.

Ms. Cannon stated a lot of work went into preparation for the CARF accreditation. Ms. Cannon thanked Ms. Hallock and the Board of CommuniCare, and stated the accreditation was only achievable under the direction of Ms. Hallock and the dedication of all of the staff members within the organization.

Ms. Hallock offered comments regarding the juvenile community programs offered by CommuniCare, Inc. and thanked Cumberland County for walking alongside CommuniCare, Inc. during the past twelve years and for being part of the solution for youth and families.

Commissioner Edge stated Ms. Cannon is currently working with staff at the North Carolina Association of County Commissioners (NCACC) and asked Ms. Cannon share how this program may be in jeopardy by things that are occurring in the General Assembly. Ms. Cannon stated over the last year there have been changes in the organizational structure of the Department of

Crime Control and Public Safety. Ms. Cannon explained a proposal to move the Juvenile Crime Prevention Council (JCPC) funding under an administrative unit and the need for the funding piece to stay merged with collaboration and planning with the court system and probation system. Ms. Cannon relayed concern that the funds could be reverted to a grant reimbursement basis that would place sub-recipients of JCPC funding at risk. Ms. Cannon stated other counties have expressed interest in this matter and the NCACC is going to gather additional information and get back with her.

Recognition of Ms. Emma Elizabeth Carter, Miss Fayetteville's Outstanding Teen

Commissioner Council recognized Emma Elizabeth Carter who was crowned Miss Fayetteville's Outstanding Teen on October 15, 2011. Commissioner Council stated Miss Carter is the fourteen-and a half-year old daughter of Bobby and Sharona Carter who have accompanied her to the meeting, and she has an older brother named Stone. Commissioner Council also stated Miss Carter is in the ninth grade this year and has been home schooled since she was in the first grade; Miss Carter enjoys singing and playing several different instruments, including the saxophone, flute, piano, guitar, violin, and ukulele. Commissioner Council stated Miss Carter loves to travel and perform, and has been to approximately 23 states, Canada and Mexico. Commissioner Council called on Miss Carter who spoke about her platform, Microcephaly Awareness, which she is promoting during her year as Miss Fayetteville's Outstanding Teen.

Recognition of Gentlemen of Distinction from 71st High School

Commissioner Evans recognized Mr. Anthony Summerville, 71st High School Assistant Principal, who introduced Christopher Golden, Vice President of the Gentlemen of Distinction organization, and Dr. Larry Kilgore, 71st High School biology teacher. Commissioner Evans explained young men ages 14 to 18 participate in this organization that targets young men, many from fatherless homes, and discusses the meaning of "gentlemen of distinction". Commissioner Evans also explained the organization teaches classroom, out of school and social behavior, and every Wednesday these young men wear nice shirts, slacks and a tie, and "dress to impress". Commissioner Evans stated this organization has visited local colleges and universities, and City of Fayetteville Mayor Chavonne has spoken to this organization. Commissioner Evans called on Mr. Golden who, in addition to another member of the organization, spoke to the tutoring and life skills provided by the Gentlemen of Distinction and what the organization has taught them.

Mr. Martin requested additions to the agenda of a resolution in support of Senate Bill 433 as Item 2.K. and nominations to the ABC Board as Item 5.A.

1. Approval of Agenda

MOTION: Commissioner Keefe moved to approve the agenda to include Item 2.K. and Item 5.A. as requested.
SECOND: Commissioner Council
VOTE: UNANIMOUS (7-0)

2. Consent Agenda

A. Approval of minutes for May 7, 2012 regular meeting

B. Approval of Proposed Additions to the State Secondary Road System:

Peartree Subdivision: Jakes Alley, Redspire Lane, Ritson Lane, Aristocrat Lane, Whitehouse Lane, Chanticleer Court, Flowering Bradford Way, Harbin Walk Lane, Bartlet Glen Lane, Callery Knoll Court, Assurian Court

BACKGROUND:

The North Carolina Department of Transportation has received petitions requesting the following streets be placed on the State Secondary Road System for maintenance (see attached):

Peartree Subdivision: Jakes Alley, Redspire Lane, Ritson Lane, Aristocrat Lane, Whitehouse Lane, Chanticleer Court, Flowering Bradford Way, Harbin Walk Lane, Bartlet Glen Lane, Callery Knoll Court, Assurian Court

DOT has determined that the above streets are eligible for addition to the state system.

RECOMMENDATION/PROPOSED ACTION:

NCDOT recommends that the above named streets be added to the State Secondary Road System. County Management concurs. Approve the above listed streets for addition to the State Secondary Road System.

C. Approval of Declaration of Surplus County Property and Authorization to Accept Insurance Settlement

BACKGROUND:

DATE OF ACCIDENT	April 20, 2012
VEHICLE	2010 Ford Crown Victoria
VIN	2FABP7BV8AX117257
FLEET #	FL454
DEPARTMENT	Sheriff Office
SETTLEMENT OFFER	\$10,655.89
INSURANCE COMPANY	Travelers

This is a total loss settlement offer.

RECOMMENDATION/PROPOSED ACTION:

Management recommends that the Board of Commissioners:

1. Declare the vehicle described above as surplus.
 2. Authorize the Risk Manager to accept \$10,655.89 as settlement.
 3. Allow Travelers Insurance to take possession of the wrecked (surplus) vehicle.
- D. Approval of Health Department Delinquent Accounts to Be Written Off and Turned over to the N.C. Debt Set-Off Program

BACKGROUND:

At the Board of Health meeting on April 17, 2012, the Board approved writing off a total of \$27,812.85 as bad debts. The bad debt accounts with balances of \$50.00 or higher will be processed through the North Carolina Debt Set-Off Program which can attach a debtor's State Income Tax refund for payment of bad debts. The accounts with balances under \$50.00 will continue to be worked for collection through the Cumberland County Department of Public Health's in-house collection efforts. This write-off of bad debts is in compliance with the Board of Health's recommendation to write-off bad debts every quarter.

RECOMMENDATION/PROPOSED ACTION:

Management requests to have this item placed on the next County Commissioners' meeting agenda for their approval to write off bad debts in the amount of \$27,812.85.

**CUMBERLAND COUNTY DEPARTMENT
OF PUBLIC HEALTH
DELINQUENT ACCOUNTS TO BE TURNED OVER FOR COLLECTION
BAD DEBT WRITE-OFF # 34
April 17, 2012**

PROGRAM	AMOUNT
ADULT HEALTH	\$15,229.46
BCCCP	\$62.40
CHILD HEALTH	\$4,427.25
DENTAL	\$2,192.32
DIABETES CLINIC	\$105.00
EXPRESS CARE	\$263.16
FAMILY PLANNING	\$3,509.83
IMMUNIZATIONS	\$0.00
MATERNITY	\$2,023.43
PAP	\$0.00
T.B.	\$0.00
TOTAL	\$27,812.85

All bad debt accounts with balances of \$50.00 or higher, will be sent to the North Carolina Debt Set-Off Program, which can attach a debtor's State Income Tax Refund for payment of bad debts.

The above accounts are 90 days old or older as of April 1, 2012.

- E. Approval for Cumberland County Department of Public Health to Set the Fees for Maternity Global Billing

BACKGROUND:

Currently, the Cumberland County Department of Public Health has been billing the BCBS rate for Global Maternity codes because that was the only insurance company that required it to bill Global rates. Medicaid implemented their new Global rates for maternity patients effective October, 2011 which means that the Cumberland County Department of Public Health must now bill its Medicaid maternity patients using Global rates and Global CPT Codes. Global billing requires that the Cumberland County Department of Public Health wait until the patient has delivered to initiate the billing process.

RECOMMENDATION/PROPOSED ACTION:

That the Board of Health set the fees for the maternity Global CPT Codes as follows:

SERVICE PROVIDED	MEDICAID REIMB RATE	MEDICARE REIMB RATE	BCBS REIMB RATE	CURRENT FEE	PROPOSED FEE
59425 ANTEPARTUM CARE 4-6 VISITS	\$340.20	N/A	\$421.53	\$0.00	\$450.00
59426 ANTEPARTUM CARE 7+ VISITS	\$608.62	N/A	\$739.42	0.00	\$750.00
59430 POSTPARTUM CARE ONLY	\$109.17	N/A	\$176.00	0.00	\$190.00

- F. Approval of Acceptance of Low Bid for the Construction of the Southpoint Subdivision Water Line Extension

BACKGROUND:

On Tuesday, May 8, 2012 bids were received and opened for the construction of the Southpoint Subdivision Water Line Extension. Attached is a copy of the bid tabulation prepared by the consulting engineer; Koonce, Noble and Associates of Lumberton, North Carolina. The bid proposal includes all work for the construction of a potable water distribution system from the existing Bladen County water system to the Southpoint Subdivision with the ability to serve customers along Chicken Foot Road and County

Line Road. The lowest responsive, responsible bid submitted was from Hawley Construction of Kenly, North Carolina in the amount of \$391,733.

The County received a loan in the amount \$605,100 from Public Water Supply to fund the construction of the system. Eighty percent of the principle will be forgiven. The County is responsible for repaying the remaining twenty percent back at 0% interest over 20 years. Revenue generated from the water rate schedule will be used to pay the County's portion of the loan.

RECOMMENDATION/PROPOSED ACTION:

The Engineering and Infrastructure Director and County Management recommend that the Board of Commissioners:

1. Accept the bids for the construction of the Southpoint Subdivision Water Line Extension.
2. Award a contract to the lowest responsive bidder, Hawley Construction, in the amount of \$391,733, subject to approval by the Public Water Supply Section.
3. Authorize the establishment of a project contingency line within the project budget, in the amount of \$19,586 (5%) as recommended by the Engineer, only to be disbursed with the approval of the County Manager.
4. Approve the attached budget revision to establish the items listed above.

The proposed action by the Board of Commissioners is to follow the staff recommendation.

- G. Approval of a Proclamation Recognizing the Retirement of Rabbi Yosef Levanon from Beth Israel Synagogue

COUNTY OF CUMBERLAND

NORTH CAROLINA

PROCLAMATION

WHEREAS, Rabbi Yosef Levanon is retiring from Beth Israel Synagogue on July 31, 2012 and is being awarded this recognition as a testimonial of his loyal and dedicated service for the past sixteen years; and

WHEREAS, Rabbi Yosef Levanon introduced the adult bat and bar mitzvah programs to Beth Israel Synagogue, transformed the Beth Israel congregation to become a congregation of learners by conducting adult educations programs on Jewish topics, and connected the Beth Israel congregation the larger American Jewish community; and

WHEREAS, Rabbi Yosef Levanon initiated an annual interfaith Thanksgiving service, developed and implemented an annual interfaith adult Bible study program, and spearheaded his congregation's participation in "Feed Fayetteville"; and

WHEREAS, Rabbi Yosef Levanon has served as a guest speaker and lecturer at Methodist University, Fayetteville State University, Campbell University and various churches on topics relating to Judaism, the Bible and Israel; and

WHEREAS, Rabbi Yosef Levanon has built bridges to the community by welcoming visitors to the synagogue, serving as a resource for Jewish knowledge, speaking at various community services in remembrance of the Holocaust, and participating in various activities in response to significant community issues such as 9/11, the tsunamis in Indonesia and in Japan; and

WHEREAS, Rabbi Yosef Levanon has delivered countless invocations at meetings of the Board of County Commissioners, Fayetteville City Council, Fayetteville Technical Community College, State House of Representatives, Fayetteville/Cumberland County Chamber of Commerce and the Fayetteville/Cumberland County Ministerial Council's Martin Luther King Prayer Breakfast; and

WHEREAS, Rabbi Yosef Levanon is the recipient of the 2005 "Religious Leader Award", a Capital Citation for his spiritual leadership and many contributions to our state's religious life, a certificate of appreciation from the XVIII Airborne Corps "Days of Remembrance", and a certificate of appreciation from the U.S. Army's John F. Kennedy Special Warfare Center and School.

NOW, THEREFORE, BE IT PROCLAIMED that the Board of Commissioners of Cumberland County expresses its deep appreciation to Rabbi Yosef Levanon for his powerful influence on our community and extends to him sincere and best wishes for a long and happy retirement.

Presented this 21st day of May, 2012.

H. Approval of a Proclamation Recognizing the North Carolina Symphony
Celebrating its 80th Anniversary

COUNTY OF CUMBERLAND

NORTH CAROLINA

PROCLAMATION

Whereas, the North Carolina Symphony played its first concert on May 14, 1932 at Hill Hall on the campus of the University of North Carolina at Chapel Hill; and

Whereas, the North Carolina Symphony has, since that day, traveled more than one-half million miles by bus to present concerts throughout the state of North Carolina, both delighting and entertaining generations of citizens by demonstrating the highest level of artistic quality and performance standards, and embracing its dual legacies of statewide service and music education; and

Whereas, through funding provided annually through the 1943 “Horn-Tootin’ Bill,” the North Carolina Symphony, in partnership with the State of North Carolina, has developed and carried out the most far-reaching music education program in the United States; and

Whereas, the North Carolina Symphony offers 45 yearly education concerts for schoolchildren across the state, as well as professional development workshops for teachers that support North Carolina curriculum standards in education and supplement the NCS education concerts, and through its Ensembles in the Schools program visits classrooms for an interactive performance and learning experience; and

Whereas, the North Carolina Symphony further enhances music opportunities for young people in North Carolina through programs such as the Instrument Zoo, an opportunity for young people to see instruments and try them out, Young Strings of the Triangle, a private lesson program for string students created to nurture and develop the musical potential of minority and under-served players, and NCS Youth Sinfonietta, an exclusive chamber group of talented young musicians selected by audition; and

Whereas, the North Carolina Symphony recognizes excellence in young musicians through its annual Kathleen Price and Joseph M. Bryan Youth Concerto Competition, and in music educators through its annual Maxine Swalin Award for Outstanding Music Educator; and

Whereas, the North Carolina Symphony, celebrating its 80th concert season in 2012/13, continues to be artistically inspirational, creative, and vibrant, educationally essential and relevant and organizationally excellent and community-minded.

NOW THEREFORE, BE IT PROCLAIMED, that the Cumberland County Board of Commissioners hereby congratulates the North Carolina Symphony on its 80th anniversary.

Adopted this 21st day of May, 2012.

I. Approval of Ordinance Assessing Property for the Cost of Demolition:

- | | |
|-------------------------------|------------------------------|
| 1) Case Number: | MH5666-2008 |
| Property Owner: | Luther & Catherine Whitehead |
| Property Location: | 7635 Cannery Drive, Dunn, NC |
| Parcel Identification Number: | 1504-60-7465 |

ORDINANCE ASSESSING PROPERTY FOR THE COSTS
OF DEMOLITION OF A STRUCTURE PURSUANT TO
THE MINIMUM HOUSING CODE OF CUMBERLAND COUNTY
CASE NUMBER: MH5666-2008
PROPERTY OWNER: Luther and Catherine Whitehead

WHEREAS, the Board of County Commissioners of Cumberland County, North Carolina, on April 20, 2009, enacted an ordinance directing the demolition by the owner(s)

of the structure(s) Luther and Catherine Whitehead, located at 7635 Cannery Drive, Dunn, NC, PIN: 1504-60-7465, said ordinance being recorded in Book 8136, page 222 , of the Cumberland County Registry of Deeds;

WHEREAS, the time within which said demolition was to be performed has expired and the owner(s) failed to comply with the ordinance within such period; and

WHEREAS, the said ordinance further directed the Minimum Housing Inspector to effect the demolition of the structure(s) in the event the owner(s) failed to do so;

WHEREAS, the Minimum Housing Inspector has reported to this Board that:

- (1) Said work had been accomplished.
- (2) The cost of such work was \$3,500.00.
- (3) There were no salable materials resulting from said work.

NOW THEREFORE, the above report coming on to be considered and the Board of County Commissioners finding it to be a true and accurate accounting, the said Board hereby ORDAINS:

(1) That the real property on which the work was performed be, and it hereby is, assessed in the amount of \$3,500.00, said sum being the unpaid balance of the cost of the work set forth in the Inspector's Report;

(2) That as provided in the Ordinance of Cumberland County dated April 20, 2009, and in Section 160A-443(6) of the General Statutes of North Carolina, the amount of the foregoing assessment be, and hereby does constitute, a lien against the real property upon which such costs were incurred, such property being more particularly described as follows:

(3) That as further provided in Section 160A-443(6) of the General Statutes of North Carolina, such lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of said General Statutes;

(4) That one copy of this resolution be filed in the minutes of this Board of County Commissioners and another copy certified and delivered by the Clerk as a charge to the Tax Collector, who shall thereupon enter the amount of the assessment set forth above upon the Tax Books of the County as a special assessment against the above described property.

J. Budget Revisions:

- (1) Library

Smart Start- Raising a Reader – Revision in the amount of \$10,951 to reduce budget per notification from The Partnership for Children. (B12-334) Funding Source – Grant

(2) Education

Revision in the amount of \$432,620 to recognize additional revenue and expenditures from sales tax to be distributed to the Board of Education and Fayetteville Technical Community College. (B12-329) Funding Source – Sales Tax

(3) Mid Carolina Senior Transportation/Rural Operating Assistance Program (ROAP)

Revision in the amount of \$33,333 to budget additional Area Agency on Aging grant funds (\$30,000) and the local match (\$3,333) by reallocating expenditures in the General Fund. (B12-325 and B12-325A) Funding Source – Grant, Reallocation of Budgeted Expenditures

(4) Employee Wellness Program

Revision in the amount of \$16,942 to appropriate fund balance to establish an Administrative Officer I position in the Employee Wellness program. (B12-263) Funding Source – Fund Balance Appropriated

K. Approval of Resolution in Support of Senate Bill 433

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

RESOLUTION
IN SUPPORT OF SENATE BILL 433

WHEREAS, the membership of the North Carolina Association of County Commissioners adopted a legislative goal to “allow county flexibility to organize local human services” so counties can offer a more streamlined and efficient government to minimize administrative costs and maximize services for citizens; and

WHEREAS, North Carolina county governments are responsible for administering social services and community health programs with county employees; and

WHEREAS, counties cover more than \$500 million per year on DSS administrative costs while state dollars cover less than 3 percent of these costs; and

WHEREAS, a study commissioned by the General Assembly recommended that counties be given flexibility in determining how to organize their local human services delivery programs; and

WHEREAS, Senate Bill 433 would provide all counties with the option to determine locally how they can best provide human services to their citizens; and

WHEREAS, Senate Bill 433 overwhelmingly passed the Senate in 2011 with a majority of Senators in both parties in support;

NOW, THEREFORE, BE IT RESOLVED that the Cumberland County Board of Commissioners adopts this resolution in support of S433 to “allow county flexibility to organize local human services”;

FURTHER BE IT RESOLVED that copies of this resolution be transmitted to the members of the General Assembly representing Cumberland County to let them know of our support for this issue.

Adopted this 21st day of May, 2012.

MOTION: Commissioner King moved to approve all consent items 2.A. – 2.K.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

3. Public Hearings

Uncontested Rezoning Cases

Mr. Martin explained the Board of Commissioners’ procedures for public hearings.

- A) Case P12-17: Rezoning of .52+/- acre from RR Rural Residential to C(P) Planned Commercial, or to a more restrictive zoning district; located on the south east side of US HWY 301 South, west of SR 2274 (Marracco Drive); submitted by David M. and Kelli W. Hawley (owners)

RECOMMENDATION: Members of the Cumberland County Joint Planning Board recommended adoption and approval of the consistency and reasonableness statements and to approve C(P) Planned Commercial district. The motion passed with a unanimous vote.

- B) Case P12-20: Rezoning of 3.38+/- acres from A1 Agricultural to C2(P) Planned Service and Retail, or to a more restrictive zoning district; located on the north side of NC HWY 24 (Clinton Road), west of Windwood Drive; submitted by Stewart M. Bell (POA) on behalf of William M. Bell Jr. (owner)

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the April 17, 2012 meeting recommended adoption and approval of the consistency and reasonableness statements and to approve C2(P) Planned Service and Retail district. The motion passed with a unanimous vote.

- C) Case P12-21: Rezoning of .46+/- acre from A1 Agricultural to RR Rural Residential, or to a more restrictive zoning district; located at 8843 and 8853 Clinton Road and on the north side of NC HWY 24 (Clinton Road), south west of SR 1853 (John Nunnery Road); submitted by Levie Evander and Helen S. Johnson (owners) and Robert M. Bennett

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the April 17, 2012 meeting recommended adoption and approval of the consistency and reasonableness statements and to approve RR Rural Residential district. The motion passed with a unanimous vote.

- D) Case P12-22: Rezoning of 10.96+/- acres from R10 Residential to R5 Residential, or to a more restrictive zoning district, located at 5290 Church Street, submitted by Forrest T. and Darlene Hardin (owners) and Thomas Gooden

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the April 17, 2012 meeting recommended adoption and approval of the consistency and reasonableness statements and to approve R5 Residential district. The motion passed with Mrs. Piland voting in opposition.

This is the duly advertised/noticed public hearing set for this date and time for Cases P12-17, P12-20, P12-21 and P-12-22. Chairman Faircloth opened the public hearing for Cases P12-17, P12-20, P12-21 and P-12-22

The Clerk to the Board advised there were no speakers in opposition to Cases P12-17, P12-20, P12-21 and P-12-22.

Chairman Faircloth closed the public hearing.

MOTION: Chairman King moved to follow the recommendations of the Cumberland County Joint Planning Board for Cases P12-17, P12-20, P12-21 and P-12-22.

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

Uncontested Conditional Zoning Case

- E) Case P12-11: Rezoning of .90+/- acres from R6A Residential to C2(P) Planned Service and Retail, or to a more restrictive zoning district, located at 4807 and 4817 South Main Street, submitted by Billy Ray and Jimmie A. Barefoot (owners)

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the April 17, 2012 meeting recommended adoption and approval of the consistency and reasonableness statements and to approve Q&I(P) Planned Office and Institutional/CZ Conditional Zoning district. The motion passed with a unanimous vote.

This is the duly advertised/noticed public hearing set for this date and time. Chairman Faircloth opened the public hearing for Case P12-11.

The Clerk to the Board advised there were no speakers in opposition to Case P12-11.

Chairman Faircloth closed the public hearings.

MOTION: Chairman King moved to follow the recommendations of the Cumberland County Joint Planning Board for Case P12-11.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

Contested Rezoning Case

F) Case P12-19: Rezoning of 1.98+/- acres from A1 Agricultural to R40A Residential, or to a more restrictive zoning district, located at 2498 John Hall Road, submitted by Jimmie N. Jr. & Deborah L. Griffin (owners)

RECOMMENDATION: Members of the Cumberland County Joint Planning Board present at the April 17, 2012 meeting recommended not adopting or approving the consistency and reasonableness statements because the request, even though consistent with the Land Use Plan, is not reasonable and will not be in harmony with the surrounding area. The motion passed with a unanimous vote.

Tom Lloyd, Planning and Inspections Director, presented this item. Mr. Lloyd showed vicinity maps and aerial views of the subject property, and provided overviews of the current land uses, current zonings, and surrounding land uses and zonings. Mr. Lloyd stated Cumberland County Joint Planning Board voted to deny the request. Mr. Lloyd stated during the meeting, the Cumberland County Joint Planning Board received information that stated the covenants for the area precluded any group development; however, staff reviewed the covenants and they actually state lots can not be subdivided to bring on another unit. Mr. Lloyd stated the covenants did not preclude a group development which is essentially what is being requested, and the rezoning will only allow one more unit on the property. Mr. Lloyd also stated had the Cumberland County Joint Planning Board been given accurate information about the covenants, it may or may not have affected their recommendation. Mr. Lloyd responded to questions. Commissioner King noted that county planning staff recommended approval of R40A Residential and suggested that the Board consider approval.

This is the duly advertised/noticed public hearing set for this date and time. Chairman Faircloth opened the public hearing for Case P12-19.

The Clerk to the Board called the following speaker:

Deborah L. Griffin – Ms. Griffin stated the request is for RR because her family wants to build a house for their son. Ms. Griffin stated the family owns the surrounding eight acres and there will be an acre for the mobile home with a house in front. Ms. Griffin stated she has a document signed by the property owners in front who have no objections and also has a copy of the covenants which clearly state there shall be no subdividing. Ms. Griffin stated she does not wish to subdivide.

Chairman Faircloth closed the public hearing.

Commissioner Edge noted that Ms. Griffin stated the request was for RR and asked whether her request was for RR or R40A. Ms. Griffin stated she misspoke and her request is for R40A Residential. Commissioner Edge asked about the zoning of surrounding areas. Mr. Lloyd stated they are zoned A1.

MOTION: Commissioner King moved to rezone the property to R40A Residential as proposed by Planning staff.
SECOND: Commissioner Council
VOTE: PASSED (6-1) (Commissioners King, Evans, Faircloth, Council, Melvin and Edge voted in favor; Commissioner Keefe voted in opposition)

Items of Business

4. Consideration of Cumberland County Policy Committee Report and Recommendation:

A) Approval of Proposed Revisions to Animal Control Ordinance

BACKGROUND:

At its February 17, 2012 meeting, the Board of Commissioners directed the following two changes to the draft animal control ordinance:

- (1) Section 3-20 should include a grandfathering provision for owners currently possessing more than three dogs and/or cats; and
- (2) Article V on pet licensing should sunset at the end of 2012 with a New Hanover County style pet licensing system to become effective on January 1, 2013

These two changes have been made to the draft as shown in each of those sections.

Since that meeting, the county attorney has received several other recommendations for additional changes which have been incorporated into the draft as follows:

Section 3-15. Nuisance Animals. Dr. Lauby has requested that this section of the proposed draft be completely re-written. The existing ordinance provides that Animal Control may take action to abate any specified nuisance caused by an animal. Enforcement is complaint-driven. The existing nuisance is extremely difficult to enforce because, by the time Animal Control arrives at the location of the complaint, there is no nuisance occurring and complainants have generally been unwilling to testify in any enforcement action. When the re-write of the ordinance was commenced in March of 2011, the county attorney recommended, and Dr. Lauby agreed, that nuisance enforcement should be the sole responsibility of the complainant. Dr. Lauby has now requested that nuisance enforcement be modeled after the system in Brunswick County. This makes nuisance enforcement the sole responsibility of Animal Control. This will require significantly more officer-time because the officer will have to make the nuisance determination from his or her own observations, not from the report of a complainant. Dr. Lauby reports that Animal Control now provides service 24 hours per day so it will be possible for officers to respond to the late night complaints and deal with the complaints directly, rather than responding hours later when the owner of the nuisance animal is not at home.

Section 3-19(e). Penalty for dog biting while at large. This section has been eliminated in the interest of streamlining the penalty provisions. The county attorney recommends, and Dr. Lauby agrees, that it is simpler and just as effective to cite for the underlying violation of the dog being at large.

Section 3-26. Limits on the numbers of dogs kept on residential premises in zoning classifications of 20,000 s.f. or less. All existing dogs which are in compliance with the existing ordinance are grandfathered under the new provision. Commissioner Keefe requested that cats be removed from the limitation.

Section 3-35(h). Liability insurance requirements for owners of dangerous dogs. Existing ordinance requires \$100,000 liability coverage. Dr. Lauby recommended that this be increased to \$200,000 in the new ordinance. After checking with some insurance providers, Dr. Lauby believes that amount may simply not be available to most homeowners. Dr. Lauby and county attorney recommend this limit be reduced to \$50,000.

Section 3-40. Rabies control. Dr. Lauby requested that ferrets be included with dogs and cats for required rabies vaccinations and that the state law requirement that persons administering vaccines must provide vaccination certificates be added to the draft.

Article V. Pet licensing. Existing draft provision will sunset on December 31, 2012 and New Hanover County style system will become effective on January 1, 2013.

Section 3-75. City provisions. Final draft of provisions requested by City of Fayetteville is included in this draft. City staff states city does want single ordinance effective in both jurisdictions for ease of administration and enforcement. Assistant City Attorney Brian Leonard has been very involved in developing the ordinance.

FURTHER BACKGROUND:

The county attorney presented this proposed draft to the Policy Committee on April 3, 2012 and the Committee voted unanimously to recommend this draft to the full Board of Commissioners.

The County Attorney presented this proposed draft to the Fayetteville City Council at its regular meeting on May 14, 2012 and the Council did not request any further changes.

RECOMMENDATION/PROPOSED ACTION:

County attorney recommends repeal of current Chapter 3 of the Cumberland County Code and adopting this draft as the new Chapter 3.

County attorney further recommends that the Board direct that the FY 2012-2013 Budget Ordinance establish that effective January 1, 2013, the pet license will apply uniformly to all dogs and cats in the county and each of its municipal jurisdictions as follows:

Altered dogs and cats over 4 months of age	\$10
Unaltered dogs and cats over 4 months of age	\$25
Administrative fee allowed to reporting vaccinator	\$2

Mr. Martin called on Mr. Moorefield who reviewed the above background information. Mr. Moorefield stated the provision regarding limitations placed on cats has been removed from the new draft. Mr. Moorefield stated he has also heard from four smaller municipalities within Cumberland County that have interest in adopting the ordinance. Mr. Moorefield stated once the Board of Commissioners adopts the ordinance, he has made it known that he will prepare a resolution and interlocal agreement for municipalities choosing to adopt the ordinance and will update Animal Control's citation books to comply with the new ordinance and the new system.

Mr. Moorefield stated there has been discussion of keeping the fee for altered dogs and cats over 4 months of age at \$7 and providing a \$2 administrative fee to reporting vaccinators, which would drop the net fee to the county to \$5. Mr. Moorefield stated his recommendation for the next fiscal year would be to increase the fee to \$10 with at least a \$2 administrative fee being paid to reporting vaccinators which is consistent with what other counties are doing under this type of system. Mr. Moorefield explained the ordinance does not establish the fee amount so the Board can maintain the flexibility to change the fee as needed. Mr. Moorefield stated the fee amount does not need to be determined during this meeting, and he recommends that the Board proceed with adoption of the ordinance and strongly consider the \$10/\$25 with a \$2 administrative fee as a part of the budget process.

Mr. Moorefield responded to questions and stated his understanding was that Dr. Burks had expressed concern for and had spoken in opposition to the collection of fees by veterinarians. Mr. Moorefield advised the ordinance creates a mechanism for veterinarians to collect the fee, and although the county is directing veterinarians to collect the fee, it is understood that

veterinarians can not force their clients to pay the fee. Mr. Moorefield further advised veterinarians will report to Animal Control those clients who refuse to pay the fee, at which point it will fall back on Animal Control.

Ms. Silva was asked to return to the podium. Ms. Silva asked how the county would address military families who move to Cumberland County and have more than three dogs. Dr. Lauby stated residents of Ft. Bragg can not have five dogs and if people have five dogs, they are told they can not live on the military reservation. Dr. Lauby also stated if people are responsible for their animals, they will never hear from Animal Control because the majority of the people Animal Control deals with are not responsible for their animals.

Chairman Faircloth stated Cumberland County is a military community and although sensitive to their issues, wants to treat the military the same as any other citizen. Chairman Faircloth asked whether there was anything Animal Control could do administratively to cover special situations that would not circumvent the ordinance. Mr. Moorefield stated Dr. Lauby already deals with special situations such as rescues and fosters that will never be included within an ordinance because an ordinance can not cover all situations. Mr. Moorefield stated the only reason Animal Control gets involved with an animal is because someone is complaining.

Commissioner Evans spoke in opposition to veterinarians collecting license fees. Mr. Moorefield responded to questions posed by Commissioner King regarding the liability insurance and advised liability insurance for “bad dogs” dropped from \$100,000 to \$50,000 under the new ordinance.

Dr. Burk was asked to return to the podium. Dr. Burk asked what happens to the next two years when a veterinarian collects the county tax for a three-year vaccination. Mr. Moorefield referenced Section 3-50.(b), “For rabies vaccinations of three (3) years duration, the annual privilege license fee shall be due on the annual anniversary date of the vaccination. It shall be the responsibility of the Animal Control Department to notify owners with privilege license fees due in the second and third year of a three (3) year rabies vaccine.”, and stated veterinarians will have no responsibility for years two and three.

Dr. Burk stated the veterinarians association conducts twenty-four clinics throughout the county during the month of April and charges a reduced fee for their services. Dr. Burk also stated some veterinarians have expressed concern that the collection of county taxes at the time of vaccination will result in reduced vaccinations during the countywide clinics and unvaccinated dogs. Chairman Faircloth stated the county’s hope is that vaccination levels will not go down because the county needs to collect more revenue so it can increase its enforcement. Additional comments followed.

AN ORDINANCE OF THE CUMBERLAND COUNTY BOARD OF COMMISSIONERS
REPEALING CHAPTER 3, ANIMALS, OF THE CUMBERLAND COUNTY CODE AND
ADOPTING A REVISED CHAPTER 3, ANIMALS, OF THE CUMBERLAND COUNTY CODE

WHEREAS, the Cumberland County Board of Commissioners adopted a revised County Animal Control Ordinance in August, 2000, and has amended it from time to time; and

WHEREAS, the Cumberland County Animal Control Ordinance has been codified as Chapter 3, Animals, of the Cumberland County Code; and

WHEREAS, the Board of Commissioners wishes to make a comprehensive revision of the Cumberland County Animal Control Ordinance by the repeal of Chapter 3, Animals, of the Cumberland County Code and the adoption of the revised Chapter 3, Animals, of the Cumberland County Code as set forth below; and

Whereas, the Board of Commissioners finds the comprehensive revision of Chapter 3, Animals, of the Cumberland County Code to be in the public interest and to promote the public health, safety and welfare,

NOW, THEREFORE, BE IT ORDAINED by the Cumberland County Board of Commissioners that:

Chapter 3, Animals, of the Cumberland County Code is hereby repealed in its entirety and a revised Chapter 3, Animals, of the Cumberland County Code is hereby adopted.

CHAPTER 3 ANIMALS

- Art. I. Administration
- Art. II. General Provisions
- Art. III. Dangerous Dogs.
- Art. IV. Rabies Control and Animal Bites
- Art. V. Licensing of Dogs and Cats
- Art. VI. Injured Animal Stabilization Fund
- Art. VII. Miscellaneous
- Art. VIII. Enforcement

ARTICLE I. ADMINISTRATION

Sec. 3-1. Animal Control Department established.

There is hereby established in the government of the County an Animal Control Department.

Sec. 3-2. Animal Control Director.

The Animal Control Department shall be supervised by the Animal Control Director, who shall be the director of that department, appointed by the county manager.

Sec. 3-3. Functions of Animal Control Department.

The Animal Control Department shall have and perform the duties and responsibilities set forth herein, shall enforce the provisions of this Chapter and of state law relating to animal control and animal welfare, shall administer and enforce an animal control program within such municipalities within the county as by interlocal agreement may contract with the County for such services and apply this Chapter in their municipal jurisdictions, and shall maintain and operate the county animal shelter.

Sec. 3-4. Animal Control Board established.

(a) There is established the Cumberland County Animal Control Board.

(b) The Animal Control Board shall be composed of seven (7) members to be appointed by the Board of Commissioners. Of the seven members, two shall be residents of the City of Fayetteville appointed by the Board of Commissioners from among the names of four persons nominated by the Fayetteville City Council, that is, two nominations for each seat. At least one member shall be a person with knowledge and experience in dog behavior and/or handling, one member shall be ex officio the veterinarian on contract to the Animal Control Department, one member shall have an interest in promoting the goals of the Animal Protection Society or the Humane Society or another such broadly-based and representative organization interested in the care and protection of animals, and the other members shall represent the public at large. The members shall serve staggered two-year terms; four members shall have terms that expire on June 30 in even-numbered years following the year of their initial appointment and three members shall have terms that expire on June 30 of odd-numbered years.

(c) The powers and duties of the Animal Control Board shall include:

(1) Appointing three (3) of its members to sit on the Dangerous Dog Appeal Board;

(2) Hearing any appeals provided for in this ordinance other than appeals of the Director's determinations of potentially dangerous dogs;

(3) Providing advice and information to the Animal Control Department;

(4) Upon coordination with the Animal Control Director, making recommendations to the Board of Commissioners or the Fayetteville City Council, as appropriate, for the betterment of the County's animal control program;

(5) In conjunction with the Animal Control Department and the County's Public Information Director, providing for a program of public education, information and outreach concerning responsible pet ownership, animal cruelty, and the County's animal control program; and

(6) Selecting officers of the board, including a chairperson, and adopting rules of procedure.

(d) A majority of the members shall constitute a quorum for the Animal Control Board to conduct its meetings. The Animal Control Board shall adopt a schedule of regular meetings and post and file it with the Clerk to the Board of Commissioners and otherwise as required by the Open Meetings Law. The Animal Control Board shall schedule at least four regular quarterly meetings, at which meetings the Animal Control Director or his designee shall appear and participate. In addition, the Animal Control Board may hold such special or emergency meetings, upon the call of the chairperson or any three members, as may be appropriate in the circumstances, subject to compliance with the Open Meetings Law.

Sec. 3-5. Dangerous Dog Appeal Board established.

(a) There is established the Dangerous Dog Appeal Board.

(b) The Dangerous Dog Appeal Board shall consist of three (3) members to be appointed by the Animal Control Board from among its members. The members shall serve staggered two-year terms.

Any two (2) members of the Dangerous Dog Appeal Board shall constitute a quorum for conducting a meeting.

(c) The powers and duties of the Dangerous Dog Appeal Board shall include:

(1) Selecting a chairperson to preside over its appeal hearings;

(2) Hearing the appeals of the determinations of potentially dangerous dogs by the Animal Control Director (or his designee) pursuant to Article III of this ordinance or Chapter 67 of the General Statutes.

(d) The administrative assistant to the Animal Control Director shall be the Clerk to the Animal Control Board and the Dangerous Dog Appeal Board.

Sec. 3-6 through Sec. 3-9. Reserved.

ARTICLE II. GENERAL PROVISIONS

Sec. 3-10. Definitions

(a) As used in this ordinance, the following terms shall have the meanings respectively ascribed to them in this section:

"Abandon" means to cease providing for the care, control or maintenance of an animal without the transfer of ownership of such animal.

"Animal Shelter or Department's Shelter" means the premises operated by the Animal Control Department for the purposes of impounding, sheltering or caring for animals or any other premises operated by another entity with which the county contracts for such purposes.

"Animal Control Department" means the Cumberland County Animal Control Department.

"Animal Control Director" means the Director of the Animal Control Department, or his/her designee.

"Animal Control Officer" means a person employed by the Animal Control Department as its enforcement officer in the impoundment of animals, controlling of animals running at large, and as otherwise provided or required in this Chapter.

"At large" or "running at large" means any animal which is not confined on the property of its owner, the leased premises of the animal's owner, or under the actual physical control of a competent person, other than a licensed, currently privilege tax paid, hunting dog under supervision while engaged in a lawful actual or simulated hunt.

"Chapter" means the provisions of this Animal Control Ordinance as may be in effect in Cumberland County or any municipal jurisdiction located therein.

"Confinement" means to secure an animal in a locked house, run, enclosure or fenced yard within the boundaries of the owner's, leaseholder's, or keeper's property (i.e., house, fenced yard).

"County Manager" shall mean the duly appointed County Manager of the County or his/her designee.

"Cruelty" means to endanger by any act of omission or commission the life, health or safety of an animal.

"Director" means the Director of the Animal Control Department.

"Exposed to rabies" means any animal that has been bitten by or exposed in a manner proven to be able to transmit rabies, to any other animal known to have been infected with rabies or any other animal reasonably suspected of being infected with rabies that is not available for laboratory diagnosis.

"Fee Schedule" means any schedule of fees related to the administration of this ordinance, which may be adopted by the Board of Commissioners.

"Fowl" means chickens, guineas, geese, ducks, pigeons, and other avian animals.

"Harboring" means regularly feeding, sheltering or caring for an animal.

"Impoundment" means placing an animal in an animal control vehicle or unit, or holding an animal at the animal shelter, or holding an animal at any other location at the written direction of the Director of Animal Control.

"Keeper" means any person, acting in the capacity of the owner, or at the owner's request, who is responsible for the care, welfare and maintenance of the animal.

"Livestock" includes, but is not limited to, equine animals, bovine animals, sheep, goats, llamas and swine.

"Neuter" means to render a male dog or cat unable to reproduce.

"Owner" shall mean anyone taking care of or having custody of an animal, such as by providing food, water, shelter or medical care, but shall not include taking care or having custody of the animal for compensation.

"Permit" means a permit issued by the Animal Control Department or similar agency of any applicable governmental unit having jurisdiction.

"Potentially Dangerous Dog" and "Dangerous Dog" shall have the meanings set forth in Section 3-30 hereof.

"Restraint" means that an animal is actually physically controlled by leash or tether held by a competent person or within any vehicle, trailer or other conveyance being driven, pulled or parked on the street or confined within the property limits of its owner or keeper.

"Run" means an area used to confine a dog or dogs of a size that complies with any of the requirements of this Chapter.

"Sanitary" means a condition of good odor and cleanliness, which precludes the probability of disease transmission and insect breeding and which preserves the health of the public.

"Spay" means to remove the ovaries of a female dog or cat in order to render the animal unable to reproduce.

"State law" means the General Statutes of North Carolina.

"Stray" means any animal reasonably presumed not to have any owner, including but not limited to an animal running at large or not under restraint.

"Tethered" or "tethering" mean attaching an animal to a stationary object by means of a chain, cable, rope or similar device.

"Vaccination" means an injection of United States Department of Agriculture approved rabies vaccine administered by a licensed veterinarian or certified rabies vaccinator as defined in G.S. 130A-186.

"Transfer" means to convey or change ownership from one person to another with or without the exchange of money or other consideration.

(b) All other words or phrases used herein shall be defined and interpreted according to their common usage.

Sec. 3-11. Applicability of state laws to custody of animals.

No person owning or having in his custody any animal shall violate any laws, rules, or regulations of the state applicable thereto. The provisions of this Chapter shall govern where the provisions of the laws, rules and regulations of the state are less restrictive than the provisions of this Chapter.

Sec. 3-12. Injuring, poisoning or trapping animals prohibited.

(a) A person who accidentally or otherwise strikes an animal with an automobile and injures it shall promptly notify the Animal Control Department or any law enforcement agency having jurisdiction.

(b) No person shall knowingly expose or give to any animal any poisonous substance, whether mixed with food or not. This provision, however, does not apply to the eradication or population control of certain species of rodents.

(c) No person shall set or expose an open jaw type trap, leg hold trap, or any type trap which would likely cause physical harm or injury to any animal. This provision shall not apply to persons who are licensed by the state to trap animals, to Animal Control Officers or to persons using humane live capture traps.

Sec. 3-13. Diseased animals; injured or sick animals.

(a) Every person owning or having any animal under his charge which he knows or suspects to be sick or injured shall isolate the animal from other animals, shall obtain or provide appropriate treatment for such animal within two days or may have the animal humanely euthanized.

(b) Any animal which comes into possession of the Department's shelter which is seriously injured, sick or exhibiting symptoms of contagious disease shall be humanely euthanized by the shelter

personnel without waiting for the expiration of the period in which such animal may be placed for adoption. Provided, however, that before such sick, diseased or injured animal is euthanized, the shelter personnel shall contact the animal's owner, if known, to determine the disposition of such animal. If the owner indicates that the animal will be reclaimed but fails to reclaim the animal within two days of such notification, or if the owner of such animal is not known, the sick or injured animal shall be euthanized by the shelter personnel. The shelter supervisor shall keep a record of such animal, to include breed and sex of the animal, when the animal came into possession of the shelter, the type of injury, disease or sickness of such animal, the date the animal was euthanized, and any other information relevant to the health, condition and description of such animal.

Sec. 3-14. Property owner may impound animal.

(a) Any person who finds a domesticated animal or fowl on his property to his injury or annoyance may:

- (1) Take such animal to the Animal Control shelter; or
- (2) Retain possession of such animal or fowl and, within one business day, notify the Animal Control Department of this custody, giving a description of the animal and the owner's name, if known. Any person removing the animal from the impounder's property shall remove the animal in such a manner so as not to cause injury to the animal.

(b) No person shall knowingly and intentionally harbor, feed or keep in possession by confinement or otherwise any stray animal which does not belong to him, unless he shall have within one business day from the time such animal came into his possession notified the Animal Control Department of his intention either to: (i) surrender the animal to the animal shelter, or (ii) advertise for five (5) consecutive days such stray animal in the local newspaper with the greatest average daily circulation in the community. If the person possessing such stray animal elects to so advertise and the owner thereof shall not have responded by the tenth (10th) day after the date of the first publication, the person so advertising shall be presumed the legal owner of such animal. If the advertisement of a stray animal shall not have been first published within seventy-two (72) hours after so notifying the Animal Control Department, then the animal shall be surrendered to the Animal Control Department.

Sec. 3-15. Nuisance animals; animals posing a threat to the public.

(a) For the purposes of this section, "nuisance" means the conduct or behavior resulting from any act of omission or commission by the owner or keeper of any small or large animal, fowl, cat or dog which molests passersby or passing vehicles, damages private or public property; barks, whines, howls, crows or makes other noises in an habitual or continuous fashion which annoys the comfort, repose, health or safety of the people in the community; is unconfined in season; habitually defecates on the property of someone other than the owner; or habitually eats or otherwise destroys the plants, shrubs or similar landscaping on the property of someone other than the owner.

(b) For the purposes of this section, "nuisance animal" means any animal that commits any of the acts, conduct or behaviors defined as constituting a nuisance in this section.

(c) No person shall keep any animal which is a nuisance animal or which causes a nuisance as defined in this section.

(d) Notice of violation. When an Animal Control Officer determines that a violation of this section has occurred, he may issue a written warning of violation and notice of public nuisance, which shall be served on the owner or keeper of the animal. The owner or keeper shall be responsible for abating the nuisance within seventy-two (72) hours by making sure his animal does not engage in any further act or acts which may constitute a nuisance under this section.

(e) Failure to abate the nuisance. If the Animal Control Officer determines that the animal has engaged in any further act(s) constituting a nuisance, or if the owner or keeper of the animal fails to abate the condition which constitutes the nuisance within seventy-two (72) hours after issuance of the written warning of violation, the Animal Control Officer may issue a notice of violation and civil penalty for the first offense and additional penalties for each subsequent offense. If the owner fails to abate the nuisance after the second civil penalty, the Animal Control Officer may seize and impound the animal. If the animal is seized, the Animal Control Officer must post a notice of seizure and impoundment with the owner or keeper of the animal. The owner or keeper may reclaim the animal upon payment of any civil penalties and shelter fees or charges for the impoundment. If the animal is not reclaimed within five (5) days, it shall become the property of the Animal Control Department and shall be disposed of according to the Department's policies.

(f) Owner unknown. In situations where the owner of a nuisance animal is unknown, the Animal Control Officer shall impound the animal without posting notice of the impoundment. If the owner does not redeem the animal within five (5) days, the animal shall become the property of the Animal Control Department and shall be disposed of according to the Department's policies.

(g) Animal housed or restrained less than fifteen (15) feet from public way. When an Animal Control Officer has determined that an animal is being housed or restrained within fifteen (15) feet of a public street, road or sidewalk, and the animal poses a threat to the public, but the animal is not in the street, road or on the sidewalk, the Animal Control Officer shall issue a warning to the owner or keeper of the animal directing that the animal be moved to a distance greater than fifteen (15) feet from the public street, road or sidewalk. If the owner or keeper refuses to move the animal, the Animal Control Officer shall issue a notice of violation and civil penalty for the first offense and additional penalties for each subsequent offense. After the second offense the animal services officer may impound the animal. The Animal Control Officer must leave a notice of impoundment with the owner keeper or affix the notice to the premises from which the animal has been seized. The owner shall have five (5) days to redeem the animal. If the animal is redeemed, the owner must pay all civil penalties and shelter fees for the impoundment. If the owner fails to redeem the animal within five (5) days the animal shall become the property of the Animal Control Department and shall be disposed of according to the Department's policies.

(h) Animal found in the public way. If an animal is housed or restrained within fifteen (15) feet of a public street, road or sidewalk and the animal poses a threat to the public, and the Animal Control Officer finds it to be in the public street, road or on the sidewalk and the owner or keeper is not at home or refuses to remove the animal from the public street, road or sidewalk, the Animal Control Officer may impound the animal. The Animal Control Officer must leave a notice of impoundment with the owner or keeper or affix the notice to the premises from which the animal was housed or restrained. The animal services officer may issue a notice of violation and civil penalty for a first offense and additional penalties for each subsequent offense. The owner shall have five (5) days to redeem the animal. If the animal is redeemed the owner or keeper must pay all civil penalties and shelter fees for the impoundment. If the owner or keeper fails to redeem the animal within five (5) days the animal shall become the property of the Animal Control Department and shall be disposed of according to the Department's policies.

(i) Private remedies. This section shall not be construed to prevent a private citizen from pursuing a private cause of action for damages against the owner or keeper of any animal that has caused injury to said private citizen or his property for damages or any other loss resulting from an animal being a nuisance as defined by this section or otherwise.

Sec. 3-16. Animal fighting and animal fighting paraphernalia prohibited.

(a) No person shall permit or conduct any dog fights, cock fights, or other combat between animals, or between animal and human.

(b) It shall be unlawful for any owner or person to keep, own, possess, maintain, control, or use materials used or intended to be used in dog fighting or cock fighting. Such items shall include but are not limited to treadmills; fighting or fight training pit; wooden sticks or handles used or capable of being used to pry open jaws; magazines, photographs, film, or videotapes depicting animal fighting or animal fight training; breeding stands; jaw strengthening devices; spurs; gaffs or slasher cases; gaff or knife gauges; mounting blocks; leather wraps; scabbards and leg or wing bands; training, conditioning, or fight contracts or records; veterinary drugs; suture kits, needles; and syringes and other veterinary supplies used for the administration of veterinary treatment for wounds or injuries from animal fighting or animal fight training.

(c) Upon criminal charges being brought for violations of this section, the Animal Control Director may petition the court for the confiscation of any animals kept or involved, or materials used or intended to be used in such fighting.

Sec. 3-17. Keeping of wild or exotic animals.

(a) For the purpose of this section, a wild or exotic animal means an animal which is usually not a domestic animal and which can normally be found in the wild state, including, but not limited to alligators, apes, bats, bears, crocodiles, deer, elephants, foxes, leopards, lions, lynxes, monkeys, panthers, raccoons, rhinoceroses, wolves, poisonous snakes, skunks, tigers, and like animals. Hybrids or cross-breeds of any wild or exotic animals shall also be considered as wild or exotic animals.

(b) It is unlawful to keep, harbor, breed, sell or trade any wild or exotic animal for any purpose, except as may be licensed by the state Wildlife Resources Commission under its regulations pertaining to wildlife rehabilitators.

(c) This section shall not apply to zoological parks, zoos, educational or medical institutions, or circuses that perform in Cumberland County for not more than seven (7) days. If a circus is scheduled to be in Cumberland County for more than seven (7) days, then the circus may apply to the Animal Control Director for an extension permit for a period not to exceed an additional seven (7) days, on such terms as the Animal Control Director shall determine will protect the public health, safety and welfare.

Sec. 3-18. Inhumane or cruel treatment prohibited.

It is unlawful for any owner or person to:

- (1) Perform or carry out any inhumane or cruel treatment against any animal; or
- (2) Keep, possess, own, control, maintain, use or otherwise exercise dominion over any animal or animals which by reason of noise, odor or sanitary conditions become

offensive to a reasonable and prudent person of ordinary tastes and sensibilities or which constitute or become a health hazard as determined by the Animal Control Director, the Cumberland County Inspections Director or the Cumberland County Environmental Health Supervisor, as appropriate.

Sec. 3-19. Control of animals required; at large; strays; impoundment; confinement in season.

(a) It is unlawful for any owner or person to permit or negligently allow any domestic animal or livestock to run at large. Any dog or cat that is not confined as provided in this Chapter, and not under the actual physical control or restraint of its owner or keeper, shall be deemed to be running at large. Any such animal found running at large shall be either:

(1) Impounded by an Animal Control Officer at the Department's shelter subject to being reclaimed by its owner or keeper in accordance with the Department's policies; or

(2) In the discretion of the Animal Control Officer, a dog or cat found at large which is licensed by the county and vaccinated for rabies, except a dangerous dog, as that term is defined in Article III of this ordinance, may be released to its owner, upon such terms and conditions as the Animal Control Officer deems appropriate.

(b) No impounded animal shall be returned to its owner until any applicable impoundment and boarding, vaccination, other fees or costs and any penalties are paid.

(c) Any impounded animal not claimed by its owner after a three day holding period, exclusive of Sundays and county-observed holidays, shall become the property of the county and shall be adopted or disposed of in accordance with the Department's policies.

(d) Every female dog or cat in season (heat) shall be kept confined in such a manner that such female dog or cat cannot come in contact with other animals, except for controlled breeding purposes. Female animals picked up by the Animal Control Department which are in season (heat) shall be kept separate from male animals at all times.

Sec. 3-20. Records; disposition of animals; adoption.

(a) An Animal Control Officer, upon receiving any animal for impoundment, shall record the description, breed, color and sex of the animal and whether or not it is licensed and the date and time of impoundment. If the animal is licensed or if the owner is known, the officer shall enter the name and address of the owner or the county license on the impoundment records. If the owner is known, the Animal Control Department shall telephone the owner or, if unsuccessful in attempting to telephone such owner, shall mail notice at the address shown on the Department's records to notify the owner, that unless reclaimed within seventy-two (72) hours after mailing of notice, Sundays and county-observed holidays excluded, the animal may be adopted or humanely disposed of by the Department's shelter. Attempts to contact the owner will be recorded on the impoundment record.

(b) After the seventy-two (72) hours of impoundment as prescribed above, animals that have not been reclaimed by the owner thereof shall be adopted or otherwise disposed of in a humane manner and as required by law. Provided, however, in the discretion of the Animal Control Director, a healthy animal may be retained for an additional period for the purpose of adoption or transferred to an approved local animal adoption or rescue agency.

(c) Before any dog or cat is released for adoption from the Department's shelter, the adopter shall pay such fee(s) as may be prescribed therefore in any fee schedule adopted from time to time by the board of commissioners. Such dog or cat also shall be issued any required rabies vaccination and county license.

(d) Any employee of the Animal Control Department may adopt one cat and one dog in any calendar year and such number of other animals as the Animal Control Director may by written policy prescribe.

(e) There is hereby established a grace period of five (5) days beginning on the day of adoption and ending at the close of business of the fifth day thereafter (or the first business day which falls after the fifth day if such fifth day is a Sunday or legal holiday), during which period an animal adopted from the animal shelter may be returned to the animal shelter without refund for a replacement animal, conditioned solely upon the presentation of written certification of a licensed veterinarian that the adopted animal is in poor health.

Sec. 3-21. Redemption of impounded animals; impoundment where no one is present to care for an animal.

(a) An owner shall be entitled to resume possession of his impounded dog or cat or other small animal kept as a house pet, upon compliance with the vaccination provisions of this Chapter and payment of any applicable impoundment, boarding, vaccination or other fees. Such dog or cat also shall be issued any required county license, as provided for in this Chapter, if such dog or cat has not previously been licensed. Animals four (4) months old and older will be vaccinated for rabies by shelter rabies vaccinators. New owners of adopted animals less than four (4) months old shall have three (3) business days from the time that the animal reaches the age of four (4) months, in which to have the animal vaccinated against rabies and return the proof to the Department's shelter. Failure to obtain the required rabies vaccination shall constitute a violation of this section.

(b) When a law enforcement officer takes a person into custody who is in possession of an animal, and no other competent person is immediately present at the scene to take care of the animal, the animal will be impounded for its welfare. The animal will be impounded at the Department's shelter until contact can be made with the animal's owner and an appropriate disposition of the animal determined. Once an Animal Control Officer makes contact with the owner, the owner will have seventy-two (72) hours to arrange for the appropriate disposition of the animal. After the seventy-two (72) hour period expires, the animal shall become the property of the county and shall be disposed of as provided in this Chapter.

Sec. 3-22. Spaying or neutering as condition for adoption of dogs and cats; violations.

(a) No dog or cat may be adopted from the animal shelter unless the animal has been surgically spayed or neutered, or the adopting owner agrees to do have the animal surgically spayed or neutered in accordance with any time limit imposed by the Animal Control Director.

(b) The Animal Control Director shall implement procedures to enforce this section.

(c) The failure of any person adopting an impounded animal to comply with this section shall constitute a violation of this section and shall constitute the forfeiture of the animal to the Animal Control Department.

Sec. 3-23. Keeping of animals; mistreatment, abandonment prohibited; care; restraining of dogs; exercise area for dogs.

(a) All dogs, cats and other small animals kept as house pets shall be housed, fed and protected from the weather in such a manner as not to create a nuisance.

(b) No person shall willfully or negligently:

(1) Torture, cruelly beat, injure, maim, mutilate or without good cause destroy or kill any animal, whether wild or tame, belonging to himself or to another;

(2) Deprive any animal of food, drink or shelter; or

(3) Cause any other person to do any of the above acts.

(c) If an animal is found by any Animal Control Officer to be in one of the above described conditions in subsection 3-23(a) or (b), the officer shall take appropriate measures, including civil or criminal enforcement, to protect the welfare of the animal. If the Animal Control Officer determines that a confined animal's life is in immediate danger or the animal has been abandoned, the Animal Control Officer shall seize such animal if such seizure is not prohibited by applicable law and shall report the conditions to an appropriate law enforcement agency if seizure is not permitted. The Animal Control Officer shall leave a notice for the owner or keeper advising why the animal has been taken.

(d) No dog, cat or other small animal shall be confined within or on a motor vehicle under such conditions as may endanger the health or well-being of the animal, including, but not limited to, dangerous temperature or lack of adequate food or water.

(e) No person shall abandon or cause to be abandoned any dog, cat or any other type of animal.

(f) Owners and keepers of dogs, cats and other small animals shall provide food, shelter and medical attention to such animals, including but not limited to the following:

(1) Sufficient wholesome food that is nutritious for the species;

(2) Fresh, potable drinking water;

(3) Medical attention to relieve such animals from suffering;

(4) Shade from the sun; and

(5) Shelter to allow the animal to remain dry and protected from the elements. Such shelter shall be fully enclosed on three (3) sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the animal's entry and exit, and sturdy enough to block entry of wind or rain. The shelter shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and in good repair.

(g) It shall be unlawful to tether a dog except in accordance with this subsection.

(1) No dog shall be tethered outdoors unless the keeper or owner of the dog is holding the tether.

(2) It shall be an affirmative defense to a violation of this subsection that the tethering is required to protect the safety or welfare of a person or the dog, provided that the keeper or owner of the dog acquires a permit from the Animal Control Director for the temporary tethering of a dog while acquiring kennels or fencing.

(3) The provisions of this subsection (g) shall not apply to a temporary tether:

(a) During a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity; or

(b) To a keeper or owner walking a dog with a hand-held leash, or during lawful hunting activities if reasonably necessary for the safety of the dog, or while a dog is actively engaged in shepherding or herding livestock; or

(c) When meeting the requirements of a camping or recreation facility; or

(d) When the animal's caretaker is outside and within eyesight of the animal; or

(e) After taking possession of a dog that appears to be a stray dog and after having advised the Animal Control Department of the stray.

(4) The provisions of subsections (g)(2) and (3) above shall apply only if:

(a) The tether is not placed directly round the dog's neck and is attached to a properly fitting collar or harness of nylon or leather worn by the dog; and

(b) The weight of the tether does not exceed more than one-tenth of the dog's body weight; and

(c) The tether is unlikely to become tangled or twisted; and

(d) The tether is arranged to be free of any obstacles which may limit the moveable length of the tether; and

(e) The dog is tethered in a manner that permits access to necessary shelter and water.

(5) Any dog that remains tethered in violation of this subsection for more than fourteen (14) days after the owner receives a notice of violation may be seized by an Animal Control Officer or law enforcement officer and impounded at the Department's shelter. If the dog's owner does not show that an adequate confinement enclosure complying with the requirements of this ordinance has been installed on the owner's property within 72 hours of the impoundment, exclusive of Sundays and county government holidays, the dog shall be deemed to have been forfeited to the county and shall be disposed of in accordance with the Department's policy.

(h) Any dog confined within a fenced yard or run must have an adequate space for exercise. Provided, however, that where dogs are kept or housed on property without a fenced yard and such dogs are kept in an enclosure or run, such enclosure or run shall provide adequate space for exercise. Such an enclosure or run shall be constructed of chain link or similar type of materials with all four sides enclosed. The enclosure shall be of sufficient height to prevent the dog from escaping from such enclosure. The top

of such enclosure shall be sufficiently covered to provide the dog with adequate shade and protection from the elements.

Sec. 3-24. Dead animal pickup; relinquishing animals to the shelter.

(a) Dead animals may be picked up from residences by waste/ sanitation haulers as provided by the Cumberland County Solid Waste Department's policies as in effect from time to time.

(b) Owners may relinquish their animals to the Department's shelter provided the owner signs an impoundment card releasing possession of the animal to the shelter. Once the animal is released to the shelter, the animal shall become the property of the county and may be adopted or humanely disposed of in accordance with the Department's policies.

Sec. 3-25. Apprehension of wild dogs.

If the Animal Control Director shall determine that:

(1) A dog or dogs are running wild in any area within the jurisdiction of this ordinance; such dogs are feral and do not have an owner, keeper or custodian; such dogs appear not to have been vaccinated for rabies because such dogs are not wearing current and valid rabies tags; such dogs are substantially interfering with the use and enjoyment of property or the conduct of business, or are harassing or threatening persons; and that such dogs cannot after extraordinary effort be apprehended; or

(2) an animal or animals are running wild and appear to be rabid or terminally diseased, present an imminent threat to any person or to livestock or domestic pets, or are harassing and threatening persons, and cannot be apprehended without extraordinary effort;

then the Director shall be authorized to cause deadly force to be used to humanely euthanize said dogs or wild animals. Prior to making such a determination, in the case of wild dogs, the Director shall have documented that persistent and repeated efforts to apprehend such dogs through use of traps, baited food, and tranquilizer darts have been ineffective. After making such a determination, the Animal Control Director may:

(1) Authorize any Animal Control Officer that has, in the discretion of the Animal Control Director, received appropriate training and certification in firearms to use deadly force; or

(2) Request assistance from the Sheriff or from appropriate municipal police authorities in order that the application of deadly force shall be effected by a sworn law enforcement officer that has a marksman rating and/or qualification; or

(3) Seek the services of any private business, corporation, organization or other governmental organization or agency as may be approved by the County Manager for the application of deadly force.

If such deadly force is proposed to be effected, the Animal Control Director shall take every precaution to assure the safety of persons and property in the area within which the dogs or animals are running wild.

Sec. 3-26. Regulation of the number of dogs which may be kept on certain premises.

(a) No more than three (3) dogs more than five (5) months of age shall be owned, possessed, kept, harbored, or maintained at any premises located in any area with a zoning classification for single-family, residential lots of 20,000 square feet or less (R20 or less).

(b) No more than two (2) dogs more than five (5) months of age shall be owned, possessed, kept, harbored, or maintained at any premises located in any area with a zoning classification for multifamily residential housing.

(c) In any area in which the applicable zoning regulations are more restrictive as to the keeping of dogs than the requirements of this section, the zoning regulations shall control.

(d) This section shall not be construed to limit the right of any landlord to impose more restrictive limits on the number of pets which may be possessed at any leased premises.

(e) All dogs which have been listed with the Cumberland County Tax Administrator for an annual Cumberland County privilege license for the calendar year 2012 by the date this revised Chapter becomes effective shall be exempt from this section.

Sec. 3-27 through Sec. 3-29. Reserved.

ARTICLE III. DANGEROUS DOGS

Sec. 3-30. Definitions.

For the purposes of this article, the following words and phrases shall have the following meanings:

“Attack by a dog” means any behavior or action by a dog which could reasonably be expected to cause physical injury to a person or domestic animal, to include biting, felling or toppling, tearing of clothing, or provoking flight to escape attack.

“Bite by a dog” means any seizing, gripping or grasping, no matter how slight or momentary by a dog between its jaws of the body parts of a person or domestic animal, so as to cause physical injury to such person or domestic animal.

“Dangerous dog” means any of the following dogs:

- (1) A dog that without provocation has killed or inflicted severe injury on a person; or
- (2) A dog that has been determined as provided herein to be potentially dangerous; or
- (3) A dog that is owned or harbored primarily, or in part, for the purpose of dog fighting or a dog trained for dog fighting.

“Dog” means a domesticated animal (canis familiaris) of the Canidae family; provided that no wild specie of the Canidae family, such as a wolf, fox or coyote, shall be considered a domesticated animal, even though raised by humans in domestic surroundings.

“Guard dog” means a dog trained by a skilled trainer to recognized security industry or other reasonable standards and presently used under the control of trained handlers to protect persons and property.

“Law enforcement dog” means a dog, trained for police work to recognized law enforcement standards and presently used by and under the control of a law enforcement officer to carry out the law enforcement officer's official duties.

“Lawful hunt” means a hunt for lawful game conducted on private or public property with the consent of the owner or custodian of the property by a person with a valid license (if required) during the lawful season for the game concerned using dogs customarily employed and suitable for such game.

“Owner of a dog” or “owning a dog” means any person or legal entity that has a possessory property right in a dog, including the harbinger or keeper of a dog with the consent of the owner or of a dog that has been abandoned by or escaped the custody of its owner.

“Owner or keeper's real property” means any real property owned or leased by the owner or keeper of the dog, not including any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

“Potentially dangerous dog” means a dog that had been determined, as provided herein, to have:

- (1) Inflicted a bite on a person that required medical care more than first aid,
- (2) Killed or inflicted injury upon a domestic animal when not on the real property of the owner of the dog; or
- (3) Attacked a person or approached a person in an area of the keeper's property open and accessible to invitees, or when not on the owner's property, in a vicious or terrorizing manner in an apparent attitude of attack.

“Severe injury” means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.

“Territorial jurisdiction of Cumberland County” means all territory within the boundaries of the County of Cumberland, North Carolina, except the incorporated area of a municipality, unless such municipality has consented to the application and enforcement of this Chapter in its jurisdiction.

Sec. 3-31. Application of ordinance; exceptions.

The provisions of this Article do not apply to:

- (1) A law enforcement dog or guard dog being used by a law enforcement officer or a bona fide professional security guard while in the performance of official duties or professional responsibilities;
- (2) A dog being used in a lawful hunt;
- (3) 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 control of its owner, and the damage or injury was to a species or a type domestic animal appropriate to the work of the dog; or

- (4) 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 cruelly treating the dog, or had tormented, abused, or cruelly treated the dog, or was committing or attempting to commit a crime.

Sec. 3-32. Reporting requirements.

(a) Reporting required. An owner of a dog that has attacked or bitten a person or domestic animal, a victim of an attack or biting by a dog, the owner of any domestic animal that has been attacked or bitten by a dog, any person witnessing such an attack or biting, a veterinarian treating a domestic animal for such an attack or biting, or a health care professional treating a person for such an attack or biting, shall report the following events to the Animal Control Department within three (3) business days after the event has occurred:

- (1) Any attack or biting by a dog upon any person or domestic animal; or
- (2) The transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog, its confinement in a veterinary facility, its removal from the territorial jurisdiction of the county, or its death.

(b) Report data required. The data required in the report and the format thereof shall be as set forth in administrative procedures established by the Animal Control Director.

Sec. 3-33. Determination that a dog is potentially dangerous; appeals.

(a) Generally. Upon receipt of a report submitted in accordance with subsection 3-32, or upon the receipt of any other complaint, or when he has reasonable suspicion that a dog is potentially dangerous, the Director or his designee shall make a determination whether or not such dog is a potentially dangerous dog. Any determination that a dog is potentially dangerous shall be made in a writing stating the facts relied upon by the Director to make his determination. The written declaration shall be personally delivered to the owner of the subject dog or shall be mailed by certified mail, return receipt requested, to the owner. If the determination is made that the subject dog is potentially dangerous, the written determination shall order compliance with the appropriate provisions of this Article and the Director may impose reasonable conditions to maintain the public health and safety. The Director may pursue such other civil or criminal penalties and remedies as authorized by this Chapter or state law.

(b) If, at any time after the receipt of any report or complaint made pursuant to section 3-32, the Director determines that the conditions under which the subject dog is being kept or confined do not adequately protect the public health or safety, the Director shall require that the subject dog be impounded at the Department's shelter until completion of the investigation and any appeal of the decision of the Director.

(c) Appeals from determinations.

- (1) The owner of any dog determined by the Director to be potentially dangerous may appeal the decision of the Director to the Appeal Board within three (3) business days of receiving notice of the determination. Appeal to the Appeal Board may be taken by filing written objections to the Director's determination with the Clerk for the Appeal Board.

(2) The Appeal Board shall schedule and hear such appeal within ten (10) days of the filing of the written objections or at such later time as the appellant consents.

(3) The vote of the Appeal Board shall be taken, and the announcement of its decision shall be made, in an open public meeting. A written statement of the decision of the Appeal Board shall be delivered to the Director and the appellant. The notice shall be sent by certified mail, return receipt requested, and filed concurrently with the Director and the Cumberland County Attorney.

(d) An appeal hearing before the Appeal Board shall be conducted as follows:

(1) The hearing shall be subject to the Open Meetings Law, and the required notice shall be posted and given as applicable;

(2) The Chairperson of the Appeal Board shall preside at the hearing;

(3) The Director shall be represented by the County Attorney;

(4) The County Attorney shall present the Director's case;

(5) The appellant may be represented by an attorney;

(6) The Director and the appellant may make any statements, present any evidence, or offer any witnesses on their behalf, on any relevant issue;

(7) The Chairperson of the Appeal Board shall rule on the admissibility of any evidence and on any procedural issues that might arise;

(8) The Director and the appellant shall be entitled to cross-examine any witnesses;

(9) The hearing shall be quasi-judicial in nature and all testimony shall be under oath;

(10) The appellant shall be entitled to obtain a transcript of the proceeding at his own cost;

(11) the Appeal Board shall announce its decision at an open meeting and render it in writing as expeditiously as possible at or following the hearing. Its decision shall contain findings of fact and conclusions in support of its decision.

(e) The purpose of the hearing before the Appeal Board shall be to determine whether or not the determination of the Director is in the best interests of the public health, safety and welfare.

(f) The function of the Appeal Board shall be to affirm, reverse, or modify the determination of the Director which has been appealed. Any conditions imposed by the Appeal Board shall be reasonable, relevant to the issues in the matter, and have the effect of promoting the public health, safety and welfare.

(g) The hearing shall be administrative in nature and the decision of the Appeal Board shall be final

Sec. 3-34. Registration required.

(a) Generally. Any person owning a dangerous dog as defined by this Chapter or Chapter 67 of the General Statutes, shall register such dog with the Animal Control Department within five (5) days of such event which established the dog to be dangerous or may, in lieu of any hearing, register such dog voluntarily, which shall constitute an admission and final determination that the dog is dangerous.

(b) Permanent identification mark required. Each dog registered pursuant to this section shall be assigned a registration number by the Animal Control Department, which shall be affixed to the dog by permanent chip implant, at the expense of its owner. No person shall remove such identification once it is assigned and affixed.

Sec. 3-35. Permit required.

(a) Generally. After registration of a dangerous dog or after a final determination that such dog is potentially dangerous in accordance with this Chapter or Chapter 67 of the General Statutes, no person shall own such dog thereafter within the territorial jurisdiction of this Chapter without applying for and obtaining a permit from the Animal Control Department.

(b) Issuance of permit. The Animal Control Department shall issue a permit for a dangerous dog only upon submission of a complete, verified application, payment of the permit fee and a finding by the Director or his designee that:

(1) The required conditions for keeping and housing the dog and other public health and safety protective measures are in effect, and

(2) The dog for which a permit is issued does not pose an unreasonable threat to the public health, safety and general welfare if the owner shall comply with the provisions of this Article and the conditions of the permit.

(c) Issuance of a permit shall be conditioned on continued compliance with the provisions of this Article and other provisions of state law, on continued compliance with and maintenance of the conditions for housing the dog and public safety set forth in the permit, and any special conditions the Director may deem reasonably necessary to protect the public health, safety and welfare in view of the particular circumstances and history of the dog for which the permit is issued.

(d) Temporary permits. Following the registration of a dangerous dog or the impoundment of a dog declared to be potentially dangerous, upon application therefore and for good cause, the Director may issue a temporary permit allowing the owner of a registered dangerous dog or a dog declared to be potentially dangerous to retain possession of such dog or to confine such dog at a veterinary facility or kennel approved by the Director. The Director may also issue a temporary permit to allow the transport of a dangerous or potentially dangerous dog from the territorial jurisdiction of this Chapter. A temporary permit shall be issued subject to the same conditions to which a regular permit is subject and to any other conditions the Director may deem necessary to protect the public health, safety and welfare consistent with the provisions of this Article. A temporary permit shall be valid only until the earlier of its expiration, revocation or the issuance or denial of a permit under the provisions of this section.

(e) Term of permits and renewal thereof. No permit shall be issued under this section for a term of more than three (3) years but may, in the Director's discretion, be issued for a shorter period. Permits must be renewed, subject to the same terms and conditions required for initial permits.

(f) Revocation of permits. The Director may, upon notice and hearing and for good cause shown, revoke any permit or modify any terms, conditions or provisions thereof. If the Director deems it

necessary to protect the public health or safety from any imminent threat or danger thereto, he may, without hearing, suspend any permit or any portion thereof for not more than thirty (30) days. Good cause for revocation or modification of a permit shall include, without limitation, violation of or failure to comply with any provision of this Article or with any term, condition or provision of a permit.

(g) Inspections. The Director shall cause periodic inspections to be made of the premises of the owner of a permitted dangerous or potentially dangerous dog to assure compliance with the provisions of this Article and the applicable permit.

(h) Insurance. Every person owning a dangerous dog, as determined in accordance with this Article or Chapter 67 of the General Statutes, shall purchase and maintain a policy of liability insurance covering any injury or property damage caused by the dog. **Minimum policy limits shall be Fifty Thousand Dollars (\$50,000.00) for personal injury or property damage, per occurrence.** Such owner shall cause a certificate or declaration of insurance to be furnished to the Director annually. Every day that the required insurance is not in full force and effect shall constitute a violation of this Article.

Sec. 3-36. Regulation of dangerous dogs; security and restraint requirements.

No person shall own a dangerous dog except in compliance with all provisions of this Article, including the following regulations:

(1) While on the real property of its owner, such dog shall be kept, secured and restrained as follows:

(a) In a building with doors, windows and other exits securely fastened shut and under the supervision and control of a responsible, capable adult person; or

(b) Securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children; or

(c) While outside a building or enclosure described above, securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(2) Such dog shall only be removed from the real property of its owner as follows:

(a) For transportation to and from a veterinarian or the Department's shelter; or

(b) For its permanent removal from the territorial jurisdiction of this Chapter; or

(c) To provide bona fide exercise necessary for its continued good health.

(3) While off its owner's real property such dog shall be securely leashed with a leash no longer than four (4) feet in length in the hands of and under the control of a responsible competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(4) Notwithstanding the foregoing, no person shall own a dangerous dog that has killed a person, except in the care and custody of a veterinarian for the purposes of treatment or quarantine; or in the custody of the Department's shelter pending disposition in accordance with the provisions of this Chapter, the Department's policies, or the order of any court.

(5) Signage. The owner of a dangerous dog shall erect a sign with dimensions of at least 2' x 2' on the enclosure housing such dog which shall read:

BEWARE OF DOG
THIS DOG IS DANGEROUS
STAY AWAY!

Sec. 3-37. Impoundment of dangerous dogs.

(a) Apprehension and surrender. Upon an initial determination of a dog as potentially dangerous or upon registration of a dog to be dangerous, or if the Director has reasonable suspicion to believe that a dangerous, or potentially dangerous dog is being kept or harbored within the territorial jurisdiction of this Chapter in violation of it or of a permit issued hereunder, Animal Control Officers and law enforcement officers of Cumberland County and of any municipality subject to this Chapter shall impound such dog. It shall be a violation of this Article to fail or refuse to surrender such dog to such officers upon their lawful demand. The officer impounding such a dog shall deliver the same to the Department's shelter.

(b) Surrender. Hiding, removing or failing to surrender a dangerous or potentially dangerous dog, or impeding any investigation concerning the same shall be a violation of this Article.

(c) Confinement. A dog impounded by or surrendered to an Animal Control Officer or law enforcement officer as provided herein shall be confined in the Department's shelter or, upon request of the owner hereunder, and at such person's expense, at a private veterinary facility or kennel approved by the Director, subject to the following conditions:

(1) Costs of impoundment. Impoundment shall be at the expense of the owner of the dog. Costs of impoundment at the Department's shelter shall be paid by the person liable therefore at the daily rate. The costs of impoundment at a veterinary facility or kennel shall be paid by the person liable therefore pursuant to the terms of the agreement between such person and the proprietor of such facility or kennel. In no event shall Cumberland County or any municipality subject to this Chapter be liable for or pay for impoundment at such private facility or kennel.

(2) Release from impoundment. No such dog shall be released from impoundment as provided herein except upon registration of such dog and issuance of a permit or temporary permit allowing such release. No such dog shall be released from the Department's shelter until costs of confinement of such dog, any registration and permit fees for such dog, and any civil penalties assessed in connection with such dog have been paid in full.

(3) Disposition of unclaimed or abandoned dogs. The following dogs impounded at the Department's shelter pursuant to this Article shall be deemed abandoned and shall be disposed of in accordance with the provisions of this Chapter and the rules and regulations of the Department:

(a) Any dog which remains unclaimed by its owner for a period more than ten (10) days or a period of lawful quarantine, whichever is longer; and

(b) Any dog claimed by its owner which is confined for a period in excess of ten (10) days, or a period of lawful quarantine, whichever is longer, during which no application has been made for a permit or temporary permit; provided, however, the Director shall extend such time upon a showing of justifiable delay in such action by the owner.

Sec. 3-38. Violations, penalties and other remedies.

(a) Violations. Each act or conduct prohibited by this Article and each failure to comply with a mandatory provision hereby and each day's continuing failure to comply shall constitute a separate and distinct offense.

(b) State law violations.

(1) Nothing in this Chapter shall be constructed to prevent an Animal Control Officer or any other person from pursuing remedies under Chapter 67, Article IA, of the North Carolina General Statutes.

(2) The Director or his designee is designated as the person responsible for making the determination required under Section 67-4.1(c) of the North Carolina General Statutes. In making such determinations, the Director or his designee shall follow the procedure set forth in this Article.

(3) The Dangerous Dog Appeal Board is designated as the appellate board to hear appeals of determinations made pursuant to N.C.G.S., Section 67-4.1(c).

Sec. 3-39. Administrative provisions.

(a) Responsibility. The Director shall administer and enforce this Article and shall promulgate rules and regulations for such administration and enforcement as may be necessary or desirable to such end.

(b) Authority to enter upon premises. Animal Control Officers shall have authority to enter into and inspect any premises, dwellings, rooming units, barns and other outbuildings, any part of the curtilage thereof, or any yard or other enclosure to:

(1) Conduct any investigation of a dog alleged or suspected of being potentially dangerous or dangerous, or

(2) Apprehend a dog determined to be potentially dangerous or dangerous or as to which there is reasonable suspicion to believe is potentially dangerous or dangerous, or

(3) Investigate any violation of this Article, or

(4) Serve a citation upon a person for violation of this Article.

(c) Notwithstanding the foregoing, an Animal Control Officer shall only make such entry upon consent, pursuant to an administrative search warrant under G.S. 15-27.2, or otherwise as authorized by law.

(d) Authority to immobilize or kill a dangerous or potentially dangerous dog.

(1) If in the course of investigating, apprehending or otherwise taking custody of a potentially dangerous or dangerous dog, or a dog as to which there is reasonable suspicion to believe is potentially dangerous or dangerous, such dog is not securely restrained and an Animal Control Officer or a law enforcement officer has reasonable cause to believe the dog poses an imminent risk of serious physical injury or death to any person or domestic animal, said officer shall have authority to render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then the officer may humanely dispose of said dog.

(2) If a potentially dangerous or dangerous dog impounded in the Department's shelter cannot be cared for or handled without risk of serious physical injury or death to persons caring for or handling such dog or to other animals, the Department shall render such dog immobile by means of tranquilizers or other safe drugs or, if that is not safely or timely possible under the circumstances, then the Department may humanely dispose of said dog.

(3) The Animal Control Department may humanely dispose of any dog being investigated under the provisions of this Article at the request of or with the consent of its owner.

ARTICLE IV. RABIES CONTROL AND ANIMAL BITES

Sec. 3-40. Rabies control.

(a) Enforcement authority. The Animal Control Director and the Cumberland County Health Director are authorized to enforce the rabies control provisions in Part 6 of Chapter 130A of the North Carolina General Statutes and are further authorized to implement any reasonable administrative procedures necessary to enforce this state law locally.

(b) Impoundment term. The impoundment period for animals held pursuant to this section shall be seventy-two (72) hours, excluding Sundays and legal holidays.

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

(d) Provisions supplementary to state law. It is the purpose of this section 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 the state law.

(e) Vaccination required. It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog, cat or ferret four (4) months of age or older. Should the County Health Director deem it necessary that other pets be vaccinated in order to prevent a threatened rabies epidemic or control an existing rabies epidemic, it shall be unlawful for an owner or keeper to fail to provide vaccination for that pet.

(f) Vaccination schedule. A rabies vaccination shall be deemed current for a dog, cat or ferret if the first two (2) doses of vaccine are administered twelve (12) months apart and each subsequent booster dose of vaccine is administered according to the manufacturer's recommended schedule.

(g) Persons to administer; issuance of a certificate. All rabies vaccines shall be administered by a licensed veterinarian, a registered veterinary technician under the direct supervision of a licensed veterinarian, or a certified rabies vaccinator. A person who administers a rabies vaccine shall complete a rabies vaccination certificate in such form as is approved by the Animal Control Director pursuant to the regulations of the Commission for Public Health. An original rabies vaccination certificate shall be given to the owner of the animal that receives the rabies vaccine. A copy of the rabies vaccination certificate shall be retained by the licensed veterinarian or the certified rabies vaccinator. A copy shall also be given to the Animal Control Director.

(h) Owner or keeper to be issued rabies tag. Upon vaccination pursuant to this section, the owner or keeper of the dog, cat or ferret that has been vaccinated shall be issued a rabies tag stamped with a number and the yard for which issued and a rabies vaccination certificate.

(i) Unlawful for dog, cat or ferret not to wear rabies tag. It shall be unlawful for any dog, cat or ferret owner or keeper to fail to provide the dog, cat or ferret with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with the attached tag, must be worn at all times the animal is off its owner's property.

(j) Untagged dog, cat or ferret subject to impoundment. In addition to all other penalties prescribed by law, a dog, cat or ferret may immediately be impounded in accordance with the provisions of this section if it is found off its owner's or keeper's property not wearing a currently valid rabies tag.

(k) Unlawful to switch rabies tag. It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one assigned the tag.

(l) Dogs, cats or ferrets brought into County. All dogs, cats or ferrets shipped or otherwise brought into the territorial jurisdiction of this Chapter, except for exhibition purposes where the dogs, cats or ferrets are confined and not permitted to run at large, shall be securely confined and vaccinated within one (1) week after entry, and shall remain confined for two (2) additional weeks after vaccination, unless accompanied by a certificate issued by a licensed veterinarian showing the dog, cat or ferret is apparently free from rabies and has not been exposed to rabies and that the dog or cat has received a proper dose of rabies vaccine not more than six (6) months prior to the date of issuing the certificate.

(m) Animals exposed to rabies.

(1) If the Animal Control Director determines that an animal has not been vaccinated against rabies at least twenty-eight (28) days prior to being exposed to rabies from a suspected rabid animal, the animal shall be immediately euthanized unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six (6) months at the owner's or keeper's expense.

(2) If the Animal Control Director determines that an animal with a current rabies vaccination has been exposed to rabies from a suspected rabid animal, it shall be revaccinated and returned to the owner or keeper who shall be responsible for the cost of the rabies vaccination.

(n) Health Director may declare quarantine. When reports indicate a positive diagnosis of rabies, to the extent that the lives of persons are endangered, the County Health Director may declare a county-wide quarantine for such period of time as he deems necessary. Once such emergency quarantine is declared, no dog, cat or ferret may be taken or shipped from the county without written permission of the County Health Director. During such quarantine, the County Health Director, the Animal Control Director, law enforcement officers, or other persons duly authorized by the County Health Director or Animal Control Director may seize and impound any dog, cat or ferret running at large in the county. During the quarantine period the County Health Director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county. If additional confirmed cases of rabies occur during the quarantine period, the County Health Director in his discretion may extend the quarantine period.

(o) Carcass to be surrendered to Health Department. The carcass of any animal suspected of dying of rabies, or dying while under observation for rabies, shall be submitted to the County Health Department for the implementation of appropriate diagnostic procedures

(p) Unlawful to kill or release animal under observation. It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal under observation for biting a human, or to remove such animal from the county without written permission from the County Health Director, provided that a licensed veterinarian or the County Health Director or other person duly authorized by the County Health Director, may authorize any animal to be killed for rabies diagnosis.

(q) Unlawful to fail to surrender animal. It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this Article, when demand is made therefore by the County Health Director, the Animal Control Director or any law enforcement officer.

(r) Unlawful to fail to provide proof of vaccination. It shall be unlawful for any person to fail or refuse to provide proof of rabies vaccination for any animal that they own or control when request is made therefore by the Animal Control Director or his designee, the County Health Director or his designee, or any sworn law enforcement officer.

(s) Animals subject to impoundment. Any animal which appears to be lost, stray, unwanted, not wearing a currently valid tax tag or a currently valid rabies vaccination tag as required by state law or this section, or not under restraint in violation of this Chapter, may be seized, impounded and confined in a humane manner in the Department's shelter. Any dog or cat that has bitten or scratched a human must be quarantined for ten (10) days, either at the home of its owner or keeper, if an Animal Control Officer determines that the public health and safety shall be reasonably maintained by such quarantine, or otherwise in the Department's shelter or in a veterinary hospital at such owner's or keeper's expense. If such dog, cat or ferret is quarantined at the home of its owner or keeper and escapes, any Animal Control Officer shall impound such dog, cat or ferret at the Department's shelter for ten (10) days.

(t) Owner liable. Impoundment of such animal shall not relieve the owner/keeper thereof from any penalty which may be imposed for violation of this section.

(u) The County Health Director shall direct the disposition of any animal found to be infected with rabies.

Sec. 3-41. Reports of bite cases; report by veterinarian.

(a) Every physician, veterinarian or health care provider shall report to the Animal Control Director the names and addresses of persons treated for bites and scratches inflicted by animals that break the skin, together with such other information as will be helpful in rabies control.

(b) Every licensed veterinarian shall report to the Animal Control Director his diagnosis of any animal observed by him to be a suspect rabid animal.

Sec. 3-42. Records.

The Animal Control Director shall keep or cause to be kept:

(1) an accurate and detailed record of the licensing, impounding and disposition of all live animals, fowl and domestic birds coming into his custody and any dead dogs or cats picked up that possess rabies tags or county license; and

(2) an accurate and detailed record of all bite cases reported to him, with a complete report of the investigation or disposition of each case.

Sec. 3-43 Interference.

No person shall interfere with, hinder, delay or obstruct any Animal Control Officer or authorized representative of the county in the performance of any duty under this Article or seek to release any animal in the custody of the Animal Control Department or its shelter impounded pursuant to this Article, except as provided by law.

Sec. 3-44 through Sec. 3-49. Reserved.

ARTICLE V. LICENSING OF DOGS AND CATS, EFFECTIVE THROUGH DECEMBER 31, 2012

Sec. 3-50. License for dogs and cats.

It shall be unlawful for any person to own, possess or have under his control any dogs or cats, or any combination thereof, over four (4) months of age, without obtaining an annual privilege license for each such animal from the Cumberland County Tax Administrator. Every person owning, possessing or having under their control any dog or cat shall properly list such dog or cat annually with the Cumberland County Tax Administrator during the month of January to obtain a county license. Failure to list as provided herein shall be a violation of this Article and shall subject the offender to a civil penalty in the amount of \$100.00 per dog or cat not listed annually as provided herein. Each privilege license issued shall be for a calendar year. The Tax Administrator may delegate authority to issue such licenses to the Animal Control Department or to licensed veterinarians within the County duly registered for such purpose with the Tax Administrator upon such terms and conditions, including payment of a processing fee, as he deems advisable.

Sec. 3-51. Terms of license; exemption.

(a) The license issued under this Article shall be renewed every year, upon proof of rabies vaccination.

(b) County residents who are sixty-five (65) years of age or older may obtain a permanent license for up to three cats or dogs, or any combination thereof, at no cost; **provided that this permanent license shall be limited to no more than three animals per household.** County residents may obtain a permanent license at no cost for a bona fide seeing-eye or aid dog.

Sec. 3-52. Issuance of records.

(a) Upon issuance of a license, a tag shall be issued for each dog and cat so licensed. The tag shall be of durable material and shall be designed to be easily fastened or riveted to the animal's collar or harness. The tag shall bear a number registered with the Tax Administrator or the Animal Control Department.

(b) The Tax Administrator shall maintain records of licensed dogs and cats and such records shall be open to public inspection.

Sec. 3-53. Fastening of tags to collar or harness.

Each person who owns or maintains a dog or cat that is primarily kept, kenneled or otherwise located in the county shall affix to such dog or cat the following identification:

- (1) a durable tag securely affixed to a collar or harness which is securely buckled or otherwise securely joined so that it cannot be removed unless unbuckled; the tag shall contain the name and address of the owner of the dog or cat or a number registered with the Animal Control Department; or
- (2) an implanted computer chip capable of being scanned by a chip reader.

Sec. 3-54. License fee in addition to other fees.

The privilege license fee shall be in addition to any fee in the fee schedule under this Chapter.

Sec. 3-55. Use of revenues collected from license fees.

The revenues collected for the licensing or adoption of dogs and cats shall be specifically expended for physical improvements to the animal shelter or the equipment of the Animal Control Department, for the cost of administration and enforcement of this Chapter, and for costs associated with public education programs and activities.

Sec. 3-56. Transfer of cats and dogs.

(a) When ownership of a dog or cat is transferred within the county's jurisdiction, the new owner will have thirty days to obtain a new privilege license for the animal.

(b) When ownership of a dog which has been declared dangerous or potentially dangerous under Article III of this Chapter is transferred within the county's jurisdiction, the previous owner shall within three (3) business days notify the Animal Control Department and provide the name and address of the new owner. The new owner shall:

- (1) Immediately register the dog with the Animal Control Department; and

(2) Insure that the requirements of this Chapter for maintaining a dangerous or potentially dangerous dog are complied with prior to the dog being relocated to the new owner's property.

Sec. 3-57. Non-applicability of Article.

The provisions of this Article shall not apply to cats or dogs in the custody of a veterinarian, or whose owners are non-residents visiting in the county for a period not exceeding thirty (30) consecutive days.

ARTICLE V. LICENSING OF DOGS AND CATS, EFFECTIVE JANUARY 1, 2013

Sec. 3-50. License for dogs and cats.

(a) It shall be unlawful for any person to own, possess or have under his control any dogs or cats, or any combination thereof, over four (4) months of age, without obtaining an annual privilege license for each such animal from the veterinarian administering the rabies vaccination for the animal or the Cumberland County Animal Control Department, as provided in this Article.

(b) The annual privilege license shall be assigned the same number as the rabies vaccination certificate for each animal and shall be registered with the Animal Control Department at the time of each annual rabies vaccination for the animal. The annual privilege license fee shall be paid to the Animal Control Department at the time of each rabies vaccination. For rabies vaccinations of three (3) years duration, the annual privilege license fee shall be due on the annual anniversary date of the vaccination. It shall be the responsibility of the Animal Control Department to notify owners with privilege license fees due in the second and third year of a three (3) year rabies vaccine.

(c) All veterinarians administering rabies vaccinations shall issue the privilege license and collect the privilege license fee at the time of the vaccination and remit the registration and fee to the Cumberland County Animal Control Department with the rabies vaccination certification in accordance with such procedures and using such forms as established by the Animal Control Director from time to time. A participating veterinarian shall retain an administrative fee as established by the Cumberland County Board of Commissioners from time to time.

(d) The Animal Control Director shall be responsible for the administration of the privilege licensing of dogs and cats and for the collection of all privilege license fees not collected and/or remitted by participating veterinarians.

Sec. 3-51. Terms of license; exemption.

(a) The license issued under this Article shall be renewed every year, upon proof of rabies vaccination.

(b) County residents who are sixty-five (65) years of age or older may obtain a permanent license for up to three cats or dogs, or any combination thereof, at no cost; provided that this permanent license shall be limited to no more than three animals per household. County residents may obtain a permanent license at no cost for a bona fide seeing-eye or aid dog.

Sec. 3-52. Issuance of records.

(a) The rabies vaccination tag shall constitute the privilege license tag for all dogs and cats registered for the privilege license and for which the privilege license fee has been paid. The tag shall be of durable material and shall be designed to be easily fastened or riveted to the animal's collar or harness. The tag number shall be registered with the Animal Control Department.

(b) The Animal Control Department shall maintain records of licensed dogs and cats and such records shall be open to public inspection.

Sec. 3-53. Fastening of tags to collar or harness.

Each person who owns or maintains a dog or cat that is primarily kept, kenneled or otherwise located in the county shall affix to such dog or cat the following identification:

(1) a durable tag securely affixed to a collar or harness which is securely buckled or otherwise securely joined so that it cannot be removed unless unbuckled; the tag shall contain the name and address of the owner of the dog or cat or a number registered with the Animal Control Department; or

(2) an implanted computer chip capable of being scanned by a chip reader.

Sec. 3-54. License fee in addition to other fees.

The privilege license fee shall be in an amount established by the Cumberland County Board of Commissioners from time to time and shall be in addition to any fee in the fee schedule adopted pursuant to this Chapter.

Sec. 3-55. Use of revenues collected from license fees.

The revenues collected for the licensing or adoption of dogs and cats shall be specifically expended for physical improvements to the animal shelter or the equipment of the Animal Control Department, for the cost of administration and enforcement of this Chapter, and for costs associated with public education programs and activities.

Sec. 3-56. Transfer of cats and dogs.

(a) When ownership of a dog or cat is transferred within the county's jurisdiction, the new owner will have thirty days to obtain a new privilege license for the animal.

(b) When ownership of a dog which has been declared dangerous or potentially dangerous under Article III of this Chapter is transferred within the county's jurisdiction, the previous owner shall within three (3) business days notify the Animal Control Department and provide the name and address of the new owner. The new owner shall:

(1) Immediately register the dog with the Animal Control Department; and

(2) Insure that the requirements of this Chapter for maintaining a dangerous or potentially dangerous dog are complied with prior to the dog being relocated to the new owner's property.

Sec. 3-57. Non-applicability of Article.

The provisions of this Article shall not apply to cats or dogs in the custody of a veterinarian, or whose owners are non-residents visiting in the county for a period not exceeding thirty (30) consecutive days.

Sec. 3-58 - 3-59. Reserved.

ARTICLE VI. INJURED ANIMAL STABILIZATION FUND

Sec. 3-60. Control of injured animals; stabilization fund.

(a) Any Animal Control Officer or law enforcement officer is authorized to take possession of any seriously injured dog, cat, wildlife, livestock, bird or other animal which has suffered a painful and potentially mortal injury and which is found in any location open or accessible to the public, any public or private vehicular right of way, or apparently off the property of its owner. Any such animal which does not have a current rabies tag or identification tag shall be conclusively presumed abandoned for purposes of this Article.

(b) Any Animal Control Officer or law enforcement officer finding any such animal shall make reasonable efforts to locate the owner of any such animal. If the owner is promptly located, the owner shall immediately seek veterinary care of the animal or shall authorize such officer to humanely euthanize such animal. If the owner cannot be promptly located or contacted, the Animal Control Officer or law enforcement officer is authorized, in his or her discretion, to humanely euthanize such animal in an emergency situation where safe, humane transport of the animal is not possible, or promptly transport such animal to a veterinarian participating in the Injured Animal Stabilization Fund for stabilization of such animal's injuries. Every owner of any animal so found shall conclusively be presumed to have irrevocably appointed any such officer, or veterinarian participating in the Injured Animal Stabilization Fund, his or her authorized agent for any purposes under this Article. Every such owner also shall be deemed to have released any officer, or veterinarian participating in the Injured Animal Stabilization Fund, from any cause of action or claim arising out of or related to any action such officer or veterinarian may take under this Article, except for actions which constitute gross negligence.

(c) Each Animal Control Officer or law enforcement officer acting under this Article shall within a reasonable time report to the Animal Control Director the nature and extent of the injuries of each such animal and the disposition thereof. The Animal Control Department shall maintain a record of the nature and extent of each such animal's injuries and of the disposition thereof.

(d) There is hereby established the Cumberland County Injured Animal Stabilization Fund, to which contributions, grants, donations, or restitution may be made for the purpose of reimbursing veterinarians agreeing to participate with the Fund in stabilizing the injuries of injured animals transported to them for stabilization under this Article. The Director may solicit or raise funds for the Fund. The Fund shall be administered by a committee which shall include the Cumberland County Finance Officer or his or her designee and a veterinarian designated by the Cumberland County Animal Control Board. Funds shall be disbursed from the Fund by the Finance Officer under guidelines established by the committee.

(e) Any Animal Control Officer or law enforcement officer, or any veterinarian to which an injured animal may be transported under this Article for stabilization of injuries, shall be deemed to be an authorized agent of and acting on behalf of Cumberland County and its Animal Control Department pursuant to the authority of this Article. Any such officer or veterinarian acting pursuant to this Article

shall be entitled to all the defenses, immunities and rights afforded by law or available to Cumberland County and its officers, employees or agents.

(f) If any owner of an animal transported under this section to a veterinarian participating in the Injured Animal Stabilization Fund shall subsequently be identified by the Animal Control Department, he or she shall make restitution to the Fund of the amount disbursed by it to the participating veterinarian.

Sec. 3-61 through Sec. 3-69. Reserved.

ARTICLE VII. MISCELLANEOUS.

Sec. 3-70. Keeping chickens or rabbits - Sanitation requirements.

It shall be unlawful to keep, house or pen chickens or rabbits on premises which fail to meet sanitary standards established by the Cumberland County Board of Health.

Sec. 3-71. Stables to be kept clean.

Every stable or other place where cattle, horses or animals are kept shall be maintained at all times in a clean and healthful condition.

Sec. 3-72. Grazing animals.

It shall be unlawful for any owner or keeper to stake or graze any cow, horse or other animal in any park, cemetery or other public place or near any public sidewalk. This section shall not apply to horses used by any law enforcement agency for mounted patrol.

Sec. 3-73. Disposition of dead animals.

The owner of any animal dying from any cause within the jurisdiction of the county shall cause the same to promptly be buried in a sanitary manner within 24 hours after such owner has knowledge of such death.

Sec. 3-74. Selling live animals in public rights of way and other public property prohibited.

It is unlawful to sell, auction, trade, barter, and display for commercial purposes or give away any live animal within the right of way of any public highway, public vehicular area, public sidewalk, public property or street within Cumberland County. The Animal Control Department may immediately take custody of and impound any live animals found being sold in violation of this section. This section shall not apply to any animal welfare organization or humane society qualified under Section 501(c)(3) of the Internal Revenue Code acting pursuant to a permit issued by the Animal Control Director, which permit may be conditioned on reasonable conditions to assure the health, welfare and safety of the animals being sold, auctioned, traded, bartered, displayed or given away.

Sec. 3-75 Provisions only applicable within the corporate limits of any municipality in which this ordinance is applied.

(a) No hogs, pigs, swine, or animals of the porcine family shall be kept within the corporate limits of any municipality in which this ordinance is applied.

(b) No horse, mule, pony, cow, or goat shall be stabled or housed within one hundred (100) feet of any dwelling house, school, church, or eating establishment within the corporate limits of any municipality in which this ordinance is applied.

(c) No more than ten (10) chickens or rabbits shall be kept, housed, or penned at a dwelling or on the lot on which such dwelling is located within the corporate limits of any municipality in which this ordinance is applied.

(e) No cow, horse, or other animal shall be tethered or permitted to graze or stand within thirty (30) feet of any wall, or within fifty (50) feet of the front door, of any residence within the corporate limits of any municipality in which this ordinance is applied. This subsection shall not apply to horses used by any law enforcement agency for mounted patrol.

(f) For the purpose of Sec. 3-15 of this ordinance, “nuisance” also includes the habitual accumulation of animal feces on the owner’s property in locations or amounts that produce odors that can be perceived from adjoining properties, within the corporate limits of any municipality in which this ordinance is applied.

(g) For the purpose of Sec. 3-36(5) of this ordinance, the owner of a dangerous dog shall erect a sign with the dimensions provided in that section, unless municipal sign regulations provide more stringent requirements for such warning signs in terms of size, height, and placement, within the corporate limits of any municipality in which this ordinance is applied.

(h) For the purpose of Sec. 3-70 of this ordinance, it shall be unlawful to keep, house, or pen chickens or rabbits on premises which fail to meet sanitary standards established by the Cumberland County Board of Health or the code enforcement department of any municipality within the corporate limits in which this ordinance is applied.

Sec. 3-76 through Sec. 3-79. Reserved.

ARTICLE VIII. ENFORCEMENT.

Sec. 3-80. Enforcement, generally.

(a) The primary responsibility for the enforcement of this Chapter shall be vested in the Animal Control Department.

(b) Any person authorized to enforce this Chapter may do so by issuing a notice of violation or civil penalty citation, or by applying to the General Court of Justice for a temporary restraining order, a preliminary injunction, a permanent injunction or an order to abate a nuisance, as may be appropriate in the circumstances.

(c) Upon information made known to or complaint lodged with the Animal Control Department that any owner, possessor, or custodian of any dog or animal is in violation of this Chapter, an Animal Control Officer may investigate the complaint to determine whether to issue a notice of violation (civil citation) requiring the owner, possessor or custodian of the dog or animal to pay the stated civil penalty and abate the nuisance specified or whether to take such other enforcement action as may be authorized under this Chapter.

(d) If the owner, possessor or custodian of any dog or animal is not known and the dog or animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises, or another's property without that property owner's permission, in violation of this Chapter, the dog or animal shall be impounded in the animal shelter.

(e) Any decision of the Animal Control Director or his designee to seize or impound any animal, other than a decision made pursuant to the provisions of Article III, may be appealed to the Animal Control Board for review and final decision upon the owner or keeper of such seized or impounded animal giving written notice of appeal within three business days of receiving notice of the Director's decision. The Animal Control Board shall afford the opportunity for a hearing to any person giving notice of appeal and shall conduct the hearing for the purpose of either affirming, reversing, or modifying the decision of the Director.

Sec. 3-81. Penalties for violations.

(a) Any violation of this Chapter shall subject the offender to a civil penalty to be recovered by the Animal Control Department in a civil action in the nature of a debt, to include the cost of abating a public nuisance. Any costs of abatement and civil penalties shall be paid within seven days of issuance of a notice of violation. Each day's continuing violation shall be a separate and distinct offense.

(b) A notice of violation shall specify the nature of the violation and the sections of this Chapter violated, and further notify the offender that the civil penalty specified therein shall be paid to the Animal Control Director at the animal shelter within seven days.

(c) Unless otherwise provided in this Chapter, the civil penalty for a violation of this Chapter, shall be \$100 for a first violation or for a violation more than 12 months after a previous violation. For subsequent violations within twelve (12) months of a previous violation, the penalty shall be \$200 for a second violation and \$300 for a third or subsequent violation within a twelve-month period of the first violation.

(d) In addition to the civil penalties prescribed in this section, any violation of this Chapter, also designated as Chapter 3 of the Cumberland County Code, shall also constitute a Class 3 misdemeanor punishable by a fine of not more than \$100 and imprisonment of not more than 20 days.

Sec. 3-82. Severability.

(a) If any section, sentence, clause or phase of this Chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter.

(b) The Board of Commissioners intends, and it hereby ordains, that the provisions of this ordinance shall become and be made part of the Code of Ordinances of Cumberland County, North Carolina, and the sections may be renumbered to accomplish such intention.

(c) This ordinance shall become effective upon final adoption as by law provided.

Ordinance adopted at the regular meeting of the Board of Commissioners held May 21, 2012.

MOTION: Commissioner Council moved to repeal the existing Animal Control ordinance codified as Chapter 3 and adopt the foregoing draft Animal Control ordinance to be codified as Chapter 3 of the Cumberland County Code this repeal and re-adoption to be effective July 1, 2012.

SECOND: Commissioner Keefe

DISCUSSION: Commissioner Evans stated he will support the draft Animal Control ordinance but the Board needs to revisit the collection of license fees by veterinarians. Commissioner Evans asked whether the ordinance could set out that timeframe. Chairman Faircloth stated once the Board adopts the ordinance the City of Fayetteville will follow suit, and the ordinance as adopted will likely be law for a long time. Commissioner King asked how the Board's amendment of the Animal Control ordinance would affect other municipalities that may adopt the ordinance. Mr. Moorefield stated the hope would be that municipalities would adopt any ordinance amendment adopted by the Board. Commissioner Evans asked Commissioner Council whether she would accept a friendly amendment to review the collection of fees by veterinarians in six months. Commissioner Council stated her preference would be to adopt the draft ordinance with an update to the Policy Committee six months after July 1, 2012. Commissioner Keefe stated he would not accept the friendly amendment offered by Commissioner Evans because in six months veterinarians will not yet have become involved with the collection of fees. Mr. Moorefield confirmed there would be nothing more known within six months about that aspect of the ordinance.

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Keefe moved that the Board leave the current fee structure in place and allow the veterinarians to have a \$2 administrative fee connected to the rabies vaccination and their filing.

SECOND: Commissioner Evans

SUBSTITUTE MOTION: Commissioner Council moved that the Board accept the recommendation for \$10, with veterinarians receiving \$3 and the county receiving \$3.

SECOND: Commissioner King

DISCUSSION: Commissioner Melvin stated he could not support an increase of \$10 because it was a tax increase to citizens which he would not support. Commissioner Edge stated since the fees take effect July 1, 2012 and the county will soon enter into discussions regarding the FY 2012-2013 budget, he would recommend that all motions regarding fees be held until they can be discussed during budget deliberations. Commissioner Edge asked the makers of the motions to withdraw their motions.

Commissioner Keefe withdrew his original motion and Commissioner Evans his second.

Commissioner Council withdrew her substitute motion and Commissioner King his second.

Chairman Faircloth confirmed there were no motions on the table and the draft Animal Control ordinance was adopted with an effective date of July 1, 2012.

5. Nominations to Boards and Committees

A. ABC Board (1 Vacancy)

Commissioner Melvin nominated Bob Lewis.

Commissioner Evans nominated Eric Jones.

6. Appointments to Boards and Committees

A. Air Quality Stakeholder's Committee (1 Vacancy)

Nominee:

County of Cumberland – Elected Official: Commissioner Kenneth Edge

B. Farm Advisory Board (2 Vacancies)

Nominees:

Natural Resource Conservation Service: Clifton McNeill, Jr.

Planning Board Representative: Walter Clark

There being an equal number of vacancies and nominees,

MOTION: Commissioner Keefe moved to appoint all nominees to their respective positions.

SECOND: Commissioner Council

VOTE: UNANIMOUS (7-0)

7. Closed Session: A) Economic Development Matter(s)
Pursuant to NCGS 143-318.11(a)(4)

MOTION: Commissioner Council moved to go into closed session for economic development matters pursuant to NCGS 143-318.11(a)(4).

SECOND: Commissioner Melvin

VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Council moved to reconvene in open session.
SECOND: Commissioner Melvin
VOTE: UNANIMOUS (7-0)

MOTION: Commissioner Council moved to adjourn.
SECOND: Commissioner King
VOTE: UNANIMOUS (7-0)

There being no further business, the meeting adjourned at 9:35 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board