

THE STATE OF SOUTH CAROLINA  
IN THE SOUTH CAROLINA SUPREME COURT

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APPEAL FROM BEAUFORT COUNTY  
Marvin H. Dukes III, Master-in-Equity

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Appellate Case No 2017-000555

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Mare Baracco,

PETITIONER

vs.

Beaufort County

Respondent

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REPLY

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Mare Baracco, *Pro Se*  
1006 Madrid Avenue  
Port Royal, South Carolina 29935  
843-592-1062  
PETITIONER

Mary Bass Lohr  
Howell, Gibson & Hughes PA  
PO Box 40  
Beaufort SC 29901  
843-522-2400/522-2429 (fax)  
mlohr@ghpa.com  
Counsel for Respondent

**RECEIVED**

MAR 24 2017

S.C. SUPREME COURT

Mare Baracco, the Appellant herein, replies to the Respondent's letter to the Court dated March 14, 2017 ("Exhibit 1") re her Motion to Vacate and Dismiss as Moot with Prejudice:

Attorney Mary Bass Lohr has asked this Court specifically to accept her letter as a Response to Appellant's Motion to Vacate and Dismiss as Moot with Prejudice. Such a response is without legal foundation and should be totally and wholly disregarded by the Court. It should not be part of the record and this Court should communicate that to Attorney Lohr.

The proper procedure, pursuant to the Rules, require that the real party in interest to this proceeding, to wit, a Beaufort County Official with knowledge of the proceedings, submit a responsive affidavit properly and duly executed under oath.

Further, in this letter Attorney Lohr improperly raised an issue that she has repeatedly claimed was not properly preserved. Therefore, in the interests of judicial economy the Appellant objects to this insertion for the same above procedural reasons; however, because Attorney Lohr has raised it the Appellant will address it in her Writ Reply (if a Reply is warranted, upon this Honorable Court's ruling on this Motion).

The Appellant's position was, and remains, Beaufort County had no jurisdiction over her nor her personal property, as she was not subject to their Ordinance, because the Town of Port Royal (Municipality), where she resides, had not adopted the County's Ordinance at the time of the incident giving rise to this case. Attorney Lohr was at the onset, and has been throughout this case, also the Attorney for the Town of Port Royal. Therefore, she is well aware the Town of Port Royal had not adopted this Beaufort County Ordinance on the date of the incident giving rise to this case. The Town of Port Royal did not adopt and incorporate the language of this Beaufort County Ordinance into its own Ordinances until March, 2016. Further, Attorney Lohr was aware there were no contract(s) between the Beaufort County Sheriff's Office/Animal

Control for said animal services between Beaufort County and the Town of Port Royal. As the Attorney for the Town of Port Royal, she knew or should have known a Municipality, such as her client, the Town of Port Royal, could not relinquish their jurisdictional control to Beaufort County. She knew or should have known that pursuant to Section 4, Article V, of the South Carolina Constitution, the South Carolina Supreme Court Chief Justice is the only person vested with the power to approve a magistrate presiding over a municipal court. And, that said magistrate is held responsible for the maintenance of separate and distinct records for the magisterial court and the municipal court.

Attorney Lohr also knew in November 2012 that a Town of Port Royal Municipal Court Jury had determined Appellant's personal property had not been running at large. Therefore, it can be construed that, even if Appellant had been subject to the opinion of a Beaufort County employee (which Appellant has throughout these proceedings denied) said opinion was invalid, as her personal property had been judicially determined to have been confined within its own jurisdiction. Also, her personal property did not cause injury to a human being, which was also a pre-requisite prior to any type of opinion(s) by a Beaufort County employee.

The matter of Beaufort County's deletion of the previous ordinance is fundamental to this case. As the Court will note by the attached Exhibits, the previous Ordinance was deleted because Beaufort County had so substantially and materially changed the Ordinance, particularly in regard to "Notice" and "Enforcement", that they bore no resemblance to the other.

What is interesting to note in this new version of the Beaufort County Ordinance is that (same as Appellant had been instructed) property owners are required to "***Appeal***" Beaufort County's determination (Notice(s)) to the Beaufort County Magistrate ("Exhibit 2" – New Ordinance Provision 14-30: *Declaration of Restricted Breed, Appeal of Breed Determination*).

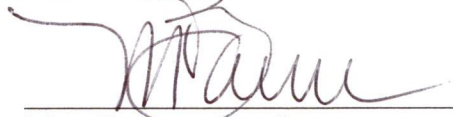
Appellant has been informed no such authority exists, nor ever existed, that authorized magistrate judges to hear administrative appeals and/or any type of appellate review, nor act as Administrative Hearing Officers. The Magistrate's Court is a Summary Court, not a Court of Record.

The Appellant has enclosed again as an Exhibit ("now Exhibit 3" – ROA pg 94) the "Official Notice" re section 14-35 of the deleted ordinance issued her July 9, 2012 by a deputy sheriff with the Beaufort County Sheriff's Office (at that time, but no longer, in charge of County Animal Control). The Appellant has also attached an example of the new three (3) page "*Notice of Determination and Declaration of Dangerous Dog*" ("Exhibit 4") pursuant to the changed (as of October, 2015) Beaufort County Animal Control Ordinance under section 14-32. This document is of record from the Beaufort County Magistrate Court from a recent case (name/address redacted).

The Appellant also attaches the "Enforcement Section" pursuant to the deleted ordinance (Section 14-36 "Exhibit 5"; and ROA pgs 106-108), versus the substantially and materially changed "Enforcement Section" from the new ordinance section 14-37 (Exhibit 6). The Appellant contends these exhibits prove beyond any reasonable doubt section 14-35 has been deleted and therefore "ceases to exist"; thus, this matter no longer exists.

WHEREFORE, it is prayed to this Honorable Court that the letter dated March 14, 2017 in this matter submitted by Attorney Mary B. Lohr be hereby rejected and disregarded in these proceedings and the Court rules this matter moot and dismisses this case in its entirety, with prejudice, and orders such relief as is just and proper.

Respectfully submitted, this the 23rd day of March 2017.

A handwritten signature in dark ink, appearing to read 'Mare Baracco', written over a horizontal line.

Mare Baracco, Pro Se  
1006 Madrid Avenue  
Port Royal South Carolina 29935  
(843) 592-1062

Authorities ii

Section 4, Article 5, *South Carolina Constitution*

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OTHER AUTHORITIES

- Exhibit 1 – March 14, 2017 Letter from Respondent in reply to Appellant’s Motion
- Exhibit 2 – “*Declaration of Restricted Breed, Appeal of Breed Determination*) 14-30 (new Ordinance)
- Exhibit 3 - Official Notice 14-35 (old ordinance)
- Exhibit 4 -“Notice of Determination and Declaration of Dangerous Dog” 14-32 (new ordinance)
- Exhibit 5 - Enforcement 14-36 (old ordinance)
- Exhibit 6 – Enforcement 14-37 (new ordinance)

Exhibit 1

HOWELL, GIBSON AND HUGHES, P.A.  
ATTORNEYS AT LAW

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25 RUE DU BOIS  
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TELEPHONE: 843 - 522-2400  
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WRITER'S DIRECT: 843-522-2428

March 14, 2017

Hon. Daniel E. Shearhouse  
Clerk of Court  
South Carolina Supreme Court  
Post Office Box 11330  
Columbia, SC 29211

Re: Mare Baracco vs. Beaufort County, South Carolina  
Appellate Case No.: 2014-000636  
Our File No: 11369 MBL

Dear Hon. Shearhouse:

Please take this letter as a response to *Appellant's Motion to Vacate and Dismiss as Moot with Prejudice* with regard to the above referenced matter. The Appellant's motion goes to merits of the appeal and the matter is currently pending before the Court on a Petition for Certiorari, to which a response is not due by Beaufort County until April 5, 2017. Furthermore, the Plaintiff is seeking dismissal of the appeal but is arguing for vacation of the ruling below.

While Appellant is correct that Ordinance 14-35 was repealed, she fails to advise the Court that it was simply re-codified at 14-32, titled Dangerous Animal Ordinance, which sets for the procedure henceforth for the declaration of a dangerous animal and requirements for an animal so determined. As her animal has previously been determined to be a dangerous animal the requirements for owning and registering a dangerous animal still apply. Thus, this appeal is not moot.

Should the Court require a further, more detailed response to the Appellant's motion, Beaufort County will be happy to provide such a response upon instruction from the court.

COPY

With kindest regards, I am

Yours truly,

HOWELL, GIBSON & HUGHES, P.A.

Mary Bass Lohr  
MBL/ad

cc: Ms. Mare Baracco ✓

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Y

Sec. 14-30. - Declaration of restricted dog, appeal of breed determination.

- (a) For the purposes of this section, a restricted dog shall be defined as a pitbull.
- (b) No person may own, keep, or harbor a restricted dog in violation of this section.
- (c) An owner or custodian of restricted dogs must have the dog spayed or neutered unless the owner of the restricted dog provides BCAS written proof one of the following exemptions applies:
  - (1) The restricted dog is less than four months of age;
  - (2) A licensed veterinarian has examined the animal and signed a written certificate stating that at such time spaying or neutering would endanger the animal's health because its age, infirmity, disability or other medical consideration. The certificate shall state the period of exemption from this requirement and shall not be valid for more than 12 months from the date of issuance.
  - (3) The determination of the dog's breed is under appeal pursuant to section 14-30(d)(2);
  - (4) The owner or custodian has owned or had custody of the dog less than 30 days.
- (d) Determination of breed and appeal of determination.
  - (1) Determination. The director of BCAS or his designee, in his or her discretion, make a breed determination upon contact with, or impoundment of a dog. The determination shall be made by the director or designee in accordance with BCAS's breed determination checklist. Technical deficiency in the dog's conformance to the standards defined in section 14-27 for pitbulls shall not be construed to indicate the dog is not a pit bull dog under this section.
  - (2) Notice. Upon determination of the breed, the animal services officer shall deliver written notice of determination to the owner or any adult residing at the premises where the animal is located or by posting on the premises if no adult is present. The notice shall include the determination of breed, mandatory spay and neuter requirements, and notice of appeal process.
  - (3) [Compliance.] The owner or custodian of an unaltered restricted dog shall comply with this article within 30 days after receipt of notice of breed determination. Upon compliance, the owner or custodian shall submit written documentation to BCAS confirming compliance. If ownership of the dog is transferred within the time for compliance the original owner or custodian must provide BCAS with the new owner's name and address.
- (e) Appeal. Notice of a declaration of breed determination constitutes a final determination that the dog is a restricted dog, unless the owner or custodian requests a hearing in writing to the Beaufort County Magistrate Court within ten days of service of the notice.

( Ord. No. 2015/27, 10-12-2015 )

# Exhibit 3

## This is an Official Notice

Section 14-35 of the Beaufort County Ordinance States:

"Dangerous animal" means any animal which the owner knows or reasonably should know has a propensity, tendency or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals.

The animal described below has hereby been declared dangerous. You are required by law to comply with the following requirements within seventy-two (72) hours of:

Date / Time: July 9, 2012 / 2:30 PM  
 Species: Canine Breed: Rhodesian Ridge Back mix  
 Name: Bodi Age: 3yrs Gender: M  
 Description: Red w/ white chest  
 Owner / Address / Location of Animal: Mare Baracco  
1006 Madrid Avenue, Port Royal SC 29935

### Requirements:

(1) The dangerous animal shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel appropriate to the size of the animal. All pens or structures used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure floor (such as concrete) attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined animal. The pen or run area must be clearly marked as containing a dangerous animal and must be designed to prevent the entry of the general public, including children, and to prevent the escape or release of the animal.

(2) All structures erected to house dangerous animals must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) The dangerous animal must not go outside its kennel or pen unless the animal is securely leashed and muzzled with a leash no longer than six feet in length and under the actual physical control of a person 18 years of age or older. Such animals may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

(4) The person owning, keeping, sheltering or harboring the animal must register the animal with the Beaufort County Animal Shelter within the required seventy-two hour timeframe and provide proof of liability insurance of at least fifty thousand dollars insuring or securing the owner for personal injuries inflicted by the dangerous animal. The Beaufort County Animal Shelter will issue Dangerous Animal tags which must be displayed on the animal's collar at all times. The dangerous animal must also display its current rabies tag on its collar at all times. The person owning, keeping, sheltering or harboring the dangerous animal shall have an identification microchip implant placed under the animal's skin by a licensed veterinarian within the required seventy-two hour timeframe.

Receipt left with: [Signature] Date 7/9/12

Deputy: Lt. B. Chaplin Date 7-9-12

Signing under duress; app

### Penalties:

Failure to comply with these requirements within seventy-two (72) hours of the date and time listed on this notice will result in the responsible party being fined in the amount up to \$1092.50. The dangerous animal will be removed from the premises and secured at the Beaufort County Animal Shelter in accordance with Section 14-35 of the Beaufort County Ordinance pending the decision of the Court.

Reasons for declaration of dangerousness: Reference case # 12-01444 (PRPD) and 20120709-508 (BCSC) involving an animal attack which the victim's K9 died.

Number of colonies in the county if the caretaker maintains more than one colony.

2. Providing the county animal control with descriptions of each cat in the colony and copies of documents evidencing that the cats have been vaccinated and spayed/neutered.
  - b. Help to resolve any complaints over the conduct of a colony or a cat within a colony.
  - c. Maintain records on the size and location of the colonies as well as the vaccination and spay/neuter records of cats in the colonies.
  - d. Mandatory vaccination of the colony population for rabies and making reasonable efforts to update the five-way or equivalent vaccinations on cats that can be recaptured.
  - e. Mandatory spaying/neutering of all cats within the colony by a licensed veterinarian. In facilitating the spaying/neutering of cats, caregivers shall be presumed to have acted in good faith in concluding that cats routinely congregating within the colony are feral.
  - f. Providing food, water and suitable shelter for colony cats.
  - g. Observe the colony cats daily and keeping a record of any illnesses or unusual behavior noticed in any colony cats.
  - h. Obtaining proper medical attention to any colony cat who appears to require it.
  - i. Obtaining written approval of the owner of any property, on which the colony resides, or to which the caregiver requires access, to provide colony care.
  - j. In the event that kittens are born to a colony cat, the caregiver shall remove the kittens from the colony after they have been weaned and be responsible for the placement of the kittens in homes or foster homes for the purpose of subsequent permanent placement.
  - k. Caregivers shall make reasonable efforts to find permanent inside homes for colony cats who exhibit the potential for acclimating to such a placement.
  - l. Caregiver shall make reasonable effort to maintain the colony as to prevent the colony from running at large beyond the confines of the designated area. (S.C. Code 1976 § 47-7-110)
- (c) *Ordinance enforcement.* Nothing shall interfere with the animal control officer's ability to:
  - (1) Seize/remove a cat from a colony that is creating a nuisance as defined above if the caregiver has failed to cure the nuisance within a reasonable timeframe.
  - (2) Seize/remove a feral cat colony when the caregiver fails to comply with the requirements of this section.

(Ord. No. 2010/7, 4-26-2010 )

**Sec. 14-35. - Regulation of dangerous animals.**

- (a) *Definition.* "Dangerous animal" means any animal which the owner knows or reasonably should know has a propensity, tendency or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals; an animal which makes an unprovoked

attack that causes bodily injury to a human being and the attack takes place other than the place where the animal is confined; or an animal that commits unprovoked attacks any place other than the place where the animal is confined and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being. A dog will be considered a dangerous animal if it is used as a weapon in the commission of a crime.

- (b) *Confinement.* Every dangerous animal, as determined by the animal control officer, magistrate or licensing authority, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner (S.C. Code 1976, § 47-3-720).
- (1) All dangerous animals shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides.
  - (2) All pens or other structures designed, constructed or used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined animal.
  - (3) All structures erected to house dangerous animals must be adequately lighted and ventilated and kept in a clean and sanitary condition. No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition.
  - (4) No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed and muzzled with a leash no longer than six feet in length. No person shall permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless both the animal and the leash are under the actual physical control of a person 18 years of age or older.
  - (5) Such animals may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.
- (c) *Declaring an animal dangerous.*
- (1) An animal control officer, in his or her discretion, observes that a particular animal is a dangerous animal as defined in this article, may declare such animal a dangerous animal by delivering a written notice of declaration to the owner. The notice shall include a description of the animal and the basis for the declaration of dangerousness. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on the premises if no adult is present.
  - (2) The person owning, keeping, sheltering or harboring the animal in question must comply with the requirements as designated in this section within 72 hours of the receipt of the animal control officer's declaration.
  - (3) Any animal that is alleged to be dangerous and that is under impoundment or quarantine at the

animal shelter shall not be released to the owner, until such time that the owner is capable of confining the animal to his/her property in accordance with this section.

- (4) All dangerous animals shall have an identification microchip implant placed under the animal's skin once the animal has been declared dangerous. The owner shall pay the actual fee charged by the shelter or the licensed veterinarian who performed the microchip identification procedure.

(Ord. No. 2010/7, 4-26-2010)

**Sec. 14-36. - Enforcement.**

(a) *Duties.* The division of animal control shall be charged with the responsibility of:

- (1) Cooperating with the health officers of various state government units and assisting in the enforcement of laws of the state with regard to the control of animals, and especially with regard to the vaccination of dogs and cats against rabies.
- (2) Investigating all complaints with regard to animals covered by this article.
- (3) Enforcing within the unincorporated areas of the county and municipalities, all of the state laws, ordinances enacted by the county and contracts entered into the county for the care, control and custody of animals covered by this article.

(b) *Entering the premises.* The animal control officer shall patrol the properties of the county, public and private, for the purpose of checking animals for the following:

- (1) Rabies.
- (2) Inhumane treatment and the health of animals.
- (3) Boarding.

(c) *Interference with officers.* No person shall interfere with or hinder an animal control officer or any such agent of the county in the performance of such officer's duty or seek to release animals in the custody of the animal control officer or any such agent of the county.

(d) *Penalties.* Any person who violates the provisions of this article shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine up to \$500.00 or 30 days in jail. Each day's violation of any provision of this article shall constitute a separate offense.

(Ord. No. 2010/7, 4-26-2010)

**Cross reference**— Health and sanitation, ch. 46.



EXHIBIT 4

**NOTICE OF DETERMINATION**

Beaufort County Animal Control Services  
23 Shelter Church Road  
BEAUFORT, SOUTH CAROLINA 29906  
TELEPHONE: (843) 255-5010  
www.bcgov.net

**NOTICE OF DETERMINATION AND  
DECLARATION OF DANGEROUS DOG**

SEPTEMBER 17, 2016



HILTON HEAD ISLAND, SC

Re: LILLY, TAN, BLACK MUZZEL/WHITE SPOTTED NECK, GREYHOUND/BOXER X, F

Dear Mr.

Pursuant to Beaufort County Code Sec. 14.32, the Director of Beaufort County Animal Control Services ("BCAS") has determined, that your dog, Lilly meets the definition of a dangerous dog. Under Beaufort County Code Sec 14.32(2) once a dog has been declared dangerous there are certain confinement and registrations requirements. This document serves as An Initial Notice of Determination and Declaration of Dangerous Dog.

As a result of this determination and declaration, within 72 hours of the notice of dangerous dog determination and until the final determination of the dangerous dog declaration, the owner must meet the following requirements:

- a. All dangerous animals shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides.
- b. The pen or kennel must be clearly marked as containing a dangerous animal.
- c. No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed and muzzled with a leash no longer than six feet in length.
- d. The owner of a dangerous animal must provide BCAS with proof of liability insurance or surety bond of at least \$50,000.00.
- e. The owner must obtain a dangerous animal registration/license from BCAS and pay a \$5.00 registration fee.

Please note that this notice of a declaration of a dangerous animal constitutes only an initial determination that the animal is dangerous or potentially dangerous. A final determination shall be made at a hearing by the Beaufort County Magistrate Court within 30 days or as soon as practicable. You will be notified of the date, time and location of the final determination.

Sincerely,

Beaufort County Animal Control Director or her Designee

Signature of Owner/Custodian  
Date: 9/18/16

**ACKNOWLEDGEMENT OF RECEIPT OF DECLARATION OF DANGEROUS DOG**

The animal describe below has hereby been declared dangerous. You are required by law to be in compliance with the following requirements within **seventy-two (72) hours of:**

Date/Time: SEPTEMBER 18, 2016 Species: CANINE Breed: GRYHND/BOXRX

Name: LILLY Age: 3Y Gender: FEMALE

Description: TAN COAT WITH BLACK MUZZEL, WHITE SPOT REAR OF NECK

Owner/Address/Location of Animal: LOC: [REDACTED]

Hearing Date for Magistrate Court: OCTOBER 12, 2016 Time: 09:00AM

**Requirements:**

1. All dangerous animals shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel or structure must have secure sides.
2. The pen or kennel must be clearly marked as containing a dangerous animal.
3. No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed and muzzled with a leash no longer than six feet in length.
4. The owner of a dangerous animal must provide BCAS with proof of liability insurance or surety bond of at least \$50,000.
5. The owner must obtain a Dangerous animal registration/license from BCAS and pay a \$5 registration fee.

Receipt left with: [Signature] Date: 9/18/16

Officer: [Signature] Date: 9/18/16

**Penalties**

Failure to comply with these requirements within seventy-two (72) hours of the date and time listed on this notice will result in the responsible party being fined in the amount up to \$500.00 plus any court costs and fees. The dangerous animal will be removed from the premises and secured at the Beaufort County Animal Shelter in accordance with Section 14-32 of the Beaufort County Ordinance pending the decision of the Court.

**CODE SECTION**

Sec. 14-32. - Dangerous animals.

(a) For the purposes of this section, a dangerous or vicious animal shall be defined to be any one of the following:

- 1) An animal which the owner knows or reasonably should know has a propensity, tendency, or disposition to attack unprovoked, cause injury, or to otherwise endanger the safety of human beings or domestic animals;
- 2) An animal which makes an unprovoked attack that causes bodily injury to a human being and the attack occurs in a place other than the place where the animal is confined;
- 3) An animal which commits unprovoked acts in a place other than the place where the animal is confined and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being;
- 4) An animal which is owned or harbored primarily or in part for the purpose of fighting or which is trained for fighting;
- 5) An animal which is used as a weapon in the commission of a crime.

(b) Declaration of a dangerous animal, confinement requirements, and final determination of dangerous animal declaration.

- 1) *Declaration.* An animal services officer or law enforcement officer, in his or her discretion, may declare an animal dangerous. Upon determination, the officer shall deliver written notice to the owner or any adult residing at the premises where the animal is located or by posting on the premises if no adult is present. The notice shall include a description of the animal, a hearing date, confinement requirements and registration requirements.
- 2) *Confinement requirements and registration.* Every dangerous animal, as determined under this section, shall be confined by the owner within 72 hours of the notice of dangerous dog determination and until the final determination of the dangerous dog declaration:
  - a. All dangerous animals shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides.
  - b. The pen or kennel must be clearly marked as containing a dangerous animal.
  - c. No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed and muzzled with a leash no longer than six feet in length.
  - d. The owner of a dangerous animal must provide BCAS with proof of liability insurance or surety bond of at least \$50,000.00.
  - e. The owner must obtain a dangerous animal registration/license from BCAS and pay a \$5.00 registration fee.
- 3) *Final determination of dangerous animal declaration.* Notice of a declaration of a dangerous animal constitutes an initial determination that the animal is dangerous or potentially dangerous. A final determination shall be made by the Beaufort County Magistrate Court within 30 days or as soon as practicable.

(c) Exemptions. A dog working in a law enforcement capacity with a governmental agency and in the performance of the dog's official duties.

# EXHIBIT 5

animal shelter shall not be released to the owner, until such time that the owner is capable of confining the animal to his/her property in accordance with this section.

- (4) All dangerous animals shall have an identification microchip implant placed under the animal's skin once the animal has been declared dangerous. The owner shall pay the actual fee charged by the shelter or the licensed veterinarian who performed the microchip identification procedure.

(Ord. No. 2010/7, 4-26-2010)

## **Sec. 14-36. - Enforcement.**

- (a) *Duties.* The division of animal control shall be charged with the responsibility of:
  - (1) Cooperating with the health officers of various state government units and assisting in the enforcement of laws of the state with regard to the control of animals, and especially with regard to the vaccination of dogs and cats against rabies.
  - (2) Investigating all complaints with regard to animals covered by this article.
  - (3) Enforcing within the unincorporated areas of the county and municipalities, all of the state laws, ordinances enacted by the county and contracts entered into the county for the care, control and custody of animals covered by this article.
- (b) *Entering the premises.* The animal control officer shall patrol the properties of the county, public and private, for the purpose of checking animals for the following:
  - (1) Rabies.
  - (2) Inhumane treatment and the health of animals.
  - (3) Boarding.
- (c) *Interference with officers.* No person shall interfere with or hinder an animal control officer or any such agent of the county in the performance of such officer's duty or seek to release animals in the custody of the animal control officer or any such agent of the county.
- (d) *Penalties.* Any person who violates the provisions of this article shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine up to \$500.00 or 30 days in jail. Each day's violation of any provision of this article shall constitute a separate offense.

(Ord. No. 2010/7, 4-26-2010)

**Cross reference**— Health and sanitation, ch. 46.

# EXHIBIT 6

## Sec. 14-47. - Enforcement and penalties.

- (a) The animal services officers of the Beaufort County Animal Services Department shall be charged with the responsibility of enforcing all ordinances enacted by the county and contracts entered into with the county for the care, control and custody of pets or livestock covered by this article. All violations of this article shall be heard by the Beaufort County Magistrate Court.
- (b) The provisions of this article shall not apply to any dog or cat owned within the confines of any incorporated municipality within the county, unless and until the governing body of a municipality requests in writing that county council include the area of such municipality within the coverage of this article, and county council has acted favorably on such request and has so notified such municipality of its approval of such request.
- (c) Any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding \$500.00 or imprisonment not exceeding 30 days, or both.

( Ord. No. 2015/27, 10-12-2015 )

THE STATE OF SOUTH CAROLINA  
IN THE SC SUPREME COURT

---

**RECEIVED**

MAR 24 2017

APPEAL FROM BEAUFORT COUNTY  
Marvin H. Dukes III, Master-in-Equity

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**S.C. SUPREME COURT**

Appellate Case No 2017-000555

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Mare Baracco,

PETITIONER

vs.

Beaufort County

Respondent

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**PROOF OF SERVICE**

I certify I have served the Reply on the Respondent by depositing copies in the United States Mail, postage prepaid, March 23, 2017, addressed as follows:

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PETITIONER

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MAR 24 2017

**S.C. SUPREME COURT**

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