

**REQUEST FOR BOARD ACTION**  
**HENDERSON COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** 4 February 2013

**SUBJECT:** Modification of Livestock provisions of Animal Ordinance

**PRESENTER:** Charles Russell Burrell

**ATTACHMENT(S):** Draft Ordinance showing amendment

**SUMMARY OF REQUEST:**

Amendment of the “livestock” provisions of the Animal Ordinance (Article V of Chapter 66A) to clarify that the owner of livestock running at large is only criminally liable if the owner allows the same “intentionally, willfully, knowingly or negligently”.

County staff will be present and prepared if requested to give further information on this matter.

**BOARD ACTION REQUESTED:**

Approval of the draft amendment.

If the Board is so inclined, the following motion is suggested:

***I move that the Board approve the amendment to the Animal Ordinance presented in today’s Board Agenda.***

## Article V. Livestock

**§ 66A-94. Allowing livestock to run at large forbidden.** If any person shall intentionally, willfully, knowingly or negligently allow his livestock to run at large, he shall be guilty of a Class 3 misdemeanor.

**§ 66A-95. Impounding livestock at large; right to recover costs and damages.** Any person may take up any livestock running at large or straying and impound the same; and such impounder may recover from the owner the reasonable costs of impounding and maintaining the livestock as well as damages to the impounder caused by such livestock, and may retain the livestock, with the right to use with proper care until such recovery is had. Reasonable costs of impounding shall include any fees paid in order to locate the owner.

**§ 66A-96. Notice and demand when owner known.** If the owner of impounded livestock is or becomes known to the impounder, actual notice of the whereabouts of the impounded livestock must be immediately given to the owner and the impounder must then make demand upon the owner of the livestock for the costs of impoundment and the damages to the impounder, if any, caused by such livestock.

**§ 66A-97. Notice when owner not known.** If the owner of the impounded livestock is not known or cannot be found, the impounder shall inform the register of deeds that he has impounded the livestock and provide the register of deeds with a description of the livestock. The register of deeds shall record the information in a book kept for that purpose, and shall charge the impounder a fee of \$10.00. The register of deeds shall immediately publish a notice of the impoundment of the animal by posting a notice on the courthouse door. The notice on the courthouse door shall be posted for 30 days, and shall contain a full description of the livestock impounded, including all marks or brands on the livestock, and shall state when and where the animal was taken up. The impounder shall publish once, in some newspaper published and distributed in the county, a notice containing the same information as the notice posted by the register of deeds. The fees for publishing the notice shall be paid by the impounder.

**§ 66A-98. Determination of damages by selected landowners or by referee.** If the owner and impounder cannot agree as to the cost of impounding and maintaining such livestock, as well as damages to the impounder caused by such livestock running at large, then such costs and damages shall be determined by three disinterested landowners, one to be selected by the owner of the livestock, one to be selected by the impounder and a third to be selected by the first two. If within 10 days a majority of the landowners so selected cannot agree, or if the owner of the livestock or the impounder fails to make his selection, or if the two selected fail to select a third, then the clerk of superior court of the county where the livestock is impounded shall select a referee. The determination of such costs and damages by the landowners or by the referee shall be final.

**§ 66A-99. Notice of sale and sale where owner fails to redeem or is unknown; application of proceeds.** If the owner fails to redeem his livestock within three days after the notice and demand as provided herein is received or within three days after the determination of the costs and damages as provided in this article, then, upon written notice fully describing the livestock, stating the place, date, and hour of sale posted at the courthouse door and 3 or more public places in the township where the owner resides, and after 10 days from such posting, the impounder shall sell the livestock at public auction. If the owner of the livestock remains unknown to the impounder, then, 30 days after publication of the notice required herein, the impounder shall post at the courthouse door and

three public places in the township where the livestock is impounded a written notice fully describing the livestock, and stating the place, date, and hour of sale. After 20 days from such posting, the impounder shall sell the livestock at public auction. The proceeds of any such public sale shall be applied to pay the reasonable costs of impounding and maintaining the livestock and the damages to the impounder caused by the livestock. Reasonable costs of impounding shall include any fees paid pursuant to this article in an attempt to locate the owner of the livestock. The balance, if any, shall be paid to the owner of the livestock, if known, or, if the owner is not known, then to the school fund of the county where the livestock was impounded.

**§66A-100. Illegally releasing or receiving impounded livestock misdemeanor.** If any person willfully releases any lawfully impounded livestock without the permission of the impounder or receives such livestock knowing that it was unlawfully released, he shall be guilty of a Class 3 misdemeanor.

**§ 66A-101. Impounded livestock to be fed and watered.** If any person shall impound or cause to be impounded any livestock and shall fail to supply to the livestock during the confinement a reasonably adequate quantity of good and wholesome feed and water, he shall be guilty of a Class 3 misdemeanor.

**§ 66A-102. Right to feed impounded livestock; owner liable.** When any livestock is impounded under the provisions of this Chapter and remains without reasonably adequate feed and water for more than 24 hours, any person may lawfully enter the area of impoundment to supply the livestock with feed and water. Such person shall not be liable in trespass for such entry and may recover of the owner or, if the owner is unknown, of the impounder of the livestock, the reasonable costs of the feed and water.

**§ 66A-103. Penalties for violation of this Article.** A violation of this article is a Class 3 misdemeanor.

**§ 66A-104. Domestic fowls running at large after notice.** If any person shall permit any turkeys, geese, chickens, ducks or other domestic fowls to run at large on the lands of any other person while such lands are under cultivation in any kind of grain or feedstuff or while being used for gardens or ornamental purposes, after having received actual or constructive notice of such running at large, he shall be guilty of a Class 3 misdemeanor.

If it shall appear to any magistrate that after three days' notice any person persists in allowing his fowls to run at large in violation of this section and fails or refuses to keep them upon his own premises, then the said magistrate may, in his discretion, order any sheriff or other officer to kill the fowls when they are running at large as herein provided.

**§66A-105. Codification of General Statutes.** This Article codifies Article 3 of Chapter 68 of the North Carolina General Statutes, and its subsequent amendments, additions, or deletions, and the caselaw of the State of North Carolina arising thereunder.