

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: February 18, 2025

SUBJECT: Proposed change to Chapter 16-19 -Violations and Fines

PRESENTER: Brad Rayfield, Animal Services Center Director
Sgt. Vince Griggs, Henderson County Sheriff's Office

ATTACHMENTS: Chapter 16-19. Violations and Fines, with proposed changes.

SUMMARY OF REQUEST:

On April 11, 2024, the Animal Services Advisory Committee voted to propose a change to Chapter 16-19 - Violations and Fines. The change will allow Animal Enforcement to increase fines for repeat violations of Section 16-24 - Restraint/confinement of domestic animals required.

BOARD ACTION REQUESTED:

The Animal Services Advisory Committee request that the Board consider the proposed change to Chapter 16-19 - Violations and Fines, as presented.

Suggested Motion: *I move to approve the change to Chapter 16-19 as presented.*

16-19. Violations and Fines.

- A. Misdemeanor. The violation of any provision of this Chapter shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in N.C. Gen. Stat. §14-4. Each violation of this Chapter (or if a continuing violation, each day in which the violation continues) is a separate offense. Each violation for each animal is a separate offense.
- B. Enforcement. Enforcement of this Chapter may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to N.C.G.S. 153A-123(d) and (e).
- C. Issuance of a citation by seeking to have the owner insure compliance with this Chapter. The issuance of a citation hereunder shall not affect the prosecution of a violation hereof as a misdemeanor as provided above. A citation shall:
- 1) Give notice of the violation(s) alleged of the owner;
 - 2) State the civil penalties for such violation(s);
 - 3) State the date by which any civil penalties for such violation(s) must be paid; and
 - 4) State that the County may initiate after such date a civil action to collect the civil penalties which are and may become due.
- D. Civil fines. In addition to and independent of any criminal penalties and other sanctions provided in this article, violations of this article may also subject the offender to the civil penalties hereinafter set forth.

- (1) The Animal Services Director, Animal Enforcement Officers, Sheriff, or Sheriff's Deputies may issue to the known owner of any animal, or to any other violator of the provisions of this Chapter, a citation. Citations so issued may be delivered in person or mailed by certified or registered mail to the person charged if that person cannot be readily found. The citation shall impose upon the violator a minimum civil penalty of \$50 or such greater amounts for offenses as may be set by ordinance. The imposed civil penalty shall be paid in full to the charging agency within 30 days of receipt of the citation assessing the civil penalty. This civil penalty is in addition to other fees or costs authorized by this Chapter.
- (2) In the event that the owner of an animal or other alleged violator does not respond to the above-described citation, or the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the fine and costs associated with collection of the fine, and/or a criminal summons may be issued against the owner or other alleged violator of this Chapter and upon conviction, the owner shall be punished as provided by state law. The charging agency is expressly authorized to initiate and prosecute small claims actions in District Court to collect civil penalties and fees due to the County of Henderson and may call on the County Legal Department for assistance as needed.
- (3) Each violation of this Ordinance is a separate fine. Each day in violation and each animal kept in violation are considered separate offenses and may be fined for each individually.
- (4) The following civil penalties are hereby established for each incident violation of this Chapter:

Section Violated	Animal Service Civil Penalty Schedule Description	Civil Penalty
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*Citations shall impose upon the violator a minimum civil penalty of \$50 or such greater amounts for offenses as may be set by ordinance.

16-7A	Interference with Animal Enforcement Officer, or agent (per incident)	\$500
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16-7B	Concealment of an animal to evade ordinance (per day of violation)	\$100
16-7E	Surrender or Reclaim Under False Pretense	\$500
16-8	Public nuisance:	
	First Violation (Deputy's discretion)	\$50
	Second Violation	\$20
16-10	Keeping a dangerous/potentially dangerous dog:	
	Unattended/loose/unrestrained (per day)	\$500
	Without tattoo/microchip (per day)	\$500
	Failing to notify of change of address or death (per day)	\$500
	Failing to present proof of transferee responsibility (per day)	\$1,000
16-11	Mistreatment of an animal (per day)	\$500
16-19E	Release of an animal from County-owned trap (per incident)	\$100
16-24	Restraint/confinement of domestic animals required	\$50

16-24 Restraint/confinement of domestic animals required

Offence	Fine Non-aggressive animal	Fine Aggressive animal
First Violation	Warning or \$50 (Deputy's discretion)	\$100
Second Violation	\$100	\$200
Third Violation	\$150	
Forth Violation	\$200	

16-26 Prohibition of giveaways in public places per incident per animal \$50

- (5) Any person who fails to pay a fine within period of 30 days after receiving citation shall be deemed to have committed a misdemeanor and a warrant may be issued for the person's arrest. Prosecution under this section shall require proof of the occurrence of the underlying facts giving rise to the notice of citation. The Animal Enforcement Sergeant may extend time to pay on a citation due to hardship on case by case bases.
- (6) The owner of a dangerous or potentially dangerous animal shall be strictly liable in civil damages for any injuries or property damage the animal inflicts upon a person, his property or another animal as per N.C.G.S. 67-4.4.

- (7) Violations taking place over continuous days shall be capped at 10 days per animal per violation unless there is evidence suggesting that the person has tried to interfere with Animal Enforcement Officers or obstruct justice in which case additional fines may accrue.
- (8) The final determination regarding the imposition and number of fines shall be determined by the County and alternative settlements shall be allowed where appropriate.
- (9) In accordance with Article IX Education, Section 7 of the North Carolina State Constitution, civil penalties collected under this Chapter shall be appropriated and used exclusively for maintaining free public schools.

E. Interference. It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct any employee or agent of the County of Henderson in the performance of any duty authorized by law or ordinance, or to seek to release any domestic animal in the custody of such employees or agents (including from traps, cages, or other enclosures) except as specifically provided or authorized by the County of Henderson. The penalty for any person convicted of such interference as set out in this subsection shall be \$500.00 per occurrence.