



CITY OF HENDERSONVILLE
ANIMAL SERVICES ADVISORY COMMITTEE
HPD - Police Assembly Room | 160 Sixth Ave. E | Hendersonville NC 28792
Thursday, August 19, 2021 – 5:30 PM



AGENDA

1. CALL TO ORDER

A. Introduction of New Members

2. APPROVAL OF AGENDA

3. ORGANIZATIONAL MEETING

A. Review of Charter & Rules of Procedure - *Caroline Gunther, Chair*

B. Selection of Chair, Vice Chair (Committee Members will nominate from among its membership the chair and vice chair)

C. Annual Schedule of Meetings (review/amend if necessary)

4. APPROVAL OF MINUTES

A. Approval of Minutes for June 17, 2021 Meeting

5. PUBLIC COMMENT

6. NEW BUSINESS

A. Report on Fee Schedules and Calls for Service - *Chief of Police Blair Myhand*

B. Educational Materials Update

7. ADJOURNMENT

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.

ANIMAL SERVICES ADVISORY COMMITTEE

CHARTER AND RULES OF PROCEDURE

The Animal Services Advisory Committee (ASAC) shall assist the Hendersonville City Council by providing input on the operations and policies of the Hendersonville Police Department regarding the enforcement of the Animal Ordinance. This may include efforts such as collaborating with staff on operating procedures or providing expertise and recommendations regarding the Animal Ordinance. This Committee shall also hear dangerous dog appeals in a quasi-judicial format. The terms of the charter shall govern the activities of the Committee. However, to the extent that this Charter conflicts with North Carolina Law, North Carolina shall control.

ARTICLE I. NAME. Animal Services Advisory Committee (ASAC).

ARTICLE II. PURPOSE. The purpose of this Committee is to make recommendations to the City Council a staff regarding the Animal Ordinance, policies and procedures, and any other issues requested by the City Council. This Committee shall also hear dangerous dog appeals.

ARTICLE III. JURISDICTION. The Committee shall exercise its purpose with regards to matters and issues within the corporate limits of the City of Hendersonville.

ARTICLE IV. MEMBERSHIP AND DUTIES

Section 1. Membership and Appointment. All appointments shall be made by the City of Hendersonville City Council. The Committee shall consist of eight (8) members: Seven (7) members from the general public with various affiliations and diverse background and one (1) veterinarian. The City Manager shall appoint a staff liaison from the City of Hendersonville Police Department to the Committee who shall assist the Committee with carrying out their duties and responsibilities.

Section 2. Terms of Service. Committee members shall be appointed to staggered three-year terms by the City Council annually in June. No member shall serve more than two consecutive full three-year terms. Members shall serve without compensation.

Section 2. Attendance. Any member who misses more than three consecutive regular meetings or more than one-half the regular meetings actually held in a calendar year may be subject to removal by City Council.

Section 4. Vacancies and Reasons for Dismissal. All members serve at the pleasure of the City of Hendersonville City Council. Members may be dismissed for any reason, with or without cause. Vacancies shall be filled at the earliest convenience of the City Council. A vacancy of the chair or vice chair shall be elected by a majority of the Committee at the next regularly scheduled meeting. Notwithstanding the foregoing, at any meeting where both the Chair and Vice Chair are absent, the Committee shall elect from those members present a member to preside at that meeting.

Section 5. Resignations. Any member who feels they can no longer serve or otherwise fulfil the duties of a member may resign from the committee. Such resignation must be in writing and delivered to the secretary. The secretary shall promptly send a copy of the written resignation to the City Clerk.

Section 6. Compliance with Animal Ordinance. All members must comply with the City of Hendersonville Animal Ordinance, and local, state and federal law as applies to animals. Failure to comply with this provision may result in the immediate dismissal from the Committee by City Council.

ARTICLE V. MEETINGS

Section 1. Meetings to Be Open to the Public. All meetings of the Committee shall be open to the public, and any person may attend its meetings. Except as permitted below, all meetings of the Committee shall be open to the public and any person may attend its meetings. For purposes of these rules, a meeting of the Committee occurs whenever a majority of the Committee's members gather, either in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the Committee's real or apparent jurisdiction. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half. No meeting shall occur except as part of a duly called and advertised meeting. For the avoidance of doubt informal gatherings of a majority of the members where business of the committee is discussed are strictly prohibited.

Section 2. Closed Session. The Committee may enter a closed session from which the public is excluded on any of the grounds listed in G.S. 143-318.11(a).

- a) **Motion to Enter Closed Session.** The Committee may hold a closed session only upon a motion duly made and adopted in open session. The motion to enter closed session shall cite one or more of the permissible bases listed in G.S. 143-318.11(a) for closed sessions. For a closed session held under G.S. 143-318.11(a)(1) (prevent disclosure of privileged or confidential information or information not considered public record), the motion shall name or cite the law that renders the information confidential or privileged. For a closed session called pursuant to G.S. 143-318.11(a)(3) (attorney consultation and preservation of attorney-client privilege), the motion shall name the parties to any pending lawsuit that the Committee's attorney plans to discuss in the closed session.
- b) **Closed-Session Participants.** Aside from the Committee members themselves, only those individuals invited by the Committee may participate in a closed session. The Committee will invite only those individuals whose presence is reasonably necessary to aid the Committee in its closed-session deliberations.
- c) **Motion to Return to Open Session.** Upon completing its closed-session business, the Committee shall return to open session.

Section 3. Regularly Scheduled Meetings. The Committee shall hold regular meetings at least quarterly of the Animal Services Advisory Committee. The Committee shall annually adopt a regular meeting schedule showing the dates, times and places of its regular meetings for the year.

- a) **Notice of Regular Meeting Schedule.** The Committee shall ensure that a copy of its current regular meeting schedule, complete with the date, time, and place of each regular meeting, is filed with the City Clerk and posted on the City's website, and the Committee's webpage if they have one.
- b) **Change to Regular Meeting Schedule.** The Committee may revise its regular meeting schedule to change the date, time or place of a particular regular meeting or all regular meetings within a specified period. The Committee shall ensure that the revised regular meeting schedule is filed with the City Clerk at least seven (7) consecutive calendar days before the first meeting held pursuant to the revised schedule. The Committee shall also have the revised schedule posted on the City's website and the Committee's webpage if they have one.

Section 4. Special Meetings. The chair or the majority of the members of the Committee may at any time call a special meeting of the Committee by signing a notice stating the date, time and place of the special meeting and the subjects to be considered. Alternatively, a special meeting may be called by vote of the

Committee in open session during a regular meeting or another duly called special meeting if on the special meeting agenda.

- 1) **Notice to the public.** At least 48 hours before a special meeting, the Committee shall cause written notice of the meetings date, time, place and purpose(s) to be:
 - i Posted on the Committee's principal bulletin Committee or, if the Committee has no such bulletin Committee, at the door of the Committee's usual meeting room.
 - ii Mailed or delivered to each newspaper, wire service, radio station and television station and person who has filed a written request for notice with the secretary;
- 2) **Notice to Committee Members.** For all meetings called by the chair, or a majority of the members, notice of the meeting date, time, place and purpose(s) shall be mailed, emailed, or delivered to all members of the Committee at least 48 hours before the meeting. If the special meeting was called at another duly held meeting of the committee, and one or more members were absent, the chair shall ensure that notice of the meeting's date, time, place, and purpose(s) is mailed, emailed, or delivered to any absent member(s) a minimum of forty-eight hours in advance of the special meeting.
- 3) **Business Conducted at a Special Meeting.** Only the business that is specified in the notice of the meeting may be transacted during a special meeting.

Section 5. Organizational Meeting. On the date and at the time of the regular meeting in January, the committee shall elect a chair and vice chair as its first order of business. The second order of business shall be to adopt an annual scheduled of meetings for the upcoming calendar year. Newly appointed and reappointed members must have taken their oath prior to the start of the organizational meeting.

Section 6. Electronic Committee Meetings and Member Participation. No member who is not physically present may participate in a meeting of the Committee by electronic means except in accordance with this rule.

- 1) **Electronic Meetings Generally.** Provided a quorum is present, in person, at a meeting, Committee members may participate in a meeting electronically provided the meeting does not involve a quasi-judicial matter. All members participating in a quasi-judicial hearing must attend in person. Any member wishing to participate electronically in a meeting not involving a quasi-judicial matter shall be required to give the Chair and the Secretary at least thirty-six (36) Hours before the start of the meeting. When one or more members are participating remotely, the following rules shall apply:

(a) *Member Identification.* Each member who attends by electronic means shall identify himself or herself in each of the following situations:

- i when roll is taken or the meeting begins;
- ii before taking part in deliberations, including making any motions, proposing any amendments, or raising any points of order; and
- iii before voting.

(b) *Method of Electronic Participation.* Any member who attends electronically shall use a means of communication that enables the member

- i to hear what is said by other Committee members and any person who addresses the Committee and
- ii to be heard by other Committee members.

(c) *Voting.* The Committee shall conduct all votes by roll call. It may not vote by secret or written ballots. The votes of any member who attends by electronic means shall be counted as if the member were physically present, but only while the Committee maintains electronic communication with that member.

(d) *Minutes.* The minutes shall which members took part electronically, and when such members joined or left the electronic meeting.

2) **Electronic Meetings During a State of Emergency Declared by the Governor or General Assembly.** During any state of emergency declared by the Governor or General Assembly pursuant to G.S. 166A-19.20, a meeting of the Committee shall comply with the requirements of this paragraph if the Committee falls within the emergency area and at least one Committee member attends the meeting by conference call, conference video, or other electronic means.

(a) *Notice.* The public notice for any regular, special, emergency, or recessed meeting that is subject to this paragraph shall specify how the public can access the electronic meeting in real time.

(b) *Member Identification.* Each member who attends by electronic means shall identify himself or herself in each of the following situations:

- i when roll is taken or the meeting begins;
- ii before taking part in deliberations, including making any motions, proposing any amendments, or raising any points of order; and
- iii before voting.

(c) *Meeting Materials.* All documents considered during the meeting shall be furnished to each Committee member.

(d) *Method of Electronic Participation.* Any member who attends electronically shall use a means of communication that enables the member

- i to hear what is said by other Committee members and any person who addresses the Committee and
- ii to be heard by other Committee members.

(e) *Quorum.* A member who attends by electronic means counts as present for quorum purposes, but only while the Committee maintains electronic communication with that member.

(f) *Voting.* The Committee shall conduct all votes by roll call. It may not vote by secret or written ballots. The votes of any member who attends by electronic means shall be counted as if the member were physically present, but only while the Committee maintains electronic communication with that member.

(g) *Acting by Reference.* The Committee shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that persons in attendance can understand what is being deliberated or acted upon.

(h) *Minutes.* The minutes shall indicate that the meeting was conducted by electronic means, which members took part electronically, and when such members joined or left the electronic meeting.

(i) *Live Streaming.* The meeting shall be streamed live online so that live audio (and video, if any) are available to the public. If the Committee meets by conference call, the public shall have an opportunity to dial in or stream the audio live and listen to the electronic meeting.

(j) *Public Hearings.* Although it may conduct any public hearing mandated or permitted by law, the Committee shall allow the public to submit written comments on the hearing's subject matter between the publication of any required notice and twenty-four hours after the hearing.

Section 7. Cancellation of Meetings. Whenever there is no business for the committee the chair may cancel a meeting by giving reasonable notice to all members before the time set for the meeting. However, in the case of a special meeting called by a majority of the Committee, the chair may cancel the meeting only upon the concurrence of a majority of the Committee. The majority concurring in the cancellation need not be the same majority that called the special meeting.

Section 8. Recessed Meetings

(a) *Calling Recessed Meetings.* When conducting a properly called regular, special, or emergency meeting, the Committee may recess the meeting to another date, time, or place by a procedural motion made and adopted in open session, as provided in Article XI, Section 5 (Motion 3). The motion shall state the time (including the date, if the meeting will resume on a different day) and place at which the meeting will resume.

(b) *Notice of Recessed Meetings.* If the Committee's website is maintained by one or more Committee employees, notice of the recessed meeting's date, time, and place shall appear on the website prior to the meeting. No further notice of a properly called recessed meeting is required.

Section 9. Order of Business Items shall be placed on a regular-meeting agenda according to the order of business. The usual order of business for each regular meeting shall be as follows:

- adoption of the agenda,
- approval of the previous meeting minutes,
- public comment,
- public hearings,
- administrative reports,
- committee reports,
- unfinished business, and
- new business.

Without objection, the chair may call agenda items in any order most convenient for the dispatch of business.

Section 10. Agenda Items from Members of the Public. If a member of the public wishes to request that the Committee include an item on its regular-meeting agenda, the individual shall submit the request in writing to the Committee's secretary at least five working days before the meeting date. The committee shall decide whether or not to add any agenda items submitted by the public at the adoption of the agenda. The committee is not obligated to place an item on the agenda merely because such a request has been received.

Section 11. Meeting Minutes. Minutes Required for All Meetings. The Committee shall keep full and accurate minutes of its meetings, including any closed sessions. To be "full and accurate," the minutes must record all actions taken by the Committee, as well as the Committee's compliance with any applicable procedural requirements. The minutes should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record Committee member discussions, though the Committee in its discretion may decide to incorporate such details into the minutes.

- a) Record of "Ayes" and "Noes." At the request of any member, the minutes shall indicate how each member voted by name on a particular matter.
- b) General Accounts of Closed Sessions. In addition to minutes, the Committee shall keep a general account of each closed session. The general account shall be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The Committee may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken, and the level of detail required for a general account.
- c) Sealing Closed-Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the Committee or in accordance with instructions adopted by competent authority. The sealed minutes and general account of any closed session may be withheld from public inspection, so long as public inspection would frustrate the purpose(s) of the closed session.

Section 12. Public Input. Public input at all Committee meetings that are not quasi-judicial in nature shall have a three-minute limit per speaker. The Chair reserves the right to alert time limits for public comment periods.

Section 13. Broadcasting and Recording Meetings. Any person may photograph, film, tape-record, or otherwise reproduce any part of a Committee meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any radio or television station may broadcast any such part of a Committee meeting.

- a) Advance Notice. Any radio or television station that plans to broadcast any portion of a Committee meeting shall so notify the secretary no later than twenty-four hours before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a Committee meeting.
- b) Equipment Placement. The Committee chair or an appropriate staff member may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a Committee meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the Committee chair or staff member determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative

meeting room is not readily available, the chair or staff member may require the pooling of the equipment and the personnel operating it.

- c) **Alternative Meeting Site.** If the news media request an alternative meeting site to accommodate news coverage, and the Committee grants the request, the news media making the request shall pay the costs incurred by the local government unit in securing an alternative meeting site.

Section 14. VOTING

- a) **Duty to vote.** It is the duty of each member, including the chair, to vote unless otherwise excused. The Committee may excuse members from voting on any matter involving their own financial interest, official conduct, or when a member has indicated an inability to be impartial in any quasi-judicial matter before the Committee.
- b) **Abstentions.** Should a member fail to vote on any matter before the Committee, without having been excused from such vote, such abstention will count as an affirmative vote.

ARTICLE VI. QUASI-JUDICIAL HEARINGS

Section 1. Appeals. All quasi-judicial public hearings heard by the Committee pursuant to the Chapter 10 of the City of Hendersonville Code, Article III, Dogs, Section 10-110, Dangerous/Potentially Dangerous Dogs Restricted, shall be conducted in accordance with the Rules provided below. All such hearings shall be scheduled as special-called meetings and shall be held within ten (10) days of receipt of the written appeal.

Section 2. Conduct of Quasi-judicial (Evidentiary) Hearing.

- a) **Appearance of the Parties.** Any party may appear in person or by agent or by attorney at the hearing. The Committee shall not permit the unauthorized practice of law by a non-lawyer or not properly licensed lawyer at the hearing.
- b) **Order of Business for the Hearing.** The order of business for hearing shall be as follows:
 - i. The Chair, or such other person as the Chair may direct, shall give an opening statement regarding the nature of the hearing and the process to be followed.
 - ii. The Chair, or such other person as the Chair may direct, shall poll all Committee members participating regarding any ex parte communications, bias, or conflicts of interest.
 - iii. All participants in the hearing shall be identified. Issues regarding standing, permitted level of participation of the participants and other jurisdictional issues shall be addressed. (Only persons who have standing will be recognized as a party to the hearing. Other interested persons who do not have standing may testify, but will not be allowed to offer opening or closing statements, call witnesses, cross examine witnesses.)
 - iv. All persons who will testify must be placed under oath before testifying.

- v. City staff shall present an overview of the matter, including a summary of the facts and relevant ordinance provisions. Staff shall also present the application, supporting materials, staff report, and any other written materials received and distributed prior to the hearing for introduction into the hearing record.
- vi. The Committee shall permit the parties (not other interested persons) to offer opening statements.
- vii. The party(ies) bearing the burden of proof or production shall present evidence in support of the relief requested from the Committee.
- viii. The opposing party(ies) shall present evidence in support of their position to the Committee.
- ix. Other interested persons who have been identified may present relevant evidence.
- x. The party(ies) bearing the burden of proof or production may present rebuttal evidence. Surrebuttal may be permitted at the Committee's discretion. Only parties (not other interested persons) will be permitted to introduce rebuttal and surrebuttal evidence.
- xi. Closing statements and arguments may be made by parties to the case.
- xii. The Committee shall deliberate on and make a determination of the case.

c) Rules Governing Conduct of the Hearing.

- i. Witness may be called and factual evidence may be submitted.
- ii. The Chair must recognize witnesses before they are heard and confirm that they are under oath.
- iii. The Chair shall allow all witnesses to be heard, but may limit testimony or evidence that is irrelevant, repetitive, incompetent, hearsay, or inadmissible opinion testimony.
- iv. The Chair shall allow the parties to the case to make direct and cross-examination of witnesses and to present rebuttal evidence.
- v. The Chair may establish reasonable procedures to assure that the hearing is conducted in a fair, impartial and efficient manner.
- vi. Committee members may ask questions of any witness.
- vii. The Committee shall not be limited to such evidence as would be admissible in a court of law (except such evidence requiring expert opinion), but all decisions

must be based on competent, material, and substantial evidence properly placed in the hearing record.

- viii Committee members are discouraged from viewing the premises at issue before the hearing, but if they do so, any key facts observed by members shall be disclosed at the hearing and made part of the record.
- ix Upon completion of the presentation of evidence, Committee members shall discuss the case among themselves in open session and may recall any witness to ask further questions and otherwise deliberate among themselves.
- x Committee members shall not discuss the case or give opinions on the evidence until presentation of the case is completed.

d) Decisions. The Committee shall make a writing decision within a reasonable period of time from completion of the evidentiary hearing. The required majority to make a decision shall such as is required by law or ordinance for the matter being considered by the Committee. All decisions shall be reduced to writing, and such contain such findings of fact and conclusions of law sufficient to support the decision made by the Committee. Decisions shall be effective the date the written decision is filed with the Secretary to the Committee, unless otherwise provided by law or ordinance.

ARTICLE VII. Public Hearings

Section 1. Calling Public Hearings. The Committee may hold public hearings to solicit the public's input on specific issues. The Committee may schedule its public hearings or delegate that responsibility to staff members, as appropriate.

- a) **Public Hearing Locations.** The Committee may hold public hearings anywhere within the area served by the Committee.
- b) **Notice of Public Hearings.** Any public hearing attended by a majority of members shall be considered part of a regular or special meeting of the Committee. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Article V apply to such hearings. If a hearing's subject matter triggers additional notice requirements under state law or local rules, the Committee shall see that they are also satisfied.
- c) **Rules for Public Hearings.** The Committee may adopt reasonable rules for public hearings that, among other things,
 - i fix the maximum time allotted to each speaker;
 - ii provide for the designation of spokespersons for groups supporting or opposing the same positions;
 - iii provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the meeting room (so long as arrangements are made, in the case of a

hearing subject to the open meetings law, for those excluded from the meeting room to listen to the hearing); and

- iv provide for the maintenance of order and decorum in the conduct of the hearing.
- d) Continuing Public Hearings. The Committee may continue any public hearing without further advertisement, provided the time (including the date, if the hearing will resume on a different day) and place of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (f) of this Section, if a quorum of the Committee is not present for a properly scheduled public hearing, the hearing shall be continued until the Committee's next regular meeting without further advertisement.
- e) Conduct of Public Hearings. At the time appointed for the hearing, the chair shall call the hearing to order and proceed to allow public input in accordance with any rules adopted by the Committee for the hearing. Unless the Committee votes to extend the hearing, when the time allotted for the hearing expires, or when no one wishes to speak who has not already done so, the chair shall declare the hearing closed, and the Committee shall resume the regular order of business.
- f) Public Hearings by Less Than a Majority of Committee Members. Unless inconsistent with state law or local rules, the Committee may appoint a member or members to hold a public hearing on its behalf. The notice provisions in paragraph (b) of this Section apply when the Committee appoints more than one member to conduct such a hearing.
- g) Public Comment. The Committee may hold a public comment period at any regular meeting or special meeting called, at least in part, for that purpose. During the public comment period, members of the public may speak on any matters within the Committee's real or apparent jurisdiction. The provisions in paragraphs (c) and (e) of this Section apply to the Committee's public comment periods.

ARTICLE VIII. REQUIRED OFFICERS

Section 1. Presiding Officer. The presiding officer of each meeting of the Committee shall be the chair of the Committee. In situations where the chair is unavailable or unable to participate in the meeting or any particular matter before the Committee, the vice chair shall preside. In the event that neither the chair nor the vice chair is available, the members of the Committee, by affirmative vote of the majority, may appoint an acting chair who shall have all powers of the chair while acting as presiding officer.

Section 2. Selection of the Chair and Vice Chair. The chair shall be selected by majority vote of the Committee unless the City Council indicates to the Committee that the City Council will appoint said chair, in which case the appointment shall be made by the City Council. The vice chair shall be elected by a majority vote of the Committee.

Section 3. Powers and Duties of the Chair and Vice Chair. The chair shall preside at all meetings of the Committee but shall also have the right to engage in discussion and vote on any matter before the Committee unless otherwise excused. The chair shall have the power to call a special meeting, rule on procedural matters during a meeting, call a brief recess of a meeting at any time, and adjourn a meeting in an emergency. At any other time, adjournment shall be by motion, duly approved. The vice chair shall have all powers and perform all the duties of the chair in his or her absence.

Section 4. THE CHAIR

- (a) Presiding Officer. The chair shall preside at meetings of the Committee.
- (b) Voting by the Chair. The chair has the same duty to vote as other members, though in no event may the chair break a tie on a motion on which he or she has already voted.
- (c) Recognition of Members. A member must be recognized by the chair (or other presiding officer) in order to address the Committee, but recognition is not necessary for an appeal pursuant to Article XI, Section 5 (Motion 1).
- (d) Powers as Presiding Officer. As presiding officer, the chair is to enforce these rules and maintain order and decorum during Committee meetings. To that end, the chair may
 - (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
 - (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
 - (3) entertain and answer questions of parliamentary procedure;
 - (4) call a brief recess at any time; and
 - (5) adjourn in an emergency.
- (e) Appeals of Procedural Rulings. A member may appeal a decision made or an answer given by the chair under subparagraph (d)(1), (2), or (3) of this rule in accordance with Article XI, Section 5 (Motion 1).

Section 5. Duties of the Secretary. The City Manager shall assign a staff person to the Committee who shall serve as the secretary of the Committee and shall perform the following:

- a) The secretary shall ensure that all meetings of the Committee are properly noticed.
- b) The secretary shall maintain the sunshine list that is a list of those persons or entities that have filed a written request indicating a desire to receive notice of all special meetings of the Committee.
- c) The secretary shall take and record the actions of the Committee and draft minutes of the meetings accordingly. Minutes shall be sent to Committee members prior to their next regularly scheduled meeting. The secretary shall also forward a copy of the minutes as they are approved to the Clerk to the City Council and post on the City's website
- d) The secretary shall be responsible for maintaining an accurate list of members of the Committee, submitting to the City Clerk a quarterly attendance report for its members and notifying the City Clerk of any resignations of any of its members, or any other change in membership of the Committee.

Section 6. Schedule for Elections. of the Chair, and Vice-Chair shall take place annually at the organizational meeting of the committee.

ARTICLE IX. REFERENCE TO ROBERT'S RULES OF ORDER NEWLY REVISED. The Committee shall refer to *Robert's Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert's*, the presiding officer shall make a ruling on the issue subject to appeal to the Committee under Article XI, Section 5 (Motion 1).

ARTICLE X. REPORTS.

Section 1. Annual Report. The Committee shall make a report to the City of Hendersonville City Council at least annual. This report must be submitted no later than December 31st of each year.

Section 2. Public Records Law. The Committee shall abide by North Carolina Public Records Law N.C.G.S. Chapter 132.

ARTICLE XI. ACTION BY THE COMMITTEE.

Section 1. Quorum. A majority of the members shall constitute a quorum for any meeting which does not involve a quasi-judicial matter. For purposes of conducting a quasi-judicial hearing, however, four (4) members shall constitute a quorum. No other business may be conducted during a meeting at which a quasi-judicial hearing is held unless a majority of the members are present. No action of the Committee may be taken at any meeting where less than the required quorum is present, except to adjourn the meeting. For non-quasi-judicial matters, once a quorum has been established, it will not be defeated if members leave.

Section 2. Motions and Voting. Action of the Committee may be taken upon a motion made by any member, including the chair, without the need for a second. A motion shall be adopted if approved by the affirmative vote of a majority of the members present and not excused after full discussion of the motion by the members.

Section 3. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or put to a vote.

Section 4. Substantive (or Main) Motions

A substantive motion is not in order when any other motion is pending. Once the Committee disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting unless it first adopts a motion to reconsider pursuant to Article XI, Section 5 (Motion 13).

Section 5. Procedural Motions

(a) **Certain Motions Allowed.** The Committee may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

(b) **Priority of Motions.** The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 11 and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 8.

When several procedural motions are pending, voting shall begin with the procedural motion highest in priority, except that a motion to amend or end debate on the highest-priority motion shall be voted on first.

Motion 1. To Appeal a Ruling of the Presiding Officer. Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

Motion 2. To Adjourn. This motion may be used to close a meeting. It is not in order if the Committee is in closed session.

Motion 3. To Recess to a Time and Place Certain. This motion may be used to call a recessed meeting as permitted under Article V Section 8. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the Committee is in closed session.

Motion 4. To Take a Brief Recess.

Motion 5. To Follow the Agenda. This motion must be made at the time an item of business that deviates from the agenda is considered; otherwise, the motion is out of order as to that item.

Motion 6. To Suspend the Rules. To be adopted, a motion to suspend the rules must receive affirmative votes equal to two-thirds of the Committee's actual membership, excluding any vacant seats. The Committee may not suspend provisions in these rules that restate state law requirements.

Motion 7. To Defer Consideration. The Committee may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires unless the Committee votes to revive it pursuant to Motion 12 within 100 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

Motion 8. To End Debate (Call the Previous Question). If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member has had an opportunity to speak once on the pending motion.

Motion 9. To Postpone to a Certain Time. This motion may be employed to delay the Committee's consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the Committee may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6.

Motion 10. To Refer a Motion to a Committee. The Committee may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the committee, the Committee may not take up a new motion raising essentially the same issue without first

suspending its rules pursuant to Motion 6. If the committee fails to report on the motion within sixty days of the referral date, the Committee shall take up the motion if asked to do so by the member who introduced it.

Motion 11. To Amend

- (a) Germaneness. A motion to amend must concern the same subject matter as the motion it seeks to alter.
- (b) Limit on Number of Motions to Amend. When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

Motion 12. To Revive Consideration. The Committee may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 7, provided it does so within 100 days of its vote to defer consideration.

Motion 13. To Reconsider. The Committee may vote to reconsider its action on a matter, provided the motion to reconsider is made (1) at the same meeting during which the action to be reconsidered took place and (2) by a member who voted with the prevailing side. For purposes of this motion, “the same meeting” includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3). The motion is not in order if it interrupts the Committee’s deliberation on a pending matter.

Motion 14. To Rescind. The Committee may vote to rescind an action taken at a prior meeting, provided rescission is not forbidden by law.

Motion 15. To Prevent Reintroduction for Six Months. This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion’s defeat. To be adopted, this motion must receive affirmative votes equal to at least two-thirds of the Committee’s total membership, excluding vacant seats. If this motion is adopted, the ban on reintroduction remains in effect for six months or until the Committee’s next organizational meeting, whichever occurs first.

Section 6. Debate

The presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

- The maker of the motion is entitled to speak first.
- A member who has not spoken on the issue shall be recognized before a member who has already spoken.
- To the extent practicable, debate shall alternate between proponents and opponents of the measure.

Section 7. Adoption by Majority Vote

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.

Section 8. Changing a Vote

A member may change the member's vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change a vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

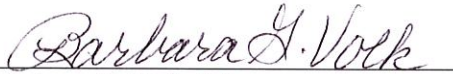
Section 9. Staff Support. City staff shall be assigned to the ASAC, acting as the Secretary and liaison between the ASAC, City Departments, and the City Council and shall have the charge of correspondence, minutes, notifying members of meetings, and other information.

Section 10. Appointing Sub Committees. Subcommittees may only be appointed by vote of the committee members at a regular meeting. The Committee by vote shall also establish the purpose of which subcommittees are established and the subcommittee should only conduct business that is within the purpose so adopted. All meetings of subcommittees shall be considered special meetings and shall be conducted in accordance with Article 5, Section 4. Special Meetings.

ARTICLE XII. AMENDMENTS. The Committee may amend these bylaws by action of the Committee; provided however, that amendments shall not be effective until they are approved by the Hendersonville City Council.

Originally approved by the City Council on this sixth day of February 2020.

Amended by the City Council on the 4th day of February, 2021.


Barbara G. Volk, Mayor
City of Hendersonville

Attest:

Angela Reece, City Clerk

NOTICE

City of Hendersonville Animal Services Advisory Committee

160 Sixth Ave. E, NC 28792

NOTICE OF ANIMAL SERVICES ADVISORY COMMITTEE **ANNUAL SCHEDULE OF REGULAR MEETINGS**

Regular Meetings of the City of Hendersonville Animal Services Advisory Committee are held **on the Third Thursday** beginning at **5:30 p.m.** in the Police Assembly Room located in City Hall at 160 Sixth Avenue. E., Hendersonville NC. The following regular meetings have been scheduled through September 2021:

June 17, 2021
August 19, 2021
September 16, 2021

The following regular meetings have been scheduled through June 2022 and will be held at the **NEW PD Headquarters Assembly Room located at** 630 Ashe Street, Hendersonville NC.

October 21, 2021
November 18, 2021
December 16, 2021
January 20, 2022
February 17, 2022
March 17, 2022
April 21, 2022
May 19, 2022
June 16, 2022

Caroline Gunther
Chair

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.



<https://www.hendersonvillenc.gov>





Regular Meeting
City of Hendersonville
Animal Services Advisory Committee

Meeting Minutes | June 17, 2021 – 5:30 p.m.

HPD Police Assembly Room | 160 6th Ave. E. | Hendersonville NC 28792

1. Call to Order

Meeting was called to order at 5:32 p.m. by Caroline Gunther, Chair. Member's present were Caroline Gunther, Chair; Angela Prodrick, Vice Chair and Jean Greeson. City Staff present were City Manager John Connet; Chief Blair Myhand and Melissa Justus, Secretary.

Committee members Sarah Hoffman and Dr. Pat Gallagher were absent.

Henderson County Animal Services Vice President Joy Edwards, new committee members Robin Grainger, Katie Weibel and James Lyon attended the meeting.

2. Approval of Agenda

Vice Chair Angela Prodrick moved to approve the agenda. Jean Greeson seconded the motion. A unanimous vote of the Committee followed. Motion carried.

3. Approval of Minutes for May 20, 2021 Meeting

Meeting minutes were approved as amended. Vice Chair Angela Prodrick made the motion to approve the minutes of the May 20, 2021, meeting. Jean Greeson seconded the motion and a unanimous vote of the Committee followed.

4. Public Comment

There were no public comments.

5. New Business

New committee members Robin Grainger, Katie Weibel and James Lyon introduced themselves.

6. Civil Penalties

Chief Myhand will gather information for civil penalties and related fees from other entities and present at the August 19th meeting.

7. Discussion of educational materials

Educational materials are still in the works. Chief Myhand has been discussing the App with the developers.

8. Animals at Special Events

Committee Members discussed animals at special events in the City of Hendersonville. City Manager John Connet asked that the committee come up with specific language and symbols that needs to be in the brochure or the application for a Special Event organizer to go by for allowing/not allowing animals at special events.

9. New Business for the August 19, 2021 Meeting

- **Discuss whether pets should be allowed at Special Events**
- **Discussion of findings of Civil Penalties and fees related from other entities**
- **Continued discussion of development of educational materials**

10. Other Business

Chair Caroline Gunther announced the July 17th meeting will be canceled. The August and September meetings will be held in the HPD Roll Call room at 160 6th Ave East.

11. Adjourn

There being no further business Vice Chair Angela Prodrick moved to adjourn the meeting at 6:44 p.m.

Animal Enforcement Benchmark Study

Fourteen municipalities were used in this study from across the entire State of North Carolina. Of the fourteen municipalities surveyed, 10 use civil penalties only to enforce violations of animal ordinances within their respective jurisdictions. Four are either strictly criminal or a combination of the criminal and civil.

Currently, the City of Hendersonville code of ordinances uses a combination of civil and criminal penalties for violations of the ordinance. The civil penalty is a \$500 fine per day in addition to and independent of any criminal penalties imposed. As I read the ordinance, a violation of any provision of the applicable chapter shall be a misdemeanor. Moreover, it is unclear which specific violations are civil and which are criminal making enforcement difficult and inconsistent.

City of Hendersonville, Code of Ordinances, Chapter 10, Animals, Section 10-153, Violations and Penalties, states:

The following penalties shall pertain to violations of this chapter:

- 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 G.S. 14-4 or other applicable law. Each violation of this chapter (or if a continuing violation, each day in which the violation continues) is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not affect the liability for fees or civil penalties imposed under this chapter.
- 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 G.S. 153A-123(d) and (e)
- c) *Issuance of a citation.* Issuance of a citation for violation of this chapter is directed toward and against the owner. The purpose of the issuance of a citation is to affect the conduct of the owner by seeking to have the owner ensure 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 penalties for such violation(s) must be paid; and
 - 4. State that the city may initiate after such date a civil action to collect the civil penalties which are and may become due.

- d. *Civil penalties.* 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.

Section 10-153, Enforcement, states:

- a) The chief of police or any city police officer 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 imposed civil penalty shall be paid in full to the city 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 article.
- b) 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 penalty and costs associated with collection of the penalty, 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 city manager or his designee are expressly authorized to initiate and prosecute small claims actions in district court to collect civil penalties and fees due to the city and may call on the city legal department for assistance as needed.

Lastly, Section 10-155, Enumerated Civil Penalties, states:

The following civil penalties are hereby established for each incident violation of this chapter:

Violation of this article as to any domestic animal (per day)\$500.00.

Black Mountain

All violations are civil unless otherwise prescribed. Violations are categorized in levels. Level 1 being least serious and Level 3 being most severe. Fines are progressive for repeated violations.

Level 1: \$50-\$100

Level 2: \$75-\$250

Level 3: \$100-\$500

Burlington

All violations are civil unless otherwise prescribed. Violations are categorized in levels. Level 1 being least serious and Level 3 being most severe. Fines are progressive for repeated violations.

Level 1: \$50-\$100

Level 2: \$75-\$250

Level 3: \$100-\$500

Clinton

All violations are civil with no categorization of severity. Fines are progressive for repeated violations.

First offense: warning, no fine

Second offense: \$25 fine

All additional offenses: \$50 fine

Davidson

All violations are civil with no categorization of severity. Fines are progressive for repeated violations.

First offense: \$30 fine

Second offense: \$50 fine

Third offense: \$100 fine and/or restraint measures

Fourth offense: \$250 fine and/or restraint measures

Fifth offense: \$500 fine and seizure/forfeiture of animal

Graham

All violations are civil with no categorization of severity. Fines are progressive for repeated violations.

First offense: written warning, no fine

Second offense: \$100 fine

Third offense: \$250 fine

Fourth and subsequent offenses: \$500 fine and seizure of the animal

Hickory

All violations are civil with no categorization of severity. Fines are progressive for repeated violations within a rolling 12-month cycle.

First offense: \$50 fine

Second – Fourth offense: \$100 fine

Fifth – Tenth offense: \$250 fine

Beyond Tenth offense: \$500 fine

Leland

All violations are civil with no categorization of severity. Fines are progressive for repeated violations.

First offense: warning, no fine

Second offense: \$50 fine

Third offense: \$100 fine

Lenoir

All violations are criminal.

Morganton

All violations are criminal, but ordinance seems to allow a \$50 civil penalty along with a criminal citation.

Nashville

All violations are civil with no categorization of severity.

All offenses: \$100 fine

Reidsville

Violations of ordinance are both civil and criminal with progressive civil penalties totaling no more than \$500. Fines are specific to the violation. There is a non-specific civil penalty of \$50 for violations not otherwise described in ordinance.

Woodfin

Violations of ordinance are criminal and civil. Some violations are subject to a warning for the first offense and up to \$500 for the second offense. Other violations are subject to a \$50 fine for each day of continued violation. No person shall be charged more than \$500 along with a criminal citation.

Recommendation for City of Hendersonville

Make all penalties civil. Certain violations are a violation of state law and violations should be charged both criminally at the state level and civilly at the city level. I also recommend we adopt the Level 1-3 approach like Black Mountain and Burlington. Specifically, our ordinances would fall into the following categories:

Level 1

Sec. 10-4. - Animals running at large.
 Sec. 10-5. - Fowl running at large.
 Sec. 10-6. - Dogs and cats fouling public grounds.
 Sec. 10-7. - Animals at special events.
 Sec. 10-44. - Location restrictions.
 Sec. 10-45. - Maintenance of stables, sheds, or other places where livestock is kept.
 Sec. 10-71. - Disposal of dead chickens and fowl.
 Sec. 10-107. - Running at large.
 Sec. 10-113. - Vaccination.

Level 2

Sec. 10-2. - Harming or destroying birds prohibited.
 Sec. 10-3. - Protection of squirrels.
 Sec. 10-109. - Mischievous dogs.

Level 3 *(some violations are crimes)*

Sec. 10-110. - Dangerous/potentially dangerous dogs restricted.
 Sec. 10-152. - Mistreatment of animals prohibited.

(recommended) Civil Penalty Fine Schedule				
	First Offense	Second Offense	Third Offense	Additional Offenses
Level I	Warning	\$50	\$100	\$100
Level II	\$100	\$150	\$200	\$200
Level III	\$200	\$300	\$500	\$500