



Environmental Services

MEMORANDUM

To: Wake County Board of Commissioners

CC: David Ellis, ICMA – CM, Chief Executive Officer and County Manager
Ken Murphy – Senior Assistant Wake County Attorney

From: Jennifer Lynn Federico, DVM – Animal Services Director
Joseph Threadcraft, Ph.D., P.E. – Environmental Services Director

Date: June 26, 2018

Subject: Pooper Scooper Ordinance

The Wake County Board of Commissioners received a letter from a concerned citizen regarding the lack of a Pooper Scooper Ordinance within the Wake County Animal Control Ordinance. The following is a review of this concern.

Benchmarking

	Ordinance?	Feedback from Animal Control Unit on Enforcement	Cases to Court?
Raleigh Animal Control	Yes	-Citation issued if complaint made same day as violation -Needs evidence (photo or two witnesses) -If dog owner wishes to appeal or doesn't pay, a summons to appear in court will be issued -Difficult to enforce -ACOs take proactive approach when evidence is not clearly provided by educating violator regarding ordinance	No Response
Cary Animal Control	Yes	-Prefer to see a video of violation before they issue a citation -Cite owner and if not paid, and no further incidents, won't pursue further action (1 st citation is \$20) -If more than one complaint for same owner and first citation was paid, they will issue 2 nd citation of \$50 -If 2 nd incident occurs and first citation not paid, they will issue a criminal summons which requires them to come to court	None

		<ul style="list-style-type: none"> -Typically, once someone is warned, it's rare for the problem to continue -If an owner wants to dispute, they let the judge or DA decide; once video is seen, typically not much more to say -Will not issue citation by picture alone because not proof that the owner did not pick up -Difficult to enforce when complainant doesn't know where dog / owner lives 	
Holly Springs Animal Control	Yes	<ul style="list-style-type: none"> -Issue citation based on evidence which would be video of violation, multiple witness statements or admission of guilt from pet owner -If violator fails to pay fine, a civil citation/criminal summons will be issued and the owner will be served and given a mandatory court date -Difficult to enforce -More likely to get dismissed in district court with testimony alone -Building a case with substantial evidence is key! 	None
Garner Animal Control	Yes	<ul style="list-style-type: none"> -Rarely get calls – maybe 1 per year -Person will get two warnings -After 2nd warning, a written monetary citation is issued -They can refuse to pay but it will be attached to their taxes -They don't go to court for these citations -Their citations range from \$50 to \$100 to \$150 	Not applicable
Mecklenburg County	Yes	<p>Their website advises that:</p> <ul style="list-style-type: none"> -Response to first time complaints will be to notify the owner by mail that we received a complaint concerning their animals and recommendations to remedy the situation. If future calls are submitted, an officer will be dispatched to evaluate the validity of the complaint. -An AC&C Officer must see or hear the violation when they respond to take any kind of civil action. <ul style="list-style-type: none"> -They will issue civil citations which escalate in penalties (1st - \$50; 5th - \$500 and possible seizure of animal) -The penalties, if not paid, go to a collection agency and are taken out of the individual's state tax returns - Their police attorney will not accept photos or videos (since they can be manipulated) and will not accept witness statements (due to people using the police to continue neighbor disputes) and the officer must witness the violation 	Not applicable

		<p>-Usually they advise the complainant to take their complaint to the magistrate since they can use evidence that the police department cannot</p> <p>-***Please note that they have 39 Animal Control Officers on staff</p>	
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Citations currently issued by Wake County Animal Control

Currently, when citations for running at large and public nuisance charges are not paid, a certified letter is sent to the individual on Day 10 (since they initially have ten days to pay). This certified letter advises the following:

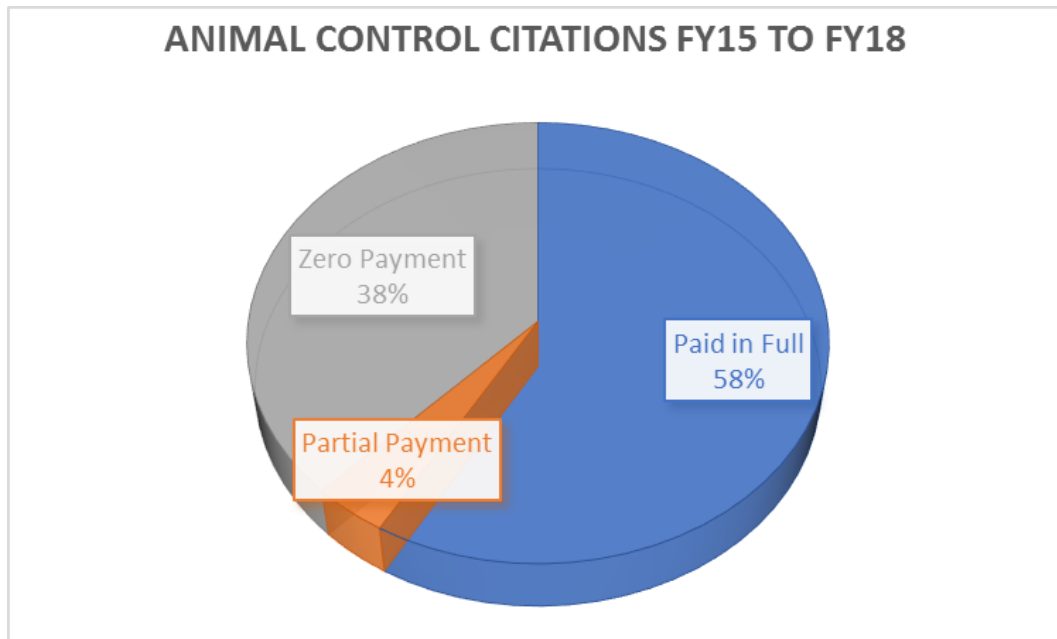
To date, our records indicate that this citation is still outstanding. Immediate payment is requested. If this citation has been paid, we apologize for the inconvenience and thank you for your payment. You may mail or deliver your payment to Wake County Animal Care, Control & Adoption Center, 820 Beacon Lake Drive, Raleigh, NC 27610 or contact me at 919-250-1466 to schedule payment arrangements. If payment for Citation #FDxxxx is not received, or payment arrangements made, by close of business on [DATE], a civil action may be commenced against you in Wake County Small Claims Court to recover not only the amount of the citation but also applicable court costs, as allowed by law.

From July 1, 2015 through June 6, 2018, fifty-Five (55) citations had to be brought to small claims court as civil lawsuits on Complaints for Money Owed, of which 17 were dismissed by the judge, eight were paid in full and there are 30 judgments still outstanding. At a cost of \$126 to file per citation to bring the lawsuit to court, these total citations cost Wake County \$6,930 just in court costs. Of which, only 8 of those court costs were recouped to date. The remainder was lost fees which totaled \$5,922.

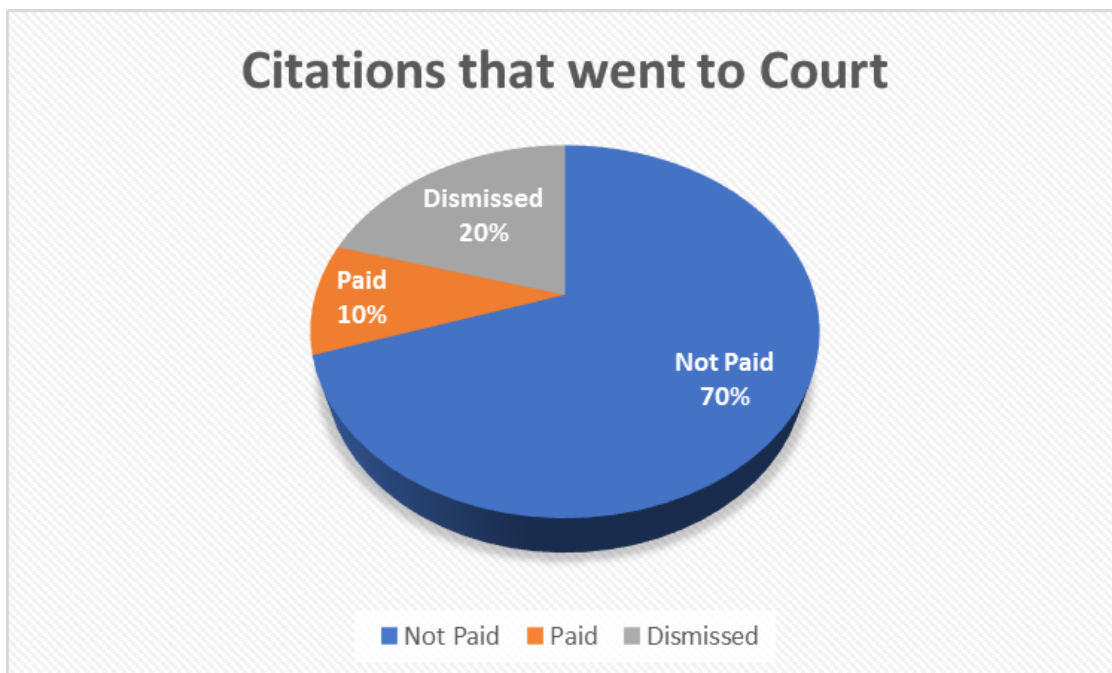
When the County obtains a judgment on these unpaid citations, and the judgment is not paid, the judgment remains a lien on the animal owner's real property for ten years. However, it has been our experience that many of the individuals receiving citations don't own real property. Therefore, the judgments remain uncollected.

Between the filing cost, Animal Control staff time and County Attorney time, this is not necessarily a best use of resources and has little return on investment. Now, we have no other recourse for addressing unpaid citations.

The following chart is a summary of the citations paid in full, received partial payment and no payment for FY 15 through June 6, 2018:



The next chart shows how many we paid to take to court and the outcomes of those judgments:



Summary

A pooper scooper ordinance can be written to continue to promote responsible pet ownership within Wake County. The difficulty will become how to enforce this law and how to ensure that the punishment of a citation fee is paid.

These ordinances are more typically suited to municipalities, where the availability of public water and sewer allows for more high-density development such as apartments and condominiums, where pet owners do not have their own yard for their dogs to use the bathroom. At least one of the municipalities for which Wake County provides animal control services, Wendell, already has an “Animal Sanitation Code” contained within its Code of County Ordinances which outlines dog owners’ responsibility for picking up feces, and which is enforced by Wendell’s Code Enforcement staff rather than Wake County Animal Control.

Enforcement of a pooper scooper ordinance would present significant challenges for Wake County Animal Control. By its very nature this is the type of violation that will not be witnessed by an Animal Control Officer. The complaining citizen will often not have video evidence of the dog in the act and the owner with the dog not picking up after the dog. In the absence of such video evidence, it will be difficult to prove that the complained-of dog did what the complaining citizen alleges, and it will be difficult to prove that the dog’s owner did not pick up after the dog.

Wake County Animal Control is already stretched thin, and diverting resources to enforce what would essentially be a nuisance ordinance would hinder Animal Control’s ability to accomplish its primary missions, which are to protect public health and safety and to ensure animal welfare.

JF/JT

Cc: File