

TO: Chairs of the Joint Legislative Administrative Procedures Oversight Committee  
FROM: David F. Mills, Attorney for Town of Four Oaks  
DATE: October 21, 2019  
RE: Report of Ordinances with Criminal Enforcement

I am submitting the attached report in compliance with the requirement that the Town of Four Oaks report on its ordinances that are enforceable as criminal offenses. I have reviewed the Four Oaks Code of Ordinances (the “Code”) and attempted to be as thorough as possible, but I do not warrant absolute accuracy.

Section 10.99 of the Code provides that unless a particular section specifies otherwise, a violation of the Code is punishable as a misdemeanor. Further, N.C. Gen. Stat. § 160A-175(b) provides that “unless the Council shall otherwise provide, violation of a city ordinance is a misdemeanor or infraction as provided by G.S. § 14-4.” The list attached, then, includes provisions of the Code that either specifically provide for enforcement as a misdemeanor or that are silent on enforcement.

One note of concern: § 75.99 of the Code provides that “Whosoever shall violate any provision of **this code** for which no other penalty is provided, shall be upon conviction, guilty of a misdemeanor, and subject to a fine not to exceed \$50. Each day that any of the provisions of **this code** are violated shall constitute a separate offense.” (Emphasis added.) “Code” or “this Code” is defined at § 10.05(B) as meaning the Four Oaks Code of Ordinances as a whole. However, Chapter 75 specifically deals with the regulation of the use of golf carts in the Town. *It is my opinion* that the intent of § 75.99 is to reference violations of *Chapter 75*, rather than establish enforcement procedures for the entire Code.

If you have any questions, please advise. DFM

<b>Ordinance Punishable by GS 14-4(a)</b>	<b>Description of Conduct Subject to Criminal Punishment under the Ordinance</b>	<b>Notes</b>
§ 10.99	Unless otherwise specified, violation of Code is a misdemeanor	Preserves ability to enforce by equitable or civil remedies.
§§ 51.12 and 51.14	Unlawful receipt or use of water from the system.	Penalty: § 51.99
§§ 51.15 and 51.16	Injury to water system property and tampering with meters.	Penalty: § 51.99
§§ 75.01-75.03	Operation of a golf cart except in compliance with the Code	Penalty: § 75.99
§ 91.21	Failure to comply with limitation on number of dogs to be kept.	
§§ 95.01, <i>et seq.</i>	Creating or maintaining a public nuisance.	See §§ 95.01(A) and 95.99.
§§ 97.01, <i>et seq.</i>	Inadequate supervision of juveniles; loitering by juveniles, etc.	Penalty: § 97.99
§ 110.030	Conducting business without a business license.	Penalty: § 110.059
§ 110.058	Failing to post business license.	Penalty: § 110.059
§ 150.25	Construction, demolition, etc., without a permit.	See § 150.25(C)
§ 150.46	Removing notice of condemnation of dangerous building.	
§ 150.49	Failure to comply with order to correct a dangerous building condition issued pursuant to § 150.47(C) or to comply with an order of the town council regarding action to correct unsafe structure.	
§ 150.61(E)	Violation of a stop order issued by the Inspection Department	

§ 150.64(D)	Failure to obtain a certificate of compliance upon completion of work done pursuant to a building permit.	
§§ 150.01, <i>et seq.</i>	Failure to comply with building and construction regulations generally.	§ 150.99 incorporates § 10.99 for violations of Chapter 150.
§ 151.01, <i>et seq.</i>	Failure to comply with minimum housing standards	Penalty: § 151.22
§ 154.25	Violation of a stop work order issued by the Floodplain Administrator	See § 154.25(B)(16)
§ 154.27	Failure to take corrective action following an appeal or comply with an order of the governing body regarding floodplain regulations	See § 154.27(E)
§ 154.01, <i>et seq.</i>	Failure to comply with the requirements of Chapter 154 relating to flood damage prevention.	Penalty: § 154.99
§ 155.01, <i>et seq.</i>	Violation of ordinance regulating manufactured homes.	No reference to penalty; triggers § 10.99