

Town of Wentworth

In response to Session Law 2018-69 AN ACT TO ASSIST THE CRIMINAL LAW RECODIFICATION WORKING GROUP, and Session Law 2019-198 AN ACT TO MAKE CHANGES TO FUTURE CRIMINAL LAWS RELATED TO REGULATORY OFFENSES, TO EXTEND THE TIME FOR LOCAL GOVERNMENTS TO REPORT ORDINANCES WITH CRIMINAL PENALTIES, AND TO REQUIRE THE GENERAL STATUTES COMMISSION TO STUDY CURRENT OFFENSES NOT ENACTED BY STATUTE.

The following Ordinances of the Town of Wentworth, North Carolina 27375 that create a new criminal offense or otherwise subjects a person to criminal penalties by constituting a misdemeanor under N.C. Gen. Stat. § 14-4 that is criminally enforceable include A – G below:

A. Minimum Housing Standards Ordinance

Article V – Minimum standards of fitness for dwellings, dwelling units, and manufactured homes mandates that all dwellings, dwelling units, rooming units, and manufactured homes comply with applicable North Carolina Building Codes and habitation standards, and limits occupancy in non-complying units.

Article VI – Minimum standards for structural condition mandates that structural conditions meet the minimum standards for dwelling or dwelling units.

Article XVI: Violations

- The violation of any provision of this ordinance shall constitute a misdemeanor, as provided by N.C. Gen. Stat. § 14-4.
- In cases where the housing inspector determines that violations of the ordinance exist, but those violations do not rise to the level of making the dwelling unfit for human habitation, the inspector shall not be required to give notice and hold a hearing in the same manner as for unfit dwellings. Violations which do not result in a finding of a dwelling unfit for human habitation remain subject to penalties and enforcement. The inspector may issue warnings and notices of violations, and may swear out criminal charges for violation of the ordinance.
- In addition to the remedies otherwise provided by this ordinance, this ordinance may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction including injunction and order of abatement.

Article XVII: Alternate Remedies

- Remedies may include all remedies authorized by N.C. Gen. Stat. § 160A-446.

B. An Ordinance Limiting False Fire Alarms Within the Incorporated Boundaries of the Town of Wentworth and Providing Unified Coverage both Within the Township and the Unincorporated Boundaries of the Wentworth Volunteer Fire Department Fire District

This Ordinance is designed to codify and reassert enforcement of a false fire alarm ordinance established March 3, 1997 by Rockingham County regarding the Wentworth Volunteer Fire Department Fire District, which now includes the corporate limits of the Town of Wentworth that were established in the Town's Charter July 1, 1998.

The Ordinance mandates as follows:

- Each facility, business residence, or property upon which a fire alarm system is installed may activate no more than three (3) false alarms per calendar year without a charge or penalty being assessed under this Ordinance.
- Beginning with the fourth (4th) false alarm activated from any facility, business, residence, or other property received in any calendar year, a charge or civil penalty of \$100 shall be assessed per false alarm.
- All penalties pursuant to this Ordinance shall be assessed by the Rockingham County Fire Marshal or his designee and remitted to the Rockingham County Finance Department.
- All penalties collected will be used to reimburse the Wentworth Volunteer Fire Department for use of equipment and fuel, and shall be disbursed to the Wentworth Volunteer Fire Department and expended for such purposes only as reflected in the Wentworth Volunteer Fire Department's financial statement.

C. PLANNING AND ZONING ORDINANCES – Hazardous Waste, Infectious Waste and Toxic Substance Storage Facilities, Treatment Facilities, Transportation Facilities, and/or Disposal Facilities (Article II, pages 42-53)

Planning and Zoning provide for the following:

- Ensure that hazardous and infectious waste and toxic substance storage facilities, treatment facilities, transportation facilities, and/or disposal facilities whose principal use is to store, transport, treat, and/or dispose of hazardous or infectious waste are located in a manner consistent with the public health, safety, and welfare and such that surface waters, ground waters, population centers, adjacent land uses, and the Town of Wentworth, in general, will be protected from the potential injurious effects of a hazardous or infectious waste or toxic substance facility.
- Provide that decisions pertaining to the location of hazardous or infectious waste or toxic substance facilities are made according to objective criteria.

- Ensure that no hazardous or infectious waste or toxic substance facilities will be located within the Town of Wentworth's zoning jurisdiction unless a special use permit has been granted by the Wentworth Town Council.
- Ensure that all applicants requesting a hazardous or infectious waste or toxic substance permit shall pay the Town of Wentworth an application fee set by the Wentworth Town Council.
- Provide that funds are available through levy of a privilege license tax to compensate the Town of Wentworth for overseeing the effects of hazardous or infectious waste or toxic substance facilities in the Town.

Enforcement and Penalties:

- If any person shall violate any provision of this Ordinance, he shall be guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00) or imprisoned for not more than thirty (30) days, as provided by N.C. Gen. Stat. § 14-4. Each calendar day during which violation continues shall constitute a separate offense.
- This Ordinance shall be enforced concurrently by the Rockingham County Planning and Inspections Department, the Rockingham County Health Department, and the Rockingham County Fire Marshall. Any appeal from any order, decision, or determination by the aforementioned enforcement entities shall be to the Wentworth Town Council by filing a written notice with the Clerk to the Town Council within ten (10) days after the order, decision, or determination.

D. PLANNING AND ZONING ORDINANCES – Article XIV, Penalties, Section 4, Civil Penalties – Assessment and Procedures (Article II, pages 153-157)

Section 1 of this Article defines violations of the Town of Wentworth Planning and Zoning Ordinance and establishes that responsible parties shall be subject to the enforcement remedies and penalties provided by this Article and by state law. Section 2 defines enforcement procedures, Section 3 defines remedies, and Section 4 defines civil penalties – assessment and procedures.

Section 4

- **Penalties:** Any person who violates any provision of this Planning and Zoning Ordinance shall be subject to assessment of a civil penalty in the amount of \$25.00 for the first violation; \$50.00 for the second violation; \$100.00 for the third violation; and \$200.00 for the fourth and succeeding violations thereafter, unless otherwise provided.
- **Notice:** No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation with a First and Second Notice of Violation. Thereafter, if the owner or other violator fails to take corrective action, a civil penalty may be imposed under this Section in the form of a Citation. The Citation shall state the nature of the violation, the civil

penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen (15) days of the date of the notice.

- In addition to other enforcement provisions contained in this Article, the County may exercise any and all enforcement powers granted to it by state law or common law.

E. An Ordinance of the Town of Wentworth, State of North Carolina prohibiting unreasonably loud, disturbing, and unnecessary noises in the Town of Wentworth

This Ordinance deems it unlawful for any person or persons to make, permit, continue, or cause to be made or to create any unreasonably loud, disturbing, and unnecessary noise in the Town.

Enforcement and repeated violations:

- Where there is a violation of any provision of this Ordinance, the Town at its discretion, may take either or both of the following enforcement actions:
 - A sheriff, deputy sheriff, or other law enforcement officer of Rockingham County may issue a citation subjecting the violator to a \$50.00 civil penalty to be paid within ten (10) days, which penalty may provide for an additional \$50.00 delinquency charge upon non-payment, and which penalty and delinquency charge may be recovered by the Town of Wentworth in a civil action;
 - A misdemeanor warrant may be issued either immediately or upon issuance of a citation and the violator's failure to pay the same.
 - Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.

F. Rockingham County Animal Control Ordinance

An Ordinance that, once adopted by a municipality within Rockingham County, defines the general authority of the Animal Control Division within the municipality and throughout the County.

Article I:

Defines the general duties of keepers/owners of animals, prohibits animals running at large, prohibits animals constituting a public nuisance, restricts dangerous or vicious animals, prohibits animal fighting and baiting, prohibits mistreatment of animals, prohibits cruel treatment of animals, the responsibility of notification of owner in the event of causing an injury, destruction of animals that cannot be seized, setting humane animal traps, impoundment, procedures to redemption of unvaccinated animals, humane euthanasia of wounded or diseased animals, handling of stray animals by the public, security dogs, relation to hunting laws, and wild animals.

Article II:

Implements requirements to prevent and control the spread of rabies.

Article IV:

Provides for an annual license tax.

Article V:

Mandates the following penalties for violations of this Ordinance:

- The violation of any provision of this Ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in N.C.G.S. 14-4. Each day's violation of this Ordinance shall be a separate offence.
- In addition to and independent of any criminal penalties and other sanctions provided in this Ordinance, a violation of this Ordinance may also subject the offender to the civil penalties hereinafter set forth.
 - An animal control officer or other law enforcement officer may issue to the known owner or keeper of any animal, or to any other violator of the provisions of this Ordinance, a ticket or citation giving notice of the alleged violation(s). The ticket or citation, except those issued for failure to license an animal, shall impose upon the violator a minimum civil penalty of twenty-five dollars (\$25.00), or such greater amounts for subsequent offenses as may be set by the Ordinance. Tickets or citations issued for failure to license an animal as required by the Ordinance shall impose upon the violator a penalty of fifty dollars (\$50.00). This civil penalty is in addition to any other fees or costs authorized by this Ordinance.
 - In the event that the owner or keeper of an animal or other alleged violator does not appear in response to the above described ticket or 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 criminal summons may be issued against the owner or keeper or other alleged violator of this Ordinance, and upon conviction, the owner shall be punished as provided by State Law.
 - The civil penalty for violation of this Ordinance unless otherwise specified is fifty dollars (\$50.00). Said penalty shall be paid within seventy-two (72) hours from and after the issuance of notice of said penalty.

G. Ordinance relating to the franchising of private solid waste collectors within the Town of Wentworth

It is the purpose and intent of this ordinance to protect public health and to promote reasonable cost for citizens by granting an exclusive franchise or franchises for the collection and disposal of solid waste to one or more responsible persons or businesses equipped to render adequate and continuing service throughout the Town of Wentworth.

Article X: Penalties and Remedies:

- A violation of any of the provisions of this Ordinance shall constitute a misdemeanor, punishable by a fine not exceeding fifty dollars (\$50.00) or by imprisonment not to exceed thirty (30) days, or both, in the discretion of the Court.
- A violation of any of the provisions of this ordinance shall also subject the offender to a civil penalty within ten (10) days after being cited for a violation, the Council may seek to recover the penalty by filing a civil action in the nature of debt.
- The Town may seek to enforce this article through any appropriate legal or equitable action and relief.
- Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.
- The Town may seek to enforce this Article by using any one or any combination of the foregoing and/or by using any available contractual remedies.