

**From:** [Jak Reeves](#)  
**To:** [tallen@sog.unc.edu](mailto:tallen@sog.unc.edu); [Sen. Andy Wells](#)  
**Cc:** [Susan L. Sitze \(Legislative Analysis\)](#); [Town Clerk](#); [Brantley Price](#)  
**Subject:** Ordinance Report Requirement  
**Date:** Wednesday, September 04, 2019 11:09:43 AM  
**Attachments:** [20190904085144930.pdf](#)

---

Good morning Mr. Allen and Sen. Wells

I am counsel for the Town of West Jefferson. We have compiled what ordinances we have that would potentially have criminal implications. I have attached them to this email. The top left hand corner states the relevant chapter of our ordinances where these penalties. One exception is Chapter 75 of our ordinance which applies to impounding motor vehicles. As per Mr. Allen's blog post, I have cc'd Ms. Sitze to this email. I appreciate your assistance.

Regards,

Jak Reeves

*John Benjamin "Jak" Reeves*

**John Benjamin "Jak" Reeves, Esquire**

280 Queen Street, Boone, NC 28607

Telephone: (828) 268-9640 Fax: (828) 262-3699

202 East Main Street, PO Drawer 67, West Jefferson, NC 28694

Telephone: (336) 246-7172 Fax: (336) 246-5966

[jreeves@rdwlegal.com](mailto:jreeves@rdwlegal.com) [www.lawyernorthcarolina.com](http://www.lawyernorthcarolina.com)

**CONFIDENTIALITY NOTICE:** This communication is covered by the Electronic Communications Privacy Act, 18 U.S.C. Section #2510-2521. It is legally privileged (including attachments) and is intended only for the use of the individual(s) or entity(ies) to which it is addressed. It may contain information that is confidential, proprietary, privileged, and/or exempt from disclosure under applicable law. Any review, retransmission, dissemination or other use of, or taking any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you have received this communication in error, please notify us at [tdivenere@rdwlegal.com](mailto:tdivenere@rdwlegal.com) so that we may take the appropriate action and avoid troubling you further. Thank you for your cooperation.

Print
-------

## West Jefferson, NC Code of Ordinances

**§ 52.999 PENALTY.****(A) *Civil penalties.***

(1) Any user who is found to have failed to comply with any provision of this chapter, or the orders, rules, regulations, and permits issued hereunder, may be assessed a civil penalty of up to \$25,000 per day per violation. Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:

(a) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation; or

(b) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this chapter, or the orders, rules, regulations, and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

(2) In determining the amount of the civil penalty, the POTW Director shall consider the following:

(a) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

(b) The duration and gravity of the violation;

(c) The effect on ground or surface water quantity or quality or on air quality;

(d) The cost of rectifying the damage;

(e) The amount of money saved by noncompliance;

(f) Whether the violation was committed willfully or intentionally;

(g) The prior record of the violator in complying or failing to comply with the pretreatment program; and

(h) The costs of enforcement to the town.

(3) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 52.058.

**(B) *Other available remedies.***

(1) Remedies, in addition to those previously mentioned in this chapter, are available to the POTW Director who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to;

(2) *Criminal violations.* The District Attorney for the applicable judicial district may, at the request of the town, prosecute noncompliant users who violate the provisions of G.S. § 143-

215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (G.S. § 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (G.S. § 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (G.S. § 143-215.6B(i)).]

(3) *Injunctive relief.* Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the POTW Director, through the Town Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

(4) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(5) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the town governing nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying the nuisance.

(C) The remedies provided for in this section are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. passed 5-3-2007; Ord. passed 2-4-2013)

[Print](#)

## West Jefferson, NC Code of Ordinances

**§ 75.03 CRIMINAL PENALTIES.**

Any person convicted of violating any provision of Chapter 72 shall be punishable as provided for in the North Carolina General Statutes.

(Ord. passed 1-3-2011)

Print
-------

## West Jefferson, NC Code of Ordinances

**§ 95.99 PENALTY.**

(A) Violations of this chapter by any person who shall subject the offender to a civil penalty in the amount of \$100 to be recovered by the town. Violators shall be issued written notice of the violation which must be paid within 30 days after receipt of the notice. If the violator does not pay the penalty within 30 days, the town may recover the penalty and all subsequent accruing penalties in a civil action. In the event that it is necessary for the town to institute a civil action to collect the penalty, the violator shall be responsible for all court costs and attorney's fees incurred by the town.

(B) Violation of this chapter by any town employee may also result in disciplinary action being taken.

(C) Each violation of this chapter shall constitute a separate and a distinct offense.

(D) This chapter may also be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(Ord. passed 6-6-11)

Print
-------

## West Jefferson, NC Code of Ordinances

**§ 96.99 ENFORCEMENT.**

(A) Any violation of this chapter shall subject the owner of the dog to a civil penalty in the amount of \$100 to be recovered by the town.

(B) In the event that a violation of § 96.04 causes any type of physical injury to a person, the owner of the dog causing the injury shall be subject to a civil penalty of \$500 for each such violation, instead of the \$100 penalty, to be recovered by the town.

(C) Any dog that is off the premises of his or her owner, and that chases, snaps at, barks at, or attacks a person, and that causes physical injury to a person, more than once, shall be destroyed.

(D) Notwithstanding divisions (A) through (C) above, this chapter may be enforced by appropriate equitable remedies issued from a court of competent jurisdiction.

(Ord. passed 1-6-2014)