



TO: Rep. Jonathan C. Jordan and Sen. Andy Wells—Co-Chairs of the Joint
Legislative Administrative Procedure Oversight Committee

Rep. James L. Boles, Jr., Rep. Ted Davis, Jr., and Sen Shirley B. Randleman—
Co-Chairs of the Joint Legislative Oversight Committee on Justice and Public
Safety

Susan L. Sitze, Staff Attorney-NC General Assembly, Legislative Analysis
Division

FROM: Andrew J. Neal, Staff Attorney

SUBJECT: SESSION LAW 2018-69 (HOUSE BILL 379); COUNTY OF WAYNE, NORTH
CAROLINA

DATE: November 30, 2018

CC: Borden Parker, County Attorney
Craig Honeycutt, County Manager
Chip Crumpler, Assistant County Manager
Carol Bowden, Clerk to the Board

Attached is the response of the County of Wayne, North Carolina to the requirements set forth in Section 3 of Session Law 2018-69 for local government units. The document contains a list of all the ordinances for the County of Wayne which create criminal offenses pursuant to NCGS 14-4(a). Brief descriptions of the prohibited conduct are included. The complete listing of ordinances for the County of Wayne can be found at https://library.municode.com/nc/wayne_county/codes/code_of_ordinances.

If you have any questions regarding this submission, please contact Andrew J. Neal, Wayne County Staff Attorney, at (919) 705-1713 or by email at andrew.neal@waynegov.com. Please confirm receipt of this submission and its compliance with Session Law 2018-69.

COUNTY OF WAYNE, NORTH CAROLINA
SUMMARY OF ORDINANCES PUNISHABLE PURSUANT TO NCGS 14-4(A)

Chapter 10: Animal Services-

Article I: Introduction (Sections 10-1 through 10-17)-

Prohibited activities:

Section 10-4: Unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure such action.

Section 10-5: Prohibits any owner to permit an animal to be at large.

Section 10-6: Defines actions which constitute a nuisance by an animal owner and prohibits any person from owning an animal which constitutes a nuisance.

Section 10-7: Prohibits owners from keeping inherently dangerous mammals within the County and defines inherently dangerous mammals for the purposes of this section.

Section 10-8: Prohibits ownership of dangerous animals and dogs as defined by this subsection.

Section 10-9: Prohibits the training of attack dogs in non-secure enclosures.

Section 10-12: Requires registration of dogs used for sentry or guard purposes.

Section 10-13: Prohibits teasing and molesting of any animal.

Section 10-15: Prohibits interference with Animal Control Program agents, officers, or veterinarians.

Article II: Rabies Control (Sections 10-36 through 10-46)-

Prohibited activities:

Section 10-17: Requires compliance with state laws relating to the control of rabies.

Section 10-18: Requirement of rabies vaccine to any dog or cat four months of age or older.

Section 10-19: Requires dog owners to securely attach an inoculation tag on collar or harness.

Section 10-20: Requires cat owners to maintain records of rabies vaccination.

Section 10-25: Prohibits killing or releasing an animal under observation of rabies from Animal Control Program without permission from proper authorities.

Section 10-26: Requires surrender of any animal upon request of Animal Control for quarantine or destruction for violation of rabies regulations.

Section 10-33: Requires notification of authorities or owner upon injuring or killing of a cat or dog by vehicle.

NOTE: Under Section 10-36, criminal charges under NCGS 14.4 are only pursued following the third or subsequent civil citation for violations under Chapter 14.

Chapter 14: Buildings and Building Regulations-

Article II: Technical Codes (Sections 14-21 through 14-29)-

Article II outlines building and construction codes for all buildings within the jurisdiction of the County of Wayne. The provisions of Chapter 14, Article II and the regulatory codes apply to the following:

- The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition removal, use, and occupancy of every building or structure or any appurtenances connected or attached to such building or structure;
- The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof;
- The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning, and refrigeration systems, fuel burning equipment, and appurtenances thereof;
- The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.

Section 14-129, Violations: Prohibits willful non-compliance with any final order or direction with respect to the all building codes of this Article issued by the building inspector or Board of Commissioners. Each day of non-compliance constitutes a separate and distinct offense.

Article VI: Minimum Housing Standards (Sections 14-151 through 14-231)-

The Article establishes minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444. Any dwelling used for human habitation must comply with all of the minimum standards of fitness for human habitation and all of the requirements of Chapter 14. No person is permitted to occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of the applicable sections of Article VI. Section 14-231 prohibits any violation of the minimum housing standards as defined within Article VI and authorizes criminal prosecution under NCGS 14-4(a).

Chapter 18: Businesses

Article II: Massage Parlors (Sections 18-19 through 18-34) -

The Article establishes licensing provisions for massage parlor businesses. The Article regulates license applications, license qualifications, hours of operation, employee requirements, age restrictions of patrons and defines specific activities prohibited in

massage parlors. Specific activities which are prohibited include: practicing without a license, having physical contact with genital organs, providing massages or any treatment in private areas, operating without posting regulations relating to minors, to provide more than ten treatments to a person of opposite sex without an order from a license physician, and unclothed massages. Section 18-33 authorizes criminal prosecution of any violation of the Article. NOTE: Each day that any person shall continue to do any act in violation of any such provision, rule or regulation shall be and constitute a distinct and separate offense.

Article III-Insulation Installers (Sections 18-57 through 18-65)-

Prohibits insulation installation without a license issued by the County of Wayne.

Article V: Automobile Junkyards (Sections 18-126 through 18-133)-

Prohibits the following activities with respect to automobile junkyards:

- Operation of junkyard within 100 feet of the centerline of any public road, within 200 feet of any dwelling owned by another person within one quarter mile of any school, rural volunteer fire department, church, or within any residential area.
- Operation of junkyard without planning board's approval of site plan.
- Operation of junkyard that is not completely fenced as approved by the planning board.

Each day that said junkyard or automobile graveyard shall be maintained or operated in violation of this article shall constitute a separate and distinct offense.

Article VI: Electronic Gaming Operations (Sections 18-151 through 18-165)-

The provisions of this Article are adopted under General Statutes 153A-121 and 153A-340 through 153A-349. The Article establishes the procedures by which operators of electronic gaming operations may obtain permits as well as the restrictions which apply to the operation of these businesses. Specifically, the article states that electronic gaming operations may not operate within specific planning zones and may not be located within certain distances of residences, churches, schools, and other facilities. No electronic gaming operation shall be established as a new operation or continue as an on-going operation, except in conformity with this article. Section 18-164 authorizes the criminal prosecution for violations of this Article.

Article VII: Solar Energy Facilities (Sections 18-191 through 18-202) –

The Article establishes procedures required before a solar facility may be constructed as well as rules relating to the layout, design, and construction of solar facilities. The section requires applicants to submit a site plan and decommissioning plan to the planning department prior to construction. Additionally, the Wayne County planning board and

Board of Adjustment must approve the site plan before construction may begin. Section 18-201 of the Article prohibits any person, firm, corporation, or other entity from maintaining or controlling a solar energy facility without following the approval, licensing, construction, and operation regulations in Article VII. Each day that said solar energy facility shall be maintained or operated in violation of this article shall constitute a separate and distinct offense.

Chapter 30-Environment

Article II: Watershed Protection (Sections 30-19 through 30-124)–

This article outlines specific measures with respect to stormwater management for property owners and developers within the County. The state legislature has directed local governmental units to adopt regulations with respect to the State Watershed Protection Act. The provisions of this article apply within the areas designated as a public water supply watershed by the environmental management commission. Section 30-24 prohibits any violation of the watershed protection ordinance and authorizes criminal penalties.

Article III: Noise (Sections 30-140 through 30-154)–

Section 30-148: Establishes the following prohibitions regarding noise:

- Use of loud, boisterous, raucous language or shouting so as to disturb the quiet, comfort or repose of any person in the vicinity (certain activities exempt within other provisions of the Article).
- Use of any horn, signal device, or siren or any automobile, motor vehicle, bus, truck, or other vehicle, except as a danger signal or as required by law, so as to create any unreasonably loud or harsh sound.
- Use of radio, television set, record player, tape deck, CD player, stereo, musical instrument, sound producing or sound amplifying device, or musical instrument in such a manner or with such volume as to disturb the quiet, comfort, or repose of any person of in any dwelling, motel, hotel, or other type of residence.
- To keep any animal or bird in a manner causing frequent or long continued noise that shall unreasonably disturb the comfort and repose of any person in the vicinity.
- To engage in building operations involving construction, excavation, demolition, alteration or repair of any building in a residential area between the hours of 11:00 P.M. and 6:00 A.M.
- To create any noise in violation of Section 30-150 on any street or parcel of property adjacent to any school, library, or court while the same is in session; any church during services; or adjacent to any hospital.

- To utilize any noise generating crop protection device within 500 feet of a residential structure, church, school or daycare.
- To use any noise generating crop protection device between the hours of 10:00 p.m. and 6:00 a.m.

Section 30-150: Prohibits any person to cause sound to exceed 90dbs more than one minute of any ten minute period.

Chapter 34-Fire Prevention

Article II: Aboveground Storage of Flammable Liquids and Gases (Sections 34-19 through 34-21)

The Article prohibits the storage of flammable liquids/gases in any aboveground container of a capacity of 500 gallons or more within 1,000 feet of the property line of any school within the County. It also prohibits the storage of flammable liquids/gases in any above ground container in excess of 500 gallons within 2,000 feet of the property line of any school unless certain conditions relating to diking and venting are met.

Chapter 42-Manufactured Housing

The Article regulates the placement and the establishment of mobile home parks in order to promote the public health, safety, and general welfare of the citizens of the county. Specifically, the Article establishes regulations and procedures to govern the layout of mobile home parks; secure safety from fire, panic, and other dangers; to provide adequate light and air; and to ensure that facilities for transportation, parking, water, sewage, solid waste control and recreation are provided for mobile home park residents. Section 42-86(a) prohibits any violation of the regulations of the Article and authorizes punishment under NCGS 14-4(a).

Chapter 46-Offenses and Miscellaneous Provisions

Article III: Alarm Systems (Sections 46-52 through 46-57)

The Article prohibits any person from installing, selling, or leasing any automatic telephone dialing device or system which is set or programmed to make direct contact with any telephone line or radio circuit of the sheriff's department without the prior approval of the sheriff of the county.

Chapter 54-Sexually Oriented Businesses

Chapter 54 defines a sexually oriented business as any business activity, club or other establishment within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting sexual activities. Sexually oriented businesses include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult businesses, adult theaters, massage parlors, and/or adult video rental/sale stores as defined by this article. The article places geographical and time restrictions on where these businesses are permitted to operate. Section 54-54 authorizes criminal prosecution for violations of the chapter.

Chapter 58-Signs

Article II: Outdoor Advertising Signs (Sections 58-19 through 58-30) –

The purpose of this article is to preserve and improve the roadside appearance along highways in Wayne County through the prohibition of outdoor advertising signs on freeways and the control of outdoor advertising signs on all other highways. These regulations are intended to minimize visual distractions to motorists, maintain roadside views for residents and visitors, protect property values, protect the public investment in highways, and promote the overall economic welfare of the county. Chapter 54 establishes standards with respect to location, zoned areas, spacing of signs, total area, height, sign size, separation, setbacks, color, illumination, arrangement/number of signs, obstructions, and structural requirements. Additionally, permitting requirements are established for applicants who desire to erect signs under this Chapter. Section 58-28(a) establishes criminal penalties for violation of any provision of Chapter.

Chapter 62: Solid Waste

Article I: In General (Sections 62-1 through 62-4)

Prohibited activities:

- Disposal of waste in an open dump.
- Leave solid waste at a recycling and convenience center or landfill unless there is a county employee present who consents and/or supervises the leaving of the solid waste.
- Littering at recycling and convenience centers.
- Placing garbage on the ground for the purpose of feeding livestock.

Article II: Solid Waste Disposal (Section 62-27)

Article establishes standards and regulations relating to the storage of solid waste on properties through the County. Specifically prohibits storage which creates fire hazards, harbors rodents/vermin, or creates a nuisance to surrounding property owners. The

Article authorizes specific methods which are approved for the disposal of solid waste (sanitary landfill, convenience centers, etc.).

Article III: Landfills (Sections 62-58 through 62-59)

Article creates operating policies for the Wayne County landfill including dumping policies, regulations on vehicle travel, code of conduct, and types of waste which can be deposited at the facility. Additionally, the Article establishes regulations pertaining the demolition and construction of landfills within the County.

Article IV: Solid Waste Collectors (Section 62-77)

Article creates procedures for solid waste collectors to obtain the proper permits to engage in disposal of waste at the Wayne County landfill. The Article also establishes rules for solid waste collectors with respect to proper use of disposal containers and vehicles.

Article V: Tire Collections (Section 62-98)

Article prohibits the disposal of tires without applying for proper permits from Wayne County personnel.

Article VI: Hazardous Waste (Section 62-125)

Article prohibits the operation of a hazardous waste facility in the County without the permission of the Board of Commissioners.

Article VII: Recycling (Section 62-149)

Article establishes operating rules and regulations regarding recycling at landfill and convenience centers throughout the County.

NOTE: under section 62-167(a) a violation of any provision of Chapter 62 is subject to punishment under NCGS 14-4(a).

Chapter 66: Streets, Sidewalks, and Other Public Property

Article I: Concealed Weapons prohibited in County Buildings (Sections 66-1 through 66-3) –

Prohibits any person from carrying a concealed handgun or other dangerous weapon in any county-owned building or on its appurtenant premises regardless of whether or not the person has obtained a concealed weapons permit. This does not apply to law enforcement officials or other governmental officials who are permitted to carry a concealed handgun within the scope of their employment.

Article II: Naming of Public Roads – Addressing (Sections 66-21 through 66-128) –

The article establishes guidelines for assigning address numbers in the county. The article includes the assignment of street numbers to residential, commercial, retails, and other property within the unincorporated areas of the county. It establishes requirements for the proper display of addresses and prohibits property owners from engaging in activities which frustrate the proper display of roads and numerical addresses.

Chapter 78-Utilities

Article II: Sewer Service (Sections 78-19 through 78-27)

The Article establishes policies relating to the use of public sewer systems within the jurisdiction of Wayne County. Generally, the article mandates that any person seeking to make connections or alter the sewer system must first obtain a permit from the appropriate County division before proceeding with any construction. The article also creates policies regarding the discharging of trash, liquids, oils or any substances into the public sewer systems. Section 78-26 mandates that any person who violates a provision of the article is subject to criminal penalties.

Article III: Stormwater Management (Sections 78-58 through 78-133)

The Article regulates the discharge of substances which may contaminate or cause pollution of stormwater, stormwater conveyances, or waters of the state. It also regulates connections to the stormwater conveyance system and establishes procedures for the proper handling of spills. Under Section 78-67 a person who violates any provision of this Article is subject to criminal penalties.

Appendix A: Zoning

The Zoning Appendix is meant to promote the health, safety, morals, and the general welfare by regulating a wide array of restrictions relating to construction and development of land within the County. These restrictions include the height, number of stories, size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings to create districts and establish boundaries for said purposes. The zoning appendix establishes numerous requirements regarding necessary procedures for persons seeking to develop properties in Wayne County. Before occupying, building, or otherwise using structures within the County, all conditions of the zoning ordinance must be complied with. Under Section 114 of the zoning appendix, a violation may be punished under NCGS 14-4(a).