

201 West Main Street
Post Office Box 1229
Hamlet, North Carolina 28345



Phone (910) 582-2651
Fax (910) 582-5815
www.hamletnc.us

CITY OF HAMLET
Criminal Ordinance Reporting Requirement for HB-379
Session Law 2018-69

Submitted by: Gail M. Strickland
gstrickland@hamletnc.us

October 25, 2018

Information provided to:

Joint Legislative Administrative Procedure Oversight Committee:

- Rep. Jonathan c. Jordan (Jonathan.Jordan@ncleg.net)
- Sen. Andy Wells (Andy.Wells@ncleg.net)

Joint Legislative Oversight Committee on Justice and Public Safety

- Rep. James L. Boles, Jr. (Jamie.boles@ncleg.net)
- Rep. Ted Davis, Jr. (Ted.Davis@ncleg.net)
- Sen. Shirley b. Randleman (Shirley. Randleman@ncleg.net)

Principal Legislative Attorney to the General Assembly

- Ms. Susan Sitze (susan.sitze@ncleg.net)

Online access to the City of Hamlet Zoning Ordinance:

[http://library.amlegal.com/nxt/gateway.dll/North%20Carolina/hamlet_nc/cityofhamletnorthcarolinacodeofordinance?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:hamlet_nc](http://library.amlegal.com/nxt/gateway.dll/North%20Carolina/hamlet_nc/cityofhamletnorthcarolinacodeofordinance?f=templates$fn=default.htm$3.0$vid=amlegal:hamlet_nc)

CHARTER

ARTICLE XII: PARKING AND PARKING FACILITIES

Sec. 12.2. Civil penalties.

In the exercise of the authority granted by section 12.1, the city council shall have authority to make and provide civil penalties for violations of such ordinances, not exceeding the penalties provided by general law for the violation of municipal ordinances.

Sec. 12.3. Towing of vehicles from off-street areas; charges.

The city council may, in addition to providing civil penalties, provide that such vehicles in violation of parking regulations at any of the places designated in sections 12.1 and 12.2 of this article, may be towed away and the owner or person responsible therefor required to pay the resulting towing and storage charges.

ARTICLE VIII: TAXATION

Sec. 8.3. Additional remedies for collection of privilege license taxes.

In addition to any other civil or criminal remedy available to enforce the collection of privilege license taxes, the tax collector may employ the remedies of levy upon personal property, attachment, and garnishment, in the manner and subject to the limitations provided by general law for the collection of ad valorem taxes.

ARTICLE XV: SIDEWALKS

Sec. 15.1. City may clean or repair after notice; charges to be a lien.

The city council may, by ordinance, establish a procedure whereby city forces may clean or repair any sidewalk upon failure of the abutting property owner after ten days' notice to do so. In such event, the cost of such cleaning or repair shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the city or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

ARTICLE XVI: REFUSE, WEEDS AND TRASH

Sec. 16.2. Removal of offensive matter; charges to be a lien.

The city council may by ordinance establish a procedure whereby city forces may clean, cut, and remove any weeds, trash, refuse or other offensive matter from any property upon failure of the owner or occupant after ten days' notice to do so. In such event, the cost of such cleaning, cutting and removal shall become a lien upon the particular property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the city or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

CHAPTER 1 – GENERAL PROVISION

§ 1-6 GENERAL PENALTY; CONTINUING VIOLATIONS.

Any person, firm or corporation violating any of the provisions of any section or subsection of this Code of Ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with the same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days and each day that any of the provisions of this Code of Ordinances are violated shall constitute a separate offense. (G.S. § 14-4(a)) (1972 Code, § 1-6) (Ord. passed 3-1-2008)

Statutory reference:

Enforcement of ordinances, see G.S. § 160A-175

CHAPTER 4 – ANIMALS

ARTICLE II – ANIMAL CONTROL

§ 4-34 KEEPING OF DOGS.

(D) *Dogs creating nuisances.* It shall be unlawful for any owner to keep on his or her lot or premises any dog or dogs that result in unsanitary conditions, or that bark, howl, fight or make other noises as to disturb the peace and quiet of the neighborhood or the general public, and result in a neighborhood or public nuisance. Failure to abate the same upon warning from the Chief of Police, or his or her duly authorized representative, or the an animal control officer, will be a misdemeanor subject to punishment as indicated in § [1-6](#).

(Ord. passed 2-17-1976; Ord. passed 8-11-2015; Ord. 2015-07, passed 9-8-2015)

Statutory reference:

Permitting bitch at large, see G.S. § 67-2

Permitting dogs to run at large at night, see § G.S. 67-12

§ 4-45 POTENTIALLY DANGEROUS DOGS AND DANGEROUS DOGS.

(B) *Precautions against attacks by dangerous dogs.*

(3) Per G.S. § 67-4.2, violation of this subsection [4-45](#)(B) is a Class 3 misdemeanor.

(C) *Penalty for attacks by dangerous dogs.* Per G.S. § 67-4.3, the owner of a dangerous dog that attacks a person and causes physical injuries requiring medical treatment in excess of \$100 shall be guilty of a Class 1 misdemeanor.

§ 4-47 PENALTY.

Any owner found violating any provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in § [1-6](#).

(Ord. passed 2-17-1976; Ord. passed 8-11-2015; Ord. 2015-07, passed 9-8-2015)

📌 § 4-48 FINES.

Fines for violations to the Code as it relates to animals will be assessed as follows:

First offense	\$50
Second offense	\$100
Third offense	\$250
Each subsequent offense thereafter	\$500

(per vote of City Council, 11-9-2010; Ord. passed 8-11-2015; Ord. 2015-07, passed 9-8-2015)

CHAPTER 5 – BUILDINGS

DIVISION II: ADMINISTRATION AND ENFORCEMENT

§ 5-109 CHAPTER SUPPLEMENTAL; ALTERNATIVE REMEDIES.

This article shall not be construed to impair or limit in any way the power of the city to define and declare nuisances, and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by G.S. § 14-4, or to enforce this article by civil action pursuant to G.S. § 160A-175. The enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. 2015-09, passed 11-10-2015)

§ 5-112 ENFORCEMENT PROCEDURE.

(G) Any person who occupies or knowingly allows the occupancy of an abandoned building or structure so posted shall be guilty of a Class 3 misdemeanor. Any person who occupies or knowingly allows the occupancy of a dwelling so posted shall be guilty of a Class 1 misdemeanor.

(Ord. 2015-09, passed 11-10-2015)

§ 5-117 SUMMARY EJECTMENT IF OCCUPANTS FAIL TO OBEY ORDER OR ORDINANCE TO VACATE.

(B) *Ejectment procedure for abandoned nonresidential buildings and structures.* If any occupant fails to comply with an order to vacate a dwelling, the Inspector may file a civil action in the name of the city to remove the occupant. The action to vacate the dwelling shall be in the nature of summary ejectment, and shall be commenced by filing a complaint naming as parties-defendant any person occupying the dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place, not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor. If on its return it appears to have been duly served, and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the governing body pursuant to [§ 5-113](#), authorizing the Officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated, and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227.

(Ord. 2015-09, passed 11-10-2015)

§ 5-119 PENALTIES AND FEES.

(A) *Civil citations.* If the violation continues after the deadline to correct a violation established after the violation hearing by the order requiring removal or correction of a violation, and no appeal has been filed with the Office of the Inspector, then the Inspector may issue a civil citation, with a fine in an initial amount of \$100 against the violator. Thereafter, upon issuing a second civil citation, each day the violation continues is an additional separate and distinct offense, and additional citations with additional fines of \$100 shall apply each day the violation continues. Any unpaid citations and delinquency charges shall be cumulative, and shall be recovered in a civil action in the nature of debt, as well as any attorney fees incurred by the city incident thereto.

(B) *Criminal citations.* If the violation continues after the deadline to correct a violation established after the violation hearing by the order requiring removal or correction of a violation, and no appeal has been filed with the Office of the Inspector, then the police may issue a criminal citation, with a fine of up to \$500 against the violator.

(C) *Multiple notices not required.* A hearing is not required for issuance of consequent civil citations with fines after the issuance of the first citation. This article may be enforced by the

simultaneous issuance of both a civil citation(s) and a criminal citation, in addition to any other remedies provided in this article. See G.S. §§ 160A-175 and 160A-193.
(Ord. 2015-09, passed 11-10-2015)

ARTICLE Y: NONRESIDENTIAL BUILDING OR STRUCTURE

§ 5-136 IN REM ACTION BY THE CODE ENFORCEMENT COORDINATOR OR OFFICER.

(B) Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.
(Ord. 2009-03, passed 4-14-2009; Ord. 2010-01, passed 2-15-2010)

§ 5-138 EJECTMENT.

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Code Enforcement Coordinator or Officer may file a civil action in the name of the city to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The Clerk of the Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Code Enforcement Coordinator or Officer produces a certified copy of an ordinance adopted by the City Council pursuant to G.S. § 160A-493(f) and § [5-132](#)(D) to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered under this section by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of the judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this section unless the occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding, that the City Council has ordered the Code Enforcement Coordinator or Officer to proceed to exercise his or her duties G.S. § 160A-493(f) and § 5-132(D) to vacate and close or remove and demolish the nonresidential building or structure.

(Ord. 2009-03, passed 4-14-2009; Ord. 2010-01, passed 2-15-2010)

§ 5-144 VIOLATIONS; PENALTY.

(A) It shall be unlawful for the owner of any nonresidential building or structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Code Enforcement Coordinator and Officer duly made and served in the order, and each day that any failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any nonresidential building or structure, with respect to which an order has been issued pursuant to § [5-132](#)(C) of this article, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration, improvement or its vacation and closing, and

each day that the occupancy continues after the prescribed time shall constitute a separate and district offense.

(B) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. § 14-4.

(C) Any person, firm or corporation violating any of the provisions of any section or subsection of this Code or ordinances for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this Code of Ordinances are violated shall constitute a separate offense.

(G.S. § 14-4(a)) (Ord. 2009-03, passed 4-14-2009; Ord. 2010-01, passed 2-15-2010)

Statutory reference:

For provisions concerning enforcement of ordinances, see G.S. § 160A-175

DIVISION 2: REGULATION OF TOWNERS IN THE CITY

§ 5-181 CRIMINAL SANCTIONS.

Any person violating this article shall be guilty of a misdemeanor. Each day's violation of any provision of this article shall constitute a separate and distinct offense. A violation begins from the date of first written notification by the Enforcement Officer or the City Manager. Further violation shall be subject, upon conviction, to fine and/or imprisonment, as provided by G.S. § 14-4.

(Ord. passed 8-10-1999)

CHAPTER 8 – FINANCE AND TAXATION

ARTICLE III: TAX ON GROSS RECEIPTS DERIVED FROM SHORT-TERM LEASE OR RENTAL OF VEHICLES

§ 8-52 PENALTIES AND REMEDIES.

The provisions with respect to remedies and penalties applicable to G.S. Chapter 105, Subchapter VIII (Local Government Sales and Use Tax), as contained in G.S. Chapter 105, Subchapter 1, Articles 5 and 9 thereof, shall be applicable in like manner to the tax authorized to be levied and collected under this article, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the city may exercise any power the Secretary of Revenue may exercise in collecting sales and use taxes.

(G.S. § 160A-215.1(f)) (Ord. passed 6-13-2000)

ARTICLE IV: FRANCHISE TAX ON ELECTRIC POWER COMPANIES

§ 8-77 PENALTIES AND REMEDIES.

The provisions with respect to remedies and penalties applicable to the State Franchise Tax Act as contained in G.S. Chapter 105, Subchapter 1, Article 9 shall be applicable in like manner to the tax authorized to be levied and collected under this article, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the city may exercise any power the Secretary of Revenue may exercise in collecting the state franchise tax.

(Ord. passed 6-10-2002)

CHAPTER 9 – FIRE PREVENTION AND PROTECTION

ARTICLE III: FIRE INSPECTION

§ 9-63 VIOLATIONS AND PENALTIES.

(A) Any person who shall violate any of the provisions of this article adopted or who shall fail to comply with any judicial warrant, lawful order or regulation made thereunder or any permit issued thereunder, shall be guilty of a misdemeanor. Each day that the violation continues shall constitute a separate offense. In the name of the city, the City Fire Inspector, through the City Attorney, may enjoin the construction or erection of any facility, building or structure which does not conform to the provisions of this article.

(B) This article may be enforced by any of the remedies set forth in G.S. § 160A-175, in addition to others specifically set out herein or in the city.

(C) Any person who violates any of the provisions of this article shall be subject to a civil penalty for each violation in the amount established by ordinance of the City Council. The civil penalty schedule shall be filed with the City Clerk and in the Fire Inspector's office for public inspection. Each violation shall constitute a separate offense.

(D) Civil penalties must be paid within the number of days specified in the billing or notice after a citation has been issued by the Fire Inspector for a violation.

(E) Any person who shall violate any provisions of this article hereby adopted or who shall fail to comply with any notice of violation issued by the City Fire Inspector shall be issued a civil penalty as listed below. Each violation shall constitute a separate offense.

<i>Violation</i>	<i>Fee</i>
Locked - blocked unmarked exits	
First offense	No charge
Second offense	\$200
Third offense	\$400
All other violations	
First offense	No charge
Second offense	\$50
Third offense	\$75
Failure to obtain a permit	\$50

(1972 Code, § 9-69) (Ord. 93-005, passed 4-13-1993; Ord. passed 6-12-2007)

CHAPTER 9.5: FLOOD DAMAGE PREVENTION

ARTICLE III: GENERAL PROVISIONS

§ 9.5-33 PENALTIES FOR VIOLATION.

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor.

(B) Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50 or imprisoned for not more than 30 days, or both. Each day a violation continues shall be considered a separate offense.

(C) Nothing herein contained shall prevent the city from taking any other lawful action as is necessary to prevent or remedy any violation.
(Ord. passed 3-10-1992; Ord. passed 9-11-2007)

§ 9.5-53 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(P) Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop work order shall be in writing and directed to the person doing or in charge of the work. The stop work order shall state the specific work to be stopped, the specific reason(s) for the stoppage and the condition(s) under which the work may be resumed. Violation of a stop work order constitutes a misdemeanor;

§ 9.5-54 CORRECTIVE PROCEDURES.

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

(Ord. passed 3-10-1992; Ord. passed 9-11-2007)

CHAPTER 10 – LICENSES AND BUSINESS REGULATIONS

ARTICLE V: GARAGE SALES

§ 10-113 VIOLATION; PENALTY.

Violation of any provision of this article shall subject the offender to a civil penalty in the amount of \$5, and \$25 on each subsequent offense, to be recovered by the city. Violators shall be issued a written citation which must be paid within 72 hours.

(Ord. passed 4-14-1981)

ARTICLE VI: ADULT ESTABLISHMENTS AND RELATED BUSINESSES

§ 10-140 PENALTIES AND ENFORCEMENT.

Violation of any part of this article will constitute a misdemeanor punishable as provided in G.S. § 14-4. This article may also be enforced by an appropriate equitable remedy issuing from the General Court of Justice as provided by G.S. § 153A-123.

(Ord. passed 4-14-1992; Ord. passed 7-14-1992)

ARTICLE VII: YARD SALES AND FLEA MARKETS

§ 10-159 PENALTIES AND ENFORCEMENT.

(A) Violation of this article will constitute a misdemeanor punishable for a fine of \$500 as provided in G.S. § 14-4. This article may be enforced by an appropriate equitable remedy issuing from the State General Court of Justice as provided by G.S. § 153A-123. Furthermore, any act

constituting a violation of the provisions of this article or a failure to comply with any of its requirements shall also subject the offender to a civil penalty as authorized in G.S. § 153A-123.

(B) The city has the right to enjoin immediately any flea market or yard sale operating in violation of this article.
(Ord. passed 1-9-2007)

CHAPTER 11 – MOTOR VEHICLES AND TRAFFIC

ARTICLE IV: STOPPING, STANDING AND PARKING

§ 11-131 VIOLATION; PENALTY.

Any person who parks a motor vehicle in violation of city parking regulations without being lawfully entitled thereto, shall be fined per the state statutes. Any vehicle in violation of this subchapter may be towed at the discretion of the authorizing official determining that the immediate removal of the vehicle is necessary. Any vehicle that has been towed for a parking violation is to be held until the towing fee and penalties related to all outstanding parking tickets and penalties owed to the city are paid in full or a bond is posted in the amount of the towing fee and all outstanding parking tickets and penalties. Payment of the towing fee and all outstanding parking tickets and penalties shall not constitute a waiver of a person's right to contest the towing or the outstanding parking tickets and penalties.

(Ord. passed 6-10-1980; Ord. passed 12-11-1984; Ord. 2016-03.2, passed 4-12-2016)

ARTICLE V: ABANDONED, NUISANCE AND JUNKED VEHICLES

§ 11-208 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of the vehicle as provided in this chapter.

(Ord. passed 5-15-1990)

CHAPTER 12 – MUNICIPAL LAKES, PARKS AND RECREATION

ARTICLE III: CONDUCT IN PUBLIC PARKS

§ 12-79 ENFORCEMENT

When there is a violation of any provision of this article, the city, in its discretion, may take one or more of the following courses of action:

(A) The violator may be charged pursuant to G.S. §§ 14-4(a) and (b) and be penalized as provided by the statute and its further amendments; and/or

(B) The city may apply to the appropriate court for an injunction or any other allowable civil penalty.

(Ord. passed 9-17-1991)

CHAPTER 14 – OFFENSES-MISCELLANEOUS

§ 14-17 SMOKING IN MUNICIPAL BUILDINGS, CITY-OWNED PARKS AND RECREATIONAL FACILITIES AND MUNICIPAL VEHICLES; PROHIBITED.

(F) *Violations.* Per G.S. § 130A-498(c1), continuing to smoke in violation of a local ordinance or other rules, laws or policies adopted under this section constitutes an infraction, and the person committing the infraction may be punished by a fine of not more than \$50. Conviction of an infraction under this section has no consequence other than payment of a penalty. A person

smoking in violation of a local ordinance or other rules, laws or policies adopted under this section may not be assessed court costs.

(Ord. 93-010, passed 8-10-1993; Ord. 03-2006, passed 6-13-2006; Ord. 07-2011, passed 11-1-2011)

Statutory reference:

Authority to protect the health, safety and welfare of municipal employees, see G.S. § 160A-174

CHAPTER 15 – PARADES, PICKETING AND DEMONSTRATIONS

ARTICLE XV: SIDEWALKS

📖 Sec. 15.1. City may clean or repair after notice; charges to be a lien.

The city council may, by ordinance, establish a procedure whereby city forces may clean or repair any sidewalk upon failure of the abutting property owner after ten days' notice to do so. In such event, the cost of such cleaning or repair shall become a lien upon the abutting property equal to the lien for ad valorem taxes and may thereafter be collected either by suit in the name of the city or by foreclosure of the lien in the same manner and subject to the same rules, regulations, costs and penalties as provided by law for the foreclosure of the lien on real property for ad valorem taxes.

CHAPTER 17 – SOLID WASTE AND VEGETATION

ARTICLE III: NUISANCES

§ 17-64 VIOLATIONS; PENALTIES; ABATEMENT BY CITY.

(C) In addition to the sanctions imposed in subsection (B) above, a violation of this article or any order issued under this article shall also be a civil offense and shall subject the offender to a civil penalty as follows.

(1) If the offender shall abate the nuisance within ten days from the date of the notice and shall not within the preceding three years have been notified of any prior violation of this article, no penalty shall be assessed.

(2) If the offender shall abate the nuisance within ten days from the date of the notice but shall within the preceding three years have been notified of any prior violation of this article, a civil penalty in the amount of \$200 shall be assessed.

(3) If the offender shall not abate the nuisance within ten days from the date of the notice, a civil penalty in the amount of \$50 shall be assessed for each day and every day during which the violation shall continue. Each day shall be a separate and distinct violation of this section.

(Ord. passed 3-1-2008)

§ 17-69 ADDITIONAL REMEDIES.

The procedure set forth in this article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this article shall not prevent the city from proceeding in a criminal action against any person violating the provisions of this article as provided in G.S. § 14-4.

(Ord. passed 10-14-1986)

CHAPTER 19 – TREES

§ 19.5-11 REMOVING TREES.

(E) Any act constituting a violation of this section resulting in the loss or destruction of specimen trees shall subject the landowner to a civil penalty equivalent to one and one-half times the monetary value of the trees destroyed up to a maximum of \$20,000. For purposes of this determination the City Horticulturist or City Manager designee shall apply the most current formula of the Council of Tree and Landscape Appraisers, or a similar method in common use. In addition, any tree or trees so destroyed must be replaced with a number of new trees whose total DBH equals that of the trees destroyed.

§ 19.5-12: NOTICE OF VIOLATION AND CITATION PROCEDURE

(A) *Notice required before penalty.* No penalty shall be assessed pursuant to § [19.5-11](#) unless and until the person alleged to be in violation has been notified of the violation in accordance with this section.

(B) *Notice of violation and opportunity to cure.* Whenever the city has reasonable cause to believe that a person is violating any of the provisions of this chapter or any plan, order or condition which has been approved, issued or imposed pursuant to this chapter, the city shall immediately notify that person of the violation. The notice of violation shall be in writing and shall be served by personal delivery or by certified or registered mail, return receipt requested. The notice of violation shall describe the violation, shall identify the provision or provisions of this chapter which are being violated, shall specify what actions must be taken to correct the violation (including an order to stop any and all work which violates this chapter), shall direct the person to correct the violation within a specified reasonable time period (beginning on the date the notice is received) and shall warn that more severe measures (such as a civil penalty or criminal prosecution) may be assessed or brought against the person if he or she fails to take appropriate action to cure or correct the violation. If the violator cannot be ascertained, then the notice of violation shall be sent to the record owner of the land on which the violation occurs. If the violation is cured or corrected within the time period specified in the notice of violation, then the city shall take no further action against the person.

(D) *Citation for violation.* Any person who, after being given a notice of violation pursuant to subsection (B) above, does not comply with this chapter within the time period set forth in the notice of violation, and who continues the violation, shall be subject to the civil and/or criminal penalties set forth in § [19.5-11](#).
(Ord. passed 8-12-2008)

CHAPTER 20 – VEHICLES FOR HIRE

ARTICLE II: DIVISION 1: GENERALLY

§20-30 PENALTIES.

It shall be unlawful for any person to violate any of the provisions of this article. If the person violating any provision of this article is a corporation, the officers, agents or employees thereof who shall violate or procure, aid or abet any violation of any provisions of this article or permit the operation of any taxicab contrary to the requirements hereof, shall be subject to the same penalties as if they themselves were personally operating the taxicab at the time the violations were committed. Upon a person's violation of any provision of this article, the City Manager or his or her designee may suspend or revoke any operating permit held by that person, and the City Manager may suspend or revoke any driver's permit held by that person.
(Ord. passed 9-12-1989)

CHAPTER 21 – WATER AND SEWERS

ARTICLE II: WATER SYSTEMS

§ 21-61 TAMPERING WITH CITY PROPERTY.

(D) (1) In lieu of criminal charges, the city may at its option charge for violation of any of the above; a tampering fee for each separate violation; payment of water charges based on estimated water use illegally obtained; and the meter removed until the account and charges are paid in full.

(2) Charges shall be as follows:

Broken lock	\$25
Tampering	
First offense	\$50
Second offense	\$100
Third offense	\$150
Fourth offense	\$200

(Ord. passed 6-8-1999)

(1) The POTW Director shall have the authority to grant a permit with those conditions attached as he or she believes necessary to achieve the purpose of this article and G.S. § 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

(f) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

ARTICLE III: SANITARY SEWER SYSTEM GENERALLY

§ 21-93 BRANCH SEWERS MAY BE REQUIRED.

When it is desirable to improve any street by paving, the Council may order owners of property abutting the street to lay branch sewers to the inside property line, and any failure to comply with this order shall subject the owner to the penalties provided for a violation of any provision of this Code.

(1972 Code, § 21-46)

ARTICLE IV: SEWER DIVISIONS: REPORTING REQUIREMENTS

§ 21-166 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine episodic nature, a noncustomary batch discharge or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following the discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification shall not relieve the user of any expense, loss, damage or other liability that may be incurred as a result of

damage to the POTW, natural resources or any other damage to person or property; nor shall the notification relieve the user of any fines, penalties or other liability that may be imposed pursuant to this article.

DIVISION 8: ENFORCEMENT

§ 21-191 ADMINISTRATIVE REMEDIES.

(C) *Show cause hearing.*

(3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § [21-192](#), nor is any action or inaction taken by the POTW Director under this section, subject to an administrative appeal under § [21-152](#)(I).

§ 21-192 CIVIL PENALTIES.

(A) Any user who is found to have failed to comply with any provision of this article, or the orders, rules, regulations and permits issued hereunder, may be fined up to \$25,000 per day per violation.

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

- (1) 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;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with the pretreatment program; and
- (8) The costs of enforcement to the city.

(C) Appeals of civil penalties assessed in accordance with this section shall be as provided in § [21-152](#)(I).

(Ord. passed 11-12-1991; Ord. 93-009, passed 7-6-1993; Ord. passed 3-13-2001; Ord. passed 5-14-2002)

§ 21-193 OTHER AVAILABLE REMEDIES.

(A) Remedies, in addition to those previously mentioned in this article, are available to the POTW Director who may use any single one or combination against a noncompliant user.

(B) Additional available remedies include, but are not limited to, the following.

(1) *Criminal violations.* The district attorney for the city's judicial district may, at the request of the city, prosecute noncompliant users who violate the provisions of G.S. § 143-215.6B. Under state 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 G.S. Chapter 143, Article 21 (G.S. § 143-215.6B(i)).

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

(3) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this article 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.

(4) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this article 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 city's Code governing nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying the nuisance.

(Ord. passed 11-12-1991; Ord. 93-009, passed 7-6-1993)

ARTICLE VI: CONSERVATION OF WATER

§ 21-277 NOTICE OF VIOLATION (NOV).

(A) Violators will be served a written notice of violation, which may be hand delivered or affixed to the property where the violation(s) occurred.

(B) A fine will be imposed at that time, which must be paid within ten days of NOV.

(C) Water meters will be cut-off if fines are not paid within ten days of NOV.

(Ord. passed - -2002)

§ 21-278 PENALTIES.

(A) Any violation(s) will constitute a fine of \$50 for the first offense, \$100 for the second offense, \$250 for the third offense. Civil penalties of up to \$500 per violation per day to any offender who shall continue any violation beyond the time limit provided for in the aforementioned notice of violation. If a violation occurs within the ten-day time period, additional fines will be imposed and water cut-off will be immediate.

(B) After the above-outlined water shortages have terminated, the number of violations assignable to a property owner shall not be carried over to the next declaration of water shortage.

(Ord. passed - -2002)

§ 21-279 TAMPERING.

(A) Any tampering with water meters will constitute a tampering fine. Fines will be assessed at \$50 for a first offense, \$100 second offense, \$150 third offense, \$200 fourth offense, with fines increased at additional increments of \$50 for each tampering offense thereafter.

(B) Any tampering of the water meters will constitute a tampering fine. **TAMPERING** is defined as turning water on after it has been turned off by city staff.

(Ord. passed - -2002)

ARTICLE VIII: BACKFLOW PREVENTION

§ 21-318 VIOLATIONS; PENALTIES.

The violation of any section of this article may be punished by a civil penalty listed as follows:

(A) Unprotected cross-connection involving a private water system, which has an imminent hazard, \$1,000 per day, not to exceed \$10,000;

(B) Unprotected cross-connection involving a private water system, which is of a moderate or severe hazard of \$500;

(C) Submitting false records or failure to submit records, which are required by this policy, \$500; and

(D) Failure to test or maintain backflow prevention assemblies as required, \$100/day.
(Ord. passed 9-8-2009)