

MEMORANDUM

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

CC: Susan Sitze, Legislative Analysis Division, NC General Assembly

FROM: Thomas G. Drum – Town Manager for the Town of Hildebran

DATE: November 28, 2018

RE: Response to the Requirements set forth in Section 3 of Session Law 2018-69
(House Bill 379) for the Town of Hildebran, N.C.

Attached is the response of the Town of Hildebran, North Carolina to the requirements set forth in Section 3 of Session Law 2018-69 for local governmental units. The attached document contains a list of all the Town of Hildebran's ordinances that create criminal offenses pursuant to G.S. 14-4(a) with brief descriptions of the prohibited conduct.

If you have any questions about this Memorandum, please contact Tom Drum by email at tom.drum@hildebranNC.org or by phone at (828) 397-5801.

Please acknowledge receipt of this Memorandum and its sufficiency in complying with Session Law 2018-69, Section 3.

TOWN OF HILDEBRAN
LIST OF ORDINANCE OFFENSES PUNISHABLE
AS A MISDEMEANOR
SESSION LAW 2018-69
AS OF NOVEMBER 30, 2018

ZONING ORDINANCE – Any person, firm or corporation which violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any provisions of the Zoning Ordinance, adopted for the purposes of promoting the health, safety and the general welfare of the community, regulating the uses of buildings, structures and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, courts and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures; the density and distribution of populations; creating districts of said purposes, and establishing the boundaries thereof; defining certain terms used herein; providing for the method of administration, amendment and enforcement; providing penalties for violations; providing for a Board of Adjustment and defining the duties and powers of said board; repealing conflicting ordinances; and for other purposes pursuant to the authority granted by the General Statutes of North Carolina, Chapter 160A, Article 19, Part 3, shall upon conviction, be guilty of a misdemeanor and shall be fined not exceeding fifty dollars (\$50.00) or imprisoned not exceeding thirty (30) days. Each day that a violation of this Ordinance is not corrected within thirty (30) days after the notice of said violation has been given shall constitute a separate and distinct violation.

More specifically, in said Zoning Ordinance, the chair of the board of adjustment or any member acting as chair and the town clerk are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.

SUBDIVISION ORDINANCE – Violations of the Subdivision Ordinance, adopted pursuant to the authority conferred by Article 19, Chapter 160A-371, Part 2, of the General Statutes of the State of North Carolina, an ordinance establishing procedures and standards for the development and subdivision of real estate, the regulation of land subdivision and the surveying and platting thereof, as hereby found by the Town Council of Hildebran to be necessary and appropriate in order to aid in the following:

- A. To ensure the orderly development of the Town and safeguard conditions essential to public health, safety and welfare;
- B. To provide space for safe and sanitary dwelling accommodations within the Town and Planning Area;
- C. To promote the eventual elimination of unsafe and unsanitary conditions arising from the overcrowding and concentration of population, improper planning, lack of proper light, air and space, unsafe or unsanitary design and arrangements, lack

of sanitary facilities, and existences of conditions which endanger life or property by fire or other causes;

- D. To provide for suitable neighborhoods with adequate streets and utilities and appropriate building sites which are readily accessible to emergency vehicles;
- E. To save unnecessary expenditures of public funds by reserving space for public lands and buildings and by initial proper construction of streets and utilities;
- F. To provide for economical and sufficient streets with adequate width and with proper alignment and grade for the coordination of utilities, streets, and highways within proposed subdivisions with existing or planned streets and highways and other public facilities, and;
- G. To provide proper land records for the convenience of the public and for better identification and permanent location of real property boundaries, shall be subject to the following penalties:
 - i. After the effective date of this Ordinance, any person who subdivides land in violation of the ordinance, transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the final plat has been properly approved and recorded, shall be guilty of a misdemeanor.
 - ii. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from the penalty hereinabove.
 - iii. The Town, through its attorney or other official designated by the Council, may enjoin illegal subdivision, transfer, or sale of land by action or injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. 14-4.

FLOOD DAMAGE PREVENTION ORDINANCE – Any violation of the Flood Damage Prevention Ordinance, or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variances and special exceptions, adopted pursuant to Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, with the stated purpose to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

1. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
4. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
5. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Hildebran from taking such other lawful action as is necessary to prevent or remedy any violation.

ANIMAL CONTROL ORDINANCE – Any violation of the Burke County Animal Control Ordinance, adopted by the Town of Hildebran Town Council so as to be enforced by Burke County personnel within the corporate limits of Hildebran, shall constitute a misdemeanor per North Carolina General Statute 14-4.

In addition, any person who files a false report or provides false information involving any reported violation shall be guilty of a Class 3 misdemeanor and subject to a fine of not more than \$500.00.

Moreover, any person who repeatedly files frivolous or unfounded complaints shall be guilty of a Class 3 misdemeanor and subject to a fine of not more than \$500.00.

MINIMUM STANDARDS FOR OCCUPANCY – It shall be unlawful for the owner of any dwelling or dwelling unit to violate the provisions of the Minimum Standards for Occupancy, adopted in order to protect the health, safety and welfare of the residents of the town as authorized by G.S. 160A-441 et seq., with the purpose to establish minimum standards of fitness for the initial and continued occupancy of all residential and commercial buildings used for human habitation, as expressly authorized by G.S. 160A-444. The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. 14-4.

EMERGENCY MANAGEMENT – Any person violating any prohibition or restriction imposed by a declaration authorized by this chapter shall be guilty of a misdemeanor; said chapter is adopted to provide an avenue whereby the Mayor of the Town of Hildebran can take action, on an emergency basis, to minimize the possible suffering of citizens or the potential for property damage by limiting access to certain areas and limiting the movement of objects or people during certain periods.