

## **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

Susan Sitze, Legal Counsel

**FROM:** Cynthia S. Bennett, City Clerk

**DATE:** November 16, 2018

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

Attached is the response of the City of Washington, 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 City of Washington's ordinances that create criminal offenses pursuant to G.S. 14-4(a), with brief descriptions of the prohibited conduct. Additionally, there is a link to Washington's website for the ordinances summarized.

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

## WASHINGTON, NC

### CRIMINAL PENALTY LISTING

*The following table sets forth code sections and uncodified ordinance provisions, if any, that specifically impose a criminal penalty under or derived from G.S. 14-4(a) authority. This listing excludes provisions imposing only civil fines, the civil fine portion of provisions imposing civil and criminal fines, provisions imposing criminal fines derived from other (non-G.S. 14-4(a) related) statutory authority, and provisions providing that all other remedies and penalties are preserved. Penalties that may be derived from other publications adopted by reference are not included in this listing. (See the bottom of the final page for notes concerning the city's general penalty.)*

[https://library.municode.com/nc/washington/codes/code\\_of\\_ordinances](https://library.municode.com/nc/washington/codes/code_of_ordinances)

CODE §	DESCRIPTION	PENALTY
<b>Chapter 4, Animals</b>		
4-2	General—Stockyards declared nuisance	Sec. 1-6, General Penalty
4-3	General—Keeping farm animals and fowl restricted; permit required	Sec. 1-6, General Penalty
4-4	General—Running at large	Sec. 1-6, General Penalty
4-5	General—Hog lots or pens prohibited	Sec. 1-6, General Penalty
4-6	General—Construction and maintenance of stables, barns, etc.	Sec. 1-6, General Penalty
4-7	General—Maintenance of stalls, barns, etc.	Sec. 1-6, General Penalty
4-8	General—Bird sanctuary; unlawful to trap, hunt, etc.	G.S. 160A-175 Misdemeanor
4-35	Dogs and cats—Public nuisance animals	G.S. 160A-175 Misdemeanor
4-38	Dogs and cats—Negligent care of animals	G.S. 160A-175 Misdemeanor
4-39	Dogs and cats—Keeping stray animals	G.S. 160A-175 Misdemeanor
4-40	Dogs and cats—Public nuisance	G.S. 160A-175 Misdemeanor
4-41	Dogs and cats—Animals in motor vehicles	G.S. 160A-175 Misdemeanor
4-42	Dogs and cats—Dogs and cats prohibited in certain places	G.S. 160A-175 Misdemeanor
4-43	Dogs and cats—Vicious dogs	Misdemeanor
4-44	Dogs and cats—Luring, enticing, seizing, molesting or testing an animal	G.S. 160A-175 Misdemeanor
4-48	Dogs and cats—Confinement of female dogs and cats in heat	G.S. 160A-175 Misdemeanor
4-49	Dogs and cats—Abandoned animals	G.S. 160A-175 Misdemeanor
4-50	Dogs and cats—Interference with animal control officer	G.S. 160A-175 Misdemeanor

<b>CODE §</b>	<b>DESCRIPTION</b>	<b>PENALTY</b>
4-51	Dogs and cats—Dangerous animals	Class 3 Misdemeanor
4-53	Dogs and cats—Dogs on boardwalk and promenade	G.S. 160A-175 Misdemeanor
<b>Chapter 6, Building</b>		
6-113	Housing—Minimum standards of fitness for dwellings and dwelling units	G.S. 14-4 Misdemeanor
6-114	Housing—Dwelling unfit for human habitation	G.S. 14-4 Misdemeanor
6-115	Housing—Minimum standards for exterior property areas	G.S. 14-4 Misdemeanor
6-116	Housing—Minimum standards for structural condition	G.S. 14-4 Misdemeanor
6-117	Housing—Minimum standards for basic equipment and facilities	G.S. 14-4 Misdemeanor
6-118	Housing—Minimum standards for smoke detectors	G.S. 14-4 Misdemeanor
6-119	Housing—Minimum standards for ventilation	G.S. 14-4 Misdemeanor
6-120	Housing—Minimum standards for space, use and location	G.S. 14-4 Misdemeanor
6-121	Housing—Minimum standards for means of egress	G.S. 14-4 Misdemeanor
6-122	Housing—Minimum standards for porches or raised platforms	G.S. 14-4 Misdemeanor
6-123	Housing—Minimum standards for stairs and steps	G.S. 14-4 Misdemeanor
6-124	Housing—Minimum standards for control of insects, rodents and infestations	G.S. 14-4 Misdemeanor
6-125	Housing—Minimum standards applicable to rooming houses; exceptions	G.S. 14-4 Misdemeanor
6-126	Housing—Responsibilities of owners and occupants	G.S. 14-4 Misdemeanor
6-127	Housing—Special historic buildings and districts	G.S. 14-4 Misdemeanor
6-138	Housing—Compliance with article required	G.S. 14-4 Misdemeanor
<b>Chapter 8, Cemeteries</b>		
8-3	Opening and closing graves; burial limit per grave lot	Sec. 1-6, General Penalty
8-4	Permit for disinterment required	Sec. 1-6, General Penalty
8-5	Lots sales restricted	Sec. 1-6, General Penalty
8-7	Obstructions prohibited; exception for grave markers	Sec. 1-6, General Penalty
8-8	Planting trees and shrubbery prohibited except by city	Sec. 1-6, General Penalty
8-9	Limits on flowers, wreaths or decoration remaining on graves	Sec. 1-6, General Penalty

<b>CODE §</b>	<b>DESCRIPTION</b>	<b>PENALTY</b>
8-10	Removal and disposal of flowers, designs and frames	Sec. 1-6, General Penalty
8-11	Brickwork on graves	Sec. 1-6, General Penalty
8-12	Approval required for installation and removal of monuments and markers	Sec. 1-6, General Penalty
8-13	Base to be placed under new monument	Sec. 1-6, General Penalty
8-14	Permission required for entering after sunset	Sec. 1-6, General Penalty
8-15	Restrictions on children visiting cemeteries	Sec. 1-6, General Penalty
8-16	Traffic regulations	Sec. 1-6, General Penalty
8-17	Riding bicycles restricted	Sec. 1-6, General Penalty
8-18	Animals restricted	Sec. 1-6, General Penalty
8-19	Installation of monuments and grave markers	Sec. 1-6, General Penalty
8-22	Mausoleum placement restricted	Sec. 1-6, General Penalty
8-23	Metal detectors prohibited	Sec. 1-6, General Penalty
<b>Chapter 10, Electric Utility</b>		
10-2	Visiting utility stations	Sec. 1-6, General Penalty
10-3	Tampering with equipment	Sec. 1-6, General Penalty
10-8	Other unlawful acts	Sec. 1-6, General Penalty
10-10	Inspections—Refusal to permit or obstruction of inspection unlawful	Sec. 1-6, General Penalty
10-11	Meter regulations	Sec. 1-6, General Penalty
10-12	Attachments to electric facilities	Sec. 1-6, General Penalty
<b>Chapter 14, Fire-Rescue-EMS Services and Fire Prevention</b>		
14-26	Fire-Rescue-EMS apparatus to have right-of-way	Sec. 1-6, General Penalty
14-27	False alarms	Sec. 1-6, General Penalty
14-28	Driving over a fire hose	Sec. 1-6, General Penalty
14-29	Congregating at emergency scenes prohibited	Sec. 1-6, General Penalty
14-30	Interfering with Fire-Rescue-EMS personnel, apparatus or equipment	Sec. 1-6, General Penalty
14-31	Riding Fire-Rescue-EMS apparatus prohibited	Sec. 1-6, General Penalty
<b>Chapter 16, Licenses and Business Regulations</b>		
16-1	General—Alcoholic beverages, hours for sale, consumption	Sec. 1-6, General Penalty
16-2	General—Poolrooms—Hours of operation	Sec. 1-6, General Penalty
16-3	General—Poolrooms—Minors prohibited	Sec. 1-6, General Penalty
16-23	Privilege license—Conducting business without license	Sec. 1-6, General Penalty

<b>CODE §</b>	<b>DESCRIPTION</b>	<b>PENALTY</b>
16-28	Privilege license—Displaying license at place of business required	Sec. 1-6, General Penalty
16-55	Peddlers and Solicitors—Prohibited peddling areas	Sec. 1-6, General Penalty
16-56	Peddlers and Solicitors—Registration of solicitors—Required	Sec. 1-6, General Penalty
16-82	Massage Businesses—Hours of operation	G.S. 14-4 Penalties
16-83	14-4 Penalties	G.S. 14-4 Penalties
16-84	Massage Businesses—Patronage or employment of minors	G.S. 14-4 Penalties
16-109	Massage Businesses—Treatment of persons of opposite sex restricted	G.S. 14-4 Penalties
16-110	Massage Businesses—Licenses—Massage business operators	G.S. 14-4 Penalties
16-111	Massage Businesses—Licenses—Massagists	G.S. 14-4 Penalties
16-112	Massage Businesses—Licenses—Employer to use only licensed employees	G.S. 14-4 Penalties
16-139	Massage Businesses—Licenses—Posting of license	G.S. 14-4 Penalties
16-143	Transient Merchants, etc.—License required	G.S. 160A-175 Misdemeanor \$50.00 maximum fine
16-145	Transient Merchants, etc.—Bond required	G.S. 160A-175 Misdemeanor \$50.00 maximum fine
16-146	Transient Merchants, etc.—Exhibition of license required	G.S. 160A-175 Misdemeanor \$50.00 maximum fine
16-147	Transient Merchants, etc.—Display area restricted	G.S. 160A-175 Misdemeanor \$50.00 maximum fine
<b>Chapter 18, Motor Vehicles and Traffic</b>		
18-83	Traffic regulations for a portion of Stewart Parkway	G.S. 14-4 Misdemeanor
<b>Chapter 20, Offenses and Miscellaneous Provisions</b>		
20-1	General—Public possession or consumption of alcoholic beverages prohibited	Sec. 1-6, General Penalty
20-2	General—Entertainment activities restricted	Sec. 1-6, General Penalty
20-3	General—Discharging firearms, air rifles, etc.	Sec. 1-6, General Penalty
20-4	General—Malicious mischief	Sec. 1-6, General Penalty
20-5	General—Junkyards restricted	Sec. 1-6, General Penalty
20-6	General—Noise control—Prohibitions	Sec. 1-6, General Penalty
20-7	General—Noise control—Responsibility of owner of premises	Sec. 1-6, General Penalty
20-8	General—Picketing restricted	Sec. 1-6, General Penalty
20-9	General—Playing on streets and sidewalks; throwing stones	Sec. 1-6, General Penalty

<b>CODE §</b>	<b>DESCRIPTION</b>	<b>PENALTY</b>
20-10	General—Police and fire signal carrying and use restricted	Sec. 1-6, General Penalty
20-11	General—Spitting on sidewalks prohibited	Sec. 1-6, General Penalty
20-12	General—Loitering for the purpose of engaging in drug-related activity prohibited	Sec. 1-6, General Penalty
20-13	General—Curfew for during state of emergency	Sec. 1-6, General Penalty
20-14	General—Curfew for minors	Misdemeanor subject to fine as established or up to 30 days imprisonment
20-16	General—Urinating, defecating in public	Misdemeanor--\$50.00 maximum fine or up to 30 days imprisonment
20-17	General—Graffiti	Misdemeanor, unspecified penalty
20-36	Nuisances—Unlawful; all remedies applicable	Sec. 1-6, General penalty
20-104	Fences—Prohibited fence types	Sec. 1-6, General Penalty
20-105	Fences—Maintenance	Sec. 1-6, General Penalty
20-107	Fences—Other requirements	Sec. 1-6, General Penalty

<b>CODE §</b>	<b>DESCRIPTION</b>	<b>PENALTY</b>
<b>Chapter 22, Parks and Recreation</b>		
22-70	General—Unlawful acts in Patrick Cochran Memorial Skatepark	G.S. 14-4 and 160A-175 Misdemeanor, \$500.00 fine
22-93	Use of waterways, etc.—Refusal to move vessels unlawful	Sec. 1-6, General penalty
22-94	Use of waterways, etc.—Restricted area and activities	Sec. 1-6, General Penalty
22-95	Use of waterways, etc.—Stewart Parkway bulkhead	Sec. 1-6, General Penalty
22-96	Use of waterways, etc.—Swimming, diving unlawful from Stewart Parkway or Havens Gardens bulkheads	Sec. 1-6, General Penalty
22-97(a) to (h)	Use of waterways, etc.—Other prohibited acts	Sec. 1-6, General Penalty
<b>Chapter 28, Solid Waste</b>		
28-2	Solid waste—Residential accumulations; preparation and placement for collection	Sec. 1-6, General Penalty

<b>CODE §</b>	<b>DESCRIPTION</b>	<b>PENALTY</b>
28-3	Solid waste—Business preparation and placement for collections	Sec. 1-6, General Penalty
28-4	Solid waste—Bulk containers for businesses	Sec. 1-6, General Penalty
28-6	Solid waste—Leaf preparation and placement for collection	Sec. 1-6, General Penalty
28-8	Solid waste—Construction waste, appliances, and furniture	Sec. 1-6, General Penalty
28-9	Solid waste—Depositing solid waste in streets unlawful	Sec. 1-6, General Penalty
<b>Chapter 30, Stormwater Management</b>		
30-22	All knowing or willful violations of chapter, rule, regulation, order duly adopted or issued pursuant to chapter.	Misdemeanor, \$500.00 maximum fine or up to 30 days imprisonment
<b>Chapter 32, Streets and Sidewalks</b>		
32-1	General—Damaging streets	Sec. 1-6, General penalty
32-2	General—Planting trees on street rights-of-way	Sec. 1-6, General Penalty
32-3	General—Obstructing streets and sidewalks	Sec. 1-6, General Penalty
32-4	General—Discharging water on streets	Sec. 1-6, General Penalty
32-5	General—Throwing or burning trash on street; trucks, wagons, etc., carrying trash	Sec. 1-6, General penalty
32-6	General—Damaging lights, signs, etc.	Sec. 1-6, General Penalty
32-7	General—Obtaining dirt, gravel, etc., from streets	Sec. 1-6, General Penalty
32-8	General—Damaging bridges, culverts, etc.	Sec. 1-6, General Penalty
32-9	General—Playing ball on streets or sidewalks	Sec. 1-6, General penalty
32-10	General—Posting signs	Sec. 1-6, General Penalty
32-11	General—Distributing notices and posters	Sec. 1-6, General Penalty
32-12	General—Street barricades—Driving through	Sec. 1-6, General Penalty
32-13	General—Street barricades—Removal	Sec. 1-6, General penalty
32-14	General—Parade regulations	Sec. 1-6, General Penalty
32-15	General—Sidewalk assemblies	Sec. 1-6, General Penalty
32-16	General—Tree trimmings	Sec. 1-6, General Penalty
32-17	General—Awnings	Sec. 1-6, General Penalty
32-18	General—Signs	Sec. 1-6, General Penalty
32-19	General—Maintenance and inspection of utility poles required	Sec. 1-6, General penalty
32-20	General—Snow and ice removal	Sec. 1-6, General Penalty
32-21	General—Demonstrations on city property	Sec. 1-6, General Penalty
32-22	General—Sound amplification	Sec. 1-6, General Penalty
32-23	General—Street closing permits	Sec. 1-6, General Penalty
32-50	Excavations—Permit required	Sec. 1-6, General penalty

<b>CODE §</b>	<b>DESCRIPTION</b>	<b>PENALTY</b>
32-51	Excavations—Sidewalk construction permit	Sec. 1-6, General Penalty
32-52	Excavations—Restoration of surface	Sec. 1-6, General Penalty
32-53	Excavations—Compliance with safety, traffic regulations	Sec. 1-6, General Penalty
32-54	Excavations—Construction near sidewalks; passageway required	Sec. 1-6, General Penalty
32-83	Street acceptance, etc.—Approval of development plan	Sec. 1-6, General Penalty
32-84	Street acceptance, etc.—Grading and drainage	Sec. 1-6, General penalty
32-85	Street acceptance, etc.—Storm sewers	Sec. 1-6, General Penalty
32-86	Street acceptance, etc.—Street improvements	Sec. 1-6, General Penalty
<b>Chapter 34, Subdivisions</b>		
34-254	In lieu of civil penalty, all violations of chapter subject to prosecution as misdemeanor	Misdemeanor
<b>Chapter 36, Vehicles for Hire</b>		
36-21	Taxicabs—Office and base required	Sec. 1-6, General Penalty
36-23	Taxicabs—Insurance required	Sec. 1-6, General Penalty
36-24	Taxicabs—Tax payment required	Sec. 1-6, General Penalty
36-25	Taxicabs—Identification of vehicles	Sec. 1-6, General Penalty
36-54	Taxicabs—Certificate of convenience and necessity required	Sec. 1-6, General penalty
36-79	Taxicabs—Driver permit required	Sec. 1-6, General Penalty
36-87	Taxicabs—Display of permit, photograph, zone map and fee structure required	Sec. 1-6, General Penalty
36-112	Horse-drawn carriages—Permit required	Sec. 1-6, General Penalty
36-113	Horse-drawn carriages—Operating regulations	Sec. 1-6, General Penalty
36-114	Horse-drawn carriages—Insurance	Sec. 1-6, General Penalty
<b>Chapter 38, Water</b>		
38-51	Water facility impact fee—Administration and collection—any violation	Misdemeanor
<b>Chapter 39, Wastewater</b>		
38-52	Sewer facility impact fee—Administration and collection—any violation	Misdemeanor
<b>Chapter 40, Zoning</b>		
40-581	All violations of Chapter 40, Zoning	G.S. 14-4 Misdemeanor



## NOTES RE CITY'S GENERAL PENALTY AND RELATED STATUTES

City Code § 1-6 provides:

“(a) Wherever in this Code or in any ordinance of the city or in any rule, regulation, order or notice of any officer or agency of the city under authority duly vested in him or it, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor; or

(b) Wherever in such Code, ordinance, rule, regulation, order or notice the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or misdemeanor, where no specific penalty is provided therefor;

the violation of any such provision of this Code or any such ordinance, rule, regulation, order or notice shall be punished as provided in G.S. 14-4 for each separate violation. Each day any violation of this Code or of any ordinance, rule, regulation, order or notice shall continue shall constitute a separate offense, except as may otherwise be specifically provided.”

G.S. § 160A-175(b) provides: “Unless the Council shall otherwise provide, violation of a city ordinance is a misdemeanor or infraction as provided by G.S. 14-4. An ordinance may provide by express statement that the maximum fine, term of incarceration, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4.”

G.S. § 14-4(a) provides, in pertinent part: “Any person [who] shall violate an ordinance ... shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.00. No fine shall exceed \$50.00 unless the ordinance expressly states that the maximum fine is greater than \$50.00.”

G.S. § 14-3 provides that the maximum punishment for a Class 3 misdemeanor is a fine of up to \$500.00 and incarceration of up to 30 days.