

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

FROM: Carlton Williamson (General Counsel for the City of Whiteville) and Bonnie Williams, City Clerk

DATE: November 13, 2018

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

Attached is the response of the City of Whiteville, 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 Whiteville'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 the City of Whiteville's website for its Code of Ordinances.

If you have any questions about this Memorandum, please contact either Carlton Williamson by email at cwilliamson@wwsfirm.com, at the Law Firm of Williamson, Walton and Scott, LLP, telephone: 910-642-7151 or Bonnie Williams at bwilliams@ci.whiteville.nc.us, at the City of Whiteville, tel: 910-642-8046. Also, please acknowledge receipt of this Memorandum and its sufficiency in complying with Session Law 2018-69, Section 3.

Title I General Provisions

§ 10.99 GENERAL PENALTY.

Any person, firm or corporation violating any of the provisions of any section or division of this code of ordinances, for which no other penalty is provided, or failing, 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)) (2009 Code, § 10.99)

Statutory reference:

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

Title III City Property, Chapter 31 Public Property

§ 31.99 PENALTY.

Violation of any provision of this chapter is a **misdemeanor** and is punishable.

Title IV Public Safety, Chapter 40 Emergency Services

§ 40.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person violating any prohibition, restriction or order imposed by a proclamation authorized by §§ 40.01 through 40.04 shall be guilty of a **misdemeanor**, punishable upon conviction by a fine of \$50 or imprisonment as provided by G.S. § 14-4, or both.

Title IV Public Safety, Chapter 41 Fire Protection and Prevention

§ 41.999 PENALTY.

(A) *Violation.* A violation of this chapter is punishable as a **misdemeanor** and shall subject the offender to a fine of not more than \$500 for a major violation and not more than \$100 for a minor violation, and to confinement as the law of the state may from time to time provide. A major violation is any violation in or on premises, which, if a fire or explosion occurred, could reasonably cause serious injury or death to occupants of the premises. Any other violation is a minor violation. Each day's continuing violation shall constitute a separate offense for the purpose of the prosecution.

(C) Other remedies.

(1) This chapter may be enforced by any other remedy at law of equity which the city is authorized to pursue, to include actions in the General Court of Justice for injunctive relief, other remedies authorized in G.S. § 160A-175 and remedies authorized in §§ 41.045 through 41.049.

(2) The civil penalties, criminal prosecution and other remedies provided in this chapter are cumulative and not exclusive, and may be independently and separately pursued against the same person for the activity constituting a violation of this chapter. The enforcement of any remedy

provided herein shall not prevent the enforcement of any other remedy or remedies in other provisions of this code or other laws and regulations.

Title IV Public Safety, Chapter 43 Firearms and Dangerous Weapons

§ 43.02 CITY PROPERTY OR CITY-SPONSORED ORGANIZED EVENTS; CONCEALED HANDGUN EXEMPTIONS.

(B) *Concealed handgun exemptions.* This prohibition does not apply to a person who has a concealed handgun permit issued in accordance with G.S. Ch. 14-415, Article 54B, and has a concealed handgun permit considered valid under G.S. § 14-415.24, or is exempt from obtaining a permit pursuant to G.S. § 14-415.25, provided the weapon is a handgun, is in a closed compartment or container within the person's locked vehicle, and the vehicle is in a parking area that is owned or leased by the state government. A person may unlock the vehicle to enter or exit the vehicle, provided the handgun remains in the closed compartment at all times and the vehicle is locked immediately following the entrance or exit. This prohibition does not apply to the following persons:

(1) Officers and enlisted personnel of the Armed Forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;

(2) Civil and law enforcement officers of the United States;

(3) Officers and soldiers of the militia and the National Guard when called into actual service. A member of the North Carolina National Guard who has been designated in writing by the Adjutant General, State of North Carolina, who has a concealed handgun permit issued in accordance with G.S. Ch. 14-415, Article 54B or considered valid under G.S. § 14-415.24, and is acting in the discharge of his or her official duties, provided that the member does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the member's body.

(4) Officers of the state or of any county, city, town, or company police agency charged with the execution of the laws of the state, when acting in the discharge of their official duties;

(a) Any person who is a district attorney, an assistant district attorney, or an investigator employed by the office of a district attorney and who has a concealed handgun permit issued in accordance Ch. 14-415, Article 54B or considered valid under G.S. § 14-415.24; provided that the person shall not carry a concealed weapon at any time while in a courtroom or while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The district attorney, assistant district attorney, or investigator shall secure the weapon in a locked compartment when the weapon is not on the person of the district attorney, assistant district attorney, or investigator. Notwithstanding the provisions of this subdivision, a district attorney may carry a concealed weapon while in a courtroom;

(b) Any person who is a qualified retired law enforcement officer as defined in G.S. § 14-415.10 and meets any one of the following conditions:

1. Is the holder of a concealed handgun permit in accordance with G.S. Ch. 14-415, Article 54B;

2. Is exempt from obtaining a permit pursuant to G.S. § 14-415.25; or
3. Is certified by the North Carolina **Criminal** Justice Education and Training Standards Commission pursuant to G.S. § 14-415.26;

(c) Detention personnel or correctional officers employed by the state or a unit of local government who park a vehicle in a space that is authorized for their use in the course of their duties may transport a firearm to the parking space and store that firearm in the vehicle parked in the parking space, provided that the firearm is in a closed compartment or container within the locked vehicle; or the firearm is in a locked container securely affixed to the vehicle;

(d) Any person who is a North Carolina District Court judge, North Carolina Superior Court judge, or a North Carolina magistrate and who has a concealed handgun permit issued in accordance with G.S. Ch. 14-415, Article 54B or considered valid under G.S. § 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The judge or magistrate shall secure the weapon in a locked compartment when the weapon is not on the person of the judge or magistrate;

(e) Any person who is serving as a clerk of court or as a register of deeds and who has a concealed handgun permit issued in accordance with G.S. Ch. 14-415, Article 54B or considered valid under G.S. § 14-415.24; provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body. The clerk of court or register of deeds shall secure the weapon in a locked compartment when the weapon is not on the person of the clerk of court or register of deeds. This subdivision does not apply to assistants, deputies, or other employees of the clerk of court or register of deeds;

(f) Sworn law enforcement officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body;

(g) State probation or parole certified officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body;

(h) A person employed by the Department of Public Safety who has been designated in writing by the Secretary of the Department, who has a concealed handgun permit issued in accordance with G.S. Ch. 14-415, Article 54B or considered valid under G.S. § 14-415.24, and has in the person's possession written proof of the designation by the Secretary of the Department, provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body;

(i) Any person who is an administrative law judge described in G.S. Ch. 71A, Article 60 and who has a concealed handgun permit issued in accordance with G.S. Ch. 14-415, Article 54B or considered valid under G.S. § 14-415.24, provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body;

(j) State correctional officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body. If the concealed weapon is a handgun, the correctional officer must meet the firearms training standards of the Division of Adult Correction of the Department of Public Safety; or

(G.S. § 14-269)

(k) If in the performance of a city employee's duties, requiring the use of a weapon(s) and authorized by the City Manager.

(Ord. 2018-O-62, passed 4-10-2018) Penalty, see § [43.99](#)

§ 43.05 PARADES AND PICKETING.

(A) It shall be unlawful for any person participating in, affiliated with, or present as a spectator at any parade, funeral procession, picket line, or demonstration upon any private health care facility or upon any public place owned or under the control of the city, to willfully or intentionally possess or have immediate access to any dangerous weapon. Violation of this section shall be a Class 1 **misdemeanor**. It shall be presumed that any rifle or gun carried on a rack in a pickup truck at a holiday parade or in a funeral procession does not violate the terms of G.S. § 14-277.2.

(B) The provisions of this section shall not apply to a person exempted by the provisions of G.S. § 14-269(b) as referenced in § [43.02](#)(B), or to persons authorized by state or federal law to carry dangerous weapons in the performance of their duties or to any person who obtains a permit to carry a dangerous weapon at a parade, funeral procession, picket line, or demonstration from the Sheriff or Police Chief, whichever is appropriate, of the locality where such parade, funeral procession, picket line, or demonstration is to take place.

(C) The provisions of this section shall not apply to concealed carry of a handgun at a parade or funeral procession by a person with a valid permit issued in accordance with G.S. Ch. 14-415, Article 54B, with a permit considered valid under G.S. § 14-415.24, or who is exempt from obtaining a permit pursuant to G.S. § 14-415.25. This section shall not be construed to permit a person to carry a concealed handgun on any premises where the person in legal possession or control of the premises has posted a conspicuous notice prohibiting the carrying of a concealed handgun on the premises in accordance with G.S. § 14-415.11(c).

(G.S. § 14-277.2) (Ord. 2018-O-62, passed 4-10-2018) Penalty, see § [43.99](#)

§ 43.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § [10.99](#).

(B) Any person violating the provisions of § [43.03](#), shall be guilty of a **misdemeanor** and upon conviction shall be punished by a fine of \$500 and/or imprisonment. In addition to said punishment, any person convicted under § [43.03](#) will be prohibited from entering on city park property and/or city-owned recreational buildings/facilities, and/or participating in the city's parks and recreation activities for a period of up to one year from the date of their conviction.

(Ord. 2018-O-62, passed 4-10-2018)

Title V Public Works, Chapter 50 Garbage, Refuse and Recyclable Material

§ 50.99 PENALTY.

Violation of any provision of this chapter shall constitute a **misdemeanor**, shall also or alternatively subject the offender to a civil penalty in the amount of \$50 and shall also be subject to appropriate equitable remedies, including but not limited to injunctive relief. Each day's continuing violation shall constitute a separate offense.

Title V Public Works, Chapter 51 Water and Sewers

§ 51.001 PERMIT REQUIRED FOR CONNECTION TO CITY SYSTEMS.

(A) No person shall connect any property with the water or sewage system of the city before making application in writing, signed by the applicant, to the City Manager and/or his or her designee and receiving a permit therefore. The application shall show the name of the applicant, the name of the street and the street number, the size of the house drain and house sewer, the number and kind of fixtures to be put in, and the name of the person engaged to install the fixtures and make the connection. The application shall also contain a specific agreement to obey and abide by any and all resolutions, ordinances, rules and regulations that are now or may hereafter be adopted by the City Council for the protection of the water or sewer system, and to restrict, regulate and control the use thereof and the connection therewith. The application shall also give permission to the agents of the city to enter the premises of the applicant at any reasonable time to inspect or attend to anything connected with the sewer or plumbing.

(B) Every person owning a house or other building or structure designed or intended for human habitation, occupancy or use, and including all areas within the newly-annexed areas of the city, when notified by the city that a tap onto the water system can be made, shall connect the premises to the water system. The provisions of this section shall become applicable to owners of properties described therein when new or extended city water lines are laid, and the owners of the property shall have 60 days from the time the new or extended water lines are laid within which to make the connections required by this section.

(C) Violation of this section shall constitute a **misdemeanor**.

§ 51.058 ENFORCEMENT.

(1) **Criminal violations.** The District Attorney for the applicable judicial district may, at the request of the city, 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 G.S. Ch. 143, Article 21 (G.S. § 143-215.6B(i)).

Title VII Traffic Code, Chapter 72 Stopping, Standing and Parking

§ 72.01 ENFORCEMENT PROCEDURE FOR PARKING VIOLATIONS; FINE SCHEDULE.

(E) In the event a payment of the penalty is not made as provided in division (C) above, within a period of five days from the date of the citation, the violator will be subject to an additional penalty. If the violator thereafter fails to pay the penalty as provided within 15 days from date of the second citation, the Police Department shall cause to be issued **criminal** process as provided by § 70.99.

(2009 Code, § 72.01) Penalty, see § 70.99

§ 72.33 PROHIBITED NEAR GARBAGE CONTAINERS.

(A) The parking of vehicles, wagons, bicycles and any and all other modes of transportation within 30 feet of the front of refuse and garbage containers and within five feet of either side and at the rear of the containers within the city is prohibited.

(B) Each container or the area in which the container is situated shall be appropriately marked with the words “no parking within 30 feet of the front or five feet of either side or the rear of this container”, so as to afford the general public notice of the restriction and so that violators will be prosecuted.

(C) A violation of this section shall constitute a general **misdemeanor** punishable by a fine as defined in the Schedule of Fees in § 21.06. Each day shall constitute a separate offense.

Title VII Traffic Code, Chapter 73 Bicycles and Non-Vehicular Modes of Transportation

§ 73.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 70.99.

(B) (1) Except as provided for in this division (B)(1), if any person shall violate an ordinance of a county, city, town or metropolitan sewerage district created under G.S. Ch. 162A, Article 5, he or she shall be guilty of a Class 3 **misdemeanor** and shall be fined not more than \$500. No fine shall exceed \$50 unless the ordinance expressly states that the maximum fine is greater than \$50.

(2) If any persons shall violate an ordinance of a county, city or town regulating the operation or parking of vehicles, he or she shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.

(G.S. § 14-4(b)) (Ord. 2016-11-8-43, passed 11-8-2016)

Title VIII Traffic Code, Chapter 80 Animals

§ 80.08 POTENTIALLY DANGEROUS OR DANGEROUS DOGS.

(G) *Sanctions, fines, penalties and remedies.* In addition to **criminal** penalties provided by state law and civil penalties set forth in § 80.99, any person who violates this section shall be subject to the following sanctions and remedies:

(1) If a dangerous dog is found at large, it shall be seized and impounded. City Animal Control is authorized to go upon private property to seize the dangerous dog. If attempts to seize the dangerous dog are unsuccessful, animal control may tranquilize the animal, without prior notice to the owner. The Animal Control Officer shall thereafter make a good faith attempt to notify the owner of the incident.

(2) If the dangerous dog has caused injury to a person or another animal while at-large and not confined within a secure enclosure, the City Animal Control Officer, in addition to seizing the dog, may issue to the owner a notice of intent to destroy the dog. The owner may appeal this intended action by filing a written request for appeal with the City Manager as specified in division (C) of this section.

(3) If an inspection of the premises where a dangerous dog is confined reveals that the owner has not complied with the requirements for confining a dangerous dog, an Animal Control Officer may impound the dog at the animal shelter.

(4) If the dangerous dog is not redeemed within five business days, or if the owner does not request an appeal within the time limit provided, the dog shall be deemed abandoned and shall be disposed of in accordance with the Columbus County Animals and Hunting Ordinance.

(5) Nothing in this chapter shall prevent a private citizen from bringing an action against the owner of a dog, which has caused injury to the private citizen or his or her property, for damages or any other loss resulting from the dog being dangerous or potentially dangerous as defined by state law.

(6) Nothing in this chapter shall prevent Animal Control Officers or city police using procedures regarding use of force as defined in written directives for the City of Whiteville Police Department.

(H) *Tampering and altering of traps prohibited.* It shall be unlawful for any person other than law enforcement officers of the Police Department or the County Sheriff's Office or persons authorized by either law enforcement organization to tamper, alter, move, transfer, destroy and/or otherwise interfere with the intended use of traps utilized in the capture of potentially dangerous animals within the jurisdictional boundaries of the city.

(Ord. 2018-O-60, passed 4-24-2018; Ord. 2018-O-65, passed 5-8-2018) Penalty, see § 80.99

§ 80.19 NUISANCE ANIMALS.

(A) An animal shall be deemed to be a public nuisance when it commits the following acts two or more times or commits any combination of two or more offenses.

(1) Chases, snaps at or attacks pedestrians, bicyclists, vehicles, or domestic animals;

- (2) Turns over garbage containers,
- (3) Damages gardens, flowers, vegetables or other property; or
- (4) Otherwise a menace or threat to public health or safety.

(B) It shall be unlawful for an owner or keeper to permit his or her animal to run at-large if such animal is deemed to be a public nuisance, provided a law enforcement officer has determined, after investigation, that the report is supported by evidence and has notified the owner or keeper in writing of his or her findings. In such cases, the owner or keeper must keep the animal that has been found to be a public nuisance on his or her property at all times, unless the animal is under physical restraint.

(C) It shall be a violation of this chapter for an owner or possessor to keep, maintain or permit the keeping or maintenance of a public nuisance animal within the city's corporate limits whereby such animal barks or howls excessively causing a public nuisance or disturbance. An animal is considered a public nuisance animal when disturbing another person or neighbor by barking or howling excessively for more than 20 minutes during any 35-minute period shall be deemed to be an annoying sound.

(D) In order for a valid noise complaint against the owner of an animal to constitute a public nuisance in violation of this provision, such complaint must be based on either two or more complaining witnesses from separate households filing such complaint or if there is a single noise complaint, then a City Animal Control Officer and/or law enforcement officer, investigating the noise complaint, must confirm that the noise is indeed a public nuisance in violation of this provision.

(E) If the animal is creating a public nuisance for noise in violation of this provision, then the owner of the animal committing the nuisance shall be given a written warning to abate the nuisance upon the first offense or if the owner cannot be found or contacted, the premises where the animal is located shall be posted with such warning. In either case, the owner shall abate the public nuisance within 72 hours of the warning or be subject to subsequent penalties as provided in this section. Whether the animal is the same animal or a different animal or various animals belonging to the same owner, any subsequent complaints shall constitute additional violations and the owner shall face additional penalties in accordance with this section.

(F) Any public nuisance caused by provocation or incitement of the subject animal, by someone other than the owner of the animal shall not constitute a violation of this provision.

(G) Any person filing a complaint or report of an alleged public nuisance or violation shall identify themselves and their address. Anonymous complaints or reports of a public nuisance animal shall be investigated.

(H) If a nuisance animal has been confirmed through an investigation the following actions may occur in a 12-month period beginning with the date of the first offense. Subsequent complaints for different animals but belonging to the same property owner will be treated as one incident/complaint upon investigation by the City Animal Control Officer, the offense follows the owner/keeper of the animal, not necessarily the animal causing the disturbance. The following penalties nuisance animals are:

- (1) First offense: written warning;

(2) Second offense: civil penalty of \$100;

(3) Third offense: civil penalty of \$150 and the Animal Control Officer may seize and impound the animal at the Columbus County Animal Shelter until the owner determines a resolution to abate the noise nuisance. Any costs associated with this action shall be the responsibility of the owner; and

(4) Subsequent violations: civil penalty of \$250 for each violation as well as a criminal citation. If found guilty, it is a Class 3 **misdemeanor**.

§ 80.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) The violation of any provision of this chapter shall be a **misdemeanor**, and any violation shall be punishable as provided in G.S. § 14-4. Each day's violation of this chapter shall be a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this section does not relieve a person of liability for taxes or fees imposed under this chapter.

(2) In addition, enforcement of this chapter may be by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. § 160A-175.

(3) In addition to, and not in lieu of, the criminal penalties and other sanctions provided in this chapter, a violation of this chapter may also subject the offender to the civil penalties hereinafter set forth.

(4) The civil penalties may be recovered by the city in a civil action in the nature of a debt, or may be collected in other amounts as prescribed herein within the prescribed time following the issuance of notice for the violation.

(5) The notice shall, among other things:

(a) State upon its face the amount of the penalty and any fines that may accrue;

(b) Notify the offender that a failure to pay the penalties within the prescribed time shall subject the offender to a civil action in the nature of debt for stated penalty, plus an additional penalty in the amount of \$25, together with the cost of the action to be taxed by the court;

(c) Provide that the offender may answer the notice by mailing the notice and stated penalty at its mailing address, or by making payment to the city, and that upon payment, the case or claim and right of action by the city will be deemed compromised and settled; and

(d) State that the penalties must be paid within five business days from issuance of the notice. The notice shall further state that if the notice of violation is not paid within five business days, a civil complaint for collection of the penalty may be filed by the county.

(6) The city, is authorized to accept the payments in full, and as final settlement of the claim or claims, right or rights of action, which the city may utilize to enforce the penalty by civil action in the nature of a debt. Acceptance of the penalty shall be deemed a full and final release of any and all claims, or rights of action, arising out of the alleged violation or violations.

(7) The civil penalty for any offense in violation of this chapter is:

- (a) First offense: \$50;
- (b) Second offense: \$75; and
- (c) Third offense and thereafter: \$100.

(8) The penalty shall be paid within five business days from the issuance of the notice referred to in division (B)(5) above. After the five business day period, the civil penalty will increase by \$25 and an additional \$25 for every five business days in which the fine is not paid, not to exceed \$1,000.

(9) The notice of violation referred to herein may be delivered to the person violating the provisions of this chapter in person, or may be mailed by first class and certified mail, to the person at his or her last known address.

(10) All penalties paid to the city or recovered in a civil action in the nature of a debt, as herein provided, shall be paid into the general fund of the city.

(Ord. 2018-O-60, passed 4-24-2018)

Title IX Business Regulations, Chapter 90 Alcoholic Beverages

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Violation of § 90.02 shall constitute a **misdemeanor** punishable in accordance with G.S. § 14-4.

Title IX Business Regulations, Chapter 91 Filming Activities

§ 91.03 FILMING GUIDELINES.

(F) *Violations.* Any violation of the conditions set forth in the film permit, any local ordinance or the requirements of the City Building Inspector or City Engineer may result in the cancellation of the permit by the city. Should the film permit be cancelled, the company shall then be required to cease all filming activities and remove all equipment and personnel from the premises. Further violations of any local ordinance shall constitute a **misdemeanor**, as described in § 10.99 of this code of ordinances.

Title X General Offenses, Chapter 100 Offenses Against Public Morals

§ 100.20 ENFORCEMENT.

(A) When a minor is found to be in violation of this subchapter, a police officer will, by telephone, check with the records of the City Police Department to determine if the minor is a first offender. If the minor is a first time offender, he or she will be taken to the residence of his or her custodian. A written warning will be given to the custodian and an information report will be taken by the officer. The report shall include the name of the minor and the custodian, the time, date and location of the offense. This report will be turned into the Police Department computer system.

(B) If, upon checking with the records, the minor is found to be a repeat offender, he or she will be taken to the residence of his or her custodian and the custodian may be issued a **criminal** citation charging him or her with a violation of this subchapter. A report will be turned into the records division and entered into a Police Department computer system.

(C) If the minor is found to be a repeat offender, the minor may be treated as a delinquent juvenile as defined by G.S. Ch. 7B.

(D) If the minor is under 12 years of age, a report will be made and a copy forwarded to the County Department of Social Services, Child Protection Division.

(2009 Code, § 131.20) (Ord. passed 1-23-1996)

§ 100.21 AIDING AND ABETTING BY ADULT, GUARDIAN OR PARENT.

It shall be a violation of this section for any person 18 years of age or over to aid or abet a minor in violation of § 100.17.

(2009 Code, § 131.21) (Ord. passed 1-23-1996) Penalty, see § 100.99

§ 100.22 REFUSAL OF CUSTODIAN TO TAKE CUSTODY OF A MINOR.

(A) If the custodian of a minor found to be in violation of this subchapter refuses to take custody of the minor, the officer having custody of the minor shall contact the Columbus County Department of Social Services and release the minor to that agency, pending further investigation by the Police Department and the Department of Social Services.

(B) The custodian may be issued a **criminal** citation charging him or her with a violation of this subchapter.

(2009 Code, § 131.22) (Ord. passed 1-23-1996)

§ 100.99 PENALTY.

(A) *Generally.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Loitering.* A violation of § 100.01 may be enforced by either or both of the following methods.

(1) A civil penalty of \$50 may be levied against any person who violates this section and who has been issued a citation. The citation shall direct the violator to pay the penalty within ten days from the date of the issuance of the citation. If the civil penalty is not paid within ten days from the date of issuance of the citation, an additional \$50 delinquency charge shall be added to the penalty. The penalty and delinquency charge may be recovered by the city in a civil action.

(2) The violator may be charged as provided by G.S. § 14-4.

(C) *Loitering for drug-related activity.* A violation of any provision of § 100.02 shall be a Class 3 **misdemeanor** and shall subject the offender to a maximum fine of \$200 or imprisonment for not more than 20 days.

(D) *Curfew for minors.* Any person who violates §§ 100.15 through 100.22 shall be guilty of a Class 3 **misdemeanor** and shall subject the offender to a maximum fine of \$200 or imprisonment for not more than 20 days.

(2009 Code, § 131.99) (Ord. passed 1-23-1996; Ord. passed 5-9-2000)

Title XV Land Usage, Chapter 151 Flood Damage Prevention

§ 151.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

(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 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**;

(Q) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked;

(R) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action;

§ 151.28 CORRECTIVE PROCEDURES.

(A) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the flood damage prevention chapter, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body

shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(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.

§ 151.99 PENALTY.

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**. 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 such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city

Title XV Land Usage, Chapter 152 Building Code

§ 152.46 CONDEMNATION OF ESPECIALLY DANGEROUS BUILDINGS.

(B) If any person shall remove any notice that has been affixed to any building or structure by the Inspector that states the dangerous character of the building or structure, he or she shall be guilty of a **misdemeanor**.

(G.S. § 160A-427)

(2009 Code, § 152.36) Penalty, see § 152.99

§ 152.49 ENFORCEMENT PROCEDURES AGAINST OWNER.

If the owner of a building or structure fails to comply with an order issued pursuant to § 152.47(C) from which no appeal has been taken, or fails to comply with an order of the City Council following an appeal, he or she shall be guilty of a **misdemeanor** and shall be punished in the discretion of the court.

(G.S. § 160A-431) (2009 Code, § 152.39) Penalty, see § 152.99

§ 152.61 DUTIES AND POWERS OF INSPECTORS.

(A) *Inspection Department.* It shall be the duty of the Inspection Department to enforce all of the provisions of this chapter and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this chapter and the codes are being met. The North Carolina State Building Code, Volume I, General Construction and the North Carolina Uniform Residential Building Code shall be enforced by the Building Inspector. The North Carolina Plumbing Code shall be enforced by the Plumbing Inspector. The North Carolina Heating Code shall be enforced by the Heating-Air Conditioning Inspector. The North Carolina State Electrical Code shall be enforced by the Electrical Inspector.

(B) *Duties and responsibilities.* Other duties and responsibilities of the Inspection Department and of the Inspectors therein shall be to enforce within the city, state and local laws relating to the construction of buildings and other structures, the installation of the facilities as plumbing

systems, electrical systems, heating systems, refrigeration systems and air-conditioning systems, the maintenance of buildings and other structures in a safe, sanitary and healthful condition and other matters that may be specified by the City Council. These duties shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records and any other actions that may be required in order adequately to enforce those laws. The City Council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.

(G.S. § 160A-412)

(C) *Provisions of codes.* Inspectors are also authorized, empowered and directed to enforce all the provisions of this chapter and the regulatory codes herein adopted.

(D) *Right of entry.* Inspectors shall have the right of entry on any premises within the jurisdiction of the Inspection Department, at all reasonable hours, for the purpose of inspection or other enforcement action, upon presentation of proper credentials.

(G.S. § 160A-420)

(E) *Stop orders.* Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner or in substantial violation of any state or city building law, or in a manner that endangers life or property, the appropriate Inspector may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefor and the conditions under which the work may be resumed.

(1) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance, with a copy to the City Inspector. The Commissioner of Insurance shall promptly conduct a hearing at which the appellant and the Inspector shall be permitted to submit relevant evidence, and shall rule on the appeal as expeditiously as possible. Pending the ruling by the Commissioner of Insurance on an appeal, no further work shall take place in violation of a stop order.

(2) Appeals from a stop order based on violation of any other city ordinance relating to buildings shall be taken to the local official designated by the city, and shall be taken, heard and decided in the same manner as prescribed herein for appeals to the Commissioner. Violation of a stop order shall constitute a **misdemeanor**.

(G.S. § 160A-421)

(2009 Code, § 152.51) Penalty, see § [152.99](#)

Statutory reference:

Duties and responsibilities, see G.S. § 160A-412

Failure to perform, see G.S. § 160A-416

§ 152.64 INSPECTION PROCEDURE.

(D) *Certificates of compliance.* At the conclusion of all work done under a permit, the appropriate Inspector shall make a final inspection, and if he or she finds that the completed work complies with all applicable state and local laws and with the terms of the permit, he or she shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied and no existing building that has been altered or moved may be occupied, until the Inspection Department has issued a certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the Inspector finds may safely be occupied prior to final completion of the entire building. Violation of this section shall constitute a **misdemeanor**.

(G.S. § 160A-423)

§ 152.67 REMEDIES.

Whenever any violation is denominated a **misdemeanor** under the provisions of this chapter, the city, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct or abate the violation or to prevent the occupancy of the building or structure involved.

(G.S. § 160A-432)

(2009 Code, § 152.57)

Title XV Land Usage, Chapter 153 Housing

§ 153.59 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) *Authorized.* After failure of an owner of a dwelling or dwelling unit to comply with an order of the officer issued pursuant to the provisions of this chapter, and upon adoption by the City Council of an ordinance authorizing and directing him or her to do so, as provided by § 153.57(C), the Inspector shall proceed to cause the dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the City Council, and shall cause to be posted on the main entrance of the dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a **misdemeanor**.

§ 153.99 PENALTY.

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

(B) In addition to the penalty established by division (A) above, and the remedies provided by other provisions of this chapter, this chapter may be enforced by an appropriate equitable remedy issued by a court of competent jurisdiction.

(2009 Code, § 153.99)

Title XV Land Usage, Chapter 155 Zoning Code

§ 155.066 NOTES TO TABLE OF PERMITTED USES.

(k) The City Building Inspector shall have the authority to inspect manufactured home parks at any time to ensure continuous compliance with these regulations. Failure by the operator/owner to correct violations within 30 days' written notification by the Building Inspector shall result in immediate revocation of the zoning permit, and each day the violation continues shall be considered a **misdemeanor** punishable by fine as set forth in this chapter.

(l) All plans shall be reviewed by the City Fire Chief to ensure adequate access for firefighting equipment to all manufactured home lots.

(m) Plans shall be submitted to the City Building Inspector. Plans will be approved by the City Council based on review and recommendation of the Planning Board under procedures defined in §§ 155.305 through 155.310.

§ 155.307 EVIDENCE SUBMITTED FOR CONSIDERATION BY THE BOARD OF ADJUSTMENT.

(A) *Oaths.* The Chair of the Board of Adjustment or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board of Adjustment. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 **misdemeanor**.

§ 155.999 PENALTY.

(A) Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or conditional use permits, shall constitute a **misdemeanor**, punishable as provided in G.S. § 14-4.

§ 157.99 PENALTY.

(A) *Civil penalties.* Any person who violates this chapter may be subject to all civil and equitable remedies as allowed by law. Notwithstanding the foregoing, the violation of a stop work order issued pursuant to this section shall constitute a **misdemeanor** and may be punishable as such. The Department shall charge civil penalties as are authorized by the City Council for:

(1) Violation of § 157.07(A) and/or (B); and

(2) Additional violations of § 157.07(A) and/or (B) by the same user within one year of the first violation.