



## **Memorandum**

**TO:** Representative Jonathan C. Jordan, Co-Chair of the Joint Legislative Administrative Procedure Oversight Committee  
Senator Andy Wells, Co-Chair of the Joint Legislative Administrative Procedure Oversight Committee  
Representative James L. Boles, Jr., Co-Chair of the Joint Legislative Oversight Committee on Justice and Public Safety  
Representative Ted Davis, Jr., Co-Chair of the Joint Legislative Oversight Committee on Justice and Public Safety  
Senator Shirley B. Randleman, Co-Chair of the Joint Legislative Oversight Committee on Justice and Public Safety

**FROM:** Donald Harvey, Town Clerk

**CC:** Susan Sitze, Staff Attorney  
Terri L. Parker, Town Manager  
Keen Lassiter, Town Attorney  
Mayor and Town Council

**RE:** Response to the Requirements set forth in Section 3 of Session Law 2018-69 (House Bill 379) for the Town of Winterville, NC

**DATE:** November 29, 2018

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Attached is the response of the Town of Winterville, 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 Town of Winterville's ordinances where a violation constitutes a criminal offense (pursuant to G.S. 14-4(a)). Brief descriptions of the prohibited conduct are also included for review. Additionally, a link to the Company website (American Legal) that houses the online version of the Town Code of Ordinances is included for information and associated reference.

If you have any questions concerning this information, please contact: Donald Harvey, Town Clerk at [don.harvey@wintervillenc.com](mailto:don.harvey@wintervillenc.com) or (252) 215-2344.

**\*Link to Ordinances:**

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

**TOWN OF WINTERVILLE  
CODE OF ORDINANCES**

**TITLE I: GENERAL PROVISIONS.**

Chapter 10: General Provisions – Violation of any provision of the Code unless stated otherwise.

§ 10.99 GENERAL PENALTY. (A) In accordance with G.S. § 160A-175, and unless this code of ordinances provides otherwise, violation of any provision of this code of ordinances shall be a misdemeanor as provided by G.S. § 14-4(a), punishable upon conviction by a fine not exceeding \$500 or by imprisonment not exceeding 30 days. An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. § 14-4(a). (1992 Code, § 10.99) (B) By express statement, an ordinance contained herein may provide for its enforcement by other remedies, as authorized by G.S. § 160A-175, including the imposition of civil fines, the ordering of appropriate equitable relief, including injunctions, or a combination of the remedies. (C) An ordinance may provide, when appropriate, that each day of continuing violation shall be a separate and distinct offense. (1992 Code, § 10.99).

**TITLE V: PUBLIC WORKS.**

CHAPTER 50: ELECTRIC POWER GENERATION AND DISTRIBUTION - Prohibits the improper access to electric meters, failure to comply with rules and regulations, and the removing, tampering with, altering or bypassing an electric meter.

PENALTY, see § 10.99.

CHAPTER 51: GARBAGE AND REFUSE - Prohibits the improper burning, burying, accumulation, and disposal of garbage and refuse.

§ 51.99 PENALTY. (A) Anyone who violates any provision of this chapter for which no specific penalty is provided shall be subject to the terms of § 10.99.

CHAPTER 52: WATER AND SEWERS - Prohibits the improper use of water and sewer, removing, tampering with, altering or bypassing a water meter.

§ 52.99 PENALTY. (A) All persons, groups of persons, firms or corporations violating any clause or part of this chapter shall be guilty of a misdemeanor and shall be fined not more than \$500, imprisoned for not more than 30 days, or both. This shall be a continuing offense, and the violator may receive a separate fine and/or jail sentence for each and every day that the violation continues.

CHAPTER 54: WATER EMERGENCY MANAGEMENT - Prohibits the improper use of water during a declared water emergency.

PENALTY, see § 10.99.

CHAPTER 55: STORM WATER – Prohibits improper use of the provisions of storm water ordinance.

PENALTY, see § 10.99.

**TITLE VII: TRAFFIC CODE.**

CHAPTER 70: GENERAL PROVISIONS - Violation of any provision of the Traffic Code.

§ 70.99 PENALTY. If any person shall violate any provision of this Traffic Code where no other penalty is provided, he or she shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.

## **TITLE IX: GENERAL REGULATIONS.**

**CHAPTER 90: ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES** – Prohibits improper abandonment, failure to remove, nuisance, junked, and unclaimed vehicles.

§ 90.99 PENALTY. (B) Any person found guilty of violating this chapter for which no other penalty is provided shall be guilty of a misdemeanor and fined not more than \$500, imprisoned for not more than 30 days, or both. (Ord. 07-O-, passed 4-9-2007).

**CHAPTER 91: ANIMALS** – Prohibits unlawful running-at-large, keeping, and creating a nuisance with animals.

§ 91.99 PENALTY. (B) Any violation of any provision of this chapter shall be an infraction, punishable upon conviction by a fine not to exceed \$500; or (C) In addition, enforcement of this chapter may be by injunction, restraining order or abatement in a court of competent jurisdiction, as provided by G.S. § 160A-175(d) and (e). (1992 Code, § 91.99) (Ord. O-47-12108485, passed 12-10-1984; Ord. O-14-09149899, passed 9-14-1998; Ord. 04-O-128, passed 10-11-2004; Ord. 07-O-, passed 4-9-2007).

**CHAPTER 92: CEMETERIES** – Prohibits unlawful activities relating to the Town Cemeteries.

§ 92.99 PENALTY. It shall be unlawful for any person, firm or corporation to violate any of the provisions of this chapter, and any person, firm or corporation who shall violate any provision hereof shall be guilty of a misdemeanor and upon conviction shall be fined not more than \$500, be imprisoned for not more than 30 days, or both. In addition, thereto, the town shall have authority to abate any violation and restore the property to its condition as authorized herein. (1992 Code, § 92.99).

**CHAPTER 93: FAIR HOUSING** – Failure to follow the provisions of housing under Title VIII of the Civil Rights Act of 1968.

§ 93.99 PENALTY. Violation of the provisions of § 93.03 shall be considered a misdemeanor as provided by G.S. § 14-4, punishable by a fine of not more than \$500, imprisonment for not more than 30 days, or both. (1992 Code, § 93.99).

**CHAPTER 94: FIRE PREVENTION** – Prohibits the improper actions to safeguard life and property from the hazards of fire and explosion arising from the storage, handling, and use of hazardous substances, materials, and devices, and from conditions hazardous to life or property in the use or occupancy of buildings, other structures, or premises

§ 94.99 PENALTY. (C) Any person who violates any of the provisions of the NC Fire Code or its references adopted by this chapter or fails to comply therewith; violates or fails to comply with any order made thereunder; builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or who fails to comply with an order as affirmed or modified by the Chief/designee of the Fire Department or by a court of competent jurisdiction, within the time fixed therein, shall be severally for each and every such violation and noncompliance respectively, guilty of a misdemeanor, punishable as provided in § 10.99. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy violations or defects within a reasonable time determined by the Fire Code Official, and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense. (H) The notice of violation and/or subsequent civil penalties shall specify the civil penalty to be imposed on the violator and shall direct the violator to pay the civil penalty within ten days of issuance. The general penalty imposed shall be \$50 for violations of the

Fire Prevention Code unless otherwise specified. Second and third violations for the same or similar offenses shall be \$100 and \$500 respectively. (I) Certain violations shall be deemed life safety violations, which shall subject the offender to a penalty of up to \$500. Each day's continuing violation may constitute a separate offense. The following is a list of life safety violations and civil penalty: (1) Exit door or exit obstruction violations shall be assessed \$250 for the first offense and \$500 for any recurring violation. (2) Overcrowding of establishments by exceeding the posted "Maximum Occupancy" notice shall be assessed \$250 for the first offense and \$500 for any recurring violation.

**CHAPTER 95: GENERAL HEALTH REGULATIONS** – Failure to promote public safety and health regulations and the use of graffiti.

§ 95.072 GRAFFITI PROHIBITED. (A) Unlawful. It shall be unlawful for any person, without express permission or authority of the owner of the property, to deface with graffiti any governmental, commercial, or residential property or any other real property or any personal property. Any violation of the provisions of this section shall be a misdemeanor punishable by a maximum fine of \$500. Any individual defacing such property also shall be subject to prosecution for such offenses as found within the statutes of the State of North Carolina, including but not limited to restitution costs for abatement of the nuisance and damage to the property.

§ 95.999 PENALTY. (A) Anyone who violates any provision of this chapter for which no specific penalty is provided shall be subject to the terms of § 10.99.

**CHAPTER 96: NOISE** – Prohibits the creation or assisting in creating any unreasonably loud and disturbing noise.

§ 96.99 ENFORCEMENT AND PENALTIES. (B) A misdemeanor warrant may be issued in accordance with G.S. § 160A-175 either immediately or upon the issuance of a citation and the violator's failure to pay the civil penalty. (1992 Code, § 96.05) (Ord. 01-O-22, passed 10-8-2001).

**CHAPTER 97: PARADES AND DEMONSTRATIONS** – Prohibits the unlawful assembly and violation for a parade or demonstration.

§ 97.14 UNLAWFUL ASSEMBLY ON TOWN-OWNED PARKING LOT AND TRESPASS UPON. (G) Penalty for violation. Violation of division (A) shall be a misdemeanor as provided by G.S. § 14-4. Violation of division (D) shall be a misdemeanor as provided by G.S. § 14-159.13. (Ord. 08-O, passed 9-8-2008).

§ 97.99 PENALTY. Violation of any of the provisions of this chapter shall constitute a misdemeanor and shall be punishable by a fine not exceeding \$500, imprisonment not exceeding 30 days, or both. Each day the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (1992 Code, § 97.99).

**CHAPTER 99: CIVIL EMERGENCIES - HAZARD MITIGATION PLAN** – Failure to follow the provisions of a proclamation relating to a civil emergency.

§ 99.99 PENALTY. Any person who violates any provision of an ordinance or a proclamation enacted or proclaimed under the authority of this chapter is guilty of a misdemeanor punishable as provided in G.S. § 14-288.12 and G.S. § 14-4. (1992 Code, § 99.99) (Ord. O-39-01109900, passed 1-10-2000).

## **TITLE XI: BUSINESS REGULATIONS.**

**CHAPTER 112: ITINERANT MERCHANTS, PEDDLERS, TRANSIENT VENDORS AND SOLICITORS**  
– Failure to follow the provisions of the code as a peddler, transient vendor or solicitor.

§ 112.99 PENALTY. (A) Misdemeanor. A violation of this chapter shall be punishable as a Class 3 misdemeanor by a fine of \$250 for the first offense, and a fine of \$500 for the second and subsequent offenses.

## **TITLE XIII: GENERAL OFFENSES.**

**CHAPTER 130: GENERAL OFFENSES** – Prohibits use of firearms and weapons in certain locations and for certain purposes in the Town.

§ 130.02 WEAPONS AND HANDGUNS, CONCEALED OR PERMITTED, PROHIBITED IN TOWN PARKS. (F) Any person in violation of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined \$500 or imprisoned for six months or both. In addition to said punishment, any person convicted under this section will be prohibited from entering on park property of the town or participating in parks and recreation activities for a period of up to one year. (Ord. 11-O-248, passed 1-10-2011; Am. Ord. 14-O-308, passed 4-14-2014).

## **TITLE XV: LAND USAGE.**

**CHAPTER 150: BUILDING REGULATIONS** – Failure to follow the provisions of the building code regulations.

§ 150.04 ENFORCEMENT. (K) (1) Any violation of this chapter, specifically including violation of any regulatory codes adopted in that section of this chapter, shall subject the offender to a civil penalty of \$50. Violators shall be issued a written citation, which must be paid within 72 hours. (2) Each day's continuing violation shall be a separate and distinct offense. (3) Notwithstanding division (K) (1) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction. (4) In addition to, or in lieu of, remedies authorized in divisions (K) (1) and (K) (3) above; violations of this chapter may be prosecuted as a misdemeanor in accordance with G.S. 160A-175. (Ord. 13-O-297, passed 5-13-2013).