

Legislation Text

File #: 15-22211, Version: 1

City Code Update

Action:

Adopt an ordinance amending the City Code by adding language specific to criminal enforcement.

Committee Chair:

Victoria Watlington, Housing, Safety, and Community Committee

Staff Resource(s):

Shawn Heath, City Manager's Office
Jessica Battle, City Attorney's Office
David Robinson, Police

Explanation

- In September 2021, the NC General Assembly enacted Session Law 2021-138, Senate Bill 300 (SB 300) which, among other changes, made four revisions in how all cities enforce ordinances:
 - Eliminated criminal enforcement as a default option (that is, enforcement as a misdemeanor or infraction);
 - Prohibited criminal enforcement in certain areas of regulation;
 - Required introduction of proposed amendments at one meeting and Council adoption of specific criminal enforcement language at a separate meeting; and
 - Created two new defenses against criminal prosecution of ordinance violations.
- The law was effective on December 1, 2021, and applies to offenses and violations committed on or after that date.
- SB 300 did not impact the civil enforcement tools available to cities such as civil citations, civil fines/penalties, and court orders.
- At the March 28, 2022, Council Business Meeting and the April 4, 2022, Council Strategy Session, Council adopted amendments to restore criminal enforcement as an option for violation of certain city ordinances.
- On August 24, 2023, Mayor Vi Lyles issued a policy topic referral to the Housing, Safety, and Community Committee, calling for a review of the Charlotte City Code to evaluate whether the criminal enforcement option should be restored for additional ordinances, to better help our neighborhoods and businesses across the city to thrive.
- Staff evaluated current concerns associated with ordinance enforcement, and a Public Safety and Quality of Life Listening Session was held on September 27, 2023.
- Based on community feedback, revisions to criminal enforcement options for certain ordinances are being proposed.

Proposed Amendments

- Revisions to the following sections were identified to restore criminal enforcement as an option:
 - Chapter 14 - Motor Vehicles and Traffic
 - Soliciting from street or median strip (Sec. 14-282)
 - Chapter 15 - Offenses and Miscellaneous Provisions
 - Beer and wine consumption; possession of open container; disposal of containers (Sec. 15-3)

- Unauthorized persons on parking lots (Sec. 15-7)
- Trespassing on motor vehicles (Sec. 15-8)
- Loitering for the purpose of engaging in drug-related activity (Sec. 15-23)
- Masturbation in public (Sec. 15-82)
- Urination and defecation on certain property prohibited (Sec. 15-83)
- Behavior (Sec. 15-136)
- Proposed amendments would be effective upon Council adoption.

Committee and Council Discussion

- On October 2, 2023, the Housing, Safety, and Community (HSC) Committee reviewed the City Code of Ordinances. The committee voted unanimously to request staff provide a comprehensive list of ordinances to consider for reinstatement of criminal enforcement with additional historical data and analysis as applicable (Council members Watlington, Mayfield, Bokhari, Johnson, and Molina).
- On January 8, 2024, the HSC Committee received and reviewed the comprehensive list of ordinances to consider for reinstatement of criminal enforcement and voted 3 to 2 to move the discussion to full Council (Council members Watlington, Mayfield, and Ajmera voted in favor; Council members Brown and Johnson voted in opposition).
- During the Council Committee Discussions on February 5, 2024, Council received a presentation on the ordinances considered for reinstatement of criminal enforcement and the HSC Chair requested Council to consider action at the next Council Business Meeting. At that meeting, Council also received information from the City Attorney's Office on legal considerations, legal challenges and litigation pending in state and federal courts around the state and country related to adoption of similar ordinances and the First Amendment and other constitutional issues associated with three of the proposed eight ordinances: panhandling/soliciting, unauthorized persons in parking lots, and loitering ordinances.

Attachment(s)

Ordinance - Blackline Draft
Proposed Ordinance