

ORDINANCE NUMBER: _____

AMENDING CHAPTERS 2, 3, 4, 6,
8, 10, 13, 14, 15, 22, and 23.

**AN ORDINANCE AMENDING CERTAIN ARTICLES AND CHAPTERS OF THE
CHARLOTTE CITY CODE TO REMOVE CRIMINAL ENFORCEMENT WHERE
PROHIBITED AND TO RESTORE CRIMINAL ENFORCEMENT WHERE
SPECIFIED AS REQUIRED BY SESSION LAW 2021-138.**

BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Article II of Chapter 2 of the Charlotte City Code is amended as follows:

“Sec. 2-21. - General penalty; additional remedies.

- (a) Unless otherwise provided ~~or prohibited by applicable law~~, any person violating any section of this Code or any ordinance of the city ~~shall~~ may be ~~guilty of a class 3 misdemeanor and, upon conviction, shall be subject to punishment assessed a fine in~~ accordance with G.S. 14-4 and G.S. 160A-175 in an amount not to exceed fifty dollars (\$50.00). Unless otherwise provided, the maximum fine for a misdemeanor violation is \$500.00.
- (b) The sections of this Code may be enforced, inter alia, as authorized and in accordance with G.S. 160A-175. Specifically, and without limitation, any section of this Code may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the city for equitable relief that there is an adequate remedy at law.”

Section 2. Article II of Chapter 3 of the Charlotte City Code is amended as follows:

“Sec. 3-33. - Enforcement.

- (a) *Methods.* This chapter may be enforced by one or more of the following methods, unless otherwise limited to a specific manner of enforcement by this section or chapter:
- (1) *Civil citation.* Enforcement by civil citations shall be in accordance with the following:
- a. Civil citations may generally be used to enforce any section of this chapter. Such citations may be used independently or in conjunction with any other enforcement method. Violations of the following sections may only be enforced by the issuance of a civil citation:

3-67(a)	Animals at city-sponsored events
3-70	Reckless riding or driving of animal
3-72(a)	Harboring stray animals

3-101	Failure to have city animal license
3-102	City permits
3-135(d)	Failure to comply with containment order

- b. The penalties assessed by civil citations shall be in accordance with the escalating civil penalty table that follows. The civil penalty table applies to all violations that are enforced civilly, regardless of any other method of enforcement that may be additionally used. Each prior offense must be evidenced by the issuance of a civil citation or a criminal conviction arising from a prior offense before the next escalated penalty for subsequent offenses may be assessed. Penalties shall only escalate when the same offense has been committed by the same owner in the past. No offense occurring more than ten years before the current offense shall be considered.
- c. Each day that an ongoing violation continues shall be considered a separate violation from any previous or subsequent violation, and each separate violation may be the basis of a citation.

Owner's Offense	Penalty
First	\$50.00 fine
Second	\$75.00 fine
Third	\$150.00 fine and/or restraint measures in accordance with section 3-135
Fourth	\$250.00 fine and/or restraint measures in accordance with section 3-135 that shall include a secure enclosure if violation is of section 3-63, 3-66, or 3-71
Fifth	\$500.00 fine and seizure/forfeiture of the animal

- (2) *Criminal misdemeanor.* ~~The A violation of this chapter may be charged punishable with a Class 3 misdemeanor and be subject to punishment as provided in section 2-21. a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4.~~
- (3) *Injunction.* The city may apply to the appropriate court for an injunction and order of abatement that would require that a violator correct any unlawful condition relating to this chapter existing on his property.
- (4) *Seizure/forfeiture.* The following sections of this chapter may be enforced by the immediate seizure and forfeiture to the bureau of the animal that is the basis for a violation of the section:

3-61	Abandoned animals
3-62	Abuse of animals

3-63	Animal bite
3-66	Biting or attacking animals
3-69	Nuisance
3-71	Restraint of animals
3-101	License and rabies tags and fees
3-103	Permit for four or more dogs or cats kept outside
3-132	Seizure, forfeiture, and disposition of animals
3-139	Uncared-for animals

The manner of the seizure and the procedure by which the animal may be forfeited to the bureau is that set out in section 3-134 unless otherwise stated by the particular section authorizing the seizure and forfeiture. This subsection shall not be read to limit in any way any seizure or forfeiture authorized by the civil escalating penalties table in subsection (a)(1) of this section.

(b) *Penalties.* The penalties assessed by civil citations shall be in accordance with the escalating civil penalty table that follows. The civil penalty table applies to all violations that are enforced civilly, regardless of any other method of enforcement that may be additionally used. Each prior offense must be evidenced by the issuance of a civil citation or a criminal conviction arising from a prior offense before the next escalated penalty for subsequent offenses may be assessed. Penalties shall only escalate when the same offense has been committed by the same owner in the past. No offense occurring more than ten years before the current offense shall be considered.

If payment, or appeal, or payment after appeal, for any civil citation is not made within 30 calendar days of the issuance of a civil citation or of the issuance of the appeal decision, the monetary penalty shall be double that stated in the escalating civil penalty table that follows. Issuance or payment shall be considered made when deposited with proper postage in the United States mail or when received by the person being cited or the city. The bureau manager or their designee may waive the doubling of the monetary penalty upon a showing that the tardiness of payment was not due to willfulness or neglect on the part of the cited person.

(c) *Exception.* Nothing in this chapter shall be construed to prevent sheriff deputies or law enforcement officers of any kind from enforcing any of the sections of this chapter or from exercising their authority as law enforcement officers.”

Section 3. **Articles II and IV of Chapter 4 of the Charlotte City Code are amended as**

follows:

“Sec. 4-32. - Commercial activity use permit.

No person shall carry on or conduct any commercial activity at, upon or from the airport without first securing a use permit issued by the aviation director unless such activity is undertaken pursuant to a duly authorized and executed lease, contract or other written agreement between such person and the city. The aviation director may require permittees to pay fees to the city as a condition of engaging in commercial activity at, upon or from the airport.”

A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4. ”

“Sec. 4-110. - Penalties for violations.

A violation of this article ~~shall constitute~~ may be punishable as a Class 3 misdemeanor and be subjecting any person found guilty thereof to punishment in accordance with section 2-21. to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4.”

Section 4 Articles III, IX, X and XI of Chapter 6 of the Charlotte City Code are amended as follows:

“Sec. 6-270. - Penalties and remedies.

~~Any person who knowingly violates any of the following sections of~~ Violations of this article shall may be guilty of punishable as a Class 3 misdemeanor and, upon conviction, shall be punished in accordance with section 2-21, sections 6-253(a), 6-258(d), 6-259(e), 6-262(c), 6-263(3) — (6), 6-264(1) — (4), 6-265(1) and (2), and 6-268 subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4. Each violation shall be considered a separate and distinct offense, and each day of continued violation shall be considered as a separate offense. The issuance of a notice of violation or a suspension or revocation of a dancehall permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the issuance of a notice of violation or a suspension or revocation of the permit.”

~~“Sec. 6-483. — Criminal penalty.~~

~~Any person who violates any of the following sections of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 2-21: 6-469(a), 6-472, 6-474(d), 6-475(e), 6-478(e), 6-479, 6-480(e) and (d), 6-481(b), and 6-482(b) and (c). Each violation shall be considered a separate and distinct offense, and each day of continued violation shall be considered as a separate offense. The issuance of a notice of violation or a suspension or revocation of a sexually oriented business license shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the issuance of a notice of violation or a suspension or revocation of the license.”~~

“Sec. 6-484. - Civil injunction.

In addition to the issuance of a notice of violation, the suspension or revocation of a sexually oriented business license, ~~or a prosecution for criminal violations,~~ any person who violates this article may be subject to all civil and equitable remedies stated in G.S. 160A-175.”

“Sec. 6-523. - Enforcement.

In addition to the authority under this article to deny, to suspend, or to revoke a permit, any or all of the following methods shall be available for enforcing this article:

(1) City law enforcement officers shall have the authority to issue citations in the same manner as described in section 2-24 as if it were fully stated in this article. A penalty of \$10.00 may be levied against any person for a violation of each section of this article for which a citation has been issued. Each day's violation shall be a separate and distinct offense. Nothing in this article shall preclude any other lawful enforcement action by an officer.

(2) Further, if a vendor with a permit ~~is convicted of a criminal misdemeanor for a violation of this article or~~ has a permit revoked, the coordinator may reject any new application for any kind of permit under this article for a 12-month period from the date of conviction or revocation.

(3) Any remedies available to the county department of environmental health or any other county department responsible for enforcing laws pertaining to the activities carried out by this article shall be available to such personnel to enforce this article.

(4) This article may be enforced by any of the remedies enumerated in G.S. 160A-175, and each day's violation shall be a separate and distinct violation.”

“Sec. 6-567. - Penalty.

Any person who violates a provision of this article ~~shall be guilty of a misdemeanor as provided by G.S. 14-4, and subject to a maximum fine of \$500.00.~~ may be assessed a civil penalty of \$100 by a police officer pursuant to Sec. 2-24.”

Section 5. Article I of Chapter 8 of the Charlotte City Code is amended as follows:

“Sec. 8-5. - Penalties.

(a) Any person who shall violate or fail to comply with any section of this chapter or of the state fire code, as adopted, amended or augmented by this chapter; who shall violate or fail to comply with any order made under this chapter or the state fire code; or who shall build in violation of any detailed statement of specifications or plans submitted under this chapter or the state fire code, or any certificate or permit issued thereunder, shall be guilty of a Class 3 misdemeanor and, upon conviction, shall be punished in accordance with section 2-21 subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such violations shall be corrected within the time specified pursuant to section 8-5(b) of this chapter.

(b) The application of the penalties in subsection (a) of this section shall not be held to prevent the enforced removal of prohibited conditions.”

Section 6. Article III of Chapter 10 of the Charlotte City Code is amended as follows:

“Sec. 10-100. - Authority.

- (a) Code enforcement shall be responsible for the administration and enforcement of the provisions of this article, except as otherwise stated. Nothing in this article shall be construed to limit the legal authority of the officers of the city's police department to enforce ordinances or carry out their other duties.
- (b) Each and every violation of this article shall constitute a separate and distinct offense.
- (c) A code enforcement inspector shall have the following authority:
 - (1) To enter upon a premises.
 - (2) To obtain an administrative search and inspection warrant, if necessary, as provided in G.S. 15-27.2 in order to conduct any necessary inspection of premises and to obtain evidence to determine whether there are any violations of the provisions of this article.
 - (3) To issue a notice of violation pursuant to section 10-101 and/or impose civil penalties pursuant to section 10-102.
 - (4) To enter upon or authorize an independent contractor to enter upon and clean up premises in violation of this article.
 - (5) To enter upon a premises to summarily remove, abate, or remedy everything in the city limits that is considered by ordinance to be either dangerous or prejudicial to the public health or which has been declared to be a nuisance.
 - (6) To determine whether any violation of this article has been fully remedied.
 - (7) To charge the responsible person with a ~~misdemeanor and subject the violator to any penalty prescribed by section 2-21~~ violation of this article which may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4.
 - (8) To apply to the appropriate court for an injunction and order of abatement which would require the responsible person correct any unlawful condition relating to this article existing on the premises.”

Section 7. Article II of Chapter 13 of the Charlotte City Code is amended as follows:

“Sec. 13-44. - Enforcement actions.

- ~~(a) *Criminal remedies.* Conducting business within the city limits without having paid the license tax imposed, or without a valid license issued pursuant to this article, or without posting a license pursuant to section 13-39, is a misdemeanor, punishable as provided in section 2-21. Payment of a fine imposed in criminal proceedings pursuant to this section does not relieve a person of his liability for taxes imposed under this article.~~
- ~~(b)~~ (a) *Equitable remedies.* ~~In addition to the criminal remedies set forth in subsection (a) of this section, pursuant to G.S. 160A-175(d), the~~ The city may seek an injunction against any person conducting a business in violation of this article.
- ~~(c)~~ (b) *Garnishment and levy remedies.* The tax collector may set forth the sale of tangible personal property (levy) or attach wages, rents, bank deposit and other compensation (garnish) to eliminate any delinquent license tax in accordance with G.S. 105-368 and G.S. 160A-207.

~~(d)~~ (c) *Duplicate copy.* Upon satisfactory proof that a license has been lost or destroyed, the tax collector shall furnish a duplicate for a fee as established from time to time. ~~Any other duplication of a license shall constitute a misdemeanor, and is punishable as provided in section 2-21."~~

Section 8. Articles II and VIII of Chapter 14 of the Charlotte City Code are amended as follows:

"Sec. 14-61. Civil penalties.

(a) Except as set forth in subsection (b) of this section, and unless otherwise provided, a violation of this chapter may be enforced by the issuance of a civil penalty in the amount of \$25.00.

(b) Notwithstanding subsection (a) of this section, as provided in section 2-21, the following violations may be enforced by the issuance of a civil penalty in the amount provided of \$100:

~~(1) — Photographic red light violation, as provided in section 14-188...\$50.00~~

~~(2)(1)~~ Rush hour parking violation, as provided in section 14-216(a)(1)... ~~50.00~~

~~(3)(2)~~ Leaving unattended vehicle violation, as provided in section 14-221...~~50.00~~

~~(4)(3)~~ Handicapped parking, as provided in section 14-216(a)(2)...~~100.00~~

~~(5)(4)~~ Blocking curb cut, as provided in section 14-216(a)(3)...~~100.00~~

~~(6)(5)~~ Fire hydrant parking, as provided in section 14-216(a)(4)...~~100.00~~

~~(7)(6)~~ Fire station parking, as provided in section 14-216(a)(5)...~~100.00~~

~~(8)(7)~~ Fire lane parking, as provided in section 14-216(a)(6)...~~100.00~~

~~(9)(8)~~ Pedicabs, as provided in section 14-254...~~100.00~~

~~(10)(9)~~ Traffic control by off-duty officers, as provided in section 14-9500.00

(c) An additional late fee civil penalty in the amount of ~~\$40~~25.00 may be assessed if the initial civil penalty is not paid or appealed within 30 days from the date of issuance.

~~(d) — Notwithstanding subsection (c) of this section, an additional late fee civil penalty in the amount of \$50.00 may be assessed if the initial civil penalty for a photographic red light violation, as provided in section 14-188, is not paid or appealed within 30 days after notification of the violation."~~

"Sec. 14-325. - Playing or loitering about railroad property.

It shall be unlawful for any person to play or loiter about the railroad tracks, shops or depots within the city limits. A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4."

Section 9. Articles I, III, VII, X, and XIII of Chapter 15 of the Charlotte City Code are amended as follows:

“Sec. 15-13. - Shooting.

- (a) It shall be unlawful for any person, except an officer of the law, to shoot any firearm in the city, except in a licensed shooting gallery or as further provided in this section. However, the city manager or his designee is hereby authorized to grant temporary approval to persons desiring to shoot blanks in any firearm upon finding that the shooting will be conducted in a safe manner. Any person desiring to shoot live ammunition in any firearm may do so only with the permission and approval of the city council upon its finding that the shooting will be conducted in a safe manner.
- (b) It shall be unlawful for any person in the city, to shoot with bow and arrow or to shoot missiles of any description from slings, spring guns or instruments of any kind, except in a licensed shooting gallery or range or by permission of the city council.
- (c) All business establishments within the city that sell firearms shall be required to provide the purchaser of any firearm with a copy of this section at the time of the purchase. The city shall prepare and make available sufficient copies of this section to the business establishments.

A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4.”

“Sec. 15-14. - Possession of dangerous weapons.

- (a) For the purposes of this section, the term "dangerous weapon" shall be defined as any object or device designed or intended to be used to inflict serious injury upon persons or property, including, but not limited to, firearms; knives of any kind or type having a blade in excess of 3½ inches in length, except when used solely for preparation of food, instruction or maintenance; razors and razor blades, except when used solely for personal shaving; metallic knuckles; clubs, blackjacks and nightsticks; dynamite cartridges, bombs, grenades, mines and other powerful explosives; slingshots; shurikins; stun guns; and loaded canes.
- (b) It shall be unlawful for any person to carry, possess or have within his immediate access any dangerous weapon while in or upon any real property owned (except property owned by the city and leased to some other person or organization), leased, as lessee, or otherwise temporarily controlled by the city, whether such property is located within or outside the corporate city limits.
- (c) This section shall not apply to the following persons while acting lawfully and within the scope of their duties and authority:
 - (1) Law enforcement officers.
 - (2) Officers and soldiers of the armed forces, militia and national guard.
 - (3) Any person who carries a dangerous weapon onto the premises of Charlotte/Douglas International Airport for the sole purpose of shipping the weapon by air in compliance with federal and state laws and regulations.
 - (4) Persons specifically authorized by state or federal law to carry firearms in the performance of their jobs.

- (5) Any other person authorized, in writing, by the city manager or his designee to carry or possess dangerous weapons while in or upon specified public property. The city manager may promulgate guidelines for the issuance of permits for the possession of dangerous weapons on public property. The purpose of the guidelines shall be to ensure that permits are issued only for lawful purposes and in circumstances which present no threat to the safety and welfare of any person.
- (d) This section shall not prohibit the lawful possession or carrying of dangerous weapons on the public streets and sidewalks, except as provided in section 15-18.

A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4.”

“Sec. 15-20. - State of emergency; proclamation; curfew authorized; restrictions; contracts authorized.

- (a) A "state of emergency" shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property.
- (b) If an existing or threatened state of emergency occurs endangering the lives, safety, health and welfare of the people within the city, or threatening damage to or destruction of property, the mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency and, in order more effectively to protect the lives and property of the people within the city, to place in effect any or all of the restrictions authorized in this section, including the authority to define and impose a curfew.
- (c) The mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the corporate limits and to specific hours of the day or night, and to exempt the following from all or any part of such restrictions:
 - (1) Law enforcement officers, firefighters and other public employees;
 - (2) Doctors, nurses, employees of hospitals and other medical facilities;
 - (3) On-duty military personnel, whether state or federal;
 - (4) On-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and
 - (5) Such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the city.
- (d) The mayor shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the city council.
- (e) During the existence of a proclaimed state of emergency, the mayor may, by proclamation, prohibit or regulate any or all of the following:

- (1) The possession, off one's own premises, of explosives, any substance which by itself or in combination with other substances could be used to make an explosive device or weapon of mass destruction, firearms, ammunition, or dangerous weapons of any kind, and prohibit or regulate the purchase, sale, transfer or other disposition thereof.
 - (2) The buying or selling of beer, wine, or intoxicating beverages of any kind, and their possession or consumption off one's own premises.
 - (3) Any demonstration, parade, march, vigil or participation therein from taking place on any of the public ways or upon any public property.
 - (4) The sale of gasoline, kerosene, naphtha, or any other explosive or inflammable fluids or substances or any substance which, by itself or in combination with other substances, could be used to make an explosive device or weapon of mass destruction.
 - (5) Travel upon any public street, alley, or roadway or upon any other public property, except by those in search of medical assistance, food or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof.
 - (6) The participation in or carrying on of any business activity, and the keeping open of places of business, places of entertainment, and any other places of public assembly.
- (f) Any proclamation may be extended, altered, or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.
- (g) During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this section. ~~Any person who violates such a provision shall, upon conviction, be punished in accordance with section 2-21~~ A violation of this section may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4.
- (h) During the existence of a proclaimed state of emergency involving the health and safety of the people or their property, the city manager is authorized to award contracts for construction or repair work and for the purchase of apparatus, supplies, materials or equipment without regard to the amount of such a contract and without complying with G.S. 143-129, provided that the expeditious award of such a contract is reasonably necessary to address the effects of such emergency. In the absence of the city manager, the following officials shall have the same authority as is provided in this section to the city manager: the deputy city manager, any assistant city manager or the chief purchasing official. The city manager shall submit a report to the city council summarizing all contracts awarded pursuant to this section as soon as reasonably possible after the state of emergency has ended.”

“Sec. 15-26. - Camping and other activity prohibited on public property.

(a) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Camp or camping means the use of city property for living accommodation purposes such as sleeping, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or placing any tents or a temporary shelter on city property for living accommodation purposes.

Temporary shelter means tents, tarps, or any type of structure or cover that provides partial shelter from the elements.

(b) It shall be unlawful for anyone to camp on any public property owned by the city including public rights-of-way and sidewalks.

(c) Camping as defined in this section is deemed a public nuisance and the city may summarily remove a temporary shelter, bedding or personal belongings.

(d) It shall be unlawful to light or use a campfire or bonfire on public property except as may be specifically authorized by a permit.

A violation of this section by any person other than a juvenile may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4.”

“Sec. 15-30. - Kindling bonfires.

It shall be unlawful for anyone to set a fire on any public street, avenue, highway, public property or right-of-way unless expressly allowed by a permit. A violation of this section by any person other than a juvenile may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4.”

“Sec. 15-68. - Enforcement and penalties.

Where there is a violation of any section of this article, the city, at its discretion, may take one or more of the following enforcement actions:

- (1) The violator may be assessed a civil penalty for violations of this article by a police officer. The violator shall be assessed a civil penalty of \$100.00 for the first violation. For the second violation within one-year of the first violation a civil penalty of \$500.00 shall be assessed. For their third and subsequent violation(s) within one-year of the first violation a civil penalty of \$1,000.00 shall be assessed. For purposes of this subsection, a civil penalty for a violation may be assessed each calendar day.
- (2) The violator of this article may be charged with a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500.00 as stated in G.S. 160A-175 and G.S. 14-4.
- (3) A civil action seeking an injunction and order of abatement may be directed toward any person creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates.
- (4) A police officer may issue a notice of violation, as provided in section 2-24 of this Code, subjecting the violator of subsection 15-63(a)(1) to a civil penalty of \$200.00 for their first violation, \$500.00 for their second violation, and \$1,000.00 for their third and subsequent violation(s) within one year from the initial violation. Violations of subsection 15-63(a)(1) shall be determined by location of the offense and not by the

company as a whole. For the purposes of this subsection, the term "violation" means either the operator of the front-end loader; the employer of the operator; or the company, partnership, corporation or other person or entity which owns, possesses or controls the front-end loader utilized by the operator.

- (5) The violator may be assessed a \$1,000.00 civil penalty for any violation of section 15-61 or section 15-65.1 that occurs within one year after the commercial establishment has been determined to be "non-cooperative" pursuant to subsection 15-65.3(e). After two such violations, the prohibition on sound amplification and live acoustic music established in subsection 15-65.1(c) shall apply.
- (6) If a violator fails to pay any civil penalty within 30 days after it is assessed, a late fee of \$50.00 shall apply. The City may recover the civil penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt."

"Sec. 15-157. - Penalties.

- (a) A juvenile who violates any section of this article is subject to being adjudicated delinquent. The court may, in its discretion, impose any dispositional alternatives that are provided in the state juvenile code for any juvenile who is delinquent.
- (b) ~~Any person other than a juvenile who violates any section of this article shall be guilty of a misdemeanor and shall be subject to a fine not to exceed \$100.00 and imprisonment in the discretion of the court in accordance with G.S. 14-4.~~ A violation under this article by any person other than a juvenile may be punishable as a Class 3 misdemeanor and be subject to a maximum fine not to exceed \$500 pursuant to G.S. 160A-175 and G.S. 14-4."

"Sec. 15-251. - Violations; penalty.

- (a) It shall be unlawful for any person to violate any provision of this article or to violate any term or condition of a carnival permit issued pursuant to this article.
- (b) It shall be unlawful for any person to operate or cause to be operated a carnival without a valid carnival permit.
- (c) It shall be unlawful for any person to operate or cause to be operated a carnival and said person knows or should know that the permit for that carnival has been revoked.
- (d) ~~Any person who violates any provision of this article shall be guilty of a misdemeanor and be subject to a fine not to exceed \$500 as provided in G.S. 160A-175 and G.S. 14-4."~~ Any person who violates any provision of this article shall be punishable as a Class 3 misdemeanor and be subject to a fine not to exceed \$500 as provided in G.S. 160A-175 and G.S. 14-4."

"Sec. 15-304. - Penalty.

~~Any person who violates section 15-301 shall upon conviction be guilty of a misdemeanor as provided in G.S. 14-4. A violation of this article may be punishable as a civil penalty in the amount of \$100 pursuant to Sec 2-24."~~

Section 10. Article II of Chapter 22 of the Charlotte City Code is amended as follows:

“Sec. 22-231 – Civil penalty.

...

(b) Amount.

- (1) ~~A civil penalty shall be assessed against a person who fails to file an application renewing the company operating certificate prior to its expiration. This civil penalty shall be in the amount of \$100.00 per day for each day beginning on the first day following the expiration of the company operating certificate when the person has not applied to renew the company operating certificate. Each violation of this article shall be assessed a \$100.00 civil penalty with each day's continuing violation constituting a separate and distinct offense.~~
- (2) ~~Each violation of this article shall be assessed a \$100.00 civil penalty. If multiple violations of the article occur, then the maximum civil penalty assessed will be \$500.00 and each day's continuing violation shall be a separate and distinct offense.~~
- (3) ~~An additional civil penalty of \$500.00 shall be assessed for each instance that: (i) an illegal third party violates this article; or (ii) for a violation of section 22-158(b)(5).~~
- (4) ~~Civil penalties may be levied against the for hire company if its affiliated for hire drivers incur civil penalties above specific monetary thresholds. The amount of civil penalties levied against a for hire company shall be determined by the number of for hire vehicles under the for hire company and the total amount of civil penalties incurred annually by the affiliated for hire driver. The chart below provides further illustration:~~

Number of For Hire Vehicles	Annual Civil Penalties
1—15	Each \$1,000.00 in For Hire Driver penalties and/or For Hire Vehicle Owner penalties shall result in a civil penalty of \$5,000.00
16—30	Each \$2,000.00 in For Hire Driver penalties and/or For Hire Vehicle Owner penalties shall result in a civil penalty of \$5,000.00
31—50	Each \$3,000.00 in For Hire Driver penalties and/or For Hire Vehicle Owner penalties shall result in a civil penalty of \$5,000.00
51—75	Each \$4,000.00 in For Hire Driver penalties and/or For Hire Vehicle Owner penalties shall result in a civil penalty of \$5,000.00
Over 75	Each \$5,000.00 in For Hire Driver penalties and/or For Hire Vehicle Owner penalties shall result in a civil penalty of \$5,000.00

“Sec. 22-232. - Additional remedies.

- ~~(a)~~ The city or PVH manager may seek enforcement of this article by instituting a civil action for injunctive relief, an abatement order, or any other appropriate relief in a court of competent jurisdiction in the county.

~~(b) This article may be enforced by one, all or a combination of the remedies authorized and prescribed by this article, section 2-21 of this Code, and state law.”~~

“Sec. 22-235. - PVH board

...

(g) Procedure for appeals.

- (1) If the appeal relates to the issuance of a civil penalty for less than ~~\$600.00~~\$500.00, then only the chairperson of the PVH board is empowered to read, review, and evaluate any and all written evidence submitted by the PVH manager's office and the appealing person. Any written evidence shall be subject to a penalty of perjury. No oral testimony should be considered by the chairperson of the PVH board. If the chairperson finds an error in the application of these regulations, then the civil penalty shall be reversed. If the chairperson does not find an error, then the civil penalty shall be affirmed. The chairperson may elect to refer an appeal relating to the issuance of a civil penalty to the full PVH board.
- (2) If the appeal relates to a PVH manager's decision or the issuance of a civil penalty for more than ~~\$600.00~~\$500.00, then the entire PVH board will receive, review, and evaluate written evidence and oral testimony from the PVH manager's office and the appealing person.
- (3) If an appealing person fails to appear before the PVH board after being provided with a notice of hearing and no continuance has been granted, then the PVH board shall dismiss the person's appeal for a failure to prosecute the appeal. The appealing person is not entitled to a rehearing after dismissal of the appeal.
- (4) Any appealing person shall have the right to representation by a person of his choice. The North Carolina Rules of Evidence, G.S. 8C, shall not strictly apply to the hearing, but the hearing shall afford the PVH manager's office and the appealing person an opportunity to offer evidence, cross-examine witnesses, and inspect documents. Hearsay evidence shall be considered only to the extent that the hearsay evidence would be permitted under the North Carolina Rules of Evidence G.S. 8C. Only sworn testimony shall be accepted and the chairperson of the PVH board, as well as any board member designated by the chairperson, shall have the authority to administer the oath as set forth for witnesses in a civil matter by G.S. 11-11. The hearing shall be recorded, and the PVH board's decision shall be in writing with copies provided to the PVH manager's office and the appealing person.
- (5) ~~Hearings before the PVH board shall be de novo. If the PVH board finds an error in the application of these regulations, then the PVH manager's decision shall be reversed or modified. The PVH board shall reverse or modify the specific order, requirement, decision, or determination under appeal only upon finding an error in the application of these regulations by the PVH manager.~~ If the PVH board does not find an error, then the PVH manager's decision shall be affirmed.
- (6) Decisions of PVH board shall be either: (i) affirming or reversing the PVH manager's decision; (ii) affirming or reversing the issuance of a civil penalty; (iii) imposing probationary status; or (iv) imposing such other lesser penalties as it deems just and appropriate. Decisions of the PVH board shall be subject to judicial review in a proceeding in the nature of certiorari instituted in the superior court of this county within 30 days after the PVH board.

- (7) The mailing address listed on the written notice of appeal by the appealing person is presumed to be a valid and proper address for the appealing person to receive the PVH board's written decision.”

Section 11. Severability Clause

If any provision of this ordinance or its application to any person or circumstances is held invalid or unconstitutional by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this ordinance, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this ordinance are declared to be severable.

Section 12. All laws and provisions of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 13. This ordinance shall become effective immediately upon adoption.

Approved as to form

City Attorney