

Legislation Details (With Text)

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File created:	2/15/2022	In control:		In control:	City Council Business Meeting
On agenda:	2/28/2022	Final action:		Final action:	2/28/2022
Title:	City Code Update				
Attachments:	1. Draft Ordinance				

Date	Ver.	Action By	Action	Result
2/28/2022	1	City Council Business Meeting	Pulled by Staff	

City Code Update

Action:

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

Staff Resource(s):

Patrick Baker, City Attorney's Office
Lina James, City Attorney's Office

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.
- On February 14, 2022, staff introduced and presented this legislation to City Council with proposed ordinance recommendations; Council directed the City Attorney's Office to bring final recommendations to Council at the February 28, 2022 Business Meeting.
- Certain prohibited sections/chapters may be revised as part of the UDO process, including revisions to conform to SB300.
- Proposed amendments would be effective upon Council adoption.

Proposed Amendments

- The following sections eliminate criminal enforcement as prohibited by SB 300:
 - Chapter 6 - Business and Trades
 - Sexually Oriented Businesses
 - Tryon Street Vendors
 - Towing
 - Hotels and Motels
 - Chapter 13 - Licenses (business permits)

- Chapter 18 - Stormwater
 - Stream Clearing
 - Solar Collectors*
 - Cisterns and Rain Barrels*
- Chapter 19 - Streets, Sidewalks, and Other Public Places and Zoning Ordinance
 - Building Setback Lines
 - Curb Cuts Regulation
- Chapter 21 - Trees
- Chapter 22 - Vehicles for Hire
 - Taxis
- Zoning Ordinance
 - Outdoor Advertising
- Zoning Ordinance and Other Chapters
 - Land Use (planning & regulation ordinances)
- *Solar Collectors and Cisterns and Rain Barrels are not specifically addressed in Chapter 18, but are eliminated from criminal enforcement in SB300 for future reference.
- The City Attorney recommends revisions to the General Penalties Section of the Code and the following sections were identified to restore criminal enforcement as an option:
 - Chapter 3 - Animals
 - Animal Bites
 - Biting or Attacking Animals
 - Nuisance
 - Chapter 4 - Aviation
 - Commercial Permits
 - Ground Transportation and Permits
 - Chapter 6 - Business and Trades
 - Dancehalls (permits, minors)
 - Chapter 8 - Fire Prevention and Protection
 - Fire Code Violations
 - Chapter 10 - Health and Sanitation
 - Public Health Nuisances
 - Chapter 14 - Motor Vehicles and Traffic
 - Playing or Loitering About Railroad Property
 - Chapter 15 - Offenses and Miscellaneous Provisions
 - Shooting (within city limits)
 - Possession of Dangerous Weapons (on City property)
 - State of Emergency
 - Noise
 - Youth Protection/Juveniles
 - Carnivals
 - Camping (on public property)
 - Kindling Bonfires (on City property)

Attachment(s)

Ordinance - Blackline draft