

## Legislation Text

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File #: 15-17445, Version: 1

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### 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