

Legislation Text

File #: 15-17543, Version: 1

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 SB 300.
- 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
 - 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 the City Code, but are eliminated from criminal enforcement in SB 300 for future reference.
- The City Attorney recommends revisions to the General Penalties Section of the Code (Sec. 2-21) and the following sections were identified to restore criminal enforcement as an option:
 - Chapter 3 - Animals
 - Enforcement (Sec. 3-33)
 - Chapter 4 - Aviation
 - Commercial Permits (Sec. 4-32)
 - Penalties for Violations (Sec. 4-110)
 - Ground Transportation and Permits
 - Chapter 6 - Business and Trades
 - Penalties and remedies (Sec. 6-270)
 - Dancehalls (permits, minors)
 - Chapter 8 - Fire Prevention and Protection
 - Penalties (Sec. 8-5)
 - Fire Code Violations
 - Chapter 10 - Health and Sanitation
 - Authority (Sec. 10-100)
 - Public Health Nuisances
 - Chapter 14 - Motor Vehicles and Traffic
 - Playing or Loitering About Railroad Property (Sec. 14-325)
 - Chapter 15 - Offenses and Miscellaneous Provisions
 - Shooting (Sec. 15-13)
 - Possession of Dangerous Weapons (Sec. 15-14)
 - State of Emergency (Sec. 15-20)
 - Camping (Sec. 15-26)
 - Kindling Bonfires (Sec. 15-30)
 - Noise
 - Enforcement and Penalties (Sec. 15-68)
 - Youth Protection
 - Penalties (Sec. 15-157)
 - Carnivals
 - Violations; penalty (Sec. 15-251)

Attachment(s)

Ordinance - Blackline draft