

# CITY OF HIGH POINT

## AGENDA ITEM



**Title:** Senate Bill 300 and the Decriminalization of Local Government Ordinances

**From:** City Attorney's Office

**Date:** June 6, 2022

**Public Hearing:** Yes

**Advertising Date:** May 27 and June 2

**Advertised By:** High Point Enterprise

**Attachments:** Staff Report and Code of Ordinances Text Amendment

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### **PURPOSE:**

To review and consider amendments to the Code of Ordinances, as required by state law.

### **BACKGROUND:**

In late 2021, the North Carolina legislature passed Session Law 2021-138 ("Senate Bill 300"), a wide-ranging criminal justice reform law addressing law enforcement and policing matters. Among other reforms, the law takes steps to decriminalize some local ordinances. Prior to this legislation, state law provided that a violation of any city ordinance was by default a misdemeanor (as provided by N.C.G.S. §14-4) unless the ordinance provided otherwise. In other words, there was a presumption in state law that the City could criminally enforce ordinance violations (by issuing a criminal citation and forcing the violator to appear in court and pay criminal penalties) even if the ordinance did not explicitly provide for such criminal enforcement. Senate Bill 300 reversed that presumption. Under the new statutory language, local governments must amend local ordinances to specifically identify violations that may be enforced criminally. Additionally, the legislation provides a list of ordinances that may no longer impose a criminal penalty.

City staff, including but not limited to the City Manager's Office, Police Department, Public Services Department, Planning and Development Department, and City Attorney's Office, have worked together to review the Code of Ordinances and revise as required by Senate Bill 300. On May 26, 2022 this matter went before the Public Safety Committee, and it received a favorable recommendation to go before City Council.

### **BUDGET IMPACT:**

There is no direct budget impact to amending the Code of Ordinances, as required by state law.

### **RECOMMENDATION / ACTION REQUESTED:**

The City Attorney's Office asks the City Council to approve the amendments, as required by state law.

AN ORDINANCE AMENDING THE CITY OF HIGH POINT CODE OF ORDINANCES

**WHEREAS**, prior to December 1, 2021, state law provided that the violation of a city ordinance is a misdemeanor unless the city provided otherwise; and

**WHEREAS**, Part XIII of S.L. 2021-138 provides that, effective December 1, 2021, a violation of a city ordinance may be a misdemeanor as provided by N.C.G.S. § 14-4 only if the city specifies such in the ordinance; and

**WHEREAS**, Part XIII of S.L. 2021-138 provides a list of types of ordinances that may no longer impose a criminal penalty; and

**WHEREAS**, in order to comply with Part XIII of S.L. 2021-138, the High Point City Council desires to amend the City's Code to specify whether a violation of a section of the Code is punishable as a misdemeanor and to remove existing criminal penalties for certain sections of the Code; and

**WHEREAS**, the City Council also desires to amend the Code to standardize the process for civil enforcement of the Code; and

**WHEREAS**, notice of the public hearing for this ordinance was published in the High Point Enterprise on May 27, 2022, and June 2, 2022; and

**WHEREAS**, a public hearing was held before the City Council on June 6, 2022, regarding this ordinance and amending the Code; and

**NOW THEREFORE**, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGH POINT THAT THE FOLLOWING SECTIONS OF THE CODE OF ORDINANCES OF THE CITY OF HIGH POINT, NORTH CAROLINA, ARE HEREBY AMENDED TO READ AS FOLLOWS:

**SECTION 1.**

Criminal and civil penalty amendments to the High Point Code of Ordinances.

**PART A.**

Chapter 1 of Title 1 of the High Point Code of Ordinances is hereby amended as follows:

**Sec. 1-1-1. How code designated and cited.**

The provisions of the following titles, chapters, articles, and sections shall constitute and be designated "The Code of Ordinances of the City of High Point, North Carolina—1982," and may be so cited. Such Code may also be cited as "High Point Code."

(Code 1958, Sec. 1-1)

State law reference(s)—~~Admission of Code in evidence~~Code of Ordinances, G.S. 160A-797, ordinance book, G.S. 160A-78; pleading and proving city ordinances, G.S. 160A-79.

**Sec. 1-1-2. Definitions and rules of construction.**

In the construction of this ~~code~~Code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the city council or the context clearly requires otherwise:

- (1) *City*. The words "the city" shall mean the City of High Point.
- (2) *Code*. The words "the Code" and "this Code" shall mean the Code of Ordinances of the City of High Point, North Carolina.
- (3) *Computation of time*. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Sunday or a legal holiday, that shall be excluded.
- (34) *Council*. The words "the council" shall mean the council of the City of High Point, North Carolina.
- (45) *County*. The words "the county" shall mean the respective counties of Guilford, Randolph and Davidson, North Carolina, except as otherwise provided.
- (56) *Gender*. Words importing the masculine gender shall include the feminine and neuter.
- (67) *In the city or within the city* shall mean any territory, the jurisdiction of which, for the exercise of its regulatory power, has been conferred by general or special law.

- (~~78~~) *Joint authority.* All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- (~~89~~) *May.* The word "may" is permissive.
- (~~910~~) *Month.* The word "month" shall mean a calendar month.
- (~~1011~~) *Number.* Words used in the singular include the plural and the plural includes the singular number.
- (~~1112~~) *Oath.* The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."
- (~~1213~~) *Owner.* The word "owner" when applied to buildings or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.
- (~~1314~~) *Person.* The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.
- (~~1415~~) *Personal property* includes every species of property except real property, as herein defined.
- (~~1516~~) *Preceding, following.* The words "preceding" and "following" shall mean next before and next after, respectively.
- (~~1617~~) *Property.* The word "property" shall include real and personal property.
- (~~1718~~) *Real property* shall include lands, tenements and hereditaments.
- (~~1819~~) *Shall.* The word "shall" is mandatory.
- (~~1920~~) *Sidewalk.* The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians.
- (~~2021~~) *Signature or subscription* includes a mark when the person cannot write.

- (2122) *State.* The words "the state" shall mean the State of North Carolina.
- (2223) *Street.* The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct, bridge and the approaches thereto within the city.
- (2324) *Tenant.* The words "tenant" and "occupant" applied to a building or land, shall include any person who occupies the whole or part of such building or land whether alone or with others.
- (2425) *Time.* Words used in the past or present tense include the future as well as the past and present.
- (2526) *Writing.* The words "writing" and "written" shall include printing and any other mode of representing words and letters.
- (2627) *Year.* The word "year" shall mean a calendar year.

State law reference(s)—Rules of construction, G.S. 123; computation of time, G.S. 1-593.

**Sec. 1-1-4. ~~Criminal penalty, not exclusive remedy, continuing violations~~ Enforcement and Appeals.**

- (a) Any violation of a section of the Code that is specifically designated as a misdemeanor shall be a Class 3 misdemeanor and any person convicted of the violation shall be subject to punishment in accordance with G.S. 14-4. Unless a violation is specifically designated as a misdemeanor, the violation shall not constitute a misdemeanor or infraction punishable under G.S. 14-4, but instead shall be subject to civil penalties and remedies in accordance with this section and G.S. 160A-175. In accordance with G.S. 160A-175, and unless this code of ordinances provides otherwise, violation of any provision shall be a misdemeanor as provided in G.S. 14-4, punishable upon conviction by a fine not exceeding \$50 or by imprisonment not exceeding 30 days. An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4.

- (b) ~~By express statement, an ordinance contained herein may provide for its enforcement by other remedies, as the Code may be enforced by any one, all, or combination of the remedies~~ authorized in G.S. 160A-175, including the imposition of civil fines, recoverable in the nature of debt or the ordering of appropriate equitable relief, including orders of abatement and injunctions, or a combination of remedies.
- (c) ~~An ordinance may provide, when appropriate~~Unless otherwise specified, that each day's continuing violation of any section of the Code shall be a separate and distinct violation or offense.
- (d) Any violation of the Code by any officer, agent, or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment, shall in every case also be deemed to be a violation by such corporation, association, or organization. Any officer, agent, or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment as well as such corporation or unincorporated association or organization for the violation by it of any section of this Code, where such violation was the act or omission, or the result of the act, omission, or order, of any such person.
- (e) Unless otherwise provided within a particular section of the Code or by state law, written notice of a violation by certified or registered mail to the violator's last known address, by personal service, or by posting notice conspicuously on property owned by the violator(s), shall be provided to the violator(s) for all civil violations and shall include all of the following:
- A. Notice that a civil violation of the Code exists;
  - B. The nature of the violation and citation to the section(s) of the Code that were violated;
  - C. The measures necessary to remedy the violation;
  - D. The time period in which the violation must be corrected;
  - E. That penalties may be assessed, and remedies sought, by the City; and

F. That the party cited has the right to appeal the notice of violation in accordance with the Code.

(f) Notices of violation for civil violations may be issued, and civil penalties authorized by the Code may be assessed, by any officer, employee, or agent of the City responsible for the administration and enforcement of the provision; or by any other officer, employee, agent, or other person who is authorized by the city manager to enforce the provision.

(g) Unless otherwise provided within a particular section of the Code or by state law, any person who violates any provision of the Code, shall be subject to assessment of a civil penalty in the amount of \$50.00 for the first violation, \$100.00 for the second violation, \$200.00 for the third violation, and \$500.00 for the fourth and each succeeding violation.

(h) Unless another procedure is established for a particular violation within a section of the Code or by state law, any person assessed a notice of violation or civil penalty may appeal by filing a written notice of appeal with the city within 30 days from the date of the notice or assessment. Failure to file a notice of appeal within this time period shall constitute a waiver of the right to contest the notice of violation or civil penalty. Appeals shall be heard by a hearing officer designated by the city manager through a quasi-judicial process. The city manager may establish rules and procedures that govern the appeal and quasi-judicial hearing process. Such rules may include a requirement that, for specified violations, a bond equal to the amount of the civil penalty be posted at the time a notice of appeal is filed. A hearing officer's decision on a violation or civil penalty appeal is subject to further review in the superior court of the county by proceedings in the nature of certiorari in accordance with G.S. 160D-1402. Any petition for writ of certiorari shall be filed with the clerk of superior court within 30 days after the date that the hearing officer's written decision is issued.

State law reference(s)—Violation of city ordinances a misdemeanor, G.S. 14-4; enforcement of ordinances, G.S. 160A-175; Appeals in the nature of certiorari, G.S. 160D-1402.

**Sec. 1-1-8. Altering code.**

It shall be unlawful for any person in the city to change or amend by additions or deletions, any part or portion of this Code or to insert or delete pages, or portions thereof, or to alter or tamper with the Code in any manner whatsoever except by ordinance or resolution or other official act of the city council, which will cause the law of the city to be misrepresented thereby. ~~Any person violating this section shall be punished as provided in section 1-1-4 hereof.~~

**PART B.**

Chapter 2 of Title 3 of the High Point Code of Ordinances is hereby amended as follows:

**Sec. 3-2-39. Levy of tax; gross receipts derived from retail short-term or rental of motor vehicles.**

- (a) *Tax on gross receipts derived from retail short-term motor vehicle leases or rentals.* The City of High Point hereby imposes and levies a tax on one and one-half (1½) percent of the gross receipts from the short-term lease or rental of vehicles at retail to the general public, as authorized by G.S. 160A-2515.1.
- (b) *Administration.* The city through the Guilford County Tax Collector will administer and collect from operators of leasing and rental entities the tax levied hereby. The county tax collector may promulgate additional lawful rules and regulations necessary for the enforcement, implementation and collection of the tax.
- (c) *Payment of taxes and filing of returns.* The taxes levied hereby are due and payable to the county in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every entity required to collect the tax shall, on or before the 15th day of each month, prepare and render a return to the county. The county shall design, print, and furnish to all such entities the necessary forms for filing returns and instructions to insure the full collection of the tax. These tax proceeds shall be placed in a segregated account by the collecting entity and are the property of the city. A return filed for this purpose is not a public record as defined by G.S. 132.1 and may not be disclosed except as provided by law.
- (d) *Penalties.* In case of failure or refusal to file a return or pay the tax for a period of 30 days after the time required for filing the return or paying the tax, there shall be an additional tax, as a penalty, of five (5) percent of the tax due, with an additional



tax of five (5) percent for each additional month or fraction thereof until the tax is paid. The Guilford County Board of Equalization and Review, for good cause shown, may consider appeals and adjust any penalty or additional tax imposed hereunder.

- (e) ~~*Penalty Misdemeanor for willful violation.*~~ Any person, firm, corporation or association who willfully attempts in any manner to evade a tax imposed herein or who willfully fails to pay the tax or make and file a return shall be punished as provided in G.S. 160A-215(f), ~~in addition to the penalties provided by law and herein, be guilty of a misdemeanor punishable as provided by law.~~
- (f) *Delegation of powers.* The county tax collector shall exercise the powers authorized to the city by G.S.160A-215.1(f) with the county board of equalization and review exercising the powers of the tax review board.

### **PART C.**

Chapters 1, 2, and 3 of Title 5 of the High Point Code of Ordinances are hereby amended as follows:

#### **Sec. 5-1-41. Civil penalty.**

- (a) Except for handicapped vehicle parking and violations of section 10-1-156, for each violation as set forth in section 5-1-3 there shall be a fixed civil penalty charge in the amount of \$50.00. For unlawful parking in a restricted handicapped space, there shall be a fixed civil penalty charge in the amount of \$100.00. For unlawful parking pursuant to section 10-1-156 in an area dividing a street into two (2) or more sections, there shall be a fixed civil penalty charge in the amount of \$50.00. When the owner of a vehicle, or his agent, makes proper payment of a parking ticket within seven (7) days following the date of issuance of the ticket, the obligation thereunto shall be discharged. If such charge has not been paid within the seven-day period as herein set out, the parking violation shall be deemed to be delinquent and subject to the additional penalties provided for in subsection (b). The parking violation shall have stated thereon that payment is due within seven (7) days from date of issue to avoid an additional penalty of \$50.00 and court costs.
- (b) The city tax collector may accept payments in full and final settlement of the claim or claims, right or rights of action which the city may have to enforce such penalties by civil action in the nature of the debt. A failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of debt

for the stated penalty plus an additional penalty in the amount of \$50.00, together with the cost of the action to be taxed by the court. However, in the event the offender desires to make payment after the civil action has been commenced but prior to trial disposition, a penalty of \$25.00 in addition to the one imposed for payment within seven (7) days shall apply in such cases. Acceptance of the additional penalty shall be deemed a full and final release of any and all claims or right of action arising out of contended violations.

- (c) A violation listed in section 5-1-42 ~~shall not constitute a misdemeanor or infraction punishable under North Carolina General Statutes, section 14-4, but instead shall be subject to the civil penalties and remedies in accordance with Section 1-1-4 of the Code and G.S. fixed by subsection (a) of this section and the civil remedies provided by North Carolina General Statutes, section 160A-175.~~ Any properly designated city official is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including the delinquent civil penalty, has not been paid.
- (d) The civil penalties imposed by this section and the proceeds therefrom, as collected by payment, civil action or otherwise, shall belong to the city and shall be paid into the general fund of the city under such conditions as prescribed by the annual budget.
- (e) Each hour a vehicle is parked in the same space following the issuance of a parking ticket shall constitute a separate violation subject to the issuance of a new parking ticket and additional civil penalty to be applied to such vehicle.
- (f) The moving of a parked vehicle from one (1) restricted space to another restricted space in the same block is deemed to be one (1) continuous parking period for the purpose of determining overtime parking violations.
- (g) To remove or erase chalk mark from tire or tires shall be deemed a violation and subject to civil penalty as provided by law.

**Sec. 5-2-47. Telephone alarm systems prohibited.**

It shall be unlawful for any person, firm or corporation to install, sell, lease or use, or cause or allow to be installed, sold, leased, or used, within the corporate limits of the city, any fire or police telephone dial alarm device or system, which for the purposes of this section is defined as being or consisting of any mechanical, electrical or radio

electronic device or system so made or designed as to automatically actuate or call the city fire or police departments' telephone or radio circuit and use a pre-taped or pre-recorded or programmed verbal message or signal, which operates through overhead or underground wires or by radio frequencies and which is set or programmed to directly dial, actuate, call or in any other manner make direct contact with any telephone line or radio circuit of the fire or police department. ~~Any person violating any provision of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-1-4.~~ Nothing herein contained shall be construed to prohibit the installation, sale, leasing or use of any alarm device so long as such device is not designed or programmed to dial, actuate, call or in any other manner directly contact by telephone or radio circuit the fire or police department on any telephone line or radio circuit assigned to those departments. Provided, that the person installing such alarm system shall notify the police and/or fire departments of each installation.

**Sec. 5-3-5. State of emergency declaration; curfew 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 or property.
- (b) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the City of High Point, or threatening damage to or destruction of property, the mayor, or mayor pro tempore in the mayor's absence, 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 to more effectively protect the lives and property of people within the city, to place in effect any or all of the restrictions authorized herein and to take any action deemed necessary in accordance with the authorities cited above in section 5-3-3, including the authority to define and impose a curfew.
- (c) The mayor/mayor pro tempore is hereby authorized and empowered to limit by declaration any part of such restrictions to any area specifically designated or described within the corporate limits of the city and to specific hours of the day or night; and to exempt from all or any part of such restrictions law enforcement officers, firemen and other public employees; doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel whether state or

federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and 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/mayor pro tempore 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/mayor pro tempore may impose by declaration any or all of the following restrictions:
  - (1) Prohibit or regulate the possession, transportation, sale, purchase, storage and use of gasoline and dangerous weapons and substances, and gasoline except lawfully possessed firearms (handguns, rifles, and shotguns) and ammunition;
  - (2) Prohibit or regulate the buying or selling of beer, wine, or intoxicating beverages of any kind, and their possession or consumption off one's own premises;
  - (3) Prohibit or regulate any demonstration, parade march, vigil, or participation therein from taking place on any of the public ways or upon any public property;
  - (4) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or inflammable fluids or substances;
  - (5) Prohibit or regulate 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) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly.

- (f) Any declaration may be extended, altered, or repealed in any particular manner during the continued or threatened existence of a state of emergency by the issuance of a subsequent declaration.
- (g) During the existence of a declared state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any declaration authorized by this chapter.
- (h) The sections, paragraphs, sentences, clauses, words and phrases of this chapter are severable, and, if any word, phrase, section, paragraph, sentence, or clause shall be declared unconstitutional or invalid by any valid judgment or decree or any court of competent jurisdiction, the constitutionality or invalidity shall not affect any of the remaining phrases, words, clauses, sentences, paragraphs, or sections of this chapter.
- (i) The violation of any provision of this ~~section~~ chapter, ~~or of any restriction imposed by any declaration authorized by this chapter,~~ shall constitute a misdemeanor, ~~punishable upon conviction by a fine not exceeding \$50.00 or imprisonment not exceeding 30 days, as provided by G.S. 14-4 and also be punishable as a Class 2 misdemeanor as set forth in G.S. Ch. 166A-19.31.~~

**PART D.**

Chapters 1 and 2 of Title 6 of the High Point Code of Ordinances are hereby amended as follows:

**Sec. 6-1-6. Hedges within six inches of sidewalk declared nuisance; visibility at intersections.**

- (a) All trees, hedges, bushes, shrubbery, vines, etc., which encroach on a line drawn perpendicular to and six (6) inches from any sidewalk, or sidewalk pavement, or which obscure visibility at any intersection, are dangerous to clothing, inconvenient to pedestrians, and are a hazard to traffic and are hereby declared to be a nuisance. All such trees, hedges, bushes, shrubbery, vines, etc., shall be kept trimmed back or supported so as not to encroach in a perpendicular position nearer than six (6) inches to any sidewalk as herein specified.
- (b) On corner lots no tree, hedge, bush, shrubbery, vine, fence, wall, sign or other similar object which constitutes a hazard to visibility for motorists using either street, as determined by the director of transportation after an engineering

investigation, shall be planted or allowed to remain in the area inside a vision triangle bounded by the street curb lines or edge of pavement and a vision clearance setback line. The setback line connects points on each right-of-way line which are located a minimum distance of 25 feet back from the intersection of the two (2) right-of-way lines.

- (c) ~~Any person violating any of the provisions of this section shall be subject to punishment as provided in section 1-1-4, and in addition, any person who, having been served an order to remove any violation shall fail to comply with such order within 10 days after such service, or shall continue to violate any provisions of this section named in such order, shall also be subject to a civil penalty in accordance with Section 1-1-4 of the Code and G.S. 160A-175 of \$50.00. Each day that a violation continues shall create a new offense.~~

### **Sec. 6-2-1. Definitions.**

- (a) For the purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
- (b) The following definitions shall apply in the interpretation and the enforcement of this chapter:
- (1) *Ashes* means refuse from the burning of wood, coal, paper, and/or other combustible material which has been wetted and cooled to the touch prior to collection.
  - (2) *Blood and body fluids* means liquid blood, serum, plasma, other blood products, emulsified human tissue, spinal fluids, and pleural and peritoneal fluids. Dialysates are not blood or body fluids under this definition.
  - (3) *Bulk containers* mean a metal container made of watertight construction with sliding doors opening on two (2) sides and hinged top, and constructed so that it can be emptied mechanically by specially equipped trucks. Containers shall be kept covered at all times. Hereinafter upon effective date of this section, all new bulk containers shall meet these specifications.
  - (4) *Bulky item* means the occasional items that are inappropriate or too large for compacting in the garbage truck such as white goods, stoves, refrigerators, water heaters, gas grills, wheelbarrows, bicycles, lawn mowers, sofas, box springs, carpet/padding, and other furniture and appliances. Bulky item

collection is not intended to remove the entire contents of a property or house. No tires will be accepted.

- (5) *Business* means a corporation, industry, company, retail, landlord, and/or other entity engaged in a for-profit endeavor.
- (6) *Central Business District* means that section of the city bounded by Russell Street on the south, Elm Street on the west to Church, thence north along Main Street to Montlieu on the north and Hamilton Street on the east.
- (7) *City* means the City of High Point.
- (8) *Collection* means the act of removing solid waste from a point of generation to an approved disposal site. Collection shall be at the curb for garbage, yard waste, recyclables and bulky items.
- (9) *Commercial establishment* means any retail, wholesale, institutional, religious, hotels, governmental or other nonresidential establishment at which solid waste may be generated.
- (10) *Commercial waste* means solid waste generated from institutions and commercial concerns such as hotels, stores, etc.
- (11) *Construction or demolition when used in connection with "waste" or "debris"* means solid waste resulting solely from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures, but does not include inert debris, land-clearing debris, or yard debris.
- (12) *Detachable container* means a unit varying in capacity between 20 cubic yards and 40 cubic yards which is used for collecting, storing, and transporting building materials, commercial waste, industrial waste, hazardous refuse, refuse, or yard trash. The unit may or may not use an auxiliary stationary packing mechanism for compaction of materials into the container and may be of the open or enclosed variety. The distinguishing feature of the detachable container is that it is picked up by a specially equipped truck and becomes an integral part of the truck for transporting the waste materials to the disposal site.
- (13) *Flow control area* is a designated geographic area within which the collection, transportation, storage, and disposal of all solid waste generated within said area shall be accomplished in accordance with a solid waste management plan.
- (14) *Garbage* means all putrescible waste, that is solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and carcasses, including animal offal and carcasses and recognizable industrial byproducts, but

- excluding sewage and human waste. Offal, carcasses, and pet feces shall be securely bagged for collection.
- (15) *Generating facility* means any facility where medical waste first becomes a waste, including but not limited to any medical or dental facility, funeral home, laboratory, veterinary hospital, and blood bank.
- (16) *Government* or *Governmental* means any government, state, county or local government which operates separate and apart from the City of High Point.
- (17) *Group housing* means apartments, condominiums, group developments.
- (18) *Hazardous waste* means a solid waste, or combinations of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:
- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
  - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- (19) *Inert debris* means solid waste which consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.
- (20) *Land clearing debris* means solid waste (stumps, tree trunks, roots, dirt, large limbs, etc.) which is generated solely from land clearing activities.
- (21) *Lead acid batteries* means any battery containing lead, acid, or both.
- (22) *Litter* includes, but is not limited to, garbage refuse, waste material or any other discarded, used, or unconsumed substance which is not handled as specified herein.
- (23) *Loose leaves* means tree/plant foliage that has fallen from trees/plants and has been placed along the street in rows or piles, not in bags, for collection.
- (24) *Loose tree limbs* means large, heavy yard and/or tree trimmings or cuttings resulting from heavy pruning, tree or shrub removal, or plant breakage. These limbs have not been trimmed or cut to proper size, length, or bundled for collection.
- (25) *Material recovery facility* is a state permitted solid waste management facility that receives recyclables within the designated flow control area. The facility also processes removed recyclables for sale to recycling markets.



- (26) *Medical waste* means any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does not include any hazardous waste identified or listed pursuant to this article, radioactive waste, household waste as defined in 40 Code of Federal Regulations, section 261.4(b)(1) in effect on July 1, 1989, or those substances excluded from the definition of solid waste in this section.
- (27) *Microbiological waste* means cultures and stocks of infectious agents, including but not limited to specimens from medical, pathological, pharmaceutical, research, commercial, and industrial laboratories.
- (28) *Multi-family residential unit* means any apartment, group of apartments or condominiums used for residential dwelling places.
- (29) *Nonresidential unit* means any retail, manufacturing, wholesale, institutional, religious, nonprofit organization, governmental or other unit not primarily used for residential purposes.
- (30) *Oil* means any oil new or used which has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.
- (31) *Pathological waste* means human tissue, organs and body parts, and the carcasses and body parts of all animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.
- (32) *Person* means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
- (33) *Physical disability* means a medical condition, verified by a registered physician, that makes an individual either physically unable to bring a rollout cart to the curbside for collection and/or that makes undertaking such an act clearly and seriously threatening to that person's health.
- (34) *Recycling* means any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.
- (35) *Recyclable material* means those materials which are capable of being recycled can be marketed at a value greater than the costs associated with processing

and shipping that material to a buyer, and which would otherwise be processed or disposed of as solid waste. Examples of recyclable materials are as follows: newspaper and accompanying inserts, magazines, chip board, corrugated cardboard, mixed and office paper (excluding sanitary products), telephone books, plastic bottles (#1 PET), plastic containers (#2 HDPE), steel cans, aluminum cans, glass containers, and yard waste (leaves, brush, grass clippings) and other materials determined to be recyclable by the public services director.

- (36) *Rental roll-off ~~trash-trailer~~ program* means city service to provide a large roll-off container ~~trailer~~-rental for residential property owners, customers, and tenants for a larger quantity of bulky items to be disposed. Service is for a fee.
- (37) *Refuse* means all non-putrescible waste.
- (38) *Regulated medical waste* means blood and body fluids in individual containers in volumes greater than 20 milliliters, microbiological waste, and pathological waste that have not been treated.
- (39) *Rollout cart* means a wheeled solid waste, yard waste, and/or recyclable receptacle compatible with city garbage collection equipment, and approved by the department of public services.
- (40) *Scrap tire* means a tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.
- (41) *Sharps* means and includes needles, syringes with attached needles, capillary tubes, slides and cover slips, and scalpel blades.
- (42) *Sharps container* means a container manufactured and approved for the disposal of sharps. The container must be rigid, leak-proof when in the upright position, puncture-resistant, and shall be labeled with a water resistant universal biohazard symbol.
- (43) *Single-family attached housing* is a project of one (1) or more residential structures, each containing two (2) or more attached single-family residences.
- (44) *Single-family dwelling* means any dwelling place occupied by one (1) family.
- (45) *Sludge* means any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, waste supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.
- (46) *Small dead animals* means cats, dogs, small household pets, and other small animals of similar size weighing less than 100 pounds. Definition does not include livestock (cows, pigs, goats, horse).

(47) *Solid waste* means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment, and disposal systems; and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. The term does not include:

- a. Fecal waste from fowls and animals other than humans.
- b. Solid or dissolved material in:
  1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters;
  2. Irrigation return flows; and
  3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this article.
- c. Oils and other liquid hydrocarbons controlled under article 21A of chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this article.
- d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. Par. 2011).
- e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290). However, any specific mining waste that meets the criteria for hazardous waste under RCRA shall also be a solid waste for the purposes of this article.

- (48) *Special wastes* means solid wastes that can require special handling and management, including white goods, whole tires, used oil, lead-acid batteries, and medical wastes.
- (49) *Tipping fee* means the charge per ton approved by the city council for processing and disposal of solid waste as well as the capital and operation and maintenance costs associated with the materials recovery facility.
- (50) *Tire* means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle as defined in G.S. 20-4.01(23).
- (51) *White goods* include inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.
- (52) *Yard waste* means solid waste consisting solely of vegetative matter which includes, but is not limited to, tree limbs, grass clippings, weeds, bush clippings, leaves, brush, and etc. resulting from regular maintenance of yards, gardens, and landscaping maintenance activities. Yard waste does not include entire trees, large tree trunks, stumps, or clearing activities. It also does not include any material generated by commercial tree companies.

**Sec. 6-2-8. Interfering with collection practices.**

No person or persons shall interfere, meddle with refuse containers or in any way pilfer, scavenge, scatter the contents of, or place junk in any alley or street within the city limits or otherwise deter the normal solid waste collection process by tampering with solid waste containers unless by permission of the environmental services superintendent or his representative, nor shall any person place any hazardous waste in any collection receptacle. This applies to garbage, bulky items, yard waste, medical waste, and recyclables. A violation of this section is punishable as a misdemeanor.

**Sec. 6-2-10. Medical waste.**

No medical waste shall be deposited or permitted to be deposited in the waste stream within the flow control area. The director of public services shall terminate solid waste collection services to any commercial establishment at which a violation of this section occurs. Such termination ~~is not a penalty, but shall nevertheless be~~ in addition to and not in lieu of the imposition of civil or criminal penalties for violation of this chapter.

Sharps as defined above shall not be placed in the rollout carts, recyclable containers, or other containers for regular solid waste collection. All sharps items should be placed in an approved sharps container as defined above, but not placed in the

regular solid waste stream. Residential customers may call the city's customer service division (336-883-3111) to schedule a pickup of the sharps containers free of charge. If a customer is found to repeatedly place sharps in the regular solid waste collection, the director of public services may discontinue solid waste service to the property and/or impose violation fines. Any violation of this section is punishable as a misdemeanor.

**Sec. 6-2-12. Dumping solid waste, etc., on open lots prohibited; exception for landfilling.**

No solid waste, yard waste, special waste, or other offensive material shall be dumped, thrown, or allowed to remain on any lot or space within the city limits. However, the owner of any lot or parcel of land desiring to conduct a fill operation shall apply for the appropriate permits, and any fill operation shall be conducted in accordance with all local, state, and federal rules, laws, and conditions contained in the permit. A violation of this section is punishable as a misdemeanor.

**Sec. 6-2-14. Removal of small dead animals.**

The city provides for the removal of small dead animals (less than 100 pounds). This service is provided five (5) days per week during normal business hours. Small dead animals shall be placed in a plastic bag and put in the rollout cart on the normal schedule collection day or scheduled through customer service (336-883-3111). Dead animals weighing 100 pounds or more shall be removed and disposed of by the owner. The collection of small animals includes dogs, cats, birds, and other similar pets/animals. It does not include livestock, horses, pigs, goats, or similar animals.

Dead animals already in the street or on the edge of the street, when the owner is not identified, will be scheduled for collection by the city upon notification of their existence.

The city will provide dead animal collection to local veterinarians offices for a fee as set by the director of public services. Veterinarian offices shall call the city's customer service division (336-883-3111) to schedule a pickup of dead animals. The city will collect up to 10 animals, none exceeding 100 pounds, during a requested pickup. The veterinarian office is required to bring the dead animals to the truck. Veterinarian offices will be billed for the service per the established fee.

**Sec. 6-2-15. Rental trash roll-off container trailer program.**

The rental trash roll-off container trailer program provides residents, homeowners, and tenants with a means to remove larger quantities of bulky item materials or yard waste from the property to the landfill or compost facility for a fee. Upon request of a roll-off container trailer and payment of fee (fee as set by the director of public services), the city will deliver a roll-off container trailer to the property for a given time. Disposal and accepted material rules posted on the roll-off container trailer must be followed. Failure to follow rules for the roll-off container trailer will result in additional fees/fines, additional disposal costs, and/or refusal to accept materials.

**Sec. 6-2-18. Penalty for violation.**

Items found in violation of this chapter will be tagged as such to notify the property owner, resident, or tenant of the issue(s). If the violation is not corrected, the city will take action to remedy the violation. The property owner, resident, or tenant may be fined as described below and will be charged the actual costs of cleanup and disposal.

Violation of any provision of this chapter shall ~~constitute a misdemeanor; shall also or alternatively~~ subject the offender to a civil penalties in the amount of \$500.00; and shall also be subject to appropriate equitable remedies, including but not being limited to injunctive relief, in accordance with Section 1-1-4 of the Code and G.S. 160A-175. ~~Each days' continuing violation shall constitute a separate offenses.~~

**PART E.**

Chapter 1 of Title 6 of the High Point Code of Ordinances (the Development Ordinance) is hereby amended as follows:

**9.7.6. Criminal Penalties.**

Violation of Erosion and Sedimentation Control. Any person who knowingly or willfully violates any soil erosion and sedimentation control provision of this ordinance, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land-disturbing activity for which a soil erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, is guilty of a Class 2 misdemeanor that may include punishable by imprisonment not to exceed 90 days, or by a fine not to exceed \$5,000, or both.

(Ord. No. 7476/18-105 , § 19, 12-3-2018)

State law reference— Penalties, G.S. 113A-64.

### **9.9.5. Nonpayment**

If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to legal counsel to institute a civil action for recovery of the civil penalty. ~~Moreover, if the civil penalty is not paid within the time prescribed, any of the directors listed in Section 9.5.1, as appropriate, may have a criminal summons or warrant issued against the violator. Upon conviction, the violator is subject to any criminal penalty the court may impose pursuant to Section 14-4 of the North Carolina General Statutes.~~

### **PART F.**

Chapter 2 of Title 6 of the High Point Code of Ordinances is hereby amended as follows:

#### **Sec. 9-2-101. Occupants.**

(a) *Occupant's responsibilities.* Every occupant of a dwelling shall:

1. Keep the part of a dwelling which he occupies and controls in a clean and sanitary condition.
2. Keep all required plumbing and other fixtures in a clean and sanitary condition, and exercise reasonable care in the use and operation thereof.
3. Be responsible for the extermination of any insects, rodents or other pests whenever said dwelling is the only dwelling or portion thereof, infested and the owner has provided a reasonably insect-proof and adequately rodent-proof dwelling.
4. Dispose of all garbage and other refuse in an approved garbage receptacle; when approved garbage receptacles are not provided by the landlord, it shall be the responsibility of the occupant to provide adequate approved garbage receptacles.
5. Not place on the premises any material which causes a fire hazard or otherwise endangers the health or safety of any occupants of such dwelling; not place in storage or on the premises any furniture, auto parts, junk equipment or material which harbors insects, rodents or other pests.
6. Not occupy any dwelling unless running water is provided to the required plumbing fixtures.
7. Not place within any building for use therein any oil, kerosene or gas fired portable heater to be used as the primary source for heating or cooking.

8. Not place on the premises for the use thereon any heating or cooking unit which constitutes a fire hazard. If the occupant provides heating or cooking equipment, the occupant shall be responsible for its proper installation and maintenance.
  9. Not cause such damage to the dwelling let to him as to make the same unfit for human habitation.
  10. No occupant of a rooming house shall heat or cook food or permit the heating or cooking of food within his rooming unit.
- (b) *Owner's responsibilities.* Any owner remains liable for violations of duties imposed upon him by this Article even though:
1. An obligation is also imposed on the occupant; or
  2. The owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this Article.
- (c) *Enforcement against occupant.* Upon discovering a violation of this section, the inspector shall have the power to order the correction of any such violation within 48 hours from date of notice thereof; in the event that the occupant fails to make such corrections, then the inspector shall set a hearing pursuant to the procedures of section 9-11—105, and thereafter may again order the correction of any such violation within 48 hours from date of service of the order upon the occupant or the inspector may order the dwelling to be vacated within a reasonable time. The inspector may pursue any other civil or criminal action as the inspector deems reasonably necessary in order to effectuate the purposes of this article.
- (d) *Safety of occupants.* In order to protect the health and safety of occupants of a dwelling, the owner shall, within 48 hours after being notified in writing by the occupant or the city, repair and replace any:
1. Broken, burst, frozen or inoperable plumbing pipe or fixtures;
  2. Exposed or unsafe wiring;
  3. Unsafe and/or dangerous cooking or heating equipment provided by the owner; and
  4. Fuel storage tanks and/or supply lines provided by the owner which are leaking, improperly supported or dangerous.

**Sec. 9-2-106. Certificate of compliance.**

It shall be unlawful for any owner to rent or offer for rent any vacant dwelling or part thereof upon which an order to repair, alter, improve, or to vacate and close has been issued without the owner first filing application for and securing a certificate of



compliance from the inspector. The inspector shall issue a certificate of compliance when, after examination and inspection, it is found that the repairs, alterations, and improvements have been made and that the dwelling conforms with the provisions of this article. The owner requesting a certificate of compliance shall pay no fee for the first two (2) inspections required in which the owner is seeking a certificate of compliance; provided, however, the owner shall pay a fee of \$25.00 for each subsequent reinspection required. Any violation of this Section by the owner related to an unsafe building as defined in G.S. 160D-1119 is punishable as a misdemeanor shall subject the violator to a fine of \$50.00 a day or 30 days imprisonment for each day occupancy of the dwelling is permitted, not to exceed a total of \$500.00 in fines for any one (1) dwelling. Any owner or rental agent so violating this section by leasing a dwelling before obtaining a certificate of compliance shall be subject to immediate prosecution.

### **Sec. 9-2-113. Violations and penalties.**

- (a) It shall be unlawful for any owner of any dwelling to fail, neglect or refuse to repair, alter or improve the same, or to fail to vacate and close or remove and demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in the order. It shall be unlawful for the owner of any dwelling, with respect to which an order has been issued pursuant to section 9-11-105 of this article, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its vacation and closing. All dwellings which are vacated upon order of the inspector to repair or vacate and close the same shall be kept locked and secured in a manner so as not to create a fire and safety hazard or to create a hazard to children or attract vagrants or persons with criminal intent and the lawns and grounds of such vacant dwellings shall be kept free of high grass, weeds, trash and debris. It shall be unlawful for an owner of any dwelling which is vacant and under an order to repair, alter, improve or to remove and demolish same to fail to properly lock and secure same or to keep the lawns and grounds of such dwelling free of high grass, weeds, trash, and debris.
- (b) An owner who fails to comply with an order to repair or to improve, vacate or close any occupied dwelling determined unfit for human habitation pursuant to the provisions contained in section 9-11-105, or who permits the reoccupancy of a vacant dwelling found to be unfit for human habitation or who fails to secure a

vacant dwelling which has been found unfit for human habitation or who fails to keep the lawns and grounds of such dwelling free of high grass, weeds, trash and debris, shall be subject to a civil penalty in the amount of \$100.00 for the first day following the expiration of an order to repair, improve, or vacate and close any dwelling or following a determination that any unfit dwelling has been reoccupied in violation of section 9-11-105 or following notification that a vacant dwelling is to be secured or following notification to cut high grass and weeds or remove trash and debris. In each instance, a civil penalty in the amount of \$50.00 per day shall be imposed for each subsequent day that the unfit dwelling remains occupied in violation of this article or a vacant dwelling remains open and not secured or grounds and lawns are not mowed or cleared of trash and debris. If a person fails to pay the civil penalty within 10 days after being notified of the amount due, the city may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt. No civil penalty shall be imposed against an owner of an unfit dwelling where the only violation rendering a dwelling unfit is a violation of section 9-11-101, unless the owner is also the occupant.

- (c) If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this article or any order or decision of the inspector or board of adjustment, the inspector is authorized to institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to prevent the occupancy of the dwelling, to prevent any illegal act, conduct or use in or about the premises of the dwelling or for any other purpose authorized by G.S. 160A-446(g) or any other law. The failure of the owner to comply with an order issued by the inspector may also be enforced through any equitable or other remedy deemed appropriate by the city and permitted by law.
- (d) No person shall remove or permit the removal of any placard, complaint, notice or order posted in accordance with the provisions of this article.
- (e) No person shall occupy any dwelling with a placard, complaint, notice or order posted on it in accordance with the provisions of this article. ~~Occupation of a dwelling so posted shall constitute a Class 1 misdemeanor.~~

- (f) When the inspector finds that a dwelling is unfit for human habitation within the meaning of this article and has notified the owner that the time limit set by the inspector for the correction of defects and vacating the dwelling has expired, no person shall receive rentals, offer for rent, or occupy said dwelling for any purpose.
- (g) No person shall damage, mutilate or remove, nor shall any person suffer, permit or cause to be damaged, mutilated or removed, any permanent fixtures from any dwelling.
- (h) It shall be unlawful for the owner of any dwelling upon whom a notice, complaint or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of said dwelling until the provisions of the notice, complaint or order have been complied with, or until such owner shall furnish to the transferee, lessee, or mortgagee, a true copy of any notice, complaint or order issued by the inspector and concurrently give written notice to the inspector of the intent to transfer, lease, or mortgage as to whom the transferee, lessee or mortgagee who had received actual constructive notice of the existence of a notice, complaint or order shall be bound by the notice, complaint or order as of date of the transfer, lease or mortgage without service of further notice upon him.
- (i) Any The violation provided for in of any provisions of this article shall constitute a misdemeanor as provided by G.S. 14-4. this section related to an unsafe building as defined in G.S. 160D-1119 is punishable as a misdemeanor.

**Sec. 9-2-165. Abandoned motor vehicles.**

- (a) *Abandonment of motor vehicles prohibited.* It shall be unlawful for any person to abandon a motor vehicle on city-owned property and private property within the city and on city-owned property wherever located.
- (b) *Removal of abandoned motor vehicles.* The city may remove to a storage garage or area abandoned motor vehicles that are found to be in violation of this article. An abandoned motor vehicle may not be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the city council or a duly authorized city official or employee has declared the vehicle to be a health or safety hazard. Appropriate city officers and employees may, upon presentation of proper credentials, enter on any premises within the city ~~ordinance-making jurisdiction~~ at any reasonable hour in order to determine if any vehicles are

health or safety hazards. The city may require a person requesting the removal of an abandoned motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of vehicle's removal, storage, or sale.

(c) *Notification and probable cause hearing.*

(1) Whenever a vehicle with a valid registration plate or registration is towed, the city shall immediately notify the last known registered owner of the vehicle of the following:

(i) Notice that the vehicle has been towed, along with a description of the vehicle;

(ii) Address where the vehicle is stored;

(iii) The violation with which the owner is charged, if any;

(iv) The possible sale or other disposition of the vehicle;

(v) The procedure the owner must follow to have the vehicle returned to him/her; and

(vi) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in North Carolina, notice shall be given to the owner within 72 hours. Notice shall be mailed to the owner's last known address unless the owner waives this notice in writing. In addition to written notice by mail, and if feasible, additional notice shall be given by telephone. Whether, or not, the owner is reached by telephone, notice shall be mailed to his last known address unless he/she or his/her agent waives the notice in writing.

(2) Whenever a vehicle with neither a valid registration plate nor registration is towed, the city shall make reasonable efforts, including checking the vehicle identification number (VIN), to determine the last known registered owner of the vehicle and notify the owner as required by this article. Unless the owner has otherwise been given notice, it is presumed that the city has not made

reasonable efforts, as required under this article, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at the least 10 days before the towing actually occurred; except, no pre-towing notice need be given if the vehicle impeded the flow of traffic or was otherwise jeopardizing the public welfare so that immediate towing was necessary.

- (3) The owner or any person entitled to claim possession of the vehicle may regain possession of the motor vehicle by paying to the city all reasonable costs incidental to the removal and storage.
  - (4) The owner or any person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the magistrate's office in Guilford County. The magistrate shall set the hearing within 72 hours of his/her receiving the request. The owner, the city official who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing. The rules of the General Statutes apply to any appeal.
- (d) *Disposal of abandoned motor vehicles.* After holding an abandoned motor vehicle for 30 days after the date of removal, the city may sell or dispose of the vehicle as follows:
- (1) If the vehicle appears to be worth less than \$500.00, the city may dispose of the vehicle as a junked motor vehicle as provided by this article. With the consent of the owner, the city may remove and dispose of a motor vehicle as a junked motor vehicle without regard to the value, condition or age of the vehicle and without holding it for a prescribed period of time.
  - (2) If the vehicle appears to be worth \$500.00 or more, the vehicle shall be sold at public auction. The city shall give 20 days' written notice of the sale to the registered owner at his last-known address, to each holder of a lien of record against the vehicle and to the state division of motor vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date. The proceeds of the sale shall be paid to the finance officer of the city, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale and liens in that order. The

remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the city for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the day of the sale, the funds shall be deposited in the city's general fund and the owner's rights in the vehicle are extinguished.

(e) *Exceptions.* This article does not apply to any vehicle in an enclosed building, to any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(f) *Junked motor vehicles.*

(1) *Abandonment of junked motor vehicles prohibited.* It shall be unlawful for any person to abandon a junked motor vehicle on public grounds and on private property within the city or upon city-owned property wherever located.

(2) *Removal of junked motor vehicles.* Junked motor vehicles found to be in violation of this article may be removed to a storage garage or area, but no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the city council or a duly authorized city officer or employee finds in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors, may be considered:

(i) Protection of property values;

(ii) Promotion of tourism and other economic development opportunities;

(iii) Indirect protection of public health and safety;

(iv) Preservation of the character and integrity of the community; and

(v) Promotion of comfort, happiness, and emotional stability of area residents.

The city may require any person requesting the removal of a junked motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of the removal, storage or sale of the junked motor vehicle.

(g) *Notification and probable cause hearing.*

- (1) Whenever a vehicle with a valid registration plate or registration is towed, the city shall immediately notify the last known registered owner of the vehicle of following:
  - (i) A description of the vehicle;
  - (ii) The place where the vehicle is stored;
  - (iii) The violation with which the owner is charged, if any;
  - (iv) The possible sale or other disposition of the vehicle; and
  - (v) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this state, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether, or not, the owner is reached by telephone, notice shall be mailed to his last known address unless he/she or his/her agent waives the notice in writing.

- (2) Whenever a vehicle with neither a valid registration plate nor registration is towed, the city shall make reasonable efforts, including checking the vehicle identification number (VIN), to determine the last known registered owner of the vehicle and to notify him of the information as required by this article. Unless the owner has otherwise been given notice, it is presumed that the city has not made reasonable efforts, as required under this article, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least 10 days before the towing actually occurred; except, no pre-towing notice need be given if the vehicle impeded the flow of

traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

- (3) The owner or any other person entitled to claim possession of the vehicle may regain possession of the motor vehicle by paying to the city all reasonable costs incidental to the removal and storage.
  - (4) The owner or any person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the magistrate's office in Guilford County. The magistrate shall set the hearing within 72 hours of his/her receiving the request. The owner, the person who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing. Any decision by the magistrate may be appealed by either party to district court.
- (h) *Disposal of junked vehicles.* After holding a junked motor vehicle for 15 days, the city may destroy it or sell it at private sale as junk. Within 15 days after the final disposition of a junked motor vehicle, the city shall notify the state division of motor vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as fully accurate a description of the vehicle as can be reasonably determined. The full proceeds of the sale of the junked vehicle shall be paid to the finance officer of the city, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale and liens, in that order. The remainder of the proceeds of sale, if any, shall be held by the city for 30 days after the day the vehicle is disposed of, the funds shall be deposited in the city's general fund, and the owner's rights in the vehicle are extinguished.
- (i) *Disposal of vehicle without plates or identification numbers.* If a junked motor vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, the city may dispose of a junked motor vehicle under this article. The city may destroy the vehicle or sell it at private sale, without regard to value, after having held the vehicle for 48 hours. The proceeds shall be placed in the city's general fund.
- (j) *Exceptions.* This articles does not apply to the following:



- (1) Any motor vehicle in the process of repair or restoration on property under the control of the owner of the vehicle or property under the control of the person repairing or restoring the vehicle. Visible evidence of repair or restoration shall be apparent on a monthly basis.
- (2) Any motor vehicle that is used on a regular basis for business or personal transportation purposes.

(k) *Nuisance vehicle unlawful; removal authorized.*

- (1) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (2) Upon investigation, proper officials may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined in this article, and order the vehicle removed in accordance with the provisions of this article.

(l) *Enforcement remedies authorized; penalties for violation.*

- (1) The city may secure injunctions, abatement orders and other appropriate equitable remedies to further ensure compliance as provided in Section 1-1-4 of this Code and G.S. 160A-175.
- ~~(2) The violation of this article shall be a misdemeanor and in addition to, or in lieu of, remedies authorized in this article shall be punishable by a fine not to exceed \$500.00, or imprisonment for not more than 30 days.~~
- ~~(23) Any act constituting a violation of this section article or a failure to comply with any of its requirements shall subject the offender to civil penalties of \$50.00 for each day the violation continues in accordance with Section 1-1-4 of this Code and G.S. 160A-175. If the offender fails to pay this penalty within 15 days after being cited for violation, the penalty may be recovered by the city in a civil action in the nature of debt.~~
- ~~(34) Any one (1), all or any combination of the foregoing penalties and remedies may be used to enforce this article-section.~~

**Sec. 9-2-197. Other unlawful actions.**

- (1) No person shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of section 9-2-193 of this article.
- (2) It shall be unlawful for the owner of any building upon whom a notice, complaint or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of said building unless one of the following actions have been taken:
  - (a) Compliance with the provisions of the notice, complaint or order, or
  - (b) Furnish a copy of any notice, complaint or order to the transferee, lessee or mortgagee and give written notice to the inspector of said action.
- (3) A violation of this section related to an unsafe building as defined in G.S. 160D-1119 is punishable as a misdemeanor.

**Sec. 9-2-201. Violations, penalty.**

- (a) It shall be unlawful for any owner of any structure to fail, neglect, or refuse or repair, alter or improve the same, or fail to vacate and close and remove or demolish the same, upon order of the inspector duly made and served as herein provided, within the time specified in the order, and each day that such failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any structure, with respect to which an order has been issued pursuant to section 9-2-193 of this article, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or its vacating and closing, and each day that the occupancy continues after the prescribed time shall constitute a separate and distinct offense.
- (b) ~~The Any violation of provided for in this section related to an unsafe building as defined in G.S. 160D-1119 is punishable as a misdemeanor Any provision of this article shall constitute a misdemeanor as provided by North Carolina General Statutes 14-4.~~

**Sec. 9-2-229. Violations and penalties.**

- (a) It shall be unlawful for any owner or party in possession to fail, refuse, or neglect to correct violations of this article upon order by the inspector duly made and

served as herein provided, within the time specified in the order or such time as extended by the inspector, and each day that any failure, refusal, or neglect to comply with the order continues shall constitute a separate and distinct offense.

(b) The city shall have the power to impose fines and civil penalties for violations of this article ~~its ordinances~~, and may secure injunctions and abatement orders to further insure compliance with this article. Further, the city may adopt ordinances authorizing the director of inspections or his designee to take such actions as deemed necessary to correct violations of this article and may assess the costs of such actions to the owner and may place liens on the property for any unpaid costs or assessments.

(c) ~~Methods~~ The City may ~~of imposing~~ fines and civil penalties for violation of this article in accordance with Section 1-1-4 of this Code.~~include:~~

~~(1) —~~ *Misdemeanor (G.S. 160A-175(b)):*

~~a. —~~ A violation of this article shall be a misdemeanor as provided by G.S. 14-4 and shall be subject to a fine and/or imprisonment as prescribed by G.S. 14-4.

~~b. —~~ Any person, firm, or corporation failing to comply with an order to correct a violation or continuing to violate this article in the manner named in the order within 10 days after the date stated in the order shall also be subject to a penalty of \$500.00. Each day that a violation continues shall constitute a separate offense.

~~(2) —~~ *Civil penalty (G.S. 160A-175(c)).* Any person, firm, or corporation failing to pay the penalty for failing to comply with a provision of this article within a 10-day period shall be subject to a civil penalty of \$50.00. Each day beyond the 10-day period shall create a new offense. This penalty shall be recovered by the city in a civil action in the nature of debt.

~~(3) —~~ *Equitable remedy (G.S. 160A-175(d)).* Provisions of this article 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. It shall not be a defense to the application of the city for applicable relief that there is an adequate remedy at law.

~~(4) *Injunction and order of abatement (G.S. 160A-175(e)).* Provisions of this article may be enforced by injunction and order of abatement. The general court of justice shall have jurisdiction to issue such orders. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt and the city may execute the order of abatement. The city shall have a lien on the property for the cost of executing an order of abatement in the form of a mechanic's or materialman's lien.~~

~~(5) *Combination of authorized remedies (G.S. 160A-175(f)).* This article may be enforced by any one (1), all, or a combination of the civil remedies authorized and prescribed under the provisions of G.S. 160A-175.~~

(d) *Method of correcting violations of this article and assessing costs.* Upon adoption of an ordinance by city council the director of inspections or his designee shall have the power to immediately take all necessary and appropriate actions to correct violations of this article and shall assess the costs of such actions as a lien against the real property upon which such costs was incurred. Said lien shall be filed and shall have the same priority and be collected or foreclosed upon in the same manner as is provided for assessments pursuant to article 10, chapter 160A, North Carolina General Statutes.

(1) The director of inspections may solicit bids and contract with persons or firms for the furnishing of labor, materials, equipment, and/or services necessary to correct violations of this article.

(2) The director of inspections may authorize persons or firms to enter upon the lands of the owner for the purpose of correcting violations of this article and may authorize persons or firms to remove and dispose of prohibited materials, to demolish and remove dilapidated outbuildings, and to mow, clear, and remove weeds and undergrowth.

## **PART G.**

Chapter 1 of Title 10 of the High Point Code of Ordinances is hereby amended as follows:

**Sec. 10-1-11. Required obedience to traffic chapter.**

It is unlawful ~~a misdemeanor~~ for any person to do any act forbidden or fail to perform any act required in this chapter.

**Sec. 10-1-33. Obedience to official traffic control devices.**

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, subject to the regulations governing the driver of an authorized emergency vehicle in this chapter. Any violation of this section is punishable as a misdemeanor.

**Sec. 10-1-36. Display of unauthorized signs, signals or markings.**

- (a) No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.
- (b) No person shall place or maintain nor shall any public authority permit upon any street or highway any traffic sign or signal bearing thereon any commercial advertising.
- (c) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the director of transportation is hereby empowered to remove the same or cause it to be removed without notice.
- (d) No person shall sell or offer for sale any traffic control device to be used on any street or highway in the city which does not conform to the requirements of this chapter.
- (e) Any violation of this section is punishable as a misdemeanor.

**Sec. 10-1-37. Tampering with official traffic control devices or railroad signs or signals.**

It shall be unlawful for any person without lawful authority to alter, remove or tamper with an official traffic control device or railroad signal. A violation of this section is punishable as a misdemeanor.

**Sec. 10-1-38. Avoidance of official traffic control devices.**

It shall be unlawful to drive across a sidewalk or through the driveway of a parcel of property for the purpose of avoiding an official traffic control device. A violation of this section is punishable as a misdemeanor.

**Sec. 10-1-272. Parade permits.**

- (a) Permit required. It shall be unlawful for any person to conduct or participate in a parade unless a permit allowing such activity has been obtained, and remains unrevoked, pursuant to this section. No person may conduct or otherwise participate in any parade except between the hours of 9:00 a.m. and 9:00 p.m.
- (b) Permit application. A person seeking a parade permit shall file an application with the permit official or designee on forms provided by the city and the application shall be signed by the applicant under oath at least 10 business days and not more than 180 days before the commencement of the event. Notwithstanding the preceding sentence, the permit official shall consider an application that is filed less than 10 business days before the commencement of the proposed event where the purpose of such event is a spontaneous response to a current event or where, after due consideration of the date, time, place, and nature of the parade, the anticipated number of participants, and the city services required in connection with the event, the permit official determines that the time from filing is sufficient to prepare for the parade pursuant to the standards set forth in subsection (c) below.

The permit application must contain the following if applicable:

- (1) The name, address, and telephone number for the person in charge of the proposed event and the name of the organization with which that person is affiliated or on whose behalf the person is applying (collectively "applicant");
- (2) The name, address, and telephone number for an individual who shall be designated as the responsible planner and on-site manager for the event ("parade chairman");
- (3) The date, time, place, and route of the proposed event, including the location and time that the event will begin to assemble and disband;
- (4) The anticipated number of persons, vehicles, and animals which will constitute such parade or demonstration and the type of animals and description of the vehicles;
- (5) The location by street of any assembly areas for such parade or demonstration;
- (6) Such other information, attachments, and submissions that are requested on the application form; and
- (7) Payment of a nonrefundable application fee as set out in the city's special event policy.

- (c) Permitting criteria. The permit official or city manager shall issue a permit for the proposed parade unless:
- (1) The safe conduct of the parade will substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
  - (2) The conduct of the parade will require the diversion of so great a number of law enforcement personnel of the city to properly police the line of movement of the parade and of contiguous areas that adequate police protection cannot be provided to the remainder of the city;
  - (3) The conduct of the parade will require the diversion of so great a number of ambulances and rescue units that adequate ambulance and rescue service to portions of the city and contiguous areas not occupied by the parade will be impeded;
  - (4) The application is not fully completed and executed or contains a material falsehood or misrepresentation;
  - (5) The proposed event would conflict with previously planned programs organized, conducted, or sponsored by the City and previously scheduled at or near the same time and/or place or would conflict with an already permitted event under this section;
  - (6) The concentration of persons, animals, and vehicles at assembly points of the parade will substantially interfere with adequate police and fire protection of, or ambulance and rescue service to, areas contiguous to such assembly areas;
  - (7) The parade is to be held for the primary purpose of advertising a product, goods, or an event, and is designed to be held primarily for private profit or gain;
  - (8) The conduct of the parade will interfere with the movement of firefighting equipment to such an extent that adequate fire protection cannot be provided to the city; or
  - (9) The proposed event would present an unreasonable danger to the public health and safety.
- (d) Nothing in this section shall authorize the permit official or city manager to deny a permit based upon political, social, religious, ethnic, race, disability, sexual orientation or gender related grounds, or based upon the content of the views expressed.

(e) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 91-55, § 1, 9-5-91; Ord. No. 7022/13-54, 12-16-13; Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

**Sec. 10-1-278. Duty of parade chairman.**

The person designated in the application as responsible for the physical conduct of the parade shall be responsible for monitoring the conduct of the participants in the parade. Upon actual notice of any violation, given to the responsible person by a law enforcement officer on the scene of said parade, such person shall make immediate bona fide attempts to correct the violation. It shall be unlawful for such responsible person to refuse to make such bona fide attempts to correct the violation. A violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

**Sec. 10-1-279. Conduct during the parade.**

- (a) *Interference.* No person shall unreasonably hamper, obstruct, or impede, or interfere with any parade or parade assembly or with any person, vehicle, or animal participating or used in the parade.
- (b) *Driving through parades.* No driver of any vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.
- (c) *Parade or parade route.* The city manager or designee shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or highway or part thereof constituting a part of the route of a parade. The city manager shall cause signs to be posted to this effect, and it shall be unlawful for any person to park or leave unattended, any vehicle in violation thereof.
- (d) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.



**Sec. 10-1-281. Parade route.**

Every parade shall follow the route designated and approved by the city manager or designee and prescribed on the parade permit. A violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

**Sec. 10-1-282. Footraces and bicycle races.**

- (a) The term "footrace" as used in this section is defined as a group of three (3) or more runners or walkers competing against either each other or a time limit over a fixed course all or a part of which involves the use of city street right-of-way, city sidewalks, and greenways. This term shall include events connected to a footrace, such as untimed non-competitive "fun runs."
- (b) The term "bicycle race" as used in this section is defined as a group of three (3) or more bicyclists competing against each other or a time limit over a fixed course all or a part of which involves the use of city street right-of-way, city sidewalks, and greenways. This term shall include untimed non-competitive bicycle events such as memorial rides.
- (c) Application for a race covered by this section shall be made in writing at least 90 calendar days before the time at which the race shall be scheduled to begin and shall contain the information outlined in the city's special event policy. A race application may be accepted after this deadline only if allowed as a late application permitted under the city's special event policy.
- (d) Upon receipt of an application properly completed and timely filed as hereinabove set out, the city manager or designee shall issue a permit after the applicant has complied with all applicable requirements imposed in accordance with the city's special event policy. The permit shall contain all information stated on the application and shall be signed by the city manager or designee.
- (e) The following standards shall apply to all footraces and bicycle races subject to this section conducted in the city:
  - (1) Every race shall follow a route approved by the city manager or designee in accordance with the standards set out below.
  - (2) The race applicant and all persons involved in conducting the race shall comply with all terms and conditions set out in the city's special event policy and all terms and conditions contained in the permit issued for the race.

- (3) The organizer of an event subject to this section shall be responsible for reasonable costs associated with the foot races and bicycle races including the hiring and paying off-duty law enforcement officers, or reimbursing the city for the costs of providing on-duty law enforcement officers and other necessary personnel and equipment, to appropriately police street closures and the safety and security of participants. The police and fire departments shall determine the number of officers, traffic control officers (in accordance with N.C.G.S. 20-114.1), fire/EMS personnel, and transportation personnel needed to appropriately police street closures and for safety, security, and medical needs and the time when such services shall commence and end. The city may provide the services required by this subsection at no cost, or at a reduced cost, to the applicant should the city desire to provide such support to the event.
- (4) The permit shall not be issued until the sponsor shall acquire sufficient insurance or approval by the city attorney to indemnify the city for damages or liability which the city might incur.
- (5) The approval of any route shall be based on the safety of the participants and non-participants, the degree of disruption that the route will likely cause, the available access for cars and pedestrians, and the unique requirements of a specific event.
- (6) The City Manager or designee's disapproval of a proposed route may be appealed to the city council. Appeals shall be made in person at a regularly scheduled city council meeting at least three (3) meetings prior to the proposed event date.

(f) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

**Sec. 10-1-283. Block parties.**

- (a) The term "block party" as used in this section is defined as a planned gathering of persons in which a public street will be closed that is sponsored by a business, place of worship, non-profit organization or community interest group.
- (b) Application for an event covered by this section shall be made in writing at least 10 business days before the time at which the event shall be scheduled to begin and shall contain the information outlined in the city's special event policy. An event

application may be accepted after this deadline only if allowed as a late application permitted under the city's special event policy.

- (c) The applicant is responsible for notifying all property owners or residents in the area to be blocked off of the event using a form provided by the city. Any opposition by property owners or residents with direct frontage and/or access to the street to be closed may result in permit denial.
- (d) Upon receipt of an application properly completed and timely filed as hereinabove set out, the city manager or designee shall issue a permit after the applicant has complied with all applicable requirements imposed in accordance with the city's special event policy. The permit shall contain all information stated on the application and shall be signed by the City manager or designee.
- (e) The following standards shall apply to all block parties subject to this section conducted in the city:
  - (1) The block party may encompass an area of no greater than one block and the sponsoring organization must be located in that area;
  - (2) Block parties may have no more than 500 attendees at any one time;
  - (3) Block parties are still subject to all federal, state, and local laws, including the noise ordinance and alcohol laws.
  - (4) Police may end the party and order attendees to leave the street(s) if violation of this section occurs. After a reasonable time to allow for dispersal, the street(s) will be reopened and persons impeding the flow of traffic will be subject to arrest.
- (f) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

**Sec. 10-1-284. Festivals.**

- (a) The term "festival" as used in this section is defined as an outdoor concert, fair, community event, or similar event that is primarily commercial and/or recreational in nature.
- (b) Application for a festival covered by this section shall be made in writing at least 120 calendar days before the time at which the festival shall be scheduled to begin and shall contain the information outlined in the city's special event policy. A

festival application may be accepted after this deadline only if allowed as a late application permitted under the city's special event policy.

- (c) Upon receipt of an application properly completed and timely filed as hereinabove set out, the city manager or designee shall issue a permit after the applicant has complied with all applicable requirements imposed in accordance with the city's special event policy. The permit shall contain all information stated on the application and shall be signed by the city manager or designee.
- (d) The following standards shall apply to all festivals subject to this section conducted in the city:
  - (1) The festival applicant and all persons involved in conducting the festival shall comply with all terms and conditions set out in the city's special event policy and all terms and conditions contained in the permit issued for the festival.
  - (2) The applicant shall be responsible for hiring and paying off-duty law enforcement officers, or reimbursing the city for the costs of providing on-duty law enforcement officers and other necessary personnel and equipment, to appropriately police street closures and the safety and security of participants and those in the vicinity of the event. The police and fire departments shall determine the number of officers, traffic control officers (in accordance with N.C.G.S. § 20-114.1), fire/EMS personnel, and transportation personnel needed to appropriately police street closures and for safety, security, and medical needs and the time when such services shall commence and end. The city may provide the services required by this subsection at no cost, or at a reduced cost, to the applicant should the city desire to provide such support to the event.
  - (3) The festival permit shall not be issued until the sponsor shall acquire sufficient insurance or approval by the city attorney to indemnify the city for damages or liability which the city might incur.

(e) Any violation of this section is punishable as a misdemeanor.

(Ord. No. 7417/18-46 , 5-21-18)

State law reference(s)— General ordinance-making power, G.S. 160A-174; Establishment and control of streets, center and edge lines, G.S. 160A-296; Traffic control, G.S. 160A-300.

**Sec. 10-1-285. Picketing permitted; notice of intent and receipt required.**

Peaceful picketing shall be permitted in the city provided the same is done under the following conditions:

- (a) No picketing shall be conducted on a public street or sidewalk and no person shall participate in the same unless notice of intent to picket has been given to the city manager or designee, and unless a receipt of such notice has been issued, except where provided below.
- (b) A group of 15 or more persons shall give notice of intent to picket. A group of fewer than 15 persons may give notice of intent to picket but is not required to do so. Whether a group consists of 15 or more persons such that notice is required shall be determined from the time immediately prior to initiating a picket. If a group of less than 14 persons begins to picket without providing notice and becomes a group of 15 persons or more, the failure to provide notice of the picket shall not be a violation of this section. Notice given shall contain the following information:
  - (1) The name, if any, of the organization or group sponsoring or proposing to picket unless the group indicates that it intends to picket anonymously, in which case no name is required;
  - (2) The location or locations in the city where the pickets propose to assemble and demonstrate;
  - (3) The date or dates on which the picketing is to occur;
  - (4) The name of the person and organization giving notice of intent to picket unless the person or organization indicates that it intends to picket anonymously, in which case no name is required;
  - (5) Whether or not persons below the age of eighteen (18) years are expected to participate; and
  - (6) The person or persons to be in charge of the activity and who will accompany it and carry any receipt of notice at all times.
- (c) It is unlawful for any picketer, as defined herein, to engage in the activity prohibited under N.C.G.S. §14-277.4A.
- (d) Upon the giving of notice of intent to picket, properly provided as hereinabove set out, the city manager or his designee shall immediately issue a receipt of notice. The receipt shall contain all information stated in the notice. Upon cessation of such picketing for a period of 24 hours or more, any notice previously provided shall no longer be effective for the purpose of section 10-1-285(a) and (b).
- (e) Any violation of this section is punishable as a misdemeanor.

**Sec. 10-1-286. Standards of conduct for picketing activity.**

- (a) Picketing shall be conducted only on portions of the public street and sidewalk not used primarily for vehicular parking or moving traffic.
- (b) Picketers may carry written or printed placards or signs not exceeding 40 inches provided the words used are not fighting words or threats that would tend to provoke a reasonable person to breach the peace.
- (c) If picketers promoting different objectives, causes, actions or policies desire to use a sidewalk that is already used for picketing, the second in time picketers shall maintain a minimum of 20 feet of space from the first in time pickets at all times and at all adjacent points of potential contact. The chief of police or designee shall aid picketers in creating a minimum of 20 feet of space between the picketers in order to ensure safety for all picketers promoting different objectives, law enforcement, and the public, without regard to the purpose or content of objectives promoted by either picketers.
- (d) Picketers shall not at any time nor in any way obstruct, interfere with, or block: persons entering or exiting from vehicles; persons crossing streets or otherwise using the public street and/or sidewalk; the entrance or exit to any building or access to property abutting the street or sidewalk; or pedestrian or vehicular traffic.
- (e) No person observing, engaging in, or assisting in picketing shall bring to or allow to remain in the immediate area of picketing any vicious animal.
- (f) It shall be unlawful for a group of 15 or more persons to picket without filing a notice as required herein.
- (g) Any violation of this section is punishable as a misdemeanor.

**Sec. 10-1-288. Interference with picketers prohibited; police authority to disperse crowds; failure to leave when ordered declared offense.**

- (a) The police officers of the city may, in the event of violation of N.C.G.S. Ann. §14-288.4(a)(1) and §14-288.4(a)(2), direct the dispersal of persons so assembled and may arrest any person who fails to absent himself from the place of such assemblage when so directed by the police.
- (b) Whenever the free passage of any public street or sidewalk in the city shall be obstructed by a crowd, whether or not the crowd assembles as a result of or in connection with picketing, the persons composing such crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer as herein provided.

(c) Any violation of this section is punishable as a misdemeanor.

**~~Sec. 10-1-290. Criminal penalty.~~**

~~In accordance with N.C.G.S. §160A-175, violation of any provision of division 1 and division 2, with the exceptions as set forth herein, shall be a misdemeanor as provided in N.C.G.S. §14-4, punishable upon conviction by a fine not exceeding \$50.00 or by imprisonment not exceeding 30 days. Any violation set forth herein that is also a violation of any state law shall not be punishable under section 10-1-290 such that the violation would allow for duplicative punishments.~~

~~(Ord. No. 7417/18-46, 5-21-18)~~

**Sec. 10-1-306. Traffic control photographic systems.**

(a) *Administration.* The City of High Point shall implement a system for capturing traffic control violations, as defined under G.S. 20-158, with a traffic control photographic system that will use the photographic images as prima facie evidence of the traffic violations and will authorize the High Point Department of Transportation or an agent of the department to issue civil citations.

The City of High Point Department of Transportation shall administer the traffic control photographic program and shall maintain a list of system locations where traffic control photographic systems are installed.

Any citation for a violation for G.S. 20-158 or other traffic violation, issued by a duly authorized law enforcement officer at a system location shall be treated, pursuant to G.S. 20-176, as an infraction so long as the system photographic images are not used as prima facie evidence of the violation.

The citation shall clearly state the manner in which the violation may be reviewed. The citation shall be processed by officials or agents of the city and shall be forwarded by personal service or first-class mail to the owner's address as given on the motor vehicle registration.

(b) *Offense.*

- (1) It shall be unlawful for a vehicle to cross the stop line at a system location when the traffic signal for that vehicle's direction of travel is emitting a steady red light, or for a vehicle to violate any other traffic regulation specified in G.S. 20-158.
- (2) The owner of a vehicle shall be responsible for a violation under this section, unless the owner can furnish evidence that the vehicle was in the care, custody or control of another person at the time of the violation, as describe in subsection (3).

- (3) Notwithstanding subsection (2), the owner of the vehicle shall not be responsible for the violation if, within 30 days after notification of the violation, the owner furnishes the officials or agents of the city either of the following:
- (i) An affidavit stating the name and address of the person or entity who had the care, custody, and control of the vehicle at the time of the violation; or
  - (ii) An affidavit stating that, at the time of the violation, the vehicle involved was stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information.
- (4) This section shall not apply, and the registered owner of the vehicle shall not be responsible for the violation, if notice of the violation is given to the registered owner of the vehicle more than 90 days after the date of the violation.
- (5) The owner of a vehicle that has been leased or rented to another person or company shall not be liable for a violation pursuant to this section if, after receiving notification of the civil violation within 90 days of the date of occurrence, the owner, within 30 days thereafter, files with the officials or agents of the city an affidavit including the name and address of the persons or company that leased or rented the vehicle. If notification is given to the owner of the vehicle after 90 days have elapsed from the date of the violation, the owner is not required to provide the name and address of the lessee or renter, and the owner shall not be held responsible for the violation.
- (c) *Penalty.* Any violation of this section shall be deemed a noncriminal violation for which a civil penalty ~~of \$50.00~~ shall be assessed in accordance with Section 1-1-4 of the Code and G.S. 160A-175, and for which no points authorized by G.S.20-16(c) shall be assigned to the owner or driver of the vehicle, nor insurance points as authorized by G.S. 58-36.65. Failure to pay the civil penalty or to respond to the citation within 21 days shall constitute a waiver of the right to contest responsibility for the violation and shall subject the owner to a civil penalty in accordance with Section 1-1-4 of this Code and G.S. 160A-175 ~~not to exceed \$100.00. The city shall establish procedures for the collection of the civil penalties and shall enforce the penalties by a civil action in the nature of a debt.~~
- (d) *Nonjudicial administrative hearing.* The City of High Point Department of Transportation shall establish an administrative process to review objections to



citations or penalties issued or assessed. A notice requesting a hearing to review objections shall be filed within 21 days after notification of the violation. An individual desiring a nonjudicial hearing must post a bond in the amount of \$50.00 before a hearing will be scheduled. The hearing officer's decision is subject to review in the Superior Court of Guilford County by proceedings in the nature of certiorari.

## **PART H.**

Chapters 2 and 6 of Title 11 of the High Point Code of Ordinances are hereby amended as follows:

### **Sec. 11-2-4. Penalty.**

~~Any act constituting a violation of this Chapter or a failure to comply with any of its requirements shall subject the offender to civil penalty in accordance with Section 1-1-4 of this Code and G.S.(a) Pursuant to North Carolina General Statute 160A-175(c), and in addition to any other sanction imposed under this chapter, there is hereby imposed a civil penalty in the amount of \$75.00 for violation of any of the provisions of this chapter. Civil penalties are to be paid to the city collections division or appealed to the city manager's office within 10 days of issuance of civil penalty notice. Failure to pay or appeal a civil penalty notice will result in the penalty being recovered by the city in a civil action in the nature of a debt.~~

~~(b) In addition to civil penalty, any violation of this chapter shall also be punishable as a misdemeanor under NCGS 14-4, and shall subject the offender to a fine of not more than \$500.00, or imprisonment for not more than 30 days, or both.~~

### **Sec. 11-2-36. Taxicab inspections.**

- (a) Before operation of a taxicab, it must have passed an inspection of equipment by the taxicab inspector. The taxicab inspector shall specify a date when the current inspection shall expire and another inspection shall be necessary. A certificate holder shall deliver all of its taxicabs in operation to a location designated by the taxicab inspector at a specified date and time for inspection.
- (b) The taxicab inspector shall have the authority, at any time, to enter into or upon a taxicab at any location for the purpose of determining compliance with this chapter.
- (c) A taxicab which is found to be unsafe in any way or not in compliance with this chapter may be ordered out of service by the taxicab inspector and operation of

the taxicab before approval by a taxicab inspector shall be unlawful and subject the certificate holder and any other person allowing the operation of the taxicab to ~~criminal and/or~~ civil penalties.

- (d) A taxicab inspection fee of \$5.00 shall be paid by the owner of the vehicle to the city collections division for each regularly scheduled taxicab inspection and every initial inspection. Receipt of payment shall be presented to the taxicab inspector performing the inspection. Upon a failure to pass an inspection, a reinspection will be performed at no charge. A field inspection initiated by a taxicab inspector, at a time other than regularly scheduled inspections, shall be at no charge. A taxicab that has passed the most recent regularly scheduled inspection that is taken out of service by a taxicab inspector shall be reinspected at no charge.

**Sec. 11-2-82. Defrauding taxicab.**

Any person who engages, uses, employs or hires a taxicab and then fails or refuses to pay the required fare with intent to cheat and defraud the taxicab owner or driver shall be guilty of a misdemeanor. This section not only applies to intra-city trips, but also to legally licensed taxicabs from other jurisdictions that enter the city to reach a destination, where the failure or refusal to pay occurs within the city. A violation of this section is punishable as a misdemeanor.

**Sec. 11-6-11. Penalties.**

Any person convicted of violating any provisions of this ~~chapter section~~ shall be ~~punished subject to any of the civil penalties and remedies provided for in Section 1-1-4 of this Code and G.S. 160A-175 by fine. Or imprisoned as provided by G.S. 14-4.~~

**~~Sec. 11-6-14. Massage of persons of opposite sex restricted.~~**

~~It shall be unlawful for any person holding a license under this chapter to massage a person of the opposite sex except upon the signed order of a licensed physician, osteopath, chiropractor, or registered physical therapist, which order shall be dated and shall specifically state the number of massages, not to exceed 10. The date and hour of each massage given and the name of the operator shall be entered on such order by the establishment where the massages are given and shall be subject to inspection by police officers at any reasonable time.~~

~~(Code 1958, § 15-43; Ord. No. 92-84, § 1, 8-20-92)~~

**Sec. 11-7-19. ~~Criminal~~ Civil penalties and remedies.**

Any person who violates any provision of this chapter shall be ~~guilty of a misdemeanor, and, upon conviction, shall be subject to any of the civil penalties and remedies provided for in Section 1-1-4 of this Code and G.S. 160A-175a~~ civil fine of \$500.00, or imprisonment, or both.

**Sec. 11-7-20. Civil injunction.**

Any person who violates this chapter is subject to a civil suit for injunction in addition to the other civil remedies provided for in Section 1-1-4 of the Code, as well as ~~prosecution for criminal violations and liability for licensing sanctions such as suspension or revocation.~~

**Sec. 11-7-21. Liability for the conduct of others.**

A licensee of a sexually oriented business is jointly and individually liable for violations of and offenses under this chapter by the employees of the sexually oriented business, and for all civil ~~and criminal~~ sanctions or remedies for such violations and offenses, including but not limited to license suspension or revocation, prescribed herein.

**PART I.**

Chapters 1, 2, 3, and 5 of Title 12 of the High Point Code of Ordinances are hereby amended as follows:

**Sec. 12-1-3. Police animal protection.**

It shall be unlawful for any person to willfully and maliciously taunt, torment, tease, beat, kick or strike, or attempt any of said acts toward any animal by the High Point Police Department for use in the performance of the function or duties of the High Point Police Department.

~~Any person who violates any of the provisions of this section is guilty of a misdemeanor and shall be fined or imprisoned, or both, in the discretion of the court.~~

**Sec. 12-1-4. Public consumption of beer, wine, ale or any alcoholic beverage.**

- (a) It shall be unlawful for any person to consume any beer, wine, ale or any alcoholic beverages (as defined under Chapter 18B of the General Statutes of North Carolina,) in or on any public street, right-of-way, sidewalk, alley or other public

place within the city or on any city-owned property which is located inside or outside the High Point corporate limits.

- (b) Subsection (a) shall not apply within a building on city-owned property or park, or at permitted sidewalk cafes, where appropriate ABC permits have been obtained as required by law for the consumption of beer, wine, ale or any alcoholic beverages for the period of time permitted thereunder.
- (c) A violation of this section is punishable as a misdemeanor.

**Sec. 12-1-5. Possession and discharge of firearms, weapons.**

- (a) Except as provided in subsection (b) below, it shall be unlawful for any person to possess a weapon, as defined in G.S. 14-269, in or upon any building, park or other property, or their appurtenant premises, which is owned or otherwise under the legal control of the City of High Point.
- (b) This prohibition shall not apply to the following persons:
  - (1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;
  - (2) Civil officers of the United States while in the discharge of their official duties;
  - (3) Officers and soldiers of the militia and the national guard when called into actual service;
  - (4) Sworn law enforcement officers;
  - (5) City animal control officers;
  - (6) Private security officers under contract with the city, while in the actual performance of their required duties.
- (c) A conspicuous notice shall be posted upon property set forth in subsection (a) above stating: "Possession of weapons or carrying a concealed handgun is prohibited."

- (d) ~~Any person in violation of this section shall be guilty of a misdemeanor and upon conviction shall be fined \$500.00 or imprisoned for 30 days, or both.~~ A violation of this section is punishable as a misdemeanor.
- (e) The carrying of a concealed handgun in accordance with G.S. 14-415.11 is prohibited in any building owned, leased as lessee, operated, occupied, managed or controlled by the city, and in or upon the recreational facilities operated by the city and specifically identified herein. Notice of this prohibition shall be posted in a conspicuous location at each entryway available to the general public at all buildings and at the primary points of public access to all other covered locations. Violation of this prohibition shall be prescribed by the applicable North Carolina General Statutes.

Allen Jay Park, 1073 E. Springfield Road, athletic fields and appurtenant facilities during an organized athletic event.

Armstrong Park, 305 E. Parkway Avenue, athletic field and appurtenant facilities during an organized athletic event.

Brentwood Athletic Fields, 1300 Block of Brentwood Street, athletic fields and appurtenant facilities during an organized athletic event.

City Lake Park, 602 West Main Street, swimming pools and appurtenant facilities.

Deep River Park, 1525 Skeet Club Road, athletic fields and appurtenant facilities during an organized athletic event.

Burnett Park, 1051 Montlieu Avenue, athletic fields at all times.

Harvell Park, 1215 Lincoln Drive, athletic fields and appurtenant facilities during an organized athletic event.

Hedgecock Park, 300 West Parris Avenue, athletic fields and appurtenant facilities during an organized athletic event.

High Point Athletic Complex, 2920 School Park Road, athletic fields and appurtenant facilities during an organized athletic event.

Johnson Street Athletic Complex, 4515 Johnson Street, athletic fields and appurtenant facilities during an organized athletic event.

Macedonia Park, 306 Wise Avenue, athletic fields and appurtenant facilities during an organized athletic event.

Miracle League Field, 2917 School Park Road, athletic fields and appurtenant facilities during an organized athletic event.

Morehead Recreation Center Park (Leonard Street Fields), 101 Price Street, athletic fields and appurtenant facilities during an organized athletic event.

Oak Hollow Campground, 3415 Centennial Street, swimming pool and appurtenant facilities.

Oak Hollow Tennis Center, 3401 North Centennial Street, tennis courts and appurtenant facilities during an organized athletic event.

Oakview Recreation Center Park, 503 James Road, athletic fields and appurtenant facilities during an organized athletic event.

Washington Terrace Park, 101 Gordon Street, athletic fields during an organized athletic event, swimming pool and appurtenant facilities.

Washington Terrace Pool, 108 Murray Street, swimming pool and appurtenant facilities.

West End Park, 1701 Edgewood Drive, athletic fields and appurtenant facilities during an organized event.

- (f) For purposes of section (e), the term "recreational facilities" and the restrictions on lawful possession of weapons for those facilities listed above includes only the following:
- (1) An athletic field, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled for use with the municipality or county office responsible for operation of the park or recreational area.
  - (2) A swimming pool, including any appurtenant facilities used for dressing, storage of personal items, or other uses relating to the swimming pool.
  - (3) A facility used for athletic events, including, but not limited to, gymnasiums.

- (g) Nothing in this section shall prohibit a current holder of a concealed carry weapons (CCW) permit recognized by the State of North Carolina from storing a firearm within a locked motor vehicle in a manner consistent with state law.

**Sec. 12-1-7. Firearms or other weapons, display and discharge prohibited; exceptions.**

- (a) It shall be unlawful for any person to fire, discharge or shoot within the city any gun, pistol, air gun, BB gun, pellet gun, bow and arrow, slingshot, or other similar contrivance of firearm, on or off his premises, except in legally established shooting galleries or ranges, in the discharge of duty by law enforcement officers, pursuant to lawful directions of law enforcement officers, or in lawful defense of person or property.
- (b) It shall be unlawful to brandish or display in a threatening manner any firearm or dangerous weapon on any street, sidewalk, alley, or other public property within the city except as necessary and consistent with those conditions that would allow lawful discharge of such firearms or weapons pursuant to the provisions of this section.
- (c) ~~[Reserved.]~~ A violation of this section is punishable as a misdemeanor.

**Sec. 12-1-9. Operation of motorcycles and minibikes.**

- (a) It shall be unlawful for any person to ride a minibike or motorcycle on the following property in the city:
- (1) Any city-owned property, including parks, vacant lots, rights-of-way, but not including streets;
  - (2) Any vacant property (this includes any vacant lot, construction site, and any property with a structure not permanently occupied).
- (b) A violation of this section is punishable as a misdemeanor.

**Sec. 12-1-10. Offenses against public peace and order.**

- (a) Subject to the provisions of this section, it shall be unlawful for any person or persons to make, permit, continue or cause to be made or create any unreasonably loud, disturbing and unnecessary noise in the city, with the exception of

construction work done pursuant to a federal, state, county, or city contract which requires work to be performed during certain hours. For the purposes of this section, the following definitions shall apply:

- (1) *Unreasonably loud.* Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.
- (2) *Disturbing.* Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.
- (3) *Unnecessary.* Any excessive or unusually loud sound or any sound which is of such character, intensity and duration as to disturb the peace and quiet of any neighborhood or which disturbs, injures or endangers the comfort, repose, health, peace or safety of any person, and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.

In determining whether a noise is unreasonably loud, disturbing and unnecessary, the following factors incident to such noise are to be considered: time of day; proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; the character and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof. A continuing or non-resetting audible burglar or fire alarm shall not be considered a violation of this section, but may be a violation of the false alarm ordinance, city ordinance section 5-1-48.

(b) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section but this enumeration shall not be deemed to be exclusive:

- (1) *Blowing horns.* The sounding of any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle or railroad train, except as a danger signal or as required by law, so as to create any unreasonable, loud or harsh sound or the sounding of such device for an unnecessary and unreasonable period of time.



- (2) *Radios, stereos, etc.* The playing of any radio, television set, record player, stereo or other sound reproduction system, musical instrument or sound-producing or sound-amplifying device on the premises of any dwelling, hotel or motel room, in such manner or with such volume, particularly but not limited to the hours between 11:00 p.m. and 7:00 a.m., if the sound generated is audible at a distance of 30 feet or more from the dwelling's property line, or, in the case of a hotel or motel room, the unit's most outer boundary wall.
  - (2.1) *Sound-producing equipment in vehicles.* The playing of any radio, cassette player, compact disc, video tape or disc, or other similar device for reproducing sound located on or in any motor vehicle on a public street, highway, within any public vehicular area, or on the premises of a private residence, if the sound generated or noise vibration there from is audible or can be felt at a distance of 30 feet or more from the radio, cassette player, compact disc, video tape or disc, or other similar device that is producing the sound.
- (3) *Pets.* The keeping of any animal or bird, which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.
- (4) *Use of vehicles.* The use of any automobile, motorcycle, dirt bike, go-cart, recreational vehicle or any other vehicle so out of repair, so loaded or operated in such manner as to create loud or unnecessary grating, grinding, rattling, screeching of tires or other noise.
- (5) *Blowing whistles.* The blowing of any steam whistle attached to any stationary boiler except as a warning of danger.
- (6) *Exhaust discharge.* The discharge into the open of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (7) *Compressed air devices.* The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.
- (8) *Building operations.* The erection (including excavation), demolition, alteration or repair of any building in a residential district between the hours of 6:00 p.m.

and 7:00 a.m. of any day or in any district other than a residential district between the hours of 10:00 p.m. and 7:00 a.m. of any day, except with a permit from the city manager or his designee.

- (9) *Noises near schools, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, library, or court while the same is in session, or adjacent to any hospital, or any church during services, which unreasonably interferes with the operation or activities of such institution.
- (10) *Loading and unloading operations.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening or destruction of bales, boxes, crates and containers.
- (11) *Bells and gongs.* The sounding of any bell or gong which disturbs the quiet or repose of persons in the vicinity thereof.
- (12) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument for the purpose of attracting attention by creation of noise to any performance, show, sale, display or advertisement of merchandise.
- (13) *Blowers, engines.* The operation of any noise-creating blower, power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise emitting therefrom is sufficiently muffled and the engine is equipped with a muffler device sufficient to deaden such noise, so that the same shall not cause annoyance to the public nor unreasonably disturb the rest and quiet of persons on adjacent premises or within the vicinity thereof.
- (14) *Appliances and other mechanical devices.* The operation of any noise-producing appliance or other mechanical device which, due to operational deficiencies, malfunction or other type of disrepair, causes loud and excessive noises in such a manner as to unreasonably annoy the public or disturb the rest and quiet of persons on adjacent premises or within the vicinity thereof.
- (15) *Loudspeakers or amplifiers.*
  - a. It is prohibited within or from any commercial establishment or private entertainment or recreational venue to allow any loudspeaker or other mechanically-amplified device to be played so that the sound there from

may be heard at a distance of 30 feet or more from the facility's property line, between the hours of 2:00 a.m. and 7:00 a.m.

- b. In the exercise of noncommercial free speech, loudspeakers or amplifiers may be used, subject to the following conditions:
  1. It shall be unlawful for any person to speak into a loudspeaker or amplifier within the corporate limits of the city, when such loudspeaker or amplifier is so adjusted that the voice of the speaker is amplified to the extent that it is audible at a distance in excess of 150 feet from the person speaking; provided that such use in city recreational facilities shall be regulated by the rules of the city parks and recreation commission.

[2. Reserved.]

- (c) Enforcement and repeated violations. Where there is a violation of any provision of this ~~section~~ article, the city, at its discretion, may take one (1) or more of the following enforcement actions:

- (1) A police officer may issue a citation as provided herein, subjecting the violator to a civil penalty of \$200.00. A second violation by the same person or business within one (1) year of the first violation shall subject such person or business to a penalty of \$400.00. All subsequent violations by the same person or business within one (1) year of the first violation shall subject such person or business to a civil penalty of \$500.00.
- (2) Failure to pay a civil penalty imposed under this section within 10 days may subject the offender to an additional \$50.00 delinquency charge. Any unpaid penalty or delinquency charge may be recovered by the city in a civil action.
- (3) The civil penalties imposed by this section and the proceeds therefrom as collected by payment, civil action or otherwise, shall belong to the city and shall be paid into the general fund of the city under such conditions as prescribed by the annual budget.
- (4) ~~In the alternative, pursuant to North Carolina General Statutes, section 14-4, a~~ A violation of this section may be considered is also punishable as a

~~misdemeanor. Such a misdemeanor is punishable by a fine of not more than \$500.00 or imprisonment designated for a Class 3 misdemeanor.~~

- (d) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.

**Sec. 12-1-11. Loitering for the purpose of engaging in drug-related activity.**

- (a) For the purpose of this section, "public place" means any area available to the public for common usage and access, including any street, sidewalk, bridge, alley or alleyway, plaza, park, playground, driveway, parking lot or transportation facility, or the doorways, entranceways, stairway, staircase, hall, roof, elevator, courtyard, passageway or common area to any building which fronts on any of those places or any motor vehicle in or on any of those places, or any property owned by the City of High Point.
- (b) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the intent to engage in a violation of any subdivision of the North Carolina Controlled Substance Act, N. C. General Statutes Chapter 90, Article 5. Such circumstances shall include the following when done for the purpose of violating the aforementioned state statutes:
- (1) Repeatedly beckoning to, stopping, or attempting to stop passers-by, or repeatedly attempting to engage passers-by in conversation; or
  - (2) Repeatedly stopping or attempting to stop motor vehicles; or
  - (3) Repeatedly interfering with the free passage of other persons; or
  - (4) Such person behaves in such a manner as to raise a reasonable suspicion that he or she is about to engage in or is engaging in an unlawful drug-related activity; or
  - (5) Such person repeatedly passes to or receives from passers-by, whether on foot, in a vehicle or by courier, money or objects; or
  - (6) Such person takes flight upon the approach or appearance of a law enforcement officer; or
  - (7) Such person is at a location frequented by persons who unlawfully use, possess, or sell drugs.
- (c) ~~Any violation of this section is punishable as a misdemeanor. All ordinances or parts of ordinances in conflict with this section are hereby repealed to the extent of such conflict.~~

- (d) If any section, subsection, paragraph, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

**Sec. 12-1-13. Aggressive solicitation prohibited.**

- (a) The council finds that:

- (1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.
- (2) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.
- (3) The presence of individuals who solicit money from persons at or near banks, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait.
- (4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

- (b) In this section:

- (1) *Aggressive manner* means:

- a. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- b. Following the person being solicited, if that conduct is:
  - (i) Intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

- (ii) Intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
  - c. Continuing to solicit a person within five (5) feet of the person being solicited after the person has made a negative response;
  - d. Intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;
  - e. Using obscene or abusive language or gestures toward the person being solicited;
  - f. Approaching the person being solicited in a manner that:
    - (i) Is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
    - (ii) Is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.
- (2) *Automated teller machine* means a device, linked to a bank's account records, which is able to carry out banking transactions.
- (3) *Automated teller facility* means the area comprised of one (1) or more automatic teller machines, and any adjacent space that is made available to banking customers.
- (4) *Bank* includes a bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.
- (5) *Bus* means a vehicle operated by a transit authority for public transportation.
- (6) *Check cashing business* means a person in the business of cashing checks, drafts, or money orders for consideration.
- (7) *Public area* means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot,

alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.

(8) *Solicit* means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

(c) A person commits an offense if the person solicits:

(1) In an aggressive manner in a public area;

(2) In a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;

(3) Within 25 feet of:

a. An automated teller facility;

b. The entrance or exit of a bank; or

c. The entrance or exit of a check cashing business; or

(4) At a marked crosswalk.

(5) On either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit;

(d) A culpable mental state is not required, and need not be proved, for an offense under subsection (c)(2), (3), or (4).

(e) This section is not intended to proscribe a demand for payment for services rendered or goods delivered.

(f) A violation of this section is punishable as a misdemeanor, ~~punishable by a fine of up to \$500.00.~~

**Sec. 12-1-14. Urinating or defecating on any public place.**

(a) It is unlawful for any person to urinate or defecate on any public place, sidewalk, street, alley or right of way, or in any public building, except in toilet facilities, or

upon private property in a location visible from any public place. "Public place" means property owned by the city, the state, a county or federal government, including leaseholds and easements.

- (b) A violation of this section is punishable as a misdemeanor, ~~punishable by a fine of up to \$500.00.~~

**Sec. 12-2-5. Violations; civil penalty.**

- (a) Violation of any section of this chapter shall be deemed unlawful and shall result in a fixed civil penalty charge in the amount of \$50.00. When the owner or agent charged with a violation under this section, makes proper payment of the amount as charged, the obligation thereunto shall be discharged. If such charge has not been paid within 10 days, the violation shall be deemed to be delinquent and subject to the additional penalties as provided in this chapter.
- (b) The city tax collector may accept payments in full and final settlement of the claim or claims, right or rights of action which the city may have to enforce such penalties by civil action in the nature of the debt. A failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of debt, together with the cost of the action to be taxed by the court. However, in the event the offender desires to make payment after the civil action has been commenced but prior to trial disposition, a penalty of \$50.00 in addition to the one imposed for payment within 10 days shall apply in such cases. Acceptance of the additional penalty shall be deemed a full and final release of any and all claims or right of action arising out of contended violations.
- (c) A violation listed in this chapter ~~shall not constitute a misdemeanor or infraction punishable under North Carolina General Statutes 14-4, but instead shall be subject to the civil penalties fixed by subsection (a) of this section and the civil remedies provided in Section 1-1-4 of this Code and G.S. by North Carolina General Statutes, Section 160A-175.~~ Any properly designated city official is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including the delinquent civil penalty, has not been paid.
- (d) The civil penalties imposed by this section and the proceeds therefrom, as collected by payment of civil action or otherwise, shall belong to the city and shall be paid into the general fund of the city under such conditions as prescribed by the annual budget.



**Sec. 12-2-15. Dogs without tag deemed unlicensed; violations; civil penalty.**

- (a) Every owner or keeper of a licensed dog shall keep and maintain a collar around the neck of the dog, with the tag securely attached thereto, and every dog found in the city without a tag shall be deemed an unlicensed dog and in violation of this section. The owner thereof shall be required to purchase a tag and pay the impounding fee if the dog is impounded or relinquish the dog to be disposed of.
- (b) Violation of this section shall be deemed unlawful and shall result in a fixed civil penalty charge in the amount of \$15.00. When the owner or keeper charged with a violation under this section, makes proper payment of the amount as charged, the obligation thereunto shall be discharged. If such charge has not been paid within 10 days, the violation shall be deemed to be delinquent and subject to the additional penalties as provided in this section.
- (c) The city tax collector may accept payments in full and final settlement of the claim or claims, right or rights of action which the city may have to enforce such penalties by civil action in the nature of the debt. A failure to pay the penalty within the prescribed time shall subject the offender to a civil action in the nature of debt, together with the cost of the action to be taxed by the court. However, in the event the offender desires to make payment after the civil action has been commenced but prior to trial disposition, a penalty of \$25.00 in addition to the one imposed for payment within 10 days shall apply in such cases. Acceptance of the additional penalty shall be deemed a full and final release of any and all claims or right of action arising out of contended violations.
- (d) A violation listed in this section ~~shall not constitute a misdemeanor or infraction punishable under North Carolina General Statutes [section] 14-4, but instead shall~~ be subject to the civil penalties fixed by subsection (b) of this section and the civil remedies provided in Section 1-1-4 of this Code and G.S. ~~by North Carolina General Statutes, section 160A-175.~~ Any properly designated city official is authorized to take legal action in the nature of a civil suit for the collection of a debt when the civil penalty, including the delinquent civil penalty, has not been paid.
- (e) The civil penalties imposed by this section and the proceeds therefrom as collected by payment, civil action or otherwise, shall belong to the city and shall be paid into the general fund of the city under such conditions as prescribed by the annual budget.

### **Sec. 12-2-20. Enforcement Fees.**

Any owner that is found in violation of the regulations described in sections 12-2-18 and 12-2-19 shall be subject to civil penalties in accordance with Section 1-1-4 of the Code and punishable as a misdemeanor. ~~the following fees:~~

~~(a) 1st offense: Subject to citation and \$100.00 fee (if the dog is not spayed or neutered, the fee may be voided in lieu of the owner having the dog spayed or neutered by a veterinarian and providing to the animal control officer documented proof of such within 14 days).~~

~~2nd offense: Subject to citation and \$250.00 fee.~~

~~3rd and subsequent offenses: Subject to a class 3 misdemeanor and fine of up to \$500.00.punishable as a misdemeanor.~~

~~(b) The procedures set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law and shall not prevent the city from proceeding in a criminal action against any person, firm or corporation violating the provisions of this chapter.~~

### **Sec. 12-3-7. Appeals.**

~~Within the 10 day period mentioned in section 12-3-3 hereof, the owner or tenant of the property where the nuisance exists may appeal the findings of the director of planning and development in accordance with Section 1-1-4 of this Code. ~~An appeal stays the abatement of the nuisances by the director of public services or public services department until a final determination by the city manager. In the event no appeal is taken, the director of public services, or his designee or agent, may proceed to abate the nuisance.~~~~

### **Sec. 12-3-9. Civil penalties.**

An owner that fails to comply with an order to abate any unlawful condition described in section 12-3-1 shall be subject to a civil penaltiesy in accordance with Section 1-1-4 of this Code and G.S. 160A-175~~of \$100.00 for the first day following the expiration of an order to abate. In each instance, a penalty of \$25.00 per day shall be imposed for each subsequent day that the nuisance remains unabated. If a person fails to pay the civil penalty within 10 days after being notified of the amount due, the city may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt.~~

**Sec. 12-3-10. Procedures in addition to other remedies.**

The procedures set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and ~~this chapter shall not prevent the city from proceeding in a criminal action against any person, firm or corporation violating the provisions of this chapter.~~

**Sec. 12-5-3. Penalties.**

Violation of any of the provisions of this chapter shall subject the violator to payment of ~~a civil penalties~~ in accordance with Section 1-1-4 of this Code and G.S. 160A-175 ~~of \$25.00, and shall also constitute a misdemeanor.~~ Any person, or his agent, having control of any premises or place who knowingly permits a violation without requesting the violator to comply shall be subject to payment of the civil penalties ~~provided for herein.~~ ~~Any duly authorized local government official is authorized either to send the civil penalty citation to the violator by certified mail or personally deliver such citation to the violator stating the nature of the violation, the amount of the penalty, and directing that the violator pay the penalty to the city tax collector's office within 14 days of receipt. Each day's continuing violation of any of the provisions of this chapter shall constitute a separate offense.~~

**SECTION 2.**

Should any section or subsection of this ordinance be declared invalid, such section or subsection shall be deemed severable, and such holding shall not affect the validity of the remaining sections or subsections.

**SECTION 3.**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 4.**

This ordinance shall become effective upon adoption.

**Adopted by the City Council  
City of High Point, North Carolina  
The 21<sup>st</sup> day of June 2022**

By: \_\_\_\_\_

Jay W. Wagner, Mayor

ATTEST:

\_\_\_\_\_

Lisa B. Vierling, City Clerk

**CITY OF HIGH POINT**  
**STAFF REPORT**  
*June 6, 2022*

<b>Request</b>	
<p><b>Applicant:</b> City of High Point</p> <hr/> <p><b>Proposal:</b> Amend the High Point Code of Ordinances in accordance with S.L. 2021-138.</p>	<p><b>Affected Ordinance Sections:</b>            Title 1, Chapter 1 (Use and Construction of the Code); Title 3, Chapter 2 (Revenue and Taxation); Title 5, Chapter 1 (Law Enforcement); Title 5, Chapter 2 (Fire Prevention and Protection); Title 5, Chapter 3 (Emergency Management); Title 6, Chapter 1 (Streets and Sidewalks); Title 6, Chapter 2 (Solid Waste Collection and Disposal); Title 9, Chapter 1 (Development Ordinance); Title 9, Chapter 2 (Inspection Regulations); Title 10, Chapter 1 (Traffic Regulations); Title 11, Chapter 2 (Taxicabs); Title 11, Chapter 6 (Massage Establishments); Title 11, Chapter 7 (Sexually Oriented Businesses); Title 12, Chapter 1 (Specific Offenses); Title 12, Chapter 2 (Animals); Title 12, Chapter 3 (Public Nuisances); Title 12, Chapter 4 (Paraphernalia Intended for Illegal Drug Use); Title 12, Chapter 5 (Smoking Prohibited in Specified Places)</p>

**Background**

The proposed text amendment to the Code of Ordinances is in response to recent State legislation that prohibits the use of criminal penalties for certain ordinance violations.

**Details of Proposal**

In late 2021, the North Carolina legislature passed Session Law 2021-138 (“Senate Bill 300”) which is a wide-ranging criminal justice reform law, addressing law enforcement and policing matters. Among other reforms, the law takes steps to decriminalize some local ordinances. Prior to this legislation, State law provided that a violation of any city ordinance was by default a misdemeanor (as provided by N.C.G.S. §14-4) unless the ordinance provided otherwise. In other words, there was a presumption in State law that the City could criminally enforce ordinance violations (by issuing a criminal citation and forcing the violator to appear in court and pay criminal penalties) even if the ordinance did not explicitly provide for such criminal enforcement. Senate Bill 300 reversed that presumption. Under the new statutory language, local governments must amend local ordinances to specifically identify violations that may be enforced criminally. Additionally, Senate Bill 300 provides a list of ordinances that may no longer impose a criminal penalty.

City staff, including but not limited to the City Manager's Office, Police Department, Public Services Department, Planning and Development Department, and City Attorney's Office, have worked together to review the Code of Ordinances and produce the proposed text amendment in accordance with Senate Bill 300.

### **Analysis**

This text amendment is proposed for the purpose of complying with State law and making other clarifying and correcting revisions.

### **Recommendation**

Staff and the Public Safety Committee recommend approval of the proposed text amendment.

### **Required Action**

Senate Bill 300 prohibits the City Council from enacting or adopting the text amendment at the same meeting in which the amendment was first introduced. Therefore, the City Council should vote on the text amendment on the first reading on June 6, 2022, after the public hearing is closed, and then subsequently vote on the same text amendment on the second reading on June 21, 2022. If adopted, the text amendment would take effect upon the second vote.

### **Report Preparation**

This report was prepared by the City Attorney's Office.

Attachments:

*Text Amendment Ordinance*