

**TOWN OF DALLAS**  
**MINUTES FOR BOARD OF ALDERMEN MEETING**  
**AUGUST 27, 2019**  
**5:00 PM**

The following elected officials were present: Mayor Coleman, Alderman Cearley, Alderman Huggins, Alderman Withers, and Alderwoman Morrow. Alderwoman Thomas was absent.

The following staff members were present: Maria Stroupe, Town Manager; Da'Sha Leach, Town Clerk; Tom Hunn, Town Attorney; Allen Scott, Police Chief; Tiffany Faro, Development Services Director; Doug Huffman, Electric Director; Jonathan Newton, Finance Director; Garrett Lowery, Recreation Director; Bill Trudnak, Public Works Director and Dustin Haney, Assistant Fire Chief. Robert Walls, Police Captain and Earl Withers III, Fire Chief were absent.

Mayor Coleman called the meeting to order at 5:00 pm. He opened with the Pledge of Allegiance to the Flag.

Mayor Coleman asked if there were any additions or deletions to amend the agenda. An item for a Fundraiser was added after Item 3A. Alderman Withers made a motion to approve the agenda with the addition, seconded by Alderwoman Morrow, and carried unanimously.

**New Business:**

**Item 3A** was a discussion on the Architectural Resurvey of National Historic District-Recommendations. In March 2018, the Board of Alderman approved a CLG grant application in partnership with Gaston County to complete an architectural resurvey of our National Historic District, and we were awarded that grant in June 2018. After selecting a consultant (Dan Pezzoni) to assist with this effort, a public meeting was held in March 2019 to share information about Dallas' existing Historic District boundary- established in 1973- and gather feedback on some of the Town's additional historic assets that could be documented for possible inclusion in the district. Mr. Pezzoni gave a presentation on his findings and final recommendations prior to presenting it to the NC State Historic Preservation Office this October. The requirement for the historic district is properties 50 years older while maintaining an original element. The proposed district includes some churches, Dallas High School Apartments, Dennis Franklin Gym, Civic Center, and more. If the NC SHPO approves his recommendation, the structures documented will be added to a study list, and then the Town could choose to pursue the next steps to officially expand our national historic district boundary. The Board gave some recommendations on structures to add for consideration with his findings to be presented if qualified.

**Item added** was a discussion on a Fundraiser Event for Off the Streets by CEO and Founder Ms. Shaaron Funderburk. Ms. Funderburk gave a presentation on the Off the Streets Program and their efforts to raise money to fund the program. They would like to have a fundraiser event in Dallas on June 6<sup>th</sup> or June 13<sup>th</sup> 2020 for approximately 4 hours. At the event, they plan to have a 50/50 raffle, bounce house, collect hygiene products, have vendors, and more. The board consensus was to consider this event with all the factors that need to be addressed before they can consider an approval.

**Item 3B** was a discussion on Ordinance Enforcement: Criminal vs. Civil. In an effort to update the ordinances in Dallas for better enforcement, the Development Services Director made a recommendation to make the ordinances civil instead of criminal. Currently, most of the ordinances read that violators shall, upon conviction, be guilty of a misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions violated shall constitute a separate offense. This method involves both Development Services and the Police Department, utilizing a significant amount of staff time and resources with no guaranteed abatement action. A transition to civil penalties would allow Development Services to handle both the notice and penalty of a violation, and would hopefully result in increased abatement by the violators- as civil penalties can accrue daily until cleanup occurs, and are collectable in a variety of methods including court action, NC Debt Setoff, and/or property liens. While it is legal to retain criminal enforcement while adding civil penalties, the North Carolina Supreme Court has held that if a local ordinance is criminally enforceable under G.S. 14-4, then the clear proceeds of any civil penalty or fine assessed for a violation of the local ordinance must be remitted to the local school administrative unit(s) in the county in which the penalty or fine was assessed. The Town Attorney stated that the ordinance should state civil penalties and equitable remedies. The Board gave a consensus to move forward with this item.

**Item 3C** was discussion on the Cemetery Ordinance Proposal. The Town has been contacted by a person that owns an 8-lot family plot that currently has two interments. The owner wants to sell the remaining 6 lots to another family. Currently, the Town's cemetery ordinance allows one central standing monument on a family plot (§95.05(A)). The purchasing family would like to install an additional standing monument on the plot, which is not allowed under the Town ordinance. This item was discussed at the July 23<sup>rd</sup> Work Session. It was requested that cemetery ordinances from other Gaston County municipalities be collected and reviewed. Upon review of other ordinances and discussion at the August 20<sup>th</sup> Board Meeting, Staff was directed to present a proposed ordinance change to remove the limitation of one standing monument per family plot. A proposed ordinance change to remove the limitation on monuments was reviewed. The Board discussed concerns on the dimensions between monuments, location, size, and the number of monuments to be allowed per plot. This item will be discussed again at the September 24<sup>th</sup> 2019 Work Session.

**Item 3D** was a discussion on Code Enforcement. As growth and development opportunities continue to increase for Dallas, it has become increasingly difficult for the Development Services Director to devote the time needed to pursue economic development for the Town, review and accomplish ordinance revisions, and address code enforcement complaints and violations in our Town. In order to maximize the Development Services Director's time and abilities, a proposal to add a Part-Time Code Enforcement Position to work in the Community Development Department is requested for consideration. The position would work approximately 20 hours per week on average and would receive, investigate, and enforce Town ordinances in relation to code enforcement violations and complaints. The addition of this position would facilitate the timeframe within which violations could be remediated. A current listing of complaints and violations received by the Development Services Director was reviewed. Many of the complaints are still waiting to be addressed, while more complaints and violations are received each week. Each violation requires a minimum of three (3) site visits: 1) To verify the initial violation, 2) To follow up after the initial deadline, and 3) To follow up after abatement to confirm compliance. There are approximately 15 new calls per month concerning code enforcement issues. A proposed Job Description for the position was reviewed. The Board gained clarity from staff on the processing details and the increasing demands on complaint compliance. The Board consensus to move forward with adding this position. There will be a budget amendment to accompany the approval of the position.

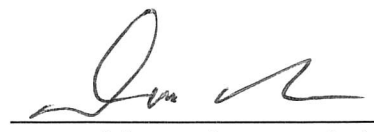
**Item 3E** was a discussion on Stormwater Project Financing. Included in the current year's adopted budget, there was an increase to the Stormwater ERU Fee in order to better address the number of Stormwater projects around Town. The increased fee could be utilized to address more projects per year, or to obtain financing to address multiple issues in a shorter time frame while maintaining funds to address other issues as they arise throughout the year. Before proceeding, Staff would like to clarify whether the Board wishes to pursue financing to address multiple problems quickly, or to pursue addressing more projects on an annual basis. After some discussion on the stormwater projects, the Board gave consensus to move forward.

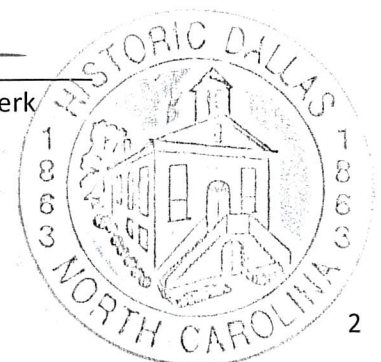
**Manager's Report and General Notices:**

The Manager gave updates on items in Town.

Alderman Huggins made a motion to adjourn, seconded by Alderwoman Morrow, and carried unanimously. **(6:30)**

  
Rick Coleman, Mayor

  
Da'Sha Leach, Town Clerk





## EXHIBIT

STATE HISTORIC PRESERVATION OFFICE  
OFFICE OF ARCHIVES AND HISTORY  
NORTH CAROLINA DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

**THE "STUDY LIST" AND  
THE NATIONAL REGISTER OF HISTORIC PLACES  
IN NORTH CAROLINA**

The use of a Study List as a preliminary step in the review of potential nominations to the National Register of Historic Places is not a requirement under federal program regulations. In practice, most state preservation offices employ some sort of early screening mechanism to remove consideration of properties that are clearly not eligible for the National Register. This screening is usually done by the State Historic Preservation Officer or his or her staff. North Carolina may be unique in that this process is codified in the state administrative code and that the National Register Advisory Committee (NRAC) is directly involved. (Subchapter 4R, section .0304 of the administrative code.) The Study List has been part of North Carolina's National Register program since the first nominations were reviewed and submitted from the state in 1969.

Over the years the Study List has proved to be a useful mechanism in the following ways:

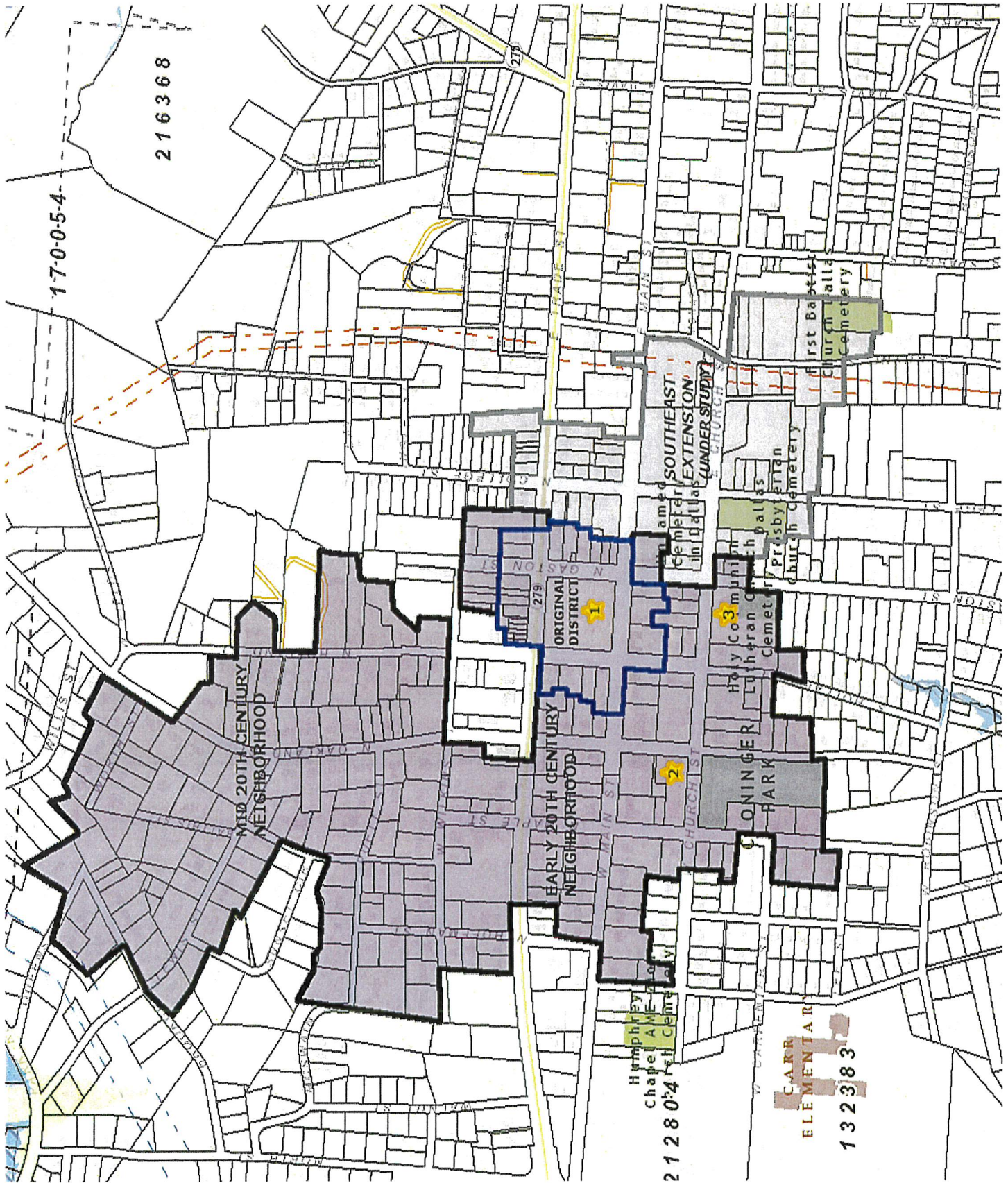
1. The Study List screens out properties that are clearly not eligible or that are highly unlikely to be eligible for the National Register, saving time and effort on the part of the properties' sponsors and the State Historic Preservation Office (HPO) staff in preparing and reviewing unproductive nominations.

Sponsors of a property that has been rejected by the NRAC for the Study List may nevertheless later submit a formal nomination for review by the NRAC. If the property is rejected again by the NRAC, and if the State Historic Preservation Officer concurs in the rejection, the sponsors may appeal directly to the Keeper of the National Register. This has occurred once in almost fifty years of National Register program operations in North Carolina.

2. By the same token, the Study List identifies properties and districts that are likely to be eligible for the National Register, giving the green light to sponsors and staff to proceed with a formal nomination with reasonable assurance that the property can be successfully nominated. Out of more than 2,900 nominations submitted from North Carolina since 1969, less than fifteen have been rejected outright by the National Register as not eligible.

Inclusion in the Study List is not an absolute guarantee of eligibility. Over time properties may require reevaluation due to changes or deterioration. Also, properties once considered not eligible may later become eligible with the passage of time or with additional knowledge about the historical themes they may represent. Nevertheless, the success rate of North Carolina's National Register nominations is an indication of the utility of the Study List as a screening mechanism.





**HISTORIC DALLAS- PROPOSED BOUNDARY INCREASE**

#1- HISTORIC COURTHOUSE      #2- DALLAS GRADED HIGH SCHOOL      #3- HOLY COMMUNION LUTHERAN CHURCH



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## Coates' Canons Blog: Ordinance Enforcement Basics

By Trey Allen

Article: <https://canons.sog.unc.edu/ordinance-enforcement-basics/>

This entry was posted on February 01, 2016 and is filed under Enforcement, General Local Government (Miscellaneous), Nuisance Abatement, Ordinances & Police Powers

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I am often asked about the steps that local governments may take to enforce their ordinances. This blog post describes the basic enforcement options available to cities and counties. It is adapted from a section of my chapter *General Ordinance Authority* in *County and Municipal Government in North Carolina* (2d ed. 2014). (Shameless plug: The chapter contains lots of other useful information about the general ordinance authority of local governments.)

The primary statutes setting out the enforcement powers of local governments are G.S. 160A-175 (cities) and G.S. 153A-123 (counties). Collectively, they provide cities and counties with an array of criminal and civil enforcement mechanisms.

### Criminal Actions

The general rule is that a person who violates a city or county ordinance commits a Class 3 misdemeanor and risks a fine of not more than \$500.00. G.S. 14-4; 153A-123(b); 160A-175(b). (The fine for an ordinance violation may not exceed \$50 unless the ordinance expressly provides for a greater fine.) There are two exceptions to this rule.

- If the ordinance regulates the operation or parking of vehicles, a violator is responsible for an infraction rather than a misdemeanor and any fines assessed may not exceed \$50.00. (An infraction is "a noncriminal violation of law not punishable by imprisonment." G.S. 14-3.1(a).)
- A city or county governing board may expressly provide that the violation of an ordinance will not result in a misdemeanor or infraction; alternatively, an ordinance may set as the maximum punishment some term of imprisonment or fine less than the statutory maximum. G.S. 153A-123(b); 160A-175(b).

Only a law enforcement officer or person expressly authorized by statute may issue a citation requiring an individual to answer to a misdemeanor charge or infraction. G.S. 15A-302; David M. Lawrence, "*Criminal versus Civil Enforcement of Local Ordinances – What's the Difference?*," Local Government Law Bulletin, No. 130 (Dec. 2012) (noting that practical effect of G.S. 15A-302 is to limit the issuance of criminal citations to sworn law enforcement officers). Proving that a misdemeanor or infraction has been committed requires local officials to secure the assistance of the district attorney's office to prosecute, and the violation must be proved "beyond a reasonable doubt."

It is possible, at least in some circumstances, for a city or county to pursue both criminal and civil enforcement actions against an offender for the same ordinance violation. *School Directors v. City of Asheville*, 137 N.C. 503, 510 (1905) ("A party violating a town ordinance may be prosecuted by the State for the misdemeanor and sued by the town for the penalty.").

### Civil Actions

Local governments have the ability to enforce their ordinances through any or all of several civil measures, including civil penalties and court orders directing offenders to comply with particular ordinances. In most cases, these measures cannot be pursued unless the ordinance at issue identifies them as potential methods of enforcement. (Rather than include enforcement language in every ordinance, some cities and counties have "remedies" sections in their codes of ordinances that cross-reference various ordinances and specify which remedies apply to each.) The authority to issue civil citations for ordinance violations may be delegated to personnel who are not law enforcement officers.



### ***Civil Penalties***

To subject violators of an ordinance to civil penalties under G.S. 160A-175 or 153A-123, a local governing board probably has to specify the exact amount to be charged per violation. David M. Lawrence, "*Civil Penalties for Ordinance Violations – Specific or Variable?*," Local Government Law Bulletin, No. 127 (May 2012). A local government may pursue payment of a civil penalty through a civil action against an offender if she fails to pay the penalty within a prescribed time period. G.S. 153A-123(c); 160A-175(c). There is no statutory cap on the amount of civil penalties, but the Eighth Amendment to the United States Constitution prohibits civil penalties that are grossly disproportionate to their corresponding offenses. David M. Lawrence, "*Are There Limits on the Size of Penalties to Enforce Local Government Ordinances?*," Local Government Law Bulletin, No. 128 (July 2012). The courts are unlikely to rule that a civil penalty as high as several hundred dollars violates the Eighth Amendment, so long as the penalty is not exceptionally large compared with other civil penalties imposed by the county or city. *Id.*

A city or county may have its attorney pursue a civil penalty action in superior or district court, depending on the amount of penalty or penalties involved. If the amount is small enough, a local government may be able to seek a judgment against the offender in small claims court using either its attorney or a non-attorney employee. A civil penalty action is one "in the nature of debt," which means that a person found responsible for violating an ordinance with a civil penalty provision owes a debt to the city or county. Furthermore, the burden of proof in civil penalty cases, as in most civil proceedings, is "by a preponderance of evidence," a less demanding standard than the "beyond a reasonable doubt" standard that must be satisfied to secure a criminal conviction.

The Setoff Debt Collection Act offers local governments a means of recovering monies owed to them, including civil penalties, in excess of \$50.00 without having to resort to litigation. As authorized by the Act, the North Carolina Association of County Commissioners and the North Carolina League of Municipalities have established the Local Government Debt Setoff Clearinghouse. Provided they give debtors the statutorily mandated notice, cities and counties may submit qualifying debts to the Clearinghouse to be recovered from debtors' state tax refunds or lottery winnings. According to its website, the Clearinghouse has collected more than \$240 million for local governments since 2002.

Local officials should not assume that incorporating civil penalty provisions into ordinances will generate significant revenue for city or county coffers. Pursuant to Article IX, Section 7 of the North Carolina Constitution, the public schools are entitled to the "clear proceeds" of monies collected for many ordinance violations. Blog posts by my colleague Kara Millonzi available [here](#) and [here](#) discuss the legal principles used to determine when and how much of the monies collected for ordinance violations must go to the public schools.

### ***Equitable Remedies***

A city or county governing board may include language in an ordinance providing for enforcement through an appropriate equitable remedy. G.S. 153A-123(d); 160A-175(d). Such language allows the city or county to obtain a court order directing an offender to comply with the ordinance. The offender who ignores such an order risks being held in contempt of court.

### ***Public Nuisance Abatement***

As explained in a blog post by my colleague Rich Ducker, a public nuisance is "a condition or activity involving real property that amounts to an unreasonable interference with the health, safety, morals, or comfort of the community." The authority of local governments to define and abate nuisances of this kind is usually exercised through ordinances that prohibit certain conditions or uses of real property. One common example is the overgrown vegetation ordinance, which imposes minimum maintenance requirements on residential or commercial lots.

A local government may seek a court order directing the defendant to take whatever steps are necessary to remedy a nuisance ordinance violation, such as closing, demolishing, or removing structures; removing fixtures, furniture, or other items; cutting grass or weeds; or improving or repairing property. If the defendant fails to obey the order within the time set by the court, he may be cited for contempt and the local government may carry out the order, automatically obtaining a lien on the property for the cost of doing so. G.S. 153A-123(e); 160A-175(e).





A court order is not always needed for a city or county to remedy a nuisance. In the case of a chronic violator of a public nuisance ordinance, a city or county may notify the individual that, if her property is found to be in violation of the ordinance during the calendar year in which notice is given, the city or county will remedy the violation without further notice and the cost of corrective action will be a lien on the property. G.S. 153A-140.2; 160A-200.1. (A chronic violator is someone who owns property for which a city or county has issued a notice of violation under any provision of its public nuisance ordinance at least three times in the previous calendar year.) A city may issue the same sort of notice to a chronic violator of its overgrown vegetation ordinance. Session Law 2015-246.

Additionally, local governments possess statutory authority to deal with dangerous nuisances without first obtaining court orders, regardless of whether the nuisances are covered by specific ordinance provisions. Section 153A-140 of the General Statutes allows a county "to remove, abate, or remedy everything that is dangerous or prejudicial to the public health or safety." This authority does not extend to bona fide farms, but it can apply to the use of farm property for nonfarm purposes. To exercise its powers under G.S. 153A-140, a county must provide adequate notice, the right to a hearing, and the right to seek judicial review.

Similarly, G.S. 160A-193 allows a city to "remove, abate, or remedy everything in the city limits, or one mile thereof, that is dangerous to the public health or safety." Unlike G.S. 153A-140, however, G.S. 160A-193 declares that the power it confers may be exercised "summarily," which presumably means without notice or a hearing. As interpreted by the North Carolina Court of Appeals, though, G.S. 160A-193 does not allow a city to demolish a building summarily unless "the building constitutes an imminent danger to the public health or safety necessitating its immediate demolition." *Monroe v. City of New Bern*, 158 N.C. App. 275, 278 (2003). A building constitutes an imminent danger for purposes of G.S. 160A-193 if, for example, "it [is] on the verge of falling onto a sidewalk frequented by pedestrians or in a situation where the destruction of the building is necessary to stop or control a large destructive fire." *Id.* at 279. (Other statutes expressly allow cities to demolish buildings in certain circumstances, provided detailed notice and hearing requirements are honored. G.S. 160A-426, -432; 160A-439; 160A-441, -450.)

When a local government mitigates or eliminates a nuisance pursuant to G.S. 160A-193 or 153A-140, it automatically obtains a lien for the expense of corrective action on the property where the nuisance occurred if reimbursement by the offending property owner is not forthcoming. A city also enjoys a lien for the action's cost on any other real property – except a primary residence – owned by the offending property owner inside or within one mile of the city. (The owner can avoid a lien on other property by showing that the nuisance resulted solely from another's conduct).

### Continuing Violations

An ordinance may specify, "when appropriate," that each day's continuing violation is a separate and distinct offense, thereby exposing offenders to mounting criminal and civil penalties the longer they remain in violation of the ordinance. G.S. 153A-123(g); 160A-175(g). I have not found a North Carolina appellate decision that addresses when it might be inappropriate for a continuing violation provision to appear in an ordinance.

### Links

- [www.sog.unc.edu/publications/book-chapters/general-ordinance-authority](http://www.sog.unc.edu/publications/book-chapters/general-ordinance-authority)
- [www.sog.unc.edu/publications/books/county-and-municipal-government-north-carolina-second-edition-2014-hard-copy-format](http://www.sog.unc.edu/publications/books/county-and-municipal-government-north-carolina-second-edition-2014-hard-copy-format)
- [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160a-175](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160a-175)
- [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=153a-123](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=153a-123)
- [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=14-4](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=14-4)
- [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=14-3.1](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=14-3.1)
- [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=15a-302](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=15a-302)
- [www.sog.unc.edu/sites/www.sog.unc.edu/files/reports/lglb130.pdf](http://www.sog.unc.edu/sites/www.sog.unc.edu/files/reports/lglb130.pdf)
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- [www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_105A/Article\\_1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_105A/Article_1.html)
- [www.ncsetoff.org/](http://www.ncsetoff.org/)



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- [www.ncleg.net/Legislation/constitution/article9.html](http://www.ncleg.net/Legislation/constitution/article9.html)
  - [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_153A/GS\\_153A-140.2.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-140.2.html)
  - [www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_160A/GS\\_160A-200.1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-200.1.html)
  - [www.ncleg.net/EnactedLegislation/SessionLaws/HTML/2015-2016/SL2015-246.html](http://www.ncleg.net/EnactedLegislation/SessionLaws/HTML/2015-2016/SL2015-246.html)
  - [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=153a-140](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=153a-140)
  - [www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160a-193](http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=160a-193)






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## Coates' Canons Blog: Civil Penalties and Zoning: Why Fight 'Em, Just Cite 'Em

By Richard Ducker

Article: <https://canons.sog.unc.edu/civil-penalties-and-zoning-why-fight-em-just-cite-em/>

This entry was posted on March 10, 2010 and is filed under Land Use & Code Enforcement

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The expansion of a certain nonconforming junkyard and auto salvage yard violates the zoning ordinance, a condition that has existed for some time. Warnings have gone unheeded. The local government has sought to accommodate every promise made that the violator will comply, but has little to show for it. There is relatively little interest in spending public funds to litigate the matter. Should civil penalties be assessed against violators such as these? Why should we fight them when we can just cite them?

### The Advantages and Disadvantages of Civil Remedies

If my impressions are to be trusted, civil penalties to enforce zoning ordinances are more available for use and are actually used more today than ever before, particularly by municipalities. It is almost a badge of honor to be able to say that your city or county ordinance provides for the use of this remedy. And yes, civil penalties can have a deterrent effect. They can serve as a tangible indication that a town or county is willing to take action against violators, even when there is little chance that equitable relief will be sought or a criminal action will ever be initiated. Likewise citations are relatively easy to use and often result in voluntary compliance.

On the other hand many civil penalty citations go unpaid. Only when amounts accrue to a substantial size is it worth the time of a zoning official to try to secure a judgment in small claims court or to call in the city or county attorney. Those who violate zoning ordinances are also more likely to resist service or to be judgment-proof. Then, of course, there are examples like the club owner that receives so much publicity from illegal signs advertising his venue that the resulting revenues exceed the amount of whatever civil penalties may accrue while the signs are displayed.

### Setting the Amount of the Penalty

A variety of North Carolina state administrative agencies and regulatory entities are authorized to impose civil penalties for violations of state statutes or administrative rules. In most cases agency determinations concerning these penalties may be appealed to an administrative law judge (ALJ) and the North Carolina Administrative Procedures Act clarifies such matters as the factors to be taken into account in setting penalty amounts, how notice is to be served, and how appeals are to be taken. What's more, the North Carolina Supreme Court in the case of *In the Matter of Appeal from Civil Penalty*, 324 N.C. 373, 379 S.E.2d 30 (1989), upheld the ability of state administrative agencies to set civil penalties within statutory parameters, taking into account a series of factors concerning the nature of each individual violation of the law.

By comparison, the use of civil penalties by local governments is more of a frontier. Subsection (c) of G.S. 160A-175 and G.S. 153A-123 declares that civil penalties are to be provided for by ordinance in order to be used. We know that all procedural requirements called for in an ordinance must be followed if penalties are to be upheld, even though relevant statutory procedures are, for practical purposes, nonexistent. We know that each day's continuing violation constitutes a separate offense.



Within what range may the amount of a civil penalty for a zoning violation be set? There is no directly relevant statutory guidance. G.S. 14-4 does provide that the violation of a local government ordinance may be prosecuted as a criminal misdemeanor punishable by a fine of no less than \$50 but no more than \$500. Local ordinance civil penalty amounts for zoning violations tend to fit within this range. Most local governments establish a set penalty amount for any zoning violation, thereby avoiding the delegation of too much authority to a zoning administrator or running afoul of various unknown limitations on their authority. The blessing that a skimpy but arguably flexible statute provides can become a curse.

Compare this approach with that authorized in subsection (d) of G.S. 113A-126 of the Coastal Area Management Act (CAMA). It sets statutory maximum penalty amounts for violations of major development permits (\$10,000) and minor permits (\$1,000). It then authorizes the Coastal Resources Commission in determining the amount of civil penalties in individual cases to consider the following factors: (a) the degree and extent of harm, including, but not limited to, harm to the natural resources of the State, to the public health, or to private property resulting from the violation; (b) the duration and gravity of the violation; (c) the effect on water quality, coastal resources, or public trust uses; (d) the cost of rectifying the damage; (e) the amount of money saved by noncompliance; (f) whether the violation was committed willfully or intentionally; (g) the prior record of the violator in complying or failing to comply with programs over which the Commission has regulatory authority; and (h) the cost to the State of the enforcement procedures. Anyone who is assessed a civil penalty may also be assessed the reasonable costs (for major development permit violations, up to \$2,500) of any investigation, inspection, or monitoring that results in the assessment of the civil penalty. The CAMA statutes thus set out a comprehensive legislative framework for the administrative use of civil penalties. The legislature, or perhaps even a local government when it adopts an ordinance enforceable by civil penalties, could establish a similar set of criteria for determining the amount that may be assessed under a local ordinance.

#### Procedures and Appeals

Civil penalties are often assessed by zoning officials in the form of hand-delivered "citations." Zoning boards of adjustment may also impose, modify, or waive civil penalties since such a board, on appeal, has all of the powers of the official from whom the appeal was taken. One common practice is for a notice of violation (NOV) to provide that the violator must either comply with the ordinance within a specific period of time (which often corresponds to the period for appealing any decision of the zoning official) or be assessed a civil penalty for each day the violation continues once this period expires. One issue that remains unresolved is whether an appeal of the assessment of a civil penalty may be appealed independently from an appeal of the underlying NOV. Some ordinances try to address this matter by providing that if the NOV provides for the contingent initiation of civil penalties at a later date, either or both matters must be appealed during the period that begins to run from the date the NOV is served.

#### Where the Money Goes

Then there is the matter of the money collected. As one planning director posed the question, "The money is to go *where?*" In the case of most local governments the funds will need to be identified and transferred to the public schools in the county where collected, pursuant to Article IX, Section 7 of the North Carolina Constitution. In the absence of any provision in the zoning ordinance to the contrary, the violation of a zoning ordinance is a criminal misdemeanor, requiring the proceeds of both civil penalties and criminal fines collected for the breach of this penal law to be earmarked for the public schools. (For a fuller treatment of this subject see Dave Lawrence's blog of November 6, 2009.) There is one circumstance, however, when a local government may retain the proceeds from civil penalties collected for zoning violations. If the local unit amends the zoning ordinance to decriminalize zoning violations, civil penalties are no longer associated with the breach of the penal laws of the state and need not be transferred to the schools, at least to the extent that the penalty appears to be remedial rather than punitive in nature. Nonetheless, relatively few local governments have taken advantage of this option. For some, the possibility of using criminal prosecution as a weapon for zoning violations remains too attractive. In any event civil penalties have not up to now served as the money-maker that some elected officials may have assumed.



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What does the future hold? The use of civil penalties is likely to increase, even though the popularity of the tool may exceed its effectiveness. Since many local governments are looking for ways to supplemental their revenues, more and more of them may try to find a way to keep the penalty funds they collect. But only when comprehensive civil penalty legislation is adopted will this ordinance enforcement tool reach its full promise.

## Links

- [www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_160A/GS\\_160A-175.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_160A/GS_160A-175.html)
- [www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_153A/GS\\_153A-123.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-123.html)
- [www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_14/GS\\_14-4.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-4.html)
- [www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_113A/GS\\_113A-126.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_113A/GS_113A-126.html)
- [www.ncga.state.nc.us/Legislation/constitution/article9.html](http://www.ncga.state.nc.us/Legislation/constitution/article9.html)

## EXHIBIT

Nuisance Types	Ordinances	Current Penalty	Proposed Penalty	Enforced By
Noise	91.01,91.02	91.99	91.99	Police
Firearms	91.03	91.99	91.99	Police
Unauthorized Posting/ Ads	91.04	91.99	91.99	Police
Special Event (Show, Circus, Exhibitions)	91.05	91.99	91.99	Police
Defacing Town Property	91.06	91.99	91.99	Police
Slingshots/ Bows & Arrows	91.07			Police
Discarding Iceboxes	91.08	91.99	91.99	Police
Outdoor Area as Nuisance	91.10	91.10 (C) 91.99	Possible relocate	Development Services
High Grass (12"+)	92.01 (1)&(2)	92.01(C) 10.99	92.99	Development Services
Trash/Junk Accumulation	92.01 (3)	92.01(C) 10.99	92.99	Development Services
Dilapidated Accessory Structures/ Fencing	92.01 (4) &(5)	92.01(C) 10.99	92.99	Development Services
Human Waste	92.02	10.99	92.99	Public Works/ Development Services
Sale of Food	92.03	10.99	92.99	Development Services (if notified by State)
Construction Debris	92.04	10.99	92.99	Development Services
Tree Trimmings	92.05	10.99	92.99	Development Services
Swimming Pool Safety	92.06	10.99	92.99	Development Services
Abandoned Vehicle	93.04	10.99	93.99	Development Services
Nuisance Vehicle	93.05	10.99	93.99	Development Services
Junk Motor Vehicle	93.06	10.99	93.99	Development Services
Shed/Awning Over Sidewalk	94.024	94.024(B) 94.99	94.99 new	Development Services or Public Works
Tree Trimmings on Sidewalk	94.036	94.99	94.99 new	Development Services or Public Works
Street Numbers	94.090	94.99	94.99 new	Development Services



**CHAPTER 92: HEALTH PROTECTION AND DISEASE PREVENTION****§ 92.99 PENALTY.**

(a) Any person, firm or corporation violating any of the provisions of this section for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall be subject to a **civil penalty in the amount of \$100** after the given time to correct expires, or after the first 10 calendar days following the Notice of Violation where not otherwise specified.

(b) Each day that a violation continues after a person has been notified that such a violation exists, and that he or she is subject to the penalty specified in subsection (a), shall constitute a separate offense once the time to correct has expired.

(b) The violator shall contact Town Hall for a re-inspection once the violation is remedied in order to stop the accrual of civil penalties. This penalty may be recovered by the Town in a civil action in the nature of debt if the violation persists, or if a balance remains unpaid after a final invoice is mailed.

(c) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(d) The Town may enforce this chapter by any one or any combination of the foregoing remedies.

(e) Violations of the provisions of this section shall not be considered a misdemeanor pursuant to G.S. § 14-4.

**CHAPTER 93: ABANDONED, NUISANCE AND JUNK MOTOR VEHICLES****§ 93.99 PENALTY.**

(a) Any person, firm or corporation violating any of the provisions of this section for which no other penalty is provided, or failing or neglecting or refusing to comply with same, shall be subject to a **civil penalty in the amount of \$25 per vehicle** after the given time to correct expires, or after the first 10 calendar days following the Notice of Violation where not otherwise specified.

(b) Each day that a violation continues after a person has been notified that such a violation exists, and that he or she is subject to the penalty specified in subsection (a), shall constitute a separate offense once the time to correct has expired.

(b) The violator shall contact Town Hall for a re-inspection once the violation is remedied in order to stop the accrual of civil penalties. This penalty may be recovered by the Town in a civil action in the nature of debt if the violation persists, or if a balance remains unpaid after a final invoice is mailed.

(c) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(d) The Town may enforce this chapter by any one or any combination of the foregoing remedies.

(e) Violations of the provisions of this section shall not be considered a misdemeanor pursuant to G.S. § 14-4.

**CHAPTER 94: STREETS AND SIDEWALKS****§ 94.999 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

**(B) Any person violating any provisions of § 94.040 shall result in a civil penalty being imposed on the responsible party in the amount of \$500. Each day that a violation continues after a person has been notified that such a violation exists, and that he or she is subject to the penalty specified herein, shall constitute a separate offense.**

(C) (1) Failure to obtain a permit prior to moving a building or failure to comply with any other requirements of §§ 94.070 through 94.079 shall result in a civil penalty being imposed on the responsible party in the amount of \$500. In addition, the Town Clerk may refuse to issue any further house moving permits to the house mover and to the house mover's business until all appropriate penalties have been paid and all provisions of this chapter have been complied with. If a person fails to pay this civil penalty within ten days after being cited for a violation, the town may seek to recover this penalty by filing a civil action in the nature of a debt.

(2) Violations of the above mentioned sections shall not be considered a misdemeanor pursuant to G.S. § 14-4.

(3) The town may seek any appropriate equitable remedy from a court of competent jurisdiction to ensure compliance with above mentioned sections, including an injunction or order to abate the violation.

(4) The town may seek to enforce §§ 94.070 through 94.079 by using any one or a combination of the foregoing remedies.

**(D) (1) Any person, firm or corporation violating provisions 94.024, 94.036, or 94.090, or failing or neglecting or refusing to comply with same, shall be subject to a civil penalty in the amount of \$50 after the given time to correct expires, or after the first 5 calendar days following the Notice of Violation where not otherwise specified.**

(2) Each day that a violation continues after a person has been notified that such a violation exists, and that he or she is subject to the penalty specified in subsection (a), shall constitute a separate offense once the time to correct has expired.

(3) The violator shall contact Town Hall for a re-inspection once the violation is remedied in order to stop the accrual of civil penalties. This penalty may be recovered by the Town in a civil action in the nature of debt if the violation persists, or if a balance remains unpaid after a final invoice is mailed.

(4) This section may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(5) The Town may enforce this chapter by any one or any combination of the foregoing remedies.

(6) Violations of the above mentioned sections shall not be considered a misdemeanor pursuant to G.S. § 14-4.



§ 95.05 MONUMENTS, MARKERS AND MEMORIAL ORNAMENTATION.

**CURRENT**

(A) Above-ground, vertical-face-etched headstones shall be referred to as "monuments". Flush-to-ground, horizontal-top-face-etched headstones shall be referred to as "markers". Monuments are only allowed on "family plots", which shall comprise or more contiguous, family-related and owned individual lots. Then, only one central monument is allowed on the family plot.

**PROPOSED**

(A) Above-ground, vertical-face-etched headstones shall be referred to as "monuments". Flush-to-ground, horizontal-top-face-etched headstones shall be referred to as "markers". Monuments are only allowed on "family plots", which shall comprise of more contiguous, family-related and owned individual lots. ~~Then, only one central monument is allowed on the family plot.~~

TYPE	Property Address	Description	Violation 2	Status	
1	MINIMUM HOUSING	117 W fields	150.63 (A) Every abandoned structure within the town shall be deemed in violation when the structure constitutes a hazard to health, safety or welfare due to insects or rodents; fire hazards; dangerous conditions; and/or use by vagrants.	In Progress- ALMOST COMPLETE	
2	MINIMUM HOUSING	512 E Robinson	150.63 (A) Every abandoned structure within the town shall be deemed in violation when the structure constitutes a hazard to health, safety or welfare due to insects or rodents; fire hazards; dangerous conditions; and/or use by vagrants.	In Progress- BOARDED BUT STILL VACANT, TO BE SOLD BY DECEMBER	
3	MINIMUM HOUSING	607 W Main St	150.63 (A) Every abandoned structure within the town shall be deemed in violation when the structure constitutes a hazard to health, safety or welfare due to insects or rodents; fire hazards; dangerous conditions; and/or use by vagrants.	In Progress- COORDINATING WITH CHURCH, FD CAN BURN FOR FREE	
4	MINIMUM HOUSING	522 E Carpenter St	150.43 (A) Certificate of compliance. No person shall occupy or allow another to occupy, or hold out for intended use for human habitation any building, dwelling unit or rooming unit designed or intended to be used for the purpose of human habitation which does not comply with the standards of this Code and for which a valid certificate of compliance has not been issued.	In Progress- OCCUPIED WITHOUT ACCESS TO UTILITIES	
5	MINIMUM HOUSING	406 starr	150.63 (A) Every abandoned structure within the town shall be deemed in violation when the structure constitutes a hazard to health, safety or welfare due to insects or rodents; fire hazards; dangerous conditions; and/or use by vagrants.	In Progress- ORDINANCE TO DEMOLISH ADOPTED	
6	MINIMUM HOUSING	519 e thornburg	150.63 (A) Every abandoned structure within the town shall be deemed in violation when the structure constitutes a hazard to health, safety or welfare due to insects or rodents; fire hazards; dangerous conditions; and/or use by vagrants.	In Progress- ORDINANCE TO DEMOLISH ADOPTED, TO BE BURNED IN SEPTEMBER	
7	MINIMUM HOUSING	514 E Robinson St	150.43 (C) (3) All fixtures, receptacles, equipment and wiring should be maintained in a state of good repair, safe, capable of being used and installed in accordance with the electric code adopted by the town.	150.43 (F) (1) Every foundation wall, exterior wall and exterior roof shall be substantially weather-tight, water-tight and rodent-proof; Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.	In Progress- OWNER GOT PERMITS FOR REMODEL
8	MINIMUM HOUSING	506 N Hill St	150.43 (F) (1) Every foundation wall, exterior wall and exterior roof shall be substantially weather-tight, water-tight and rodent-proof; Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.	150.43 (D) Minimum standards for heating. Every building, dwelling unit and rooming unit shall have facilities for providing heat so as to heat each dwelling unit with minimum temperature of 70°F measured at a point three feet above the floor during ordinary minimum winter conditions, and shall be installed in accordance with the Building Code adopted by the town and shall be maintained in a safe and good working condition.	In Progress- PERMITS OBTAINED, OWNER GIVEN UNTIL AUGUST TO COMPLETE REPAIRS (EXTENSION REQUESTED- GRANTED DUE TO PROGRESS)
9	MINIMUM HOUSING	308 dallas stanley	150.43 (F) (1) Every foundation wall, exterior wall and exterior roof shall be substantially weather-tight, water-tight and rodent-proof; Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.	Investigated- not yet started	
10	MINIMUM HOUSING	311 N COLLEGE	150.43 (F) (1) Every foundation wall, exterior wall and exterior roof shall be substantially weather-tight, water-tight and rodent-proof; Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.	150.22 (A)- Zoning permit required. No alteration, remodeling, repair, enclosure, or construction of any building or structure (including fences) shall take place until an application and plans are submitted for review and approval in the form of a zoning permit by the town's Development Services Director.	Investigated- not yet started
11	MINIMUM HOUSING	312 S Holland	150.43 (A) Certificate of compliance. No person shall occupy or allow another to occupy, or hold out for intended use for human habitation any building, dwelling unit or rooming unit designed or intended to be used for the purpose of human habitation which does not comply with the standards of this Code and for which a valid certificate of compliance has not been issued.	Investigated- not yet started	
12	MINIMUM HOUSING	511 E PEACHTREE	ABANDONED STRUCTURE- BOARDED	Investigated- not yet started	
13	MINIMUM HOUSING	517 E PEACHTREE	ABANDONED STRUCTURE- BOARDED	Investigated- not yet started	



## EXHIBIT

14	MINIMUM HOUSING	427 S College St	150.43 (C) (3) All fixtures, receptacles, equipment and wiring should be maintained in a state of good repair, safe, capable of being used and installed in accordance with the electric code adopted by the town.	150.43 (D) Minimum standards for heating. Every building, dwelling unit and rooming unit shall have facilities for providing heat so as to heat each dwelling unit with minimum temperature of 70°F measured at a point three feet above the floor during ordinary minimum winter conditions, and shall be installed in accordance with the Building Code adopted by the town and shall be maintained in a safe and good working condition.	Investigated- not yet started
15	NUISANCE- CARS	302 Ingle	93.06 (B) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements by this section.		In Progress- Violation sent
16	NUISANCE- CARS	2009 Red Leaf Ct	93.06 (B) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements by this section.  One junked motor vehicle, in its entirety, can be located in the rear yard if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.		Investigated- not yet started
17	NUISANCE- CARS	308 W Main St	93.06 (B) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements by this section.		Investigated- not yet started
18	NUISANCE- CARS	311 S HOLLAND ST	93.06 (B) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements by this section.  One junked motor vehicle, in its entirety, can be located in the rear yard if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.		Investigated- not yet started
19	NUISANCE- CARS	502 N HILL ST	93.06 (B) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements by this section.  One junked motor vehicle, in its entirety, can be located in the rear yard if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.		Investigated- not yet started
20	NUISANCE- CARS	608 NORTH ST	93.06 (B) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements by this section.  One junked motor vehicle, in its entirety, can be located in the rear yard if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.		Investigated- not yet started
21	NUISANCE- GENERAL	502 N Poplar	camper and junk		Investigated- not yet started
22	NUISANCE- HEALTH	300 W CHURCH ST	92.01 (A) 1- Noxious weeds and other rank vegetation; any growth of weeds or grass or other vegetation to a height greater than 12 inches; or any accumulation of dead weeds, grass or brush		Investigated- not yet started

23	NUISANCE- HEALTH	414 S Maple St	92.01 (A) 1- Noxious weeds and other rank vegetation; any growth of weeds or grass or other vegetation to a height greater than 12 inches; or any accumulation of dead weeds, grass or brush	92.01 (A) 4- Accessory building or structure that has become so dilapidated or deteriorated so as to constitute a public nuisance	Investigated- IN PROGRESS
24	NUISANCE- HEALTH	307 S HOLLAND ST	92.01 (A) 1- Noxious weeds and other rank vegetation; any growth of weeds or grass or other vegetation to a height greater than 12 inches; or any accumulation of dead weeds, grass or brush	BLOCKED VISIBILITY	Investigated- not yet started
25	NUISANCE- HEALTH MINIMUM HOUSING	308 S HOLLAND ST	92.01 (A) 1- Noxious weeds and other rank vegetation; any growth of weeds or grass or other vegetation to a height greater than 12 inches; or any accumulation of dead weeds, grass or brush	150.43 (A) Certificate of compliance. No person shall occupy or allow another to occupy, or hold out for intended use for human habitation any building, dwelling unit or rooming unit designed or intended to be used for the purpose of human habitation which does not comply with the standards of this Code and for which a valid certificate of compliance has not been issued.	Investigated- not yet started
26	NUISANCE- HEALTH	321 S HOLLAND ST	92.01 (A) 5-All fences , retaining walls or similar structures that are not firmly anchored to the ground, maintained in good structural condition and free of deterioration. Deteriorated features shall be repaired, replaced or completely removed. Grass, weeds and other vegetation around the fences shall be maintained in compliance with division (A)(1).	BLOCKED VISIBILITY	Investigated- not yet started
27	NUISANCE- HEALTH	403 MONARCH	92.05(C) Persons who cut or trim trees for hire shall, within ten days after the completion of a particular job, remove all tree trimmings and other remaining refuse from the premises upon which the job was performed, and disposed of the same at a landfill or other similar place of disposal.		Investigated- not yet started
28	NUISANCE- HEALTH	611 LEWIS ST	92.01 (A) 1- Noxious weeds and other rank vegetation; any growth of weeds or grass or other vegetation to a height greater than 12 inches; or any accumulation of dead weeds, grass or brush		Investigated- not yet started
29	NUISANCE- HEALTH	510 N Poplar	92.01 (A) 4- Accessory building or structure that has become so dilapidated or deteriorated so as to constitute a public nuisance		Investigated- not yet started
30	NUISANCE- HEALTH ZONING	202 W GIBBS ST	153.016 (E) Maintenance required. All fences and walls shall be kept in good repair, with construction, maintenance, replacement and reconstruction occurring as needed. A fence will be considered dilapidated when, by reason of inadequate maintenance, obsolescence or abandonment, it is deteriorated or decayed, or has bent or broken supports and panels and no longer adequately serves the purpose for which it was originally intended. If vegetative screening is included with the fence/wall, vegetation and shrubs must be trimmed and maintained.	92.01 (A) 5-All fences , retaining walls or similar structures that are not firmly anchored to the ground, maintained in good structural condition and free of deterioration. Deteriorated features shall be repaired, replaced or completely removed. Grass, weeds and other vegetation around the fences shall be maintained in compliance with division (A)(1).	In Progress
31	NUISANCE-GENERAL	103 E Church St	91.09 (A) The use of carports, open porches, decks, open garages and other outdoor areas that are visible to streets or other public areas as a storage or collection place for boxes, appliances, furniture (but not including typical outdoor or yard furniture), tools, equipment, junk, garbage, old, worn out, broken or discarded machinery and equipment, cans, containers, cardboard containers		In Progress



32	NUISANCE-GENERAL	305 N Davis	91.10 (A) The use of carports, open porches, decks, open garages and other outdoor areas that are visible to streets or other public areas as a storage or collection place for boxes, appliances, furniture (but not including typical outdoor or yard furniture), tools, equipment, junk, garbage, old, worn out, broken or discarded machinery and equipment, cans, containers, cardboard containers, household goods or any similar condition that increases the likelihood of a fire; may conceal dangerous conditions, may be a breeding place or habitat for mice, rats or other pests; or create an unattractive condition or visually blighted property		Investigated- not yet started
33	NUISANCE-GENERAL	506 E Poplar	91.10 (A) The use of carports, open porches, decks, open garages and other outdoor areas that are visible to streets or other public areas as a storage or collection place for boxes, appliances, furniture (but not including typical outdoor or yard furniture), tools, equipment, junk, garbage, old, worn out, broken or discarded machinery and equipment, cans, containers, cardboard containers, household goods or any similar condition that increases the likelihood of a fire; may conceal dangerous conditions, may be a breeding place or habitat for mice, rats or other pests; or create an unattractive condition or visually blighted property	92.01 (A) 3- Accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause accumulation of stagnant water or the inhabitation thereof by rats, mice, snakes or noxious insects.	Investigated- not yet started
34	NUISANCE-GENERAL NUISANCE- HEALTH	410 N COLLEGE ST	91.10 (A) The use of carports, open porches, decks, open garages and other outdoor areas that are visible to streets or other public areas as a storage or collection place for boxes, appliances, furniture (but not including typical outdoor or yard furniture), tools, equipment, junk, garbage, old, worn out, broken or discarded machinery and equipment, cans, containers, cardboard containers, household goods or any similar condition that increases the likelihood of a fire; may conceal dangerous conditions, may be a breeding place or habitat for mice, rats or other pests; or create an unattractive condition or visually blighted property	92.01 (A) 3- Accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause accumulation of stagnant water or the inhabitation thereof by rats, mice, snakes or noxious insects.	In Progress- active Notice of Violation
35	NUISANCE-GENERAL NUISANCE- HEALTH	301 Lay St	91.09 (A) The use of carports, open porches, decks, open garages and other outdoor areas that are visible to streets or other public areas as a storage or collection place for boxes, appliances, furniture (but not including typical outdoor or yard furniture), tools, equipment, junk, garbage, old, worn out, broken or discarded machinery and equipment, cans, containers, cardboard containers, household goods or any similar condition that increases the likelihood of a fire; may conceal dangerous conditions, may be a breeding place or habitat for mice, rats or other pests; or create an unattractive condition or visually blighted property	92.01 (A) 3- Accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause accumulation of stagnant water or the inhabitation thereof by rats, mice, snakes or noxious insects.	In Progress- active Notice of Violation
36	ZONING	610 BROOKGREEN	91.10 (A) The use of carports, open porches, decks, open garages and other outdoor areas that are visible to streets or other public areas as a storage or collection place for boxes, appliances, furniture (but not including typical outdoor or yard furniture), tools, equipment, junk, garbage, old, worn out, broken or discarded machinery and equipment, cans, containers, cardboard containers, household goods or any similar condition that increases the likelihood of a fire; may conceal dangerous conditions, may be a breeding place or habitat for mice, rats or other pests; or create an unattractive condition or visually blighted property	153.009 (B) (1) No accessory structure for which this section is applicable shall be constructed or placed on a lot without prior issuance of a zoning permit issued by the Development Services Director. No permit will be issued for accessory structures on lots without a principal structure present.	In Progress- COURT ACTION NEEDED
37	ZONING	507 E Poplar	old trailer- occupied? Dilapidated		Investigated- not yet started
38	ZONING	601 SUMMEY FARM	90.02(2) The area wherein the hive(s) are located shall be screened from view by either an opaque ("non see-through") fence of at least four feet in height, and/or an equivalent screening of vegetation. If a vegetative screen is used, such vegetation shall be installed at a minimal height of four feet upon planting. In no case shall a hive be visible from a public street or sidewalk.		Investigated- not yet started
39	PUBLIC WORKS ZONING	612 E TRADE ST	51.04 (A) Every site upon which one or more dumpsters are to be placed shall be located and constructed so as to facilitate collection and minimize any harmful effect on persons occupying the development site, neighboring properties or public rights-of-way.	51.04 (B) (1) All dumpsters shall be screened where, in the absence of screening, they would be clearly visible at dumpster level to Persons located within any dwelling unit on residential property other than that where the dumpster is located	Investigated- not yet started

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ZONING	112 N SUMMEY ST	§ 153.003 (A) No building or land shall be used or occupied and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein for the zone in which it is located.  Use: Commercial/vehicle storage lot in an R-8	§ 153.060 The outdoor storage of any motor vehicles or used appliances shall be screened from the public street and from any adjoining lots by a chain link fence at least five feet in height, and by a row of hedge or other natural planting of comparable opacity.	Investigated- not yet started
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## CODE ENFORCEMENT OFFICER – PART-TIME

General Statement of Duties

Performs responsible work in the enforcement of zoning and other Town ordinances.

Distinguishing Features of the Class

An employee in this class is responsible for carrying out a consistent program of enforcement of various Town codes within the Town limits, and the ETJ where appropriate. The employee responds to and investigates issues concerning zoning or public nuisance-types, as well as following up on potential problems discovered during regular patrolling of the community. Initiative and collaborative conflict resolution is required in ensuring property owners, residents, and business owners comply with regulations. Duties are performed under the supervision of the Development Services Director and are evaluated through observation, reports, and feedback from the public.

Duties and ResponsibilitiesEssential Duties and Tasks

- Tracks and responds to complaints regarding zoning, nuisance, or minimum housing violations.
- Conducts code enforcement operations within the Town to identify and address zoning, nuisance, and minimum housing code violations.
- Interprets the Town's ordinances and regulations to individuals.
- Conducts the necessary research into various matters and coordinates activities with other departments, as applicable.
- Issues violations, notices, warnings, and citations.
- Coordinates abatement actions as needed and verifies work is complete.
- Creates and processes invoices and/or liens related to code enforcement activities.
- Serves as a Town Representative at Town Board meetings and/or court proceedings as needed
- Removes illegal signs from rights-of-way.
- Works with other Town employees, including those within the Police Department and Fire Department, to further identify problem/blighted areas and affect a complete enforcement strategy.
- Assists in the development of new policies, procedures, and ordinances as needed.

Additional Job Duties

- Performs other duties as required.

Recruitment and Selection GuidelinesKnowledge, Skills, and Abilities

- Skills to operate equipment/software/photography devices, typically used within an enforcement environment; including Microsoft Office applications, enforcement/planning software programs, personal computers, tablets, fax machines, and phone systems.
- Ability to learn and apply aspects of federal, state, and local laws, regulations, policies, procedures, and standards pertinent to assigned areas of responsibility.
- Ability to interpret codes and ordinances and their application to specific situations.
- Ability to develop legal citations and warnings.
- Ability to prioritize, manage, and organize a variety of enforcement activities.
- Ability to work collaboratively to resolve problems and to enforce regulations tactfully and firmly in a consistent manner.
- Ability to express ideas effectively in oral and written forms.

Ability to conduct themselves in a professional manner, regardless of the situation.

Ability to establish and maintain effective working relationships with Town and State officials, developers, property owners and the general public.

Ability to perform varied assignments under appropriate degrees of supervision.

Physical Requirements

Must be able to physically perform the basic life operational functions of stooping, kneeling, reaching, standing, walking, climbing stairs, pulling, pushing, lifting, fingering, talking, hearing, and repetitive motions.

Must be able to perform light work exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or a negligible amount of force constantly to move objects.

Must possess visual acuity to perform reviews, field inspections; prepare and analyze data and statistics, operate a computer and do extensive reading.

Desirable Education and Experience

Requires graduation from High School and two years of experience in inspections or enforcement; or any equivalent combination of experience and training which provides the required knowledge, skills, and abilities.

Special Requirements

Possession of a valid North Carolina driver's license.