



Amendments to Ordinance Enforcement Provisions

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Session Law 2021-138

North Carolina Decriminalizes Most Local Ordinance Violations

On August 25, 2022, the North Carolina General Assembly enacted Session Law 2021-138, which:

- prohibited criminal penalties for certain local ordinance violations;
- removed the legal presumption that local ordinance violations constituted misdemeanor offenses, requiring instead that local governments specify which violations of their ordinances constitute misdemeanor offenses; and
- provided new defenses for persons charged with criminal violations of local ordinances.



Session Law 2021-138

North Carolina Decriminalizes Most Local Ordinance Violations

- Previously, the general rule was that “if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district . . . [such person] shall be guilty of a Class 3 misdemeanor.” N.C. Gen. Stat. § 14-4(a).
- With the adoption of Session Law 2021-138, this is no longer the case. Now, criminal penalties for certain kinds of ordinances are prohibited altogether; and
- if a County wishes to use criminal penalties where still allowed, it must clearly specify which of its ordinances can be enforced with criminal penalties (because it can no longer rely on the “general rule”).



Prohibited Enforcement

- ✓ No local government may impose criminal or infraction penalties for ordinances that:
 - Regulate planning and development, “except for those ordinances related to unsafe buildings”
 - Concern the regulation or licensure of businesses or trades
 - Concern stream-clearing programs
 - Regulate outdoor advertising
 - Limit or regulate solar collectors, cisterns, or rain barrels
 - Regulate trees
- ✓ Additionally, a county may not impose criminal or infraction penalties for ordinances related to the registration of mobile homes, house trailers, etc.



Specification; Adoption

As discussed, now both counties and cities may only attach misdemeanor or infraction penalties to ordinances “if the [local government] specifies such in the ordinance.”

Further, “no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.”



An Ordinance Amending the Enforcement Provisions of Certain County Ordinances to Comply with Session Law 2021-138

- The County Legal Department and has worked with the County officials who administer the County's Code of Ordinances to draft amendments to the Code's enforcement provisions, which are intended to bring the County's Code of Ordinances into compliance with Session Law 2021-138.
- In all, County Staff recommends approximately thirty (30) ordinance revisions.

