

**TOWN OF MCADENVILLE COUNCIL AGENDA  
TUESDAY, NOVEMBER 9, 2021 @ 6:00 PM  
163 MAIN STREET, MCADENVILLE NC**

- 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE & INVOCATION**
- 2. ADJUSTMENT & APPROVAL OF NOVEMBER AGENDA:** Items will only be added or removed upon approval of the Mayor and Town Council.
- 3. APPROVAL OF MINUTES:** Regular meeting of October 12, 2021.
- 4. PROCLAMATION:** Gaston County will celebrate its 175<sup>th</sup> Anniversary on December 21, 2021. A proclamation supporting Gaston County's Anniversary Seal and other planned events celebrating this milestone is being presented for Council support.
- 5. PUBLIC HEARING:** Comments will be received on proposed text amendments to the McAdenville Town Code related to legislation passed in SB300. Background: Recent statutory amendments to G.S. 160A-175(b) curtail the types of ordinances that may be punishable as misdemeanors or infractions under G.S. 14-4. Civil penalties remain viable options where the statute no longer allows for infraction or misdemeanor penalties. Under the revised statute, ordinance violations resulting in either penalty under G.S. 14-4 or civil penalty both remain subject to injunctive relief for ongoing violations requiring abatement or other like intervention, and civil penalties remain collectable in nature of debt.

Text amendments to the following sections of the McAdenville Town Code are being submitted for vote to comply with the new legislation.

**Chapter 1 (Definitions)**

Section 1-10 is insufficient to apply penalty to all ordinances as a catch-all.

Recommendation is to leave in place but to amend the remainder of the Code as follows.

**Chapter 5 (General Offenses)**

Section 5-20 penalty language must be applied to each ordinance individually.

**Chapter 6 (Motor Vehicles)**

Amend to reflect that fines for infractions must be no greater than \$50 per G.S. § 14-4. Civil penalties to remain at the current levels.

**Chapter 7 (Streets and Sidewalks)**

Section 7-34 penalty language must be applied to each ordinance individually.

**Chapter 8 (Trades and Businesses)**

Section 8-3 no longer applicable; G.S. §14-4 as amended may no longer be applied to impose criminal penalties for violations of ordinances falling under trade and business. Recommendation is to amend to reflect civil penalty rather than criminal infraction or misdemeanor.

**Chapters 9-17**

Recommendation is to remove criminal penalty references from ordinances regulating planning, development, building codes, and construction (except for those related to unsafe

buildings); setbacks; curb cuts; trees; and stream-clearing programs, and to (in-line with previous chapters) apply penalty language to each ordinance individually, where applicable.

- I. Open Public Hearing**
  - II. Attorney Comments / Council Q&A**
  - III. Public Comments**
  - IV. Close Public Hearing**
  - V. Actions Item:** Council to consider approval of reviewed text amendments to the McAdenville Code of Ordinances. Note: All text amendments are to the form of the ordinance only, with the exception of penalties related to business and trade regulation which will be lessened to a civil penalty only, and that all penalties are remaining the same under the proposed amendments.
- 6. POLICE DEPARTMENT REPORT:** Chief Adams, CPD, will report on police activity for the month of September and address any concerns of Council.
  - 7. COUNCIL GENERAL DISCUSSION:** This is an opportunity for the Mayor and Council to ask questions for clarification, provide information to staff, or place an item on a future agenda.
  - 8. OPPORTUNITY FOR PUBLIC COMMENT:** This is an opportunity for members of the public to address items of interest to the Mayor and Town Council. This is not a time to respond or act. Any necessary action will be taken under advisement. Speakers are asked to stand, state their name and address for the record and limit comments to no more than five minutes.

**ADJOURN**

## **TOWN OF MCADENVILLE MINUTES OCTOBER 12, 2021**

The McAdenville Town Council met in Regular Session on Tuesday, October 12, 2021, at 6:00 PM in the Council Chambers of Town Hall located at 163 Main Street, McAdenville N.C.

### **PRESENT:**

Mayor Jim Robinette and Mayor Pro-tem Jay McCosh; Council Members: Reid Washam and Joe Rankin. Also in attendance: Attorney Chris Whelchel, Police Chief Adams, and Town Administrator/Clerk Lesley Dellinger. Council Members Carrie Bailey and Greg Richardson were absent.

### **CALL TO ORDER:**

Mayor Robinette called the meeting to order at 6:00 PM and led in the Pledge of Allegiance. Mayor Pro-tem McCosh opened the meeting with prayer.

### **ADJUSTMENT & APPROVAL OF AGENDA:**

The October Agenda was approved as submitted by motion of Reid Washam, second by Joe Rankin with unanimous vote.

### **CONSENT AGENDA:**

The items of the Consent Agenda were unanimously approved by motion of Mayor Pro-tem McCosh, second by Reid Washam with unanimous vote:

- a) **Approval of Minutes:** Regular Meeting and Closed Session of September 14, 2021.
- b) **Memorandum of Understanding for CTT Signage Campaign:** Council approved the MOU detailing the terms and conditions of the \$6,000 donation to the CTT signage campaign. The donation will be payable over two budget years.
- c) **Duke Energy Street Lighting Agreement for Poplar Street:** Council approved Agreement #DECNA42027821 for installation of ten 50-watt LED fixtures on existing utility poles totaling \$2,883.60 payable in equal installments of \$80.10/month for 3 years.

### **PRELIMINARY SITE PLAN – GREENWAY PARKING UPGRADES:**

The preliminary site plan for redesign of the parking area at the McAdenville Greenway Park by Ledford Design was presented for Council review and input. Staff stated that the parking lot and sidewalk were designed to grade with no concrete curbing to minimize standing water and sediment collection during flooding. Mayor Robinette added that fencing may be necessary along Lakeview to prevent vehicle access in area designated for open or greenspace. Following discussion, Council presented no revision requests for the proposed design.

### **INFRASTRUCTURE COMMITTEE:**

Council supported Lesley Dellinger's request to organize a formal Committee for Infrastructure Stability and Improvement. The purpose of the committee would be to prioritize capital improvement projects and research funding opportunities. The committee would operate in an advisory capacity and provide recommendations to Council for consideration. Membership would consist of two Board members, the Town Administrator, and 1-3 volunteers. Councilman

Washam stated that he would like to participate on the committee and would assist with soliciting volunteer participation.

**POLICE DEPARTMENT REPORT:**

Chief Adams distributed the monthly report and offered to answer questions from Council. He stated that the rise in traffic citations for speeding are the result of increased patrols along Main Street and Hickory Grove Road. Additional he noted that the City of Gastonia has recently approved a large pay increase for their officers, and that the CPD is reviewing their pay scales to ensure that they stay competitive and can maintain retention of qualified officers.

**COUNCIL GENERAL DISCUSSION:**

Mayor Robinette stated that he had contacted the AT&T Regional Director of External Affairs, Kathleen Evans, to inquire if plans were in place to communicate to their subscribers that service voids may exist once the Lakeview Drive cell tower is removed. Ms. Evans confirmed that AT&T was aware of the situation and was working toward a resolution.

Attorney Chris Whelchel updated Council on recent statutory amendments to G.S 160A-175(b) curtailing the types of ordinances that may be punishable as misdemeanors or infractions under G.S. 14-4. He stated that he had reviewed the McAdenville Town Code and identified needed changes to comply with the new regulations. A memo outlining recommendations for text amendments were submitted to Council for review and discussion. Upon motion by Joe Rankin, second by Reid Washam with unanimous vote, a public hearing on proposed text amendments to the McAdenville Code of Ordinances was set for November 9, 2021, at 6:00 PM. Attorney Whelchel stated that redlined documents with the proposed ordinance changes will be provided to staff for the Town's website and presented during the public hearing. Following the public hearing, the amendments will be presented to Council for adoption consideration.

**OPPORTUNITY FOR PUBLIC COMMENT:**

Mayor Robinette opened the floor for public comment. No comments were received.

**ADJOURN:**

There being no further business to come before the board, the meeting adjourned at 6:40 PM upon motion of Joe Rankin, second by Reid Washam and unanimous vote.

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Jim Robinette, Mayor

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Lesley Dellinger, Town Clerk

**Town of McAdenville**

*Proclamation*

**Celebrating Gaston County's 175<sup>th</sup> Anniversary**

**WHEREAS, Gaston County will celebrate its 175<sup>th</sup> Anniversary on December 21, 2021; and**

**WHEREAS, Gaston County was first inhabited by Cherokee and Catawba Indians, and was later settled by German, Scotch Irish, and English immigrants, and now has a population of nearly 228,000 residents from a multitude of backgrounds; and**

**WHEREAS, Gaston County is now the ninth largest county population-wise in the state of North Carolina; and**

**WHEREAS, Gaston County has added more than 46,000 residents to its population since the County celebrated its Sesquicentennial in 1996; and**

**WHEREAS, The North Carolina General Assembly split Gaston County from Lincoln County to allow for smaller and more localized government; and**

**WHEREAS, Gaston County's original seat was in Dallas and was moved to Gastonia 110 years ago following a vote by its residents; and**

**WHEREAS, Gaston County has, through visionary leadership, diversified its economy and built upon the strengths of its citizens to grow a strong manufacturing base with good paying, long-lasting jobs; and**

**WHEREAS, Gaston County has a proud history with a bright and prosperous future; and**

**WHEREAS, all of Gaston County's 14 municipalities are all invited to participate in the celebration.**

**NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of McAdenville will join in celebrating Gaston County's 175<sup>th</sup> Anniversary and supports displaying an official 175<sup>th</sup> Anniversary Seal to celebrate the occasion.**

**BE IT FURTHER RESOLVED that this Proclamation, to be adopted the 9<sup>th</sup> day of November, 2021, be made a part of the Minutes of the Board.**

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**Honorable Jim Robinette  
Mayor, Town of McAdenville**



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ATTORNEY CLIENT PRIVILEGED

To: Town of McAdenville / Town Council  
From: Christopher M. Whelchel, Esq.  
Date: October 12, 2021  
Subject: Statutory Amendments to G.S. Section 160A-175(b) and Impact on the Town's Ordinances

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**COUNCIL MEETING MEMORANDUM RE: SB300**

Recent statutory amendments to G.S. § 160A-175(b) curtail the types of ordinances that may be punishable as misdemeanors or infractions under G.S. § 14-4. Civil penalties remain viable options where the statute no longer allows for infraction or misdemeanor penalties. Under the revised statute, ordinance violations resulting in either penalty under § 14-4 or civil penalty both remain subject to injunctive relief for ongoing violations requiring abatement or other like intervention, and civil penalties remain collectable in the nature of debt.

The amended statute also provides that any ordinance punishable as an infraction or misdemeanor must set out the penalty in the ordinance itself. A close reading of the statute, as well as guidance offered by the School of Government, suggests that the best practice for municipalities is to amend their codes of ordinances to harmonize with the new statute.

However, no ordinance purporting to impose a criminal penalty under § 14-4 may be adopted at the first public meeting/hearing at which it is raised. Essentially, the proposed revised ordinances which call or allow for penalties under § 14-4 must be raised at an initial council meeting (10/12), and then a subsequent meeting/hearing must be held, upon proper notice, for discussion and adoption of those ordinances (next regular council meeting). The criminal penalty provisions of the amended statute go into effect on 12/1/21, so these amendments should be effected as soon as possible to avoid any lapse in the Town's enforcement powers.

The statute also calls for police department recordkeeping and recruiting policy changes, which will likely be addressed by the Cramerton PD. On the ordinance and penalty portion, which is the most directly impactful for the Town, we have identified the following McAdenville ordinances as requiring revision:

**Chapter 1 (Definitions)**

Section 1-10 is insufficient to apply penalty to all ordinances as a catch-all. Recommendation is to leave in place but to amend the remainder of the Code as follows.

**Chapter 5 (General Offenses)**

Section 5-20 penalty language must be applied to each ordinance individually.

**Chapter 6 (Motor Vehicles)**

Amend to reflect that fines for infractions must be no greater than \$50 per G.S. § 14-4. Civil penalties to remain at the current levels.

**Chapter 7 (Streets and Sidewalks)**

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**Chapter 8 (Trades and Businesses)**

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**Chapters 9-17**

Recommendation is to remove criminal penalty references from ordinances regulating: planning, development, building codes, and construction (except for those related to unsafe buildings); setbacks; curb cuts; trees; and stream-clearing programs, and to (in-line with previous chapters) apply penalty language to each ordinance individually, where applicable.

Overall recommendation is:

1. Raise the above-referenced changes as proposed text amendments to the Code of Ordinances at the 10/12 meeting, such that they may be publicly heard and voted on for adoption at the next regular town council meeting.
2. Ensure that notice of the public hearing includes short-form descriptions of the proposed amendments in a form similar to that appearing above.
3. Ensure that notice of the public hearing stresses that the amendments are to the *form* of the ordinances only, and that (with the exception of penalties related to business and trade regulation, which will be lessened to a civil penalty only) *all penalties are remaining the same under the proposed amendments.*



# PREPARING TO IMPLEMENT CRIMINAL JUSTICE REFORM LEGISLATION IN TOWNS AND CITIES

October 2021

Gov. Roy Cooper on September 2, 2021 signed into law a wide-ranging piece of legislation that creates new databases, requires additional background checks and decriminalizes certain local government ordinances. This document is designed to highlight a few provisions in Senate Bill 300 (S.L. 2021-138) Criminal Justice Reform that deserve particular attention from local government attorneys, law enforcement agencies and administrators. Some of the changes may require town councils to adopt or amend ordinances; some provisions may require local governments to create new databases; and other provisions may require that new practices and processes be established. This guidance document highlights the main changes in the legislation. However, this is not legal advice and towns and cities are encouraged to read the entire bill and consult their staff attorneys or contract attorneys to determine the changes they need to implement.

## **A. DECRIMINALIZATION OF CERTAIN ORDINANCES (PART XIII):**

PART XIII of S.L. 2021-138, titled Decriminalization of Certain Ordinances, removes the current presumption that all local ordinances may be enforced criminally (G.S.160A-175) and states that ordinances may be enforced criminally as provided in G.S. 14-4 "only if the city specifies such in the ordinance." It further states: "Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced." It also includes a list of statutory sections in which cities cannot adopt ordinances with criminal enforcement. That list of topic areas are as follows: planning and regulation of development; stream clearing programs; regulating businesses and trades; outdoor advertising; solar collectors; cisterns and rain barrels; taxis; setback lines; curb cut regulations and ordinances regulating trees. The legislation specifies that these changes *go into effect Dec. 1, 2021*, so towns and cities have a limited time frame in which to respond to these changes.

To prepare for the change in the law, towns and cities should consider taking the following steps:

- i. Determine if you have ordinances which impose potential criminal penalties.
- ii. Make a list of ordinances for which you wish to retain criminal enforcement authority.
- iii. Check to make sure the list does not include ordinances that fall under the topic areas disallowed by the legislation.
- iv. Check to make sure the ordinance language includes clear criminal authority.
- v. If these ordinances do not have clear criminal authority, have town council adopt a new ordinance or a statement that comprises specific language in the ordinances that state they can be criminally enforced.
- vi. For ordinances that will not be enforced criminally, establish administrative capabilities to issue and collect civil citations or fines for violations and provide for an appeals process. **PRACTITIONER'S TIP:** For arrestable offenses, judicial officials have the authority to obtain personal identification information for an alleged violator. In civil matters, where only a citation or fine can be issued, obtaining the identity of the alleged violator may be difficult or practically impossible.
- vii. If town councils need to, adopt any new ordinances or changes to ordinances by Dec. 1, 2021, the date Part XIII of S.L. 2021-138 goes into effect. **PRACTITIONER's TIP:** Since the legislation requires the criminal authority to be specified in "the ordinance," towns and cities should carefully specify criminal enforcement in each applicable ordinance.
- viii. Note that ordinances with criminal enforcement authority cannot be adopted in the first meeting that it is introduced.

## **B. CREATING POLICIES, DATABASES AND FOLLOW UP PLANS**

Certain provisions require the creation of processes whereby law enforcement agencies must track specific types of incidents and report those to a statewide database. Practitioners say it is important that once this information is collected, it be properly retained so that confidentiality requirements are maintained, and that law enforcement officers (LEOs) be given the opportunity to challenge their inclusion if required by law. Once the data has been collected, practitioners also recommend that supervisors keep track of these



incidents, perhaps through an automated alert system, and supervisors create Action Plans to help individual officers avoid repeated occurrences. Setting up the database and tracking the data may be required by the new law but acting on the information may be a best practice to avoid being seen as having failed to follow through on early warning signs.

Under this legislation at least three sets of data must be collected:

1. **Critical Incident Database** – A new statewide database of critical incidents is established by this legislation. Critical incident is defined as “an incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person.” The information collected in this database stays confidential. While the legislation requires law enforcement agencies to report “critical incidents,” involving police officers, it also provides the officer a right, prior to being placed in the database, to request a hearing in Superior Court for a determination of “whether the officer’s involvement was properly placed in the database.” Agencies may want to create a process whereby an officer is informed prior to their names being submitted to this database, and the officer be informed of an opportunity to exercise a right to request a hearing in Superior Court. **PRACTITIONER’s TIP:** It should be noted that the right to a hearing is limited to whether the officer’s involvement was properly placed in the database, not the appropriateness of the officer’s actions during the incident. Also, if the incident results in disciplinary action there may also be a need for a name clearing hearing so these two processes may overlap and possibly conflict. **PRACTITIONER’s TIP:** When advising an officer regarding a hearing, consider the risks of the process in the event of future litigation.
2. **Early warning system** - Every agency that employs law enforcement is required to develop a confidential early warning system for law enforcement including at minimum instances of use of force, discharge of firearm, vehicle collisions and citizen complaints (Part VIII). The system’s essential purpose is to identify possible problem officers, not to collect data. Many small agencies could implement an early warning system manually. But for some agencies, this could be a time-

consuming effort, requiring the creation of a computerized system that collects the information, creates an alert at a particular threshold of reports and ultimately triggers a supervisor to place the officer on a remedial plan. Some system to monitor the data collected and alert a supervisor to repeated offences may be needed to avoid future claims that the agency failed to properly supervise such officers. The “use of force” information to be collected can be individualized to each agency, possibly including instances where handcuffs were placed on an individual and the number of minor vehicle accidents. The data collected under this database stays confidential. This section is effective Dec. 1, 2021 and applies to actions and behaviors on or after that date.

**3. Duty to intervene and report excessive use of force**

Part XVI of the legislation creates a duty for LEOs to intervene and report an excessive use of force by a LEO. This may require agencies that do not have such a policy to adopt one. In addition, agencies should also create a reporting system like ones for critical incidents and the early warnings system. Agencies that do not evaluate their officers’ use of force open themselves up for negligent retention and supervision claims. Agencies should evaluate the performance of their officers who consistently trigger alerts to determine what measures should be taken to correct any noted deficiencies in the officer’s performance, including but not limited to, education, additional training, and disciplinary action.

**C. RETAINING AND USING THE DATA**

Even while they collect additional data required by this legislation, personnel departments should remember that G.S. 160A-168 requires personnel data to be kept confidential unless it is exempt under a specific exemption. In particular, consider: “section (c4). Even if considered part of an employee’s personnel file, the following information regarding any sworn law enforcement officer shall not be disclosed: (3) Any identifying information as defined in G.S. 14-113.20.”



**D. OTHER PROVISIONS OF INTEREST THAT MAY REQUIRE AGENCIES TO PREPARE PROCESSES INCLUDE THE FOLLOWING:**

- Decertification - Part I of the bill creates a public database of LEO certification suspensions and revocations to be established by the N.C. Criminal Justice Education and Training Standards Commission.
- Applicants for law enforcement positions and current law enforcement will be required to provide fingerprints, and agencies will have to submit those to the SBI for a federal and state background check by June 23, 2023. (Part II)
- Applicants for law enforcement positions will have to undergo psychological screening and local governments will have to foot the bill for the screening. (Part VI).  
**PRACTITIONER'S TIP:** Consider the costs of such screenings and include those costs when preparing budget estimates.
- Law enforcement will need to report Giglio notifications in writing to the statewide Criminal Justice Standards Division. Those required to report these letters include the individual LEO, the agency head and a judge that issues the notification. (Part IV)
- Changes to the body cam recording viewing statute (Part XXI): No later than three business days from receipt of the notarized form - provided by the law enforcement agency - requesting immediate disclosure of footage in a case involving death or serious bodily injury, a law enforcement agency shall file a petition in the Superior Court in any county where any portion of the recording was made for issuance of a court order regarding disclosure of the recording. Any person who willfully records any recording disclosed pursuant to this subsection shall be guilty of a Class 1 misdemeanor. Any person who knowingly disseminates a recording disclosed pursuant to this subsection shall be guilty of a Class I felony. **PRACTITIONER'S TIP:** Check to ensure the law enforcement agency has a supply of high-capacity thumb drives where hours of footage can be downloaded for quick transmittal to the Superior Court judge.
- Part X of the legislation now adds the Governor to the list of individuals who may ask the SBI to investigate deaths due to use of force by a law enforcement officer.

*The N.C. League of Municipalities thanks the following city attorneys who provided valuable input into creating this document:*

*Jeffrey C. Sugg, City of Asheboro*

*Brian Meyer, Town of Apex*

*Toni Russ, City of Durham*

*Tiffanie Sneed, Town of Chapel Hill*

*In addition, we would like to thank Fred Baggett of the Police Chiefs Association for reviewing the document.*

For questions or comments, please contact:

Leo John, Legislative Counsel, N.C. League of Municipalities

[ljohn@nclm.org](mailto:ljohn@nclm.org) or 919-522-5138



**CRAMERTON POLICE DEPARTMENT**  
**MONTHLY REPORT: October, 2021**

**McADENVILLE CONTRACT**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTALS
<b>ARREST TOTALS</b>	0	4	1	0	1	3	3	6	3	1			22
Adult	0	4	1	0	1	3	3	6	2	1			21
Juvenile	0	0	0	0	0	0	0	0	1	0			1
Felony	0	0	1	0	1	2	2	2	3	1			12
Misdemeanor	0	1	0	0	0	1	1	3	0	0			6
Traffic	0	3	0	0	0	0	0	1	0	0			4
<b>DWI ARRESTS</b>	0	2	0	0	0	0	1	1	0	0			4
<b>CALLS FOR SERVICE</b>	122	151	182	176	217	158	203	205	199	229			1842
<b>CASE TOTALS</b>	4	4	1	1	3	3	3	4	2	4			29
Felony	2	1	1	1	3	2	3	2	1	1			17
Misdemeanor	2	3	0	0	0	0	0	2	1	2			10
Traffic	0	0	0	0	0	0	0	0	0	1			1
<b>DRUG INVESTIGATIONS</b>	0	1	1	0	1	0	2	2	1	0			8
<b>TRAFFIC CITATIONS</b>	7	25	10	5	90	26	60	17	21	17			278
License Vios.	5	9	4	1	6	0	0	1	1	4			31
Registration Vios.	1	8	5	4	29	7	16	4	1	5			80
Restraint Vios.	0	0	0	0	0	1	0	0	0	0			1
Speeding Vios.	1	6	1	0	35	12	18	5	18	8			104
Sign/Signal Vios.	0	0	0	0	3	2	6	1	0	0			12
Other Traffic	0	2	0	0	25	6	20	6	3	8			70
<b>TRAFFIC CRASHES</b>	2	4	0	1	2	5	4	2	1	0			21
Damage	2	2	0	1	2	2	3	2	0	0			14
Injury	0	2	0	0	0	3	1	0	1	0			7

