



STAFF REPORT

Agenda Title: Public Safety Ordinance Amendments

Presenter: Chief Michael J. Dykes

Staff Contact: Chief Michael J. Dykes

Meeting Date: October 18, 2022

Summary:

Revisions to existing public safety ordinances to comply with changes made by Session Law 2021-138.

Background:

In September of 2021, Governor Roy Cooper signed into effect Session Law 2021-138, commonly referred to as S.B. 300, which brought several changes and reforms in law enforcement. Included in this bill was a provision that decriminalized certain ordinances which had been adopted by counties and municipalities across North Carolina. It also required for language to be provided within the specific ordinance if an ordinance was still to be considered a Class 3 Misdemeanor or if the fine was to exceed \$50.00. Failure to include such language removed the ability to arrest for an offense and automatically capped fines at \$50.00.

Staff Analysis:

The included amendments were proposed by Town Staff and have incorporated discussion from the Town Council from their regular meeting on September 20, 2022.

Process and Timeline:

N.C.G.S. 160A-175 states that no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced. It is staff's position this includes revisions to an existing ordinance as well as proposing a new ordinance. The following revisions were introduced to the Town Council on September 20, 2022 for review with adoption, with approval, on the October 18, 2022 regular meeting.

Budget Impact:

No impact to budget.

Staff Recommendation & Requested Action:

It is the recommendation of staff that these revised changes to the Public Safety Ordinances be adopted by the Woodfin Town Council.

Attachments:

(1) Draft Code Changes



**ORDINANCE AMENDING CHAPTERS 6, 22, 42 & 50 OF THE CODE OF ORDINANCES
OF THE TOWN OF WOODFIN TO UPDATE PUBLIC SAFETY STANDARDS**

Ordinance: 2022-XXXX

Passed _____

WHEREAS, the Town of Woodfin has the authority pursuant to Article 8 of Chapter 160A of the North Carolina General Statutes to define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define and abate nuisances; and

WHEREAS, the Town of Woodfin Town Council may amend said regulations from time to time in the interest of the public health, safety, and welfare; and

WHEREAS, Session Law 2021-138 provides additional direction on the application of certain public safety regulations; and

WHEREAS, the Town initiated a recommendation to amend multiple chapters of the Code of Ordinances, containing standards related to public safety and welfare; and

WHEREAS, the public hearing for this text amendment has been noticed in compliance with the North Carolina General Statutes; and

WHEREAS, this text amendment was introduced at the Woodfin Town Council's September 20, 2022, public meeting; and

WHEREAS, the Woodfin Town Council held the public hearing on October 18, 2022 and, after hearing such, recommended approval of the proposed ordinance amendments:

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Woodfin, that the Town of Woodfin Code of Ordinances is hereby amended as follows:

Section 1:

- a. Amend **Sec. 6-33. Penalty** by replacing the entire section with the following:

Sec. 6-33. Penalty.

- (a) Any person who violates any provision of this chapter shall be guilty of a Class 3 misdemeanor and subject to a fine not exceeding \$500. If the violation is continued, each day's violation shall be a separate offense.

(b) Any person who violates section 6-5 shall be given a warning upon the first offense but shall be subject to a fine of not more than \$500 upon a second offense.

b. Amend **Sec. 22-1. Discharge of gun.** By adding the following sentence at the end of the section:

Any person who violates this section shall be guilty of a Class 3 misdemeanor and subject to a fine not exceeding \$500.

c. Amend **Sec. 22-2. Public possession, consumption of alcoholic beverages.** By adding a new subsection “(e)” at the end of the section as follows:

(e) Any person who violates this section shall be guilty of a Class 3 misdemeanor and subject to a fine not exceeding \$500.00.

d. Amend **Sec. 22-3. Presence of registered sex offender on or about public parks.** By adding a new subsection “(d)” at the end of the section as follows:

(d) Any person who violates this section shall be guilty of a Class 3 misdemeanor and subject to a fine not exceeding \$500.00

e. Amend **Sec. 22-4. Begging and soliciting.** By adding a new subsection “(h)” at the end of the section as follows:

(h) Any person who violates this section shall be guilty of a Class 3 misdemeanor and subject to a fine not exceeding \$500.00.

f. Amend **Sec. 22-5. Loitering.** By adding a new subsection “(d)” at the end of the section as follows:

(d) Any person who violates this section shall be guilty of a Class 3 misdemeanor and subject to a fine not exceeding \$500.00.

g. Amend **Sec. 22-6. Feeding of bears.** By adding the following sentence at the end of the section:

Any person who violates this section shall be guilty of a Class 3 misdemeanor and subject to a fine not exceeding \$500.00.

h. Amend **Chapter 22, Article IV. NOISE** By adding the following section:

Sec. 22-132. Penalty

Violation of any provision of this article or any obligation imposed by it shall constitute a Class 3 misdemeanor, in addition to and separate from any of the remedies set forth by this article. Any person cited under the provisions of this article shall be assessed a fine not exceeding \$500.00 for each day, and every day during which such violations shall continue. Each day shall be a separate and distinct violation of this section.

i. Amend **Sec. 50-27. Penalty** By replacing the entire section with the following:

- (a) Any person, firm, or corporation violating any of the provisions of this article or failing or neglecting or refusing to comply with same, shall, upon conviction, be subject to a civil penalty not exceeding \$50.00.
- (b) Failure to remove an illegally parked or inoperable vehicle within 24 hours of initial citation may result in towing or immobilization of said vehicle and an additional \$25.00 fine. Any vehicle with three or more unpaid parking violations may be towed or immobilized and fined an additional \$25.00. If immobilized, the owner must pay all outstanding fines and a fee of \$100.00 for the removal of the device. Once towed, a vehicle shall not be released until all outstanding fines are satisfied including the \$35.00 impound release fee.

j. Amend **Sec. 50-65. Penalty** By replacing the entire section with the following:

Any person, firm, or corporation violating any of the provisions of this article, or failing or neglecting or refusing to comply with same, shall be subject to a civil penalty not exceeding \$50.00.

Section 2: If any provisions of this Ordinance are for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, independent provision and such holding shall not affect the validity of any other provision thereof, and to that end, the provisions of this Ordinance are hereby declared to be severable.

Section 3: This Ordinance shall be effective on this 18th day of October, 2022.

Ayes _____

Nays _____

Abstains _____

Attest:

M. Jerry Vehaun, Mayor

Town Clerk