

**LENOIR CITY COUNCIL
TUESDAY, NOVEMBER 2, 2021
5:00 P.M.**

PRESENT: Mayor Joe Gibbons presiding. Councilmembers present were Mayor Pro-Tem Crissy Thomas, Jonathan Beal, Todd Perdue, Ike Perkins, Ralph Prestwood, David Stevens and Ben Willis. City Attorney T. J. Rohr, City Manager Scott Hildebran, City Clerk Shirley Cannon and Communications Director Joshua Harris were also present.

ZOOM: Fire Chief Ken Hair, Police Captain Andy Wilson, Recreation Director Kenny Story, Economic Development Director Kaylynn Horn, Finance Director Donna Bean, Planning Director Jenny Wheelock, Public Works Director Jared Wright and Public Utilities Director Radford Thomas participated via Zoom.

I. CALL TO ORDER

- A. The meeting was opened by a moment of silence followed by the Pledge of Allegiance as led by Mayor Gibbons.

CONDOLENCES; STEVENS

FAMILY: B. On behalf of City Council, Mayor Gibbons asked everyone to keep the family of Mrs. Allene Broyhill Stevens who passed away recently in their thoughts and prayers. Mrs. Stevens and her family have served the community well.

**CONDOLENCES; STEVENSON
& HARPER FAMILIES:**

- C. On behalf of City Council, Mayor Gibbons extended condolences to the Stevenson and Harper families and asked everyone to keep the families of these victims of the tragic shooting that occurred on Monday in their thoughts and prayers. Mayor Gibbons also asked everyone to remember the infant child that was wounded during this incident in their thoughts and prayers as he continues to recover at the Charlotte Medical Center (CMC).

Mayor Gibbons also asked everyone to keep the staff of the Emergency Medical Services (EMS), first responders, City of Lenoir firefighters and police officers that responded to the call as well in their thoughts and prayers during this difficult time.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council meeting of Tuesday, October 19, 2021 as submitted.
B. Minutes: Approval of the closed session minutes of the City Council meeting of Tuesday, October 19, 2021 as reviewed by the City Attorney, City Manager and City Council.
C. Minutes: Approval of the minutes of the Committee of the Whole meeting of Tuesday, October 26 as submitted.

Upon a motion by Councilmember Stevens, Council voted 7 to 0 to approve the above listed items on the Consent Agenda as recommended and as

presented by City Manager Hildebran.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

ANNUAL FALL LEAF PICKUP:

1. The City of Lenoir's annual fall leaf pickup service began on Monday, November 1 and ends on Monday, January 31, 2022.

CITY/COUNTY SERVICES COMMITTEE:

2. The City/County Services Committee will meet on Monday, November 8 at noon.

EDC:

3. The Caldwell County Economic Development Commission will meet on Tuesday, November 9 at 8:00 a.m.

NATIONAL LEAGUE OF CITIES; VIRTUAL CITY SUMMIT:

4. The National League of Cities (NLC) virtual City Summit begins on Monday, November 18 and ends on Friday, November 19. Participating in this virtual conference is Mayor Joe Gibbons, Councilmember Ben Willis, City Attorney T.J. Rohr, and City Manager Scott Hildebran.

HOLIDAY CLOSINGS:

5. City offices will be closed on Thursday, November 11 in observance of Veterans Day. City offices will also be closed on Thursday, November 25 and Friday, November 26 in observance of Thanksgiving.

VETERANS DAY CEREMONY:

6. American Legion Post 29 will host a Veterans Day Service on Thursday, November 11 at 11:00 a.m. at the stage area on the square.

LENOIR BUSINESS ADVISORY BOARD:

7. The Lenoir Business Advisory Board will conduct a virtual meeting on Thursday, November 11 at 6:00 p.m.

PLANNING BOARD:

8. The Planning Board will meet in person on Monday, October 25 at 5:30 p.m. at the City/County Chambers.

ANNUAL TURKEY TUESDAY:

9. The 7th Annual Drive-By Community Turkey Tuesday will be held on Tuesday, November 23 beginning at 5:00 p.m. at the Martin Luther King, Jr. (MLK) Center located at 313 Greenhaven Drive to assist families in need. The event is hosted by Councilmembers Ike Perkins and Crissy Thomas.

ANNUAL CHRISTMAS

PARADE: 10. The City of Lenoir's annual Christmas parade will be held on Friday, December 3 beginning at 6:30 p.m. in the downtown area.

B. ITEMS FOR COUNCIL ACTION

SB300 ORDINANCE AMENDMENTS;

FIRST READING:

1. Planning Director Jenny Wheelock gave a presentation regarding an ordinance amending Chapters 1, 2, 5, 9, 13 and Appendix C of the Lenoir Code of Ordinances, which addresses updates prompted by Senate Bill 300 (SB300). These amendments made legislative changes to the General Statutes which become effective December 1, 2021.

A copy of the presentation is hereby incorporated into these minutes by reference. (Refer to pages 340-349.)

The proposed amendments decriminalize certain kinds of ordinances state-wide and amends North Carolina General Statute 14-4 which pertains to violation of local ordinances.

Staff also recommends Council call for a public hearing to be held on Tuesday, December 7 for the second reading of the Ordinance. Staff will recommend approval of the Ordinance following the second reading.

Upon a motion by Councilmember Perdue, Council voted 7 to 0 to approve the first reading of the Ordinance and to schedule a public hearing to be held on Tuesday, December 7 for the purpose of the second reading of the Ordinance. Staff will recommend approval of the Ordinance following the second reading.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

BOARD ANNOUNCEMENT; LENOIR HOUSING AUTHORITY:

- A. On behalf of City Council, Mayor Gibbons presented Ben Boaz for re-appointment to serve a three-year term on the Lenoir Housing Authority. This re-appointment was announced at the October 19 City Council meeting.

Upon a motion by Councilmember Willis, City Council voted 7 to 0 to re-appoint Ben Boaz to serve a three-year term on the Lenoir Housing Authority as recommended by Mayor Gibbons.

IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS

X. ADJOURNMENT

- A. There being no further business, the meeting was adjourned at 5:28 p.m.

City of Lenoir SB300 changes; “Good Housekeeping” 2021

November 2021

Technical Ordinance

- ▶ Changes prompted by recently adopted Criminal Justice Reform measures (SB 300) by the state legislator.
 - ▶ Effective December 1, 2021
- ▶ Clean-up outdated statutory references; local code provisions no longer authorized (privilege licenses, massage parlors, pawn brokers and precious metals dealers).
- ▶ Minor amendments related to appointed boards (lingering 160D follow-up changes)

SB 300

- ▶ Decriminalized certain kinds of ordinances state-wide
- ▶ Amended G.S. 14-4
- ▶ ^ These are only one small part of the whole bill.

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SECTION 13.(c) G.S. 14-4 reads as rewritten:

"§ 14-4. Violation of local ordinances misdemeanor.

(a) Except as provided in subsection ~~(b)~~, ~~(b) or (c)~~ of this section, if any person shall violate an ordinance of a county, city, town, or metropolitan sewerage district created under Article 5 of Chapter 162A, he shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00). No fine shall exceed fifty dollars (\$50.00) unless the ordinance expressly states that the maximum fine is greater than fifty dollars (\$50.00).

(b) If any person shall violate an ordinance of a county, city, or town regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than fifty dollars (\$50.00).

(c) A person may not be found responsible or guilty of a local ordinance violation punishable pursuant to subsection (a) of this section if, when tried for that violation, the person produces proof of compliance with the local ordinance through any of the following:

(1) No new alleged violations of the local ordinance within 30 days from the date of the initial alleged violation.

- (2) The person provides proof of a good-faith effort to seek assistance to address any underlying factors related to unemployment, homelessness, mental health, or substance abuse that might relate to the person's ability to comply with the local ordinance."

SECTION 13.(b) G.S. 160A-175 reads as rewritten:

⁵² § 160A-175. Enforcement of ordinances.

...

(b) ~~Unless the Council shall otherwise provide, Except for the types of ordinances listed in subsection (b1) of this section, violation of a city ordinance is may be a misdemeanor or infraction as provided by G.S. 14-4. G.S. 14-4 only if the city specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.~~

(b1) No ordinance of the following types may impose a criminal penalty:

- (1) Any ordinance adopted under Article 19 of this Chapter, Planning and Regulation of Development, or its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.
- (2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing programs.
- (3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing businesses, trades, etc.
- (4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- (5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating cisterns and rain barrels.
- (7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.
- (8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.
- (9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.
- (10) Any ordinance regulating trees.

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Didn't have to start from scratch...

- ▶ Session Law 2018-69 required all local governments to submit a list of criminalized local ordinances, by December 1, 2018
- ▶ In 2018, Planning and Police worked together to compile this data for the state
- ▶ So, we already had a good idea of where we had criminal penalties adopted locally, and also which local ordinances we most frequently charged.

Recommendations from 2018...

- ▶ Staff recommended that ordinances that related to a specific place, where violations of the ordinance tend to be “ongoing” could be decriminalized
- ▶ Recommended that “time and place” violations (leash laws, discharging a fire arm) were more appropriate to remain criminal
- ▶ SB300 seems to follow this philosophy.
- ▶ **THREE ORDINANCES TO BE SPECIFICALLY ADOPTED WITH CRIMINAL PENALTIES:**
 - ▶ Discharging a Fire Arm in the City Limits
 - ▶ Fire Bombs
 - ▶ Consumption of Alcohol on City Property

Chapter 5 - BUSINESS REGULATION, LICENSING AND TAXATION

- ▶ Prior to the repeal of privilege license taxes, we didn't always make a distinction (in the code or in practice) between the PLT and licenses/permits required for specific types of uses.
- ▶ Some changes proposed attempt to “clean up” the language, to be clear we still have the authority to regulate businesses, just not charge PLT.

- ✓ Chapter 5 - BUSINESS REGULATION, LICENSING AND TAXATION
 - ARTICLE I. - SOLICITORS AND PEDDLERS
 - ARTICLE II. - LICENSE TAXES ✗
 - ARTICLE III. - BILLIARD AND POOL HALLS
 - ARTICLE IV. - MASSAGE PARLORS ✗
 - ARTICLE V. - SECONDHAND PRECIOUS METALS
 - ARTICLE VI. - CATV FRANCHISING REGULATIONS
 - ARTICLE VII. - PAWNBROKERS

Chapter 5 - BUSINESS REGULATION, LICENSING AND TAXATION

- ▶ 160A-194 gives local governments ability to regulate businesses, under their general police power.
- ▶ Ordinances adopted pursuant to 160A-194 are decriminalized under SB300
- ▶ If specific authorization for regulating a business was found elsewhere in the statutes, with criminal penalties, staff assumed it remained criminal (Example: Chapter 66, Article 45 – contains specific rules for pawnbrokers and precious metal dealers.

§ 160A-194. Regulating and licensing businesses, trades, etc.

(a) A city may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the city may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor.

(b) Nothing in this section shall authorize a city to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State.

(c) Nothing in this section shall authorize a city to regulate and license a TNC service regulated under Article 10A of Chapter 20 of the General Statutes. (1971, c. 698, s. 1; 2013-413, s. 12.1(a); 2014-3, s. 12.3(c); 2014-115, s. 17; 2015-237, s. 5.)

Board Regulations – Surgical Edits Proposed

- ▶ Most of our advisory boards were created under broad authority in 160D.
- ▶ Staff audited board rules of procedure and membership following adoption of our omnibus amendments.
- ▶ Edits proposed to Parks and Rec Board section to reflect current practice; language about when board terms start and end aims to clarify confusion in some of the individual code sections, and changes proposed to make Planning Board members “ex officio” members of the Board of Adjustment.
 - ▶ NCGS 128-1 (Can only serve on one elected board and one appointed board, or on two appointed board)

Process Considerations/Next Steps

- ▶ To add criminal penalties, need to have two readings of the ordinance (can't adopt on 1st reading)
- ▶ Amendments to ordinances authorized by 160D require public hearings
- ▶ First Reading: Tonight (November 2nd)
- ▶ 2nd Reading/Public Hearing (December 7th)

Questions???



Photo Credit: Mathew Anthony