



## Legislation Text

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**File #:** 22-301, **Version:** 1

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**TITLE:**

Public Hearing on Text Amendment to the Land Use Ordinance Relating to Certain Limitations on the Use of Criminal Penalties

**PURPOSE:** The purpose of this agenda item is for the Town Council to consider a proposed amendment to bring the Land Use Ordinance into conformity with state legislation relating to the use of criminal penalties for violations of development regulations.

**DEPARTMENT:** Planning

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**INFORMATION:** The North Carolina legislature adopted the Criminal Justice Reform Act, S. L. 2021-138 (SB 300) as part of the 2021 Session. In accordance with Part XIII of the new law, Decriminalization of Certain Ordinances, local governments must amend local ordinances to specifically identify violations that may be enforced with criminal penalties. In general, criminal penalties may not be imposed for violations to ordinances enacted under Chapter 160D (planning and regulation of development) except for ordinances relating to unsafe buildings and certain other regulations that are separately authorized in other sections of the General Statutes.

A draft ordinance to amend Article VII, Enforcement and Review, of the Land Use Ordinance has been prepared (*Attachment B*). If adopted, Section 15-114, Penalties and Remedies for Violation, would be amended in two ways. First subsection 15-114(a) would be replaced with new language that would specifically address violations for subdividing lots without plat approval (LUO Section 15-77) as these violations could be considered misdemeanors per G.S. 160D-807(a). Second, subsection 15-114(b) would be replaced with new language that would consider any act of violation of any other provision, condition, or requirement of the LUO to be subject to a civil penalty of up to five thousand dollars.

The Town Council must receive public comment before adopting amendments to the Land Use Ordinance. The draft ordinance was referred to Orange County and presented at the Planning Board meeting on October 6<sup>th</sup>. During its review, the Planning Board noted that the draft ordinance was not clear as to whether the existing descriptive criteria listed under Subsection 15-114(b) (1) through (3) was intended to be retained or deleted as part of the amendment. The draft ordinance has been revised to clarify that the existing language is intended to be retained.

Comments are provided as (*Attachment C*). A copy of Article VII of the LUO is provided for information (*Attachment D*); Section 15-114.

**FISCAL & STAFF IMPACT:** Public notice costs and staff time are associated with the review of text amendments for public hearings and advisory board review.

**RECOMMENDATION:** Staff recommends that the Town Council consider adopting the attached resolution for consistency (*Attachment A*) and the draft ordinance (*Attachment B*).