



Legislation Text

File #: 22-257, **Version:** 1

TITLE:

Request to Set a Public Hearing on a Land Use Amendment Relating to Certain Limitations on the Use of Criminal Penalties

PURPOSE: The purpose of this item is for the Town Council to consider setting a public hearing on a text amendment to the Land Use Ordinance to conform to state legislation relating the use of criminal penalties for violations of development regulations.

DEPARTMENT: Planning

CONTACT INFORMATION: Christina Moon, Planning Administrator, 919-918-7325, cmoon@carrboronc.gov <<mailto:cmoon@carrboronc.gov>>; Patricia McGuire, Planning Director, 919-918-7327, pmcguire@carrboronc.gov <<mailto:pmcguire@carrboronc.gov>>; Nick Herman, Town Attorney, 919-929-3905, herman@broughlawfirm.com <<mailto:herman@broughlawfirm.com>>

INFORMATION: During the 2021 Session, the North Carolina legislature adopted S. L. 2021-138 (SB 300), also known as the Criminal Justice Reform Act. Under the new statutory language adopted in Part XIII of the 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. Planning Board and Orange County review is also needed. A copy of Article VII of the LUO is provided for information (*Attachment C*); Section 15-114.

FISCAL & STAFF IMPACT: Public Hearings involve staff and public notice costs associated with advisory board and Town Council Review.

RECOMMENDATION: Staff recommends that the Town Council consider the attached resolution (*Attachment A*) setting a public hearing for November 1, 2022, and referring the proposed amendment to Orange County and the Planning Board.