

# Memo

**To:** Gregg Guetschow, Charlotte City Manager  
**From:** Thomas M. Hitch, Charlotte City Attorney *TMA*  
Molly L. Coscarelli, Assistant Charlotte City Attorney *MLC*  
**Date:** September 16, 2019  
**Subject:** Proposed Amendment to 32-6

Please find attached a proposed ordinance to amend 32-6, Municipal Civil Infractions, of the City Code. Upon further review of the ordinance, we found that the entire Chapter 52 was not included as municipal civil infractions anymore. Thus, the dangerous buildings section, 52-2, is a misdemeanor as it should be. The rest of Chapter 52 appears to currently be misdemeanor violations also.

Both the City and our office have always treated the other sections of Chapter 52, such as nuisance, noise, weeds, inoperable vehicles and property maintenance violations that do not include occupying or allowing a person to live in a dangerous building, as civil infractions because they used to be. We believe that there was no intention to make these violations misdemeanor violations.

The attached proposed ordinance would make all of Chapter 52 violations civil infractions again, except for 52-2 (dangerous buildings). As we discussed, dangerous buildings violations should continue to be misdemeanor violations because said violations are not for owning a dangerous building, but for occupying or allowing another to occupy a premises that has been deemed and posted unsafe or for removal and/or defacing a condemnation or emergency order posted on the property by the Fire Department.

There have been at least two homes this year in which the Fire Department has deemed the building unsafe, boarded it up and vagrants have removed the order and occupied the home. Because the vagrants typically continue to return after the Fire Department boards the home again and places a new order on the doors, the Police Department should have the authority to make an arrest to get the people out of the property instead of simply issuing a citation.

In some instances, the Police Department could arrest for trespass instead; however, proving trespass requires proof that the owner told the occupant he or she could not occupy the building. This is difficult because the owners are sometimes difficult to find at the time of the incident, may be deceased or may lie to the police in fear of admitting to violating the ordinance themselves by

allowing someone to occupy the residence. The City has no possessory interest under the trespass ordinance; the owner or person with an interest in the home are the only people allowed to ban others from the residence.

Therefore, the dangerous building section 52-2 should, in our opinion, continue to be a misdemeanor, but all of the other violations in Chapter 52 should not.

TMH:MLC:lac

Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Effective: \_\_\_\_\_

CITY OF CHARLOTTE  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 32, MUNICIPAL CIVIL INFRACTIONS, BY AMENDING SECTION 32-6, SCHEDULE OF CIVIL FINES ESTABLISHED, BY ADDING VIOLATIONS FOR 52-1, 52-26 THROUGH 52-99 TO THE LIST OF MUNICIPAL CIVIL INFRACTIONS WITHIN THE CODE OF THE CITY OF CHARLOTTE.

Councilmember \_\_\_\_\_ moved the following:

**THE CITY OF CHARLOTTE ORDAINS:**

Section 32-6 of Chapter 32 - Municipal Civil Infractions - of the Code of the City of Charlotte is hereby amended to read as follows:

**§32-6 SCHEDULE OF CIVIL FINES ESTABLISHED.**

(A) A schedule of civil fines payable to the Bureau for admissions or responsibility by persons served with municipal civil infraction notices is hereby established. The fines for the violations listed below shall be as follows:

First offense \$ 50  
First repeat offense \$150  
Second repeat offense \$300

- (1) Chapter 14 of the Charlotte City Code- Buildings and Building Regulations.
- (2) § 26-26 of Chapter 26 of the Charlotte City Code-Environment.
- (3) § 26-27 of Chapter 26 of the Charlotte City Code-Environment.
- (4) §§ 26-41 through 26-47 of Chapter 26 of the Charlotte City Code-Environment.
- (5) §§ 30-26 and 30-27 of Chapter 30 of the Charlotte City Code-Fire Prevention and Protection.
- (6) Chapter 50 of the Charlotte City Code- Solid Waste.
- (7) Chapter 58 of the Charlotte City Code- Streets, Sidewalks and Other Public Places.
- (8) Chapter 68 of the Charlotte City Code- Utilities.
- (9) Chapter 70 of the Charlotte City Code- Vegetation.
- (10) Chapter 82 of the Charlotte City Code - Zoning.
- (11) § 26-71 of Chapter 26 of the Charlotte City Code - Environment.
- (12) § 26-72(1) of Chapter 26 of the Charlotte City Code - Environment.
- (13) § 26-72(3) of Chapter 26 of the Charlotte City Code - Environment.
- (14) § 26-72(5) through (11) of Chapter 26 of the Charlotte City Code - Environment.
- (15) § 34-8 of Chapter 34 of the Charlotte City Code - Offenses.

- (16) §§ 34-10 and 34-11 of Chapter 34 of the Charlotte City Code - Offenses.
  - (17) § 34-14 of Chapter 34 of the Charlotte City Code - Offenses.
  - (18) § 34-291 of Chapter 34 of the Charlotte City Code - Offenses.
  - (19) § 34-322 of Chapter 34 of the Charlotte City Code - Offenses.
  - (20) Chapter 38 of the Charlotte City Code - Parks.
  - (21) Chapter 74 of the Charlotte City Code - Vehicles for Hire.
  - (22) § 10-5 of the Charlotte City Code - Removal of Dog and Cat Droppings.
  - (23) § 10-6 of the Charlotte City Code - Dogs on Leashes.
  - (24) § 52-1, §52-26 through 52-99 of Chapter 52 of the Charlotte City Code - Property Maintenance and Nuisance Abatement.
- (B) A copy of the schedule, as amended from time to time, shall be posted at the Bureau.

Second, \_\_\_\_\_ ( ) Yeas. ( ) Nays.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Timothy M. Lewis, Mayor

\_\_\_\_\_  
Ginger Terpstra, Clerk