

## CITY COUNCIL REGULAR MEETING

City Council Chambers

Monday, October 11, 2021 at 7:00 PM

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### AGENDA

*Bessemer City will conduct this meeting in accordance with the Governor's current Executive Order issued in response to the COVID-19 Public Health Emergency. Full vaccinated people are not required to wear a mask. All others are.*

#### **Call to Order, Prayer, Pledge of Allegiance**

**Adjustment and Approval of the Agenda** — *Items will only be added or removed with the approval of the Mayor and City Council.*

**Request to Speak/Opportunity for Public Comment** — *This is an opportunity for members of the public to express items of interest to the Mayor and City Council. This is not a time to respond or take action. Any necessary action will be taken under advisement. Speakers are asked to use proper decorum and to limit comments to no more than three minutes.*

**Consent Agenda** — *The items of the Consent Agenda are adopted on a single motion and vote, unless the Mayor and City Council wish to withdraw an item for separate vote and/or discussion.*

1. **Approval of Minutes** - City Council will consider adopting the Regular Meeting minutes of September 13th, 2021.
2. **Approval of Minutes**- City Council will consider adopting the Work Session Meeting minutes of September 28th, 2021.
3. **Ratify Telephone Poll - Latin Heritage Month Proclamation:** City Council will consider ratifying the telephone poll approving the adoption of the Latin Heritage Month proclamation.
4. **Street Closure for Halloween Movie in the Park:** City Staff is requesting a temporary street closure of the 100 block of West Virginia Avenue for the Parks & Recreation Movie in the Park on Friday, October 22nd from 5:00 PM -11:00PM.
5. **Temporary Street Closure- Community Tree Lighting & Christmas in the City Festival and Parade:** City Staff is requesting a temporary street closure of the 100 block of West Virginia Avenue for Parks & Recreation Community Tree Lighting on Saturday, November 20th at 6:30 PM, and on Friday, December 4th at 9:00 AM for the Christmas in the City festival and parade.

#### **Business Items**

6. **Establish Public Hearing:** City Council will consider setting a public hearing to rezone property located at 801 W. 161 Highway (PID 121181) and (PID 121182) at the Monday, November 8th, 2021 meeting at 7:00 PM.
7. **Establish a Public Hearing:** City Council will consider establishing a public hearing to bring Bessemer City code of ordinances in compliance with the new state law at the Monday, November 8th, 2021 Regular Council Meeting at 7:00 PM.
8. **Establishment of Parks & Advisory Board:** City Council will consider establishing a Parks & Recreation Board and the Staff recommended by laws.
9. **Parks & Recreation Advisory Board Members:** City Council will review several applications received from Community Members and appoint 7 members to serve on the Parks & Recreation Advisory Board.
10. **Public Hearing-Text Amendments:** City Council will hold a public hearing regarding several text amendment changes to the Land Development Code (LDC). The Text Amendment request presented by Bessemer City staff, is to Section 2.7.B Table of Uses for Wholesale/Warehouse usage permitted in the Business Campus Production BCP district, 3.2.B Accessory Structures, 3.3.F Garages and Carports, 3.8.C.13 Signage Requirements Table, and 3.8.D.5(b) Additional Requirements for Certain Permitted Signs. This public hearing was advertised in accordance to NCGS.
11. **Resolutions Adopting Text Amendments-** City Council will consider adopting resolutions to amend several sections of the Land Development Code (LDC): Section 2.7.B Table of Uses for Wholesale/Warehouse usage permitted in the Business Campus Production BCP district, 3.2.B Accessory Structures, 3.3.F Garages and Carports, 3.8.C.13 Signage Requirements Table, and 3.8.D.5(b) Additional Requirements for Certain Permitted Signs.
12. **Budget Amendment:** City Council will consider approving a budget amendment.
13. **Local Water Supply Plan:** City Council will consider adopting the local water supply plan. The Local Water Supply Plan provides a comprehensive assessment of water supply needs, water use, and water availability.

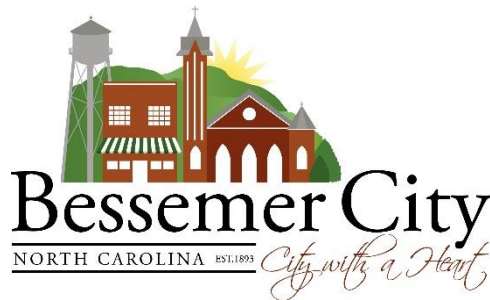
### **City Manager's Report**

14. **Ratify Telephone Poll-Purchase of Property:** City Council will consider ratifying the telephone poll approving the purchase of property at 107 W. Washington Avenue.
15. **Select Engineering Firm for Vantine Pump Station & Sewer Line Repair:** City Council will select an engineering firm to conduct the Vantine Pump Station sewer line upgrades. Grant funds have been received from NCDENR.

**Council General Discussion** — *This is an opportunity for the Mayor and City Council to ask questions for clarification, provide information to staff, request staff to report back, or place a matter on a future agenda.*

16. **Closed Session:** City Council will enter Closed Session to consult with the City Attorney in accordance with NCGS 143-318.11(3).

**Adjourn**



## CITY COUNCIL REGULAR MEETING

City Council Chambers

Monday, September 13, 2021 at 7:00 PM

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### MINUTES

#### Members Present

Mayor, Becky S. Smith, Council Members: Alfred Carpenter, Kay McCathen, Brenda Boyd, Dan Boling, Joe Will, and Donnie Griffin were all present. City Manager, James Inman and City Attorney, Dan O'Shea were present as well.

#### Call to Order, Prayer, Pledge of Allegiance

Mayor Smith called the meeting to order. First United Methodist Pastor, Tripp Hord led the audience in prayer. Mayor Smith led the audience in the Pledge of Allegiance.

#### Adjustment and Approval of the Agenda

By motion of Donnie Griffin and unanimous vote, the September agenda was approved.

#### Request to Speak/Opportunity for Public Comment

Mayor Smith opened the floor for public comment. There was none.

#### Consent Agenda

The following items on the Consent Agenda were unanimously approved by motion of Kay McCathen:

1. **Approval of Minutes** - Council will consider adopting the Regular Meeting minutes of August 9th, 2021.
2. **Approval of Minutes** - Council will consider adopting the Work Session Meeting minutes of August 31st, 2021.

#### Business Items

##### Proclamation: Dyslexia Awareness Month

Mayor, Becky S. Smith read the Dyslexia Awareness Month Proclamation aloud and declared October 2021 as a month of awareness in Bessemer City.

By motion of Alfred Carpenter and unanimous vote, the proclamation was adopted. A copy of the proclamation is available at City Hall.

##### Proclamation: Domestic Violence Awareness Month

Mayor, Becky S. Smith read the Domestic Violence Awareness Month Proclamation aloud and declared October 2021 as a month of awareness in Bessemer City.



By motion of Dan Boling and unanimous vote, the proclamation was adopted. A copy of the proclamation is available at City Hall.

### **Capital Project Ordinance**

City Manager, James Inman addressed Council regarding the Capital Project Ordinance. This ordinance is for the paving project. A number of City streets will be paved and patched.

By motion of Alfred Carpenter and unanimous vote, the capital project ordinance regarding the paving project was adopted.

### **Gaston County Building Inspection Agreement**

Code Enforcement Officer, Nathan Hester address Council regarding the inspection agreement. Said agreement would allow Gaston County Building inspectors to act as the City's agent and inspect setbacks for building structures and family dwellings. There will be a fee for this service from the County.

By motion of Joe Will and unanimous vote, the Gaston County Building Inspection Agreement was approved.

### **Demolition Ordinance – 709 Costner School Rd**

Code Enforcement Officer, Don Mauldin addressed Council regarding a demolition ordinance for property located at 709 Costner School Road. Said property has minimum housing code violations that have not meet the City code since 2018.

By motion of Dan Boling and unanimous vote, the ordinance regarding the demolition of property located at 709 Costner School Road and a lis pendens filing was approved.

### **City Manager's Report**

City Manager, James Inman addressed Council regarding the following:

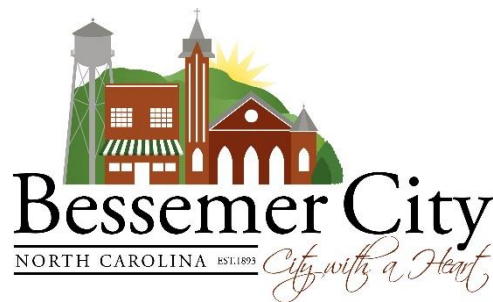
- Stinger Park Water & Sewer Lines Project: Several bids were received for the Stinger Park Water & Sewer Line project. City Staff is recommending the bid be awarded to Buckeye Bridge LLC. By motion of Donnie Griffin and a unanimous vote, the bid was awarded to Buckeye Bridge LLC.
- Bessemer City Swimming Pool: We had a successful year at the pool. Andrea Nixon, Event & Recreation Supervisor, in partnership with Gaston County Schools, distributed over 800 free meals to local youth.
- General: Two local downtown property owners will be doing façade improvements. The City will host a job fair this Thursday, September 16<sup>th</sup> from 2 -6 PM at the Allan Farris Center.

### **Council General Discussion**

Mayor Smith opened the floor for Council general discussion. Council member, Dan Boling inquired about several potholes on Maine Avenue. Council member, Joe Will inquired about the public comment sign up procedure for Regular City Council Meetings. By motion of Joe Will and unanimous vote, citizens will no longer have to register by 12:00Noon the day of the meeting to speak during the public comment. Council member, Donnie Griffin expressed his concern about Waste Pro placing trashcans in the road way.

### **Adjourn**

Being no further business to come before the board, by motion of Alfred and unanimous vote, the meeting was adjourned at 7:57 PM.



## CITY COUNCIL WORK SESSION

### City Council Chambers

**Tuesday, September 28, 2021 at 3:00 PM**

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## MINUTES

### **Call to Order**

Mayor Becky S. Smith called the meeting to order.

### **Members Present**

Mayor, Becky S. Smith, Council Members: Alfred Carpenter, Kay McCathen, Brenda Boyd, Dan Boling, Joe Will, and Donnie Griffin were all present. City Manager, James Inman was present as well.

### **Department Head Reports**

Bessemer City department heads gave reports on their department's status:

Josh Ross, Director of Administration- Mr. Ross addressed Council regarding the Osage Mill Redevelopment Project, the September 2021 Job Fair, and a request for an Artisans market event. The Osage Mill Redevelopment Project is still underway. A new development group is set to take over from the previous owners and execute the project. The September 2021 job fair had 12 employers and over 50 participants. A request to allow a temporary use of the parking lot on the 100 Block of East Virginia on Saturdays for a fall artisan and craft vendor event.

JoD Franklin, Parks and Recreation Director- Mr. Franklin addressed Council regarding the Health Fair, Movie in the Park, and the Christmas in the City Festival. The Health Fair will be held on Wednesday, October 27<sup>th</sup> from 10AM -12Noon at the Allan Farris Center. Seniors and City Staff will attend this year's fair. The Movie in the Park event will be held on Friday, October 22<sup>nd</sup> at 6:00 PM in Centennial Park downtown. Chestnut Ridge Baptist Church will be providing the popcorn, cotton candy, and more at the event. The Christmas in the City Committee met last week. The Committee recommends that the City combine the Tree Lighting, Christmas Parade, and Christmas in the City festival in to one event. The Committee also recommended that a College Band be contacted to be in the parade as well as changing the date. As City Staff have to return to work during the holiday period. Per both recommendations, City Staff is seeking approval to combine all of the events and moving the event to Saturday, November 20<sup>th</sup> or Sunday, November 21<sup>st</sup>. Mr. Franklin also addressed Council about the date for the Annual Down Home Festival. City Staff is seeking Council consensus to have it on Mother's Day weekend May 6<sup>th</sup> and 7<sup>th</sup> or the following weekend.

By general Consensus, the Tree Lighting, Christmas Parade, and Christmas in the City festival will be one event held on Saturday, November 20<sup>th</sup> and the Annual Down Home Festival will be Friday, May 6<sup>th</sup> and Saturday, May 7<sup>th</sup>.

Charlie Harbin, Fire Chief- Mr. Harbin addressed Council regarding the new roof, the upcoming ISO inspection, and the recruitment of Volunteer Firefighters.

City Planner, Nathan Hester- Mr. Hester addressed Council regarding the demolition of several houses.

Jamie Ramsey, Assistant City Manager- Mr. Ramsey addressed Council regarding the paving project and the Gastonia Booster Station. The Paving project has begun and will continue in to the colder months. Per Council, a write up regarding the project and the methodology of the street selection will be included in the next newsletter. The engineering firm used a computer to select the streets, based on a mathematical algorithm. The Gastonia Booster Station is now complete.

Tom Ellis, Police Chief- Mr. Ellis addressed Council regarding ongoing investigations and open positions in the department.

### **Parks & Recreation Advisory Board Applications**

Josh Ross, Director of Administration and JoD Franklin, Parks and Recreation Director addressed Council regarding the Parks & Recreation Advisory Board Applications received. Light discussion was held regarding the applications and bylaws.

By general Consensus, the establishment of the Board, Appointment of Members, and adoption of Bylaws will be placed on the October 2021 Regular Meeting Agenda.

### **House Bill 890- Social Districts**

City Manager, James Inman and Josh Ross, Director of Administration addressed Council regarding new legislation, House Bill 890. This bill permits and allows alcohol zones for local restaurants. Light discussion was held, and City Staff will continue to update Council on the creation of the zones.

### **CDBG- Rehabilitation Administrator-**

Director of Administration, Josh Ross addressed Council regarding a change in the CDBG rehabilitation administrator. Due to unforeseen circumstance, the City has to select a new administrator in order to continue with the rehabilitation of the selected homes. The CCOG has someone on staff who can serve as the administrator.

By motion of Donnie Griffin and unanimous vote, the CCOG has been selected as the new CDBG Rehabilitation Administrator.

### **City Manager's Report**

Mr. Inman informed Council that the Stormwater program is still under review. At the next Budget Retreat, Council will be asked to review the assessed fee and make changes to the program.

### **Council General Discussion**

Mayor Smith opened the floor for Council general discussion. Mayor Smith inquired about Halloween and if the City would issue a statement. Mayor Smith also commended the Parks & Recreation Program on a great Community Concert & Cruise In Season this Summer. Council member, Joe Will inquired about a mailer that was sent to citizens about recycling. This is a private company, and he asks that a notice be included in the newsletter to insure that citizens realize that this is not a City program.

### **Adjourn**

Being no further business to come before the board, the meeting was adjourned at 5:09 PM by motion of Alfred Carpenter and unanimous vote.

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Becky S. Smith, Mayor

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Hydeia Y. Hayes, City Clerk



## PROCLAMATION RECOGNIZING HISPANIC HERITAGE MONTH

**WHEREAS**, Hispanic Heritage Month is an opportunity to celebrate the culture, history, and contributions of Hispanic American citizens and highlights the countless achievements and contributions; and

**WHEREAS**, the observation began in 1968 as Hispanic Heritage Week under President Lyndon B. Johnson; this was observed annually until 1988 when it was expanded by President Ronald Reagan to the period of September 15th through October 15th and became National Hispanic Heritage Month, and this has been celebrated annually since then; and

**WHEREAS**, more than sixty million Americans of Hispanic origin today contribute to our national diversity, enriching the quality of American life with centuries old traditions that reflect the multi-ethnic and multicultural customs of their communities, while adding their own distinct and dynamic perspectives to the story of our country; and

**WHEREAS**, this observance affords special opportunities to become more knowledgeable about Hispanic heritage and to honor the many Hispanic Americans who represent a significant and fast growing demographic of the City of Bessemer City, we honor the invaluable ways they contribute to our country; and

**NOW THEREFORE**, I, Becky S. Smith, Mayor of Bessemer City and Commissioners of the City of Bessemer City, do hereby proclaim the month beginning September 15 and ending October 15, 2021 as National Hispanic Heritage Month and urge all citizens to join us in celebrating the great contributions of Hispanic Americans to our city, state, and nation.

**IN WITNESS THEREOF**, I hereunto set my hand and caused the seal of the City of Bessemer City to be affixed, this the 29<sup>th</sup> Day of September, 2021.

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Becky S. Smith, Mayor

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Hydeia Y. Hayes, City Clerk



## ORDINANCE REQUEST TO TEMPORARILY CLOSE STREET

**WHEREAS**, the City of Bessemer City wishes to allow recreational entertainment for the citizens of Bessemer City; and

**WHEREAS**, the City of Bessemer City understands the importance of allowing such entertainment in the downtown central business district of Bessemer City; and

**WHEREAS**, the City of Bessemer City acknowledges that a special event requires rerouting traffic and providing safety measures for citizens attending said events; and

**WHEREAS**, the City of Bessemer City wishes to host Movie in the Park along the:

- 100 Block of West Virginia Avenue on Friday, October 22, 2021 from 6:00PM-10:00PM

**NOW THEREFORE BE IT ORDAINED** by the City Council of Bessemer City pursuant to the authority granted by N.C.G.S. 160A-296.4 that they do hereby declare a temporary road closure during the days and times set forth below on the following described City Street:

Dates: Friday, October 22, 2021

Times: 5:00PM-11:00PM

Route Description: 100 Block of West Pennsylvania Avenue with proper barricades and traffic control (temporary use)

Adopted by City Council on this 11<sup>th</sup> day of October, 2021

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Becky S. Smith, Mayor

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Hydeia Y. Hayes, City Clerk



**ORDINANCE-TEMPORARY ROAD CLOSURE  
8<sup>th</sup> ANNUAL COMMUNITY TREE LIGHTING**

WHEREAS, the City of Bessemer City wishes to provide recreational entertainment for the citizens of Bessemer City;  
and

WHEREAS, the City of Bessemer City understands the importance of hosting such entertainment in the downtown central business district of Bessemer City; and

WHEREAS, the City of Bessemer City acknowledges that a special event requires rerouting traffic and providing safety measures for citizens attending said events; and

WHEREAS, the City of Bessemer City wishes to host the 8<sup>th</sup> Annual Community Tree Lighting along Highway 274 (West Virginia Avenue) on Saturday, November 20<sup>th</sup>, 2021.

NOW THEREFORE BE IT ORDAINED by the City Council of Bessemer City pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the days and times set forth below on the following described portion of a State Highway System route:

Dates: Saturday, November 20, 2021

Times: 5PM-8PM

Route Description: 100 Block of West Virginia Avenue

Adopted by City Council this 11<sup>th</sup> Day of October 2021

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Becky S. Smith, Mayor

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Hydeia Y. Hayes, City Clerk



**ORDINANCE-TEMPORARY ROAD CLOSURE  
13<sup>TH</sup> ANNUAL CHRISTMAS IN THE CITY AND ANNUAL CHRISTMAS PARADE**

WHEREAS, the City of Bessemer City wishes to provide recreational entertainment for the citizens of Bessemer City; and

WHEREAS, the City of Bessemer City understands the importance of hosting such entertainment in the downtown central business district of Bessemer City; and

WHEREAS, the City of Bessemer City acknowledges that a special event requires rerouting traffic and providing safety measures for citizens attending said events; and

WHEREAS, the City of Bessemer City wishes to host the 13<sup>th</sup> Annual Christmas in the City and Annual Christmas Parade along Highway 274 (North 14<sup>th</sup> Street, East and West Virginia Avenue) on Friday, December 4<sup>th</sup>, 2021 from 11:00AM-3:00PM.

NOW THEREFORE BE IT ORDAINED by the City Council of Bessemer City pursuant to the authority granted by G.S. 20-169 that they do hereby declare a temporary road closure during the days and times set forth below on the following described portion of a State Highway System route:

Dates: Friday, December 4<sup>th</sup>, 2021

Times: 9:00 AM-4:00 PM

Route Description:

*PARADE*

100 Block of North 12 Street between West Washington and West Virginia Avenue  
West Virginia Avenue between North 13<sup>th</sup> Street and North 8<sup>th</sup> Street

*CHRISTMAS IN THE CITY*

100 block of West Virginia Avenue, 100 block of East Virginia Avenue

Adopted by City Council this 11<sup>th</sup> Day of October, 2021

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Becky S. Smith, Mayor

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Hydeia Y. Hayes, City Clerk

## Land Development Code

### 8.8.B Modifications

General reference to Chapter 9 for code violation penalties; planning and regulation of development no longer punishable as misdemeanor.

### 9.4.A(1)(c) Enforceability

Reference to 14-4 superfluous; make specific reference to available remedies from Chapter 9, e.g., civil penalties or other enforcement actions.

### 9.4.A(3)(b)(4) Tree Protection Measures

Specify civil penalty of up to \$1,000.00 per violation; reword for clarity and to remove implication of duplicative penalties.

## General Provisions

### § 10.99 General Penalty

#### (A)

Close reading of the new statute renders this provision ineffective as written, but it is appropriate to leave as-is to serve as a “catch-all” as the new statute has not yet been interpreted by the courts and the catch-all provision may still prove effective in limited circumstances.

#### (G)

Amend to clarify application of late fee as defined here applies only to the default \$25.00 civil penalty and not to other civil penalties that may be specifically set forth elsewhere.

## Administration

### § 31.20(B) Limited Authority to Administer Oaths; False Swearing

Reference to Penalty section § 10.99 insufficient to punish false oath as misdemeanor.

### § 32.03 Rules and Regulations (re: Law Enforcement)

Clarify heading. Reference to Penalty section § 10.99 insufficient to punish violation of rules or regulations as misdemeanor.

### § 34.19(E) Formal Bids

Reference to Penalty section § 10.99 insufficient to punish dividing contracts to evade requirements as misdemeanor.

### § 34.20 Purchase Order Requirement

Reference to Penalty section § 10.99 insufficient to punish dividing purchases to evade threshold as misdemeanor.



#### § 34.99 Penalty

[Dan reviewing as to unrelated issues re: statutory cross-referencing and potential duplicative penalty language – fine to leave as-is.]

#### § 35.99(B) Penalty

Amend to read:

A person who violates any provision of this chapter, or who willfully fails to adhere to any restriction imposed by proclamation authorized by this chapter, shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00).

- This section ineffective to impose blanket penalty but appropriate to leave in as a “catch-all.” Insert comparable language to § 35.99(A) and (B) into §§ 35.02, 35.03, and 35.04 to remedy this.

### **Public Works**

#### § 51.015-16

Amend to include specific misdemeanor penalization and civil penalty language for noncompliance.

#### § 51.056 Determination of Need for Permit

Amend to include specific misdemeanor penalization and civil penalty language.

#### § 51.075 Reports of Potential Problems

Amend to include specific misdemeanor penalization and civil penalty language.

#### § 51.077 Notice of Violation/Repeat Sampling and Reporting

Amend to include specific misdemeanor penalization and civil penalty language for failure to notify.

#### § 51.078 Notification of Discharge of Hazardous Waste

Amend to include specific misdemeanor penalization and civil penalty language for failure to notify.

#### § 51.082 Recordkeeping

Amend to include specific misdemeanor penalization and civil penalty language for failure to maintain records.

#### § 51.095 Monitoring Facilities

Amend to include specific misdemeanor penalization and civil penalty language for noncompliance.

#### § 51.096 Inspection and Sampling

Amend to include specific misdemeanor penalization and civil penalty language for noncompliance.

#### § 51.125 Adjudicatory Hearings

Define “regular government hearing procedures” and identify the hearing body; add specific time for appeal of decision to Superior Court.

#### § 51.135(E) Upset

Amend to include specific misdemeanor penalization and civil penalty language for failure to control production as separate and continuing violation notwithstanding proof of upset as to underlying violation(s).

#### § 51.145 Administrative Remedies

Identify hearing body throughout.

#### § 51.146 Available Remedies

Amend to include specific misdemeanor penalization and civil penalty language for noncompliance as local violation where state law is silent, as well as for public nuisance. Add statutory citation for injunctive relief. Correct name of court for injunctive relief.

#### § 52.01, 02, 04, 07, 09, 10, 11, 14, 15, 32, 33, 34, 36\*

Amend to include specific misdemeanor penalization, infraction, and/or civil penalty language for violations. (\*Section .36 already contains civil penalty language but the unlawful reconnection and “guilty of meter tampering” language requires additional citation to authority and/or addition of local misdemeanor penalization.)

#### § 54.01-54.99

All items without penalties listed must be amended to include specific misdemeanor penalization and civil penalty language for noncompliance; reference to § 54.99 is insufficient. Amend § 54.99 to serve as “catch-all” as a belt-and-suspenders approach.

#### § 55.01, 02, 03, 04, 05, 06, 07

Amend to include specific misdemeanor penalization and civil penalty language for violation.

#### § 55.08

Include specific remedy of tax lien against property for repair/maintenance services rendered.

#### § 55.15

Include specific remedy of tax lien against property for repair/maintenance services rendered.

#### § 55.20

Include specific remedy of tax lien against property for repair/maintenance services rendered.

#### § 55.35, 36, 37, 38\*

Amend to include specific misdemeanor penalization and civil penalty language for violation or noncompliance. (\*Section 38 should be civil penalty only.)

#### § 55.50, 51

Amend to include civil penalty language for violation or exceeding scope of permit; include specific remedy of tax lien against property for costs if City forced to remedy issues after notice.

## **Cemetery Rules (Appendix to Public Works section)**

§5, 6, 7, 8, 9, 11, 12

Amend to include specific misdemeanor penalization, infraction, and/or civil penalty language for violations.

## **Traffic**

§ 70.01-70.16; § 71.01-71.04; § 72.01-72.10

Amend to include specific infraction, misdemeanor, or civil penalty language for each section referencing the penalty provisions of § 70.99.

§ 70.99

Appropriate to leave as a “catch-all” but insufficient by itself to have force under the new statute.

§ 73.99

Amend to include maximum amount of penalty to be assessed for violation and clarify whether additional penalty accrues upon failure to satisfy for \$5 within 10 days.

Chapter 75

Amend all references to § 70.99 to include specific infraction or civil penalty language.

§ 77.01 and § 77.99

Regulation must contain penalty specifying criminal infraction. Edit for clarity.

§ 78.03-78.05

Amend all references to § 78.99 to include specific infraction or civil penalty language.

§ 78.99

Appropriate to leave as a “catch-all” but insufficient by itself to have force under the new statute.

## **General Regulations**

Chapters 90 and 91 (Including Appendix / Schedule of Fees)

Amend and apply penalty language in each ordinance section currently referencing §§ 90.99 or 91.99. Those two sections can remain as-is, but references in § 91.99 to § 10.99 will be unenforceable as written and must be applied to each ordinance individually.

§ 93.01 - § 93.12

Amend all references to § 93.99 to include specific misdemeanor language.

#### § 94.01 - § 94.07

Criminal penalty language (misdemeanor) must be applied to each ordinance individually.

#### § 94.99

Ineffective as written under the new statute, but appropriate to leave as-is with minor alteration not to change the meaning or effect.

#### § 96.01 - § 96.07

Amend and revise to apply penalty language to controlling statute rather than separate section due to punishment as criminal infraction.

#### § 97.01 - § 97.04

Amend to include specific penalty language re: misdemeanor throughout.

#### § 97.99

Appropriate to leave as-is despite ineffective under new statute.

### **Business Regulations**

#### Chapters 110, 111, 112, 113, 114, 115, 116

Remove ALL references to § 10.99, G.S. 14-4, or misdemeanor penalty as new statute precludes criminal penalty for violations of business regulation ordinances. Apply civil penalty language instead either as .99 sections or in each ordinance that provides enforcement provisions.

#### Chapter 118

Amend to apply misdemeanor language to each individual section containing enforcement provisions.  
§ 118.99 unenforceable as written under new statute.

### **General Offenses**

#### Chapter 130

Remove all references to § 10.99 and include misdemeanor language in each ordinance punishable as a misdemeanor. Revise § 130.99 for consistency with remainder of chapter.

#### Chapter 131

Remove all references to § 10.99 and include misdemeanor language in each ordinance punishable as a misdemeanor.

#### Chapter 132

No penalty language in ordinances; include either misdemeanor, infraction, civil penalty, or reference to controlling state law enabling law enforcement to effect arrest for ordinance violation.

**Chapter 133**

Apply penalty language to all ordinances and remove section § 133.99.

**Land Usage****Chapter 150**

Apply penalty language to all ordinances referencing § 150.999 or otherwise containing enforcement provisions, except for those which are punishable solely by civil penalty. Amend § 150.999 for consistency with remainder of Chapter and to correct subsection (C)(3) which contains order language rather than ordinance language.

**Chapter 151**

Apply misdemeanor language to all ordinances referencing § 151.99 or otherwise containing enforcement provisions. Remove § 151.99.

**Chapter 152**

Apply penalty language to each ordinance and remove all references to § 10.99.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021**

**SESSION LAW 2021-138  
SENATE BILL 300**

AN ACT TO INCREASE PROTECTIONS, TRAINING, AND OVERSIGHT FOR STATE AND LOCAL LAW ENFORCEMENT OFFICERS; TO CREATE A DECERTIFICATION DATABASE; TO REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT GENERATION IDENTIFICATION SYSTEM AND RAP BACK SERVICE FOR LAW ENFORCEMENT; TO REQUIRE REPORTING RELATED TO GIGLIO MATERIAL; TO EXPAND TRANSPORTATION OF INVOLUNTARY COMMITMENT RESPONDENTS; TO STANDARDIZE LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS AND ONGOING REQUIREMENTS; TO REQUIRE PSYCHOLOGICAL SCREENINGS OF LAW ENFORCEMENT OFFICERS PRIOR TO CERTIFICATION OR EMPLOYMENT; TO EDUCATE LAW ENFORCEMENT OFFICERS ON MAINTAINING GOOD MENTAL HEALTH, AND TO PROVIDE INFORMATION TO LAW ENFORCEMENT OFFICERS ON MENTAL HEALTH RESOURCES AVAILABLE; TO CREATE A PHYSICAL FITNESS STUDY; TO DECRIMINALIZE CERTAIN LOCAL ORDINANCES AND PROVIDE COMPLIANCE AS A DEFENSE TO AN ORDINANCE VIOLATION; TO MANDATE MISDEMEANOR FIRST APPEARANCES WHEN A DEFENDANT IS IN CUSTODY; TO REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS FOR CERTIFIED PERSONNEL; TO ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE; TO ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN STATE VERSUS GRADY AND CREATE A PROCESS TO REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE; TO REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS; TO PROTECT LAW ENFORCEMENT OFFICERS; TO AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY; AND TO ESTABLISH THE BIPARTISAN NORTH CAROLINA LEGISLATIVE WORKING GROUP TO MAKE RECOMMENDATIONS FOR THE RECODIFICATION OF NORTH CAROLINA'S CRIMINAL LAWS.

The General Assembly of North Carolina enacts:

**PART I. DECERTIFICATION STATEWIDE DATABASE AND PUBLIC LAW ENFORCEMENT DATABASE REGULATIONS**

**SECTION 1.(a)** Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

**"§ 17C-14. Database of law enforcement officer certification suspensions and revocations.**



The Commission shall develop and maintain a statewide database accessible to the public on its website that contains all revocations and suspensions of law enforcement officer certifications by the Commission."

**SECTION 1.(b)** Chapter 17E of the General Statutes is amended by adding a new section to read:

**"§ 17E-14. Database of justice officer certification suspensions and revocations.**

The Commission shall develop and maintain a statewide database accessible to the public on its website that contains all revocations and suspensions of justice officer certifications by the Commission."

**SECTION 1.(c)** This section becomes effective October 1, 2021.

**PART II. REQUIRE USE OF THE FEDERAL BUREAU OF INVESTIGATION'S NEXT GENERATION IDENTIFICATION (NGI) SYSTEM AND RAP BACK SERVICE**

**SECTION 2.(a)** Article 13 of Chapter 143B of the General Statutes is amended by adding a new section to read:

**"§ 143B-972.1. Criminal record checks for North Carolina Criminal Justice Education and Training Standards Commission and North Carolina Sheriffs' Education and Training Standards Commission; fingerprints sent to Federal Bureau of Investigation.**

(a) The State Bureau of Investigation (SBI) shall provide to the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission the criminal history of any person who applies for certification or is certified, as a criminal justice officer or justice officer, from the State and National Repositories of Criminal Histories. Each agency employing certified criminal justice officers or justice officers shall provide to the SBI, the fingerprints of any person who applies for certification and certified officers, other identifying information required by the State and National Repositories, and any additional information required by the SBI.

(b) The SBI shall conduct a criminal history records check using the fingerprints of the applicants and certified officers, in accordance with 12 NCAC 09B. 0103 and 12 NCAC 10B. 0302, and enroll the fingerprints in the Statewide Automated Fingerprint Identification System (SAFIS).

(c) In addition to searching the State's criminal history record file, the SBI shall forward a set of fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. The SBI shall enroll each individual whose fingerprints are received under this section in the Federal Bureau of Investigation's Next Generation Identification (NGI) System and Criminal Justice Record of Arrest and Prosecution Background (Rap Back) Service. The SBI will also notify the certifying Commission of any subsequent arrest of an individual identified through the Rap Back Service.

(d) Within 15 business days of receiving notification by either Commission that the individual whose fingerprints have been stored in the State Automated Fingerprint Identification System (SAFIS) pursuant to subsection (b) of this section has withdrawn the application or separated from employment and an Affidavit of Separation has been filed with either Commission, the SBI shall remove the individual's fingerprints from SAFIS and forward a request to the FBI to remove the fingerprints from the NGI System and the Criminal Justice Rap Back Service.

(e) The Commissions shall keep all information obtained pursuant to this section confidential."

**SECTION 2.(b)** No later than June 30, 2023, all personnel certified by either Commission shall have their fingerprints electronically submitted to the SBI for a state and national criminal history check.

**SECTION 2.(c)** This section becomes effective January 1, 2023.

### **PART III. CRITICAL INCIDENT STATEWIDE DATABASE**

**SECTION 3.(a)** G.S. 17C-2 reads as rewritten:

**"§ 17C-2. Definitions.**

Unless the context clearly otherwise requires, the following definitions apply in this Article:

...

(3a) Critical incident. – An incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person.

...."

**SECTION 3.(b)** Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

**"§ 17C-15. Database for law enforcement officer critical incident information.**

(a) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data of law enforcement officers in North Carolina.

(b) All law enforcement agencies in the State that employ personnel certified by the Commission shall provide any information requested by the Division to maintain the database required by subsection (a) of this section.

(c) Information collected under this section that is confidential under State or federal law shall remain confidential.

(d) A law enforcement officer who is reported to the Division as having been involved in a critical incident who disputes being involved in a critical incident has a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database."

**SECTION 3.(c)** G.S. 17E-2 reads as rewritten:

**"§ 17E-2. Definitions.**

Unless the context clearly requires otherwise, the following definitions apply to this Chapter:

...

(4) "Critical incident" means an incident involving any use of force by a law enforcement officer that results in death or serious bodily injury to a person."

**SECTION 3.(d)** Chapter 17E of the General Statutes is amended by adding a new section to read:

**"§ 17E-15. Database for justice officer critical incident information.**

(a) The Division shall develop and maintain a statewide database for use by law enforcement agencies that tracks all critical incident data of justice officers in North Carolina.

(b) All law enforcement agencies in the State that employ personnel certified by the Commission shall provide any information requested by the Commission to maintain the database required by subsection (a) of this section.

(c) Information collected under this section that is confidential under State or federal law shall remain confidential.

(d) A justice officer who is reported to the Division as having been involved in a critical incident who disputes being involved in a critical incident has a right, prior to being placed in the database, to request a hearing in superior court for a determination of whether the officer's involvement was properly placed in the database."

**SECTION 3.(e)** This section becomes effective October 1, 2021, and applies to critical incidents on or after that date.

### **PART IV. REPORT REQUIREMENT RELATED TO GIGLIO MATERIAL**

**SECTION 4.(a)** Article 1 of Chapter 17C of the General Statutes is amended by adding a new section to read:

**"§ 17C-16. Requirement to report material relevant to testimony.**



(a) Any person who is certified by the Commission or has received a conditional offer of employment and who has been notified that the person may not be called to testify at trial based on bias, interest, or lack of credibility shall report and provide a copy of that notification to the Criminal Justice Standards Division within 30 days of receiving the notification, except as provided in subsection (h) of this section. This requirement shall only apply if the person is notified by one of the following methods:

- (1) In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head.
- (2) In open court by a superior court judge, district court judge, or federal judge, and documented in a written order.

(b) The report to the Division shall be in writing and shall state who notified the person that the person may not be called to testify at trial. A person required to report to the Division under subsection (a) of this section shall make the same report to the person's agency head within 30 days of being notified that the person may not be called to testify at trial. An agency head who receives a report that a person in the agency has been notified that they may not be called to testify at trial shall also report the notification to the Division in writing within 30 days of the agency head's receipt of that report.

(c) A superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney who notifies a person that they may not be called to testify at trial as provided in subsection (a) of this section shall report that notification to the Division and provide a copy of the written document or order within 30 days of notifying the person that they may not be called to testify at trial.

(d) If the Division transfers to another agency the certification of any person required to report to the Division pursuant to subsection (a) of this section, the Division shall provide written notification to both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person has been previously notified that the person may not be called to testify at trial. If the new agency receiving notification pursuant to this subsection is a State agency, the Division shall notify the elected district attorney in every prosecutorial district of the State.

(e) If any person required to report to the Division pursuant to subsection (a) of this section is subsequently informed in writing that that notification has been rescinded, the person shall provide the Division a copy of that document. The provisions of subsection (d) of this section do not apply if the person required to report pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded.

(f) No later than March 1 each year, the Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the number of individuals for whom the Division received a report required by subsection (a) of this section during the previous calendar year. The report shall include information for each case on whether a final agency decision has been entered pursuant to Chapter 150B of the General Statutes and what action, if any, has been taken against each certification. The report shall not include the name or any other identifying information of any person required to report pursuant to subsection (a) of this section.

(g) The reports and notifications received by the Division pursuant to this section shall not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section may apply for a hearing in superior court for a judicial determination of whether or not the person received a notification that the person may not be called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to reviewing whether (i) a person who is certified by the Commission or has received a conditional offer of employment, (ii) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or

assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order, and (iii) that notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility, not matters of law or admissibility. The person must provide notice of the hearing to the Division. One extension of 15 days will be added to the 30-day reporting requirement provided in subsection (a) of this section if notice of a hearing is received."

**SECTION 4.(b)** Chapter 17E of the General Statutes is amended by adding a new section to read:

**"§ 17E-16. Requirement to report material relevant to testimony.**

(a) Any person who is certified by the Commission or has received a conditional offer of employment and who has been notified that the person may not be called to testify at trial based on bias, interest, or lack of credibility shall report and provide a copy of that notification to the Justice Officers' Standards Division within 30 days of receiving the notification, except as provided in subsection (h) of this section. This requirement shall only apply if the person is notified by one of the following methods:

- (1) In writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, assistant United States attorney, or the person's agency head.
- (2) In open court by a superior court judge, district court judge, or federal judge and documented in a written order.

(b) The report to the Division shall be in writing and shall state who notified the person that the person may not be called to testify at trial. A person required to report to the Division under subsection (a) of this section shall make the same report to the person's agency head within 30 days of being notified that the person may not be called to testify at trial. An agency head who receives a report that a person in the agency has been notified that they may not be called to testify at trial shall also report the notification to the Division in writing within 30 days of the agency head's receipt of that report.

(c) A superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney who notifies a person that they may not be called to testify at trial as provided in subsection (a) of this section shall report that notification to the Division and provide a copy of the written document or order within 30 days of notifying the person that they may not be called to testify at trial.

(d) If the Division transfers to another agency the certification of any person required to report to the Division pursuant to subsection (a) of this section, the Division shall provide written notification to both the head of the new agency and the elected district attorney in the prosecutorial district where the agency is located that the person has been previously notified that the person may not be called to testify at trial. If the new agency receiving notification pursuant to this subsection is a State agency, the Division shall notify the elected district attorney in every prosecutorial district of the State.

(e) If any person required to report to the Division pursuant to subsection (a) of this section is subsequently informed in writing that that notification has been rescinded, the person shall provide the Division a copy of that document. The provisions of subsection (d) of this section do not apply if the person required to report pursuant to subsection (a) of this section is subsequently informed in writing that the notification has been rescinded.

(f) No later than March 1 each year, the Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety regarding the number of individuals for whom the Division received a report required by subsection (a) of this section during the previous calendar year. The report shall include information for each case on whether a final agency decision has been entered pursuant to Chapter 150B of the General Statutes and what action, if any, has been taken against each certification. The report shall not include the name or any other identifying information of any person required to report pursuant to subsection (a) of this section.

(g) The reports and notifications received by the Division pursuant to this section shall not be public record.

(h) Any person who has received a notification that may meet the reporting requirement provided in subsection (a) of this section may apply for a hearing in superior court for a judicial determination of whether or not the person received a notification that the person may not be called to testify at trial based on bias, interest, or lack of credibility. This hearing is limited to reviewing whether (i) a person who is certified by the Commission or has received a conditional offer of employment, (ii) has been notified in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States attorney, or assistant United States attorney; or notified in open court by a superior court judge, district court judge, or federal judge, and documented in a written order, and (iii) that notification states that the person may not be called to testify at trial based on bias, interest, or lack of credibility, not matters of law or admissibility. The person must provide notice of the hearing to the Division. One extension of 15 days will be added to the 30-day reporting requirement provided in subsection (a) of this section if notice of a hearing is received."

**SECTION 4.(c)** This section becomes effective October 1, 2021, and applies to notifications received prior to, on, or after that date by persons required to report pursuant to this act.

## **PART V. REQUIRE CERTAIN MINIMUM LAW ENFORCEMENT OFFICER STANDARDS**

**SECTION 5.(a)** The Criminal Justice Education and Training Standards Commission and the Sheriffs' Education and Training Standards Commission shall jointly develop uniform, statewide minimum standards for law enforcement officers and justice officers and adopt these standards as rules.

**SECTION 5.(b)** Each Commission shall report the standards developed pursuant to subsection (a) of this section to the Joint Legislative Oversight Committee on Justice and Public Safety no later than December 31, 2021.

**SECTION 5.(c)** Each Commission may adopt temporary rules under G.S. 150B-21.1 to comply with this section and shall adopt permanent rules to comply with this section by December 31, 2022.

## **PART VI. TRANSPORTATION OF INVOLUNTARY COMMITMENT RESPONDENTS**

**SECTION 6.(a)** G.S. 122C-251(f) reads as rewritten:

"(f) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a clerk, a magistrate, or a district court judge, where applicable, may authorize either a health care provider of the respondent or the family or immediate friends of the respondent, if they so request, to transport the respondent in accordance with the procedures of this Article. This authorization shall only be granted in cases where the danger to the public, the health care provider of the respondent, the family or friends of the respondent, or the respondent himself or herself is not substantial. The health care provider of the respondent or the family or immediate friends of the respondent shall bear the costs of providing this transportation."

**SECTION 6.(b)** This section becomes effective October 1, 2021, and applies to custody orders issued on or after that date.

## **PART VII. LAW ENFORCEMENT OFFICER ENTRY REQUIREMENTS, ONGOING REQUIREMENTS, AND CREATE A PHYSICAL FITNESS STUDY**

**SECTION 7.(a)** G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

- (2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include all of the following:

...

- c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice officers.

...

- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include all of the following:

...

- c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for criminal justice officers. The standards established shall include two hours of training on this issue every three years.

...."

**SECTION 7.(b)** G.S. 17E-4(a) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

- (2) Establish minimum educational and training standards that may be met in order to qualify for entry level employment as an officer in temporary or probationary status or in a permanent position. The standards for entry level employment of officers shall include all of the following:

...

- c. Education and training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers.

...

- (11) Establish minimum standards for in-service training for justice officers. In-service training standards shall include all of the following:

...

- c. Training to develop knowledge and increase awareness of effective mental health and wellness strategies for justice officers. The standards established shall include two hours of training on this issue every three years.

...."

**SECTION 7.(c)** G.S. 17C-10(c) reads as rewritten:

"(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, shall fix other qualifications for the employment, training, and retention of criminal justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of criminal justice officers, ~~and the officers.~~ The Commission shall prescribe the means for presenting evidence of fulfillment of these requirements. The Commission shall require the administration of a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed

psychologist, to determine the criminal justice officer's psychological suitability to properly fulfill the responsibilities of the criminal justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment. The psychological screening examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any action requiring certification by the Commission.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Such an educational waiver shall not exceed 12 months."

**SECTION 7.(d)** G.S. 17E-7(c) reads as rewritten:

"(c) In addition to the requirements of subsection (b) of this section, the Commission, by rules and regulations, may fix other qualifications for the employment and retention of justice officers including minimum age, education, physical and mental standards, citizenship, good moral character, experience, and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of the ~~office, and the office~~. The Commission shall prescribe the means for presenting evidence of fulfillment of these requirements. The Commission shall require the administration of a psychological screening examination, including a face-to-face, in-person interview conducted by a licensed psychologist, to determine the justice officer's psychological suitability to properly fulfill the responsibilities of the justice officer. If face-to-face, in-person is not practicable, the face-to-face evaluation can be virtual as long as both the audio and video allow for a professional clinical evaluation in a clinical environment. The psychological screening examination shall be given (i) prior to the initial certification or (ii) prior to the criminal justice officer performing any action requiring certification by the Commission.

Where minimum educational standards are not met, yet the individual shows potential and a willingness to achieve the standards by extra study, they may be waived by the Commission for the reasonable amount of time it will take to achieve the standards required. Upon petition from a sheriff, the Commission may grant a waiver of any provisions of this section (17E-7) for any justice officer serving that sheriff."

**SECTION 7.(e)** In developing the standards and training required by subsections (a) and (b) of this section, the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission are encouraged to adopt standards that provide training conducted by mental health professionals and through face-to-face instruction.

**SECTION 7.(f)** The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall regularly provide information on any statewide mental health resources specifically available to criminal justice officers or justice officers to all criminal justice agencies or departments in the State that employ officers certified by either Commission.

**SECTION 7.(g)** All criminal justice agencies or departments in the State that employ criminal justice officers certified by the North Carolina Criminal Justice Education and Training Standards Commission or justice officers certified by the North Carolina Sheriffs' Education and Training Standards Commission shall coordinate with the appropriate local management entity/managed care organization (LME/MCO) or prepaid health plan, as defined under G.S. 108D-1, to make information on State and local mental health resources and programs easily available to all employees and develop policies to encourage employees to utilize the resources available.

**SECTION 7.(h)** The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall jointly study the benefits, if any, of requiring physical fitness testing

throughout the career of a law enforcement officer, and shall also study whether that testing, if required, should be incrementally adjusted based upon the age of the law enforcement officer, and report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than March 31, 2022.

**SECTION 7.(i)** The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall implement the requirements of subsections (a) through (d) of this section no later than January 1, 2022. The requirements of subsections (c) and (d) of this section shall apply to certifications issued and employees entering employment on or after the implementation date of those requirements.

**SECTION 7.(j)** Subsections (a) through (d) of this section become effective January 1, 2022, and apply to applications for law enforcement certification filed on or after that date. The remainder of this section is effective when it becomes law.

## **PART VIII. DEVELOPMENT OF EARLY WARNING SYSTEMS**

**SECTION 8.(a)** Chapter 17A of the General Statutes is amended by adding a new section to read:

**"§ 17A-10. Development of law enforcement early warning system.**

**(a) Every agency in the State that employs personnel certified by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission shall develop and implement an early warning system to document and track the actions and behaviors of law enforcement officers for the purpose of intervening and improving performance. The early warning system required by this section shall include information, at a minimum, regarding the following:**

- (1) Instances of the discharge of a firearm.**
- (2) Instances of use of force.**
- (3) Vehicle collisions.**
- (4) Citizen complaints.**

**(b) Information collected under this section that is confidential under State or federal law shall remain confidential.**

**(c) For purposes of this section, "law enforcement officer" means any sworn law enforcement officers with the power of arrest, both State and local."**

**SECTION 8.(b)** This section becomes effective December 1, 2021, and applies to actions and behaviors on or after that date.

## **PART IX. LAW ENFORCEMENT AGENCY BEST PRACTICES RECRUITING GUIDE**

**SECTION 9.(a)** The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall jointly develop a best practices guide to help law enforcement agencies recruit and retain a diverse workforce.

**SECTION 9.(b)** The North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission shall report to the Joint Legislative Oversight Committee on Justice and Public Safety no later than April 1, 2022, regarding the best practices guide required by subsection (a) of this section.

## **PART X. INVESTIGATIONS OF OFFICER-INVOLVED DEATHS**

**SECTION 10.(a)** G.S. 143B-919 is amended by adding a new subsection to read:

**"(b1) The Bureau shall, upon request of the Governor or a sheriff, chief of police, head of a State law enforcement agency, district attorney, or the Commissioner of Prisons, investigate and prepare evidence in the event of any of the following:**

- (1) A sworn law enforcement officer with the power to arrest uses force against an individual in the performance of the officer's duties that results in the death of the individual.
- (2) An individual in the custody of the Department of Public Safety, a State prison, a county jail, or a local confinement facility, regardless of the physical location of the individual, dies."

**SECTION 10.(b)** This section becomes effective October 1, 2021.

## **PART XI. MANDATORY IN-SERVICE TRAINING FOR LAW ENFORCEMENT OFFICERS**

**SECTION 11.(a)** G.S. 17C-6(a), as amended by Section 7 of this act, reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

- ...
- (14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:
    - a. ~~Training in response~~ Response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.
    - b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.
    - c. Ethics.
    - d. Mental health for criminal justice officers.
    - e. Community policing.
    - f. Minority sensitivity.
    - g. Use of force.
    - h. The duty to intervene and report.

...."

**SECTION 11.(b)** G.S. 17E-4(a), as amended by Section 7 of this act, reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

- ...
- (11) Establish minimum standards for in-service training for justice officers. In-service training standards for sworn law enforcement officers shall include all of the ~~following~~following training topics:
    - a. ~~Training in response~~ Response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions. For purposes of the domestic violence training requirement, the term "justice officer" shall include those defined in G.S. 17E-2(3)a., except that the term shall not include "special deputy sheriffs" as defined in G.S. 17E-2(3)a.
    - b. ~~Training on juvenile~~ Juvenile justice issues, including (i) the handling and processing of juvenile matters for referrals, diversion, arrests, and

detention; (ii) best practices for handling incidents involving juveniles; (iii) adolescent development and psychology; and (iv) promoting relationship building with youth as a key to delinquency prevention.

- c. Ethics.
- d. Mental health for justice officers.
- e. Community policing.
- f. Minority sensitivity.
- g. Use of force.
- h. The duty to intervene and report.

...."

**SECTION 11.(c)** This section becomes effective January 1, 2022.

## **PART XII. EXEMPT CHANGES TO LAW ENFORCEMENT IN-SERVICE TRAINING STANDARDS FROM RULEMAKING**

**SECTION 12.(a)** G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

- (6a) The Criminal Justice Education and Training Standards Commission with respect to establishing minimum standards for in-service training for criminal justice officers under G.S. 17C-6(a)(14).
- (6b) The Sheriffs' Education and Training Standards Commission with respect to establishing minimum standards for in-service training for justice officers under G.S. 17E-4(a)(11).

...."

**SECTION 12.(b)** This section is effective when it becomes law.

## **PART XIII. DECRIMINALIZATION OF CERTAIN ORDINANCES**

**SECTION 13.(a)** G.S. 153A-123 reads as rewritten:

**"§ 153A-123. Enforcement of ordinances.**

...

(b) ~~Unless the board of commissioners has provided otherwise, Except for the types of ordinances listed in subsection (b1) of this section, violation of a county ordinance is may be a~~ misdemeanor or infraction as provided by ~~G.S. 14-4. G.S. 14-4 only if the county 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. 153A-45, 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 18 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. 153A-134, Regulating and licensing businesses, trades, etc.
- (3) Any ordinance adopted pursuant to G.S. 153A-138, Registration of mobile homes, house trailers, etc.
- (4) Any ordinance adopted pursuant to G.S. 153A-140.1, Stream-clearing programs.
- (5) Any ordinance adopted pursuant to G.S. 153A-143, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.



- (6) Any ordinance adopted pursuant to G.S. 153A-144, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (7) Any ordinance adopted pursuant to G.S. 153A-145, Limitations on regulating cisterns and rain barrels.
- (8) Any ordinance regulating trees.

...."

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

**"§ 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.

...."

**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.(d)** This section becomes effective December 1, 2021, and applies to offenses and violations committed on or after that date.

**PART XIV. REQUIRE MANDATORY FIRST APPEARANCE FOR MISDEMEANORS WHEN DEFENDANT IS IN CUSTODY AND REQUIRE FIRST APPEARANCE FOR ALL CHARGES WHEN DEFENDANT IS IN CUSTODY TO BE HELD WITHIN SEVENTY-TWO HOURS**

**SECTION 14.(a)** G.S. 15A-601 reads as rewritten:

**"§ 15A-601. First appearance before a district court judge; ~~right in felony and other cases in original jurisdiction of superior court; consolidation of first appearance before magistrate and before district court judge; first appearance before clerk of superior court; use of two-way audio and video transmission.~~**

(a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under Article 17 of this Chapter, Criminal Process, with a crime in the original jurisdiction of the superior court must be brought before a district court judge in the district court district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This first appearance before a district court judge is not a critical stage of the proceedings against the defendant.

Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal process under Article 17 of this Chapter, Criminal Process, with a misdemeanor offense and held in custody must be brought before a district court judge in the district court district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This first appearance before a district court judge is not a critical stage of the proceedings against the defendant.

...

(b) When a district court judge conducts an initial appearance as provided in G.S. 15A-511, ~~he~~ the judge may consolidate those proceedings and the proceedings under this Article.

(c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first appearance before a district court judge must be held within ~~96-72~~ hours after the defendant is taken into custody or at the first regular session of the district court in the county, whichever occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this Chapter, Bail, within ~~96-72~~ hours after being taken into custody, first appearance must be held at the next session of district court held in the county. This subsection does not apply to a defendant whose first appearance before a district court judge has been set in a criminal summons pursuant to G.S. 15A-303(d).

...

(e) The clerk of the superior court in the county in which the defendant is taken into custody may conduct a first appearance as provided in this Article if a district court judge is not available in the county within ~~96-72~~ hours after the defendant is taken into custody. A magistrate may conduct the first appearance if the clerk is not available. The clerk, clerk or magistrate, in conducting a first appearance, shall proceed under this Article as would a district court judge."

**SECTION 14.(b)** This section becomes effective December 1, 2021, and applies to criminal processes served on or after that date.

**PART XV. REQUIRE USE OF THE NATIONAL DECERTIFICATION INDEX MAINTAINED BY THE INTERNATIONAL ASSOCIATION OF DIRECTORS OF LAW**

## ENFORCEMENT STANDARDS AND TRAINING IN THE CERTIFICATION PROCESS FOR CERTIFIED PERSONNEL

**SECTION 15.(a)** G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Article, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

...

(21) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification."

**SECTION 15.(b)** G.S. 17E-4(a) reads as rewritten:

"(a) The Commission shall have the following powers, duties, and responsibilities, which are enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17E-8 and G.S. 17E-9:

...

(17) Search the National Decertification Index (NDI) maintained by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) using the name of every applicant for certification or applicant for lateral transfer, and any other personal identifying information necessary to complete the search, and shall utilize any record of conviction of a criminal offense received as a result of the search during the application and lateral transfer process to determine if the applicant has any record that would disqualify the applicant for certification.

...."

**SECTION 15.(c)** This section becomes effective October 1, 2021, and applies to applications for certification submitted on or after that date.

## PART XVI. ESTABLISH A DUTY FOR LAW ENFORCEMENT OFFICERS TO INTERVENE IN AND REPORT EXCESSIVE USE OF FORCE

**SECTION 16.(a)** G.S. 15A-401 is amended by adding a new subsection to read:

"(d1) Duty to Intervene and Report Excessive Use of Force. – A law enforcement officer, while in the line of duty, who observes another law enforcement officer use force against another person that the observing officer reasonably believes exceeds the amount of force authorized by subsection (d) of this section and who possesses a reasonable opportunity to intervene, shall, if it is safe to do so, attempt to intervene to prevent the use of excessive force. Additionally, the observing officer shall, within a reasonable period of time not to exceed 72 hours thereafter, report what the officer reasonably believes to be an unauthorized use of force to a superior law enforcement officer within the agency of the observing officer, even if the observing officer did not have a reasonable opportunity to intervene. If the head of the law enforcement agency of the observing officer was involved or present during what the observing officer reasonably believes to be unauthorized use of force, the observing officer shall make the report to the highest ranking law enforcement officer of that officer's agency who was not involved in or present during the use of force."

**SECTION 16.(b)** This section becomes effective December 1, 2021, and applies to uses of force that occur on or after that date.

**PART XVII. REMOVE THE STANDARDS COMMISSIONS FROM A NONEXCLUSIVE LIST OF STATE AGENCY LICENSING BOARDS**

**SECTION 17.(a)** G.S. 93B-1(3)e. is repealed.

**SECTION 17.(b)** This section becomes effective December 1, 2021.

**PART XVIII. ADDRESS CONSTITUTIONAL ISSUES WITH SATELLITE-BASED MONITORING RAISED IN STATE V. GRADY AND CREATE A PROCESS TO REVIEW WHETHER OFFENDERS SUBJECT TO THAT CASE WHICH WERE REMOVED FROM SATELLITE-BASED MONITORING ARE OTHERWISE ELIGIBLE**

**SECTION 18.(a)** Part V of Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-208.39. Legislative finding of efficacy.**

The General Assembly finds that empirical and statistical reports such as the 2015 California Study, "Does GPS Improve Recidivism among High Risk Sex Offenders? Outcomes for California's GPS Pilot for High Risk Sex Offender Parolees," show that sex offenders monitored with the global positioning system (GPS) are less likely than other sex offenders to receive a violation for committing a new crime, and that offenders monitored by GPS demonstrated significantly better outcomes for both increasing compliance and reducing recidivism. It is the intent of the General Assembly to protect the public from victimization. Therefore, the General Assembly recognizes that the GPS monitoring program is an effective tool to deter criminal behavior among sex offenders."

**SECTION 18.(b)** G.S. 14-208.6 reads as rewritten:

**"§ 14-208.6. Definitions.**

The following definitions apply in this Article:

...

**(3e)** Reoffender. – A person who has two or more convictions for a felony that is described in G.S. 14-208.6(4). For purposes of this definition, if an offender is convicted of more than one offense in a single session of court, only one conviction is counted.

...."

**SECTION 18.(c)** G.S. 14-208.40 reads as rewritten:

**"§ 14-208.40. Establishment of program; creation of guidelines; duties.**

(a) The Division of Adult Correction and Juvenile Justice of the Department of Public Safety shall establish a sex offender monitoring program that uses a continuous satellite-based monitoring system and shall create guidelines to govern the program. The program shall be designed to monitor three categories of offenders as follows:

- (1) Any offender who is convicted of a reportable conviction as defined by G.S. 14-208.6(4) and who is required to register under Part 3 of Article 27A of Chapter 14 of the General Statutes because the defendant is classified as a sexually violent predator, is a ~~recidivist, reoffender,~~ or was convicted of an aggravated offense as those terms are defined in ~~G.S. 14-208.6~~ G.S. 14-208.6 and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.
- (2) Any offender who satisfies all of the following criteria: (i) is convicted of a reportable conviction as defined by G.S. 14-208.6(4), (ii) is required to register under Part 2 of Article 27A of Chapter 14 of the General Statutes, (iii) has committed an offense involving the physical, mental, or sexual abuse of a minor, and (iv) based on the Division of Adult Correction and Juvenile

Justice's risk assessment program requires the highest possible level of supervision and monitoring.

- (3) Any offender who is convicted of G.S. 14-27.23 or ~~G.S. 14-27.28, who shall be enrolled in the satellite-based monitoring program for the offender's natural life upon termination of the offender's active punishment.~~ G.S. 14-27.28 and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

(b) In developing the guidelines for the program, the Division of Adult Correction and Juvenile Justice shall require that any offender who is enrolled in the satellite-based program submit to an active continuous satellite-based monitoring program, unless an active program will not work as provided by this section. If the Division of Adult Correction and Juvenile Justice determines that an active program will not work as provided by this section, then the Division of Adult Correction and Juvenile Justice shall require that the defendant submit to a passive continuous satellite-based program that works within the technological or geographical limitations.

(c) The satellite-based monitoring program shall use a system that provides all of the following:

- (1) Time-correlated and continuous tracking of the geographic location of the subject using a global positioning system based on satellite and other location tracking technology.
- (2) Reporting of subject's violations of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once a day (passive) to near real-time (active).

(d) The Division of Adult Correction and Juvenile Justice may contract with a single vendor for the hardware services needed to monitor subject offenders and correlate their movements to reported crime incidents. The contract may provide for services necessary to implement or facilitate any of the provisions of this Part."

**SECTION 18.(d)** G.S. 14-208.40A reads as rewritten:

**"§ 14-208.40A. Determination of satellite-based monitoring requirement by court.**

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), during the sentencing phase, the district attorney shall present to the court any evidence that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender,~~ (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor. The district attorney shall have no discretion to withhold any evidence required to be submitted to the court pursuant to this subsection.

The offender shall be allowed to present to the court any evidence that the district attorney's evidence is not correct.

(b) After receipt of the evidence from the parties, the court shall determine whether the offender's conviction places the offender in one of the categories described in G.S. 14-208.40(a), and if so, shall make a finding of fact of that determination, specifying whether (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender,~~ (iii) the conviction offense was an aggravated offense, (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, or (v) the offense involved the physical, mental, or sexual abuse of a minor.

(c) If the court finds that the offender has been classified as a sexually violent predator, is a ~~recidivist, reoffender,~~ has committed an aggravated offense, or was convicted of G.S. 14-27.23 or G.S. 14-27.28, the court shall order that the offender to enroll in a satellite-based monitoring program for life. Division of Adult Correction and Juvenile Justice do a risk

assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the offender and report the results to the court.

(c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of 10 years.

(d) If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28 and the offender is not a ~~recidivist, reoffender~~, the court shall order that the Division of Adult Correction do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have ~~a minimum of 30 days, but not more than 60 days, up to 60 days~~ to complete the risk assessment of the offender and report the results to the court.

(e) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (d) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the ~~court~~ court, not to exceed 10 years."

**SECTION 18.(e)** G.S. 14-208.40B reads as rewritten:

**"§ 14-208.40B. Determination of satellite-based monitoring requirement in certain circumstances.**

(a) When an offender is convicted of a reportable conviction as defined by G.S. 14-208.6(4), and there has been no determination by a court on whether the offender shall be required to enroll in satellite-based monitoring, the Division of Adult Correction and Juvenile Justice shall make an initial determination on whether the offender falls into one of the categories described in G.S. 14-208.40(a).

(b) If the Division of Adult Correction and Juvenile Justice determines that the offender falls into one of the categories described in G.S. 14-208.40(a), the district attorney, representing the Division of Adult Correction and Juvenile Justice, shall schedule a hearing in superior court for the county in which the offender resides. The Division of Adult Correction and Juvenile Justice shall notify the offender of the Division of Adult Correction and Juvenile Justice's determination and the date of the scheduled hearing by certified mail sent to the address provided by the offender pursuant to G.S. 14-208.7. The hearing shall be scheduled no sooner than 15 days from the date the notification is mailed. Receipt of notification shall be presumed to be the date indicated by the certified mail receipt. Upon the court's determination that the offender is indigent and entitled to counsel, the court shall assign counsel to represent the offender at the hearing pursuant to rules adopted by the Office of Indigent Defense Services.

(c) At the hearing, the court shall determine if the offender falls into one of the categories described in G.S. 14-208.40(a). The court shall hold the hearing and make findings of fact pursuant to G.S. 14-208.40A.

If the court finds that (i) the offender has been classified as a sexually violent predator pursuant to G.S. 14-208.20, (ii) the offender is a ~~recidivist, reoffender~~, (iii) the conviction offense was an aggravated offense, or (iv) the conviction offense was a violation of G.S. 14-27.23 or G.S. 14-27.28, the court shall order that the offender to enroll in satellite-based monitoring for life. Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have up to 60 days to complete the risk assessment of the offender and report the results to the court.

(c1) Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice pursuant to subsection (c) of this section, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of 10 years.

If the court finds that the offender committed an offense that involved the physical, mental, or sexual abuse of a minor, that the offense is not an aggravated offense or a violation of G.S. 14-27.23 or G.S. 14-27.28, and the offender is not a ~~recidivist, reoffender,~~ the court shall order that the Division of Adult Correction and Juvenile Justice do a risk assessment of the offender. The Division of Adult Correction and Juvenile Justice shall have ~~a minimum of 30 days, but not more than 60 days,~~ up to 60 days to complete the risk assessment of the offender and report the results to the court. The Division of Adult Correction and Juvenile Justice may use a risk assessment of the offender done within six months of the date of the hearing.

Upon receipt of a risk assessment from the Division of Adult Correction and Juvenile Justice, the court shall determine whether, based on the Division of Adult Correction and Juvenile Justice's risk assessment, the offender requires the highest possible level of supervision and monitoring. If the court determines that the offender does require the highest possible level of supervision and monitoring, the court shall order the offender to enroll in a satellite-based monitoring program for a period of time to be specified by the ~~court,~~ court, not to exceed 10 years."

**SECTION 18.(f)** G.S. 14-208.41 reads as rewritten:

**"§ 14-208.41. Enrollment in satellite-based monitoring programs mandatory; length of enrollment, enrollment; tolling.**

(a) Any person described by G.S. 14-208.40(a)(1) shall enroll in a satellite-based monitoring program with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the registration period imposed ~~under G.S. 14-208.23 which is the person's life, for a period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement to enroll in the satellite-based monitoring program is terminated or modified pursuant to G.S. 14-208.43.~~

(b) Any person described by G.S. 14-208.40(a)(2) who is ordered by the court pursuant to G.S. 14-208.40A or G.S. 14-208.40B to enroll in a satellite-based monitoring program shall do so with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall remain enrolled in the satellite-based monitoring program for the period of time ordered by the court.

(c) Any person described by G.S. 14-208.40(a)(3), upon completion of active punishment, shall enroll in a satellite-based monitoring program with the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice office in the county where the person resides. The person shall enroll in the satellite-based monitoring program for the entire period of post-release supervision and shall remain enrolled in the satellite-based monitoring program ~~for the person's life, the period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement to enroll in the satellite-based monitoring program is terminated or modified pursuant to G.S. 14-208.43. Any term of imprisonment based on revocation of probation or post-release supervision for the conviction which resulted in satellite-based monitoring tolls the period of enrollment.~~

**SECTION 18.(g)** G.S. 14-208.42 reads as rewritten:

**"§ 14-208.42. Offenders required to submit to satellite-based monitoring required to cooperate with Division of Adult Correction and Juvenile Justice upon completion of sentence.**

Notwithstanding any other provision of law, when an offender is required to enroll in satellite-based monitoring pursuant to G.S. 14-208.40A or G.S. 14-208.40B, upon completion of the offender's sentence and any term of parole, post-release supervision, intermediate punishment, or supervised probation that follows the sentence, the offender shall continue to be enrolled in the satellite-based monitoring program for the period required by G.S. 14-208.40A or G.S. 14-208.40B unless the requirement that the person enroll in a satellite-based monitoring program is terminated or modified pursuant to G.S. 14-208.43.

The Division of Adult Correction and Juvenile Justice shall have the authority to have contact with the offender at the offender's residence or to require the offender to appear at a specific location as needed for the purpose of enrollment, to receive monitoring equipment, to have equipment examined or maintained, and for any other purpose necessary to complete the requirements of the satellite-based monitoring program. The offender shall cooperate with the Division of Adult Correction and Juvenile Justice and the requirements of the satellite-based monitoring program until the offender's requirement to enroll is terminated and the offender has returned all monitoring equipment to the Division of Adult Correction and Juvenile Justice."

**SECTION 18.(h)** G.S. 14-208.43 reads as rewritten:

**"§ 14-208.43. Request-Petition for termination or modification of the satellite-based monitoring requirement.**

(a) An offender described by G.S. 14-208.40(a)(1) or G.S. 14-208.40(a)(3) who is required to submit to satellite-based monitoring ~~for the offender's life may file a request-petition for termination or modification of the monitoring requirement with the Post Release Supervision and Parole Commission. The request to terminate the satellite-based monitoring requirement and to terminate the accompanying requirement of unsupervised probation may not be submitted until at least one year after the offender: (i) has served his or her sentence for the offense for which the satellite-based monitoring requirement was imposed, and (ii) has also completed any period of probation, parole, or post-release supervision imposed as part of the sentence.~~ superior court in the county where the conviction occurred five years after the date of initial enrollment.

(b) ~~Upon receipt of the request for termination, the Commission shall review documentation contained in the offender's file and the statewide registry to determine whether the person has complied with the provisions of this Article. In addition, the Commission shall conduct fingerprint-based state and federal criminal history record checks to determine whether the person has been convicted of any additional reportable convictions.~~

(c) ~~If it is determined that the person has not received any additional reportable convictions during the period of satellite-based monitoring and the person has substantially complied with the provisions of this Article, the Commission may terminate the monitoring requirement if the Commission finds that the person is not likely to pose a threat to the safety of others.~~

(d) ~~If it is determined that the person has received any additional reportable convictions during the period of satellite-based monitoring or has not substantially complied with the provisions of this Article, the Commission shall not order the termination of the monitoring requirement.~~

(d1) ~~Notwithstanding the provisions of this section, if the Commission is notified by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety that the offender has been released, pursuant to G.S. 14-208.12A, from the requirement to register under Part 2 of Article 27A of this Chapter, upon request of the offender, the Commission shall order the termination of the monitoring requirement.~~

(e) ~~The Commission shall not consider any request to terminate a monitoring requirement except as provided by this section. The district attorney in the district in which the petition is filed shall be given notice of the petition at least three weeks before the hearing on the matter. The petitioner may present evidence in support of the petition, and the district attorney may~~



present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.

(c) The victim of the underlying offense may appear and be heard by the court in a proceeding regarding a petition for termination or modification of satellite-based monitoring requirement. If the victim has elected to receive notices of such proceedings, the district attorney's office shall notify the victim of the date, time, and place of the hearing. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The victim shall be responsible for notifying the district attorney's office of any changes in the victim's address and telephone number or other contact information. The judge in any court proceeding subject to this section shall inquire as to whether the victim is present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.

(d) The petition may be granted only if the court makes all of the following findings:

- (1) The petitioner has been enrolled in the satellite-based monitoring program for at least five years.
- (2) The petitioner no longer requires the highest possible level of supervision and monitoring for 10 years.

(e) The court may order any of the following:

- (1) The petitioner to remain enrolled in the satellite-based monitoring program for a period of time to be specified by the court, not to exceed a total of 10 years.
- (2) The petitioner's requirement to enroll in the satellite-based monitoring program be terminated.

(f) If the court denies the petition, the person may again petition the court for relief in accordance with this section two years from the date of the denial of the original petition to terminate the satellite-based monitoring requirement. If the court grants the petition, the clerk of court shall forward a certified copy of the order to the Post Release Supervision and Parole Commission. The Commission-courts has no authority to consider or terminate a monitoring requirement for an offender described in G.S. 14-208.40(a)(2)."

**SECTION 18.(i)** Article 27A of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-208.46. Petition for postenrollment determination for lifetime satellite-based monitoring enrollees.**

(a) An offender who is enrolled in a satellite-based monitoring for life may file a petition for termination or modification of the monitoring requirement with the superior court in the county where the conviction occurred five years after the date of initial enrollment.

(b) The district attorney in the district in which the petition is filed shall be given notice of the petition at least three weeks before the hearing on the matter. The petitioner may present evidence in support of the petition, and the district attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied.

(c) The victim of the underlying offense may appear and be heard by the court in a proceeding regarding a petition for termination or modification of satellite-based monitoring requirement. If the victim has elected to receive notices of such proceedings, the district attorney's office shall notify the victim of the date, time, and place of the hearing. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The victim shall be responsible for notifying the district attorney's office of any changes in the victim's address and telephone number or other contact information. The judge in any court proceeding subject to this section shall inquire as to whether the victim is

present and wishes to be heard. If the victim is present and wishes to be heard, the court shall grant the victim an opportunity to be reasonably heard. The right to be reasonably heard may be exercised, at the victim's discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.

(d) If the petitioner has not been enrolled in the satellite-based monitoring program for at least 10 years, the court shall order the petitioner to remain enrolled in the satellite-based monitoring program for a total of 10 years.

(e) If the petitioner has been enrolled in the satellite-based monitoring program for more than 10 years, the court shall order the petitioner's requirement to enroll in the satellite-based monitoring program be terminated.

(f) The court has no authority to terminate the satellite-based monitoring requirement for an offender ordered to satellite-based monitoring for life prior to 10 years of enrollment."

**SECTION 18.(j)** G.S. 15A-1343 reads as rewritten:

**"§ 15A-1343. Conditions of probation.**

...  
(a1) Community and Intermediate Probation Conditions. – In addition to any conditions a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any one or more of the following conditions as part of a community or intermediate punishment:

...  
(6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2)-G.S. 14-208.40(a)(2), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...  
(b2) Special Conditions of Probation for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor. – As special conditions of probation, a defendant who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, must:

...  
(7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(1)-G.S. 14-208.40(a)(1), and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, based on the Division's risk assessment program, recommends that the defendant submit to the highest possible level of supervision and monitoring.

...."

**SECTION 18.(k)** G.S. 15A-1343.2 reads as rewritten:

**"§ 15A-1343.2. Special probation rules for persons sentenced under Article 81B.**

(a) Applicability. – This section applies only to persons sentenced under Article 81B of this Chapter.

...  
(f) Delegation to Probation Officer in Intermediate Punishments. – Unless the presiding judge specifically finds in the judgment of the court that delegation is not appropriate, the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may require an offender sentenced to intermediate punishment to do any of the following:

...  
(5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2)-G.S. 14-208.40(a)(2), and based on the Division of

Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...  
If the Section imposes any of the above requirements, then it may subsequently reduce or remove those same requirements.

...  
(f1) **Mandatory Condition of Satellite-Based Monitoring for Some Sex Offenders.** – Notwithstanding any other provision of this section, the court shall impose satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes as a condition of probation on any offender who is described by ~~G.S. 14-208.40(a)(1)~~ G.S. 14-208.40(a)(1), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...."

**SECTION 18.(l)** G.S. 15A-1344(e2) is repealed.

**SECTION 18.(m)** G.S. 15A-1368.4 reads as rewritten:

**"§ 15A-1368.4. Conditions of post-release supervision.**

(a) **In General.** – Conditions of post-release supervision may be reintegrative in nature or designed to control the supervisee's behavior and to enforce compliance with law or judicial order. A supervisee may have his supervision period revoked for any violation of a controlling condition or for repeated violation of a reintegrative condition. Compliance with reintegrative conditions may entitle a supervisee to earned time credits as described in G.S. 15A-1368.2(d).

...  
(b1) **Additional Required Conditions for Sex Offenders and Persons Convicted of Offenses Involving Physical, Mental, or Sexual Abuse of a Minor.** – In addition to the required condition set forth in subsection (b) of this section, for a supervisee who has been convicted of an offense which is a reportable conviction as defined in G.S. 14-208.6(4), or which involves the physical, mental, or sexual abuse of a minor, controlling conditions, violations of which may result in revocation of post-release supervision, are:

- ...  
(6) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by ~~G.S. 14-208.6(4) and G.S. 14-208.6(4)~~, the supervisee is in the category described by ~~G.S. 14-208.40(a)(1)~~ G.S. 14-208.40(a)(1), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.
- (7) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the offense is a reportable conviction as defined by ~~G.S. 14-208.6(4) and G.S. 14-208.6(4)~~, the supervisee is in the category described by ~~G.S. 14-208.40(a)(2)~~ G.S. 14-208.40(a)(2), and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring.

...."

**SECTION 18.(n)** G.S. 15A-1374 reads as rewritten:

**"§ 15A-1374. Conditions of parole.**

(a) **In General.** – The Post-Release Supervision and Parole Commission may in its discretion impose conditions of parole it believes reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him to do so. The Commission must provide as an express condition of every parole that the parolee not commit another crime during the period for which the parole remains subject to revocation. When the Commission releases a person on parole, it must give him a written statement of the conditions on which he is being released.

...

(b1) Mandatory Satellite-Based Monitoring Required as Condition of Parole for Certain Offenders. – If a parolee is in a category described by G.S. 14-208.40(a)(1) or ~~G.S. 14-208.40(a)(2)~~, G.S. 14-208.40(a)(2) and based on the Division of Adult Correction and Juvenile Justice's risk assessment program requires the highest possible level of supervision and monitoring, the Commission must require as a condition of parole that the parolee submit to satellite-based monitoring pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes. ...."

**SECTION 18.(o)** The Division of Adult Correction and Juvenile Justice shall provide each elected District Attorney a list of the individuals that reside in a county in that District Attorney's district that is subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), decided August 16, 2019, namely all individuals in the same category as the defendant, Mr. Grady: individuals subject to mandatory lifetime satellite-based monitoring based solely on their status as a statutorily defined "recidivist" who have completed their prison sentences and are no longer supervised by the State through probation, parole, or post-release supervision. An elected District Attorney must decide to handle each case or have the Attorney General handle the case. If requested by an elected District Attorney, the Attorney General shall make a preliminary determination whether the recidivist subject to State v. Grady, may meet any requirement to enroll in a satellite-based monitoring program other than being a recidivist, and represent the State in any proceedings created by this section. Each District Attorney or Attorney General shall review the determination for every one of the class members. If the District Attorney or Attorney General makes a preliminary determination that the individual may meet any requirement to enroll in a satellite-based monitoring program other than being a recidivist, they shall notify the person and the sheriff in the county where the individual resides. The District Attorney or Attorney General may petition the court in that county for a hearing to have a judge determine if an individual subject to State v. Grady, 831 S.E. 2d 542 (NC 2019), meets the criteria for satellite-based monitoring consistent with G.S. 14-208.40A, as amended by this act.

**SECTION 18.(p)** Subsection (b) of this section applies to satellite-based monitoring determinations on or after December 1, 2021, and includes felony convictions obtained before, on, or after that date. Subsection (i) of this section becomes effective December 1, 2021, and applies to any individual required to enroll in satellite-based monitoring for life on or after that date. Subsection (o) of this section becomes effective December 1, 2021, and applies to any individual required to enroll in the satellite-based monitoring program based solely on being a "recidivist" on or after that date. The remainder of this section becomes effective December 1, 2021, and applies to satellite-based monitoring determinations on or after that date.

## **PART XIX. PROTECTIONS FOR LAW ENFORCEMENT OFFICERS**

**SECTION 19.(a)** G.S. 14-223 reads as rewritten:

**"§ 14-223. Resisting officers.**

(a) If any person shall willfully and unlawfully resist, delay or obstruct a public officer in discharging or attempting to discharge ~~a duty of his office, he shall be an official duty, the person is guilty of a Class 2 misdemeanor.~~

(b) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction is the proximate cause of a public officer's serious injury, the person is guilty of a Class I felony.

(c) If any person shall willfully and unlawfully resist, delay, or obstruct a public officer in discharging or attempting to discharge an official duty, and the resistance, delay, or obstruction is the proximate cause of a public officer's serious bodily injury, the person is guilty of a Class F felony.

(d) "Serious bodily injury" is defined as bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition

that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization."

**SECTION 19.(b)** In order to raise public awareness about resisting, delaying, and obstructing law enforcement officers and encourage North Carolina residents to interact with law enforcement officers safely, the Department of Public Safety shall create a targeted social media campaign and television commercials that address the concerns of not resisting arrest and raising public awareness about resisting, delaying, and obstructing law enforcement officers. DPS shall also make available on its internet website a public service announcement containing legally accurate information regarding the public's responsibilities during traffic stops and other interactions with law enforcement.

**SECTION 19.(c)** The Department of Public Safety shall provide to the Division of Motor Vehicles an internet link to the public service announcement authorized by subsection (b) of this section, which the Division of Motor Vehicles shall make available on its internet website. In addition, the Division of Motor Vehicles shall broadcast the public service announcement authorized by subsection (b) of this section on monitors at drivers license office locations across the State.

**SECTION 19.(d)** Subsection (a) of this section becomes effective December 1, 2021, and applies to offenses committed on or after that date. The remainder of this section is effective when it becomes law.

## **PART XX. ESTABLISH CRIMINAL RECODIFICATION WORKING GROUP**

**SECTION 20.(a)** There is created the Bipartisan North Carolina Legislative Working Group on Criminal Law Recodification (Working Group). The purpose of the Working Group is to make recommendations to the General Assembly regarding a streamlined, comprehensive, orderly, and principled criminal code which includes all common law, statutory, regulatory, and ordinance crimes.

**SECTION 20.(b)** The Working Group shall be comprised of nine members selected as follows:

- (1) Two senators who are members of the majority party appointed by the President Pro Tempore of the Senate.
- (2) Two senators who are members of the minority party appointed by the Minority Leader of the Senate.
- (3) Two representatives who are members of the majority party appointed by the Speaker of the House of Representatives.
- (4) Two representatives who are members of the minority party appointed by the Minority Leader of the House of Representatives.
- (5) One individual appointed jointly by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. This individual shall have served at least six years as a member of the General Assembly and shall serve as the chair of the Working Group.

**SECTION 20.(c)** The Working Group shall solicit comments and feedback from the public, as well as from all of the following:

- (1) The Administrative Office of the Courts.
- (2) The Attorney General.
- (3) The Conference of District Attorneys.
- (4) Indigent Defense Services.
- (5) The North Carolina Sheriffs' Association.
- (6) The North Carolina Association of Chiefs of Police.
- (7) The North Carolina Police Benevolent Association.
- (8) The North Carolina League of Municipalities.
- (9) The North Carolina Association of County Commissioners.

**SECTION 20.(d)** All appointments to the Working Group shall be made no later than 30 days after this act becomes law. Vacancies on the Working Group shall be filled by the appointing authority. The Working Group, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses.

**SECTION 20.(e)** The Working Group shall meet upon the call of the chair but at least monthly beginning no later than September 15, 2021. A majority of the voting members shall constitute a quorum. Members shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1 or G.S. 138-5, as appropriate. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to monitor and provide technical assistance to the Working Group; provided, however, legislative staff shall not be made available at times when the 2021 General Assembly is in session. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Working Group. The Working Group shall terminate on December 31, 2022.

**SECTION 20.(f)** The Working Group shall establish general principles which shall, at a minimum, provide for all of the following:

- (1) Incorporate existing statutory and common law offenses into Chapter 14 of the General Statutes, harmonizing additions with current Chapter content.
- (2) Apply consistent terminology across statutes and define all terminology.
- (3) Specify the required mental state or that an offense is a strict liability crime.
- (4) Eliminate redundant crimes and multiple punishment for the same conduct.
- (5) Simplify offense numbering.
- (6) Eliminate or modify unconstitutional provisions to ensure lawfulness.
- (7) Eliminate outdated laws.
- (8) Apply consistent, logical offense grading, with advice from the North Carolina Sentencing Policy and Advisory Commission.

**SECTION 20.(g)** The Working Group shall provide the following deliverables:

- (1) For common law crimes and crimes included in the North Carolina General Statutes:
  - a. Create a database of all statutory and common law crimes, including statute number or common law designation; offense short title; elements; link to the statute; punishment; special and key features; frequency of charging, if available; and any proposed changes and the status of those changes in order to track decisions by the Working Group.
  - b. Draft legislation amending, recodifying, or proposing changes to North Carolina criminal statutes using a format that is consistent with drafting conventions used by the North Carolina General Assembly, as directed by the Working Group.
- (2) For crimes created by local ordinances:
  - a. Create a database of ordinance offenses, including ordinance title, general description, elements, punishment, and key feature coding. The Working Group will sample ordinances from diverse jurisdictions or review all, as time allows.
  - b. Report on common ordinance crimes, including charging data, if available, and including presentation of a range of policy options for addressing ordinance crimes consistent with the Working Group's goals.

- c. Draft legislation using a format that is consistent with drafting conventions used by the North Carolina General Assembly, as directed by the Working Group.
- (3) For crimes created by administrative boards and bodies:
  - a. Create a database of all crimes created by administrative boards and bodies that make it a crime to violate any regulation created by an administrative board or body, with exemplary regulations and punishment levels.
  - b. Report on policy options for addressing regulatory crimes consistent with the Working Group's goals.
  - c. Draft legislation using a format that is consistent with drafting conventions used by the North Carolina General Assembly, as directed by the Working Group.

## **PART XXI. AMEND THE LAW TO PROVIDE IMMEDIATE DISCLOSURE OF BODY-WORN CAMERA RECORDINGS RELATED TO DEATH OR SERIOUS BODILY INJURY**

**SECTION 21.(a)** G.S. 132-1.4A reads as rewritten:

### **"§ 132-1.4A. Law enforcement agency recordings.**

- (a) Definitions. – The following definitions apply in this section:
  - (1) Body-worn camera. – An operational video or digital camera or other electronic device, including a microphone or other mechanism for allowing audio capture, affixed to the uniform or person of law enforcement agency personnel and positioned in a way that allows the camera or device to capture interactions the law enforcement agency personnel has with others.
  - (2) Custodial law enforcement agency. – The law enforcement agency that owns or leases or whose personnel operates the equipment that created the recording at the time the recording was made.
  - (3) Dashboard camera. – A device or system installed or used in a law enforcement agency vehicle that electronically records images or audio depicting interaction with others by law enforcement agency personnel. This term does not include body-worn cameras.
  - (4) Disclose or disclosure. – To make a recording available for viewing or listening to by the person requesting disclosure, at a time and location chosen by the custodial law enforcement agency. This term does not include the release of a recording.
  - (5) Personal representative. – A parent, court-appointed guardian, spouse, or ~~attorney~~ attorney licensed in North Carolina of a person whose image or voice is in the recording. If a person whose image or voice is in the recording is deceased, the term also means the personal representative of the estate of the deceased person; the deceased person's surviving spouse, parent, or adult child; the deceased person's ~~attorney~~ attorney licensed in North Carolina; or the parent or guardian of a surviving minor child of the deceased.
  - (6) Recording. – A visual, audio, or visual and audio recording captured by a body-worn camera, a dashboard camera, or any other video or audio recording device operated by or on behalf of a law enforcement agency or law enforcement agency personnel when carrying out law enforcement responsibilities. This term does not include any video or audio recordings of interviews regarding agency internal investigations or interviews or interrogations of suspects or witnesses.
  - (7) Release. – To provide a copy of a recording.

- (8) Serious bodily injury. – A bodily injury that creates a substantial risk of death, or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

(b) Public Record and Personnel Record Classification. – Recordings are not public records as defined by G.S. 132-1. Recordings are not personnel records as defined in Part 7 of Chapter 126 of the General Statutes, G.S. 160A-168, or G.S. 153A-98.

(b1) Immediate Disclosure. – When requested by submission of the notarized form described in subsection (b2) of this section to the head of a law enforcement agency, any portion of a recording in the custody of a law enforcement agency which depicts a death or serious bodily injury shall, upon order of the court pursuant to subsection (b3) of this section, be disclosed to a personal representative of the deceased, the injured individual, or a personal representative on behalf of the injured individual. Any disclosure ordered by the court pursuant to subsection (b3) of this section shall be done by the agency in a private setting. A person who receives disclosure as ordered by the court pursuant to subsection (b3) of this section shall not record or copy the recording. Except as provided in subsection (b3) of this section, the portion of the recording relevant to the death or serious bodily injury shall not be edited or redacted.

(b2) Notarized Form. – A person requesting disclosure pursuant to subsection (b1) of this section must submit a signed and notarized form provided by the law enforcement agency. The form shall be developed by the Administrative Office of the Courts and shall include notice that, if disclosed, the recording may not be recorded or copied, or if unlawfully recorded or copied may not be knowingly disseminated, and notice of the criminal penalties provided in subsection (b4) of this section.

(b3) Immediate Disclosure Review. – No later than three business days from receipt of the notarized form requesting immediate disclosure pursuant to subsection (b1) of this section, a law enforcement agency shall file a petition in the superior court in any county where any portion of the recording was made for issuance of a court order regarding disclosure of the recording requested pursuant to subsection (b1) of this section and shall also deliver a copy of the petition and a copy of the recording, which shall remain confidential unless the court issues an order of disclosure pursuant to this section, to the senior resident superior court judge for that superior court district or their designee. There shall be no fee for filing the petition. The court shall conduct an in-camera review of the recording and shall enter an order within seven business days of the filing of the petition instructing that the recording be (i) immediately disclosed without editing or redaction; (ii) immediately disclosed with editing or redaction; (iii) disclosed at a later date, with or without editing or redaction; or (iv) not disclosed to the person or persons seeking disclosure. In determining whether the recording may be disclosed pursuant to this section, the court shall consider the following factors:

- (1) If the person requesting disclosure of the recording is a person authorized to receive disclosure pursuant to subsection (c) of this section.
- (2) If the recording contains information that is otherwise confidential or exempt from disclosure or release under State or federal law.
- (3) If disclosure would reveal information regarding a person that is of a highly sensitive and personal nature.
- (4) If disclosure may harm the reputation or jeopardize the safety of a person.
- (5) If disclosure would create a serious threat to the fair, impartial, and orderly administration of justice.
- (6) If confidentiality is necessary to protect either an active or inactive internal or criminal investigation or potential internal or criminal investigation.

In any proceeding pursuant to this subsection, the following persons shall be notified and those persons, or their designated representative, shall be given an opportunity to be heard at any



proceeding: (i) the head of the custodial law enforcement agency, (ii) any law enforcement agency personnel whose image or voice is in the portion of the recording requested to be disclosed and the head of that person's employing law enforcement agency, (iii) the District Attorney, (iv) the investigating law enforcement agency, and (v) the party requesting the disclosure. The court may order any conditions or restrictions on the disclosure that the court deems appropriate.

Petitions filed pursuant to this subsection shall be scheduled for hearing as soon as practicable, and the court shall issue an order pursuant to the provisions of this subsection no later than seven business days after the filing of the petition. Any subsequent proceedings in such actions shall be accorded priority by the trial and appellate courts.

If disclosure of a recording is denied based on subdivision (6) of this subsection, the court shall schedule a subsequent hearing, to be held no more than 20 business days after the issuance of the order, to reconsider whether the recording should be disclosed.

(b4) Any person who willfully records, copies, or attempts to record or copy a recording disclosed pursuant to subsection (b1) of this section shall be guilty of a Class 1 misdemeanor. Any person who knowingly disseminates a recording or a copy of a recording disclosed pursuant to subsection (b1) of this section is guilty of a Class I felony.

(c) Disclosure; General. – Recordings in the custody of a law enforcement agency shall be disclosed only as provided by this section. Recordings depicting a death or serious bodily injury shall only be disclosed as provided in subsections (b1) through (b3) of this section.

A person requesting disclosure of a recording must make a written request to the head of the custodial law enforcement agency that states the date and approximate time of the activity captured in the recording or otherwise identifies the activity with reasonable particularity sufficient to identify the recording to which the request refers.

The head of the custodial law enforcement agency may only disclose a recording to the following:

- (1) A person whose image or voice is in the recording.
- (2) A personal representative of an adult person whose image or voice is in the recording, if the adult person has consented to the disclosure.
- (3) A personal representative of a minor or of an adult person under lawful guardianship whose image or voice is in the recording.
- (4) A personal representative of a deceased person whose image or voice is in the recording.
- (5) A personal representative of an adult person who is incapacitated and unable to provide consent to disclosure.

When disclosing the recording, the law enforcement agency shall disclose only those portions of the recording that are relevant to the person's request. A person who receives disclosure pursuant to this subsection shall not record or copy the recording.

...."

**SECTION 21.(b)** No later than the effective date of this section, the Administrative Office of the Courts shall develop and make available to all law enforcement agencies the following forms:

- (1) A signed and notarized request for immediate disclosure as required by G.S. 132-1.4A(b1) and (b2) as enacted by subsection (a) of this section.
- (2) A petition for use by law enforcement agencies pursuant to G.S. 132-1.4A(b3) as enacted by subsection (a) of this section.

**SECTION 21.(c)** This section becomes effective December 1, 2021, and applies to all requests made on or after that date for disclosure of a recording.

## **PART XXII. SAVINGS CLAUSE, SEVERABILITY CLAUSE, AND EFFECTIVE DATE**

**SECTION 22.(a)** If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

**SECTION 22.(b)** Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

**SECTION 22.(c)** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 25<sup>th</sup> day of August, 2021.

s/ Phil Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 2:47 p.m. this 2<sup>nd</sup> day of September, 2021

## BESSEMER CITY PARKS AND RECREATION ADVISORY BOARD

### BY-LAWS

#### **ARTICLE I - NAME**

Pursuant to the Bessemer City Council action on \_\_\_\_\_ the name of this body shall be the “Parks and Recreation Advisory Board”.

#### **ARTICLE II - CREATION**

The City of Bessemer City and Recreation Advisory Board (hereinafter referred to as “Board” or “the Board”) is created by the action of the Council pursuant to Chapter 160A, Article 18, of the General Statutes of the State of North Carolina.

#### **ARTICLE III - PURPOSE AND OBJECTIVES**

Section 1. Parks and Recreation Department Mission Statement: "Dedicated to Making a Great Community" We are committed to providing safe and inviting parks and facilities, meeting current and future community needs through meaningful and diverse recreational programs, cultural activities and services.

Our staff is responsive, positive and ethical in their dedication to delivering:

- a. Personal Benefits that develop personal growth, strengthen individual self-esteem, enhance quality of life and offer something for everyone.
- b. Social Benefits that strengthen and bond families and unite and connect people within our evolving diverse community while promoting health lifestyles.
- c. Economic Benefits and Opportunities that welcome new business, relocation of business and expansion of business which leads to a more productive work force and increased employment opportunities.
- d. Environmental Benefits that protect and preserve our historical and cultural heritages and protect and preserve lands and open space while maintaining the natural beauties of Bessemer City.

With this in mind, the purpose of the Bessemer City and the Recreation Advisory Board is to help staff establish, improve, develop, administer, operate and maintain a public parks and recreation system, which provides participation opportunities for all Bessemer City citizens. This philosophy will be pursued in a professional manner and quality, always mindful of the public trust that this Advisory Board has been given. It is the purpose of this Advisory Board to:

- a. Plan for the present and future recreational needs for Bessemer City residents.

- b. Cooperate and coordinate with other human service agencies and private enterprise to provide for recreational needs in programming and facility use.
- c. Develop and seek funding for indoor and outdoor recreation facilities on the community, countywide and regional levels.
- d. Promote a wide range of programs that will contribute to the meaningful use of leisure time.
- e. Provide leadership designed to show how the use of recreation can be a major force in the enrichment of personality, creativity and physical vitality.
- f. Administer to the special developmental needs of children through summer playground programs, sports leagues and instructional programs.
- g. Support Parks and Recreation staff through volunteerism, recruitment of volunteers and other means as appropriate to ensure the positive success of events and programs.

Section 2. The Board shall assist staff in suggestion of policies to City Council and, through methods described in these Bylaws, to the Parks and Recreation Director, Director of Administration or City Manager. Policies suggested will be provided within the Board's powers and responsibilities as provided for in the Bessemer City Council Resolution creating the Board and/or other provisions of the laws of the United States of America, the Statutes of the State of North Carolina, Gaston County Ordinances and any other legally authorized governing bodies. This requirement includes North Carolina's Open Meetings Law, which stipulates all meetings must be open to the public as well as scheduled and attended at a predetermined time and place as announced to the public, with complete minutes of all meetings on file in City Hall and available for public viewing. The Board shall serve as the liaison between the citizens of the community and the City Employees/City Council.

Section 3. The Board shall consult with the Parks and Recreation Director regarding maintenance, programs and operations of all Parks and Recreation facilities and offerings. He / she may request advice on any matter related to Department policies. By reference, the Parks and Recreation Board Policy Statement is incorporated into these Bylaws. The consulting should be in matters affecting recreation policies, programs, staffing, finances, maintenance, the acquisition and disposal of lands and properties related to the total community recreation program and to its long-range, projected program for recreation.

Section 4. The Board shall assume duties for the recommendation of the following recreation purposes:

- a. Recommend for use as parks, playground, recreation facilities, water areas or other recreations and structure(s), any lands or buildings owned by or leased to the City of Bessemer City, for approval by the Council, and may suggest improvements of such lands

and for the construction and for the equipping and staffing of such buildings and structures as may be necessary to the recreation program within the funds appropriated.

- b. Advise in the acceptance of any gift, grant, bequest or donation, any personal or real property offered or made available for recreation purposes and which is judged to be of present or possible future use for recreation; any donation to the City of Bessemer City should be reviewed by the Board for acceptability given the content of these Bylaws and the Parks and Recreation Policy Statement.

Section 5. The Board shall serve:

- a. To advise the City Manager, Parks and Recreation Director, or Director of Administration regarding Parks and Recreation matters.
- b. To inform business and community leaders and the general population about the Board and its functions.
- c. To assist the Parks and Recreation Director in financial planning, identifying resources, and assisting in securing funds from the corporate and private sectors.
- d. To work with the Parks and Recreation staff in planning and developing programs that will fill the recreation needs of Bessemer City.
- e. To review the Board's Bylaws with staff on an annual basis recommending any changes to City Council for final approval.
- f. To assist the Parks and Recreation Department in planning events and facility usage
- g. To provide relationship management of groups, youth leagues and other organizations interested in using the Parks facilities when requested by the Parks and Recreation department.
- h. To volunteer on an as needed basis with recreational activities.

## **ARTICLE IV - MEMBERSHIP OF THE BOARD**

Section 1. The City Council shall appoint each member of the Board as hereinafter set forth. Members of the Board shall be broadly representative of all areas in and around the City with an interest in and a willingness to be supportive of the goals of the Board and the Parks and Recreation Department in all forms. The Parks and Recreation Advisory Board shall be composed of seven (7) regular members who live in the community or have a vested interest and/or expertise to contributing to Parks and Recreation Department objectives and goals.

Section 2. Board members shall have three (3) year staggered terms. Terms will begin when members are appointed to the Board. Initially, three (3) appointed members will serve a one (1) year term, three (3) appointed members will serve a two (2) year

term and one (1) appointed member will serve a three (3) year term. All subsequent appointments will be for three (3) year terms.

Section 3. Initially, board appointments will take place with the adoption of these Bylaws and then ever June following. Board terms will have an extended appointment time from the date of appointment until June of the following year, making initial terms longer than designated appointments.

Section 4. City Council shall appoint one Elected Official annually to serve as a Council-liaison as a non-voting member.

Section 5. The Mayor shall appoint annually one Gaston County High School Student to serve on the Board as a non-voting member.

#### **ARTICLE V - APPOINTMENT OF THE BOARD**

Section 1. Any resident of the City of Bessemer City, including residents in the City's extraterritorial jurisdiction, is eligible for appointment to the Board. Any eligible, qualified individual that the City Council deems appropriate and fitting to serve on the board may also be appointed, regardless of residency.

Section 2. The City of Bessemer City Council shall appoint all members of the Board from the list of nominees submitted by nominations from the City Manager, Parks and Recreation Director, and City Council.

Section 3. Any member may resign from the Board by submitting a written resignation to the Chair of the Board for transmittal to the City Council. In the case of the Chair, the resignation should be presented to City Council.

Section 6. The City of Bessemer City Council may appoint a replacement Board member to fill any uncompleted term or any vacancy.

Section 7. No member shall be related to any City employee or City Council Member. No member, directly or indirectly, individually or through any entity, shall contract with or provide Parks and Recreation services for compensation, or, benefit through any activity which is a conflict of interest due to serving on the Board.

#### **ARTICLE VI – MEETINGS**

Section 1. Special meetings of the Board as needed shall be determined by the City of Bessemer City Parks and Recreation Director. Regular meetings of the Board will be held monthly during a time the Parks and Recreation Director and Board Members agree to. Such meetings shall be advertised and conducted in accordance with the State of North Carolina's Open Meetings Law.

Section 2. The City of Bessemer City and Recreation Director will create the suggested agenda with input from the City of Bessemer City Parks and Recreation Board

members and Chair. The agenda may include the time, date and location of the meeting and the following:

- a. Invocation
- b. Pledge of Allegiance
- c. Roll Call
- d. Agenda Review/Adjustments
- e. Minutes/Approval of Minutes from previous meeting
- f. Public Comment
- g. Old Business
- h. New Business
- i. Parks and Recreation Staff Liaison Report/Update
- j. Committee Comments
- k. Adjournment

Section 3. An organizational meeting shall be held during the month of July for the purpose of organizing the Board for the coming year and for the purpose of electing officers.

Section 4. Except as otherwise provided in these Bylaws, Roberts Rules of Order, shall be used as a guide to the conduct of the meetings of the Board provided however, that the failure of the Board to conform to the Rules of Order shall not be deemed to invalidate the action taken.

Section 5. A quorum of the Board, which is four (4) voting members, must be in attendance before any official action can take place. If there is no quorum at the opening of the meeting it may be adjourned by a majority of the members present.

Section 6. All meetings of the Board shall be open to the public.

Section 7. It is the duty of each member to vote, unless excused by a majority vote of the Board as in the instance of conflict of interest or other legitimate reason. A member wishing to be excused from voting shall so inform the Chair who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as having voted in the affirmative. This section in no way mitigates the quorum requirement for any official action.

Section 8. Attendance is mandatory and each member should make every effort to attend all meetings. In the event a member is unable to attend, prior notice should be provided to the Director of Parks and Recreation and to the Board Chair. Unexcused absences will be counted as part of the three (3) allotted absences per year. Members should attend meetings and be active and engaged. In addition to attending regularly

scheduled meetings, members are required to volunteer with Parks and Recreation events or programs a minimum of ten (10) hours annually.

## **ARTICLE VII - OFFICERS**

- Section 1. Officers of the Board shall consist of a Chair, Vice-Chair and a Secretary.
- Section 2. City Council shall appoint officers at the adoption of these Bylaws and then, at the July Regular City Council Meeting annually.
- Section 3. Officers shall serve for a term of one (1) year beginning at the close of the meeting at which they were appointed.
- Section 4. The Chair shall fill an officer vacancy, or, if the Chair is vacant, the Vice-Chair will fill the vacancy for a time period not to exceed the original term of office.
- Section 5. The Chair shall preside over all meetings of the Board and shall sign all official papers or documents relative to action taken by the Board.
- Section 6. The Vice-Chair shall assume all duties of the Chair in the absence of the Chair.
- Section 7. The Secretary of the Board shall keep the official records of all meetings and shall notify members of their appointments and conduct such correspondence as the Board designates.

## **ARTICLE VIII - COMMITTEES**

- Section 1. Standing Committee members may be appointed by the Chair at the regular meeting following the organizational meeting each year and at other times as necessary.
- Section 2. Special Committee members may be appointed by the Chair any time deemed necessary and desirable during any regular or special meeting of the Board. Any Special Committee so established shall continue to exist until the duties for which it was created are completed or until dissolved by the Board.
- Section 3. In the absence of formal committees, the following functions are the responsibility of the Board:
- a. Selection of business items to go before the Board may be suggested by any member.
  - b. Board members are encouraged to nominate candidates for Board positions, especially to recruit a replacement when a Board member steps down before the end of a current term.
  - c. Planning should be developed and documented to anticipate the future needs of the Parks and any related activities.



- d. Parks programs should also be reviewed to consider implementation of Parks policies and procedures, scheduling of large or recurring events and to make recommendations regarding programs and any related matters.

## **ARTICLE IX - VACANCY AND REMOVAL**

Section 1. In the event a vacancy occurs in the membership of the Board, the remaining Board members shall review and consider possible candidates to fill the vacancy in keeping with the appointment policy of the Board and City Council. The Board shall submit its notification and recommendations to the City Council for final appointment.

Section 2. The Board, Park and Recreation Director, or City Manager may formally recommend to the City Council that a Board member be removed for either of the reasons that follow. The Board member may request to be heard in a session at which a quorum is present concerning the reasons. Minutes of the hearing and any related meeting must be forwarded to the City Council.

- a. Upon the third absence from regular meetings that occurs without prior notification to the Chair.
- b. Acts which are, in the opinion of the Board, detrimental or a disservice to the best interests of the Board, the Community or City facilities.

## **ARTICLE XI – ETHICS AND BEHAVIOR**

a. All members are duty bound to:

- i. Uphold the by-laws of the Board, Ordinances and Policies of the City of Bessemer City.
- ii. Fully comply with all applicable local, state, federal statutes regarding disclosure of assets, open meeting practices, and other ethics-based requirements.
- iii. Act in good faith and conscience using professional expertise, personal experience and common sense based upon the best available information, observation, and testimony and within established legal limits and authority.

b. Ex-parte communications are discouraged and if such communications occur, the communication must be disclosed by the Board member(s).

c. Sidebar, banter and other relative types of conversations between individuals are deemed disruptive and should be avoided. All communication should include all members and be consistent with these bylaws and meeting agendas.

- d. All members shall act respectful of and be courteous to all other members and guests, following the Golden Rule; treat others the same as you would like to be treated.

## **ARTICLE X - MISCELLANEOUS**

Section 1. All versions of and amendments to these By-laws must be kept and dated with signatures of the Chair and Secretary as part of the official Board record. These Bylaws may be amended or repealed by an act of the Board and the approval of City Council providing that:

- a. A majority vote of four (4) Board voting members at the duly constituted meeting approves the amendment.
- b. All versions of and amendments to the Bylaws must be kept and dated with signatures as part of the official Board record.



## Board Appointment Application

The Mayor and City Council of Bessemer City believe that all citizens should have the opportunity to participate in governmental decisions. One way of participating is by serving as a citizen member of one of the City's advisory boards or committees. If you wish to be considered for such an appointment, please complete the following application and return to the City Clerk, 132 W. Virginia Ave., Bessemer City, NC 28016. Phone: 704-729-6509 Email: hhayes@bessemercity.com

REQUEST FOR APPOINTMENT TO: Parks + Recreation Advisory Board

NAME: Sheila S. Wyont

ADDRESS: 1302 Cherryville Hwy, Cherryville, NC 28021

TELEPHONE: HOME 704-435-8041 WORK 704-898-1235 CELL 704-813-8764

EMAIL ADDRESS: SSWyont@gaston.k12.nc.us

CURRENT OCCUPATION: Principal @ BCHS

EDUCATIONAL BACKGROUND: Doctorate Degree from Gardner Webb

VOLUNTEER/CIVIC/PROFESSIONAL ACTIVITIES:

I have made several improvements at Bessemer City High School such as new parking lots, new signage outside and the new electronic message board on 12th Street.

BRIEFLY STATE WHY YOU WOULD LIKE TO BE CONSIDERED TO SERVE ON THIS BOARD OR COMMITTEE:

I see this board as a great resource for our schools. I schedule meetings with the BC feeder area Principals quarterly. I can serve as the liaison between the city and the schools.

WHAT QUALITIES DO YOU POSSESS THAT MAKES YOU THE RIGHT CANDIDATE FOR THIS BOARD?

I am a strong leader with organization skills. I get things done. As a graduate of Bessemer City High School, I have strong ties to the community. My connections can help with marketing and communication.

CITY OF BESSEMER CITY- BOARD APPOINTMENT APPLICATION  
HOW CAN YOU POSITIVELY IMPACT THE COMMUNITY BY SERVING ON THIS BOARD?

Item 9.

My influence as Bessemer City High School, will allow me the opportunity to be an advocate for the new Stinger Park. I can communicate to my stakeholders the positive impact the park will have on our community including students and their families.

SIGNATURE: Sheila S. Wgont  
DATE: 9-27-21

**CLERK USE ONLY**

Received On:

Received By:

Signature:



## Board Appointment Application

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REQUEST FOR APPOINTMENT TO: Parks and Recreation Board Advisory

NAME: Michelle Owens

ADDRESS: 735 Capps Drive

TELEPHONE: HOME \_\_\_\_\_ WORK 704-629-5286 CELL 704-913-3922

EMAIL ADDRESS: tmh517owens@aol.com

CURRENT: OCCUPATION: Children's Ministry Director/ Preschool Teacher

EDUCATIONAL BACKGROUND: High School Diploma

### VOLUNTEER/CIVIC/PROFESSIONAL ACTIVITIES:

As a Children's Ministry Director I am in charge of all church wide children's events. To name a few, I run the Easter Egg Hunt, Fall Festival, Vacation Bible School and Live Nativity. I have so much passion for these events because all of them are specifically planned to engage with the community. I also serve on the Bessemer City Central School PTO and Bessemer City Middle School PTA. I enjoy volunteering at our local schools to offer them support in any way I can.

### BRIEFLY STATE WHY YOU WOULD LIKE TO BE CONSIDERED TO SERVE ON THIS BOARD OR COMMITTEE:

It is an honor to even be considered to serve on this board. I would love to serve so I can make a meaningful impact and a difference in our community. Our small town holds a special place in my heart and I want to do anything I can for our city.

### WHAT QUALITIES DO YOU POSSESS THAT MAKES YOU THE RIGHT CANDIDATE FOR THIS BOARD?

Working with children allows me to know and understand their needs and wants. My job allows me to show my creativity and run with all the ideas that I can think of. I have a very outgoing personality and always want to be honest. I grew up playing sports year round and still enjoy watching the kids play. All of these qualities combined make me the right candidate for the board.

CITY OF BESSEMER CITY- BOARD APPOINTMENT APPLICATION  
HOW CAN YOU POSITIVELY IMPACT THE COMMUNITY BY SERVING ON THIS BOARD?

Item 9.

To make a positive impact on the board I would focus on building and maintain relationships with fellow board members and our community. The ability to listen to others and show the community we have what is in their best interest at heart will build trust and confidence in our ability as a board. I truly believe I could do just that!

SIGNATURE: \_\_\_\_\_

*Michelle Owens*

DATE: \_\_\_\_\_

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**Received On:**

**Received By:**

**Signature:**



## Board Appointment Application

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REQUEST FOR APPOINTMENT TO: Advisory Committee

NAME: Andrew S Herring

ADDRESS: 903 N 8th Street Bessemer City, NC 28016

TELEPHONE: HOME 704-629-1219 WORK 980-722-9259 CELL 704-524-8147

EMAIL ADDRESS: Andrew.Herring@MeckNC.Gov

CURRENT: OCCUPATION: Code Enforcement Manager

EDUCATIONAL BACKGROUND: Diploma/ Some College

VOLUNTEER/CIVIC/PROFESSIONAL ACTIVITIES: First Wesleyan Church (Missions committee, Building committee)

NCBIA, Habitat for Humanity, Girls Fast-pitch Softball Coach

BRIEFLY STATE WHY YOU WOULD LIKE TO BE CONSIDERED TO SERVE ON THIS BOARD OR COMMITTEE:

I believe that the new sports complex is an investment in our children and their futures. This would be great way to help guide and make that something attractive and beneficial

SIGNATURE: Andrew S Herring Digitally signed by Andrew S Herring  
DN: C=US, E=Andrew.Herring@Mecklenburgcountync.gov,  
O=LUESA, OU="Code Enforcement", CN=Andrew S Herring  
Date: 2021.10.01 10:17:10-0400

DATE: 10/1/2021

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Received By:

Signature:



## Board Appointment Application

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REQUEST FOR APPOINTMENT TO: City Adisory Board

NAME: Huston R. Sheppard

ADDRESS: 637 Dundeen Dr Gastonia NC

TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_ CELL 704-215-0694

EMAIL ADDRESS: hustonsheppard@yahoo.com

CURRENT: OCCUPATION: Fitness Trainer

EDUCATIONAL BACKGROUND: 13 Associates Degree

VOLUNTEER/CIVIC/PROFESSIONAL ACTIVITIES:

Elder at The Pointe Church, volunteer with Hand to Hand outreach minsitry ( providing for the homeless,volunteerwith backpack program.

BRIEFLY STATE WHY YOU WOULD LIKE TO BE CONSIDERED TO SERVE ON THIS BOARD OR COMMITTEE:

To help bring ideas to better serve the community, I attended BC High School so I know a lot of people in the community,  
Would like to bring a more fitness atmosphere to the area.

WHAT QUALITIES DO YOU POSSESS THAT MAKES YOU THE RIGHT CANDIDATE FOR THIS BOARD?

I am a team player , I have been in leadership positions. I look at all angles of situations to come to a viable solution.



CITY OF BESSEMER CITY- BOARD APPOINTMENT APPLICATION  
HOW CAN YOU POSITIVELY IMPACT THE COMMUNITY BY SERVING ON THIS BOARD?

Item 9.

I;m friendly, am apporachable , I do my best to be as honest as I can when dealing with others , A good listener, I try and provide positive feedback to establish a solid relationship with people in the community.

SIGNATURE: Huston R. Sheppard / 10 -01-2021



DATE: 10-1-2021

**CLERK USE ONLY**

**Received On:**

**Received By:**

**Signature:**

## CITY OF BESSEMER CITY - BOARD APPOINTMENT APPLICATION



## Board Appointment Application

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REQUEST FOR APPOINTMENT TO: Recreation Advisory Board

NAME: Jean C. Floyd

ADDRESS: 205 S. Mickley Ave Bessemer City, NC 28016

TELEPHONE: HOME 704 629 3331 WORK None CELL 704 460 1737

EMAIL ADDRESS: None

CURRENT: OCCUPATION: Retired

EDUCATIONAL BACKGROUND: HS grad

VOLUNTEER/CIVIC/PROFESSIONAL ACTIVITIES:

The last two years I have not been active.

BRIEFLY STATE WHY YOU WOULD LIKE TO BE CONSIDERED TO SERVE ON THIS BOARD OR COMMITTEE:

Being a resident of BC, I would like to have some input.

WHAT QUALITIES DO YOU POSSESS THAT MAKES YOU THE RIGHT CANDIDATE FOR THIS BOARD?

I have been a supporter of the senior bingo program since it started. I have gone on day trips also. Enjoy the live music and car shows.

CITY OF BESSEMER CITY - BOARD APPOINTMENT APPLICATION  
HOW CAN YOU POSITIVELY IMPACT THE COMMUNITY BY SERVING ON THIS BOARD?

*Let my voice be heard along with others to bring other activities to our community.*

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

*Jean C. Floyd*  
*9/21/2021*

**CLERK USE ONLY**

Received On: \_\_\_\_\_

Received By: \_\_\_\_\_

Signature: \_\_\_\_\_



## Board Appointment Application

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REQUEST FOR APPOINTMENT TO: Parks and Rec Advisory Board

NAME: Andrew Baxter

ADDRESS: 801 Dameron Rd Bessemer City, NC 28016

TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_ CELL 704-616-4997

EMAIL ADDRESS: andrewbaxter77@gmail.com

CURRENT: OCCUPATION: Self Employed

EDUCATIONAL BACKGROUND: College Grad

VOLUNTEER/CIVIC/PROFESSIONAL ACTIVITIES:

Bessemer City Optimist Club Vice President

BRIEFLY STATE WHY YOU WOULD LIKE TO BE CONSIDERED TO SERVE ON THIS BOARD OR COMMITTEE:

I have experience with coaching and being involved with youth activities since joining the BC Optimist Club in 2013.

WHAT QUALITIES DO YOU POSSESS THAT MAKES YOU THE RIGHT CANDIDATE FOR THIS BOARD?

Leadership

Organization

CITY OF BESSEMER CITY- BOARD APPOINTMENT APPLICATION  
HOW CAN YOU POSITIVELY IMPACT THE COMMUNITY BY SERVING ON THIS BOARD?

Item 9.

I have first hand knowledge of what people would like to see happen being a parent of smaller children myself.

SIGNATURE: Andrew Baxter

DATE: \_\_\_\_\_

**CLERK USE ONLY**

**Received On:**

**Received By:**

**Signature:**



## Board Appointment Application

The Mayor and City Council of Bessemer City believe that all citizens should have the opportunity to participate in governmental decisions. One way of participating is by serving as a citizen member of one of the City's advisory boards or committees. If you wish to be considered for such an appointment, please complete the following application and return to the City Clerk, 132 W. Virginia Ave., Bessemer City, NC 28016. Phone: 704-729-6509 Email: hhayes@bessemercity.com

REQUEST FOR APPOINTMENT TO: Parks and Rec Advisory Board

NAME: Rev. Matt Mitchell

ADDRESS: 805 Toncin Ave. Bessemer City, NC 28016

TELEPHONE: HOME N/A WORK 704-869-5226 CELL 336-209-6017

EMAIL ADDRESS: revmattmitchell@gmail.com

CURRENT: OCCUPATION: Senior Pastor

EDUCATIONAL BACKGROUND: Undergraduate, Masters, and Ph.D Candidate (Graduate Dec. 2021)

VOLUNTEER/CIVIC/PROFESSIONAL ACTIVITIES:

Multiple Committees in Denominational District (District Board of Administration; District Board of Ministerial Development; Spiritual Formation Director)

Chamber of Commerce Board Member - Bessemer City NC

BRIEFLY STATE WHY YOU WOULD LIKE TO BE CONSIDERED TO SERVE ON THIS BOARD OR COMMITTEE:

I love Bessemer City. I appreciate what the leaders of our town are doing and the direction in which they are leading the city. I believe the Parks and Rec Department is doing a wonderful job of bringing the community together by offering events to the public. I also believe the new park that is being built will be very beneficial to our town, especially economically. I look forward to seeing the the events that are held at the park and would love to be a part of the great things going on in Bessemer City.

WHAT QUALITIES DO YOU POSSESS THAT MAKES YOU THE RIGHT CANDIDATE FOR THIS BOARD?

I believe my leadership gifts, experience, and educational background would help me to make a valuable contribution to the Parks Rec Advisory Board.

CITY OF BESSEMER CITY- BOARD APPOINTMENT APPLICATION  
HOW CAN YOU POSITIVELY IMPACT THE COMMUNITY BY SERVING ON THIS BOARD?

Item 9.

My position as Senior Pastor at First Wesleyan Church in Bessemer City is a platform for leadership in the community.  
Therefore, I want to be able to partner with the City and what the leaders are doing in order to make a difference in our community.

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SIGNATURE: Rev. Matt Mitchell

DATE: \_\_\_\_\_

**CLERK USE ONLY**

**Received On:**

**Received By:**

**Signature:**





**Bessemer City**  
NORTH CAROLINA EST. 1893  
*City with a Heart*

## Board Appointment Application

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REQUEST FOR APPOINTMENT TO:

BC Parks & Rec Advisory Board

NAME: Erika Nixon

ADDRESS: 300 Leesville Avenue BC NC 28016

TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_ CELL (704) 689-9599

EMAIL ADDRESS: erikamillwood@bellsouth.net

CURRENT OCCUPATION: Small Business owner

EDUCATIONAL BACKGROUND: Graduated BCHS + went to Gaston College

VOLUNTEER/CIVIC/PROFESSIONAL ACTIVITIES:

PTO President for 11 years in BCCentral  
Class Mom, Team Mom, etc for many years  
works concessions many times @ BCHS  
substituted in BC schools for 18 years

BRIEFLY STATE WHY YOU WOULD LIKE TO BE CONSIDERED TO SERVE ON THIS BOARD OR COMMITTEE:

I Absolutely love BC, our little town has amazing  
residents, and I would love to see it continue to grow.  
I had 3 boys come through BC, and they all love to a/so  
give back to our community -

WHAT QUALITIES DO YOU POSSESS THAT MAKES YOU THE RIGHT CANDIDATE FOR THIS BOARD?

Hard working, Caring, loving, honest + Compassionate for those  
less fortunate.



CITY OF BESSEMER CITY - BOARD APPOINTMENT APPLICATION  
HOW CAN YOU POSITIVELY IMPACT THE COMMUNITY BY SERVING ON THIS BOARD?

When I do something, I do it with the entire Community in mind. I would speak for the entire City, not just myself. I want this amazing City to continue to grow + prosper.

SIGNATURE: Erica R. Miller  
DATE: 9-24-2021

CLERK USE ONLY

Received On: \_\_\_\_\_

Received By: \_\_\_\_\_

Signature: \_\_\_\_\_





## Board Appointment Application

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REQUEST FOR APPOINTMENT TO: Parks & Recreation Advisory Board

NAME: Stephanie Gee

ADDRESS: 409 E. Iowa Ave.

TELEPHONE: HOME \_\_\_\_\_ WORK \_\_\_\_\_ CELL 704-913-7759

EMAIL ADDRESS: the\_gees@bellsouth.net

CURRENT: OCCUPATION: Secretary

EDUCATIONAL BACKGROUND: High School Diploma and NC Cosmetology

VOLUNTEER/CIVIC/PROFESSIONAL ACTIVITIES:

Owned a salon in BC for 15 years, My husband and I own a business in town.

I worked 7 years at GCS working in the office, being involved with students, parents, teachers and coaches.

Volunteered through BC Rec and Optimist for 10 years

BRIEFLY STATE WHY YOU WOULD LIKE TO BE CONSIDERED TO SERVE ON THIS BOARD OR COMMITTEE:

I have lived in Bessemer City most of my life, raised my son here, and currently live and own a business in BC.

I love BC and would love to help the community and city by serving on this board. Parks and Rec is a big part of BC. Our committee needs these parks and our children need these parks and sport programs.

WHAT QUALITIES DO YOU POSSESS THAT MAKES YOU THE RIGHT CANDIDATE FOR THIS BOARD?

Son has always played ball in Bessemer City through the Recreation Dept. and Optimist Club. I have helped out with coaching, volunteering, and as an officer in the Optimist Club over many years.

CITY OF BESSEMER CITY- BOARD APPOINTMENT APPLICATION  
HOW CAN YOU POSITIVELY IMPACT THE COMMUNITY BY SERVING ON THIS BOARD?

Item 9.

SIGNATURE: Stephanie Gee

DATE: \_\_\_\_\_

**CLERK USE ONLY**

**Received On:**

**Received By:**

**Signature:**



**AN ORDINANCE AMENDING SECTION 2.7.B OF THE BESSEMER  
CITY LAND DEVELOPMENT CODE**

**WHEREAS**, after proper notification a Public Hearing was held before the Bessemer City Council on October 11<sup>th</sup>, 2021 to consider a proposed amendment to the Bessemer City, NC Land Development Code (LDC) Section 2.7.B. On September 7<sup>th</sup>, 2021 the Bessemer City Planning Board voted to recommend the City Council approve the proposed LDC text change.

**WHEREAS**, after a \_\_\_\_\_ vote, the City Council of Bessemer City approved a text change to the Bessemer City LDC proposed by text change request TA2021-0001.

**NOW THEREFORE BE IT ORDAINED**, by the City Council of the City of Bessemer City, that Section 2.7.B of the Bessemer City, NC Land Development Code is amended to reflect the adopted changes as written below.

**BESSEMER CITY LAND DEVELOPMENT CODE –  
CHAPTER 2.7.B TABLE OF USES**

Industrial	R	NR	UR	CC	HC	BCP	I
Manufacturing, Heavy						SUP	P
Manufacturing, Light						P	P
Outdoor Storage/Sales					SUP		AS
Wholesale/Warehouse					AS	P	P

Effective Date

This Ordinance shall become effective upon its adoption by the City Council of the City of Bessemer City, North Carolina.

Adopted by City Council this 11<sup>th</sup> Day of October, 2021.

\_\_\_\_\_  
Becky S. Smith, Mayor

\_\_\_\_\_  
Hydeia Y. Hayes, City Clerk




**AN ORDINANCE AMENDING SECTION 3.8.C.13 OF THE BESSEMER CITY  
LAND DEVELOPMENT CODE**

**WHEREAS**, after proper notification a Public Hearing was held before the Bessemer City Council on October 11<sup>th</sup>, 2021 to consider a proposed amendment to the Bessemer City, NC Land Development Code (LDC) Section 3.8.C.13 Signage Requirements Table. On September 7<sup>th</sup>, 2021 the Bessemer City Planning Board voted to recommend the City Council approve the proposed LDC text change.

**WHEREAS**, after a \_\_\_\_\_ vote, the City Council of Bessemer City approved a text change to the Bessemer City LDC proposed by text change request TA2021-0001.

**NOW THEREFORE BE IT ORDAINED**, by the City Council of the City of Bessemer City, that Section 3.8.C.13 of the Bessemer City, NC Land Development Code is amended to reflect the adopted changes as written below.

**BESSEMER CITY LAND DEVELOPMENT CODE –  
CHAPTER 3.8.C.13 Signage Requirements Table**

<p>13. Electronic message board signs</p> 	<p>All districts – city government, parks, government, religious institutions, educational facilities excluding daycares and preschools, service stations.</p>	<p>60 sq ft maximum sign area</p>	<p>10ft maximum height.</p>	<p>All signs must be setback at least 10ft from the right of way and setback 10ft from a property line. Outside of the sight distance triangle. Must have masonry foundation to match commercial structure. Each scrolled message shall remain static for a minimum period of eight (8) seconds; There shall be a transition time period of no greater than two (2.0) seconds between sign messages; The scrolled message area shall constitute no greater than fifty (50) percent of the sign area face.</p>	<p>1 per primary business.</p>
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Effective Date

Item 11.

This Ordinance shall become effective upon its adoption by the City Council of the City of Bessemer City, North Carolina.

Adopted by City Council this 11<sup>th</sup> Day of October, 2021.

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Becky S. Smith, Mayor

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Hydeia Y. Hayes, City Clerk

COBC-GOVBOD-2021-2022 R 4



## AN ORDINANCE AMENDING SECTION 3.2.B OF THE BESSEMER CITY LAND DEVELOPMENT CODE

**WHEREAS**, after proper notification a Public Hearing was held before the Bessemer City Council on October 11<sup>th</sup>, 2021 to consider a proposed amendment to the Bessemer City, NC Land Development Code (LDC) Section 3.2.B Accessory Structures. On September 7<sup>th</sup>, 2021 the Bessemer City Planning Board voted to recommend the City Council approve the proposed LDC text change.

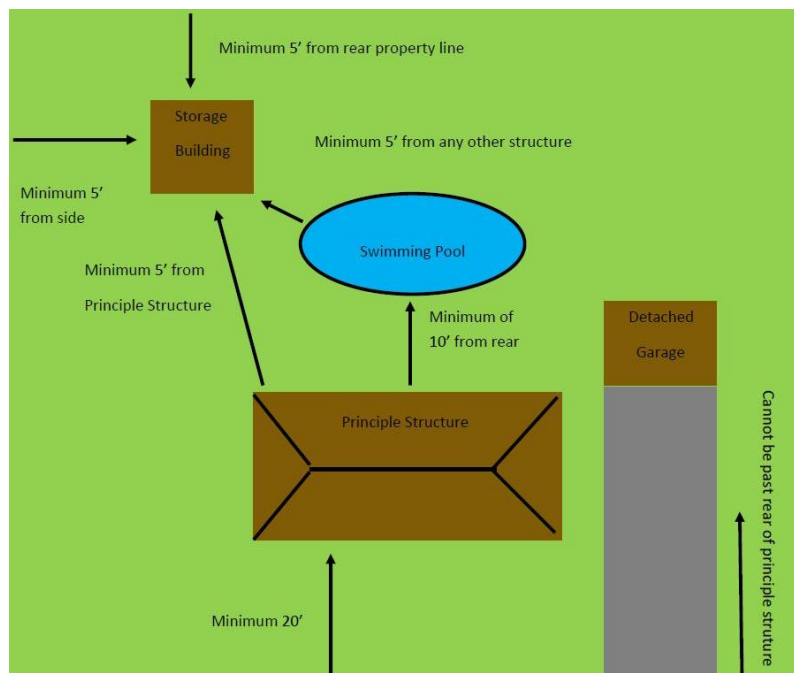
**WHEREAS**, after a \_\_\_\_\_ vote, the City Council of Bessemer City approved a text change to the Bessemer City LDC proposed by text change request TA2021-0001.

**NOW THEREFORE BE IT ORDAINED**, by the City Council of the City of Bessemer City, that Section 3.2.B of the Bessemer City, NC Land Development Code is amended to reflect the adopted changes as written below.

### BESSEMER CITY LAND DEVELOPMENT CODE – CHAPTER 3.2.B Accessory Structures

#### 3.2.B Accessory Structures

*Figure 0-1 Diagram of Accessory Structures*



1. Unless otherwise specified, accessory structures shall be set back at least five (5) feet from and side lot lines. Item 11.
2. The accessory structure shall be clearly incidental to the primary use. Accessory structures shall not exceed the height, length, or the width of the principal structure on the lot.
3. With the exception of Section accessory structures must be located in the rear yard unless, upon the determination of the Zoning Administrator, no practical location exists.
4. Each lot shall be permitted up to three (3) accessory structures.
5. Lots that are one (1) acre or less shall only be permitted one (1) accessory structure that may be used for storage purposes.
6. A detached garage shall not be counted towards the one (1) permitted accessory structure used for storage purposes.
7. Lots greater than one (1) acre shall be permitted up to four (4) accessory structures.
8. The square footage of accessory structures must not exceed fifty (50) percent of the square footage of the primary structure on a lot.
9. Garage buildings, both attached and detached, shall be regulated as an accessory structure.

Effective Date

This Ordinance shall become effective upon its adoption by the City Council of the City of Bessemer City, North Carolina.

Adopted by City Council this 11<sup>th</sup> Day of October, 2021.

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Becky S. Smith, Mayor

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Hydeia Y. Hayes, City Clerk





**AN ORDINANCE AMENDING SECTION 3.3.F OF THE BESSEMER CITY  
LAND DEVELOPMENT CODE**

**WHEREAS**, after proper notification a Public Hearing was held before the Bessemer City Council on October 11<sup>th</sup>, 2021 to consider a proposed amendment to the Bessemer City, NC Land Development Code (LDC) Section 3.3.F Garages and Carports. On September 7<sup>th</sup>, 2021 the Bessemer City Planning Board voted to recommend the City Council approve the proposed LDC text change.

**WHEREAS**, after a \_\_\_\_\_ vote, the City Council of Bessemer City approved a text change to the Bessemer City LDC proposed by text change request TA2021-0001.

**NOW THEREFORE BE IT ORDAINED**, by the City Council of the City of Bessemer City, that Section 3.3.F of the Bessemer City, NC Land Development Code is amended to reflect the adopted changes as written below.

**BESSEMER CITY LAND DEVELOPMENT CODE –  
CHAPTER 3.2.B Accessory Structures**

**3.3.F Garages and Carports**

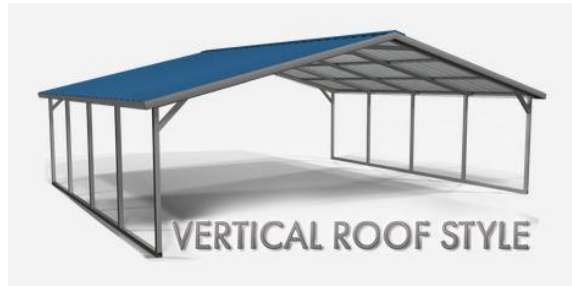
1. Garage doors are not permitted on the front elevation of any multi-family dwelling.
2. Attached garages or garage buildings shall be located in the side or rear yard only. Attached garage buildings that front a public street shall be and recessed a minimum of six (6) feet from the front façade.
3. Detached garages shall be located in the rear yard. Side yard detached garages are permitted if attached by a minimum six (6) foot wide covered breezeway to match principal roof structure.
4. If a detached garage is located within the side yard, it shall not protrude beyond the frontage of the principal structure.
5. Detached carports shall be located in the rear yard only.

6. Carport roofs shall be either boxed eave or vertical style.

*Figure 5-1 Example of Boxed Eave Style Carport Roof*



*Figure 6-2 Example of Vertical Roof Style Carport Roof*



7. Carports must be located on a paved surface or a contained gravel surface.
8. Attached carports must match the roof of the principal structure.

Effective Date

This Ordinance shall become effective upon its adoption by the City Council of the City of Bessemer City, North Carolina.

Adopted by City Council this 11<sup>th</sup> Day of October, 2021.

\_\_\_\_\_  
Becky S. Smith, Mayor

\_\_\_\_\_  
Hydeia Y. Hayes, City Clerk

COBC-GOVBOD-2021-2022 R 5



## City of Bessemer City, North Carolina

### Text Amendment Staff Report

Planning Board Recommendation September 7, 2021

Applicant: Bessemer City Planning Staff

Request:

Proposal to amend Sub-Section 13 of Section 8.C, of Chapter 3, Requirements Table, of the Bessemer City Land Development Code. Proposed changes include increasing the overall height of Electronic Message Boards and the Maximum Area per Sign Face.

Proposal to amend Sub-Section 2.B of Chapter 3, Accessory Structures, of the Bessemer City Land Development Code. Proposed changes include an additional regulation for garages or garage building's façade percentage and would classify them as an accessory structure.

Proposal to amend Sub-Section (3) of Section 3.F, of Chapter 3, Garages and Carports, of the Bessemer City Land Development Code. Proposed changes include distinguishing between front facing garages and garage buildings. This distinction textually clarifies the regulation of front facing garages to be recessed a minimum of six feet from the front façade.

Proposal to amend definition of Structure, Accessory in Chapter 10.1 to support aforementioned text changes.

Proposal to amend zoning districts with permitted usage of Wholesale/Warehouse within Table of Uses 2.7.B.

### Background Information:

The current Land Development Code lists requirements for signage within Chapter 3 Design Standards, Section 8. Within this section are various subsections that include specific requirements for sign dimensions and placement that were adopted to encourage effective communication of signs, enhance the look of the city, and improve safety of motorists, pedestrians, and bicyclist.

Currently within Chapter 3, Section 8.C, Sub-Section 13 of the Requirements Table, Electronic Message Board Signs are allowable only by governmental agencies, parks, religious institutions, educational facilities, and service stations. The current maximum sign area per sign face is listed at 32 SQFT with the maximum sign height listed at 6ft.

Currently within Chapter 3, Section 8.D, Subsection 5 (b) of Additional Requirements for Certain Permitted Signs, the percentage of electronic messaging paneling that the sign can be comprised of is 33% maximum.

The proposed changes are to increase the maximum sign height to 10ft, increase the maximum sign area per sign face to 60 SQFT, and keep the percentage allowable for electronic paneling at 33%.

Currently within Chapter 3, Section 3.2.B, Accessory Structures. Accessory structures and detached garage buildings are regulated. The proposed text changes include adding detached and attached garages or garage buildings to be regulated under the section.

Currently within Chapter 3, Section 3.3.F, Garages and Carports, garages are regulated to be in the side or rear yard only and recessed a minimum of six feet from the front façade. The proposed text changes would change the regulation to front facing garages shall be recessed a minimum of six feet from the front façade.

Currently within the Table of Uses found in section 2.7.B Wholesale/Warehouse is not a permitted use within the Business Campus Production (BCP) zoning district. The proposed text changes would be to permit the use of Wholesale/Warehouse by right within the Business Campus Production (BCP) zoning district.

Staff Recommendation:

Approve as submitted.

Exhibits:

1. Plan Consistency Statement
2. Document of proposed text changes
3. Bessemer City High School Electronic Sign Application Example
4. Bessemer City High School Sign Application

Recommended Effective Date: October 11, 2021

Proposed Text Changes

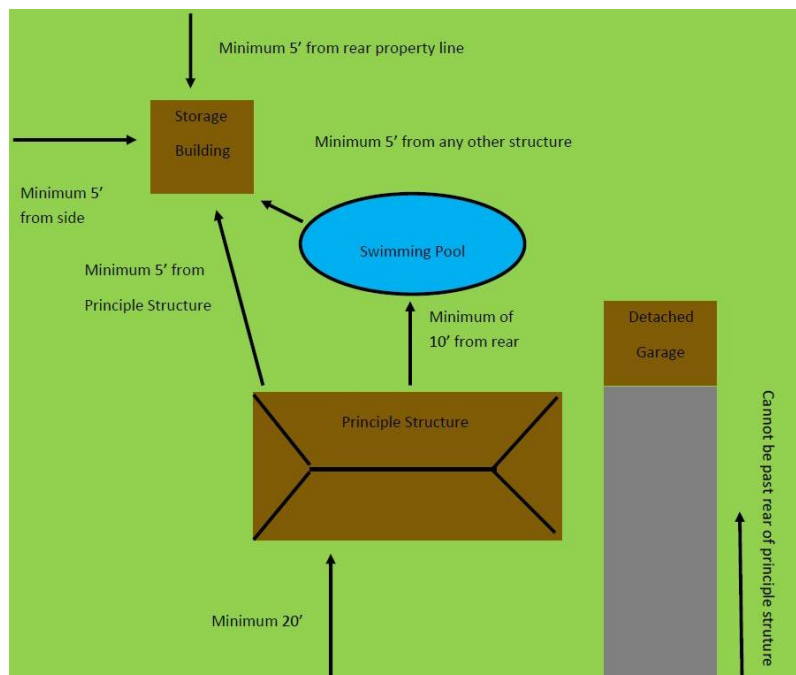
Current Text

~~Text to be removed~~

Text to be input

### 3.2.B ACCESSORY STRUCTURES

*Figure Error! No text of specified style in document.-1 Diagram of Accessory Structures*



1. Unless otherwise specified, accessory structures shall be set back at least five (5) feet from the rear and side lot lines.
2. **The accessory structure shall be clearly incidental to the primary use.** Accessory structures shall not exceed the height, **length, or the width** of the principal structure on the lot.
3. With the exception of Section 0, accessory structures must be located in the rear yard unless, upon the determination of the Zoning Administrator, no practical location exists.
4. Each lot shall be permitted up to three (3) accessory structures.
5. Lots that are one (1) acre or less shall only be permitted one (1) accessory structure that may be used for storage purposes.
6. A detached garage shall not be counted towards the one (1) permitted accessory structure used for storage purposes.
7. Lots greater than one (1) acre shall be permitted up to four (4) accessory structures.

8. The square footage of accessory structures must not exceed fifty (50) percent of the square footage of the primary structure on a lot.
9. **Garage buildings, both attached and detached, shall be regulated as an accessory structure.**

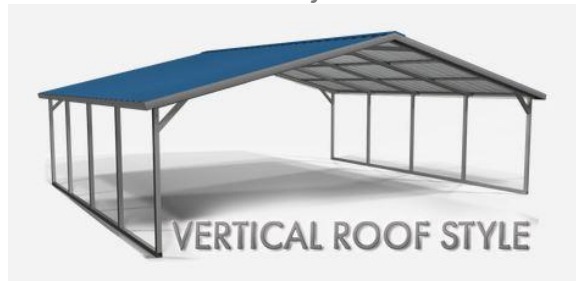
### 3.3.F GARAGES AND CARPORTS

10. Garage doors are not permitted on the front elevation of any multi-family dwelling.
11. Attached garages or garage buildings shall be located in the side or rear yard only. **Attached garage buildings that front a public street shall be** ~~and~~ recessed a minimum of six (6) feet from the front façade.
12. Detached garages shall be located in the rear yard. Side yard detached garages are permitted if attached by a minimum six (6) foot wide covered breezeway to match principal roof structure.
13. If a detached garage is located within the side yard, it shall not protrude beyond the frontage of the principal structure.
14. Detached carports shall be located in the rear yard only.
15. Carport roofs shall be either boxed eave or vertical style.

*Figure Error! No text of specified style in document.-2 Example of Boxed Eave Style Carport Roof*



*Figure Error! No text of specified style in document.-3 Example of Vertical Roof Style Carport Roof*



16. Carports must be located on a paved surface or a contained gravel surface.
- Attached carports must match the roof of the principal structure.

## 13. Electronic message board signs



All districts – city government, parks, government, religious institutions, educational facilities excluding daycares and preschools, service stations.

~~32~~ 60 sq ft  
maximum  
sign area

~~6ft~~ 10ft  
maximum  
height.

All signs must be setback at least 10ft from the right of way and setback 10ft from a property line. Outside of the sight distance triangle. Must have masonry foundation to match commercial structure. Each scrolled message shall remain static for a minimum period of eight (8) seconds; There shall be a transition time period of no greater than two (2.0) seconds between sign messages; The scrolled message area shall constitute no greater than fifty (50) percent of the sign area face.

1 per primary business.

### Structure, Accessory

A structure ~~clearly separate from~~ subordinate to the principal structure located on the same lot as the principal structure used for purposes customarily incidental to the principal structure. An accessory structure may also be referred to as an "accessory building." **Accessory structures may be attached to or detached from the principal structure.**





**AN ORDINANCE AMENDING SECTION 10.1 OF THE BESSEMER CITY  
LAND DEVELOPMENT CODE**

**WHEREAS**, after proper notification a Public Hearing was held before the Bessemer City Council on October 11<sup>th</sup>, 2021 to consider a proposed amendment to the Bessemer City, NC Land Development Code (LDC) Section 10.1 General Definitions. On September 7<sup>th</sup>, 2021 the Bessemer City Planning Board voted to recommend the City Council approve the proposed LDC text change.

**WHEREAS**, after a \_\_\_\_\_ vote, the City Council of Bessemer City approved a text change to the Bessemer City LDC proposed by text change request TA2021-0001.

**NOW THEREFORE BE IT ORDAINED**, by the City Council of the City of Bessemer City, that Section 10.1 of the Bessemer City, NC Land Development Code is amended to reflect the adopted changes as written below.

**BESSEMER CITY LAND DEVELOPMENT CODE –  
CHAPTER 10.1 General Definitions**

**Structure, Accessory**

A structure clearly subordinate to the principal structure located on the same lot as the principal structure used for purposes customarily incidental to the principal structure. An accessory structure may also be referred to as an "accessory building." Accessory structures may be attached to or detached from the principal structure.

Effective Date

This Ordinance shall become effective upon its adoption by the City Council of the City of Bessemer City, North Carolina.

Adopted by City Council this 11<sup>th</sup> Day of October, 2021.

\_\_\_\_\_  
Becky S. Smith, Mayor

\_\_\_\_\_  
Hydeia Y. Hayes, City Clerk

## BUDGET AMENDMENT

October 11, 2021

BE IT ORDAINED by the governing body of the City of Bessemer City that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2022 as follows:

Section 1. To amend the General Fund appropriations as follows:

<u>Acct. No.</u>		<u>Debit</u>	<u>Credit</u>
100-00-4120-500	Capital Outlay (107 W Wash)	\$110,500	

This will result in a net increase of \$110,500 in the appropriations for the General Fund. To provide the additional revenue for the above, the following revenue will be increased.

100-00-3991-991	Fund Balance (General Fund)	\$110,500
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Section 2. Copies of this budget amendment shall be furnished to the Clerk, to the Governing Board, and to the Budget Officer and the Finance Officer for their direction.

Adopted by Council, this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Becky S. Smith, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hydeia Y. Hayes, Clerk

\_\_\_\_\_  
Date

COBC-GOVBOD-2021-2022 O 9



## RESOLUTION APPROVING LOCAL WATER SUPPLY PLAN

**WHEREAS**, North Carolina General Statute 143-355 (l) requires that each unit of local government that provides public water service or that plans to provide public water service and each large community water system shall, either individually or together with other units of local government and large community water systems, prepare and submit a Local Water Supply Plan; and

**WHEREAS**, as required by the statute and in the interests of sound local planning, a Local Water Supply Plan for the City of Bessemer City, has been developed and submitted to the City Council for approval; and

**WHEREAS**, the City Council finds that the Local Water Supply Plan is in accordance with the provisions of North Carolina General Statute 143-355 (l) and that it will provide appropriate guidance for the future management of water supplies for City of Bessemer City, as well as useful information to the Department of Environmental Quality for the development of a state water supply plan as required by statute;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Bessemer City that the Local Water Supply Plan entitled, Local Water Supply Plan dated September 2021, is hereby approved and shall be submitted to the Department of Environmental Quality, Division of Water Resources; and

**BE IT FURTHER RESOLVED** that the City Council intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

This the 11th day of October, 2021

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Hydeia Y. Hayes, City Clerk