

**AN ORDINANCE REGULATING JUNKYARDS AND AUTOMOBILE GRAVEYARDS  
IN LENOIR COUNTY**

WHEREAS this Board declares that Junkyards and Automobile Graveyards in close proximity to public roads and residential areas are patently offensive to the dignity and aesthetic quality of the environment in Lenoir County unless at least partially obstructed from view by appropriate fencing; and

WHEREAS this Board declares that Junkyards and Automobile Graveyards in close proximity to public roads residential areas churches and schools pose an inherently dangerous threat to the health safety and welfare of the citizens residents and school children in close proximity thereto unless sufficiently enclosed and surrounded by a substantial fence or wall due to the hazard of fire water pollution the possible entrapment of children and others in areas of confinement such as vehicle trunks and compartments and the possibility of injury to persons especially children resulting from said persons coming into contact with metal glass or other rigid materials.

NOW THEREFORE pursuant to the authority granted in Chapter 841 of the North Carolina 1983 Session Laws Chapter 883 of the North Carolina 1985 Session (Regular Session 1986) Laws and NCGS 153A-121 134 and 140 the Board of Commissioners of Lenoir County do order and ordain the following:

**I. Purpose**

The purposes and objectives for which this ordinance is passed include the following:

- A. To protect the citizens and residents of Lenoir County from inherently dangerous junkyards and automobile graveyards.
- B. To preserve the dignity and aesthetic quality of the environment in Lenoir County.
- C. To preserve the physical integrity of land in close proximity to residential areas.
- D. To achieve responsible economic growth in areas of Lenoir County that is compatible with growth and development in nearby areas.
- E. To provide an attractive environment along Lenoir County's principal highway corridors in order to attract and retain high-quality economic development in the county.
- F. To protect Lenoir County's water quality.

**II. Definitions**

For the purpose of this ordinance certain words and terms are defined as herein indicated.

**AUTOMOBILE GRAVEYARD:** Any establishment or place of business which is maintained used or operated for storing keeping buying or selling wrecked scrapped ruined dismantled or inoperable motor vehicles and which are not being restored to operation regardless of the length of time which individual motor vehicles are stored or kept at said establishment or place of business.

**EXISTING, PRE-EXISTING OR ESTABLISHED JUNKYARD:** Any junkyard or automobile graveyard in operation at the effective date of this ordinance including property purchased prior to the effective date of this ordinance where site preparation was underway and who's owner is a participant in the voluntary Hurricane Floyd Buyout program.

**FARM:** Singularly or jointly owned land parcel or contiguous parcels on which agricultural operations are conducted as the substantial use. Agricultural operations include but are not limited to cultivation of crops the husbandry of livestock and forestry.

**FENCE:** A continuous opaque barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point wood stone steel or other metal or any substance of a similar nature and strength which will hide the automobile graveyard or junkyard.

**GARAGE:** An establishment which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles and which receives fifty percent or more of its gross income from charges made for such repairs.

**HEALTH OR SAFETY NUISANCE:** A motor vehicle may be declared a health or safety nuisance when it is found to be:

1. A breeding ground or harbor for mosquitoes or other insects snakes rats or other pests; or
2. A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
3. A point of collection for pools or ponds of water; or
4. A point of concentration of gasoline oil or other flammable or explosive materials; or
5. So located that there is a danger of the vehicle falling or turning over; or
6. A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal glass or other rigid materials.

**JUNK:** Old or scrapped copper brass rope rags batteries paper trash rubber debris waste dismantled or wrecked automobiles or parts thereof dismantled or broken appliances or parts thereof including white goods iron steel and other old scrap ferrous or non-ferrous materials abandoned Manufactured Housing Units or parts thereof abandoned stick-built houses or parts thereof or abandoned farm machinery or parts thereof.

**JUNKYARD:** An establishment or place of business which is maintained operated or used for storing keeping buying or selling junk or for maintenance or operation of an automobile graveyard. The term shall not include any County operated sanitary landfill.

**JUNKYARD CONTROL ACT:** N.C. General Statutes 136-141 through 155 (Article 12) which delegate to the N.C. Department of Transportation the responsibility to regulate "junkyards" and "automobile graveyards" located on interstate and federal-aid primary system highways.

**MOTOR VEHICLE:** Any machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

**NONCONFORMING SITUATION:** A situation that occurs when on the effective date of this ordinance an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable.

**PUBLIC ROAD:** Any road or highway which is now or hereafter designated and maintained by the North Carolina Department of Transportation as part of the State Highway System whether primary or secondary hard-surfaced or other dependable highways.

**RESIDENCE:** A house an apartment a group of homes or a single room occupied or intended for occupancy as separate living quarters for one or more humans.

**SCHOOL:** Any public or private institution for the teaching of children under eighteen years of age which is recognized and approved by the North Carolina Board of Education or other appropriate licensing board.

**SERVICE STATION:** Any establishment which is maintained and operated for the primary purpose of making retail sales of fuels lubricants air water and other items for the operation and routine maintenance of motor vehicles and/or for making mechanical repairs servicing and/or washing of motor vehicles and which receives more than fifty percent of its gross income from the retail sale of the aforesaid items and/or from the making of mechanical repairs servicing and/or washing of motor vehicles.

**VECTORS:** Any organism that carries disease-causing microorganisms from one host to another (e.g. rats mosquitoes etc.).

**VISIBLE:** Capable of being seen without visual aid by a person of normal acuity.

**WHITE GOODS:** Refrigerators ranges water heaters freezers unit air conditioners washing machines dishwashers clothes dryers and other similar domestic and commercial large appliances.

**100-YEAR AND 500-YEAR FLOOD PLAIN:** The area of 100 year and 500 year flood inundation as shown on Lenoir County's Official Flood Insurance Maps as amended.

### **III. ENFORCEMENT OFFICER**

The Lenoir County Planning and Inspections Department shall serve as the Enforcement Officer(s) for this ordinance.

### **IV. PROHIBITIONS**

- A. It shall be unlawful after the effective date of this ordinance for any person firm or corporation or other entity to begin operation in Lenoir County of a junkyard or automobile graveyard within 300 feet of the centerline of any public road or 1 000 feet of a school residence or church nor can they be located within the 100-Year or 500-Year Floodplain as determined by the NFIP rate map. The residence of the owner of the junkyard or automobile graveyard shall be allowed on the premises without conforming to any distance requirements.
- B. After the effective date of this ordinance the operation of any pre-existing junkyard or automobile graveyard in Lenoir County both inside and outside the municipalities located in the county excluding the City of Kinston and its Extraterritorial Jurisdiction shall be unlawful except as provided in Sections V and VI.

### **V. EXCEPTIONS**

- A. This ordinance shall not apply to service stations repair shops or garages unless the operation thereof would also fall within the definition of junkyards or automobile graveyards as defined in Section Two above.
- B. This ordinance shall not apply to junkyards or automobile graveyards whose operation is conducted indoors rather than outdoors and which do not store any junk outside.
- C. This ordinance shall in no way regulate restrict prohibit or otherwise deter any bona fide farm and its related uses.
- D. Any expansion to a pre-existing junkyard or automobile graveyard shall be considered a new establishment and as such the expanded part shall not be closer than 1000' to a

church school or residence.

- E. Junkyards or automobile graveyards existing as of the effective date of this Ordinance may be operated and/or maintained without restrictions of this Ordinance if said junkyard or automobile graveyard shall be surrounded by opaque fence as defined above where said fencing shall be necessary to screen the view of persons from public roads schools rural volunteer fire departments churches or residential areas and where such screening is not already substantially provided by natural topography or other natural barriers; provided however that nothing contained herein shall require fencing as defined herein which would not be substantially effective to create a barrier to the view of the public to said junkyard or automobile graveyard. Any fence used within the meaning of this subsection shall be a fence as defined in Section Two above. The opaque fence shall be maintained in good condition. The opaque fence shall have at least one (1) gate for the purpose of ingress and egress.
- F. All new junkyards and/or automobile graveyards established in accordance with Section IV (A) and all pre-existing junkyards and/or automobile graveyards may be operated and maintained subject to the following conditions:
1. The Lenoir County Health Department may inspect each junkyard and automobile graveyard to determine compliance with this ordinance and to determine that no vectors are present and that it is not a health or safety nuisance. Should vectors be identified the owner/operator/maintainer shall submit satisfactory evidence to the Health Department that vectors have been eliminated.
  2. The junkyard or automobile graveyard shall be entirely surrounded by an opaque fence at least six (6) feet in height. Said fence shall surround the minimum area necessary for the junkyard or automobile graveyard to be maintained at its present size and that will also allow for a reasonable amount of maneuverability within.  
  
The Enforcement Officer shall be available to assist an owner operator or maintainer of a junkyard or automobile graveyard upon request of the said owner operator or maintainer in the formulation of plans for said fencing. The fence or wire fence shall be maintained in good order and shall not be allowed to deteriorate.
  3. All operations equipment junk and/or inoperable motor vehicles shall be kept within the confines of said fence at all times unless in motion by transport to or from the site.

**VI. NONCONFORMING AUTOMOBILE GRAVEYARDS AND  
JUNKYARDS EXISTING AT EFFECTIVE DATE OF THIS  
ORDINANCE**

- A. All owners operators or maintainers of automobile graveyards and junkyards existing at the effective date of this ordinance shall register same with Lenoir County within a period of ninety (90) days beginning with the effective date of this ordinance. All existing automobile graveyards or junkyards that have not been registered within 90 days shall be in violation of the provisions of this ordinance.
  
- B. All existing automobile graveyards or junkyards at the effective date of this ordinance registered in accordance with the preceding Section shall be granted a grace period of twenty-four months from the effective date of registration to conform to ordinance provisions thereafter same shall be in violation of this ordinance. The owners or operators of any automobile graveyard or junkyard existing at the effective date of this ordinance shall provide a plan to the Lenoir County Planning Board within six months of the effective date of this ordinance to show the Lenoir County Planning Board that the existing automobile graveyards or junkyards will conform with this ordinance or that the automobile graveyards or junkyards are participating in the voluntary buy-out process related to Hurricane Floyd.

**VII. REGISTRATION OF NEW AUTOMOBILE GRAVEYARDS  
OR JUNKYARDS**

The owner operator or maintainer of any new automobile graveyard or junkyard and/or expansion thereof to be established in accordance with this ordinance shall register with the County and shall not begin operation until the County certifies that all applicable provisions of this ordinance have been satisfied. Failure to obtain the County's certification shall constitute a violation of this ordinance.

**VIII. SITE PLAN REQUIRED FOR AUTOMOBILE  
GRAVEYARDS AND JUNKYARDS ESTABLISHED, RELOCATED,  
OR EXPANDED AFTER THE EFFECTIVE DATE OF THIS  
ORDINANCE**

Owners or operators of junkyards and automobile graveyards established relocated or expanded after the effective date of this Ordinance shall present ten copies of a site plan which conform to the standards of this Ordinance to the Lenoir County Planning Board. The Planning Board shall review the site plan to insure conformity with the requirements of this Ordinance. No new

automobile graveyard or junkyard shall be operated until the site plan has been approved by the Lenoir County Planning Board; provided however that if the Planning Board has not taken action within ninety (90) days after the first meeting of the Planning Board after the submission of the site plan said site plan will be deemed to be approved.

**IX. ESTABLISHMENT OF NEW, RELOCATED, OR EXPANDED  
AUTOMOBILE GRAVEYARDS AND JUNKYARDS NOT ALLOWED  
ON PRINCIPAL HIGHWAY CORRIDORS AFTER THE  
EFFECTIVE DATE OF THIS ORDINANCE**

A. PURPOSE OF LOCATION REQUIREMENTS: The Board of Commissioners of Lenoir County finds that the appearance of the principal highway corridors into and out of Lenoir County has a significant impact on Lenoir County's ability to attract and retain high-quality economic development. The Board further finds that the presence of automobile graveyards and junkyards whether screened by a six-foot opaque fence or not discourages new businesses and residents from locating in Lenoir County by presenting an unsightly run-down and deteriorating appearance. The Board further finds however that the business of operating automobile graveyards and junkyards is a legitimate and lawful business and must be allowed to operate in conformity with this ordinance and any applicable Zoning Ordinances at suitable locations which are not on the principal highway corridors.

B. LOCATION REQUIREMENTS: Owners or operators of junkyards and automobile graveyards established relocated or expanded after the effective date of this Ordinance are forbidden to locate along the principal highway corridors of Lenoir County. The principal highway corridors of Lenoir County are defined as US 70 US 258 NC 11 NC 58 NC 903 NC 55 NC 241 and Crescent Road. Junkyards and automobile graveyards are explicitly allowed to operate along the hundreds of miles of secondary roads and city streets in Lenoir County which are not principal highway corridors so long as they are operated in conformity with the other provisions of this ordinance and any applicable Zoning Ordinances.

C. EXCEPTION - BUILDING OR NATURAL BARRIERS: This location restriction shall not apply to new relocated or expanded junkyards or automobile graveyards on principal highway corridors which present a site plan approved by the Lenoir County Planning Board which uses buildings or natural topography or other natural barriers (not fencing) which totally and completely hides any view whatsoever of the fence surrounding the junkyard and any junk contained therein from the traveled portion of the right of way of the principal highway corridor. In order to qualify for this exemption both the fence and the junk must be completely hidden from the view of the entire length of the traveled portion of the highway as a vehicle approaches and passes by the property and not merely for a portion of its passage by the site.

D. EXCEPTION - EXISTING JUNKYARDS WHICH DO NOT EXPAND: This location restriction shall not apply to junkyards or automobile graveyards existing at the effective date of this ordinance unless the junkyard or automobile graveyard is expanded. Existing facilities which are expanded after the effective date of this ordinance must comply with this section by relocating to sites which are not on principal highway corridors within six (6) months of the date of the expansion unless buildings or natural barriers completely hide the fence and junk as described in Section IX (C) above.

E. EXCEPTION - PREVIOUSLY PURCHASED HURRICANE FLOYD BUYOUT SITES: This location restriction shall not apply to sites which were purchased for the express purpose of maintaining a junkyard or automobile graveyard on a principal highway corridor as part of the Hurricane Floyd Salvage Yard Buyout if the site was purchased prior to March 4 2002 the effective date of the temporary moratorium. The location restrictions in this section shall apply to all Hurricane Floyd Salvage Yard Buyout sites purchased after March 4 2002.

## **X. REMEDIES AND PENALTIES FOR VIOLATION**

If any real property is used in violation of this ordinance the County or any other appropriate authority or adjacent or other property owner who would be damaged by such violation in addition to other remedies may institute injunction mandamus or other appropriate action in proceeding to stop the violation.

The Lenoir County Planning and Inspections Department shall be responsible for enforcing the provisions of this Ordinance including notification to any violator that a 30-day compliance period is available to meet the requirements. In addition the Enforcement Officer shall take any appropriate informal measures deemed helpful toward procuring compliance with the ordinance. If such 30-day notification and informal measures fail to obtain compliance the Enforcement Officer may obtain warrants for violations of this ordinance.

Any person firm corporation or other entity who maintains or operates or who controls the maintenance or operation of a junkyard or automobile graveyard in violation of this ordinance shall be guilty of a misdemeanor and subject to prosecution and if convicted shall be punished in accordance with the provisions of N.C. General Statute 14-4. Each day that said automobile graveyard or junkyard shall be maintained or operated in violation of this ordinance shall constitute a separate and distant offense.

In lieu of or in addition to the criminal penalties outlined above any person violating this ordinance may be subject to the remedies outlined in NCGS 153A-123 including civil penalties not to exceed \$100.00. No penalty shall be assessed prior to notice of the violation. For every day a person is in violation of this

ordinance it may be considered a separate offense. If the violator does not pay such penalty within 30 days of notification of its assessment by written citation it may be recovered by the County in a civil action in the nature of a debt. The violator may contest said penalty in the court of appropriate jurisdiction.

## **XI. SEVERABILITY**

If any section or part of this Ordinance should be held invalid for any reason such determination shall not affect the remaining sections or parts and to that end the provisions of this Ordinance are severable.

## **XII. VARIANCES**

The Planning Board may authorize a variance from the provisions of this ordinance if such variance can be made without destroying the intent of this ordinance. A fee as established by the Board of County Commissioners shall be paid by the applicant for an amendment to cover the administrative expenses involved. Approval of variances shall be based upon written justification by the applicant and may be granted if all six (6) Findings of Fact listed below have been satisfied:

- (1) If the applicant complies strictly with the provisions of the ordinance he can make no reasonable use of his property;
- (2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;
- (3) The hardship relates to the applicant's land rather than personal circumstances;
- (4) The hardship is unique or nearly so rather than one shared by many surrounding properties;
- (5) The hardship is not the result of the applicant's own actions; and
- (6) The variance will neither result in the extension of a nonconforming situation nor authorize the initiation of a nonconforming use of land.

In the event that the Planning Board grants a variance it shall be the minimum variance necessary in order to allow reasonable use of the applicant's land. Any variance granted by the Planning Board shall require an affirmative vote of two-thirds of the members of the Planning Board present at the meeting at which the variance is

requested. Any variance thus authorized is required to be entered in writing in an order from the Planning Board setting forth Findings of Fact and conclusions on which the Variance was granted or denied. In approving variances the Planning Board may require such conditions as will in its judgement secure substantially the objectives of the standards or requirements of this ordinance.

The variance request shall be accompanied by a site plan or plat where applicable. The variance request shall be presented at the same time a site plan is considered by the Planning Board.

### **XIII. AMENDMENTS**

These Junkyard and Automobile Graveyard Regulations may be amended by the following procedures:

(A) **Proposed Amendments:** Proposed amendments may be initiated by the Board of County Commissioners Planning Board Enforcement Officer or by one or more interested persons. An application for an amendment shall contain a description of the proposed regulation to be amended. Such application shall be filed with the County not later than 14 calendar days prior to the Planning Board meeting. A fee as established by the Board of County Commissioners shall be paid by the applicant for an amendment to cover the administrative expenses involved. This fee shall not apply to amendments initiated by any County board or the Enforcement Officer.

(B) **Action by the Planning Board:** The Planning Board shall consider and make recommendations to the Board of County Commissioners concerning each proposed regulation amendment. If no recommendation is received from the Planning Board within forty-five days of first submission to the Planning Board the proposed amendment shall be deemed to have been approved by the Planning Board.

(C) **Action by the Board of County Commissioners:** No amendment shall be adopted by the Board of County Commissioners until after public notice and hearing.

### **XIV. APPEALS**

(A) Any person aggrieved may take an appeal from any final order or decision of the Enforcement Officer to the Planning Board. An appeal is taken by filing with the Enforcement Officer and the Planning Board a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the Enforcement Officer and the Planning Board when delivered to the Lenoir County Planning and Inspections Department and the date of filing entered on the notice by the planning staff.

(B)An appeal must be taken within thirty (30) days after the date of the decision.

(C)Whenever an appeal is filed the Enforcement Officer shall forthwith transmit to the Planning Board all the papers constituting the record relating to the action appealed from.

(D)The Planning Board may reverse or affirm (wholly or partly) or may modify the order requirement or decision or determination appealed from and shall make any order requirement decision or determination that in its opinion ought to be made in the case before it. To this end the Planning Board shall have all the powers of the officer from whom the appeal is taken.

(E)Any final order or decision of the Planning Board shall be subject to review by the Superior Court of Lenoir County by proceedings in the nature of certiorari. The petition for the writ of certiorari must be filed with the Lenoir County Clerk of Court within thirty (30) days after the written copy of the board's order has been signed and filed with the Planning and Inspections Department and has mailed by certified mail return receipt requested to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case. Upon filing the petition for the writ of certiorari the appellant shall serve a copy on the Lenoir County Planning and Inspections Department PO Box 3289 Kinston NC 28502.

#### **XV. EFFECTIVE DATE**

This ordinance shall become effective June 3 2002.

#### **XVI. REPEAL OF TEMPORARY JUNKYARD AND WHITE GOODS MORATORIUM**

Upon the adoption of this ordinance the Temporary Moratorium on New Relocated or Expanded Automobile Graveyards/Junkyard(s) and the Temporary Moratorium of Any Stockpiling of "White Goods" both dated March 4 2002 are hereby repealed.

ADOPTED this 3<sup>rd</sup> day of June 2002.

**APPENDIX**  
**N.C. GENERAL STATUTES**

**§ 153A-121. General ordinance-making power.** (a) A county may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances. (b) This section does not authorize a county to regulate or control vehicular or pedestrian traffic on a street or highway under the control of the Board of Transportation, nor to regulate or control any right-of-way or right-of-passage belonging to a public utility, electric or telephone membership corporation, or public agency of the State. In addition, no county ordinance may regulate or control a highway right-of-way in a manner inconsistent with State law or an ordinance of the Board of Transportation. (c) This section does not impair the authority of local boards of health to adopt rules and regulations to protect and promote public health. (1963, c. 1060, ss. 1, 1 1/2; 1965, cc. 388, 567, 1083, 1158; 1967, c. 495, s. 2; 1969, c. 36, s. 1; 1971, c. 702, ss. 1-3; 1973, c. 507, s. 5; c. 822, s. 1.)

**§ 153A-134. Regulating and licensing businesses, trades, etc.** A county may by ordinance, subject to the general law of the State, regulate and license occupations, businesses, trades, professions, and forms of amusement or entertainment and prohibit those that may be inimical to the public health, welfare, safety, order, or convenience. In licensing trades, occupations, and professions, the county may, consistent with the general law of the State, require applicants for licenses to be examined and charge a reasonable fee therefor. This section does not authorize a county to examine or license a person holding a license issued by an occupational licensing board of this State as to the profession or trade that he has been licensed to practice or pursue by the State. This section does not impair the county's power to levy privilege license taxes on occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152. (1868, c. 20, s. 8; Code, s. 707; Rev., s. 1318; C.S., s. 1297; 1973, c. 822, s. 1.)

**§ 153A-140. Abatement of public health nuisances.** A county shall have authority, subject to the provisions of Article 57 of Chapter 106 of the General Statutes, to remove, abate, or remedy everything that is dangerous or prejudicial to the public health. The expense of the action shall be paid by the person in default, and, if not paid, shall be a lien upon the land or premises where the nuisance arose, and shall be collected as unpaid taxes. The authority granted by this section may only be exercised upon adequate notice, the right to a hearing, and the right to appeal to the General Court of Justice. Nothing in this section shall be deemed to restrict or repeal the authority of any municipality to abate or remedy health nuisances pursuant to G.S. 160A-174, 160A-193, or any other general or local law. This section shall not affect bona fide farms, but any use of farm property for nonfarm purposes is subject to this section. (1981 (Reg. Sess., 1982), c. 1314, s. 1.)

**§ 14-4. Violation of local ordinances misdemeanor.** (a) Except as provided in subsection (b), 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). (1871- 2, c. 195, s. 2; Code, s. 3820; Rev., s. 3702; C.S., s. 4174; 1969, c. 36, s. 2; 1985, c. 764, s. 2; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1991, c. 415, s. 1; c. 446, s. 1; 1993, c. 538, s. 8; c. 539, s. 9; 1994, Ex. Sess., c. 24, ss. 14(b), 14(c); 1995, c. 509, s. 133.1.)

**§ 153A-123. Enforcement of ordinances.** (a) A county may provide for fines and penalties for violation of its ordinances and may secure injunctions and abatement orders to further insure compliance with its ordinances, as provided by this section. (b) Unless the board of commissioners has provided otherwise, violation of a county ordinance is a misdemeanor or infraction as provided by G.S. 14-4. 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. (c) An ordinance may provide that violation subjects the offender to a civil penalty to be recovered by the county in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance. (c1) An ordinance may provide for the recovery of a civil penalty by the county for violation of the fire prevention code of the State Building Code as authorized under G.S. 143-139. (d) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such a case, the General Court of Justice has jurisdiction to issue any order that may be appropriate, and it is not a defense to the county's application for equitable relief that there is an adequate remedy at law. (e) An ordinance that makes unlawful a condition existing upon or use made of real property may provide that it may be enforced by injunction and order of abatement, and the General Court of Justice has jurisdiction to issue such an order. When a violation of such an ordinance occurs, the county may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt and the county may execute the order of abatement. If the county executes the order, it has a lien on the property, in the nature of a mechanic's and materialman's lien, for the costs of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order. (f) Subject to the express terms of the ordinance, a county ordinance may be enforced by any one or more of the remedies authorized by this section. (g) A county ordinance may provide, when appropriate, that each day's continuing violation is a separate and distinct offense. (1973, c. 822, s. 1; 1985, c. 764, s. 34; 1985 (Reg. Sess., 1986), c. 852, s. 17; 1993, c. 329, s. 5.)