

ORDINANCE AMENDMENT FOR THE ENACTMENT OF AN ORDINANCE TITLED
“SECTION 17-8. CIVIL LIABILITY FOR ILLEGAL DISPOSAL”

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1: That a new section is hereby added to Chapter 17 of the Greensboro Code of Ordinances and shall be titled “Section 17-8. Civil Liability for Illegal Disposal” and shall read as follows:

Sec. 17-8. Civil Liability for Illegal Disposal

- (a) Purpose. Throughout the city, trash, refuse, rubbish, hazardous wastes, and other unwanted items is being disposed of on or about public and private property, contrary to federal, state, and local laws and regulations, such as, but not limited to, Sections 25-6 and 26-11 of the Greensboro Code of Ordinances (collectively, referred to as “illegal disposal”). This ordinance is intended to deter those individuals and businesses who are attempting to avoid paying the costs associated with properly disposing of unwanted refuse and to offset the city’s costs to deter these actions and to clean up the resulting environmental and health hazards created thereby. Though North Carolina has criminal provisions addressing illegal disposal, the criminal process is not always efficient at deterring behavior and recuperating the costs associated with this illegal disposal. Therefore, pursuant to North Carolina General Statute 160A-185, the city hereby appoints “environmental enforcement officers” and provides enforcement by civil penalties.
- (b) Environmental Enforcement Officers. For the purpose of investigating illegal disposal, assessing civil penalties against violators or owners, as provided in subsection (c) below, accepting affidavits to allow an owner to avoid a civil penalty, as allowed in subsection (d) below, and presenting evidence in the event of an appeal, as allowed in subsection (f) below, the city hereby delegates to the city Manager the authority to designate the appropriate staff who shall act as environmental enforcement officers.
- (c) Civil Penalties. The civil penalties set out herein may be assessed against any person (hereinafter “violator”) who illegally disposes and against the registered owner (hereinafter “owner”) of any motor vehicle that is used in the act of illegally disposing, where there is sufficient evidence, such as, but not limited to, photographic evidence of the license tag and the make and model of the vehicle and of the act of illegal disposal. The violator or owner shall be assessed a civil penalty of Five Hundred Dollars (\$500.00) for the first occurrence and shall be assessed a civil penalty of One Thousand Dollars (\$1,000.00) for each subsequent offense, regardless of whether different vehicles registered to the same owner are used in separate violations. Civil penalties assessed under this section are considered restorative; intended to provide compensation to the city for costs associated with the city's program to monitor, control, cure, and/or correct the violation and to provide public education and outreach. As such, the amount declared herein is presumed to provide sufficient restoration to the city for its costs. The assessment of civil penalties herein is not intended to be an exercise of powers delegated to other agencies or entities created by the general assembly to regulate the proscribed conduct. Violations of this article shall not be punishable as a misdemeanor or infraction and G.S. § 14-4 shall not apply to violations of this chapter. The city shall thereupon mail to the violator or to the owner a bill reflecting the civil penalties assessed and, if not paid within thirty (30) days, may be collected as a debt as allowed by law.
- (d) Avoidance of the Civil Penalty. The owner shall be responsible for the civil penalty issued herein unless successfully appealed, as allowed in subsection (f) below, or unless the owner, within 30 days after notification of the violation, furnishes the environmental enforcement officer which issued the citation either of the following:

1. An affidavit stating the name and address of the person or company who had the care, custody, and control of the vehicle; or

2. An affidavit stating that the vehicle involved was, at the time, stolen. The affidavit must be supported with evidence that supports the affidavit, including insurance or police report information.

(e) Service of Notice. The violator or the owner shall be notified of the assessed civil penalty by personal delivery of said notice or by regular and registered or certified mail, return receipt requested. If such registered or certified notice is refused or is returned unclaimed, but the regular mail is not returned by the post office within ten (10) days after the mailing, the service shall be deemed sufficient. The person mailing such notice of violation by regular mail shall certify that fact and the date thereof and such certificate shall be deemed conclusive in the absence of fraud. Any such notice may be served by any environmental enforcement officer. The civil penalty assessed herein shall not be collectable if notice of the civil penalty is not served in accordance with this subsection within 90 days after the date of the violation.

(f) Appeal. Within thirty days of service of the notice of the assessed civil penalty, the violator or owner may appeal issuance of the civil penalty to the minimum housing standards commission by giving written notice of appeal to the director of neighborhood development or their designated representative. The appeal before the minimum standards housing commission is limited to determine whether the notice of the civil penalty was properly served and whether the violator participated in illegal disposal or the owner's motor vehicle was used in the act of illegal disposal. The concurring vote of four (4) members of the minimum housing standards commission shall be necessary to reverse the issuance of the civil penalty assessed herein.

Section 2. That this ordinance shall become effective as of the date of enactment.