

CHAPTER 5

GENERAL OFFENSES

Article I

REGULATION OF NOISE

Sec. 5-1. Noise Generally

No person may authorize or cause to be emitted from a source under his control any noise that is both:

- (a) Sufficiently loud to pose a danger to the health of or seriously disturb any person who:
 - (1) If the noise emanates from a source located on private property, is located on other property; or
 - (2) If the noise emanates from a street or other public property, is located on private property or the street or other public property.
- (b) Louder, or of greater duration, or otherwise more disturbing than is reasonably necessary for the performance of some lawful public or private function, enterprise, operation, or activity.

Sec. 5-2. Particular Noise

The following are illustrations of noises prohibited under the foregoing section, and are hereby declared to be unlawful, but this list shall not be exhaustive:

- (a) The blowing of a horn on any motor vehicle except when the horn is used as a warning device.
- (b) The operation of any motor vehicle without a muffler or with a muffler that is so defective or so designed that the vehicle emits an unusually loud noise.
- (c) The operation of a motor vehicle so as to create unnecessary and unusual noise through the screeching of tires or racing of engines or the playing of automobile radios that can be heard fifty (50) feet from said vehicle.
- (d) The playing of radios, televisions, tape recorders, phonographs or similar electronic devices or musical instruments so as to disturb the comfort of persons in any place of residence or so as to interfere substantially with the operations of any church, school, theater, library, or other similar place of assembly.

- (e) The use of any drum, loudspeaker or other amplification instrument or device for the purpose of attracting attention by the creation of noise to any performance, show, sale, display, advertisement of merchandise, or other commercial venture.

The following is an additional illustration of noises prohibited under the code in Section 5-1, and are hereby declared to be unlawful, but this list shall not be exhaustive:

- (f) The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.

Sec. 5-3. Outdoor Entertainment

It is prohibited within or from any commercial establishment, private entertainment, or recreational venue that conducts outdoor entertainment to allow any amplified or unamplified musical instrument or sound reproduction device so that the sound there from causes a noise disturbance on any neighboring property or public area. Outdoor entertainment shall include outdoor concerts, outdoor parties, outdoor celebrations, special events, temporary events, and/or other events that are designed for personal entertainment. This section shall be effective between the hours of 10:00pm-8:30am on weeknights (Sunday through Thursday) and 12:00am-8:30am on weekends (Friday and Saturday). During the time period that Section 5-3 is not effective, Outdoor Entertainment shall be subject to Sections 5-1 and 5-2 of this Article.

Sec. 5-4. Enforcement

Where there is a violation of any provision of this Article, the city, in its discretion, may take either or both of the following enforcement actions:

- (a) A police officer may issue a violation notice in accordance with NCGS 160A-175(c), subjecting the violator to a two-hundred dollar (\$200.00) civil penalty to be paid within ten (10) days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon nonpayment, and which penalty and delinquency charge may be recovered by the city in a civil action. The second and all subsequent violations of this Section shall subject the violator to a five hundred dollar (\$500.00) civil penalty to be paid within ten (10) days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon non-payment, and which penalty and delinquency charge may be recovered by the city in a civil action.
- (b) A misdemeanor warrant may be issued either immediately or upon the issuance of a citation and the violator's failure to pay the same.
- (c) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.

Article II

FIREARMS AND AIR RIFLES

Sec. 5-5. Discharge of Firearms and Air Rifles

- (a) It shall be unlawful for any person to shoot or discharge within the city any rifle, pistol, air rifle, spring yule or pistol, compressed air rifle or pistol, or other similar device which impels with force a shot or slug, except in self defense, in the discharge of official duties of any duly authorized law enforcement officer, or upon a city approved shooting range.
- (b) It shall be unlawful to discharge any shotgun within the city using slugs, and it shall be unlawful to discharge any shotgun within one hundred yards of any residence, other than the residence of the person discharging such shotgun or business establishment, without a permit from the city.
- (c) Persons desiring to use or discharge a firearm within the city limits for the purpose of eradicating pests may be exempted from the provisions of this article for a period of twenty-four hours by a permit issued by the police department of the City of Archdale for the purpose of eradicating designated pests on designated property by means of a designated weapon provided that said permit shall be issued by the police department only upon written request of the property owner stating the type of pest and the history of damage or fear of damage to person or property caused by the said pest and further provided that such eradication of pests shall be permitted only by the use of limited range arms such as shotguns without the use of slugs and the police department may refuse any such permit if other reasonable means or eradication of pests are available and as yet untried or in the event the police department shall find that discharge of firearms in the requested vicinity constitutes unreasonable danger to persons or property of adjoining land owners under all circumstances.
- (d) The discharge of firearms within the city limits in a rifle range approved by the city shall be exempted from the provisions of this ordinance. No shooting range shall be approved by the City of Archdale until approved by resolution of the city council after due consideration of the size of the parcel of land to be put to such use, the proximity of such land to dwellings and businesses, the direction of fire proposed for firearms upon the range, and the sufficiency of any earthen or other backstop and side enclosures in the vicinity of the target area. (Ord. of 11-28-1972; revised 11-25-1986)

Article III

PUBLIC ENTERPRISES

Sec. 5-6. Operation of Public Enterprises without Franchise

Except as otherwise provided by law, no person may operate within the city any public enterprise, as defined in NCGS 160A-311, without first obtaining a franchise from the city, nor may any person continue to operate such public enterprise after the expiration of such franchise.

Secs. 5-7--5-10. Reserved.

Article IV

DOGS & CATS

Sec. 5-11. Definitions

For the purpose of this section, the following words and phrases shall have the meanings respectively ascribed to them by this subsection:

- (1) Dog: The word "dog" shall mean both male and female animals of the canine species.
- (2) Owner: The word "owner" shall mean any person or persons owning, harboring, keeping or permitting any dog to remain on his/her premises under the charge, control or protection of oneself or a member of one's family.
- (3) Agent: The word "agent" shall mean a person designated by the owner that is responsible for harboring, keeping or permitting any dog to remain on their premises or the premises of the owner when the owner is absent for any reason.
- (4) At large: The words "at large" shall mean off the premises of the owner and not under immediate and effective control of the owner or other responsible person by leash, cord, or chain.
- (5) Animal Control Officer: The words "animal control officer" shall mean the official designated by the police chief of the city of Archdale to serve in the capacity collector of animals or enforcer of this ordinance.
- (6) Vicious or Dangerous Dogs: The words "vicious dog" or "dangerous dog" shall mean any dog which has bitten one or more persons or other animals without provocation, or a dog in which a propensity to attack or bite humans or other animals exists which propensity is known or reasonably should be known to the owner.

- (7) Stray dog: The words "stray dog" shall mean any dog not collared with either identification information or county or city tags and not under the obvious effective control of an owner or confined upon a particular premises.
- (8) Abandoned dog: The words "abandoned dog" shall mean to leave unattended and without adequate provisions for an unspecified amount of time by the owner or the owner's agent.
- (9) Premises: The word "premises" does not include any public right of way, publicly owned or dedicated property, or common area of an apartment, condominium, town house or single-family subdivision development.
- (10) Veterinarian: The word "veterinarian" shall mean a person who is licensed to practice veterinary medicine in the state of North Carolina.
- (11) Public Nuisance Dog: The words "public nuisance dog" shall mean any of the following:
 - (a) Any dog which on more than three (3) separate occasions makes noises sufficient to interfere seriously with neighboring residents' reasonable use of their property.
 - (b) Any dog which on more than three (3) separate occasions turns over garbage cans, damages gardens, or causes damage to property of others.
 - (c) A female dog in heat not in a building or a secure enclosure in such a manner that she will not be in contact with another dog.
 - (d) Any dog found to be in violation of Section 5-12(a) on more than three (3) separate occasions.

Sec. 5-12. Dogs Running at Large

- (a) It shall be unlawful to permit or suffer a dog to run at large or roam within the city limits of the City of Archdale except in the company of the owner, a member of the owner's family, or owner's agent upon a leash, cord, or chain at all times. The owner of any dog permitted or suffered to run at large in violation of this ordinance shall be guilty of a misdemeanor.
- (b) It shall be unlawful for any person to prevent the animal control officer from carrying out his duties of impounding a dog subject to impoundment under this ordinance.
- (c) The provisions of this section do not apply to:
 - (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties.

- (2) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a predator control dog on the property of its owner or agent and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.
- (3) A dog where the injury inflicted by the dog was sustained by a person who at the time of the injury was committing a willful trespass or other tort; was tormenting, abusing, or assaulting the dog; or was committing or attempting to commit a crime.

Sec. 5-13. Registration and Pet Waste Responsibilities

- (a) All dogs kept, harbored or maintained by an owner in the city shall be registered for taxation, collared, equipped with dog tags and otherwise registered as required from time to time by the ordinances and regulations of the county of Randolph and the City of Archdale. Any dog bearing no collar, dog tags nor obviously within the possession and control of an owner, may be deemed by the dog warden to be a stray dog roaming at large in violation of this ordinance and thus subject to impoundment.
- (b) See Chapter 15-22(b) within the Stormwater Management Program Ordinance for restrictions on pet waste.

Sec. 5-14. Impoundment by Animal Control Officer

- (a) Any dog found running at large contrary to the provisions of this ordinance may be impounded by the animal control officer upon notice thereof or which has been determined to be a vicious dog, dangerous dog, abandoned dog, or public nuisance dog to him/her, in the city pound, or in the Randolph County pound or other suitable place. The animal control officer or other designated official of the city, upon receiving any dog, shall make a complete registry entry to the best of his ability of the breed, color and sex of such dog and whether licensed and tagged. If licensed and tagged, he/she shall enter the name and address of the owner and the number of the license tag if determinable.
- (b) Whenever any person or animal has been bitten by a dog within the city, the animal control officer shall have the right and authority to examine and observe such dog under such conditions as might be prescribed and may impound such dog for observation for such period as may be necessary to determine if it has rabies or any symptoms thereof. In the event it should be determined that a dog does have rabies or symptoms thereof within the city limits, the animal control officer shall cause such dog to be killed in a humane manner or turned over to the Randolph County official in charge of dog catching for disposal. If no evidence of rabies is determined in a dog held for observation for rabies, the dog shall be returned to the owner or person who had custody of the animal at the time it was delivered for observation; provided, that the usual impoundment fees are paid within three (3) days after notification to the owner or such person having custody of such dog at the time it was delivered; and if the fees shall not be paid within three (3) days, the dog shall be turned over to Randolph County officials for disposal or shall be killed in a humane manner.

- (c) Upon impounding of a dog under this ordinance, the animal control officer shall notify the owner of the dog so impounded, if the name of the owner is ascertained from dog tags, collar or other information readily available to the animal control officer, and such owner may redeem such dog within three (3) days after notification by posting notice in the U. S. mail or advising the owner orally, by paying all fees then due for such dog.
- (d) The owner of any dog impounded pursuant to this ordinance may reclaim such dog by proceeding as follows:
 - (1) If the dog has been properly tagged or licensed, the owner shall apply for redemption of the impounded dog to the animal control officer; and
 - (2) If the dog is not tagged or licensed under the ordinances of Randolph County or the City of Archdale, the owner shall present the animal control officer with proof of payment of any such license or tag fees or taxes along with the tag to be placed on the dog, shall pay ten dollars (\$10.00) for each day or part of a day that the dog has been impounded for its care and feed or the actual expense of keeping such dog as determined by the city manager whichever is greater, and provide proof of vaccination for rabies of such dog within the past three years or arrange for immediate vaccination by a veterinarian to the satisfaction of the animal control officer, whereupon the dog shall be released to the owner.

Sec. 5-15. Disposition of Impounded Dogs

- (a) Any dog impounded under the provisions of this ordinance whose owner fails to pay for and procure county license tags or city license tags when required or fails to have said dog vaccinated in accordance with the laws of North Carolina and this ordinance, which dog is not redeemed by the owner as herein provided may be disposed of as follows:
 - (1) Any dog impounded under this ordinance whose owner is unknown to the animal control officer, shall be: turned over to the county animal control officer by the city for disposal or destruction, or may be sold by the animal control officer to any individual arranging for rabies vaccination and payment of pound fees after such dog has been held for a minimum of two (2) days by the city animal control officer, or may be destroyed in a humane manner.
 - (2) Any dog infected with rabies or other infectious or communicable disease shall be destroyed in a humane manner as soon as possible or turned over to the Randolph County animal control officer for disposal in his usual course of business.
 - (3) Any dog whose owner is known to the animal control officer and has been notified under the provisions of this ordinance to redeem his animal and is not redeemed by its owner within three (3) days of such notification shall be disposed of in accordance with paragraph (a) of this section as if the dog's owner were unknown, in the discretion of the animal control officer.

(b) Enclosures for Vicious, Dangerous, or Public Nuisance Dogs: In the event that a dog has been determined to be vicious, dangerous, or a public nuisance the owner may regain possession of the dog subject to the following conditions. The owner must erect within thirty (30) days of any final determination a proper structure and display warning signs as defined within this section. The structure must be inspected and approved by the enforcement officer or his/her designee as meeting the following requirements and standards:

- (1) The structure must be a minimum size of 15 feet by 6 feet with a floor consisting of a concrete pad at least four inches thick. The minimum height of the structure shall be 6 feet. If more than one (1) dog is to be kept in the enclosure, the floor area must provide an additional forty-five (45) square feet for each dog. The roof of the structure must prevent the dog from exiting over the structure. The walls of the structure must be constructed of welded chain link of a minimum thickness of 12 gauge supported by galvanized steel poles at least two and a half (2 ½) inches in diameter. The vertical support poles must be sunk in concrete-filled holes at least eighteen (18) inches deep and at least eight (8) inches in diameter. The chain link fencing must be anchored to the concrete pad with galvanized steel anchors placed at intervals of no more than twelve (12) inches along the perimeter of the pad. The entire structure must be freestanding and not be attached or anchored to any existing fence, building, or structure. The structure must provide self-contained shelter for the dog(s). The structure must be secured by a child resistant lock.
- (2) A warning sign at least one hundred twenty (120) square inches must be visible from each exposure of the structure which is visible to adjoining property. Each sign must have graphic representation of a dog such that the vicious or dangerous dog can be communicated to those who cannot read, including young children. Warning signs are not required for public nuisance dogs.
- (3) The owner of the dog shall be responsible for ensuring that the enclosure is maintained in such condition as to meet the requirements of this section. Failure to maintain or repair the structure enclosure shall constitute a misdemeanor by the owner.

Prior to the inspection of the enclosure by the enforcement officer or his/her designee, the owners shall pay the current fee for a zoning permit for an accessory structure. The dog shall not be returned to the owner's property until such time as this shelter and warning signs have been inspected and approved. Prior to the final inspection and approval, the dog must be boarded at the county animal shelter or a licensed veterinary clinic at the owner's expense.

(c) Appeal: Any person who owns a dog that has been declared vicious, dangerous, or a public nuisance by the animal control or law enforcement officer shall have the right to appeal this decision and request a hearing contesting that determination by submitting a written request to the police chief within five (5) working days of the determination that the dog is vicious or dangerous. Submission by the owner of a request for a hearing shall stay the requirement that the dog be delivered to the county animal shelter or a licensed veterinary clinic while the appeal is pending before the hearing panel.

- (d) Hearing Procedures Upon Appeal: The city manager or his/her designee shall name a hearing panel comprised of three (3) citizens to hear the appeal within ten (10) working days. The hearing panel shall conduct a hearing to determine if the animal control officer's or law enforcement officer's determination that the dog is vicious, dangerous, or a public nuisance is correct. If the dog is judged not to be vicious or dangerous it shall be returned to the owner without charge. If the hearing panel determines the dog to be vicious or dangerous then the dog shall be delivered to the county animal shelter, which shall keep the dog for ten (10) days and then dispose of the dog accordingly or return it to the owner upon notification by the city that a proper enclosure has been erected for the dog.

Sec. 5-16. Dogs and Rabies

- (a) Except for puppies under the age of four months, bitches while in season, in whelp or before her pups are eight weeks old, all dogs kept in the city must be vaccinated against rabies at least once each three years and vaccination certificate or proof shall be maintained by the owner of such dog.
- (b) If a dog is believed to have rabies or has been bitten by a dog suspected of having rabies, such dog may, rather than be impounded, be confined by a leash, fence, cage or chain on the owner's premises or a veterinarian's premises, and placed under the observation of a veterinarian at the expense of the owner for a period of two (2) weeks. The owner shall notify the animal control officer of the fact that his dog has been exposed to rabies and the animal control officer in his discretion, is empowered to have such removed from the owner's premises to the pound or a veterinarian hospital and there placed under observation for a period of up to two (2) weeks at the expense of the owner.
- (c) It shall be unlawful for any person, knowing or suspecting a dog has rabies to allow such dog to be taken off his premises or beyond the limits of the city without the written permission of the animal control officer. Every owner, or other person, upon ascertaining that a dog is rabid, shall immediately notify the animal control officer or an officer of the law who may either remove the dog to the pound or summarily destroy it.
- (d) The animal control officer or any officer of the law may kill any vicious dog at large, any infected or rabid stray dog or other dogs subject to impoundment which cannot be safely and effectively captured for an impoundment. (Ord. of 4-27-1976)

Sec. 5-17. Cats Running at Large on Private Property - Generally

- (a) It shall be unlawful for any person owning, harboring, or having the custody of any cat to allow such cat to run at large on another's private property without the permission of the owner or occupant of said private property. The owner or occupant of said private property is hereby authorized to capture and remove from his/her property any such cat found on such property providing that such capture and removal is done in a humane manner and the cat is either returned to the owner or turned over to the proper city or county authorities.

- (b) It shall be unlawful for any person owning, harboring, or having the custody of any cat to allow such cat to run at large on any public property or right of way, or area covered by (a) above.
- (c) The owner of any cat permitted or allowed to run at large in violation of this Ordinance shall be guilty of a misdemeanor.
- (d) The chief of police or his designee is authorized to seize and impound any cat found running at large in violation of this chapter and to take possession of such animal from any person who has taken control of such animal pursuant to sub-section (a) or (b). (Ord. 1- 2 -1995)
- (e) For the purposes of this section, “harboring” shall mean providing food, water, or shelter to a cat on a regular or recurring basis, or otherwise making arrangements for its ongoing care. A person who harbors a cat shall be deemed to have custody of the animal within the meaning of this section.

Sec. 5-18. Issuance of Violation Notice and Civil Penalty

The provisions of Section 5-19 regarding the issuance of violation notice and civil penalty shall apply to violations of this Article with respect to cats as fully as those provisions apply to dogs. (Ord. of 10-25-1994)

Sec. 5-19. Enforcement of Section 5-12, 5-14, and 5-15

Pursuant to the provisions of NCGS 160A-175, the city council has determined that violators of the code provisions regulating dogs running at large or determined to be a vicious dog, dangerous dog, abandoned dog, or a public nuisance dog should be subject to a civil penalty to be recovered by the city in a civil action in the nature of a debt if the offender does not pay the penalty in a prescribed period of time after he has been cited for violation of the Ordinance in addition to any other remedies already provided;

Where there is a violation of any provision of Paragraph (a) or (b) of Section 5-12, or a dog is determined to be vicious, dangerous, abandoned, or a public nuisance, the city, at its discretion, may take either or both of the following enforcement actions which may apply:

- (1) The Animal Control Officer or any law enforcement officer may issue a violation notice in accordance with N.C.G.S. 160A-175, subjecting the violator to a one hundred dollar (\$100.00) civil penalty to be paid within ten days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon non-payment, in the discretion of the City Manager or his/her designee, and which penalty and delinquency charge may be recovered by the City in a civil action.
- (2) If a dog has been determined as “vicious” or “dangerous” or “abandoned” then the animal control officer or any law enforcement officer may issue a violation ordinance in accordance with NCGS 160A-175, subjecting the violator to a one hundred dollar

(\$100.00) civil penalty to be paid within ten (10) days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon nonpayment, in the discretion of the city manager or his/her designee, and which delinquency charge may be recovered by the city in a civil action.

- (3) If a dog has been determined as a “public nuisance” then the animal control officer or any or any law enforcement officer may issue a violation in accordance with NCGS 160A-175, subjecting the violator to a one hundred dollar (\$100.00) civil penalty to be paid within ten (10) days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon nonpayment, in the discretion of the city manager or his/her designee, and which delinquency charge may be recovered by the city in a civil action.
- (4) A misdemeanor warrant may be issued either immediately or upon the issuance of a violation notice and the violator's failure to pay the same.
- (5) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.

Article V

ANIMALS AND FOWL

Sec. 5-20. Regulating Animals and Fowl

- (a) It shall be unlawful for any person to allow, permit or suffer any hog, bull, ox, cow or calf, horse or colt, mule, sheep, goat, jackass, chicken, or goose to roam at large within the city limits of the City of Archdale either by day or by night. After the effective date of this ordinance, it shall be unlawful for any person to keep on any property within the City limits of Archdale any such animal except those that are here already on the effective date of this ordinance.
- (b) It shall be unlawful to erect, locate or maintain upon any lot in the City of Archdale any stable or barn for housing cows, horses, mules, sheep, goats, donkeys or oxen, or any cage or pen for housing chickens, rabbits, or other animals or fowl within the city limits of Archdale except for those already here at the effective date of this ordinance or those added to already existing commercial operations.
- (c) It shall be unlawful for any person to locate, erect, keep or maintain any pigs, hogs, or swine or housing for such animals within the city limits of Archdale except for those already existing at the time of the effective date of this ordinance; and any pen, cage or other area wherein pigs, hogs, or swine shall be maintained and shall be kept in a clean and sanitary condition to prevent the same from becoming a breeding place for flies and to prevent obnoxious odors.

- (d) It shall be unlawful for any person to stake, hobble or graze any cow, horse, or other animal in any public place in the City of Archdale within reach of public sidewalks. It shall be unlawful for any person to tether, stake, or graze any cow, horse, or other animal permitting it to graze within one hundred (100) feet of any business or residence, unless such house or structure be occupied by the owner of such animal.
- (e) It shall be unlawful for any person to keep and maintain lions, tigers, elephants, bears or other undomesticated wild or non-native animals within the corporate limits of the city, provided that this section of this ordinance shall not apply to animals maintained in a governmentally owned or licensed zoo.
- (f) It shall be unlawful for any person to keep, harbor, or have custody within the City of Archdale any dog which barks, howls, or makes noises by day or night which disturbs the peace and quiet or any person or family in the neighborhood. In determining whether noise is unreasonably loud, disturbing and unnecessary, the following factors incident to such noise are to be considered: time of day, proximity to residential structures, whether the noise is recurrent, intermittent or constant, the volume and intensity, the nature and zoning of the area, and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.
- (g) The slaughter by any person of any livestock or poultry, which is not otherwise forbidden or regulated by state or federal law, is not permitted within the City Limits of Archdale, unless it is performed in a humane and sanitary way as defined by state or federal law, and does not take place within the view of any public area or property owned or occupied by another.
- (h) Upon the filing with the city clerk by a complainant of a written and signed statement of complaint specifying the particular violation of this ordinance alleged and the name and address of the person so violating the same, the city shall forthwith cause to be forwarded to the alleged violator a letter of warning pointing out the specific violation alleged and directing compliance with this ordinance. A further violation of this ordinance shall result in the Penalties and Remedies set forth in Section 5-21 below.

Sec. 5-21. Penalties and Remedies

Any person violating the provisions of this ordinance or failing, neglecting or refusing to comply with the same, shall upon conviction be subject to a fine not to exceed \$100.00, or imprisonment not to exceed 30 days, or both in the discretion of the court, and each day that the provisions of this ordinance are violated shall constitute a separate offense. (Ord. of 12-22-1970)

Article VI

MASSAGE OF PRIVATE PARTS FOR HIRE

Sec. 5-22. Definitions

(a) Massage: The manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device.

(b) Private parts: means the penis, scrotum, mons venerias, vulva or vaginal area.

Sec. 5-23. Prohibition of Massage of Private Parts for Hire

It shall be unlawful for any person to massage or to offer to massage the private parts, as herein defined, of another for hire within the City of Archdale.

Sec. 5-24. Application of Ordinance

The provisions of this ordinance shall not apply to licensed medical practitioner, osteopaths or chiropractors, or persons operating at their directions, in connection with the practice of medicine, chiropractic, or osteopathy. (Ord. of 4-27-1976)

Article VII

"X" RATED MOTION PICTURES AT DRIVE-IN THEATERS

Sec. 5-25. Prohibition

It shall be unlawful to exhibit or permit the exhibition of motion pictures given an "X" rating by the motion picture industry under the motion picture code of self regulation in any theater or other place in the City of Archdale where such pictures being shown are clearly visible to the naked eye by the general public from a vantage point upon any public street, highway or other public place outside the confines or premises of the exhibitor (Ord. 9-26-1973).

Article VIII

Sec. 26. Loitering for the Purpose of Engaging in Drug-Related Activity

(a) For the purpose of this section, "public place" means any area available to the public for common usage and access, including any street, sidewalk, bridge, alley or alleyway, plaza, park, playground, driveway, parking lot, or transportation facility, or the doorways, entranceways, stairway, hall, roof, elevator, courtyard, passageway or common area to any building which fronts on any of those places or any motor vehicle in or on any of those places, or any property owned by the City of Archdale.

(b) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the intent to engage in a violation or any subdivision of the North Carolina Controlled Substance Act, NCGS 90- 5. Such circumstances shall

include the following when done for the purpose of violating the aforementioned state statutes:

- (c) It shall be unlawful for a person to remain on foot or in a motor vehicle or wander about on foot or in a motor vehicle in a public place in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of the North Carolina Controlled Substance Act, NCGS 90-5. Such circumstances shall include:
 - (1) Repeatedly beckoning to, stopping, or attempting to stop passer-by, or repeatedly attempting to engage passer-by in conversation; or
 - (2) Repeatedly stopping or attempting to stop motor vehicles; or
 - (3) Repeatedly interfering with the free passage of other persons; or
 - (4) Such person behaves in such a manner as to raise a reasonable suspicion that he/she is about to engage in or is engaging in an unlawful drug-related activity; or
 - (5) Such person repeatedly passes to or receives from passers-by, whether on foot, in a vehicle or by courier, money or objects; or
 - (6) Such person takes flight upon the approach or appearance of a law enforcement officer; or
 - (7) Such person is at a location frequented by persons who unlawfully use, possess, or sell drugs.
- (d) A violation of any provisions of this section shall subject the offender to the penalties of a five hundred dollar (\$500.00) fine, or thirty (30) days incarceration, or both.
- (e) If any section, subsection, paragraph, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions thereof.

Article IX

Section 5-27. Public Consumption of Beer, Wine, Ale or Any Alcoholic Beverage

- a) It shall be unlawful for any person to consume any beer, wine, ale or any alcoholic beverages (as defined under Chapter 18 of the General Statutes of North Carolina) in or on any public street, right-of-way, sidewalk, alley or other public place within the city or on any city-owned property which is located inside or outside the corporate limits.
- b) Subsection (a) shall not apply within a building on city-owned property or a park where appropriate ABC permits have been obtained as required by law for the consumption of beer, wine, ale or any alcoholic beverages for the period of time permitted thereunder.

Any person who violates any of the provisions of this section is guilty of a misdemeanor and shall be fined or imprisoned, or both in the discretion of the court.

Article X

AGGRESSIVE SOLICITATION

Sec. 5-28. Regulation of Solicitors.

(a) Except as otherwise provided below, the practice of going in and upon private residences in the City of Archdale by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been requested or invited to do so by an owner or occupant of said private residence for the purpose of soliciting orders for the sale of goods, wares and merchandise or disposing of or peddling or hawking the same is prohibited, and shall be a violation punishable in accordance with Section 5-29(f).

(b) The City shall establish and maintain a registration list of private residences where an owner or occupant thereof has consented to allow solicitations otherwise prohibited by Paragraph (a) above. Further the City shall endeavor to update this list at least annually. The prohibitions contained in Paragraph (a) above shall not apply to private residences which have been registered hereunder. It shall be conclusively presumed that a private residence which has not been registered hereunder does not consent to the solicitations prohibited by Paragraph (a) above.

(c) The prohibitions contained in Paragraph (a) above shall not apply to solicitations conducted on behalf of religious, charitable or civic endeavors.

Sec. 5-29. Aggressive Solicitation Prohibited.

(a) The council finds that:

- (1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.
- (2) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.

- (3) The presence of individuals who solicit money from persons at or near financial institutions, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait.
- (4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(b) In this section:

(1) AGGRESSIVE MANNER means:

- a. intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent;
- b. following the person being solicited, if that conduct is:
 - i. intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - ii. intended to or reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation;
- c. continuing to solicit a person within five feet of the person being solicited after the person has made a negative response;
- d. intentionally or recklessly blocking the safe or free passage of the person being solicited or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation;
- e. using obscene or abusive language or gestures toward the person being solicited; or
- f. approaching the person being solicited in a manner that:
 - i. is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - ii. is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation.

(2) AUTOMATED TELLER MACHINE means a device, linked to a bank's account records, which is able to carry out banking transactions.

- (3) AUTOMATED TELLER FACILITY means the area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.
 - (4) BUS means a vehicle operated by a transit authority for public transportation.
 - (5) CHECK CASHING BUSINESS means a person in the business of cashing checks, drafts, or money orders for consideration.
 - (6) FINANCIAL INSTITUTION includes a bank, savings bank, savings and loan association, credit union, trust company business, or similar business.
 - (7) PUBLIC AREA means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.
 - (8) SOLICIT means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.
- (c) A person commits an offense if the person solicits:
- (1) in an aggressive manner in a public area;
 - (2) in a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;
 - (3) within 25 feet of:
 - a. an automated teller facility;
 - b. the entrance or exit of a financial institution; or
 - c. the entrance or exit of a check cashing business; or
 - (4) at a marked crosswalk;
 - (5) on either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit.
- (d) A culpable mental state is not required, and need not be proved, for an offense under Subsection (c)(2), (3), or (4).
- (e) This section is not intended to proscribe a demand for payment for services rendered or goods delivered.

(f) Violation of this section is a misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00).