

ORDINANCE NO. (2022) 339

AN ORDINANCE FOLLOWING SESSION LAW 2021-138 TO REINFORCE THAT CRIMINAL REMEDIES APPLY TO ESSENTIAL ORDINANCES THAT ENHANCE THE QUALITY OF LIFE WITHIN THE CITY OF RALEIGH, PROTECT PUBLIC HEALTH OR WELFARE, OR ADVANCE SAFETY.

WHEREAS, State law has for decades provided in N.C. Gen. Stat. § 160A-175 and N.C. Gen. Stat. § 14-4 that violation of ordinances enacted by cities and counties constituted a misdemeanor or infraction unless a local Code specifically precluded criminal enforcement of those ordinances;

WHEREAS, Session Law 2021-138 amended the law to allow criminal enforcement of local ordinances if specified in such ordinance. In making this amendment, the General Assembly removed criminal enforcement as the default option but permitted criminal enforcement to continue if a local Code so provides;

WHEREAS, the City of Raleigh focuses on educating violators and obtaining voluntary compliance with ordinances established in the Raleigh City Code (“the Code”) as the primary way in which it obtains compliance with the Code. There are circumstances in which the City must resort to other enforcement options, such as violations that pose danger and harm to the community, willful misconduct, and repeated violations by a violator, among others;

WHEREAS, the Code already specifies that its provisions are enforceable through those means authorized by N.C. Gen. Stat. § 160A-175, including criminal enforcement which is specified in the Code; and

WHEREAS, amendments to the Code specifically calling out criminal enforcement will alert violators to the importance of compliance with ordinances that enhance the quality of life within the City of Raleigh, protect public health or welfare, advance safety interests, protect against misuse or abuse of public property, and reinforce that criminal enforcement applies to these ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA that:

Section 1. City Code Section 2-2041 shall be amended to add the underlined language where noted below:

“Sec. 2-2041. LICENSE; REQUIRED.

Every *person* desiring to sell at retail or wholesale within the *City* any of the beverages defined and enumerated in *G.S. 18B-101*, as amended, *shall* first obtain

a license from the Revenue Collector. No such license *shall* be issued by the Revenue Collector until the applicant has obtained the appropriate permit from the State Board of Alcoholic Control as provided by *G.S. Chapter 18B*.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 2. City Code Section 8-2002 shall be amended to add the underlined language where noted below:

“Sec. 8-2002. CONNECTING WITH WATER PIPES.

It shall be unlawful for any person to connect any pipe or take by any means water from or interfere with the pipes of the waterworks system of the City without authorization from the Raleigh Director of Public Utilities or his designee. In reviewing requests, the Raleigh Director of Public Utilities or his designee shall consider the appropriateness of the size, location, character, and quality of all materials and connections. The size of the service shall be determined by the applicant. It shall be unlawful for any person, except City forces as directed by the Raleigh Director of Public Utilities or his designee, to operate any valve in the water distribution system of the City.

In addition to any other remedy available in the Code, violation of this section is also a misdemeanor.”

Section 3. City Code Section 8-2013 shall be amended to add the underlined language where noted below:

“Sec. 8-2013. DAMAGE TO UTILITY SYSTEM; UNAUTHORIZED USE.

It shall be unlawful for any person to alter, remove, damage, or interfere with any part of the utility system. Provided, it shall further be unlawful for any person to turn off or discontinue or turn on water, sewer or reuse water service to any part of the utility system without the written consent of the Raleigh Director of Public Utilities or his designee.

In addition to any other remedy available in the Code, violation of this section is also a misdemeanor.”

Section 4. City Code Section 9-2013 shall be amended to add the underlined language where noted below:

“Sec. 9-2013. PARKING REGULATIONS.

(a) When official approval signs *shall* have been erected upon any street, way or other place within any public park of the *City* prohibiting parking within the specific areas designated by such signs, it *shall* be unlawful for any *person* to park any motor vehicle, bicycle or other vehicle, or to allow, permit or suffer any motor vehicle or other vehicle to stand or park, in any such street, way or other place within any such public park. Upon the recommendation of the Director of Parks and Recreation, the Director of Transportation *shall* cause appropriate signs to be provided and erected at such places as designated by the Director of Parks and Recreation designating the areas within which such parking is prohibited.

(b) It *shall* be unlawful for any vehicle to park on any of the streets within any of the public parks or play areas of the *City* for the purpose of vending goods, wares or merchandise.

(c) Violation of this section is an infraction and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 5. City Code Section 9-2014 shall be amended to add the underlined language where noted below and to delete the language shown as stricken through:

“Sec. 9-2014. PARKING PERMITS REQUIRED FOR CERTAIN AREAS.

Areas adjacent to the arts and crafts building at Pullen Park which have been set aside and designated by appropriate signs as parking areas for vehicles *may* be used only by those participants in the arts and crafts program who have been issued a permit by the Parks and Recreation Department authorizing them to use such areas for parking. *Persons* not so authorized who use this designated area for parking *shall* be deemed trespassers and *may* be prosecuted. It *shall* further be unlawful for any vehicle to park on any roadway or in any designated space of a *City* park except for the purpose of using the park, its facilities and programs. Parking at all *City* parks *shall* be for park patrons only. Violations of this section *shall* be an infraction ~~a misdemeanor~~ and vehicles in violation *may* be towed pursuant to law.”

Section 6. City Code Section 9-2015 shall be amended to add the underlined language where noted below:

“Sec. 9-2015. LITTERING IN PARKS PROHIBITED.

It *shall* be unlawful for any *person* to throw any rubbish, stones or other debris, paper or trash of any kind into any lake or pond or within any park of the *City*.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 7. City Code Section 9-2016 shall be amended to add the underlined language where noted below and to delete the language shown as stricken through:

“Sec. 9-2016. BATHING IN LAKES, PONDS, ETC.

Unless specifically authorized by *Council*, it *shall* be unlawful for any *person* to bathe, swim or wade in any *City*-owned or maintained lake, pond, fountain or other water feature. ~~Violation of this section shall be punishable by any of the enforcement procedures outlined in G.S. 160A-175.~~ Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 8. City Code Section 9-2018 shall be amended to add the underlined language where noted below:

“Sec. 9-2018. INJURING PLANTS PROHIBITED; PERMIT REQUIRED TO EXCAVATE OR REMOVE EARTH/ARTIFACTS OR TO SCATTER CREMATED REMAINS.

(a) It *shall* be unlawful for any *person* to pull or forage any flowers or fruits, whether wild or cultivated, vegetable or plant life, cut down trees or saplings, break limbs or branches of trees or bark trees, or injure shrubbery or plants, or to girdle any tree within any of the *City* parks, *City* park facilities, *City* lakes and ponds, *City* cultural and historic resources, *City* cemeteries, or *City* greenways.

(b) It *shall* be unlawful for any *person* to excavate any earth from any *City* park, *City* park facility, *City* lake or pond, *City* cultural and historic resource, *City* cemetery, or *City* greenways, or remove earth and artifacts therefrom, except by written authorization of the Parks, Recreation, and Cultural Resources Department Director or the Director's designee. Violation of this subsection is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

(c) It *shall* be unlawful for any *person* to scatter cremated remains on or within Parks System property, except by written authorization of the *City Manager* or the Manager's designee.

Section 9. City Code Section 9-2022 shall be amended to add the underlined language where noted below:

“Sec. 9-2022. - PERMIT REQUIRED FOR CERTAIN USES OF PARKS.

(a) Required; scope.

Any individual, organization, corporation, association, society, fraternity, club, order or group of whatever kind desiring the use of the public parks owned or controlled by the City as the location for a rally, demonstration, march, public speech, public meeting or other similar activity shall make written request therefor not less than seventy-two (72) hours prior to the date of the intended use. This section shall apply only to assemblages where the expected attendance will be more than one hundred (100) people. No such assemblage may be held except during daylight hours. Violation of this subsection after being notified of its requirements is a misdemeanor.

(b) Distribution of food prohibited.

No individuals or group shall serve or distribute meals or food of any kind in or on any City park or greenway unless such distribution is pursuant to a permit issued by the Parks, Recreation and Greenway Director.

(c) Application; information.

The application shall be submitted to the Chief of Police and shall state the name of the individual or organization and the name and address of its principal officers and of its directors or other governing body and shall also contain such other pertinent information as may be required by the Chief of Police in order to clearly identify the organization submitting the request and the individuals principally engaged in the conduct of its affairs. The request shall state the use to which the public property shall be put and the date and hour for which the use is requested and the expected duration of such use.

(d) Determination by Police Chief.

If the Chief of Police shall conclude that the requested use will not hinder or impede any regularly established use of the parks and will not adversely affect their care, protection or maintenance or create a nuisance by such use, the Chief of Police shall grant permission for such use. If the Chief of Police shall determine otherwise, the request shall be denied.

(e) Weapons prohibited.

No person shall openly carry or possess at any such meeting or assemblage any firearms or other deadly weapon as defined in §9-2021 herein. No person shall carry or possess a legally permitted concealed firearm at any such meeting or assemblage if the same is held at a playground, athletic field, swimming pool, or

athletic facility as defined in G.S. 14-415.23. Violation of this subsection is a misdemeanor.

(f) In addition to any other remedy, a violation of this section may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 10. City Code Section 9-2025 shall be amended to add the underlined language where noted below:

“Sec. 9-2025. - SLEEPING IN PARKS PROHIBITED.

So long as either the City of Raleigh or Wake County *shall* operate a twenty-four-hour a day emergency homeless shelter, it *shall* be unlawful to camp or stay overnight in or on any *City* park, greenway, *street*, or any other *City property* without first receiving a permit from the Director of Parks, Recreation and Greenways. Camping *shall* include, but not be limited to, the erection or use of tents, shelters, huts and bedding, or the storage of personal belongings, or the building of fires for heating or cooking. No *person shall* camp, sleep, or rest in a prone position at Nash Square, Moore Square, the Transit Transfer Center, the Fayetteville Street Mall or the Upchurch Municipal Building Complex at any time of the day or night except by permit as a part of an approved the Parks, Recreation and Greenway Department program.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 11. City Code Section 9-4012 shall be amended to add the underlined language where noted below:

“Sec. 9-4012. REMOVING OR DEFACING MARKERS, ETC.

No *person shall* willfully and unlawfully remove the stakes from a burial lot, or any board, gravestone, or other monument which *may* have been erected at any grave, or deface, injure, or destroy any such board, gravestone, or other monument in any manner.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 12. City Code Section 9-6018 shall be amended to add the underlined language where noted below:

“Sec. 9-6018. LOITERING PROHIBITED ON PREMISES.

It shall be unlawful for any person to loiter within the complex buildings or on the grounds adjacent thereto. A loiterer is defined as a person who does not buy a ticket to a performance being conducted in the complex, or has no connection with the event in progress, or who does not plan to attend the event, or who does not have legitimate business with the management of the complex, or with performance being conducted at the complex, but it shall not include persons who may be waiting in the lobby or outside the complex for the purpose of meeting people who are attending the performance.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 13. City Code Section 9-7003 shall be amended to add the underlined language where noted below:

“Sec. 9-7003. PEDESTRIAN MALLS CLOSED TO VEHICULAR TRAFFIC; EXCEPTIONS.

(a) *It shall be unlawful for any person to operate or park any private motor vehicle, except any self-propelled wheelchairs or invalid tricycles operated by persons whose physical disabilities prohibit normal walking, on any pedestrian mall except by permit issued by the City Manager or his designee.*

(b) *Parking or operation of any motor vehicle, or of any self-propelled motorized equipment used for excavation, construction or related purposes, shall be punishable by a civil penalty of twenty-five dollars (\$25.00) for each vehicle and piece of equipment for each offense, unless the vehicle or equipment displays a valid permit for this purpose. Such permit shall specifically identify the vehicle(s) and equipment authorized and the time, date(s) and portion of the malls allowed for parking or operation. Parking or operation of the vehicle or equipment at a time, date or place not authorized on the permit shall void the permit.*

(c) Violation of this section is an infraction and may also be enforced through issuance of an additional civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 14. City Code Section 9-7023 shall be amended to add the underlined language where noted below:

“Sec. 9-7023. FOUNTAINS.

It *shall* be unlawful for any *person* to place any part of his body, to wade, swim, or place any animal, trash, liquid or solid object other than domestic or foreign coins in any fountain or pond located on the mall. Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 15. City Code Section 9-7024 shall be amended to add the underlined language where noted below:

“Sec. 9-7024. LITTERING; REFUSE.

It *shall* be unlawful for any *person* to deposit refuse, rubbish or litter anywhere on the mall surface except in containers provided for that purpose. Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 16. City Code Section 9-7025 shall be amended to add the underlined language where noted below:

“Sec. 9-7025. ROLLER SKATES.

No *person shall* roller skate, ride on a skateboard or operate any similar device or toy having wheels or rollers on the mall. Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 17. City Code Section 9-7026 shall be amended to add the underlined language where noted below:

“Sec. 9-7026. SOUND AMPLIFICATION OR MUSICAL INSTRUMENTS.

It *shall* be unlawful for any *person* or organization to use any electronic sound amplification or engage in the playing of any electronically amplified musical instrument upon the mall unless specifically authorized under the special events provisions of this chapter. This section *shall* not apply to emergency or other service vehicles or equipment operated under emergency conditions. Violation of this section is a misdemeanor and may also be enforced through issuance of a

civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 18. City Code Section 9-2027 shall be amended to add the underlined language where noted below:

“Sec. 9-7027. VANDALISM.

It *shall* be unlawful for any *person* to climb or ascend any statuary object, fountain or tree situated upon the mall except for duly authorized personnel engaged in the maintenance or repair of the mall. Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 19. City Code Section 11-2026 shall be amended to add the underlined language where noted below:

“Sec. 11-2026. - REMOVAL OF A PARKING CITATION.

It *shall* be unlawful to remove a *parking* citation from a *vehicle* or to permit it to be removed, except for the purpose of answering the charge for which it was issued.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 20. City Code Section 11-2071 shall be amended to add the underlined language where noted below:

“Sec. 11-2071. ELECTRONIC TRAFFIC-CONTROL SIGNALS.

(a) Where traffic is controlled by traffic-control signals installed as provided in this chapter, exhibiting different colored lights successively, the *following* colors, lights and arrows in lights indicate as follows:

(1) Green light.

Vehicular traffic facing the signals *may* proceed straight through, or unless a sign prohibits such turn, *may* turn right or left. Vehicular traffic *shall* yield the right-of-way to other *vehicles* and to pedestrians lawfully within the *intersection* at the time such signal is exhibited.

(2) Yellow or amber light, when appearing immediately after, or coincidentally with, a green light.

Such yellow or amber light *shall* serve as a warning that a red light and the applicable stop restrictions *shall* be exhibited immediately *following*.

(3) Red light.

Any *person* operating a *vehicle* facing such light *shall* bring the same to a stop before entering the nearest *crosswalk* or boundary of an *intersection* or at such other point as *may* be indicated by a limit line, and *shall* remain standing until a plain green light or green arrow is shown illuminated alone; provided, however, that a right turn *may* be made after bringing the *vehicle* to a complete stop and after yielding to pedestrians and other *vehicles*, unless otherwise prohibited by this chapter.

(b) The electronic traffic-control signals described in this section *shall* be located, and the regulations provided in this section *shall* be effective, as designated in official *Traffic Schedule* No. 1, "Electronic Traffic Control Signals."

(c) Violation of this section is an infraction and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies."

Section 21. City Code Section 11-2072 shall be amended to add the underlined language where noted below:

"Sec. 11-2072. STOP INTERSECTIONS.

(a) Except when directed to proceed by a police *officer*, every driver of a *vehicle* approaching a designated stop *intersection* which *shall* be indicated by a stop sign or, in the discretion of the transportation director, a flashing red light, *shall* stop before entering the *crosswalk*, on the near side of the *intersection*, or, in the event there is no *crosswalk*, *shall* stop at a clearly marked *stop line*, or, if none, then at the point nearest the intersecting *roadway* where the driver has a view of approaching traffic on the intersecting *roadway* before entering the *intersection*.

(b) The driver having stopped in obedience to a stop sign or flashing red light at an *intersection* *shall* proceed cautiously, yielding the right-of-way to all *vehicles* not so obliged to stop which are approaching the *intersection*.

(c) Stop *intersections* and the location of signs or flashing red lights at those *intersections* *shall* be in accordance with official *Traffic Schedule* No. 2, Stop Intersections.

(d) Violation of this section is an infraction and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 22. City Code Section 11-2091 shall be amended to add the underlined language where noted below:

“Sec. 11-2091. GENERAL.

Except as otherwise provided in this article, it *shall* be unlawful to operate a *vehicle* in excess of thirty-five (35) miles per hour inside the corporate limits.

Violation of this section is an infraction and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 23. City Code Section 11-2092 shall be amended to add the underlined language where noted below:

“Sec. 11-2092. EXCEPTIONS.

When proper signs have been erected giving notice of speed limits which are other than the generally applicable thirty-five (35) miles per hour limit, it *shall* be unlawful to operate a *vehicle* in excess of such speeds upon the *streets* or portions of *streets* listed in official *Traffic Schedule* No. 5, Speed Limits other than thirty-five (35) miles per hour.

Violation of this section is an infraction and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 24. City Code Section 11-2132 shall be amended to add the underlined language where noted below:

“Sec. 11-2132. TRUCK ROUTES.

(a) Definitions.

The *following* definitions *shall* apply in the interpretation and enforcement of this section:

(1) Trucks.

The word ***truck*** or ***trucks*** *shall* mean any *motor vehicle* used or designed to be *used for* the transportation of cargo or passengers, including but not limited to the *following*: Trucks; intercity buses; truck-drawn trailers when the truck is equipped with dual rear wheels. The *following motor vehicles* are excluded from this meaning: Passenger automobiles; pickup trucks; *vehicles* not having dual rear wheels; motorcycles; motor scooters; school buses; charter buses; and other nonscheduled buses.

(2) Through truck.

The term ***through truck*** *shall* mean any truck having three (3) or more axles or any two-axle truck with dual rear wheels towing a trailer which passes through the *City* without stopping for the purpose of either collecting or discharging cargo or for the purpose of either collecting or discharging passengers.

(3) Cargo.

The word ***cargo*** *shall* mean any *property* transported by truck.

(4) Operator.

The word ***operator*** *shall* mean the *person* physically operating a truck or a *person* therein and directing its operation.

(5) Intersection of routes.

The term ***intersection of routes*** *shall* mean the point reached on a *highway* within the *City* at which a direction sign indicates that a turn should be made from one route to another.

(6) Direction sign.

The term ***direction sign*** *shall* mean the customary *highway* marker designating the *highway* route number or that a certain direction should be followed to reach a given destination.

(7) Local truck.

The term ***local truck*** *shall* mean any truck having three (3) or more axles or any two-axle truck with dual rear wheels towing a trailer and which enters, leaves or operates within the *City* for the purpose of either collecting or discharging cargo, or for the purpose of either collecting or discharging passengers within the *City*.

(8) Through truck route.

The term ***through truck route*** *shall* mean those routes or *streets* established in subsection (b) and designated by signs as numbered Interstate, U.S., or N.C. routes and Wade Avenue Extension from I-40 to the Raleigh Beltline (I-440). Provided that all U.S. and N.C. numbered routes inside the Raleigh Beltline (I-440) *shall* remain "local truck routes." The above provision allows through trucks to use Wade Avenue Extension

between I-40 and the Beltline. This expressway type facility is suitable for the through truck network. The provision also provides that through trucks must only use I-440 to pass Raleigh.

(9) Local truck route.

The term *local truck route* shall mean those routes or *streets* established in subsection (d) and designated by signs as local truck routes.

(10) Passenger.

The word *passenger* shall mean any *person* transported by truck.

(11) Visiting truck.

The term *visiting truck* shall mean any truck having three (3) or more axles or any two-axle truck with dual rear wheels towing a trailer which passes through the *City* for the purpose of collecting or discharging cargo at a single trip origin or destination.

(b) Through truck routes.

Through truck routes as defined herein are established for the passage of *through trucks* as defined herein, over the *streets* and *highways* within the *City*, according to the map entitled "Official Traffic Schedule No. 10, Through Truck Routes."

(c) Through trucks to use through truck routes.

- (1) The *operator* of a *through truck* entering the *City* on any through trucking route shall proceed exclusively on a *through truck route* until he leaves the *City*.
- (2) The *operator* of a *through truck* entering the *City* by way of a route not a *through truck route* or *local truck route* shall, upon entering the *City*, proceed to the nearest *through truck* or *local truck route*, whichever is nearer. Upon reaching a *local truck route*, the *operator* of a *through truck* shall proceed along such *local truck route* or routes to the nearest *through truck route*. Upon reaching the *through truck route*, the *operator* of a *through truck* shall proceed exclusively upon a *through truck route* until he leaves the *City*.

(d) Local truck routes.

- (1) *Local trucks* may travel over any *street* or *highway* within the area bounded by the *following streets*: Wade Avenue from West Street to Downtown Boulevard; Downtown Boulevard from Wade Avenue to Peace Street; Peace Street from Downtown Boulevard to Person Street; Person Street from Peace Street to Edenton Street; Edenton Street from Person Street to East Street; East Street from

Edenton Street to South Street; South Street from East Street to Boylan Avenue; Boylan Avenue from South Street to Peace Street; Peace Street from Boylan Avenue to West Street; West Street from Peace Street to Wade Avenue.

- (2) Designated *streets* are hereby established as *local truck routes* for the passage of local trucks over the *streets* and *highways* within the *City*, according to official *Traffic Schedule* No. 11, "Local Truck Routes."

(e) Local trucks to use special truck routes.

- (1) The *operator* of a *local truck shall*, upon leaving the origin of his trip, proceed by the shortest route to the nearest *through truck route* or *local truck route*.
- (2) The *operator* of a *local truck* proceeding on a *local truck route* or a *through route shall* proceed exclusively on such truck route or routes until he reaches a point on that route which allows him to proceed by the shortest route to his destination.
- (3) The *operator* of a *local truck* entering the *City* on a route other than a *through truck route* or *local truck route shall*, upon entering the *City*, proceed by the shortest route to the nearest *local truck route* or *through truck route* and *shall* proceed on such route until the point on such route nearest his destination is reached.
- (4) When the shortest route between the origin and the destination of a *local truck* is less than the distance between the origin and the nearest truck route, the *operator* of such *local truck shall* not be required to proceed to a *through truck route* or a *local truck route* before proceeding to his destination.
- (5) When the shortest route between the origin and destination of a *local truck* is less than the shortest route between the destination and the nearest *local truck route* or *through truck route*, the *operator* of a *local truck shall* not be required to proceed to the nearest *local truck route* or *through truck route* before proceeding to his destination.
- (6) When the shortest route between the point of entry into the *City* and the destination of a *local truck* is less than the shortest route from the point of entry into the *City* to the nearest *through truck route*, or *local truck route*, the *operator* of a *local truck*, upon entering the *City*, *shall* not be required to proceed to the nearest

through truck route or local truck route before proceeding to his destination.

(f) Visiting trucks to use through truck routes:

- (1) The *operator* of a *visiting truck* entering and passing through the *City shall* proceed exclusively on a *through truck route* or routes until he reaches a point on such route which allows him to proceed by the shortest route to his destination.
- (2) The *operator* of a *visiting truck* leaving the *City shall* proceed by the shortest route to a *through truck route* and *shall* proceed exclusively on such *through truck route* or routes until he leaves the *City*.

(g) Provisions mandatory; noncompliance declared unlawful.

The provisions of this section and every subsection hereof are mandatory and not merely directory, and failure to comply with the provisions of this section or any subsection hereof is hereby declared to be unlawful and punishable as provided by law. Violation of this section is an infraction and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies."

Section 25. City Code Section 12-1001 shall be amended to add the underlined language where noted below:

"Sec. 12-1001. AWNINGS, CANOPIES, MARQUEES, SIGNS AND OTHER PROJECTIONS OVER SIDEWALKS.

(a) Regulations.

(1) Express approval required.

It *shall* be unlawful except with the express approval of the *Council*, for any *person*, firm, or corporation to construct or maintain any *awning*, (fixed or movable) *sign*, *canopy*, *marquee*, *structure*, or any other encroachment on, projecting into, overhanging, or with its supports on the public rights-of-way, provided no express approval by the *City Council* is required for mailboxes, lawn irrigation systems for single-family and duplex dwelling units and plantings on street rights-of-way, for banners erected in accordance with the banner display program policy. Before authorizing the construction of any *awning*, (fixed or movable) *sign*, *canopy*, *marquee*, *structure*, or encroachment, the *Council shall* find that

such construction will not in any way hinder, obstruct, delay, or in anywise endanger the free and safe use of the public rights-of-way, and comply with the procedure set forth in §12-1022. Permission for the use of the public rights-of-way for any use permitted herein *shall* not relieve the petitioner from compliance with any other requirement of this Code. In addition to the permission of the *City Council*, encroachments over, under or in *streets* and alleys under the control of *the State Department of Transportation* *may* be erected only if that department consents thereto. Permission for the use of the public rights-of-way for any use permitted herein *shall* be subject to revocation by the *Council* at will.

Cross reference: *City* permit required for the planting of plant material in any public street, §9-8005; banner display program policy, Resolution No. (2000) 590.

(2) Awnings, etc.

Awnings, marquees and other *structures* extending from and attached to buildings *may* be permitted under the *following* rules:

- a. Every fixed *awning, marquee, or structure and sign* extending from and attached to buildings erected after March 8, 1992, *shall* be at its lowest point at least nine (9) feet, excluding a flexible balance which *may* extend one additional foot, above a sidewalk or the ground when projecting over public rights-of-way and *shall* not extend or occupy more than two-thirds of the width of the sidewalk when measured from the building. When proposed fixed *awnings, marquees, or signs* are at least fourteen (14) feet above a sidewalk or the ground, the *Council may* permit such fixed *awnings, marquees, or other structures and signs* to extend or occupy more than two-thirds the width of the sidewalk, provided that such encroachments *shall* not extend closer than eighteen (18) inches from the back of the curb.
- b. Metal or canvas movable *awnings may* extend over public rights-of-way for a distance of not more than five (5) feet provided such *awnings* or any part thereof maintain a clear height of eight (8) feet, excluding a flexible balance which *may* extend one additional foot, above the sidewalk. All movable *awnings shall* be supported on metal frames attached to the building.
- c. Inside the primary fire districts, all *awnings* (fixed and movable) and *marquees shall* be entirely made of noncombustible material or in the use of canvas, cloth of

similar synthetic fabric-like materials, such coverings *shall* be treated so as to produce a flame spread no greater than twenty-five (25).

- d. The design and construction of *marquees* *shall* comply with the requirements of the North Carolina State Building Code.
- e. The director of transportation *shall* advise the *Council* as to whether the proposed *awning* (fixed or movable), *marquee*, *structure*, or *sign* will obstruct the view of motorists using any street, private driveway, or approach to any street intersection.

(3) Canopies.

Where supports are to be placed on the public rights-of-way, all canopies *may* be permitted under the *following* rules:

- a. Plans for such canopies *shall* be submitted to the *Council*.
- b. All canopies on *streets* other than the first four (4) blocks from *the State* Capitol of Fayetteville Street, *shall* be constructed of concrete or metal in such a manner as to be substantially permanent in nature and in compliance with the North Carolina State Building Code.
- c. The minimum underside clearance including *signs* or other appurtenances below the *structure* *shall* be fourteen (14) feet above the sidewalk.
- d. The center line of the columns *shall* be three (3) feet behind the back of the existing street curb. No columns *shall* be more than two (2) feet in diameter (or other cross-section). Other improvements *may* be placed in the space between two (2) feet and four (4) feet from the face of the curb (the column area), upon *Council* approval of specific plans.
- e. No part of the *canopy* *shall* project closer than eighteen (18) inches to a street parking or traffic lane.
- f. All canopies must be equipped with underside lighting, provided and maintained by the abutting *properties* at a level of ten (10) footcandles at the sidewalk.

- g. An identification *sign* on the underside of the *canopy* which conforms to §10-2065.2(a) is permitted.
- h. The director of transportation *shall* advise the *Council* as to whether the proposed *canopy* will obstruct the view of motorists using any street, private driveway, or approach to any street intersection.

(4) Fayetteville Street limitations.

On Fayetteville Street (first three (3) blocks from *the State Capitol*) no *marquees* *shall* be hereafter constructed and all canopies must conform to the design established by the mall committee, approved by the *Council* and on file in the Department of Planning.

(5) Gasoline service stations.

Gasoline service stations having pumps constructed, erected, reconstructed, or reerected as provided in Code §10-6036 *may* have canopies which extend from the wall of the main service station building to a point four (4) feet beyond the pumps and pump islands; provided that the construction of such canopies *shall* meet all of the construction requirements of subsection (a)(3); provided that all permits which allow the construction of such canopies as are constructed nearer the street than the building setback line specified in the zoning ordinance *shall* be removed at any time at the cost of the *property* owner in the discretion of the *Council*; provided further, no permit *shall* be issued for the construction of a *canopy* closer to the public right-of-way than provided in the zoning ordinance unless and until an instrument, sufficient to give proper notice to subsequent *owners* of the conditions on which the permit is to be issued, *shall* be recorded in the office of the Register of Deeds.

(b) Definitions of Terms for Purposes of This Section.

(1) Sign.

Any identification, description, animation, illustration or device, illuminated or nonilluminated, which is visible from any right-of-way, which directs attention to any realty, product, service, place, activity, *person*, institution, performance, commodity, firm, business, or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, poster, bulletin board, pennant, placard, or temporary sign designed to identify or convey information, with the exception of state, municipal, or national flags.

(2) Marquee.

A *marquee shall* include any hood or awning of permanent construction supported from the wall of a building above an entrance and extending into a street right-of-way without pillars or posts within a street right-of-way.

(3) Awning.

An *awning shall* include any structure made of cloth or metal with a metal frame attached to a building and projecting into a street right-of-way regardless of whether the same is supported by pillars or posts in the right-of-way and regardless of whether it can be raised to a position flat against the building when not in use.

(4) Canopy.

A *canopy shall* include any structure, other than an awning, made of metal or other incombustible material attached to a building projecting into a street right-of-way and supported by pillars or posts within a street right-of-way. Canopies *shall* extend across the entire street frontage of a building.

(5) Structure.

The term *structure shall* mean a combination of material to form a construction that is safe and stable including among others, buildings, reviewing stands, platforms, stagings, observation towers, trestles, shelters, fences, and display signs; the term structure *shall* be construed as if followed by the words "or part thereof."

(c) Enforcement

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies."

Section 26. City Code Section 12-1005 shall be amended to add the underlined language where noted below:

"Sec. 12-1005. PLACING ARTICLES ON SIDEWALKS SO AS TO OBSTRUCT.

- (a) It *shall* be unlawful for any *person* to obstruct the sidewalks of the *City* by placing thereon any box, bag, bale, crate, stand, frame, vehicle, coal, wood, brick, lumber, litter, or other obstruction for a longer period than is absolutely necessary for the purpose of loading, unloading, moving or transporting the same.
- (b) The provisions of the *preceding* paragraph *shall* not apply in the *following* instances:
 - (1) Standard covered garbage cans, at the times and places designated by ordinance or order of the *City Manager*.
 - (2) In case of a special permit for construction, dismantling, advertising, and for such other purposes as are or *may* be provided by ordinance.
- (c) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies."

Section 27. City Code Section 12-1006 shall be amended to add the underlined language where noted below:

"Sec. 12-1006. BICYCLES ON SIDEWALKS.

No *person shall* ride bicycles on any of the *following* pedestrian ways or sidewalks: Fayetteville Street Mall, Moore Square Station Transit Mall, adjacent to designated bike lanes. This prohibition *shall* not apply to sworn law enforcement *officers* while on duty and to any private security force employed by a non-profit corporation and approved by the *City Council*.

Violation of this section is an infraction and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies."

Section 28. City Code Section 12-1021 shall be amended to add the underlined language where noted below:

"Sec. 12-1021. AUCTION SALES IN STREETS; ATTRACTING CROWDS.

No auction *shall* be held on any *street* within the *City* limits; nor *shall* any *person* attract a crowd to himself on any *street* or thoroughfare in the *City* so as to impede travel thereon by advertising his goods or merchandise, or by offering them for sale, or by any manner of speech making whatsoever; providing, nothing herein

contained *shall* prohibit speech making or serenading under the control of the Chief of Police; provided further, this section *shall* not apply to legal sales held on public *property*.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 29. City Code Section 12-1024 shall be amended to add the underlined language where noted below:

“Sec. 12-1024. PEDDLERS' TIME ON STREET LIMITED; PRESENCE RESTRICTED IN CERTAIN AREA; IMPEDING PEDESTRIANS PROHIBITED; WASTE RECEPTACLE REQUIRED ON STAND, CART, ETC.

(a) All vending controlled by the **Private Use of Public Spaces Handbook** as adopted by the Raleigh *City Council* on February 20, 2007, and as subsequently amended *shall* only be conducted pursuant to the terms of that document. Anyone vending without a permit or outside the parameters of the handbook relating to location, type of cart, product sold, or any other specification *shall* be guilty of a misdemeanor. The misdemeanor may be punished by a fine greater than fifty dollars (\$50.00) as set out in *N.C.G.S. 14-4*.

(b) Except pursuant to a special event permit, it *shall* be unlawful to peddle in the streets of the *City* items other than home-made food goods, fresh cut flowers, fruits, vegetables, nuts, eggs, meat, dairy products, and original artworks and handicrafts produced by the peddler. If a special event permit is granted the peddler *may* also sell merchandise which is related to the event for the permit has been granted. The peddler *shall* comply with all of the following conditions:

- (1) The peddler *shall* obtain an annual permit from the *City* after establishing that the vendor complies with all legal requirements for its operation. The fee for the annual permit is as set forth in the *City of Raleigh Fee Schedule*. Permits are not transferrable;
- (2) The peddler *shall* comply with all federal, State, and local regulations applicable to the products offered for sale, including health and food safety regulations.
- (3) The peddler's operations *shall* not impede, endanger, or interfere with travel on or use of the street or the sidewalk by the public.
- (4) The peddler *shall* obey all parking regulations. If the parking space selected by the peddler is not a metered space, the peddler *shall*

park to conduct sales for a maximum of two (2) hours during anyone day.

- (5) The peddler *shall* not use or permit customers to use the street. All vending transactions with customers *shall* occur at the curb or inside the peddler's vehicle;
 - (6) The peddler *shall* promptly remove any trash associated with its operation and *may* not dispose of its trash in any *City*-owned public trash receptacle;
 - (7) The vehicle used by the peddler *shall* have a gross vehicle weight when unloaded no greater than three thousand nine hundred (3,900) lbs. and the vehicle *shall* not extend beyond the boundaries of any parking space in which it is located;
 - (8) The peddler *shall* provide proof of a valid insurance policy that provides a minimum liability coverage of one million dollars (\$1,000,000) with the *City* named as an additional insured. The peddler *shall* also hold the *City*, its officers, councilors, and employees harmless and indemnify them for any loss, liability, damage, and costs and expenses arising from its operations; and,
 - (9) The peddler *shall* not locate within fifty (50) feet of a fixed-location or *City* permitted pushcart business of a competing nature or within fifty (50) feet of an outdoor dining space. No peddler *may* operate within fifty (50) feet of another peddler operating under this section.
 - (10) The peddler *shall* not operate within an area designated for a special event unless the peddler is a part of the permitted special event.
- (c) Vendors who operate solely from a zero-emissions motorized vehicle licensed by the State Division of Motor Vehicles to operate on streets and highways may peddle those items described in subsection (b) from commercial loading zones within the Downtown Overlay and Glenwood South Business Districts on the following conditions:
- (1) The vendor *shall* obtain an annual permit from the *City* after establishing that the vendor complies with all legal requirements for its operation;
 - (2) All equipment required for the operation and the operation itself is contained within the zero-emissions motorized vehicle;

- (3) The vendor may occupy the loading zone space at the end of the posted period for the loading zone space and *shall* remove all equipment and leave all loading zones no later than 11:00 p.m.;
 - (4) The vendor *shall* not use or permit customers to use the street. All vending transactions with customers *shall* occur at the curb;
 - (5) The vendor *shall* promptly remove any trash associated with its operation;
 - (6) The vehicle *shall* be no larger than *shall* have a gross vehicle weight when unloaded no greater than three thousand nine hundred (3,900) lbs. and the vehicle *shall* not extend beyond the boundaries of the commercial loading zone;
 - (7) The vendor *shall* hold the *City*, its officers, councilors, and employees harmless and indemnify them for any loss, liability, damage, and costs and expenses arising from its operations; and,
 - (8) No fixed-location business of a competing nature and no outdoor dining space is located within 50' of the loading zone parking space to be used by the vendor.
- (d) Provided further, it *shall* be unlawful for any *person* to erect, maintain or have any stand, cart or vehicle upon any *street* which impedes, endangers or interferes with the travel upon or use of the *streets* by the public. Each such stand, cart or vehicle *shall* be equipped with a waste receptacle and *shall* have rubber tires.
- (e) All pushcarts must obtain and maintain a permit for each location where the owner of the pushcart intends to operate. All applications for permit renewal must be filed no later than June 20 preceding the next permit year. During the period June 21 through July 1 the permits for any spaces that were not renewed will be available to new applicants. In the event that more than one applicant desires one of the abandoned locations the *City* will conduct a lottery to assign that space. The price of each permit and permit renewal is as set forth in the *City of Raleigh Fee Schedule*. Permit applications *shall* contain the following information:
- (1) A home occupation use permit for a home based business.
 - (2) A food vending permit from Wake County.
 - (3) A valid *City* of Raleigh business license.

- (4) A scaled sketch plan or photographs showing proposed cart location, dimension, and details of surrounding streetscape elements, covering six (6) feet on all sides of the edge of the cart operation area including property lines, sidewalks, curb lines, lighting, trees indicating size, tree grates, planters, parking meters, benches, *street* signs, bus stops and fire hydrants. The cart operation area *shall* not exceed one hundred (100) square feet.
 - (5) A list of products to be sold.
 - (6) Proof of a valid insurance policy that provides a minimum liability coverage of one million dollars (\$1,000,000.00) with the *City* named as an additional insured.
 - (7) A written indemnity agreement that will hold harmless the *City*, its officers, and employees, for any loss or liability or damage, including costs, for bodily injury or property damage sustained by a *person* as a result of the negligent installation, use, or maintenance of a permitted space.
 - (8) A food permit from the N.C. Department of Agriculture if the applicant intends to sell baked goods or ice cream.
- (f) Permit holders *may* be required to remove private materials or accessories to allow *street*, sidewalk, or utility access for maintenance operation or during approved special events. All permits issued pursuant to this section *shall* be suspended during a special event approved by the *City Council*. Carts are excluded within four hundred (400) feet of the edge of any special events area unless the permit holder is given permission from the event sponsor to set up within the designated event area. No more than three (3) permits per cart *shall* be issued to any cart owner.
- (g) Pushcarts are prohibited in areas not zoned for commercial use. In all other areas of the *City* the carts *shall* conform to the following regulations regarding location and operation:
- (1) Carts must not locate in any area that impedes, endangers, or interferes with pedestrian or vehicular traffic.
 - (2) Carts selling food products must be located at least fifty (50) feet from the entrance to any business selling food unless the owner of the other business gives written permission for the infringement of the no vending area.
 - (3) Carts must locate at least fifty (50) feet from any outdoor eating area.

- (4) Carts must be located at least two (2) feet from any curb.
- (5) Carts must not be locked or attached to trees or *street* furniture.
- (6) Carts must maintain an unobstructed pedestrian corridor of a minimum of five (5) feet in width parallel to the *street*. On Fayetteville Street the minimum pedestrian corridor is seven (7) feet.
- (7) No more than two (2) carts will be allowed on any block face.
- (h) All carts must meet the following design standards:
 - (1) Carts must be non-motorized with operable wheels. *Persons* with disabilities *may* use a motorized system to propel the cart.
 - (2) All carts must be self contained with a waste receptacle. All equipment other than coolers must be contained on or with in the cart.
 - (3) A cart *may* not exceed nine and one-half (9.5) feet in height and eight and one-half (8.5) feet in length and four (4) feet in width. Carts permitted prior to 2007 *may* continue to operate if they exceed any of these dimensions.
 - (4) Umbrellas or canopies must be attached to the cart and must not exceed nine and one-half (9.5) feet in height above grade. Maximum diameter of canopies and umbrellas *shall* not exceed six (6) feet and *shall* not interfere with pedestrian movement. No cart *shall* have more than two (2) umbrellas.
 - (5) Carts must be constructed of durable material and not plastic or wood *may* be visible.
 - (6) Carts must comply with all local, state, and federal rules regarding sanitation and protection of food from airborne contamination.
 - (7) All signage on carts *shall* comply with the Raleigh Sign Ordinance. No free standing signage is permitted.
 - (8) Sales of goods and merchandise are limited to food and beverage, fresh cut flowers, or original artwork and handicrafts produced by the vendor. All items for sale must be confined to the cart. Food vendors *may* place a maximum of three (3) coolers within their

containment area so long as the coolers are neatly stacked to avoid visual clutter. No generators *may* be used at any time.

- (9) A vendor *may* maintain one chair for his own use. No public seating is allowed. Pushcarts *may* not be stored, parked, or left overnight on any *City* property.
- (10) Carts *may* only be operated between the hours of 6:00 a.m. and 1:15 a.m. Cleanup and removal of the cart must be completed by 1:45 a.m. The operator must be present at all times and must have a valid permit on his *person* or on the cart at all times.
- (11) Permits are not transferrable.
- (12) The operator is responsible for all waste and trash removal. The containment area must be kept clear of grease, trash, paper, cups or cans associated with the operation. No liquid waste or grease is to be disposed of in tree pits or onto the sidewalks, *streets* or other public places.
- (i) Any *street* vending performed that is not in compliance with these regulations is illegal.
- (j) A permit is revoked if the operator receives three (3) citations, either civil, criminal or combination thereof during any calendar year.
- (k) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies."

Section 30. City Code Section 12-1025 shall be amended to add the underlined language where noted below:

"Sec. 12-1025. SALE OF MERCHANDISE ON SIDEWALKS.

It *shall* be unlawful, except pursuant to the provisions of §12-1024, for any *person* to expose, sell or to offer for sale any merchandise, cooked provisions, poultry, fruits, vegetables or other commodities upon any sidewalk in the *City*; provided that this section *shall* not prevent the sale of merchandise if the proceeds of such sales are used exclusively for religious, charitable or educational purposes, or [from] sidewalk cafes [which] are permitted in a pedestrian business overlay district.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 31. City Code Section 12-1026 shall be amended to add the underlined language where noted below:

“Sec. 12-1026. SOLICITING BUSINESS OR EMPLOYMENT.

(a) Business.

It *shall* be unlawful for any *person* to solicit or attempt to solicit business of any kind on the *streets* or sidewalks of the *City*.

(b) Employment near Nash Square.

Loitering for the purpose of seeking employment or the seeking thereof or the solicitation by any prospective employer of any *person* for hire within or upon any of the *streets* or sidewalks contiguous to Nash Square is declared to be a public nuisance and such practices are prohibited.

(c) Employment, generally.

Loitering for the purpose of seeking employment or the seeking thereof or the solicitation by any prospective employer of any *person* for hire within or upon any of the *streets* or sidewalks of the *City* is declared to be a public nuisance and such practices are prohibited.

(d) Approaching motor vehicles.

No *person shall* stand, sit, or loiter in the right-of-way of any *streets* in the *City* with the intent to approach any motor vehicle for the purpose of soliciting employment, business or contribution from the driver or occupant of the motor vehicle; provided, that the provisions of this section *shall* not apply to licensees, employees or contractors of the Department of Transportation or *City* employees engaged in construction or maintenance or in making traffic or engineering surveys.

(e) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 32. City Code Section 12-1035 shall be amended to add the underlined language where noted below:

“Sec. 12-1035. HAULING REFUSE; TRACKING MUD.

- (a) It *shall* be unlawful for any *person* to haul or cause to be hauled over the *streets* of the *City* any dirt, shingles, laths, or trash in a wagon or other vehicle, unless the wagon or vehicle is constructed to prevent, and does prevent, the spilling of dirt, shingles, laths or trash upon the *streets*.
- (b) It *shall* be unlawful for any *person* to permit a truck or other vehicle under his control to track mud, in appreciable quantity, on the *streets* or sidewalks of the *City*.
- (c) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 33. City Code Section 12-1036 shall be amended to add the underlined language where noted below:

“Sec. 12-1036. PAINTING STREETS, CURBS, ETC.; AUTHORIZED CITY EMPLOYEES.

It *shall* be unlawful for any *person* other than duly authorized employees of the *City* to paint the *streets*, sidewalks or curbs, or any part thereof, within the right-of-way of any *street* or public alley within the *City*.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 34. City Code Section 12-1037 shall be amended to add the underlined language where noted below:

“Sec. 12-1037. CLEANING SIDEWALKS AND GUTTERS.

It *shall* be the duty of all occupants or tenants of improved *property* and of the *owners* of all vacant *property* in the *City* to keep sidewalks, parkways and gutters clean, and to do such cutting, sweeping and scraping as *may* be necessary to keep such sidewalks clean and free from weeds, grass, snow, ice, dirt and trash, and to render the same passable, comfortable, and sightly, and the gutter next to and

along each sidewalk open and free from obstruction, for the full width of their respective fronts.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 35. City Code Section 12-1038 shall be amended to add the underlined language where noted below:

“Sec. 12-1038. JUNK, ETC., ON RIGHTS-OF-WAY PROHIBITED.

- (a) It is unlawful for any *person* to place or leave or cause to be placed or left, temporarily or permanently, any trash, refuse, garbage, scrapped automobile or truck or part thereof, scrap metal or junk of any kind on the right-of-way of any *street* or highway within the *City*.
- (b) This section does not apply to domestic trash or garbage placed on such rights-of-way for removal by the *City*.
- (c) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 36. City Code Section 12-1039 shall be amended to add the underlined language where noted below and to delete the language shown as stricken through:

“Sec. 12-1039. REMOVING MATERIAL FROM STREETS.

- (a) No *person shall* remove any sand, dirt, loam, sod, clay, gravel or other materials from any of the *streets*, alleys or sidewalks; provided, that this section *shall* not apply to lot *owners* who are repairing or constructing sidewalks under the specifications prescribed by the *City* nor to *persons* planting trees along the edge of sidewalks.
- (b) Except as otherwise provided in this ordinance, any recyclable material placed on the public right-of-way or in any other approved collection area and in containers approved by or provided by the Department of Solid Waste Services becomes the property of the *City* upon being placed in either of the above areas for collection. It is unlawful for anyone other than the *person* placing the material or an authorized *City* employee to remove any of the recyclable material from the right-of-way or any other approved collection area. Violation of this subsection is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a

~~combination of remedies. A misdemeanor violation of this ordinance can be punished by a fine of up to five hundred dollars (\$500.00) as provided by law.~~

(c) Any material placed on the public right-of-way in a container provided by a *person*, partnership, firm, or corporation holding a permit issued by the *City* pursuant to §12-1022 to collect recyclable material from the right-of-way is not the property of the *City* and must be removed by the permittee consistent with the schedule for collection of recyclables by the *City*. Any *person* violating this subsection *shall* be subject to revocation of the permit issued pursuant to §12-1022. Any violation of this subsection *shall* be deemed a non-criminal violation and *shall* not be a misdemeanor or infraction pursuant to *G.S.* 14-4 or §14-1005(a) of this Code of Ordinances.”

Section 37. City Code Section 12-1040 shall be amended to add the underlined language where noted below:

“Sec. 12-1040. DEPOSITING TRASH ON STREET.

No *person shall* throw, drop or deposit, or cause to be thrown, dropped or deposited on any *street*, avenue, alley, highway, footway, sidewalk, park, or other public place or space in the *City*, any *waste* (including but not limited to, *refuse, garbage, ashes, rubbish, building rubbish*, dead animals, putrescible matter, paper, drinking cups, broken glass, tacks, brush, grass, weeds, and anything injurious to health); provided, however, *building rubbish* and material used in building, construction, repair, remodeling and excavating operations *may* be deposited in the aforesaid places when permitted by and in accordance with other applicable ordinances. If any *person*, while transporting or hauling, or causing to be transported or hauled, such *rubbish* or material, or earth, excavation, coal or other material, *shall* throw, drop or deposit, or cause to be thrown, dropped or deposited, such *rubbish* or material from the body of the vehicle, in violation of the provisions of this subsection, such *person* must daily clean up and remove such *rubbish* or material in a manner satisfactory to the Director of Public Works, failing which the Department of Public Works *may* clean up and remove such *rubbish* and material, and the *City may* collect the cost of such cleaning up and removal from such *person*.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 38. City Code Section 12-1056 shall be amended to add the underlined language where noted below:

“Sec. 12-1056. PICKETING PERMITTED; NOTICE OF INTENT AND RECEIPT REQUIRED.

Peaceful *picketing* shall be permitted in the *City* provided the same is done under the *following* conditions:

- (a) No *picketing* shall be conducted on the public ways of this *City* and no *person* shall participate in the same unless notice of intent to *picket* has been given to the Chief of Police or his designated representative, and unless a receipt of such notice has been issued.
- (b) A group of ten or more persons shall give notice of intent to picket in writing and the notice given shall contain the following information. A group of fewer than ten persons may give written notice of intent to picket but is not required to do so.
 - (1) The name, if any, of the organization or group sponsoring or proposing to picket unless the group indicates that it intends to picket anonymously, in which case no name is required;
 - (2) The location or locations in the *City* where the pickets propose to assemble and demonstrate;
 - (3) The date or dates on which the picketing is to occur;
 - (4) The name of the person and organization giving notice of intent to picket unless the person or organization indicates that it intends to picket anonymously, in which case no name is required;
 - (5) Whether or not persons below the age of eighteen (18) years are expected to participate; and
 - (6) The person or persons to be in charge of the activity and who will accompany it and carry any receipt of notice at all times.
- (c) It is unlawful for any *person* to engage in *picketing* before or about the *residence* or dwelling of any individual.
- (d) Upon the giving of notice of intent to *picket*, properly completed as hereinabove set out, the designated *officer* shall immediately issue a receipt of notice. The receipt shall contain all information stated in the notice. Notice shall be given by the holder of a receipt of notice to the Chief of Police or his designated representative immediately upon the cessation of such *picketing* for a period of twenty-four (24) hours or more. Before resumption of *picketing* interrupted for any such period, a new notice shall be given and a new receipt issued.

- (e) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 39. City Code Section 12-1057 shall be amended to add the underlined language where noted below:

“Sec. 12-1057. STANDARDS OF CONDUCT FOR PICKETING ACTIVITIES.

- (a) Picketing *shall* be conducted only on portions of the public ways not used primarily for vehicular parking or moving traffic.
- (b) Pickets may carry written or printed placards or signs not exceeding thirty-six (36) inches provided the words used would not tend to incite violence.
- (c) If pickets promoting different objectives, causes, actions or policies desire to use a sidewalk that is already used for picketing, the Chief of Police or the Chief's designated agents *shall* allot a number of pickets promoting each objective, to use such sidewalk, on an equitable basis, proportionate to the number of objectives being promoted.
- (d) Pickets *shall* be restricted to the use of the outermost half of the sidewalk or other public way nearest the street and *shall* not at any time nor in any way obstruct, interfere with, or block: persons entering or exiting from vehicles; persons crossing streets or otherwise using the public way; the entrance or exit to any building or access to property abutting the street or sidewalk; a driveway serving any building or abutting property; or pedestrian or vehicular traffic.
- (e) No person observing, engaging in, or assisting in picketing *shall* bring to or allow to remain in the immediate area of picketing any vicious animal.
- (f) It *shall* be unlawful for a group of ten or more persons to picket without filing a notice as required herein.
- (g) The provisions of §§12-1055 through 12-1057 are mandatory, and not merely directory, and failure to comply with the provisions of these sections is hereby declared to be unlawful and punishable as provided by law. Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 40. City Code Section 12-1058 shall be amended to add the underlined language where noted below:

**“Sec. 12-1058. INTERFERENCE WITH PICKETS PROHIBITED;
POLICE AUTHORITY TO DISPERSE CROWDS; FAILURE TO LEAVE
WHEN ORDERED DECLARED OFFENSE.**

- (a) It *shall* be unlawful for any *person* to physically interfere with *pickets* in the use of the sidewalk or to address profane, indecent, abusive, or threatening language to or at those *pickets* which would tend to provoke the *pickets* or others to a breach of the peace.
- (b) The police *officers* of the *City* may, in the event of the assemblage of *persons* in such numbers as to tend to intimidate *pickets* pursuing their lawful objective through numbers alone or through use of inflammatory words, direct the dispersal of *persons* so assembled and *may* arrest any *person* who fails to absent himself from the place of such assemblage when so directed by the police.
- (c) Whenever the free passage of any *street* or sidewalk in the *City* *shall* be obstructed by a crowd, whether or not the crowd assembles as a result of or in connection with *picketing*, the *persons* composing such crowd *shall* disperse or move on when directed to do so by a police *officer*. It *shall* be unlawful for any *person* to refuse to so disperse or move on when so directed by a police *officer* as herein provided.
- (d) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 41. City Code Section 12-1060 shall be amended to add the underlined language where noted below:

“Sec. 12-1060. PROHIBITION OF FIREARMS AND DANGEROUS WEAPONS.

- (a) It *shall* be unlawful for any *person* to possess on or about his *person* or vehicle any firearm or *dangerous weapon* of any kind, as defined below, whether exposed or concealed, while participating in any parade or any picketing.
- (b) It *shall* be unlawful for any *person* present at any parade or picketing or any *person* upon any *street*, sidewalk, alley or other public *property* within five hundred (500) feet of any parade or picketing, to possess on or about

his *person* or vehicle any firearm or *dangerous weapon* of any kind, as defined below, whether exposed or concealed.

- (c) For purposes of this article, the term ***dangerous weapon*** shall be defined as any device or substance designed or capable of being used to inflict serious injury to any *person* or *property*; including, but not limited to: firearms, airguns, BB guns, pellet guns, knives or razors with a blade more than three (3) inches in length, metallic knuckles, clubs, blackjacks, nightsticks, dynamite cartridges, bombs, grenades, knives, explosives, molotov cocktails, and sword canes.
- (d) This section *shall* not apply to the *following* persons while acting lawfully and within the scope of their duties and authority:
 - (1) Law enforcement *officers*,
 - (2) *Officers* and soldiers of the armed forces, militia and national guard.
- (e) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 42. City Code Section 12-2117 shall be amended to add the underlined language where noted below:

“Sec. 12-2117. - PERMIT REQUIRED.

All establishments located in Raleigh and providing amplified music or other amplified entertainment shall possess an amplified entertainment permit or shall comply with the requirements applicable in the hospitality district in which the establishment is located. Religious worship facilities and schools are exempt from the provisions of this division. Any establishment located outside a hospitality district and providing amplified entertainment four (4) or fewer times a year is also exempt from the provisions of this division.

Violation of this section is punishable under section 12-2124.”

Section 43. City Code Section 12-3007 shall be amended to add the underlined language where noted and to strike through the designation “(a)” as shown below:

“Sec. 12-3007. RUNNING AT LARGE PROHIBITED.

~~(a)~~It *shall* be unlawful for the *owner* of any *domesticated animal* to allow such *animal* to be *at-large* within the corporate limits of the *City* or on any *City* property. Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 44. City Code Section 12-3011 shall be amended to add the underlined language where noted below:

“Sec. 12-3011. DOGS AT LARGE; DEFECATION ON STREETS AND PRIVATE PROPERTY.

- (a) It *shall* be unlawful for the *owner* of any dog to allow such *animal* to be *at large* in the *City* or on any *City* property.
- (b) It *shall* be unlawful for any *person* owning, harboring, keeping, or in charge of any dog to fail to remove feces deposited by the dog on any street, sidewalk, park or other publicly owned area.
- (c) It *shall* be unlawful for any *person* owning, harboring, keeping, or in charge of any dog to fail to remove feces deposited by the dog on any private *property* unless the *owner* of the *property* has given permission allowing such use of the *property*.
- (d) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 45. City Code Section 12-3021 shall be amended to add the underlined language where noted below:

“Sec. 12-3021. PUBLIC NUISANCE ANIMALS.

- (a) **Prohibited generally; exceptions.**
It *shall* be unlawful to own, keep, or harbor a *public nuisance animal* within the *City*. Provided, however, it *shall* not be unlawful to own or keep a dog of vicious tendencies for the protection of *persons* or *property*, if such dog is securely confined in a manner not to expose it to the general public. This exception for dogs of vicious tendencies does not extend to dogs which excessively make disturbing noises. Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.

(b) Complaint and notice.

Upon receipt of a *written* detailed and signed complaint being made to the animal control division of the Police Department by any resident or residents that any *person* is maintaining a public nuisance as defined in §12-3004 of this chapter, the Chief of Police *shall* cause the *owner* of the animal or animals in question to be notified that a complaint has been received and *shall* cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating animal control *officer*.

(c) Abatement.

If the *written* findings of the investigating *officer* indicate that the complaint is justified, then the Chief of Police *shall* cause the *owner* or keeper of the animal or animals in question to be so notified *in writing*, by registered mail, return receipt requested, ordered to abate such nuisance within seven (7) days after notification, and issued a citation for the violation. In the event the *owner* of the animal or animals is unknown and cannot be ascertained, the notice and order, along with a general description of the animal or animals *shall* be published within a local newspaper.

(d) Impoundment upon failure to abate.

If any *person* receiving notice in the manner hereinabove described *shall* fail or refuse to abate the nuisance upon order of the Chief of Police within the specified time, the Police Chief *may* cause the animal or animals in question to be apprehended and impounded in accordance with the provisions of Article E of this chapter.

(e) Right of appeal.

Within the seven-day period mentioned in subsection (c) above, the *owner* of the *nuisance animal* *may* appeal the findings of the Chief of Police to the *City Manager* by giving *written* notice of appeal to the Chief of Police, the appeal to stay the abatement of the nuisance until a final determination by the *City Council*.

(f) Redemption; destruction.

If the *owner* *shall* so request, the animal or animals *may* be redeemed pursuant to the provisions of §12-3064 and upon the further condition that the *owner* execute a *written* agreement to comply with the abatement order. If no redemption and execution is made by the *owner* within the time specified under §12-3063, then the animal *shall* be disposed of in accordance with the provisions of §12-3065 hereunder.”

Section 46. City Code Section 12-4001 shall be amended to add the underlined language where noted below:

“Sec. 12-4001. - CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON CITY PROPERTY OR PUBLIC VEHICULAR AREAS.

Except as provided by this chapter, it *shall* be unlawful for any pedestrian to consume malt beverages or unfortified wine on any *City street* and it *shall* be unlawful for any *person* to possess an open container of malt beverages or unfortified wine on any *property* owned, occupied, or controlled by the *City*. It *shall* also be unlawful to possess malt beverages and unfortified wine on any *street*, alley or parking lot which is temporarily closed to regular traffic for a special event unless the permit approved by the *City Manager* or designee in accordance with the policies set forth in *City Council's* Special Event Policy closing the *street*, alley, or parking lot makes other provisions for the possession of malt beverages or unfortified wine. An open container is one whose seal has been broken or a container other than the manufacturer's unopened original container.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 47. City Code Section 12-4002 shall be amended to add the underlined language where noted below:

“Sec. 12-4002. - CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE IN CITY PARKS AND PARK FACILITIES

The consumption of malt beverages and unfortified wine, as defined by Chapter 18B of the North Carolina General Statutes, is permitted in Mordecai Square Historic Park, Raleigh Little Theater, Theater in the Park, Lake Wheeler, Lake Johnson, Durant Park, Millbrook Exchange Park, Anderson Point, Walnut Creek Wetland Park, Shelley Lake, Five Points Center for Active Adults, Compiegne Park, Dorothea Dix Park, Fletcher Park, Pullen Arts Center, Pullen Amusement Park, John Chavis Memorial Park, Raleigh City Museum, Nash Square, Moore Square, Joslin Gardens, and Tucker House. Any such consumption *shall* be allowed only after the Issuance of a permit from the Parks and Recreation Director. The permit can include all or a part of the grounds and buildings of any of the named parks. The permit *may* be issued only to groups sponsored by the *City* of Raleigh or groups renting park facilities. The Parks and Recreation Director *shall* establish and promulgate rules and regulations for the Issuance of any such permits. Consumption of malt beverages and unfortified wine at other parks and consumption of other alcoholic beverages at any park *may* only be done with the express prior approval of the *City Manager*.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 48. City Code Section 12-5002 shall be amended to add the underlined language where noted below:

“Sec. 12-5002. MEASUREMENT TECHNIQUES.

- (a) Noise measurements *shall* be made at the property line of the *property* where the noise to be measured is being generated. If measurement on private *property* is not possible or practical, noise measurements *may* be made at the boundary of the public right-of-way which adjoins the complaining *property*. Such noise measurements *shall* be made at a height of at least four (4) feet above the ground and at a point approximately ten (10) feet away from walls, barriers, obstructions (trees, bushes, etc.) on a *sound level meter* operated on the "*A*" *weighting network (scale)*. In the case of noises within multi-family or multi-tenanted structures, noise measurements *shall* be made in the complaining unit at a height of at least four (4) feet above the floor and at a point approximately equi-distant from all walls on a *sound level meter* operated on the "*A*" *weighting network (scale)*.
- (b) No individual other than the operators *shall* be within ten (10) feet of the *sound level meter* during the sample period.
- (c) Sound measurements *shall* be conducted at that time of day or night when the suspect noise source is emitting sound.
- (d) The *sound level* measurement *shall* be determined as follows:
 - (1) Calibrate the *sound level meter* within one (1) hour before use.
 - (2) Set the *sound level meter* on the "*A*" weighted network at slow response.
 - (3) Set the omnidirectional microphone in an approximately seventy-degree position in a location which complies with subsections (a) and (b) above. The operator of the *sound level meter shall* face the noise source and record the meter's instantaneous response (reading) observed at consecutive ten-second intervals until one hundred (100) readings are obtained.
 - (4) Recalibrate the *sound level meter* after use.

- (e) It *shall* be unlawful for any *person* to interfere, through the use of sound or otherwise, with the taking of *sound level* measurements. Violation of this section is a misdemeanor and may also be enforced pursuant to section 12-5011 or a combination of remedies.

Section 49. City Code Section 12-5003 shall be amended to add the underlined language where noted below:

“Sec. 12-5003. SOUND EMISSION STANDARDS AND LIMITATIONS.

- (a) Unless otherwise specifically indicated, it *shall* be unlawful for anyone to cause or allow the emission of sound from any source or sources which when measured pursuant to §12-5002 exceed the maximum decibel limits specified in Table 1. Ten (10) readings above the allowed decibel limits attributed to the *sound source* or sources *shall* constitute prima facie evidence of a violation of this ordinance. The sound meter operator *may* cease taking readings as soon as the readings already taken show a violation of this ordinance. It *shall* not be necessary to complete all one hundred (100) readings if a fewer number have already indicated a violation of the ordinance.

Table 1. Maximum Noise Limitations
dB(A)

Zoning districts	Daytime (7:00 a.m. to 11:00 p.m.)	Nighttime (11:00 p.m. to 7:00 a.m.)
Residential	55	45
Residential Business Office and Institution, Buffer Commercial, Shopping Center and Neighborhood Business	60	55
Thoroughfare, Industrial	70	65

- (b) When a noise source can be identified and its sound is measured in more than one district, the average of the noise limitations of the two (2) districts *shall* apply.
- (c) Notwithstanding the location of hospitals, rest homes, family care homes, group care facilities, public or private or parochial school or day care facilities, it *shall* be unlawful for any *person* to cause or allow the emission of sound onto the structures of such uses which exceeds the maximum noise limitations for residential zoning districts.

- (d) For activities which are necessary for railroad operations it *shall* be unlawful for any *person* to cause or allow the emission of sound from the boundaries of railroad rights-of-way which exceeds eighty (80) *dB(A)* for daytime and seventy-five (75) *dB(A)* for nighttime, without regard for the zoning district of the abutting *property*.
- (e) Violation of this section is a misdemeanor and may also be enforced pursuant to section 12-5011 or a combination of remedies."

Section 50. City Code Section 12-5006 shall be amended to add the underlined language where noted below:

"Sec. 12-5006. UNLAWFUL NOISE.

In addition to any other violation of this Code, it *shall* be unlawful to emit, or to cause or permit to be made, any unreasonably loud, annoying, frightening, loud and disturbing or *unnecessary noise*. Specifically, it *shall* be unlawful to emit noise of such character, intensity or duration as to be detrimental to the life or health of reasonable *persons* of ordinary sensibilities.

Factors to consider in determining whether a violation exists include, but are not limited to:

- a) The volume of the noise;
- b) The intensity of the noise;
- c) Whether the nature of the noise is usual or unusual;
- d) Whether the origin of the noise is natural or unnatural;
- e) The volume and intensity of the background noise, if any;
- f) The proximity of the noise to residential sleeping facilities;
- g) The nature and zoning of the area within which the noise emanates;
- h) The density of the inhabitation of the area within which the noise emanates;
- i) The time of the day or night the noise occurs;
- j) The duration of the noise; and,
- k) Whether the noise is recurrent, intermittent, or constant.

Violation of this section is a misdemeanor and may also be enforced pursuant to section 12-5011 or a combination of remedies.”

Section 51. City Code Section 12-5007 shall be amended to add the underlined language where noted below:

“Sec. 12-5007. - PROHIBITED NOISES.

Except when specifically allowed as a part of a permitted event, in addition to any other violations of this Code, the *following* acts are specifically declared to be unreasonably loud, annoying, frightening, loud and disturbing or *unnecessary noise*, the emission of which *shall* be unlawful. Such enumeration *shall* not be deemed to be exclusive:

- (a) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (b) The use of any gong or siren upon any vehicle other than police, fire, ambulance or other emergency vehicles.
- (c) The playing of any radio, phonograph, amplifier, television, tape deck, tape recorder, or musical instrument in such a manner or with such volume during the *nighttime hours* as to annoy or disturb the quiet, comfort or repose of any *person* or *persons* in any dwelling, hotel, motel or other type of *residence*.
- (d) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.
- (e) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as warning of danger.
- (f) The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (g) The erection (including excavating), demolition, alteration or repair of any building or other structure in a residential or business district other than between the hours of 7:00 a.m. and 8:30 p.m., except by permit from the

building inspector when, in his opinion, such work will not create objectionable noise; upon complaint *in writing* of the occupant of *property* near the location of the work, the building inspector *shall* immediately revoke the permit and the work *shall* be immediately discontinued. The building inspector *may* permit *emergency work* in the preservation of public health or safety at any time.

- (h) The creation of any excessive noise on any *street* adjacent to any school, institution of learning or court, while the same are in session, or within one hundred fifty (150) feet of any hospital, which unreasonably interferes with the work of such institution or which disturbs or unduly annoys patients in the hospital.
- (i) The creation of loud and excessive noise in connection with loading or unloading any vehicles or the opening and destruction of bales, boxes, crates and containers.
- (j) The shouting and crying of peddlers, barkers, hawkers or vendors which disturbs the quiet and peace of the neighborhood.
- (k) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.
- (l) The conducting, operating or maintaining of any garage or filling station, or the repair, rebuilding or testing of any motor vehicle in any residential district, so as to cause loud or offensive noises to be emitted therefrom during the *nighttime hours*.
- (m) The firing or discharging of firearms in the *streets* or elsewhere for the purpose of making noise or disturbance, except by permit from the Police Department.
- (n) The creation of excessive noise by the operation of an airplane over the *City* by stunting, diving or otherwise operating an airplane for the purpose of advertising or otherwise.
- (o) No *person shall* keep or maintain, or permit the keeping of, on any premise, owned, leased; occupied or controlled by such *person*, any animal or fowl otherwise permitted to be kept which, by habitual or frequent sound, cry, howling, barking, squawking, meowing or other noise, *shall* disturb the quiet, comfort or repose of any *person*.
- (p) The operation on public *property* or on public vehicular areas of any sound amplifier which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette tape player, or other similar device

when operated in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located is prohibited and is a violation of this section.

The provisions of this section *shall* apply neither in the secondary fire district as described in §5-2034 of this Code nor on publicly owned sanitary landfill property.

Violation of subsection (a), (b), (c), (o), or (p) is a misdemeanor. Violation of any other subsection is an infraction. Any subsection may also be enforced pursuant to section 12-5011 or a combination of remedies.”

Section 52. City Code Section 12-5011 shall be amended to add the underlined language where noted below and to delete the language shown as stricken through:

“Sec. 12-5011. PENALTIES FOR VIOLATION OF NOISE RESTRICTIONS.

(a) Civil Penalties:

- (1) Any *person* violating any of the provisions of §§12-5001 through 12-5009 *shall* be subject to a civil penalty of one hundred dollars (\$100.00). Each calendar day on which a continuing violation occurs *shall* constitute a separate violation under this subsection. For each subsequent violation occurring within twelve (12) months of any other violation, the violator *shall* be subject to a civil penalty of three hundred dollars (\$300.00) per violation. If a *person* fails to pay any civil penalty within thirty (30) days after it is assessed, the *City may* recover the penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The Police Department is authorized to issue civil penalty citations to enforce this section.
- (2) Appeal of civil penalties: Any *person* issued a civil penalty under the provisions of this section *may* appeal by filing an appeal in writing with the Police Department within ten (10) calendar days after the civil penalty is issued. The *written* appeal *shall* state all reasons that the civil penalty was wrongly applied and *shall* include all supporting documentation that the appellant contends supports the appeal. If a *person* files a written appeal within the time provided in this section, the penalty being appealed *shall* be stayed pending the decision of the Chief or arbitrator. Unless the Chief of Police, or the delegate of the Chief of Police, decides to allow the requested relief based on the appeal request, the Chief of Police *shall* send each appeal request to arbitration. The Chief of Police *shall* select an arbitrator other than an employee of the *City of Raleigh*. The arbitration *shall* be conducted, to the extent practicable, in accordance with the Supreme Court Rules for Court-

Ordered Arbitration in North Carolina. The arbitrator *shall* be paid a fee equal to the maximum fee specified in such Rules. The arbitrator *shall* issue a *written* determination, within a reasonable time, stating whether the disputed civil penalty will be approved without change or modified or reversed.

All decisions of the Chief of Police and arbitrator *shall* be served on the petitioner.

(b) Injunctive and Equitable Relief:

As an additional remedy, this chapter *may* be enforced, either before or after the institution of any other action or proceeding authorized by this subsection, by an action for injunctive relief to restrain the violation. The action *shall* be brought in the appropriate division of the General Court of Justice. The institution of an action for injunctive relief *shall* not relieve any party to such proceeding from any civil or criminal penalty prescribed for violations of this chapter. This chapter *may* also be enforced through any appropriate equitable remedy.

(c) Criminal Penalties:

Any *person* who violates any provision of this chapter *shall* be deemed guilty of a misdemeanor punishable by imprisonment not to exceed thirty (30) days or by fine not to exceed five hundred dollars (\$500.00). Each day of a continuing violation *shall* constitute a separate violation under this subsection.

(d) {Enforcement:}

In addition to other remedies, ~~¶~~this chapter *may* be enforced by any one, all, or a combination of the remedies set out herein.”

Section 53. City Code Section 12-7003 shall be amended to add the underlined language where noted below:

“Sec. 12-7003. ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

It *shall* be unlawful for the registered *owner* or *person* entitled to possession of a *vehicle* to cause or allow such *vehicle* to be abandoned as the term is defined herein.

Upon investigation, proper officials of the *City* *may* determine that a *vehicle* is an *abandoned vehicle* and order the *vehicle* removed.

Violation of this section is an infraction and may be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 54. City Code Section 12-7004 shall be amended to add the underlined language where noted below:

“Sec. 12-7004. NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

Upon investigation, proper officials of the Inspections Department *may* determine and declare that a *vehicle* is a health or safety hazard and a *nuisance vehicle* as defined above, and order the *vehicle* removed.

Violation of this section is an infraction and may be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 55. City Code Section 13-2001 shall be amended to add the underlined language where noted below:

“Sec. 13-2001. ABANDONED ICEBOXES AND REFRIGERATORS.

- (a) *It shall be unlawful for any person to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight door, or lock which may not be released for opening from the inside of such icebox, refrigerator or container.*
- (b) *It shall be unlawful for any person to leave outside of any building or dwelling in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight snap lock or other device thereon without first removing the snap lock or doors from such icebox, refrigerator or container.*
- (c) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 56. City Code Section 13-2002 shall be amended to add the underlined language where noted below:

“Sec. 13-2002. ADVERTISING; POSTING OUTDOORS.

It *shall* be unlawful for any *person* to inscribe or post any outdoor advertising matter upon any public *street* or sidewalk or any post, tree, standard or other structure on the *streets* or public alleys of the *City*; provided, however, this section *shall* not prohibit the posting of signs in an effort to raise funds for a public charitable purpose.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 57. City Code Section 13-2007 shall be amended to add the underlined language where noted below:

“Sec. 13-2007. BEGGING.

- (a) It *shall* be unlawful for any *person* to beg or panhandle as defined in §13-2031 of this Code upon the *streets* or any other public *property* without first obtaining a valid permit from the Chief of Police or his designee. Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.
- (b) Application for the permit *shall* be in writing on a form furnished by the Chief and *shall* be submitted to the Police Department at least forty-eight (48) hours before the first day sought for begging. The application *shall* include the full legal name of the applicant, the applicant's address, telephone numbers, and e-mail addresses, and any other information needed to establish the applicant's identity. The applicant *shall* also provide picture identification at the time the application is submitted or, if picture identification is impractical, the applicant *shall* provide other documentation that definitively establishes identity. The Chief *shall* grant the permit unless:
 - (1) The application contains a false or fraudulent statement; or
 - (2) The applicant has been convicted of violating begging or panhandling ordinances within the twelve (12) months prior to the application date.

The Chief *shall* grant or deny the permit within twenty-four (24) hours after a completed application is submitted. An applicant may appeal a denial of a permit to the City Manager if the appeal is taken within ten (10) days after receiving actual notice of the denial.

- (c) A permit *shall* be valid for one year from the date of issuance or until the permit holder is convicted of a violation of the *City's* begging and panhandling ordinances. If a permit holder is convicted of a violation of the begging and panhandling ordinances, the holder *shall* not be eligible for another permit for a period of one year from the date of conviction of the offense. Any revocation of a permit pursuant to this section may be appealed to the Chief of Police, or his designee, if the appeal is taken within ten (10) days of notice of the revocation.
- (d) Issuance of a permit under this section does not authorize begging in locations where it is otherwise prohibited by law.”

Section 58. City Code Section 13-2010 shall be amended to add the underlined language where noted below:

“Sec. 13-2010. FIREARMS; DISCHARGE WITHIN CITY.

- (a) It *shall* be unlawful for any *person* to shoot or discharge within the corporate limits of the *City*, any air rifle, gun or pistol, or any spring gun, pistol, or other similar device which impels with force any shot or pellet of any kind. The Chief of Police or any member of the Police Department is hereby authorized to seize and hold subject to order of court, any such air rifle, gun or pistol or spring gun or pistol, or other similar device which impels with force any shot or pellet of any kind, which *shall* be used, shot, or discharged within the *City*, in violation of this section.

This subsection *shall* not become effective immediately with respect to *property* which meets the *following* criteria: (i) consists of one thousand (1,000) or more contiguous acres under common ownership; (ii) does not contain an occupied *residence*; (iii) has been annexed by voluntary petition with an effective date on or after July 1, 1995; and (iv) the *owner* shows by satisfactory proof that there is an outstanding lease, for hunting purposes, to an organized hunting club. This subsection *shall* become effective with respect to such *property* on the earlier of three (3) *years* after the effective date of annexation or the date the hunting club lease, including allowable extensions, expires or is terminated. The *property owner shall* notify the *City* of the expiration or termination of the lease if within the three-*year* period. Between the effective date of annexation and the date this subsection becomes effective, firearms *may* be discharged on the *property* only for hunting purposes by *persons* who are members or permitted guests of the lessee hunting club, or otherwise as allowed by this section, but in no event within one thousand (1,000) feet of an occupied *residence*.

- (b) Nothing in this section *shall* be construed to prevent a *person* over twenty-one (21) *years* of age using a .22 calibre rifle with blank or shot cartridges upon *property* owned or occupied by him from firing upon pigeons, squirrels or rats

(when not in violation of state law) upon or around an apartment or dwelling or, with written permission of the owner and occupant, another occupied facility, if such *person shall* first procure a permit from the Chief of Police for such purpose. The permit *shall* run for not more than ninety (90) days, and *shall* authorize firing during daylight hours on weekdays only upon premises owned or occupied by the applicant, and *shall* be revocable by the Chief of Police upon a violation of its conditions or upon complaint that the permit holder is not exercising his privilege in a careful and prudent manner and with due regard to life and *property*. Permits *shall* not be issued for *property* located within one hundred fifty (150) feet of a school or park.

- (c) The provisions of this paragraph *shall* not be construed to prohibit the discharge of such devices either during a course of instruction in their use conducted by the Police Department of the *City* or on a firing range completely enclosed within a building in the *City*, after inspection of the building and approval of the use of such range by the Police Department from the standpoint of public safety.
- (d) It *shall* be illegal to possess a firearm, including concealed handguns otherwise allowed by the provisions of *G.S.* article 54B, on or about the *person* on any *City*-owned or controlled *property*, whether real or personal. The *City* Manager is hereby directed to post an appropriate notice of the ban on concealed handguns at and in every lot or building owned or controlled by the *City*. This prohibition *shall* not apply to on-duty law enforcement personnel, active duty military personnel on assignment, or to any activities carried out on a *City*-owned or controlled fire range.
- (e) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 59. City Code Section 13-2010.1 shall be amended to add the underlined language where noted below and to delete the language shown as stricken through:

**“Sec. 13-2010.1. SAME—DISPLAY ON PUBLIC PROPERTY WHILE
UNDER THE INFLUENCE OF AN IMPAIRING SUBSTANCE.**

- (a) It *shall* be unlawful for any *person* to display any air rifle, gun, or pistol or any spring gun, pistol, or other similar device which impels with force any shot or pellet of any kind on any *street*, sidewalk, alley, or other public *property* or within a motor vehicle on any *street*, sidewalk, alley, or other public *property* while under the influence of an impairing substance. Unless otherwise defined in Part 14 of this Code, all words and terms of this section *shall* have the same meaning as defined in *G.S.* chapter 20 and the offense of impairment *shall* be

the same as impaired while driving a noncommercial vehicle as set forth in G.S. chapter 20.

- (b) Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies~~This section shall be enforced as provided in G.S. 160A-175 or as provided in this Code. Any criminal violation of this section shall be punished by a fine not to exceed five hundred dollars (\$500.00) and thirty (30) days in jail.~~

Section 60. City Code Section 13-5007 shall be amended to add the underlined language where noted below:

“Sec. 13-5007. NON-STORMWATER DISCHARGE CONTROLS.

(a) *Illicit discharges.*

No *person* shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any *stormwater conveyance*, the *waters of the State*, or upon the land in such proximity to the same (such that the substance is likely to reach a *stormwater conveyance* or the *waters of the State*), any fluid, solid, gas, or other substance, other than *stormwater*; provided that non-*stormwater* discharges associated with the *following* activities are allowed provided that they do not significantly impact water quality:

- (1) Declorinated swimming pool discharges;
- (2) Discharges from potable water sources;
- (3) Condensate from residential or commercial air conditioning;
- (4) Residential and non-profit vehicle washing;
- (5) Water line flushing;
- (6) Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, *State*, or local government on-scene coordinator;
- (7) Uncontaminated ground water [including the collection or pumping of springs, wells, or rising ground water and ground water generated by well construction or other construction activities];
- (8) Collected infiltrated *stormwater* from foundation or footing drains;
- (9) Collected ground water and infiltrated *stormwater* from basement or crawl space pumps;
- (10) Irrigation water (does not include reclaimed water as described in 15A NCAC 2H .0200);
- (11) *Street* wash water;
- (12) Flows from emergency fire fighting;

- (13) Discharges from the pumping or draining of natural watercourses or waterbodies;
- (14) Flushing and cleaning of *stormwater conveyances* with unmodified potable water;
- (15) Flows from riparian habitats and wetlands;
- (16) Diverted stream flows;
- (17) Placing leaves at the curbside for the *City's* residential seasonal leaf collection program;
- (18) Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat; and
- (19) Other non-*stormwater* discharges for which a valid NPDES discharge permit has been approved and issued by NCDENR, provided that any such discharges to the *municipal separate storm sewer system* shall be authorized by the *City*.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, construction debris, yard waste, and litter.

(b) Enforcement.

Violation of this section is a misdemeanor and may also be enforced pursuant to section 13-5008 or a combination of remedies.”

Section 61. City Code Section 13-3013 shall be amended to add the underlined language where noted below:

“Sec. 13-3013. URINATING OR DEFECATING ON CITY PROPERTY OR IN PUBLIC VIEW.

It *shall* be unlawful for any person to urinate or defecate on any *City* right-of -way, street, sidewalk, park, or other *City* building or facility or to urinate or defecate outdoors in view of the public on any property unless such urination or defecation is into an approved toilet facility provided for that purpose.

Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 62. City Code Section 14-1005 shall be amended to add the underlined language where noted below and to delete the language shown as stricken through:

**“Sec. 14-1005. - CRIMINAL PENALTY, NOT EXCLUSIVE REMEDY;
CONTINUING VIOLATIONS.**

- (a) ~~In accordance with G.S. 160A-175, and unless~~ Unless this Code of Ordinances provides otherwise, violation of any provision hereof of the Code shall be a misdemeanor or infraction as provided in G.S. 14-4 to the fullest extent allowed by law, punishable upon conviction by a maximum fine not exceeding fifty of five hundred dollars (\$500.00) or by imprisonment not exceeding thirty (30) days. Each day that any such violation shall continue shall be a separate offense. An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4.
- (b) ~~An ordinance contained herein may be enforced by other remedies, as authorized in G.S. 160A-175, including the imposition of civil fines, the ordering of appropriate equitable relief, including injunctions, or a combination of remedies. Unless this Code of Ordinance provides otherwise, violation of an ordinance regulating the operation or parking of vehicles shall be an infraction.~~
- (c) An ordinance contained in the Code may also be enforced by civil penalties. Unless the Code provides otherwise, the civil penalty for each Code violation shall be \$250.00.
- (d) Unless the Code provides a shorter period, each day that a violation of the Code continues shall be a separate and distinct offense.
- (e) An ordinance contained in the Code may be enforced by other remedies as authorized in G.S. 160A-175, including the ordering of appropriate equitable relief, the issuance of injunctions, or a combination of remedies.
- (f) An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4.”

Section 63. City Code Section 14-1011 shall be amended to add the underlined language where noted below:

“Sec. 14-1011. FALSE INFORMATION.

It shall be unlawful and a violation of this code for any person to give false information or misrepresentations in any application or permit required by this code. Violation of this section is a misdemeanor and may also be enforced through issuance of a civil penalty pursuant to section 14-1005, through injunctive or other equitable relief, or a combination of remedies.”

Section 64. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 65. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

Section 66. The provisions of this ordinance shall not affect any act heretofore done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause of action accrued prior to the effective date of this ordinance. Provisions repealed by this ordinance shall remain in force to authorize the arrest, prosecution, conviction and punishment of a person who violated those repealed provisions prior to December 1, 2021.

Section 67. This ordinance shall become effective immediately following its adoption.

ADOPTED: February 15, 2022

EFFECTIVE: February 15, 2022

DISTRIBUTION: City Manager – Adams-David; City Attorney – Tatum, Poole, Hargrove-Bailey; Transcription Svcs – Taylor

This ordinance was prepared by the Raleigh City Attorney's Office