

MEMORANDUM

TO: Representative Jonathan C. Jordan and Senator Andy Wells, Co-Chairs of the Joint Legislative Administrative Procedure Oversight Committee

Representative James L. Boles, Jr., Representative Ted Davis, Jr., and Senator Shirley B. Randleman, Co-Chairs of the Joint Legislative Oversight Committee on Justice and Public Safety

With copy to: Susan Sitze, Legal Counsel

FROM: Elizabeth M. Koonce, Attorney for the City of Archdale, N.C.

DATE: November 20, 2018

RE: Response to the Requirements set forth in Section 3 of Session Law 2018-69 (House Bill 379) for the City of Archdale, N.C.

Attached is the response of the City of Archdale, North Carolina to the requirements set forth in Section 3 of Session Law 2018-69 for local governmental units. The attached document contains a summary of City ordinances which create criminal offenses pursuant to G.S. 14-4(a), with brief descriptions of the prohibited conduct. Also attached are copies of relevant portions of the specific ordinances referenced in the summary.

If you have any questions about this Memorandum or require additional information, please contact me at Roberson Haworth & Reese, PLLC by email at bkoonce@rhrlaw.com or by phone at (336) 889-8733. Also, please acknowledge receipt of this Memorandum and its sufficiency in complying with Section 3 of Session Law 2018-69.

Chapter 4—Administration

Section 4-27—Building Permits: Prohibits any person from beginning or proceeding with the construction, alteration or demolition of any structure within the city or installing a furnace, water heater or appliance which provides for the use of oil, electricity, water or natural gas without first obtaining a permit from the county building inspections department.

Section 4-34—Creekside Park: Prohibits (1) removal or destruction of any structures, equipment or plant life located in the park; (2) possession of any alcoholic beverage or narcotic substance in the park, with the exception of City-sponsored events where appropriate ABC permits have been obtained; (3) smoking within 50 feet of any area or facility designed for youth activities such as playgrounds; (4) littering, uncontained fires, unleashed pets, loud noises, and other unapproved activities.

Chapter 5—General Offenses

Section 5-1—Noise Generally: Prohibits the emission of noise on private property that is sufficiently loud to pose a danger to a person's health or noise emanating from a street or other public property that is louder or of greater duration than reasonably necessary for the performance of some lawful public or private function.

Section 5-2—Particular Noise: Provides illustrations of noises prohibited under Section 5-1, such as: (1) the creation of unnecessary noises in connection with the operation of motor vehicles such as horns (except when used as a warning device), mufflers or racing engines; (2) the playing of radios, televisions or electronic devices that interfere with a church, school or library; (3) the use of any drum or amplification device for the purpose of attracting attention; (4) the keeping of any animal or bird which causes noise disturbing the comfort of persons in the vicinity.

Section 5-3—Outdoor Entertainment: Prohibits a noise disturbance from any amplified or unamplified musical instrument or sound reproduction device from any commercial establishment or recreational venue that conducts outdoor entertainment during specific days and times.

Section 5-5—Discharge of Firearms and Air Rifles: Prohibits the discharging of firearms or any like instrument within the City limits. Does not apply to police officers acting within the scope of their duties or private citizens who are justified in using self-defense.

Section 5-6—Operation of Public Enterprise without Franchise: Prohibits operating or continuing to operate any public enterprise within the City limits without first obtaining a franchise from the City.

Section 5-12—Dogs Running at Large: Prohibits dogs from roaming within the City limits except in the company of the owner or owner's agent on a leash at all times. Prohibits any person from preventing the animal control officer from carrying out his duties of impounding a dog.

Section 5-13—Registration and Pet Waste Responsibilities: Requires all dogs maintained by an owner in the City to be collared and otherwise registered. Stormwater Management Program Ordinance for restrictions on pet waste will be summarized in Section 15-22(b)(2).

Section 5-15(b)(3)—Disposition of Impounded Dogs: Failure of owner of vicious or public nuisance dog to maintain required enclosure shall constitute a misdemeanor.

Section 5-16—Dogs and Rabies: Prohibits any person knowing or suspecting that a dog has rabies to allow such dog to be taken off his premises or beyond the City limits without the written permission of the animal control officer.

Section 5-17—Cats Running at Large on Private Property: Prohibits any person owning or having custody of any cat from allowing such cat to run at large.

Section 5-20—Regulating Animals and Fowl: Prohibits (1) the possession of cattle, sheep, pigs, goats, chickens and other undomesticated wild or non-native animals; (2) any dog which makes noises disturbing the peace and quiet in any neighborhood within the City limits.

Section 5-23—Prohibition of Massage of Private Parts for Hire: The provisions of this ordinance shall not apply to licensed medical practitioners, osteopaths, chiropractors or persons operating at their direction.

Section 5-25—Prohibition of “X” Rated Motion Pictures at Drive-In Theaters.

Section 5-26—Loitering for the Purpose of Engaging in Drug-Related Activity: Prohibits any person from wandering about on foot or in a motor vehicle in a public place under circumstances manifesting the intent to engage in a violation of the North Carolina Controlled Substance Act, NCGS 90-5.

Section 5-27—Public Consumption of Beer, Wine, Ale or Alcoholic Beverage: Prohibits the consumption of any alcoholic beverages on any property owned by the City or within the City limits. This prohibition shall not apply on City-owned property where appropriate ABC permits have been obtained.

Section 5-28—Regulation of Solicitors: Prohibits the practice of going to private residences in the City by solicitors, peddlers, hawkers, itinerant merchants or transient vendors not having been invited to do so by an owner or occupant of said private residence. This prohibition shall not apply to solicitations conducted on behalf of religious, charitable or civic organizations.

Section 5-29—Aggressive Solicitation Prohibited: Prohibits solicitation that is disruptive to residents and businesses and contributes to a sense of fear and intimidation. The presence of individuals who solicit money from persons at or near financial institutions, ATM’s, public transportation facilities, and crosswalks is especially troublesome.

Chapter 6—Traffic Control and Traffic Control Devices

Section 6-10—Weight Limitations on Certain Streets: Whenever the city manager installs a traffic control device clearly stating that through trucks are not permitted on a street, no person may drive any truck having six wheels or more on any such street unless the truck’s destination or point of origin is on that street. Section 6-21(b) provides that the City, in its discretion, may issue a misdemeanor warrant either immediately or upon the issuance of a violation notice and the violator’s failure to pay the same.

Chapter 7—Streets and Sidewalks

Section 7-1—Obstructions Prohibited: Except as authorized by statute or ordinance and except to the extent required by the performance of some function authorized by statute or ordinance, no person may obstruct or impede travel on the public streets or sidewalks within the City by placing or leaving any object within the traveled portion of the public right-of-way. This prohibition shall not apply to

temporary obstructions caused by persons engaged in construction work on abutting property when proper warning devices are maintained in accordance with Section 7-4.

Section 7-2—Warnings Required for Obstructions: Requires any person engaged in doing work that creates any dangerous condition in the public right-of-way of any street or sidewalk to take whatever action is necessary, including the placement of barricades and warning signs or devices, to warn the traveling public. Prohibits any person from removing, destroying or tampering with any sign or device placed in any street or sidewalk to warn the traveling public of any dangerous condition.

Section 7-3—Littering Right-of-Way: Prohibits any trash from being placed or left temporarily or permanently on the right-of-way of any street within the City limits.

Section 7-4—Drainage Related Interference with Sidewalks: Prohibits any person from causing gutters or drain pipes on property under his control to empty onto a public sidewalk. All owners of property abutting permanently improved public sidewalks shall grade such property or construct a retaining wall in such a manner as to prevent the washing of dirt or other material onto the City sidewalks.

Section 7-5—Hauling or Tracking of Mud and Refuse onto a Public Street: Prohibits any person from discharging any amount of dirt, concrete, shingles, trash or mud onto the paved surface and right-of-way of any city street within the City of Archdale.

Section 7-6—Solicitation or Distribution by Pedestrians within Rights-of-Way: Prohibits any person from standing in any right-of-way of a street within the City for the purpose of (1) soliciting money, a ride, employment or business from the occupant of any vehicle; or (2) distributing any materials to the occupant of any vehicle.

Section 7-11—Driveways: Prohibits any person from constructing or altering any driveway across any public sidewalk or into any street without having obtained a permit from the director of public works.

Section 7-12—Excavations: Prohibits any person from digging in or excavating any street or sidewalk within the City without having obtained a permit from the director of public works.

Section 7-17—House and Building Numbering: Every owner of a house or building within the City limits shall at all times post the current, official, assigned street number conforming to the requirements of this Article IV of Chapter 7.

Chapter 8—Trade and Businesses

Section 8-3—License and Payment of Tax Required: An annual privilege license tax is levied on each applicable business located within the City limits in the amounts established by state statutes and this ordinance.

Section 8-40—License Required for Insulation Contractors: Prohibits the installing, altering or restoring within the City any insulation designated or intended to meet the State Building Code without applying for a license to the City's building inspector on the form provided by the Randolph County inspections department. This provision does not apply to: (1) General Contractors licensed under NCGS 87; (2) persons working under the supervision of a registered architect or professional engineer; or (3) an owner working on his own building.

Section 8-51—Taxicab Certificates of Convenience and Necessity and Permits Issued Pursuant Thereto: Prohibits the operation of a taxicab business without a certificate of convenience and necessity issued from City Council and prohibits the operation of a motor vehicle as a taxicab without first obtaining an operator's permit from City Council.

Section 8-63—Rates to Be Displayed in Taxicabs: Every taxicab shall display the rates and fares, the driver's name, picture and commercial drivers license number, the name and address of the taxi company, and the taxicab permit issued by the City.

Section 8-71—Permit Required: It is unlawful to engage in business as a peddler, solicitor, canvasser, hawker or itinerant merchant within the City limits without having first obtained a permit from the City. Exceptions are: (1) for the sale of items produced, grown or made personally by the seller or seller's household members; and (2) nonprofit charitable, educational, religious or civic organizations.

Chapter 9—Public Health

Section 9-1—Dumping or Littering on Public or Private Property: Prohibits discarding of any solid waste on any public street or sidewalk or on any property owned or operated by the City or any other public property, except in properly designated receptacles; or on any property without the consent of the owner, occupant or lessee thereof.

Section 9-2—Preventing Refuse on Right-of-Way: Prohibits the accumulation of trash and debris on any roadway right-of-way abutting their property.

Section 9-49—Willful Failure or Refusal to Comply (with Article IV: Condemnation, Repair and Demolition of Unsafe Structures): Any person who willfully fails or refuses to comply with any final order or direction of the building inspector or City Council made by virtue and in pursuance of this Article, and any person violating this Article shall, upon conviction, be punished as provided in NCGS 14-4 for violation of a municipal ordinance.

Section 9-50—Outdoor Burning Regulated: Prohibits the burning of household garbage, construction and demolition debris, tree stumps or yard waste of any kind.

Chapter 10—Utilities

Section 10-1(d)—Request for Service; Service Connection Required: The owners of improved real property located within the City and abutting or within a reasonable distance of municipal water lines or sewage collection lines are required to connect such premises with the available City water and/or sewer lines. Properties utilizing existing well or septic systems are exempted until the failure of said system(s). Unused wells must be capped in a safe manner and septic fields must be properly abandoned to Randolph County Health Department standards.

Section 10-15(g)—Suspension of Service: Prohibits any person from tampering or interfering in any manner with any public or private fire hydrant, water meter or water connection on which City water pressure is maintained, or any sewer connection, manhole or pipe in connection with the City sewer system.

Section 10-29—Use of Public Sewers Required: It is unlawful to deposit or permit to be deposited in any unsanitary manner on any property within the City any human or animal excrement, garbage or other objectionable waste.

Section 10-30—Prohibited Use of Public Sewers: No person shall discharge any storm water, surface water, ground water, roof run-off or any other liquids or materials as described in this section into any sanitary sewer.

Chapter 13—The City of Archdale State of Emergence Ordinance

Section 13-13—Penalty for Violation: Except as provided in Section 13-6, any person violating any prohibition or restriction imposed by a Proclamation authorized by this ordinance shall be guilty of a Class 3 misdemeanor.

Chapter 15—Stormwater Management Program Ordinance

Section 15-22(b)(2)—Restrictions on Pet Waste: Requires the owner or custodian of any dog to clean up the dog's feces from any public or private property outside of the dog's owner's own property limits.

Section 15-31(b)—Violation Unlawful: Any failure to comply with an applicable requirement, prohibition or standard imposed by this ordinance, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.

Section 15-35(a)—Illicit Discharges: Prohibits the discharge to any stormwater conveyance, the waters of the State or upon the land any liquid, solid, gas or other substance, other than stormwater. Certain non-stormwater discharges that do not significantly impact water quality are allowed, such as water line flushing, landscape irrigation, air conditioning condensation, etc., as set forth in this section.

Section 15-35(b)—Illicit Connections: Prohibits connections to a stormwater conveyance that allow the discharge of non-stormwater, other than the exclusions described in subsection (a) above.

Chapter 16—Ordinance to Provide for the Control of Soil Erosion and Sedimentation

Section 16-4—Plan Approval Requirement for Land-Disturbing Activity: No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a Plan approval from the City. No person may initiate a land-disturbing activity before notifying the City of the date said activity will begin.

Section 16-13—Responsibility for Maintenance: During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved Plan, this ordinance or the North Carolina Sedimentation Pollution Control Act of 1973.

Section 16-19(b)—Criminal Penalties: Any person who knowingly or willfully violates any provision of this ordinance shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5000 as provided in NCGS 113A-64.

Chapter 17—Ordinance to Re-Adopt a Flood Damage Prevention Ordinance for the City of Archdale

Section 17-3(d)—Compliance: No structure or land shall be located, extended, converted, altered or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

Sec. 1-4. Effect of Repeal or Expiration of Code Provisions

- (a) The repeal of any provision of this code or its expiration by virtue of any provision contained herein shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the provision expired.
- (b) Whenever an ordinance that repeals a provision of this code is itself repealed, the previous code provision shall not be revived without express words to that effect.

Sec. 1-5. New Provisions Considered Continuations of Similar Existing Provisions

Whenever this code is amended by adopting new provisions, insofar as these new provisions are the same in substance as the previously adopted provisions they amend or supersede, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided.

Sec. 1-6. References to General Statutes that are Later Amended

Whenever any provision of this code refers to or cites a section of the General Statutes of the State of North Carolina and that section is later amended or superseded, the code provision shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Sec. 1-7. Penalties

Penalties for violation of the various provisions of each chapter not set forth in the respective chapters are governed by NCGS 14-4.

Sec. 1-8. Severability

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any such section, paragraph sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this code since the same would have been enacted by the council without the incorporation in this code of any such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

Sec. 1-9. Miscellaneous

- (a) Words importing the masculine gender include the feminine and neuter.
- (b) Words used in the singular include the plural and words used in the plural include the singular.

- (a) The board shall make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum one that will make possible the reasonable use of the land, building, or structure;
- (b) The board shall make a finding that the granting of the variance will be in harmony with the general purpose and intent of the zoning ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;
- (c) In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with the zoning ordinance. Violation of such conditions and safeguards, when made part of the terms under which the variances granted, shall be deemed a violation of the zoning ordinance and punishable by the zoning ordinance; and
- (d) Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of the zoning ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the zoning ordinance in said district.
- (e) Decision of the Board of Adjustment. In exercising the above mentioned powers, the Board of Adjustments may reverse or affirm, wholly or in part, or may modify and order, requirements, decisions or determinations as ought to be made, and shall have the powers of the administrative official from whom the appeal is taken.
- (f) Additional powers and duties of the Board of Adjustments shall be governed as per Article XIV of the Zoning Ordinance.

Article V
(reserved)

Article VI

BUILDING PERMITS, FEES AND INSPECTIONS

Sec. 4-26. Building Inspections Department

The Randolph County Building Inspections Department shall have the authority and responsibility to enforce the North Carolina State Building Code within the City of Archdale, as permitted by NCGS 160A-411 and 160A-413 and authorized by agreement between the city council of the City of Archdale and the Board of Commissioners of Randolph County.

Sec. 4-27. Building Permits

- (a) It shall be unlawful for any person to begin or proceed with the construction, alteration, removal or demolition, in whole or in part, of any building or other structure within the city without first obtaining from the county building inspections department a permit to do so.

- (b) It shall be unlawful within the city for any person to install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler or consumer's gas piping, or to convert existing piping to utilize natural gas without first obtaining a permit from the building inspector to do such work, but permits shall not be required for setting or connecting other base appliances, or for the repair of leaks in housing piping. A gas company shall not be required to obtain permits for work having to do with its own system.
- (c) It shall be unlawful within the city for any person to install, alter or remove, in whole or in part, any system installation or appliance which is operated by or provides for the use of oil, electricity or water without first obtaining from the building inspector a permit to do so unless in any instance it is specifically provided by state law or this Code or other ordinance that such permit shall not be required.

Sec. 4-28. Building Permits--Application For

Any person desiring to obtain a permit required by this article shall make application thereof to the Archdale office of the county building inspections department, which application sets out, in addition to all information required by law, such additional information, plans and sketches as may be required by the county.

Sec. 4-29. Reserved.

Sec. 4-30. Fees for Permits

- (a) Except as may be provided otherwise by state law, the applicant for any permit required by this Article shall pay to the county building inspections department, prior to the issuance of the permit, such fees as provided for by the Randolph County Board of Commissioners, copies which are on file in the office of the clerk and the county building inspections office. (Ord. of 6-15-1971; revised 11-25-1986)

Article VII

PUBLIC WORKS DEPARTMENT, UTILITIES DEPARTMENT

Sec. 4-31. Public Works Department

- (a) The department of public works shall consist of a director of public works and as many other employees as the council may authorize from time to time.
- (b) The public works department shall have such duties and responsibilities related to streets and other public works as may be assigned by the council or the manager.

Sec. 4-32. Utilities Department

- (a) The utilities department shall consist of a director of utilities and as many other employees as the council may authorize from time to time.
- (b) The utilities department shall have such duties related to water and sewer utilities as may be assigned by the manager.

Article VIII

RECREATION

Sec. 4-33. Recreation Department

- (a) The recreation department shall consist of the recreation director and as many other employees as may be authorized from time to time by the council.
- (b) The recreation department shall have such duties and responsibilities relating to recreation as may be assigned by the manager.

Sec. 4-34. Creekside Park

- (a) Creekside Park is a municipal park open for public use. Hours of use will be approved by City Council and posted at the park. Entrance into the park after posted hours is forbidden and shall be considered trespassing unless special permission is granted by the Parks and Recreation Department.
- (b) The Parks and Recreation Department shall maintain policies, approved by the city council, for the operation of Creekside Park. Written copies of such policies shall be available at the park and at city hall. Individuals and groups may be asked to leave the park for violation of such policies and may be denied future use of the park.
- (c) The following regulations are adopted as ordinances and may be enforced by the Archdale Police Department, with a fine as prescribed in NCGS 14-4.
 - (1) It shall be unlawful for any person to remove, destroy, mutilate or deface any structures, equipment or plant life located in the park. Anyone doing so shall replace or pay for the same;
 - (2) It shall be unlawful for any person to bring upon, possess or display any alcoholic beverage or narcotic substance in the park at any time; with the exception that service of alcohol may be approved by City Council for City-sponsored events where appropriate ABC permits have been obtained as described in Section 5-27(b). Such requests must come from staff and include Archdale Police Department approval regarding the provision of public safety and well-being;

- (3) Smoking and use of tobacco products within 50 feet of any area or facility designed or designated for youth activities such as playgrounds, ball fields and the recreation center is prohibited;
- (4) No loud or unreasonably disturbing noises are allowed;
- (5) The park shall not be used for commercial or private gain functions;
- (6) No group shall be allowed to charge admission to any park area unless approved by the Archdale Parks Recreation Department;
- (6) Littering is strictly forbidden;
- (8) No one may sell any item on park property without permission from the Archdale Parks and Recreation Department;
- (9) No uncontained fires are allowed. Grills may be brought from home to use;
- (10) Feeding and releasing of animals, both wild and domesticated, in Creekside Park is prohibited;
- (11) No unleashed pets are allowed;
- (12) Parking is permitted in designated parking areas only;
- (13) The park speed limit is 15 miles per hour.

All other applicable city ordinances shall be enforced within Creekside Park.

Sec. 4-35. Reserved.

Article IX

LIBRARY

Sec. 4-36. Library Established

Pursuant to the authority granted by NCGS 153A-14, there is hereby established a free public library in the City of Archdale, North Carolina, to be known as the Archdale Public Library.

Sec. 4-37. Use of Library

The use of the public library herein before created and established shall be forever free to the inhabitants of the City of Archdale, subject to such reasonable rules and regulations as may be adopted by and approved by the Archdale City council. (Ord. of 11-28-1972, 6-25-1974)

CHAPTER 5

GENERAL OFFENSES

Article I

REGULATION OF NOISE

Sec. 5-1. Noise Generally

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

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

Sec. 5-2. Particular Noise

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

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

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

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

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

Sec. 5-3. Outdoor Entertainment

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

Sec. 5-4. Enforcement

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

- (a) A police officer may issue a violation notice in accordance with NCGS 160A-175(c), subjecting the violator to a one-hundred dollar (\$100.00) civil penalty to be paid within ten (10) days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon nonpayment, and which penalty and delinquency charge may be recovered by the city in a civil action. The second and all subsequent violations of this Section shall subject the violator to a five hundred dollar (\$500.00) civil penalty to be paid within ten (10) days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon non-payment, and which penalty and delinquency charge may be recovered by the city in a civil action.
- (b) A misdemeanor warrant may be issued either immediately or upon the issuance of a citation and the violator's failure to pay the same.
- (c) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.

Article II

FIREARMS AND AIR RIFLES

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

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

Article III

PUBLIC ENTERPRISES

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

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

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

Article IV

DOGS & CATS

Sec. 5-11. Definitions

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

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

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

Sec. 5-12. Dogs Running at Large

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

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

Sec. 5-13. Registration and Pet Waste Responsibilities

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

Sec. 5-14. Impoundment by Animal Control Officer

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

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

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

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

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

stay the requirement that the dog be delivered to the county animal shelter or a licensed veterinary clinic while the appeal is pending before the hearing panel.

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

Sec. 5-16. Dogs and Rabies

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

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

- (a) It shall be unlawful for any person owning or having the custody of any cat to allow such cat to run at large on private property without the permission of the owner or occupant of the private property. The owner or occupant of said private property is hereby authorized to capture and remove from his/her property any such cat found on such property

providing that such capture and removal is done in a humane manner and removed either back to the owner or turned over to the proper city or county authorities only.

- (b) It shall be unlawful for any person owning or having the custody of any cat to allow such cat to run at large on any public property or right of way, or common area of an apartment, condominium, townhome or single-family subdivision development.
- (c) The owner of any cat permitted or suffered to run at large in violation of this Ordinance shall be guilty of a misdemeanor.
- (d) The chief of police or his designee is authorized to seize and impound any cat found running at large in violation of this chapter and to take possession of such animal from any person who has taken control of such animal pursuant to sub-section (a) or (b). (Ord. 1-2-1995)

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

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

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

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

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

- (1) The Animal Control Officer or any law enforcement officer may issue a violation notice in accordance with N.C.G.S. 160A-175, subjecting the violator to a one hundred dollar (\$100.00) civil penalty to be paid within ten days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon non-payment, in the discretion of the City Manager or his/her designee, and which penalty and delinquency charge may be recovered by the City in a civil action.
- (2) If a dog has been determined as "vicious" or "dangerous" or "abandoned" then the animal control officer or any law enforcement officer may issue a violation ordinance in accordance with NCGS 160A-175, subjecting the violator to a one hundred dollar (\$100.00) civil penalty to be paid within ten (10) days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon nonpayment, in

the discretion of the city manager or his/her designee, and which delinquency charge may be recovered by the city in a civil action.

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

Article V

ANIMALS AND FOWL

Sec. 5-20. Regulating Animals and Fowl

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

permitting it to graze within one hundred (100) feet of any business or residence, unless such house or structure be occupied by the owner of such animal.

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

Sec. 5-21. Penalties and Remedies

Any person violating the provisions of this ordinance or failing, neglecting or refusing to comply with the same, shall upon conviction be subject to a fine not to exceed \$50.00, or imprisonment not to exceed 30 days, or both in the discretion of the court, and each day that the provisions of this ordinance are violated shall constitute a separate offense. (Ord. of 12-22-1970)

Article VI

MASSAGE OF PRIVATE PARTS FOR HIRE

Sec. 5-22. Definitions

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

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

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

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

Sec. 5-24. Application of Ordinance

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

Article VII

"X" RATED MOTION PICTURES AT DRIVE-IN THEATERS

Sec. 5-25. Prohibition

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

Article VIII

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

- (a) For the purpose of this section, "public place" means any area available to the public for common usage and access, including any street, sidewalk, bridge, alley or alleyway, plaza, park, playground, driveway, parking lot, or transportation facility, or the doorways, entranceways, stairway, hall, roof, elevator, courtyard, passageway or common area to any building which fronts on any of those places or any motor vehicle in or on any of those places, or any property owned by the City of Archdale.
- (b) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the intent to engage in a violation or any subdivision of the North Carolina Controlled Substance Act, NCGS 90- 5. Such circumstances shall include the following when done for the purpose of violating the aforementioned state statutes:

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

Article IX

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

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

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

Article X

SOLICITATION

Sec. 5-28. Regulation of Solicitors.

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

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

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

Sec. 5-29. Aggressive Solicitation Prohibited.

(a) The council finds that:

- (1) Aggressive solicitation is disturbing and disruptive to residents and businesses and contributes to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder.
- (2) Aggressive solicitation includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of pedestrian and vehicular traffic.
- (3) The presence of individuals who solicit money from persons at or near financial institutions, automated teller machines, public transportation facilities, and crosswalks is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait.

(4) This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(b) In this section:

(1) AGGRESSIVE MANNER means:

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

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

(3) AUTOMATED TELLER FACILITY means the area comprised of one or more automatic teller machines, and any adjacent space that is made available to banking customers.

- (4) BUS means a vehicle operated by a transit authority for public transportation.
 - (5) CHECK CASHING BUSINESS means a person in the business of cashing checks, drafts, or money orders for consideration.
 - (6) FINANCIAL INSTITUTION includes a bank, savings bank, savings and loan association, credit union, trust company business, or similar business.
 - (7) PUBLIC AREA means an outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.
 - (8) SOLICIT means to request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.
- (c) A person commits an offense if the person solicits:
- (1) in an aggressive manner in a public area;
 - (2) in a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;
 - (3) within 25 feet of:
 - a. an automated teller facility;
 - b. the entrance or exit of a financial institution; or
 - c. the entrance or exit of a check cashing business; or
 - (4) at a marked crosswalk;
 - (5) on either side of the street on a block where a school attended by minors or a child-care facility has an entrance or exit.
- (d) A culpable mental state is not required, and need not be proved, for an offense under Subsection (c)(2), (3), or (4).
- (e) This section is not intended to proscribe a demand for payment for services rendered or goods delivered.
- (f) Violation of provisions of this Article is a misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00).

Sec. 6-9. Crosswalks and Safety Zones

If the council finds that there is particular danger to pedestrians crossing a roadway the city manager shall establish and maintain crosswalks and safety zones at these locations by placing marks or lanes upon the surface of the roadway or by other traffic control devices. The effect of such crosswalks upon vehicles and pedestrians shall be as provided in NCGS 20-173 and 20-174, and other provisions of law. As provided in NCGS 20-160(b), no driver of a vehicle may drive through or over a safety zone. A schedule of place where crosswalks and safety zones have been authorized by the city council will be maintained by the city clerk.

Sec. 6-10. Weight Limitations on Certain Streets

Whenever the city manager installs a traffic control device clearly stating or indicating that through trucks are not permitted on a street or any portion thereof, no person may drive any truck having six wheels or more on any such street or portion thereof unless the truck's destination or point of origin is on that street. A schedule of streets or parts of streets where weight limitations have been authorized by the city council will be maintained by the city clerk.

Sec. 6-11. Blocking Intersections and Crosswalks

No driver may enter an intersection or marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians.

Secs. 6-12--6-18. Reserved.

Sec. 6-19. General Speed Limit

As provided in NCGS 20-14(b)(1), no person may drive a vehicle on a street or in a public vehicular area in excess of 35 miles per hour unless a different speed is established by the council.

Sec. 6-20. Speed Limits

Whenever a speed limit has been established and appropriate traffic control devices have been installed in accordance with this Article, no person may operate a vehicle on any street in excess of the posted speed. A schedule of streets or parts of streets where speed limits have been established by the council will be maintained by the clerk.

Sec. 6-21. Enforcement of Section 6-10

Pursuant to the provisions of NCGS 160A-175, the council has determined that the violators of the code provisions regulating weight limitation on certain streets should be subject to a civil penalty to be recovered by the city in a civil action in the nature of a debt if the offender does not pay the penalty in the prescribed period of time after he has been cited for violation of the ordinance in addition to any other remedies already provided;

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

- (a) A law enforcement officer may issue a violation notice in accordance with G.S. 160A-175, subjecting the violator to a twenty-five dollar (\$25.00) civil penalty to be paid within ten (10) days, which penalty may provide for an additional twenty-five dollar (\$25.00) delinquency charge upon nonpayment, in the discretion of the city manager or his designee, and which penalty and delinquency charge may be recovered by the city in a civil action.
- (b) A misdemeanor warrant may be issued either immediately or upon the issuance of a violation notice and the violator's failure to pay the same.
- (c) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.

Sec. 6-22. Reserved.

Article III

PARKING

Sec. 6-23. Parking Prohibited in Certain Locations; No Traffic Control Devices Required

- (a) No person may park any vehicle or permit it to stand in any of the following locations:
 - (1) As provided in NCGS 20-162, in front of a private driveway;
 - (2) As provided in NCGS 20-162, within fifteen (15) feet of either direction of a fire hydrant (whether or not located in a public right-of-way) or the entrance to a fire station;
 - (3) As provided in NCGS 20-162, within fifteen (15) feet of the intersection of curb lines, or if none, then within fifteen (15) feet of the intersection of property lines at an intersection of highways;
 - (4) Within an intersection or on a marked crosswalk; or any marked fire lane;
 - (5) Within thirty (30) feet of any traffic control signal or device installed at an intersection, regardless of whether the vehicle is located within or outside of the public right-of-way;
 - (6) On a sidewalk or on the space between the sidewalk and the curb;

CHAPTER 7

STREETS AND SIDEWALKS

Article I

OBSTRUCTIONS, LITTERING RIGHT-OF-WAY, DRAINAGE ONTO SIDEWALKS

Sec. 7-1. Obstructions Prohibited

- (a) Except as otherwise authorized by statute or ordinance and except to the extent required by the performance of some function authorized or mandated by a statute or ordinance, no person may obstruct or impede travel in the public streets or sidewalks within the city by placing or leaving any object within the traveled portion of the public right-of-way.
- (b) Subsection (a) shall not apply to temporary obstructions caused by persons engaged in construction work on abutting property when proper warning devices are maintained in accordance with Section 7-4.

Sec. 7-2. Warnings Required for Obstructions

- (a) All persons engaged in doing work that creates any dangerous condition or obstruction in the public right-of-way of any street or sidewalk shall take whatever action is necessary, including the placement of barricades and warning signs or devices, to warn the traveling public of the condition or obstruction.
- (b) No person may remove, destroy, injure, or tamper with any barricade, sign, lantern, torch, or other device placed in any street or sidewalk to warn or give notice to the traveling public of any dangerous condition or obstruction.

Sec. 7-3. Littering Right-of-Way

It shall be unlawful for any person, firm, organization or corporation to place or leave, or cause to be placed on left temporarily or permanently, any trash, refuse, garbage, parts of a motor vehicle or junk on the right-of-way of any street, road or highway within the city limits of the City of Archdale.

Sec. 7-4. Drainage Related Interference with Sidewalks

- (a) No person may cause or permit gutters, ditches, ducts, or drain pipes to be constructed or placed on property under his control in such a manner that the water from such gutters, ditches, ducts, or drain pipes empties onto or runs across a public sidewalk.
- (b) Subject to the next sentence, all owners of property abutting permanently improved public sidewalks shall grade such property or construct a retaining wall in such a manner as to prevent the washing of dirt, grass, gravel, or other material upon the city sidewalks,

If the city constructs a sidewalk, it shall be responsible initially for taking the necessary steps to prevent the washing of such materials upon the sidewalk.

Sec. 7-5. Hauling or Tracking of Mud and Refuse onto a Public Street

- (a) It shall be unlawful for any person to discharge or cause to be discharged any amount of dirt, concrete, shingles, trash or mud onto the paved surface and right-of-way of any city street within the City of Archdale.
- (b) It shall be unlawful for any person to permit a truck, trailer or any other vehicle under his control to track mud, in appreciable quantity, on the streets of the City of Archdale from private property.

Sec. 7-6. Solicitation or Distribution by Pedestrians within Right-of-Ways

- (a) No person shall stand in any right-of-way of a highway or street within the City of Archdale for the purpose of soliciting a ride, employment, contributions, money or business from the occupant of any vehicle.
- (b) No person shall stand in any right-of-way of a highway or street within the City of Archdale for the purpose of distributing any materials, printed or otherwise, to the occupant of any vehicle.

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

Article II

DRIVEWAYS AND EXCAVATIONS

Sec. 7-11. Driveways

- (a) Except as otherwise provided in this section, no person may open, construct, alter, or relocate any driveway across any public sidewalk or into any street, or cut any curb for such purpose without having obtained a permit from the director of public works.
- (b) Any person who receives a permit under this section shall be responsible for repairing any damage to the sidewalk or street (including curb and gutter) caused by the driveway construction.
- (c) The director of public works shall review the driveway construction and design plans and shall issue the permit unless he finds the driveway, if construction as proposed, will substantially interfere with or pose a danger to;
 - (1) Persons using the street or sidewalk intersection by the driveway; or

- (2) Public facilities (including utility poles, traffic signals, etc.); or
- (3) Will fail to comply with any of the provisions of this section.
- (d) No driveway may be constructed closer than five (5) feet to a fire hydrant or catch basin or closer than thirty (30) feet to the right-of-way line of a street that intersects with the street the driveway opens onto.
- (e) If the driveway crosses a drainage ditch on a lot that abuts a street without curb or gutter, then piping of sufficient size and strength (as approved by the director of public works) shall be installed beneath the driveway surface so that the drainage capability of the drainage ditch is not materially impaired.
- (f) This section shall not apply to driveways that open into state maintained streets to the extent that the state has approved the driveway. Nor shall a person be required to obtain a permit under this section to the extent that the driveway is being constructed in accordance with plans approved pursuant to a review process authorized by a zoning or subdivision ordinance.

Sec. 7- 12. Excavations

- (a) Except as otherwise provided in this section, no person may dig in or excavate any street or sidewalk within the city without having obtained a permit from the director of public works.
- (b) All persons who receive a permit in accordance with this section shall be responsible for putting the street or sidewalk where any excavation is made in as good condition as it was prior to the excavation.
- (c) Before granting a permit pursuant to this section, the manager shall determine that the applicant has made arrangements to comply with subsection (b), and if the city is to do the necessary repair work, the permit shall not be issued until the applicant makes a deposit equal to the estimated costs of repair.
- (d) This section shall not apply to any utility to the extent that the same subject matter is covered in a franchise ordinance applicable to that utility. Nor shall this section apply to any excavation made in a state-maintained street to the extent that the state has given its permission for such an excavation to be made, except that the person making the excavation shall still be responsible for notifying the manager of the intended excavation forty-eight (48) hours before the work begins.

Sec. 7-13. City Indemnified

Any person obtaining a permit authorized by Sections 7-11 (Driveways) and 7-12 (Excavations) agrees as a condition of the permit to indemnify the city for and hold the city harmless from any expense (including but not limited to attorney's fees, litigation costs and judgments) incurred as a

result of claims made for damages arising out of the operations conducted by the permit recipient pursuant to the permit.

Article III

PENALTIES

Sec. 7-16. Penalties and Remedies

- (a) A violation of any of the sections in this chapter shall constitute a misdemeanor, punishable as provided in NCGS 14-4.
- (b) The city may seek to enforce this chapter through any appropriate equitable action.
- (c) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense unless stated otherwise in the applicable ordinance.
- (d) The city may seek to enforce this chapter by using any one or any combination of the foregoing remedies.

Article IV

HOUSE AND BUILDING NUMBERING

Sec. 7-17. Required; Duty of Owner

Each and every owner of a house or building within the Corporate Limits shall at all times post the current official assigned street number conforming to the requirements of this Article.

Sec. 7-18. Assigned Street Numbers; Responsibility.

The zoning administrator or designated agent shall be responsible for assigning each house or building an official street number. As conditions merit such official street number may be changed upon proper official notice to the property owner and public agencies.

Sec. 7-19. Compliance with Requirements

- (a) Existing House or Building: All existing houses or buildings shall comply with the requirements of this Article.
- (b) New House or Building: All new houses or buildings shall be brought into compliance with the requirements of this Article immediately upon completion.

Sec. 7-21. Posting on street curbing not acceptable

In no situation does the posting on an official assigned street number on street curbing satisfy any of the requirements of this Article. Such posting of street numbers on street curbing is permitted as optional to the property owner. Where such street numbers are posted they shall at all times be consistent with the current official assigned street number for the property.

Sec. 7-22. Temporary Posting During Construction

Immediately following the issuance of a building permit (building, electrical, mechanical or plumbing), and before the related work is begun, the owner, contractor, or agent of the owner shall post the official assigned street number at or adjacent to the entrance of the property or job site at the public or private street providing primary vehicular access to the structure. The temporary number shall be of sufficient size and posted in such a manner so as to be clearly visible from the street. Additional posting shall be required to suit the job site conditions. Temporary posting of street numbers shall be maintained until the permanent official assigned street number conforming with the requirements of this Article are in place and are approved.

Sec. 7-23. Violation; Failure to Post Street Number

Failure to post official assigned street numbers on any house or building in full compliance with the requirements of this Article shall be deemed a violation of the Code of City Ordinances.

CHAPTER 8

TRADE AND BUSINESSES

Article I

DEFINITIONS AND CONSTRUCTION

Sec. 8-1. Definitions - Repealed

Sec. 8-2. Construction of this Chapter

This chapter is enacted primarily for revenue purposes. Issuance of a license pursuant to this chapter does not excuse the licensee from compliance with any other applicable ordinance or statute.

Article II

LEVY OF TAX

Sec. 8-3. License and Payment of Tax Required

An annual privilege license tax is hereby levied on each applicable business located within the City limits in the amounts established by state statutes and this ordinance. Any person engaged in business shall be responsible for making certain that the applicable license tax is paid. The City levies an annual license tax on malt beverage and wine wholesalers as provided in General Statute Section 105-113.79 and City beer and wine retail licenses required by General Statute Section 105-113.77.

Sec. 8-4. Exemptions - Repealed

Secs. 8-5--8-7. Reserved.

Article III

LICENSES

Sec. 8-8. Period of License

- (a) Unless otherwise provided in this chapter, a license issued pursuant to this chapter is valid for that twelve-month period beginning May 1st and ending April 30th. The tax is due May 1st of each year.
- (b) If a person begins business after May 1, the tax for that year must be paid before the business is begun.

Sec. 8-30. Enforcement

The revenue collector may use any of the following methods to collect a deficiency:

- (a) The remedies of levy, sale, attachment and garnishment in accordance with N.C.G.S. 160A-207; or
- (b) The remedy of levy and sale of real and personal property of the taxpayer in accordance with N.C.G.S. 105-109(d).
- (c) Costs related to the use of collection remedies shall be added to the amount of the tax due from the tax payer. This will include, but is not limited to, any actual attorney fees and court fees incurred in adjudicating these remedies, as well as a \$50.00 processing fee for each levy, sale, attachment and garnishment.
- (d) Criminal remedies. The following shall be deemed to be expressly incorporated by reference within each section of this chapter. A violation of this section or any part thereof, shall constitute a misdemeanor and shall subject the offender to a fine of not more than \$500.00 or imprisonment of not more than 30 days. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this chapter.
- (e) Equitable remedies. In addition to the criminal remedies set forth in subsection (c) of this section and in compliance with N.C.G.S. 160A-175(d), the City may seek an injunction against a person who conducts business in violation of this chapter.

Each day that violation of Section 8-3 or 8-28 exists after the person has been notified of the violation shall constitute a separate and distinct offense. (1984 Revisions)

Secs. 8-31 -- 8-39. Reserved.

Article VI

INSULATION CONTRACTORS LICENSE

Sec. 8-40. License Required

On and after January 1, 1978, no person, firm or corporation may for a consideration install, alter, or restore within the City any insulation or other materials or energy utilization equipment designated or intended to meet the State Building Code requirements for insulation and energy utilization standards who is not either:

- (a) Licensed as a contractor to do the proposed work under NCGS 87;
- (b) Working under the supervision of a registered architect or professional engineer;

- (c) Owner working upon his own building; or
- (d) Licensed under this section.

Sec. 8-41. Applications

Every person desiring a license under this ordinance shall submit an application for such license to the building inspector conforming to the following requirements:

- (a) Each application shall be a written statement upon forms provided by the inspections department of Randolph County.
- (b) Each application shall contain the following information:
 - (1) Name and home address of the applicant, if an individual or home office address, if a corporation or partnership;
 - (2) Names and home addresses of the partners, if a partnership;
 - (3) Names and home addresses of the officers and directors, if a corporation;
 - (4) Place where the proposed business is to be located;
 - (5) Complete record of all convictions of felonies or acts involving dishonesty, fraud, or deceit by the applicant or any employee, partner, officer, or director of the applicant; whether in this or any other state or jurisdiction;
 - (6) Complete record of all licenses or permits held by the applicant or any employee, partner, officer, or director of the applicant authorizing activities of the type authorized herein or other activities involving construction, alteration, or modification of buildings and structures;
 - (7) Information as to the circumstances in which any local, state, or federal government or agency has refused, suspended, or revoked a license or permit of the type described in subsection 6 (above) to the applicant or any employee, partner, office, or director of the applicant.
- (c) Each application shall be accompanied by a fee established in Section 8-48, for such license, such amount to be for the calendar year and prorated by quarters to the end of such year.
- (d) False statements on any application for a license shall be grounds for immediate revocation or denial of such license.

Sec. 8-42. Procedure for Issuance

- (2) Violated the state building code requirements as to insulation or energy utilization equipment or materials, whether in this or any other jurisdiction; or
- (3) Been convicted of an act involving dishonesty, fraud, or deceit with respect to any contract entered into for work requiring this license.
- (b) Any licensee whose license is suspended or revoked may appeal the suspension or revocation to the City Council within 20 days of suspension or revocation. After reasonable notice to the licensee, the City Council shall afford the licensee an opportunity to show why its license should not be suspended or revoked.

Sec. 8-47. Change of Location

The location of any licensed business may be changed, provided ten (10) days notice thereof is given to the City and operation at such new location does not violate any applicable state or local law, ordinance, or regulation.

Sec. 8-48. Required Permit; Fee

On and after January 1, 1978, no person, firm or corporation specified in Section 8-40. licensed under this ordinance may for a consideration install, alter or restore any insulation or other materials or energy utilization equipment designed or intended to meet the state building code requirements for insulation and energy utilization without first securing a permit from Randolph County inspection department for each item of work within the City's jurisdiction. There shall be a fee of \$5.00 for the first 2,500 square feet of any single building and \$1.00 for each additional 1,000 square feet or portion thereof.

Sec. 8-49. Penalties

Any person, firm, or corporation violating the provisions of this ordinance shall be subject to all the applicable punishment, penalties, and equitable relief provided for by NCGS 160A-175 and Chapter 703, North Carolina Session Laws of 1977. (Ord. of 2-28-1978, 1984 Revisions)

Article VII

TAXICABS

Sec. 8-50. Definitions

The following words as used in this ordinance shall have the meanings respectively ascribed to them in this section for the purposes of interpretation of this ordinance, except where the context clearly indicates a different meaning:

- (a) Certificate: A certificate of public convenience and necessity, issued by the City Council, licensing the operation of a taxicab, or taxicabs.
- (b) Council: The City Council of the City of Archdale.

- (c) Owner: Any person, firm or corporation to whom a certificate of public convenience and necessity for the operation of a taxicab or taxicabs has been issued by the City of Archdale.
- (d) Taxicab: The word taxicab shall be construed to mean any motor vehicle seating nine (9) or fewer passengers, accepting or soliciting passengers indiscriminately for hire along streets or highways as may be directed by passenger or passengers being transported; provided, the "taxicab" shall not be construed as including motor vehicles operated as ambulances or operated by the owner where the cost of operation is shared by neighbor fellow workmen between their homes and the place of regular daily employment when operated for not more than two trips each way per day, nor automobiles operated by the owner where the cost of operation is shared by the passengers on a "share the expense" plan, nor motor vehicle transporting students for public or private education.
- (e) Permit - Indicia of authority granted by the City of Archdale to operate a specific taxicab by a person, firm or corporation holding a certificate of public convenience or necessity.

Sec. 8-51. Certificates of Convenience and Necessity and Permits Issued Pursuant Thereto

- (a) It shall be unlawful for any person to operate a taxicab business in the City of Archdale without first having applied for and secured from the City council a certificate of convenience and necessity, currently, in effect, as provided in this Article.
- (b) It shall be unlawful for any person, firm or corporation to operate a specific vehicle as a taxicab without first obtaining a currently effective permit therefore pursuant to a certificate of public necessity and convenience, secured from the City council.

Sec. 8-52. Application for Certificate

All persons desiring to operate a taxicab business upon and over the streets of the City of Archdale shall file with the council a sworn application for a certificate of public convenience and necessity, in duplicate, stating:

- (a) The name and address of the owner or owners of the business, including partners or shareholders, and in the event that the owner of the business be a corporation, a certified copy of the Articles of Incorporation attached.
- (b) The number of vehicles of the applicant owned and previously operated as taxicabs within the City of Archdale, if any, and if no taxicabs have therefore been operated by the applicant within the City of Archdale, the number of vehicles which the applicant desires and proposes to operate as taxicabs within the City if the certificate is granted.
- (c) The net worth of the owner or applicant over and above all debts, judgments, claims and demands whatsoever.

- (b) No person owning, driving or controlling a taxicab shall charge or attempt to charge any passenger a greater rate of fare than that to which he is entitled under the provisions of this article. All taxicab drivers shall travel the nearest and most direct route to the point of destination unless directed to do otherwise by the passenger.

Sec. 8-63. Rates to Be Displayed in Cabs

Every taxicab operated within the City or between the City and points not incorporated with a radius of five (5) miles of the City shall have at all times prominently posted and displayed in such taxicab, so as to be visible to the passengers therein, the rates and fares for the use of such cab, the driver's name, picture and commercial drivers license number, the name and address of the taxi company, and the taxicab permit issued by the City. (Ord. 6-27-1972, 1984 Revisions)

Article VIII

- Reserved -

Article IX

PEDDLERS, SOLICITORS, ITINERANT MERCHANTS

Sec. 8-70. Definitions

Peddler, solicitor, canvasser, hawker: Any individual whose business is conducted by traveling either by foot or by vehicle or any other conveyance from door-to-door for the purpose of selling or obtaining orders for the sale of goods, wares, merchandise or personal property of any kind, for present or future delivery. Or for services to be furnished or performed either now or at a future date. Any individual who is compiling information such as occupation; economic, social, religious or political status; number of occupants, etc. for the purpose of creating a directory or record book to be sold or used for a commercial purpose.

Itinerant Merchant: A merchant, other than a merchant with an established place of business, who travels with an inventory of goods to a lot, building, or other location for less than six (6) consecutive months within the City and who displays and sells these goods at retail.

Sec. 8-71. Permit Required

It is unlawful to engage in business as a peddler, solicitor, canvasser, hawker or itinerant merchant, within the City limits, without having first completed and filed an application and obtained a permit from the City.

Permits pursuant to this chapter shall be valid for thirty (30) days.

Exceptions:

- a) Any items that were produced, grown or made personally by the seller or seller's household members such as goods, produce, nursery items or crafts.
- b) Nonprofit charitable, educational, religious, or civic organizations.

Sec. 8-72. Restriction

- a) No soliciting will be allowed in the public right-of-way or intersection, except for a special event or a City-sponsored event. It shall be unlawful to solicit or to accept contributions from occupants of any vehicle in the public right of way or to distribute merchandise to any occupant of a vehicle in the public right of way.
- b) See Sec. 5-28 Regulation of Solicitors.
- c) See Sec. 5-29 Aggressive Solicitation Prohibited.

Sec. 8-73. Application

An application pursuant to this article shall be made on a form provided by the City. All prospective vendors whether exempt from paying a permit fee or not must first file an application. The application must be filled out completely and truthfully with all the following information:

- a) Name, address and phone number of Employer or Organization.
- b) Name, address, phone number and cell phone number of applicant.
- c) Applicant's local address.
- d) Description sufficient for identification, date and place of birth (must be 18 years or older) and driver's license number or valid I.D.
- e) If a vehicle is to be used a complete description and license number.
- f) Description of the goods to be sold or the services offered.
- g) For itinerant merchants: address where setting up (must have a signed letter from the property owner granting permission).
- h) Dates requested (30 days maximum).
- i) Whether or not applicant has been convicted of any crime or misdemeanor.

An application fee will be charged to cover costs of fingerprinting, photographing and running a background check. Applications will be processed within three (3) business days and if approved a permit will be issued.

Sec. 8-74. Penalties

- a) Violation of this Article is a misdemeanor, punishable by a fine of up to five hundred dollars (\$500.00).
- b) Any law enforcement officer may issue a violation notice in accordance with N.C.G.S. 160A-175, subjecting the violator to a fifty dollar (\$50.00) civil penalty to be paid within

CHAPTER 9

PUBLIC HEALTH

Article I

LITTERING, CONTROL OF NOXIOUS GROWTHS

Sec. 9-1. Dumping or Littering on Public or Private Property

No person may place or discard any solid wastes on:

- (a) Any public street or sidewalk within the city or on any property owned or operated by the city or any other public property, except in properly designated receptacles; or
- (b) Any property without the consent of the owner, occupant, or lessee thereof.
(Note: NCGS 14-399 makes the acts prohibited in this section a misdemeanor, punishable by a fine of not more than \$200.00).

Sec. 9-2 Preventing Refuse on Right-of-Way

- (a) It shall be the duty of owners and occupants of real property within the city limits to prevent the accumulation of trash, limbs, rubbish and debris, particularly any accumulation of flammable wastes, from any roadway right-of-way abutting their property. Any occupant or owner of real property who fails to remove any such hazards within five (5) days after notice thereof by the city shall be in violation of this ordinance whereupon the city may correct the situation by removal of the hazard with the cost of such removal being assessed against the owner or occupant of the abutting property.
- (b) Any person, firm or corporation violating the provisions of this ordinance, shall upon conviction be guilty of a misdemeanor. (Ord. of 6-14-1974).

Sec. 9-3. Noxious Growth

- (a) No person may permit on premises under his control any growth of weeds, grasses, or other plants or bushes that becomes or threatens to become a fire hazard or a harboring place for rats, mice, snakes, or other vermin or otherwise poses a danger to public health or safety.
- (b) The existence of grass or weeds that exceed the height of twelve (12) inches over a large portion of the property shall be prima facie evidence of violation of this ordinance. If multiple adjacent parcels under singular ownership are found to be in violation of this ordinance, then each parcel shall be counted as an individual violation.
 - (1) Undeveloped parcels adjacent to improved property shall be cut in their entirety at least three times per year, as required during the mowing season of April through September (wooded lots exempt).

- (2) Undeveloped parcels larger than one acre and adjacent to improved properties shall be cut within 100 feet of such improved property and shall be cut at least three times per year, as required during the mowing season of April through September (wood lots exempt).
- (c) The owner of a property that is in violation of this ordinance shall be notified by first class mail of the violation of this ordinance. The property owner will have a maximum of ten days from the date postmarked on the notification to correct the violation.
- (d) The City of Archdale may, upon excessive delay in correcting the violation, either direct the Public Works Department or contract with a private firm to correct the violation. In such a circumstance the owner of the property will be responsible for paying the costs associated with correcting the violation in addition to an administrative fee. A late fee will be applied to the total if the bill for such work has not been paid after thirty (30) days of receipt.
- (e) A civil penalty of \$100.00 will be imposed upon repeat offenders of this ordinance. Repeat offenders shall constitute cases involving the same parcel, owner, and mowing season.

Sec. 9-4. Chronic Violator

- (a) A chronic violator is a property owner who, in the previous calendar year, that the City gave notice to abate at least three (3) times under any provision of this chapter.
 - (1) Upon determination of a chronic violator, the City shall notify the owner one (1) time at the beginning of the new calendar year via certified mail.
 - (2) After the above notice has been sent and received, the City shall, without further notice in the calendar year in which the notice has been given, take action to remedy the violation. This action will result in a lien upon the property and shall be collected as unpaid taxes.

Sec. 9-5 to 9-9. Reserved.

Article II

COLLECTION OF SOLID WASTE

Sec. 9-10 Definitions:

- (a) The following definitions shall apply in the interpretation and enforcement of this chapter:
 - (1) *Bulk Container* means a metal container made of watertight construction with sliding doors opening on two sides and hinged top, constructed so that it can be emptied mechanically by specially equipped trucks.

- (a) In all cases referred to in this chapter which reach the city council for action, either upon appeal of the owner from the ruling of the building inspector or upon report of the building inspector that the owner fails or refuses to comply with this order or direction, the council shall hear the matter, and if it finds and determines that the building or structure in question is in such dilapidated or substandard state of disrepair as to constitute a fire or safety hazard, or to be dangerous to life, health or other property, or is a public nuisance, and that the owner of such building or structure has failed or refused to abate the nuisance and has failed or refused to have such building or structure demolished and removed or has failed or refused to take such other action as may be necessary to abate the nuisance and remove the hazards found to exist, it may cause the demolition and removal of such building or structure to be done, or effect such other remedies as may be necessary to abate the nuisance and remove the hazards, and specially assess the cost of such work against the lot or parcel of land on which the building or structure was situated; and such assessment shall constitute a specific lien upon such lot or parcel of land which may be enforced by action in the name of the city.

Sec. 9-47. When Notice of Hearing by City Council Required

- (a) In cases in which the building inspector has been unable to give the owner actual notice of hearing in the manner provided, and has given such notice by posting and publishing the same as previously prescribed, and the owner has failed or refused to comply with the order or direction of the building inspector to demolish and remove the building or structure, or take such other remedial action as will remove the hazards, and such case is referred to the city council for action, the council before taking such action, shall cause to be posted on the outside of the building at least ten days before the date of the public hearing, and published one time in a newspaper of general circulation in the city, a written notice stating the address or location of the building or structure involved and the time, place, and purpose of the hearing, and other information the council may deem advisable.

Sec. 9-48. Presumption of Danger to Public

- (a) In all cases in which the city council, under the authority of this article, causes the demolition and removal of any building or structure to be carried out, or directs such other remedial steps to be taken as may be deemed to be necessary to abate the nuisance and remove the hazards, it shall be conclusively presumed that the public nuisance and the fire and safety hazard and danger to life, health or other property, created and maintained by the continued presence of such building or structure in such condition as is found to exist, constitute a clear and present danger amounting to a situation of emergency involving the public health, safety, and general welfare, which requires entry upon private property for the summary abatement and removal of such danger, in the public interest.

Sec. 9-49. Willful Failure or Refusal to Comply with Article

- (a) It shall be unlawful for any person to willfully fail or refuse to comply with any final order or direction of the building inspector or city council made by virtue and in pursuance of

this article, and any person violating this article shall, upon conviction, be punished as provided by NCGS 14-4 for violation of a municipal ordinance.

Article V

OUTDOOR BURNING

Sec. 9-50. Outdoor Burning Regulated

- (a) It shall be unlawful for any person to burn household garbage, trash, refuse, construction and demolition debris or yard waste of any kind.
- (b) It shall be unlawful for any person or firm engaged in clearing, grubbing, and grading operations to burn stumps, or other refuse as a result of those operations.
- (c) Bona fide farms, outdoor grills and barbecues, contained fires for heat, fires purposely set by manufacturers of fire extinguishing materials or equipment testing labs, and fires purposely set for the instruction and training of fire-fighting personnel are exempt from this ordinance.
- (d) Any person violating this article shall, upon conviction, be punished as provided by NCGS 14-4 for violation of a municipal ordinance or under other state and federal laws as they may apply.

Article VI

SOLID WASTE BRUSH AND LIMB REMOVAL

Sec. 9-51. Guidelines Established

- (a) The city shall provide brush and limb pick up for city residents at no charge. These pick ups shall be made on the same day as the regular household garbage collection.
- (b) The following guidelines and regulations shall be used in order to ensure proper and professional service:
 - (1) Limbs shall be cut in no more than six (6) foot lengths and placed at the curb or road edge.
 - (2) Brush/Limbs shall not weigh more than a total of fifty (50) pounds and shall take no longer than thirty (30) minutes to remove.
 - (3) Bundles shall be loose and not tied with wire or string.
 - (4) Brush/Limbs shall not be placed under trees, power lines, or near mailboxes, vehicles, etc.

CHAPTER 10

UTILITIES

Article I

SERVICE REGULATIONS

Sec. 10-1. Request for Service; Service Connections Required

Any interested party may request water and/or sewer service from the City of Archdale as referenced in the city's *Water and Sewer Extension Policy*.

- (a) If the service is to be provided within the city limits and adequate public water and/or sewer mains are available adjacent to the property, service will be provided upon payment of the applicable fees.
- (b) If the service is to be provided within the city limits and water and/or sewer mains are not available adjacent to the property, a formal application shall be submitted to the City Council for consideration.
- (c) If the service is to be provided outside the city limits or requires extension of a service main, a formal application for service shall be submitted to the City Council for consideration.
- (d) Pursuant to the authorization of NCGS 160A-317(a), the owners of improved real property located within the City and abutting or within a reasonable distance of municipal water lines or sewage collection lines, are hereby required to connect such premises with the available City water and/or sewer lines as such services are made available by the City to such property.

Properties utilizing existing well or septic systems are exempted from this requirement until the failure of said system. At that time, new wells or septic fields will not be permitted and property owners will be required to connect to the existing water line and/or sewage collection line. In addition, unused wells must be capped in a safe manner and septic fields must be properly abandoned to Randolph County Health Department standards. Improper abandonment of septic systems will be considered an illicit discharge as regulated by the City of Archdale Stormwater Management Program Ordinance.

- (e) Separate water and sewer connections are required for each structure. However, exceptions will be considered on a case by case basis for multi-family housing arrangements, motels, hotels, schools, and other similar establishments.

- (b) Bills for water and sewer will be figured in accordance with the City's published *Schedule of Fees* then in effect and will be based on the amount consumed for the period covered by the meter readings.
- (c) Charge for active service accounts only, commences when meter is installed and connection made, whether used or not.
- (d) Meter readings for irrigation systems will appear as a separate line on the customer's bill. Compound meters will be billed as one service. All other readings for meters will not be combined for billing.
- (e) Bills are due when rendered. Due dates, penalties, and cut-off information are listed on monthly statements.
- (f) Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the consumer from payment.
- (g) The property owner is responsible for all water and sewer charges when water usage registers on the meter reading, even if the property is listed as vacant.
- (h) The City Manager shall have the authority to establish administrative procedures for short-term credit extensions where there is a documented short-term inability to pay.
- (i) The City may engage collection agencies, at the discretion of the City Manager, in order to enforce the payment of delinquent accounts. The consumer shall be obligated to pay all costs associated with third-party collection efforts prior to having service resumed at the same location or a new location.
- (j) Adjustments shall be made to correct clerical and/or computer errors on bills. If a customer is incorrectly billed, not billed, or a bill is sent to the wrong party, the City may back bill the customer for the lesser of the actual period or a 2-year period for water and sewer charges. Similarly, in the event customers are charged for services not received, a credit adjustment will be allowed only for amounts paid by the customer for charges incurred within the prior 2-year period. Refer also to the *Utility Customer Service Policies and Procedures*.

Sec. 10-15. Suspension of Service

- (a) When services are discontinued the deposit will be applied to the final bill and the remaining deposit will be refunded to the account holder at last known address, provided the refund amount exceeds \$3.00.
- (b) Irrigation meters may be removed at no charge upon the customer's request. However, as established in the *Schedule of Fees*, a reinstatement fee will apply should the customer subsequently request a new irrigation meter.

- (c) Upon discontinuance of service for nonpayment of bills, the deposit will be applied by the City toward settlement of the account. Any balance will be refunded to the consumer; but if the deposit is not sufficient to cover the bill, the City will proceed to collect the balance in the usual ways provided by law for the collection of debts.
- (d) Service discontinued for nonpayment of bills will be restored only after bills are paid in full, redeposit made, and a non-payment charge made for each meter reconnected.
- (e) Accounts in the name of a deceased customer must be transferred into the name of a spouse, other family member, executor of the estate, or administrator of the estate to avoid disconnection of service.
- (f) The City reserves the right to discontinue its service without notice for the following additional reasons:
 - (1) To prevent fraud or abuse.
 - (2) Consumer's willful disregard of the City's policies.
 - (3) Emergency repairs.
 - (4) Insufficiency of supply due to circumstances beyond the City's control.
 - (5) Legal processes.
 - (6) Direction of public authorities.
 - (7) Strike, riot, fire, flood, accident, or any unavoidable cause.
- (g) It shall be unlawful to turn on water, tamper with, obstruct, rearrange, or interfere in any manner with any public or private fire hydrant, water meter, or water connection on which City water pressure is maintained, or any sewer connection, manhole, or pipe in connection with the City sewer system.
 - (1) The person in whose name such meter is installed or the person(s) so using or receiving the benefits of unmetered, unregistered, or diverted water will be liable for enforcement actions resulting from the unlawful actions cited in (f) above.
 - (2) Persons in violation of this section will be prosecuted as set forth in NCGS 14-151.
 - (3) The City may, in addition to prosecution by law as provided in NCGS 14-151, permanently refuse service to any consumer who tampers with a meter or other measuring device.

Sec. 10-16. Complaints - Adjustments

- (c) Test operations to establish the rate of the flow of water available from fire hydrants by personnel of the GRFD, a registered Fire Department, or authorized personnel of the City Public Works Department. These test operations may include the testing necessary to furnish data needed for fire insurance evaluations or engineering evaluations of the effectiveness of the water system.
- (d) Water flushing and collecting of water samples by authorized City Public Works Department personnel for improving or determining the quality of water in the City water system, or to minimize the possibility of impurities remaining in the water system from breaks, leaks, or repairs to the water system.
- (e) Water withdrawal from publicly owned fire hydrants by authorized City personnel for street maintenance, street cleaning, dust control, landscaping of City property, or cleaning of sanitary or storm sewer lines.
- (f) Water withdrawal through a City of Archdale approved hydrant meter water account using a Hydrant Meter Assembly issued by the Public Works Director ("Director"), or his/her authorized agent, as defined in this Policy.
- (g) Other uses as expressly authorized in writing in advance by the Director.

Sec. 10-19. Definitions

For the purpose of this Policy, the following terms are defined to have the meanings described as follows:

- (a) A "person" may include one or more of the following or their agents, employees, representatives, directors, officers, members, partners, managers, superintendents, or legal representatives: individuals, corporations, partnerships, joint ventures, associations, or other entities recognized by the laws of the State of North Carolina.
- (b) "*Schedule of Fees*" shall refer to the latest version of the *Schedule of Fees* for a Water Account Using a Hydrant Meter Assembly as adopted by the Archdale City Council.
- (c) "Business day" shall refer to a single calendar day in which the City of Archdale Customer Services Department is open to receive citizens for transactions and other utility customer services. Saturdays, Sundays, and legal holiday closures established by the Archdale City Council are excluded.
- (d) "Director" shall refer to the Public Works Director or his/her designee.

Sec. 10-20. Enforcement of Policy

Any person who opens, closes, damages, tampers with, connects to, or withdraws water from a City fire hydrant in a manner that does not fully comply with the provisions of this Policy shall be subject to one or more of the following enforcement actions, depending on the severity of the adverse consequences and the previous history of similar occurrences:

- (a) Assessment for the value of the water withdrawn from a fire hydrant based on the City's retail rates in effect at the time;
- (b) An assessment for the value of the City's cost of repair of damages to the water system, including damages to the Assembly;
- (c) An assessment for the value of court costs, attorney fees, or other administrative costs for claims consequential to acts prohibited by this Policy;
- (d) A civil penalty issued by the Director of up to five-hundred (\$500.00) dollars per violation;
- (e) An immediate suspension of privileges and closure of any account issued to the person in violation and demand to return the Assembly to the City within five business days of receipt of notice;
- (f) Denial of a future application for an account to use an Assembly to withdraw water from City hydrants; and,
- (g) Criminal penalties pursuant to NCGS 14-159.1.

Sec. 10-21. Water Service Account Using a Hydrant Meter Assembly

A person may obtain an account to use an Assembly from the Director subject to the following conditions:

- (a) The applicant shall fill out an application to the City of Archdale for an account on a form designated by the Director at least five business days in advance of the date service is desired. The application may request information sufficient to determine if the applicant has the ability to comply with the provisions of this Policy and other applicable Federal, State, or local laws or regulations, to include the following:
 - 1. Purpose or purposes of water use;
 - 2. Period of time in which water is needed;
 - 3. Estimated volume of water required per month, or estimated total volume required if period of time is less than one month;
 - 4. Size of Assembly requested (must be a size provided by the City, as defined in the *Schedule of Fees*);

These rates may apply where the water consumption of the residence or other approved user is generally no more than that of a one family residence. The Public Works Director shall determine whether the customer will be on the minimum or higher flat rate or whether a meter is to be installed to determine the sewer service charge and he shall set the amount of the charge based on estimated consumption. Metering may be required where water is used for industrial purposes or where monthly or yearly discharge of waste water to the sanitary sewer system fluctuates over a wide range.

A flat rate shall not be used where the water supply is from a State approved public water supply.

Sec. 10-28. Polluted Water; Control

All polluted water from homes, commercial establishments and manufacturing plants, whether such water is obtained from the City of Archdale or not, when polluted by its use, shall be forced into the City's sanitary sewer system provided such wastes meet the requirements of this chapter.

Sec. 10-29. Use of Public Sewers Required

- (a) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.
- (b) It shall be unlawful to discharge to any natural outlet within the City or in any area under its jurisdiction, any sewage or other polluting material, except where suitable treatment has been provided in accordance with applicable local, State and Federal laws, ordinances and policies. In the event such polluting material is discharged, whether accidental or otherwise, it shall be the responsibility of the person causing the discharge. Where an objectionable or offending condition shall exist, as determined by the Director, the person causing the discharge will immediately take corrective measures to remove or otherwise eliminate the offending condition in a manner approved by the Director. In any unusual circumstances where an imminent threat to the health and safety of the public may deem to exist, or where corrective measures are not taken promptly by the person causing the offending condition, the Director may then take such steps as he determines necessary to remove the polluting materials and eliminate the offending condition with such costs to be borne by the person causing such condition.

Sec. 10-30. Prohibited Use of Public Sewers

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof run-off or subsurface drainage into any sanitary sewer. Storm water and surface drainage shall be admitted to only such sewers as are specifically designated as storm sewers or storm drains. Unpolluted process and cooling waters may, upon written application and approval by the Director, be discharged to storm sewers or storm drains.

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sanitary sewer:

- (a) Any clothing, rags, textile remnants or waste, cloth, scraps, etc., except materials of such size that will pass through a one-half (1/2) inch mesh screen or its equivalent in screening ability.
- (b) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit measured at a suitable point of access on the building sewer nearest the point of entry to the public sewer.
- (c) Any wastes or water containing mineral or hydrocarbon fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter; or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit, but this prohibition shall not be deemed applicable to vegetable and animal fats, grease or oils which are compatible with or biodegradable by the City's sewerage treatment facilities unless otherwise prohibited by this article.
- (d) Any liquids, solids or gases which by reason of their nature or quality may cause fire or explosion, or in any way be injurious to persons, the public sewer system, the pollution control plants, or the operation of the pollution control plants.
- (e) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable State or Federal regulations.
- (f) Any waters or wastes having a pH lower than 5.5 or higher than 9.5 which also have some demonstrable property capable of causing damage or hazard to structures, treatment processes, equipment or personnel of the sewerage system.
- (g) Any waters, except as hereinafter provided in Sec.10-30, which have the following characteristics:
 - (1) A BOD greater than 300 mg/1 or,
 - (2) A SS greater than 250 mg/1.
- (h) Liquid wastes containing any toxic or poisonous substances in sufficient quantities to:
 - (1) Constitute a hazard to personnel operating or maintaining the sewerage system and pollution control plants; or
 - (2) Interfere with the biological processes used in the treatment plants; or

- (3) Which, in combination with other liquid wastes, upon passing through a pollution control plant will be harmful to persons, livestock, or aquatic life utilizing the receiving streams into which water from the treatment plant is discharged; or
- (4) As may be restricted by local, State and Federal regulations.
- (i) Any noxious or malodorous gas or substance capable of creating a public nuisance while being conveyed through the sewerage system or at the treatment plant.
- (j) Any garbage that has not been properly shredded.
- (k) Any ashes, cinders, sand, mud, straw, shavings, metal, grease, fats, glass, bones, glue, feathers, fish or poultry offal, tar, plastics, wood, rubber, parch manure or any other solids or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the public sewers or pollution control plants.
- (l) Any materials which form excessive amounts of scum that may interfere with the operation of the pollution control plants or cause undue additional labor in connection with their operation.
- (m) Any waters or wastes containing dyes, or other substances which are not removable by existing sewage treatment plant processes.
- (n) Any waters or wastes in unusual volume of flow or concentration of wastes constituting, "slugs" as defined herein and where, in the opinion of the Director, such slugs may interfere with the process operations and/or maintenance of the sewerage system.
- (o) Any waters or wastes have a chlorine demand in excess of 20 mg/l.
- (p) Any waters or wastes that have an immediate dissolved oxygen demand in excess of 3 mg /l.
- (q) Petroleum oils or greases and exhaust gases from internal combustion engines.
- (r) No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with this ordinance. Equalization of process water is not to be construed as dilution.

The Director may impose mass (weight) limitations in the permits of users which are using dilution to meet applicable pretreatment standards or where the Director deems the imposition of mass (weight) limitation as appropriate.

The spirit and intent of this article will apply in any situation involving liquid wastes not specifically covered by said article.

Sec. 10-31. Flow Equalization

CHAPTER 13

Article I

THE CITY OF ARCHDALE STATE OF EMERGENCY ORDINANCE

Sec. 13-1. State of Emergency: Restriction Authorized

- (a) A State of Emergency shall be deemed to exist whenever during times of public crisis, disaster, catastrophe, or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.
- (b) In the event of an existing or threatened State of Emergency endangering the lives, safety, health and welfare of people within the City of Archdale or any part thereof, or threatening damages to or destruction of property, the Mayor is hereby authorized and empowered under NCGS Section 14-288.13 and 166A-B to issue a public Proclamation declaring to all persons the existence of such a State of Emergency, and, in order to more effectively protect the lives and property of people within the City of Archdale, to place in effect any or all of the restrictions hereinafter authorized.
- (c) The Mayor is hereby authorized and empowered to limit by Proclamation the application of all or any part of such restrictions to any area specifically designated or described within the City and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, doctors, nurses, employees of hospitals and other medical facilities; on duty military personnel, whether state or federal; on duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of people within the City.

Sec. 13-2. Proclamation Imposing Prohibitions and Restrictions

- (a) The Mayor of the CITY OF ARCHDALE by Proclamation may impose the prohibitions and restrictions specified in Sections 13-3 through 13-8 of this ordinance in the manner described in those sections. The Mayor may impose as many of those specified prohibitions and restrictions as he finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The Mayor shall recite his findings in the Proclamation.
- (b) The Proclamation shall be in writing. The Mayor shall take reasonable steps to give notice of the terms of the Proclamation to those affected by it and shall post a copy of it at the City Hall. The Mayor shall send reports of the substance of the Proclamation to the

mass communications media which serves the affected area. The Mayor shall retain a copy to the text of the Proclamation and furnish upon request certified copies of it.

Sec. 13-3. Evacuation

The Mayor may direct the evacuation of all or part of the population of the City of Archdale, control ingress and egress of a disaster area, and the movement of persons within the area.

Sec. 13-4. Curfew

(a) The Proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The Mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the Mayor finds necessary for the preservation of the public safety and welfare.

(b) Unless otherwise specified in the Proclamation, the curfew shall apply during the specified period each day until the Mayor by Proclamation removes the curfew.

Sec. 13-5. Restriction on Possession, Consumption, or Transfer of Alcoholic Beverages

The Proclamation may prohibit the possession or consumption of any alcoholic beverage; including beer, wine and spirituous liquor other than on one's own premises, and may prohibit the transfer, transportation, sale or purchases of any alcoholic beverage within the area of the City of Archdale. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of Alcoholic Beverage Control stores as well as anyone else within the geographical area described.

Sec. 13-6. Restrictions on Possession, Transportation, and Transfer of Dangerous Weapons and Substances

(a) The Proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. The Mayor may exempt from some or all of the restrictions, classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances is necessary to the preservation of the public's health, safety or welfare. The Proclamation shall state the exempted class and the restrictions from which each is exempted.

(b) "Dangerous weapon or substance" means:

(1) Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in NCGS 14-288.8(c)(5), gasoline, or other instrument or substance designed for a use that carries a threat of serious bodily injury or destruction of property.

- (2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such a part or ingredient will be so used.
- (c) If imposed, the restrictions shall apply throughout the jurisdiction of the City of Archdale or such part thereof as designated in the Proclamation.
- (d) A violation of this section shall be punishable as provided in NCGS 14-288.7.

Sec. 13-7. Restriction on Access to Areas

- (a) The Proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.
- (b) Areas to which access is denied or restricted shall be designated by the Chief of Police and his subordinates or other law enforcement officer when directed in the Proclamation to do so by the Mayor. When acting under this authority, the Chief of Police and his subordinates may restrict or deny access to any area, street, highway or location within the City of Archdale if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

Sec. 13-8. The Proclamation may prohibit or restrict:

- (a) Movement of persons in public places;
- (b) The operation of offices, business establishments and other places to or from which persons travel or at which they may congregate; and
- (c) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the State of Emergency within the area designated in the Proclamation.

Sec. 13-9. Removal of Prohibitions and Restrictions

The Mayor shall by Proclamation terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the City Council.

Sec. 13-10. Superseding and Amendatory Proclamations

The Mayor in his/her discretion may invoke the restrictions authorized by this ordinance in separate Proclamations, and may amend any Proclamation by means of a superseding Proclamation in accordance with the procedures set forth in Section 13-2.

Sec. 13-11. Termination of Proclamation

Any Proclamation issued under this ordinance shall expire five days after its last imposition unless sooner termination in writing under the same procedures set forth in Section 13-2 for Proclamations.

Sec. 13-12. In Case of Absence or Disability of the Mayor

In case of the absence or disability of the Mayor, the Mayor pro tem of the City of Archdale, or such other person as may be designated by the City Council, shall have and exercise all of the powers herein given the Mayor.

Sec. 13-13. Penalty for Violation

Except as provided in Section 13-6, any person violating any prohibition or restriction imposed by a Proclamation authorized by this ordinance shall be guilty of a Class 3 misdemeanor as provided by NCGS 14-288.12(e).

Sec. 13-14. Repeal of Conflicting Ordinances

All ordinances in conflict with the provisions of this ordinance are hereby repealed.

Sec. 13-15. Territorial Applicability

This ordinance shall apply within the corporate limits of the City of Archdale, or within any areas over which the municipality has jurisdiction to enact general police-power ordinances as fully as to the same extent as elsewhere in the town.

Sec. 13-16. Validity

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that they would have passed this ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences or phrases be declared invalid.

- (1) Unnecessary hardships would result from strict application of this ordinance.
 - (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
 - (3) The hardships did not result from actions taken by the petitioner.
 - (4) The requested variance is consistent with the spirit, purpose, and intent of this ordinance; will secure public safety and welfare; and will preserve substantial justice.
- (b) The Board of Adjustment may impose reasonable and appropriate conditions and safeguards upon any variance it grants.
- (c) Statutory exceptions

Notwithstanding subdivision (A) of this section, exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

- (1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.
- (2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.
- (3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

Sec. 15-22. Additional Standards

- (a) Controlling the Discharge of Runoff from One Property to Another Property.

(1) Concentrated flow from a property regardless of source shall be permitted under the following conditions:

- (i) The outfall of the source of the flow shall be directed parallel to the property line to allow for the downstream migration of the runoff.
- (ii) The outfall of the source shall not be located within the zoning setback to allow for diffused flow.

(2) Concentrated flow in violation of 1(a) shall be treated as an illicit discharge.

(b) Pet Waste

(1) Dogs at Large Prohibited

It shall be unlawful for the owner of any dog to allow the animal to be off the premises of his owner and not on a leash in the City of Archdale.

(2) Restrictions on Pet Waste

- (i) It shall be unlawful for the owner or custodian of any dog to take it off the owner's own property limits without the means to properly remove and dispose of the dog's feces from any public or private property.
- (ii) It is the responsibility of a dog's owner or custodian to clean up the dog's feces from any public or private property outside of the dog's owner's own property limits. Such property includes, but is not limited to, parks, rights-of-way, paths, and public access areas.
- (iii) "Means to properly remove and dispose of feces" shall consist of having on or near one's person a device such as a plastic bag, or other suitable plastic or paper container, that can be used to clean up and contain dog waste until it can be disposed of in an appropriate container. Such a device must be produced and shown, upon request, to anyone authorized to enforce these ordinances.
- (iv) This provision shall not apply to handicapped persons assisted by trained guide or assistance dogs.
- (v) "Public nuisance" is defined to include "a dog which deposits feces on public property or on private property without the consent of the owner or person in lawful possession of the private property, and the person owning, possessing, harboring or having the care, charge, control or custody of the dog fails to remove the feces so deposited. Provided, however, this definition shall not apply to any dog assisting a handicapped person."

Article V

ENFORCEMENT AND VIOLATIONS

Sec. 15-31. General

(a) Authority to Enforce

The provisions of this ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of City of Archdale. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of City of Archdale.

(b) Violation Unlawful

Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this ordinance, or the terms or conditions of any permit or other *development* or *redevelopment* approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance.ⁱⁱ

(c) Each Day a Separate Offense

Each day that a violation continues shall constitute a separate and distinct violation or offense.

(d) Responsible Persons/Entities

Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists; or an *owner*, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or *development* of the property on which the violation occurs.

For the purposes of this article, responsible person(s) shall include but not be limited to:

(1) Person Maintaining Condition Resulting In or Constituting Violation

An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take appropriate action, so that a violation of this ordinance results or persists.

Article VII

ILLICIT DISCHARGES

Sec. 15-35. Illicit Discharges and Connections

(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 manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising ground waters;
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Foundation drains;
- (9) Air conditioning condensation;
- (10) Irrigation water;
- (11) Springs;
- (12) Water from crawl space pumps;
- (13) Footing drains;
- (14) Lawn watering;
- (15) Individual residential car washing;
- (16) Flows from riparian habitats and wetlands;
- (17) Dechlorinated swimming pool discharges;

(18) Street wash water; and

(19) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the City of Archdale.

(20) Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(b) Illicit Connections

(1) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection (A) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property *owner* or the person using said connection shall remove the connection within one year following the effective date of this ordinance. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Where it is determined that said connection:

- a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or
- b. Was made in violation of any applicable regulation or ordinance, other than this section;

The Stormwater Administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:

- a. The quantity and complexity of the work,
- b. The consequences of delay,
- c. The potential harm to the environment, to the public health, and to public and private property, and
- d. The cost of remedying the damage.

Sec. 16-4. Scope and Exclusions

- (a) Geographical Scope of Regulated Land-Disturbing Activity. This ordinance shall apply to land-disturbing activity within the territorial jurisdiction of the City of Archdale and to the extraterritorial jurisdiction of the City of Archdale as allowed by agreement between local governments, the extent of annexation or other appropriate legal instrument or law.
- (b) Exclusions from Regulated Land-Disturbing Activity. Notwithstanding the general applicability of this ordinance to all land-disturbing activity, this ordinance shall not apply to the following types of land-disturbing activity:
- (1) An activity, including breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - i. forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts
 - ii. dairy animals and dairy products
 - iii. poultry and poultry products
 - iv. livestock, including beef cattle, sheep, swine, horses, ponies, mules and goats
 - v. bees and apiary products
 - vi. fur producing animals.
 - (2) An Activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract.
 - (3) An activity for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.
 - (4) A land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).
 - (5) An activity which is essential to protect human life during an emergency.
- (c) Plan Approval Requirement for Land-Disturbing Activity. No person shall undertake any land-disturbing activity subject to this ordinance without first obtaining a Plan approval there for from the City of Archdale.
- (d) Protection of Property - Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

Environmental Management Commission to protect riparian buffers along surface waters. A local government may disapprove a Plan upon finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:

- (i) Is conducting or has conducted land-disturbing activity without an approved Plan, or has received notice of violation of a Plan previously approved by the Commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;
- (ii) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due.
- (iii) Has been convicted of a misdemeanor pursuant to G. S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act or;
- (iv) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to the Act.

For purposes of this subsection, an applicant's record may be considered for only the two years prior to the application date.

In the event that a Plan is disapproved pursuant to this subsection, the City of Archdale shall notify the Director of such disapproval within ten (10) days. The City of Archdale shall advise the applicant and the Director in writing as to the specific reasons that the Plan was disapproved.

- (j) Notice of Activity Initiation. No person may initiate a land-disturbing activity before notifying the agency that issued the Plan approval of the date that land-disturbing activity will begin.
- (k) Preconstruction Conference. When deemed necessary by the approving authority a preconstruction conference may be required.
- (l) Display of Plan Approval. A Plan approval issued under this article shall be prominently displayed until all construction is complete, all permanent sedimentation and erosion control measures are installed and the site has been stabilized. A copy of the approved plan shall be kept on file at the job site.
- (m) Required Revisions. After approving a Plan, if the City of Archdale either upon review of such Plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the City of Archdale shall require a revised Plan. Pending the preparation of the revised Plan, work shall cease or shall continue under conditions outlined by the appropriate authority. If following commencement of a land-disturbing activity pursuant to an approved Plan, the City of Archdale determines that the Plan is inadequate to meet the requirements of this ordinance, the City of Archdale may require any revision of the Plan that is necessary to

Sec. 16-10. Borrow and Waste Areas

When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the Department's Division of Waste Management shall be considered as part of the land-disturbing activity where the borrow material is being used or from which the waste material originated. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

Sec. 16-11. Access and Haul Roads

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

Sec. 16-12. Operations in Lakes or Natural Watercourses

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

Sec. 16-13. Responsibility for Maintenance

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this Ordinance, the Act, or any order adopted pursuant to this ordinance or the Act. After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

Sec. 16-14. Additional Measures

Whenever the City of Archdale determines that significant erosion and sedimentation is occurring as a result of land-disturbing activity, despite application and maintenance of protective practices, the person conducting the land-disturbing activity will be required to and shall take additional protective action.

Sec. 16-15. Existing Uncovered Areas

- (a) All uncovered areas existing on the effective date of this ordinance which resulted from land-disturbing activity, exceed 10,000 square feet, are subject to continued accelerated erosion, and are causing off-site damage from sedimentation, shall be provided with a

Sec. 16-19. Penalties

(a) Civil Penalties

- (1) Civil Penalty for a Violation. Any person who violates any of the provisions of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty. The maximum civil penalty amount that the City of Archdale may assess per violation is five thousand dollars (\$5,000.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.
- (2) Civil Penalty Assessment Factors. The governing body of the City of Archdale shall determine the amount of the civil penalty based upon the following factors:
 - i. the degree and extent of harm caused by the violation,
 - ii. the cost of rectifying the damage,
 - iii. the amount of money the violator saved by noncompliance,
 - iv. whether the violation was committed willfully, and
 - v. the prior record of the violator in complying or failing to comply with this ordinance.
- (3) Notice of Civil Penalty Assessment. The governing body of the City of Archdale shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment, within 30 days after receipt of the notice of assessment, by written demand for a hearing.
- (4) Hearing. A hearing on a civil penalty shall be conducted by the City of Archdale, within 30 days after the date of the written demand for the hearing. The agency conducting the hearing shall make its recommendation to the governing body of the City of Archdale within 15 days after the date of the hearing.
- (5) Final Decision. The governing body shall render its final decision on the civil penalty within 30 days of the receipt of the recommendation from the agency.
- (6) Appeal of Final Decision. Appeal from the final decision of the governing body shall be to the Superior Court of the county where the violation occurred, or the location of the violator's residence or principal place of business.
- (7) Collection. If payment is not received within 30 days after it is due, the City of

Archdale may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of the county where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three (3) years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(8) Credit of Civil Penalties. Civil penalties collected pursuant to this ordinance shall be credited to the Civil Penalty and Forfeiture Fund.

(b) Criminal Penalties. Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may include a fine not to exceed \$5,000 as provided in G.S. § 113A-64.

Sec. 16-20. Injunctive Relief

(a) Violation of Local Program. Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the City of Archdale, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the City of Archdale for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

(b) Abatement of Violation. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this ordinance.

Sec. 16-21. Restoration After Non-Compliance

The City of Archdale may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this ordinance.

- (a) any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

"Variance" is a grant of relief from the requirements of this ordinance.

"Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Article 17-4 and 17-5 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Sec.17- 3. General Provisions

(a) Lands to Which This Ordinance Applies

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of the City of Archdale and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

(b) Basis for Establishing the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Randolph County dated January 2, 2008, and Guilford County dated January 2, 2008 which are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

City of Archdale, dated 7/16/1981
Randolph County Unincorporated Area, dated 7/16/1981
Guilford County Unincorporated Area, 6/4/1980

(c) Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 17-3(b), of this ordinance.

(d) Compliance

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

(e) Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(f) Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

- (1) considered as minimum requirements;
- (2) liberally construed in favor of the governing body; and
- (3) deemed neither to limit nor repeal any other powers granted under State statutes.

(g) Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Archdale or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(h) Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate