PART 9 PARKS, RECREATION AND CULTURAL AFFAIRS

Ch. 1. General Provisions
Ch. 2. Parks
Ch. 3. Recreation
Ch. 4. Cemeteries
Ch. 5. Lakes
Ch. 6. Convention Center Complex
Ch. 7. Pedestrian Malls
Ch. 8. Trees and Vegetation
Ch. 9. Raleigh Telecommunications Commission
Ch. 10. Arts Commission

CHAPTER 1. GENERAL PROVISIONS*

_____

*State law reference: Parks and recreation,*G.S.* 160A-350 et seq.

_____

Article A. The Department of Parks and Recreation
Sec. 9-1001. Director, officers and employees.
Sec. 9-1002. Departmental organization.
Sec. 9-1003. Functions and duties of the department.
Secs. 9-1004--9-1010. Reserved.
Article B. Parks and Greenway Advisory Board
Sec. 9-1011. Created.
Sec. 9-1012. Membership.
Sec. 9-1013. Organization.
Sec. 9-1014. Purposes.
Secs. 9-1015--9-1030. Reserved.
Article C. Youth Council on Civic Affairs Advisory Board
Sec. 9-1031. Creation; composition; purpose.
Sec. 9-1032. Appointment of members; vacancies.
Sec. 9-1033. Terms of office of members.
Sec. 9-1034. Organization of the board.
Sec. 9-1035. Meetings.
Sec. 9-1036. Duties and compensation of members.
Sec. 9-1037. Creation of debt.
Sec. 9-1038. Youth counselor; prohibitions; supervision.
Sec. 9-1039. Handling of funds; space and facilities for board and Council.

ARTICLE A. THE DEPARTMENT OF PARKS AND RECREATION

Sec. 9-1001. DIRECTOR, OFFICERS AND EMPLOYEES.

The Department of Parks and Recreation*shall* consist of a director, who *shall* be its administrative head, and such other *officers* and employees as deemed necessary by the Manager and *Council* and whose salaries *shall* be fixed by the *Council* .

Charter reference: Creation of Parks and Recreation Department, §6.34.

Sec. 9-1002. DEPARTMENTAL ORGANIZATION.

The Department of Parks and Recreation*shall* consist of nine (9) divisions:

(1) Administration
(2) Parks
(3) Recreation
(4) Highways

(5) Cemeteries
(6) Greenways
(7) Urban Forestry
(8) Design Development
(9) Building Maintenance
(Ord. No. 1998-454, §14, 11-4-98)

Sec. 9-1003. FUNCTIONS AND DUTIES OF THE DEPARTMENT.

The functions and duties of the Department of Parks and Recreation*shall* be to:

(a) Enhance the quality of life for the citizens of Raleigh by promoting the development and maintenance of a broad and comprehensive program of leisure recreational activities for all people; by developing and maintaining a system of parks and recreation facilities and open space areas; by establishing and maintaining a system of shade trees on*City* streets and boulevards, parks and public places; by establishing and maintaining the horticultural treatment of state *streets* within the *City* limits; by actively pursuing the conservation and protection of all natural resources; by promoting, developing, and maintaining a program of *City* -wide beautification; design, construction, maintenance, operation, and policing of the greenway system, and the maintenance of the downtown mall.

(b) Ensure the safety and well being of citizens using the*City's* park and recreation facilities.

(c) Maintain existing park areas and facilities, trees and shrubs on*street* rights-of-way and medians and develop and maintain new park areas as they are acquired.

(d) Operate and maintain the public areas of the three*City* owned cemeteries, City Cemetery, Mount Hope Cemetery, and Tarboro Road Cemetery.

(e) Provide space for the indoor programs, including such activities as slimnastics, ceramics, modern dance, cooking classes, karate, youth and adult basketball, cake decorating, dog obedience, guitar, gymnastics, macrame, senior citizens, tennis, and other areas of interest.

(f) Administer cultural programs in a variety of areas for youth and adults.

(g) Provide leisure wholesome activities for senior citizens.

(h) Provide the citizenry of the*City* with an opportunity to participate in a wide range of competitive athletic activities for the purpose of: Fostering the values of physical fitness; promoting clean sportsmanship and fair play; and good conduct.

(i) Provide students from the senior high schools in the Raleigh area with an opportunity to plan, organize, and direct civic interest programs which are aimed at meeting the needs of the local youth.

(j) Sponsor after school intramural programs at the*City's* high schools and junior high schools.

(k) Provide organized activities, including sponsorship of instructional classes, tournaments, leagues and special events for all age groups.

(l) Provide custodial service for the municipal building, the annex, and other*City properties* determined by the City Manager; maintaining physical plant operations in the municipal building, the annex, and other *City properties* determined by the City Manager; providing assistance for physical plant operations to *City* facilities such as fire stations, park and recreation buildings, water and sewer plants.

(Ord. No. 1998-454, §13, 11-4-98)

Secs. 9-1004 -- 9-1010. RESERVED.

ARTICLE B. PARKS AND GREENWAY ADVISORY BOARD*

*Editor's note: Section 7 of Ord. No. 1985-595, adopted June 18, 1985, effective Sept. 1, 1985, repealed §§9-1011--9-1021, comprising Art. B, "Parks and Recreation Advisory Board," as derived from*Code 1959* , §§16-6, 16-9 and 16-11. Sections 1--4 of Ord. No. 1985-595 have been included as a new Art. B, §§9-1011--9-1014, at the editor's discretion.

Sec. 9-1011. CREATED.

There is hereby established a parks and greenway advisory board.
(Ord. No. 1985-595, §1, 6-18-85)

Sec. 9-1012. MEMBERSHIP.

The parks and greenway advisory board (hereinafter referred to as the board)*shall* be composed of fifteen (15) members. All current members of the Greenway Commission and the parks and recreation advisory board will be members of the parks and greenway advisory board until the expiration of their current terms. Thereafter, the City Council will select members to the board. No new appointments or reappointments will be made to the board until the board has fewer than fifteen (15) members.

No member*shall* have a combined total of more than eight (8) *years* of service on this board, the parks and recreation advisory board, or the Greenway Commission.

Up to five (5) members of the board*may* reside outside the *City* limits within the *City's* extraterritorial jurisdiction.

In addition to the regular members of the board, there*may* be nonvoting ex-officio members as follows: one representative of the City Council, one representative of the Wake County School Board, one representative of the Planning Commission, and the City Manager or his representative.

No new appointments or reappointments will be made to the initial board membership until the board has fewer than fifteen (15) members. Thereafter, appointments will be made in accordance with the provisions of §1-4002et seq. of the *City* Code.
(Ord. No. 1985-595, §2, 6-18-85)

Sec. 9-1013. ORGANIZATION.

(a) There*shall* be a Chairman and a Vice-Chairman of the board elected from the membership of the board for one- *year* terms. The Chairman *shall* serve no more than two (2) consecutive terms. An annual election *shall* be held by the board members and *shall* occur at a regular meeting in September. At the initial meeting of the board in September, 1985, the *officers* will assume office immediately. Thereafter, new *officers* shall officially take office at the subsequent regular meeting *following* their election. In the event an *officer's* appointment is terminated, a replacement *shall* be elected from its membership by the board at the meeting *following* the announcement of the termination.

(b) The board Chairman*shall* preside at all meetings and *shall* sign all documents relative to action taken by the board. The Chairman *shall* appoint committees, as he from time to time deems necessary. A nominating committee *shall* be appointed prior to the September meeting and *shall* prepare a slate of *officers* to serve the board for the *following* year. In the absence of the Chairman, the Vice-Chairman *shall* perform the duties of the Chairman.

(c) Secretary to the board.

The Director of Parks and Recreation*shall* serve as secretary to the board. The director *may* share all or part of these duties with other staff members of the Parks and Recreation Department but *shall* be held responsible for secretarial duties. The secretary *shall* mail copies of the official minutes of all regular or special board meetings to board members prior to the next scheduled meeting.

(d) Meetings.

Regular board meetings*shall* be held on a monthly basis. The Chairman, or, in his absence the Vice-Chairman, *may* call a special meeting of the board at any time by giving actual (oral or *written*) notice to all members in advance in compliance with North Carolina General Statutes governing meetings. Special meetings *shall* be scheduled upon request of eight (8) or more board members. Notice of special meetings requested by board members *shall* comply with open meeting laws.

(e) Quorum.

Eight (8) regular members of the board*shall* constitute a quorum for the transaction of business at any meeting of the board.

(f) Rules.

Any question concerning parliamentary procedure at meetings of this board*shall* be determined by reference to Robert's Rules of Order.

(Ord. No. 1985-595, §3, 6-18-85)

Sec. 9-1014. PURPOSES.

This board*shall* serve as the citizen advisory board to the City Council, on issues related to parks and recreation policy matters (including greenway matters). This area of responsibility *shall* include advising on matters related to the funding of the parks and recreation capital program, parks and recreation program policies, facility planning, and the acquisition of lands related to the parks and recreation program.

The responsibility of this board in considering parks and recreation policy matters are to include all programs of the department. Within the scope of its responsibilities, the board should work to continue the development of the greenway system and the urban tree program. This board*shall* serve as a liaison between the *City* and the citizens of the community and *shall* also work to promote all parks and recreation programs.

(Ord. No. 1985-595, §4, 6-18-85)

Secs. 9-1015 -- 9-1030. RESERVED.

ARTICLE C. YOUTH COUNCIL ON CIVIC AFFAIRS ADVISORY BOARD

Sec. 9-1031. CREATION; COMPOSITION; PURPOSE.

There is hereby created an advisory board for the Youth Council on Civic Affairs to be composed of seven (7) members and such additional ex officio members, including the Director of Parks and Recreation and the youth counselor, as*may* be elected by the *Council* , such ex officio members to serve during the pleasure of the *Council* but *shall* have no vote. The board *shall* serve as advisors to the Youth Council of Civic Affairs heretofore organized in the *City* , and which has its own constitution and bylaws, in all matters relating to the activities of the *Council* , but *shall* act only in an advisory capacity.

(*Code 1959* , §3-29)

Sec. 9-1032. APPOINTMENT OF MEMBERS; VACANCIES.

The members of the board*shall* be appointed and any vacancies, caused by the expiration of a term of office or otherwise, *shall* be filled by the *Council* .

(*Code 1959* , §3-30)

Sec. 9-1033. TERMS OF OFFICE OF MEMBERS.
Each member of the board*shall* be appointed to the board for a period of two (2) *years* except that the *Council* , in naming the original members of the board, *may* appoint some members for a period of one *year* and some members for a period of two (2) *years* and *shall* thereafter fill vacancies which occur for terms of two (2) *years* .
(*Code 1959* , §3-31)
Cross reference: Limitations on terms of board members, §1-4002.

Sec. 9-1034. ORGANIZATION OF THE BOARD.
The original members of the board*shall* meet for the purpose of organization and *shall* elect their own Chairman, who *shall* preside over all meetings of the board. It *shall* also elect a Vice-Chairman, who *shall* act for the Chairman in the event of his absence. The youth counselor of the *City* shall act as secretary of the board and keep the minutes of the proceedings of the board. The Chairman and Vice-Chairman *shall* be elected annually and *shall* serve until their successors are elected.
(*Code 1959* , §3-32)

Sec. 9-1035. MEETINGS.
The board*shall* hold regular meetings not less often than every *month* at a time to be fixed by the board. Special meetings *shall* be held at the call of the Chairman or any two (2) members of the board upon notice of ten (10) days to each member. A majority of the board *shall* constitute a quorum. No action *may* be taken in the absence of a quorum except that the members in attendance *may* adjourn the meeting from time to time until a quorum is present. Members of the board who miss three (3) consecutive meetings *may* be removed and replaced by the *Council* .
(*Code 1959* , §3-33)

Sec. 9-1036. DUTIES AND COMPENSATION OF MEMBERS.
(a) The sole duties of the board*shall* be to offer such advice and assistance to the Youth Council on Civic Affairs as it *may* desire and *shall* not control and *shall* not attempt to control the activities of the Youth Council or any of its members.
(b) The members of the board*shall* serve without compensation.
(*Code 1959* , §§3-34, 3-35)

Sec. 9-1037. CREATION OF DEBT.
The board*shall* have no authority to create any debt against the *City* without prior approval of the *Council* , such approval to specify the amount and the purpose for which the debt *may* be created.
(*Code 1959* , §3-36)

Sec. 9-1038. YOUTH COUNSELOR; PROHIBITIONS; SUPERVISION.
The youth counselor*shall* not directly or indirectly participate in any activity which has as its purpose the referral of *persons* for employment as yard workers, baby sitters or otherwise but *shall* leave such referral services exclusively to the members of the Youth Council. The youth counselor *shall* be under the direct supervision and control of the Director of Parks and Recreation of the *City* .
(*Code 1959* , §3-37)

Sec. 9-1039. HANDLING OF FUNDS; SPACE AND FACILITIES FOR BOARD AND COUNCIL.

The youth counselor*shall* , only at the request of the Youth Council, handle any funds of the Youth Council by depositing the same in a special account to be withdrawn by check signed by the youth counselor and by the president or treasurer of the Youth Council. The youth counselor *shall* be bonded in an amount to be determined by the Youth Council and the accounts of funds coming into the counselor's possession *shall* be annually audited by the auditor of the *City* . The advisory board and the Youth Council may occupy such space and use such facilities of the *City* as *may* be from time to time prescribed by the *Council* .

(*Code 1959* , §3-38)

CHAPTER 2. PARKS

Article A. General Provisions
Sec. 9-2001. Reserved.
Secs. 9-2002--9-2010. Reserved.
Article B. Rules Governing Operation of City Parks
Sec. 9-2011. Vehicles; use of roads only.
Sec. 9-2012. Maximum speed.
Sec. 9-2013. Parking regulations.
Sec. 9-2014. Parking permits required for certain areas.
Sec. 9-2015. Littering in parks prohibited.
Sec. 9-2016. Bathing in lakes, ponds, etc.
Sec. 9-2017. Swinging on, or climbing trees; destroying birds' nests; throwing trash.
Sec. 9-2018. Injuring plants.
Sec. 9-2019. Making fires in parks regulated.
Sec. 9-2020. Signs; unlawful use of facilities.
Sec. 9-2021. Weapons Prohibited.
Sec. 9-2022. Permit required for certain uses of parks.
Sec. 9-2023. Repealed.
Sec. 9-2024. Hunting and taking of animals prohibited.
Sec. 9-2025. Sleeping in parks prohibited.
Sec. 9-2026. Regulation of activities in Walnut Creek Park.
Sec. 9-2027. Regulation of the use of bicycles and other non-motorized vehicles on the Greenway System.

ARTICLE A. GENERAL PROVISIONS

Sec. 9-2001. RESERVED.

Editor's note: Ord. No. 1996-819, §1, adopted Feb. 6, 1996, repealed §9-2001, which pertained to sledding*streets* and derived from *Code 1959* , §21-8.1; Ord. No. 1981-574, §1, adopted Feb. 3, 1981; Ord. No. 1982-827, §1, adopted Jan. 19, 1982; Ord. No. 1982-39, §1, adopted Dec. 21, 1982; and Ord. No. 1988-281, §1, adopted Dec. 13, 1988.

Secs. 9-2002 -- 9-2010. RESERVED.

ARTICLE B. RULES GOVERNING OPERATION OF CITY PARKS

Sec. 9-2011. VEHICLES; USE OF ROADS ONLY.

It *shall* be unlawful for any *person* to operate any motorized vehicle or other power driven vehicle upon the grass or footways of the *City* parks or elsewhere other than on the public roads and *streets* .

(*Code 1959* , §16-17)

Sec. 9-2012. MAXIMUM SPEED.

It*shall* be unlawful to operate any motor vehicle in excess of fifteen (15) miles per hour upon any of the streets or drives of any park; provided, however, the provisions of this section *shall* not be effective or applicable to any particular street or way in any such public park until appropriate signs *shall* have been erected along such street or way indicating the speed limits applicable thereto as herein prescribed.
(*Code 1959* , §16-18)

Cross reference: Speed limits within the*City* generally, §§11-2091--11-2093.

State law references: Municipal speed limits generally,*G.S.* 20-14(b); authority to regulate speed in parks, *G.S.* 20-169.

Sec. 9-2013. PARKING REGULATIONS.

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

(b) It*shall* be unlawful for any vehicle to park on any of the streets within any of the public parks or play areas of the *City* for the purpose of vending goods, wares or merchandise.
(*Code 1959* , §16-19)

Cross reference: Parking restrictions in*City* -owned parking areas, §11-2175.

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

Areas adjacent to the arts and crafts building at Pullen Park which have been set aside and designated by appropriate signs as parking areas for vehicles*may* be used only by those participants in the arts and crafts program who have been issued a permit by the Parks and Recreation Department authorizing them to use such areas for parking. *Persons* not so authorized who use this designated area for parking *shall* be deemed trespassers and *may* be prosecuted. It *shall* further be unlawful for any vehicle to park on any roadway or in any designated space of a *City* park except for the purpose of using the park, its facilities and programs. Parking at all *City* parks *shall* be for park patrons only. Violations of this section *shall* be a misdemeanor and vehicles in violation *may* be towed pursuant to law.
(*Code 1959* , §16-19.1; Ord. No. 1989-350, §1, 4-18-89)

Sec. 9-2015. LITTERING IN PARKS PROHIBITED.

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

State law reference: Authority to prohibit littering,*G.S.* 160A-303.1.

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

Unless specifically authorized by*Council* , it *shall* be unlawful for any *person* to bathe, swim or wade in any *City* -owned or maintained lake, pond, fountain or other water feature. Violation of this section *shall* be punishable by any of the enforcement procedures outlined in *G.S.* 160A-175.
(Ord. No. 1984-383, §1, 7-17-84)

Sec. 9-2017. SWINGING ON, OR CLIMBING TREES; DESTROYING BIRDS' NESTS; THROWING TRASH.

It*shall* be unlawful for any *person* to attach a swing to any tree, or to climb any tree; or to rob or break up and destroy any birds' nests or to foul in any manner any spring or branch within any park of the *City* .

(*Code 1959* , §16-22)

Sec. 9-2018. INJURING PLANTS.

It*shall* be unlawful for any *person* to pull any flowers or fruits, whether wild or cultivated, vegetable or plant life, cut down trees or saplings, break limbs or branches of trees or bark trees, or injure shrubbery or plants, or to girdle any tree within any of the *City* parks.

(*Code 1959* , §16-23)

Sec. 9-2019. MAKING FIRES IN PARKS REGULATED.

It*shall* be unlawful for any *person* to make a fire for any purpose except at locations where facilities are provided on the grounds of any of the *City* parks.

Sec. 9-2020. SIGNS; UNLAWFUL USE OF FACILITIES.

It*shall* be unlawful for anyone to destroy or to take down, without permission from the Director of Parks and Recreation, any notice or sign displayed on any recreation or other park facility or area being permanently or temporarily used by the Parks and Recreation Department. It *shall* be unlawful for anyone to use or enter upon any recreational facility or area which they are temporarily or permanently prohibited from using by means of (1) any *written* or published notice, (2) signs made or caused to be made by the Parks and Recreation Department, or (3) verbal request that such facilities or areas are not to be used or entered upon, when such request is made by officially identified Parks and Recreation Department personnel. Any *person* or *persons* who are requested by Parks and Recreation Department personnel properly and officially identified as such to desist in the use of any park, or to leave a park or recreation facility or area, or any area or facility being *used for* parks and recreation purposes, *shall* do so without delay and without argument or physical, or other, resistance.

(*Code 1959* , §16-27)

Sec. 9-2021. WEAPONS PROHIBITED.

It*shall* be unlawful for any *person* to possess or carry on or about his *person* , whether openly or concealed, any deadly weapon including but not limited to any: bowie knife, dirk, dagger, sling-slot, loaded cane, metallic knuckles, razor, shurikin, stun gun, pistol, revolver, gun, rifle, or nightstick; at any meeting, assemblage, or parade on any *property* , *street* , alley or other public way, park, greenway on which any activity is undertaken under the auspices, supervision, or sponsorship of the City of Raleigh Parks and Recreation Department.

This section*shall* not apply to law enforcement or other government personnel acting within the scope of their employment; nor *shall* this section apply to weapons used solely for instructional classes or for officially sanctioned ceremonial purposes.

Any*person* violating the provisions of this section *shall* be guilty of a misdemeanor and upon conviction *shall* be punished by a fine of five hundred dollars ($500.00) and/or imprisonment. In addition to said punishment, any *person* convicted under this section will be prohibited from entering on park *property* of the *City* or participating in Parks and Recreation activities for a period of up to one *year* .

(*Code 1959* , §16-29; Ord. No. 1992-39, §1, 9-1-92)
Cross reference: Firearms; discharge within City, §13-2010.

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

(a) Required; scope.

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

(b) Distribution of food prohibited.

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

(c) Application; information.

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

(d) Determination by Police Chief.

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

(e) Weapons prohibited.

No*person* , except a peace *officer* , *shall* carry into or have on or about his *person* at any such meeting or assemblage, any firearms or other weapons or any article, including but not limited to blackjacks, nightsticks or flashlights, which by their use might constitute a deadly weapon.

(*Code 1959* , §16-29.01; Ord. No. 1998-440, §2, 10-21-98)

Editor's Note: Ord. No. 1998-440, §2, adopted Oct. 21, 1998, provided for the relettering of the former subsection §9-2022(b) as (c) and added a new subsection (b) as set out herein. That addition necessitated the relettering of subsections (c) and (d) as (d) and (e).

Sec. 9-2023. RESERVED.

Editor's note: Ord. No. 1995-659, §1, adopted June 20, 1995, set out provisions repealing §9-2023, which pertained to park rangers, authority and jurisdiction.

Sec. 9-2024. HUNTING AND TAKING OF ANIMALS PROHIBITED.

It*shall* be unlawful for anyone to hunt, destroy, trap or otherwise capture or take any animal, wildlife, migratory birds or other fowl within a *City* park except when specifically authorized by the *Council* .

Sec. 9-2025. SLEEPING IN PARKS PROHIBITED.

So long as either the City of Raleigh or Wake County*shall* operate a twenty-four-hour a day emergency homeless shelter, it *shall* be unlawful to camp or stay overnight in or on any *City* park, greenway, *street* , or any other *City property* without first receiving a permit from the Director of Parks, Recreation and Greenways. Camping *shall* include, but not be limited to, the erection or use of tents, shelters, huts and bedding, or the storage of personal belongings, or the building of fires for heating or cooking. No *person shall* camp, sleep, or rest in a prone position at Nash Square, Moore Square, the Transit Transfer Center, the Fayetteville Street Mall or the Upchurch Municipal Building Complex at any time of the day or night except by permit as a part of an approved the Parks, Recreation and Greenway Department program.
(Ord. No. 1981-709, §1, 7-21-81; Ord. No. 1988-270, §1, 11-15-88; Ord. No. 1998-439, §1, 10-21-98; Ord. No. 1998-440, §1, 10-21-98; Ord. No. 2002-162, §1, 2-19-02)

Sec. 9-2026. REGULATION OF ACTIVITIES IN WALNUT CREEK PARK.

In addition to the regulations set out in Article B of this chapter, §9-1011et seq. , regulating activities in *City* parks, the *following* activities are specifically made unlawful in Walnut Creek Park and at the Walnut Creek Amphitheater:
(a) It*shall* be unlawful for any *person* , other than an agent or employee of an authorized lessee, while on park *property* , to offer for sale or sell tickets to any event appearing at the Walnut Creek Amphitheater on the day of the attempted sale or at any future performance date.
(b) It*shall* be unlawful for any *person* to offer for sale or sell any merchandise of any kind in the Walnut Creek Park on the day of a performance at the Walnut Creek Amphitheater unless such sale is carried out by an agent or employee of an authorized lessee of the Walnut Creek Amphitheater.
(c) It*shall* be unlawful for any *person* to conduct a pyrotechnic display anywhere in the park without the express *written* consent of the City Manager. Before granting such consent, the Manager *shall* consider the duration of the display, its location, and the time at which the display is to occur.
(d) It*shall* be unlawful for any *person* to urinate or defecate in Walnut Creek Park unless such urination or defecation takes place in a designated indoor toilet facility.
(e) It*shall* be unlawful for any performance of any type at Walnut Creek Amphitheater to continue past 11:30 p.m.
(Ord. No. 1991-826, §1, 8-6-91)

Sec. 9-2027. REGULATION OF THE USE OF BICYCLES AND OTHER NON-MOTORIZED VEHICLES ON THE GREENWAY SYSTEM.

(a) Definitions.
As used in this section, except where the context clearly requires otherwise, the words and terms used in this section *shall* have the following meanings:
(1) ***Bicycle*** . A non-motorized vehicle with two (2) or three (3) wheels tandem, a steering handle, one (1) or two (2) seats, and pedals by which the vehicle is propelled, and also bicycles with helper motor rated less than one (1) brake horsepower which produce only ordinary pedaling speed up to twenty (20) miles per hour.
(2) ***Skateboard*** . A non-motorized vehicle with two (2) pairs of wheels tandem mounted below a single horizontal board upon which the rider stands erect and is propelled by pushing off the travel surface with one (1) foot. Steering is achieved by shifting the body weight from one side to the other.
(3) ***Rollerskates*** . A non-motorized vehicle with two (2) pairs of wheels tandem mounted on shoes worn by the rollerskater. The rollerskater stands erect and is propelled by

pushing off the travel surface with each foot. Steering is achieved by shifting the body weight from one side to the other.

(4) ***In-line skates*** . A non-motorized vehicle with three (3) to five (5) wheels mounted in-line on shoes worn by the skater. The skater stands erect and is propelled by pushing off the travel surface with each foot. Steering is achieved by shifting the body weight from one side to the other.

(b) Use of the Greenway System.

Non-motorized vehicles as defined herein*may* use the system of Greenway trails designated as such by the *City* so long as any user of such a vehicle complies with all traffic regulations applicable and so long as the operator *shall* stop or otherwise yield the right-of-way to pedestrian traffic. No non-motorized vehicle *shall* exceed a speed of ten (10) miles per hour while being operated on the Greenway Trail system.

(Ord. No. 1993-249, §1, 8-3-93)

CHAPTER 3. RECREATION

Sec. 9-3001. Division objectives.

Sec. 9-3001. DIVISION OBJECTIVES.

The recreation division of the Department of Parks and Recreation*shall* have as its objectives the planning, administering and supervising of a wide variety of recreation program opportunities and the fulfilling of the leisure needs of all ages and skill levels including programs for youth, the elderly, the mentally retarded, and the physically and visually handicapped.

The park ranger program*shall* also come under the jurisdiction of this division and *shall* be *used for* the creation and implementation of better public relations as well as the protection of park *property* and its users.

CHAPTER 4. CEMETERIES*

*Editor's note: Section 1 of Ord. No. 1991-736, adopted Feb. 19, 1991, repealed Ch. 4 of Pt. 9. Formerly, Ch. 4 consisted of §§9-4001--9-4015, which pertained to cemeteries and derived from the 1959 Code, §§8-2--8-17; Ord. No. 1978-737, §§1--3, adopted March 14, 1978; Ord. No. 1979-992, adopted Jan. 16, 1979; and Ord. No. 1985-522, §1, adopted March 19, 1985. §1 of Ord. No. 1991-736 provided for the addition of a new Ch. 4, §§9-4001--9-4019, as herein set out.

Sec. 9-4001. Superintendent; appointment.
Sec. 9-4002. Purchase of lots; prices.
Sec. 9-4003. Sale of cemetery lots to funeral home businesses.
Sec. 9-4004. Certificates and deeds.
Sec. 9-4005. Supervision of interments and disinterments.
Sec. 9-4006. Disinterments; application and approval required.
Sec. 9-4007. Reinterment; requirements.
Sec. 9-4008. Enforcement of applicable law.
Sec. 9-4009. Maintenance and cleanliness specifications for graves and markers.
Sec. 9-4010. Who may inter and disinter; fee.
Sec. 9-4011. Work on private lots; consent thereto.
Sec. 9-4012. Removing or defacing markers, etc.
Sec. 9-4013. Injuring trees or shrubbery.
Sec. 9-4014. Depositing filth or rubbish.

Sec. 9-4015. Excavating or removing earth.
Sec. 9-4016. Use as playground.
Sec. 9-4017. Fences around lots.
Sec. 9-4018. Trespassing on lots.
Sec. 9-4019. Abandoned cemetery lots; publication of notice and reversion to the City.

Sec. 9-4001. SUPERINTENDENT; APPOINTMENT.

There*shall* be appointed a superintendent to have charge of *City* cemeteries.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4002. PURCHASE OF LOTS; PRICES.

(a) *Persons* desiring to purchase lots in the *City's* cemeteries must apply to the Director of Finance or his appointed representative whose duty it *shall* be to execute the sale of lots and receive cash or to assess charges. All fees for lot purchases are to be paid or assessed as provided in §9-4010(d) prior to execution of deed.
(b) The prices for purchases of grave space in the*City* cemeteries *shall* be seventy (70) per cent of the local prevailing market price, as determined by the superintendent and according to a schedule of charges approved annually by the City Manager. "Local prevailing market price" *shall* be the average fee charged by non-church-related, commercial cemeteries in the *City* as of July first of each *year* .
(c) A schedule of all cemetery charges (lot prices, inter and disinter fees, etc.)*shall* be available for inspection in the offices of the Cemeteries Supervisor and the Finance Department. A schedule of all cemetery charges *shall* be made available to all funeral directors within the *City* .
(d) A*person* has the option of purchasing one, two (2), three (3), or four (4) lots. No more than four (4) lots will be sold to an individual. No lot or lots *may* be resold except back to the *City* at the original sale price to the *owner* .
(e) The superintendent*may* limit the sale of lots to one section at a time.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4003. SALE OF CEMETERY LOTS TO FUNERAL HOME BUSINESSES.

Sales of cemetery lots will be made to funeral homes only for purposes of interment of a specific individual. Such sales are intended as a convenience to those*persons* and families suffering the death of a loved one and to allow funeral homes to make arrangements on their behalf. Though funeral home businesses will be responsible for making payment to the *City* for the purchase of lots under this section, all cemetery lot deeds will be issued in the name of the individual, and not in the name of the funeral home.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4004. CERTIFICATES AND DEEDS.

(a) On payment of the sum required, the Finance Director or his appointed representative*shall* validate a receipt (certificate of purchase) and give to the purchaser of any lot, specifying the lot or lots and the price thereof. A copy of the receipt *shall* be *used for* the issuance of a deed which *shall* be properly recorded and indexed (both numerically as to receipt and alphabetically as to purchaser). The superintendent *shall* be notified of the sale of lots.
(b) A deed signed by the City Clerk and sealed with the legal seal of the*City* shall be executed and mailed or delivered to the address set forth on the receipt.
(c) In case of the loss or destruction of a deed as provided in paragraph (b) of this section, the City Clerk, on proof satisfactory of such loss or destruction,*shall* have issued a new

deed executed as hereinbefore set out to the original holder upon payment of the required fee as set forth in the schedule of all cemetery charges.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4005. SUPERVISION OF INTERMENTS AND DISINTERMENTS.

(a) The superintendent*shall* supervise the digging of all graves in the cemeteries and the exhuming of all bodies therein interred. The interment *property* is for burial of human remains only.
(b) No interments or disinterments*shall* be permitted on New Year's Day, Good Friday, Independence Day, Thanksgiving, or Christmas Day and all Sundays, hereafter referred to as excluded holidays.
(c) The cemetery supervisor*shall* be notified at least twenty-four (24) hours prior to an interment. In the event of a Monday interment such notice must be given on the *preceding* regular *City* workday.
(d) The normal operating hours of the cemeteries are 8:00 a.m. to 4:00 p.m., Monday through Friday of each week, except for the holidays noted above.
(e) Interment will be made on Saturday or nonexcluded holidays as observed by the*City* only upon assessment of an additional charge. All funeral processions entering the cemetery grounds after 4:00 p.m. on any normal work day will also be required to pay an additional charge. All additional charges are outlined in the schedule of cemetery charges.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4006. DISINTERMENTS; APPLICATION AND APPROVAL REQUIRED.

A*person* who desires to have removed from his or her lot or vault the remains of a *person* interred therein *shall* apply *in writing* addressed to the cemetery supervisor, setting forth in such application the name of the deceased, the date and cause of death, relationship of deceased to applicant, number of lot, vault, or space in which then interred, and the number of lot, vault, or space (or name of cemetery, if elsewhere) in which the remains are to be reinterred, and reason for removal. But no such permission for such disinterral *shall* be granted, nor *shall* such disinterment be made until the application has been approved by the Health Department.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4007. REINTERMENT; REQUIREMENTS.

Any*person* desiring to have reinterred the remains of a *person* brought from another cemetery or burial place *shall* furnish the cemetery supervisor with a certificate from the Health Department, setting forth, if possible, the name, age, sex, marital status, cause and date of death, and last *residence* of deceased, and name and location of former burial place. The cemetery supervisor, upon evidence of payment of charges as set forth in the schedule of all cemetery charges, *shall* have the remains properly reinterred in such place as *may* be selected by the *person* having charge of such remains.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4008. ENFORCEMENT OF APPLICABLE LAW.

It*shall* be the duty of the superintendent to see that all laws concerning the cemeteries are duly observed and enforced.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4009. MAINTENANCE AND CLEANLINESS SPECIFICATIONS FOR GRAVES AND MARKERS.

(a) The superintendent*shall* keep the cemeteries in a neat and clean condition.
(b) All graves*shall* be at least five (5) feet deep. Two (2) infants or two (2) cremains *may* use one lot.
(c) All gravemarkers and monuments*shall* be set on foundations. All markers must be set even with the lawn, so that maintenance machines *may* pass over them safely without damage to the marker or machine. All markers installed after January 1, 1991, *shall* be size two (2) feet by one and one-half (11/2) feet by four (4) inches. All gravemarkers placed on lots are to read over the ground toward front of lot. Only one marker will be permitted on each lot.
(d) Monuments will not be authorized in the southeast section of Mt. Hope Cemetery as bordered by Prospect Street and Fayetteville Street.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4010. WHO MAY INTER AND DISINTER; FEE.

No*person* other than the regularly appointed superintendent's representative *shall* dig any grave or disinter any body in the cemeteries belonging to the *City* . Complete and accurate records are to be maintained on all interments.
(a) Charges for interments and disinterments of adults*shall* be based on actual costs as determined annually by the City Manager. For the purpose of this subsection, "actual costs" *shall* consist of charges for labor and the use of equipment. Records substantiating such actual costs *shall* be kept by the cemetery supervisor. All fees are to be paid at the office of the Finance Department or assessed, as provided in (d) below, prior to interment or disinterment. The cemetery supervisor *shall* be notified of payment of fees.
(b) Any charge based on actual cost*shall* be established by the City Manager within sixty (60) days *following* July first of each *year* .
(c) Interment or disinterment of infant or child cremains*shall* be fifty (50) per cent of the fee charged for adult interments as determined in paragraph (a) of this section.
(d) Payment*shall* be deemed satisfied either by the payment of cash by the purchaser or an extension of credit to a funeral director. Funeral establishments handling interments *may* be extended credit by the Finance Department. The use of such credit *shall* be deemed as assessment of charges. All credit transactions, billings, and collections *shall* be accomplished by the Finance Department.
(e) All burials on or after January 1, 1991, will be in a commercially procured graveliner or vault that has been approved by the superintendent. The minimum requirements for concrete liners*shall* be one and one-half-inch sidewall thickness, two-inch top thickness, two-inch bottom thickness, and three thousand (3,000) PSI. The minimum requirements for a steel vault *shall* be a twelve-gauge thickness top, sides, and bottom. Wooden or other shortterm liners are not allowed. No liners are required for cremations.
(f) Funerals starting after 4:00 p.m. on weekdays, or all day Saturday and nonexcluded holidays as observed by the*City* shall be charged an additional fifty (50) per cent for interments.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4011. WORK ON PRIVATE LOTS; CONSENT THERETO.

No*person* shall dig any grave, put any gravestone or board, or make any erections, or dig up any sod on any private burial lot, except under the direction or by consent of the *owner* thereof.
(Ord. No. 1991-736, §1, 2-19-91)

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

No*person* shall willfully and unlawfully remove the stakes from a burial lot, or any board, gravestone, or other monument which *may* have been erected at any grave, or deface, injure, or destroy any such board, gravestone, or other monument in any manner.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4013. INJURING TREES OR SHRUBBERY.

It*shall* be unlawful for any *person* to cut, break, remove, or in any other manner injure or destroy any flower, either wild or cultivated, in the cemeteries.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4014. DEPOSITING FILTH OR RUBBISH.

It*shall* be unlawful for any *person* to deposit, or cause to be deposited, any filth or unclean or offensive substance in a *City* cemetery.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4015. EXCAVATING OR REMOVING EARTH.

It*shall* be unlawful for any *person* to excavate any earth in a *City* cemetery, or remove the same therefrom, except by the consent or under the direction of the superintendent, or of some other *officer* legally authorized.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4016. USE AS PLAYGROUND.

It*shall* be unlawful for any *person* to use the *City* cemeteries as a playground.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4017. FENCES AROUND LOTS.

There*shall* be no fence erected around any lot within the limits of *City* cemeteries.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4018. TRESPASSING ON LOTS.

All*persons* are forbidden to trespass upon private lots or to go across lots, either private or belonging to the *City* , in the *City* cemeteries, except in case of a burial, visit to lot by *owner* , relative, or friend in the course of maintaining the grounds. All noncity employees driving automobiles in the cemeteries *shall* keep within drives.
(Ord. No. 1991-736, §1, 2-19-91)

Sec. 9-4019. ABANDONED CEMETERY LOTS; PUBLICATION OF NOTICE AND REVERSION TO THE CITY.

(a) A cemetery lot*may* be determined to be abandoned by the superintendent according to the *following* standards and procedures:
(1) Upon investigation, the superintendent*shall* determine that there has been no interment in the lot for a period of fifty (50) *years* from the date of purchase;
(2) The superintendent*shall* conduct a reasonable effort to locate the listed *owner* , including the sending of certified mail inquiries to the *owners* ' last known address, and attempting to contact the *owners* ' immediate family by mail or telephone; and
(3) Upon making the investigations outlined above, and if no valid response(s) are recovered, the superintendent*shall* certify and report these efforts to the City Council and request the *Council* to publish notice of its intent to determine that the lot has been abandoned once a week for four (4) successive weeks in a newspaper published in the

City , such notice requesting the purchaser, his or her heirs, or immediate family members to report to the *City* that the lot is intended to be used and has not in fact been abandoned. Upon receiving no valid responses to the published notice as described herein, the lot and all rights of burial thereon, *shall* revert to the *City* , which *may* then resell the lot in due course. In the event the original *owner* reappears after the resale of the lot or lots, a full refund of the original purchase price *shall* be made by the *City* .
(b) These provisions, or an accurate summary thereof,*shall* be included in the provisions of any deed to a cemetery lot sold by the *City* .
(Ord. No. 1991-736, §1, 2-19-91)

CHAPTER 5. LAKES

Sec. 9-5001. General conditions.
Sec. 9-5002. Administrative provisions.
Sec. 9-5003. General fishing regulations.
Sec. 9-5004. General boating regulations.
Sec. 9-5005. Lake Raleigh; Beaver Dam Reservoir.
Sec. 9-5006. Lake Johnson and Lake Benson.
Sec. 9-5007. Lake Wheeler.

Sec. 9-5001. GENERAL CONDITIONS.

(a) Duly appointed*City* lake wardens and watershed inspectors *shall* be the official custodians of the lakes owned by the *City* and the surrounding premises.
(b) It*shall* be the duty of the park rangers, lake managers, wardens, and watershed inspectors to enforce all rules and regulations herein prescribed, and to insure that no indiscreet acts of any character are committed by any *person* upon the premises which would tend to result in the pollution or tend to affect the quality of the water supply.
(c) All duly appointed enforcement personnel, state or local, including wardens, watershed inspectors, park rangers or lake managers, or state wildlife protectors*shall* have the power and authority to summarily deny admission to the lakes to any *person* known to have violated the rules and regulations or ordinances governing fishing, boating, or other uses of lake premises. In addition, all enforcement personnel *shall* have the authority and power to require any such *person* or *persons* to leave the premises if discovered thereon. This authority to refuse admission or to eject *persons* shall also apply to any *person* or *persons* having intoxicating liquors, including wine or malt beverages, or drugs in their possession or who show evidence of being under the influence of alcohol or drugs.
(d) It*shall* be unlawful for any *person* to consume any intoxicating beverage including wine or malt beverage on or about *City* -owned lakes.
(e) It*shall* be unlawful for any *person* to spit in the lakes, to put his feet in the water, except under the conditions prescribed for wading or water skiing on or in Lake Wheeler, or to commit on the lakes or within two hundred (200) feet thereof, any nuisance or act which would tend to affect the quality of water in the lakes.
(f) It*shall* be unlawful for any *person* , except duly authorized enforcement personnel, to possess a firearm or fireworks upon the premises or to discharge any firearm or fireworks from any boat on the lakes or on the shores of the lakes. Further, it *shall* be unlawful to hunt with dog, gun, or bow and arrow or other weapon on any lands owned or controlled by the *City* abutting the lakes.
(g) No picnics*shall* be allowed upon the grounds, structures, or waters of the lakes, except where areas for this activity are specifically designated. All *persons* using these areas *shall* be responsible for disposing of any trash or litter.
(h) It*shall* be unlawful for any *person* or *persons* to enter upon the lakes or upon the *property* of the *City* abutting the lakes except during the times and upon the areas permitted under this chapter or by other regulation.

Sec. 9-5002. ADMINISTRATIVE PROVISIONS.

(a) The days and hours of operation for each lake*shall* be established by the Department of Parks and Recreation in conjunction with the Department of Public Utilities and *shall* be posted upon the premises, except that in no event *shall* the public be allowed upon any lake for any activity except from dawn to dusk.

(b) The Department of Parks and Recreation, in conjunction with the Department of Public Utilities,*shall* establish all conditions for each concessionaire operating at any *City* lake and the rights and privileges of such concessionaire *shall* be expressly subordinate to and conditioned upon compliance with all such conditions and regulations. All concession contracts *shall* be approved by the *Council* before becoming effective.

(c) Any fees to be charged members of the public for use of any facility or activity on or about any*City* lake *shall* be prescribed by the City Council or be imposed pursuant to a properly approved concession agreement. A schedule of current fees *shall* be maintained in the office of the Director of Parks and Recreation, and is hereby incorporated by reference into this Code.

(d) The Department of Parks and Recreation is hereby empowered to establish regulations limiting the number of season passes for boating in addition to prescribing the number of daily passes which*shall* be available for various classes of boats, including but not limited to, the establishment of guidelines for the total number of boats or classes of boats which *shall* be allowed upon each lake at any given time.

(e) It is further provided that, in that the primary nature of the lakes herein regulated is the provision of a safe and adequate water supply for the City of Raleigh, the Director of Public Utilities is hereby empowered to close or to limit access to or the use of any lake facility where, in his discretion, such limitation is reasonably necessary to the proper protection of the water supply.

(Ord. No. 1998-454, §15, 11-4-98)

Sec. 9-5003. GENERAL FISHING REGULATIONS.

(a) It is hereby provided that all laws of the State of North Carolina regulating or limiting the manner of taking, size, weight or number of fish taken and related matters*shall* be in full force and effect and *shall* be enforced by all wardens, park rangers and state wildlife protectors.

(b) In addition to all controls imposed by state game laws, it *shall* be unlawful for any *person* or *persons* to take any fish by seining, trapping or by trotline. Further, fish *may* be taken only by a pole or rod and reel baited with natural or artificial bait.

(c) Except as provided under §9-5007, no bank fishing*shall* be permitted upon any lake owned or controlled by the City of Raleigh. Fishing *shall* be permitted only from a boat furnished or authorized by the proper authority or from a pier erected for that purpose.

(d) No*person* shall fish except upon those days and during those hours designated by the Department of Parks and Recreation in conjunction with the Director of Public Utilities.

(e) Wardens, park rangers and state wildlife protectors*shall* have the right upon request to inspect any catch and to make a proper record of the catch.

(f) All fishing concessions*shall* be governed by contract, awarded only after open competitive bids, *following* an invitation for bids published once in each of the daily newspapers published in the *City* at least ten (10) days before the bids are opened. All required contract provisions *shall* be established by the Department of Parks and Recreation in conjunction with the Director of Public Utilities. These provisions *shall* include, but are not limited to, a requirement that the successful bidder procure and maintain a liability insurance policy in an amount established by administration, that the contractor

shall obey all state and local rules and regulations, and that the contract *may* be terminated upon breach of any condition of the contract. Any fishing, boating or other recreational activity *may* be terminated in the interest of the public health, safety and welfare in the discretion of the director of the Department of Public Utilities. The contractor *shall* have no cause of action against the *City* for any such suspension or termination.

Sec. 9-5004. GENERAL BOATING REGULATIONS.

(a) Except as to Lake Johnson as provided in this subsection and as to Lake Wheeler as provided in §9-5007 herein no private boat of any type*shall* be allowed upon any lake at any time, except upon the conditions and at the times designated in this section. Non-powered boats capable of being transported on the top of a full size passenger car or in the bed of a one (1) ton pickup truck may be launched at Lake Johnson at locations and times marked and published by the Park Manager.

(b) Except as provided in §9-5007 for Lake Wheeler, no private boat*shall* enter or leave any lake where boating is permitted except from ramps or docks provided by the *City* . Every boat used on every city owned lake *shall* have a U.S. Coast Guard approved life preserver for each occupant and no *person* shall use a boat on the lake unless it is so equipped. The life preserver requirement found in the previous sentence *shall* not apply during events and event practice sessions for events sanctioned by the City of Raleigh and U.S. Rowing or, at any other event specifically approved by the Raleigh City Council after making a finding that the public health and safety will not be endangered.

(c) Each boat*shall* be equipped with a pail, which *shall* be *used for* sanitary purposes.

(d) Except as provided in §9-5007 for Lake Wheeler, no gasoline, kerosene, or other petroleum-powered motors*shall* be permitted upon the lakes. Except as otherwise provided herein, all boats *shall* be propelled by means of oars, paddles or electric motors. Further, duly authorized wardens or park rangers *may* employ gasoline engines for emergency or enforcement purposes.

(Ord. No. 2002-206, §§1, 2, 6-1-02; Ord. No. 2004-583, §1, 3-2-04)

Sec. 9-5005. LAKE RALEIGH; BEAVER DAM RESERVOIR.

No recreational activities of any nature*shall* be permitted at any time or for any purpose upon Lake Raleigh or Beaver Dam Reservoir or its environs.

Sec. 9-5006. LAKE JOHNSON AND LAKE BENSON.

(a) All of the foregoing sections, to the extent applicable,*shall* be in full force and effect upon each lake and at all times.

(b) Fishing and boating*shall* be permitted upon the conditions set out in §§ 9-5003 and 9-5004.

(c) No more than sixty (60) boats*shall* be permitted at any time upon the surface of Lake Benson.

(Ord. No. 1987-43, §1, 9-1-87)

Sec. 9-5007. LAKE WHEELER.

(a) All of the foregoing general provisions, to the extent applicable,*shall* be in full force and effect upon Lake Wheeler at all times.

(b) Fishing and boating are permitted at Lake Wheeler under the foregoing rules and regulations. Provided further, private boats*may* also be placed upon Lake Wheeler upon the *following* conditions:

(1) Sailing craft*may* be moored on the lake during both day and night hours but no sailing of such craft *shall* be permitted during the hours from dusk to dawn nor *shall* any *person*

remain on or about such craft during those hours. The charge *shall* be as provided by the Department of Parks and Recreation and under no circumstances *shall* any liquid petroleum product be used or stored on sailing craft.

(2) Boat traffic*shall* move around the lake in a general counterclockwise direction. Boats returning for downed skiers against traffic *shall* do so with caution. Sailing craft *shall* also move in the same general direction with traffic.

(3) Season permits*may* be issued to authorized boat dealers for use in instructing new boat *owners* in the operation of boats or demonstrating boats to prospective purchasers; provided, no boat dealer *shall* have more than one (1) boat on the premises or in the water at any one time and the season permit issued to boat dealers *shall* not be valid on Sundays or legal holidays.

(4) Season permits, other than those issued to boat dealers*shall* be conspicuously attached to the boat before entering into *City* property. In the event it becomes necessary to close the lake for a period exceeding 30 days, a pro rata credit for the time the lake is closed *shall* be allowed on the purchase of a season permit for the next season provided that evidence is furnished that a season permit was held at the time the lake was closed as herein provided for unless the *Council* shall otherwise provide. The permits herein provided *shall* not be transferable or assignable.

(5) Motors in excess of seven and one-half (71/2) horsepower*shall* not be operated in the area upstream from Penny Road Bridge.

(6) The Parks and Recreation Department has the authority to limit the number of boats on the lake to insure safe operating conditions at all times.

(7) The speed limit for all boats*shall* be no more than forty (40) miles per hour, except pursuant to a special use agreement approved by the *Council* and *the State* .

(8) It*shall* be unlawful for any power boat to be operated in a manner or at a speed which will produce a wake. This restriction *shall* apply on Tuesdays, Thursdays and Saturdays from the opening of the park until 11:00 a.m. The operation of power boats during these periods is not prohibited unless a wake is being produced.

(c) Fishing. Fishing will be permitted on any part of Lake Wheeler; however, bank fishing*may* be allowed only upon Simpkins Pond. Daily or season permits for launching private boats *shall* include the privilege of fishing by any occupant of the boat and the admission of a motor vehicle to Lake Wheeler but *shall* not include fishing in Simpkins Pond.

(d) Water skiing, swimming and wading.

(1) Swimming, except that which is incidental to skiing, will not be permitted.

(2) Each water skier*shall* wear a Coast Guard approved vest or belt life preserver.

(3) The Department of Parks and Recreation*may* provide for areas of Lake Wheeler where the water is not more than three (3) feet deep in which wading *shall* be permitted. Such areas *shall* be clearly designated and *shall* be fenced. No other ingress into the water from the banks *shall* be permitted.

(e) Personal watercraft. No*person shall* operate or place a personal watercraft on the waters of Lake Wheeler. For the purpose of this subsection, "operate" means to navigate or otherwise use or occupy a vessel and "personal watercraft" means a vessel which uses an outboard or propeller-driven motor, or inboard motor powering a water jet pump, as its primary source of motive power and which is designed to be operated by a *person* sitting, standing, or kneeling on, or being towed behind a vessel, rather than in the conventional manner of sitting or standing inside the vessel.

Editor's Note:The term "personal watercraft" used in this subsection is the same definition contained in *G.S.* 75A-13.3.

(Ord. No. 2001-928, §1, 1-16-01; Ord. No. 2003-538, §1, 11-5-03)

Editor's note: By Resolution No. 1978-755, adopted Nov. 7, 1978, the City Council applied to the Wildlife Resources Commission for special rules and regulations "establishing No Wake Zones 50 yards from the end of the docks at the main boat ramp area of Lake Wheeler." Pursuant to*G.S.* 75A-15.

CHAPTER 6. CONVENTION CENTER COMPLEX*

_____

*Editor's Note: The title of Ch. 6 was changed from "Civic Center Complex" to "Convention Center Complex" by §16 of Ord. No. 1998-454, adopted Nov. 4, 1998. Section 16 of the same ordinance changed all references to the "Civic Center Complex" to the "Convention Center Complex" throughout the Code.

_____

Sec. 9-6001. Convention center authority's powers; applicability of chapter.
Sec. 9-6002. Rental contracts authorized; waiver.
Sec. 9-6003. Agreement to be in writing.
Sec. 9-6004. Who may execute agreement for City; tentative reservation.
Sec. 9-6005. Cash deposit condition precedent to contract.
Sec. 9-6006. Repeated use; waiver of deposits.
Sec. 9-6007. Schedule of charges.
Sec. 9-6008. Incompatible uses resolution.
Sec. 9-6009. Lessee's liability.
Sec. 9-6010. Sponsor to post bond, provide for maintenance of order.
Sec. 9-6011. Weapons prohibited; exception.
Sec. 9-6012. Concessions, regulations governing operation.
Sec. 9-6013. Alcoholic beverages prohibited.
Sec. 9-6014. Hours open.
Sec. 9-6015. Reserved.
Sec. 9-6016. Parking regulations in the complex parking lot.
Sec. 9-6017. Parking lot fee.
Sec. 9-6018. Loitering prohibited on premises.
Sec. 9-6019. Skating, dancing; inflammable decorations.
Sec. 9-6020. Attaching signs prohibited.
Sec. 9-6021. Animals; not to be housed; restrictions on bringing in.

Sec. 9-6001. CONVENTION CENTER AUTHORITY'S POWERS; APPLICABILITY OF CHAPTER.

(a) The City Council hereby delegates to the convention center authority the power to establish rules and regulations concerning the conduct and operation of the complex, provided such rules and regulations are consistent with the scope of this chapter and the laws and policies of the*City* , *the State* , and the law of the United States.

(b) In preparing and promulgating their regulations, the authority*shall* be bound by the *following* guidelines:

(1) The authority*shall* have the power to acquire and dispose of real estate only upon the approval of the City Council and in accordance with any conditions prescribed by the City Council as to the price and method of acquiring or disposing of real estate.

(2) The authority*shall* comply with the requirements of North Carolina law relating to advertisement and competitive bidding for construction work and for the purpose of equipment, furnishings and other items of *personal property* , and upon receiving bids for such *shall* then make recommendations to the City Council for its approval prior to awarding bids.

(3) All revenues received in connection with the use of the convention center complex, or any part thereof*shall* be remitted to the *City* treasury and treated as are other general

revenues of the *City* . All disbursements of public funds by the authority *shall* be in accordance with procedures established and approved by the City Manager and, to the extent appropriate, in the manner *used for* disbursement of other funds by the *City* for purposes of parks and recreation or other similar activities.
(4) The authority*shall* follow the procedure established by the City Manager and the *Council* for the preparation, submission, approval and use of an annual budget for purposes of funding the operations and activities of the convention center complex.
(5) All personnel employed by the convention center authority in connection with the operations and use of the convention center complex*shall* be employed in accordance with the personnel policies of the *City* , upon recommendation of the authority of the convention center director, and *shall* be subject to the final approval of the City Manager.
(c) The provisions and regulations of this chapter*shall* apply to the Raleigh Convention Center Complex as defined herein.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6002. RENTAL CONTRACTS AUTHORIZED; WAIVER.

(a) The City Manager or his duly authorized agent, who*shall* be known as the convention center director, is hereby authorized to make contracts on behalf of the *City* for the rental and use of the Raleigh Convention Center Complex (which *shall* include the convention center, memorial auditorium, surrounding parking lots and other areas within and without those buildings and facilities) in accordance with the terms and provisions of this chapter and regulations of the Convention Center Authority. It *shall* be unlawful to use any part of the complex for any purpose without a valid contract for the rental thereof or *written* permission from the City Manager or his agent.
(b) The City Manager or his duly authorized agent, is authorized to waive any requirements relating to formal contracts and the payment of fees pursuant to this chapter and convention center regulations. All waivers by the City Manager*shall* be extended to all other similarly situated lessees of the convention center complex according to uniform procedures.
(c) The City Manager or his duly authorized agent, is authorized to waive the requirements herein relating to formal contracts and the payment of fees with respect to*City* committees, commissions and boards desiring to use the complex for the purpose of holding public hearings and meeting the qualifications herein.
(d) Any such*agency* desiring to hold a public hearing *shall* use a *City* facility other than the auditorium when one is available. When no such other facility appears to be available, the *agency* may apply through the City Manager's office for adequate space. When no other space is available, the City Manager *may* authorize the use of the convention center complex by the *agency* for a public hearing and waive the customary requirement for a formal contract and for fees. The Manager *shall* report each action to the *Council* at its next regular meeting *following* the waiver decision.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6003. AGREEMENT TO BE IN WRITING.

No agreement purporting to rent or lease the complex*shall* be valid or effective until and unless it *shall* be in *written* or printed form, signed by an authorized official or employee of the *City* and by the party engaging the complex or his authorized agent. *Signatures* of lessor and lessee must be notarized.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6004. WHO MAY EXECUTE AGREEMENT FOR CITY; TENTATIVE RESERVATION.

The City Manager or his duly authorized agent*may* enter into a *written* contract renting the complex to any *person* complying with the conditions prescribed by this article and convention center regulations, or, pursuant to such regulations, *may* permit any *person* to make a tentative reservation of the complex, for any date which has not been previously rented and which is not being held under tentative reservation.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6005. CASH DEPOSIT CONDITION PRECEDENT TO CONTRACT.

At the time of executing a*written* contract for the rental of the complex, the *person* desiring to rent the complex *shall* , as a condition precedent to a valid rental contract, make a deposit with the City Manager or convention center director as prescribed in the convention center regulations. No contract for the rental of the complex *shall* be made or signed on behalf of the *City* unless and until the deposit *shall* have been received by the *City* .
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6006. REPEATED USE; WAIVER OF DEPOSITS.

Lessees contracting to use the complex repeatedly during any annual period*may* be classified and treated according to uniform convention center regulations with regard to waiver of deposits and any other items as appear in the regulations.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6007. SCHEDULE OF CHARGES.

Subject to the provisions of this code, charges for use of the complex*shall* be made in accordance with a uniform fee schedule recommended by the convention center authority and approved by the *Council* .
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6008. INCOMPATIBLE USES RESOLUTION.

The City Manager or his duly authorized agent,*may* , in his discretion, by refusal to rent, reservation, competitive bidding, or by other means, resolve any actual or potential incompatibility of any actual or proposed uses of the complex.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6009. LESSEE'S LIABILITY.

The lessee of the complex or any part thereof*shall* be responsible and liable for any and all injuries and damages to the complex buildings, fixtures, furnishings, or the land on which the buildings are located, during the period of their use under the rental contract. The lessee *shall* agree as a part of the rental contract to be so responsible and liable and to reimburse the *City* for any and all such damages and injuries. The lessee *shall* agree as a part of the consideration for the rental contract covering the use of the complex or any part thereof to save harmless the *City* for any and all accounts, bills, damages, suits, and claims in any way arising out of the use of the complex by the lessee pursuant to the *written* contract. The City Manager or his duly authorized agent *may* require the *person* renting the complex to furnish the *City* a bond or procure a public liability insurance policy in a satisfactory insurance company licensed and authorized to do business in *the State* (in such amounts as considered advisable by the City Manager) to insure the *City* and the lessee from any and all damages, claims and suits on account of injuries and/or damages sustained by third *persons* , firms or corporations arising or resulting from the use of the complex during the period for which rented.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6010. SPONSOR TO POST BOND, PROVIDE FOR MAINTENANCE OF ORDER.

(a) When required by the City Manager or his duly authorized agent, the sponsor of a commercial dance or a combination of stage show and commercial dance or the sponsor of any other performance or activity,*shall* post a bond or certified check in an amount to be determined by the City Manager or his duly authorized agent to guarantee the payment of all damages to the building, fixtures or premises as a result of its use by lessee.

(b) The sponsor*shall* likewise provide the number of police *officers* required to maintain order as *may* be determined by the Chief of Police of the *City* and the complex director.

(c) During commercial events, the lessee(s)*shall* not encourage or permit members of the audience on stage nor performers to visit the seating area of the complex, without prior approval of the City Manager or his duly authorized agent.

(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6011. WEAPONS PROHIBITED; EXCEPTION.

It*shall* be unlawful for any *person* to carry or have on or about his *person* , in the complex, any firearms or other weapons or articles, including but not being limited to: blackjacks; nightsticks; or flashlights, which, by their use, might constitute deadly weapons. This section *shall* not apply to peace *officers* assigned to duty in the complex by proper authority, drill teams and honor guards.

(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6012. CONCESSIONS, REGULATIONS GOVERNING OPERATION.

Persons having concession rights in the complex *shall* abide by the convention center regulations.

(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6013. ALCOHOLIC BEVERAGES PROHIBITED.

It*shall* be unlawful for any *person* to have in his possession or to consume any beer, wine or other intoxicating beverage at any time or event in the complex except in connection with a dinner or banquet or any other activity at which food is served and then only with the consent and approval of the complex director. No such beverages *shall* be consumed on the convention center complex grounds at any time.

(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6014. HOURS OPEN.

Hours of performances and charges for overtime use of the complex*shall* be governed by the convention center regulations.

(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6015.

RESERVED.

Editor's note: Former §9-6015, which concerned restrictions on smoking in the civic center complex, and derived from Ord. No. 1977-419, §1, adopted Jan. 4, 1977 and Ord. No. 1977-547, §1, adopted June 7, 1977, was repealed by Ord. No. 1988-167, §1, adopted May 3, 1988.

Sec. 9-6016. PARKING REGULATIONS IN THE COMPLEX PARKING LOT.

It*shall* be unlawful to park a motor vehicle in the complex parking lots when appropriate signs are posted at the entrances and exits thereto prohibiting parking. A motor vehicle

parked in violation of this section *may* be removed from the parking lot for storage as provided in §11-2028 of this Code.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6017. PARKING LOT FEE.

When the parking lots at the complex not operated by a private concessionaire are not reserved for patrons and participants at performances, entertainments or other functions at the complex, there*shall* be a charge of not more than fifty cents ($0.50) per day per vehicle for parking in the area reserved for parking on the lots. Collection thereof *shall* be made in such manner as *may* be determined by the City Manager. A vehicle parked in the area without the payment of the parking fee *shall* be subject to removal from the parking area for storage at a public garage and the cost of removal and storage *shall* be paid by the *owner* of the vehicle as a condition of its surrender to the *owner* .
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6018. LOITERING PROHIBITED ON PREMISES.

It*shall* be unlawful for any *person* to loiter within the complex buildings or on the grounds adjacent thereto. A loiterer is defined as a *person* who does not buy a ticket to a performance being conducted in the complex, or has no connection with the event in progress, or who does not plan to attend the event, or who does not have legitimate business with the management of the complex, or with performance being conducted at the complex, but it *shall* not include *persons* who *may* be waiting in the lobby or outside the complex for the purpose of meeting people who are attending the performance.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6019. SKATING, DANCING; INFLAMMABLE DECORATIONS.

(a) It*shall* be unlawful to skate on the floor of the complex; provided, however, this *shall* not be construed to prohibit the ice skating on platforms placed upon the floors in such manner as not to damage the floors.
(b) No crepe paper or other paper of flammable substances that might tend to create a fire hazard*shall* be *used for* decoration purposes in the complex.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6020. ATTACHING SIGNS PROHIBITED.

It*shall* be unlawful to bring or post signs or decorations of any type in or on the building or grounds of the complex without prior approval of the complex director.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

Sec. 9-6021. ANIMALS; NOT TO BE HOUSED; RESTRICTIONS ON BRINGING IN.

It*shall* be unlawful to house animals in any part of the complex buildings, but animals *may* be permitted inside the buildings when they are engaged in performing as a part of any circus or show; provided, however, the City Manager *may* prohibit such use of the auditorium if necessary, in his opinion, for the protection of the building or any part thereof from damage or for the safety of *persons* attending the event.
(Ord. No. 1977-419, §1, 1-4-77; Ord. No. 1977-547, §1, 6-7-77)

CHAPTER 7. PEDESTRIAN MALLS

Article A. General Provisions
Sec. 9-7001. Purpose and intent.

Sec. 9-7002. Definitions.
Sec. 9-7003. Pedestrian malls closed to vehicular traffic; exceptions.
Sec. 9-7004. Special events at malls.
Sec. 9-7004.1. Name of special events sponsor to be displayed.
Sec. 9-7005. Revocation of special event permits.
Sec. 9-7006. Cleaning and repairing after use for special event; liability.
Sec. 9-7007. Outdoor restaurant dining.
Sec. 9-7008. Excavation.
Secs. 9-7009--9-7020. Reserved.
Article B. Prohibited Activities
Sec. 9-7021. Reserved.
Sec. 9-7022. Bicycles.
Sec. 9-7023. Fountains.
Sec. 9-7024. Littering; refuse.
Sec. 9-7025. Roller skates.
Sec. 9-7026. Sound amplification or musical instruments.
Sec. 9-7027. Vandalism.
Sec. 9-7028. Existing ordinances.
Sec. 9-7029. Severability.
Sec. 9-7030. Penalties.

ARTICLE A. GENERAL PROVISIONS

Sec. 9-7001. PURPOSE AND INTENT.

The purpose of the provisions of this chapter is to provide regulations for the operation and maintenance of the*Downtown Mall* and surrounding areas.
(*Code 1959* , §27-1; Ord. No. 1977-598, §1, 8-16-77)

Sec. 9-7002. DEFINITIONS.

(a) *Downtown Mall:*
Fayetteville Street bounded on the north by the southern curb line of Morgan Street and bounded on the south by the Civic Center Plaza at a line 290.6 feet south of the southern curbline of Davie Street, but excluding the intersections of Martin Street, Davie Street and Hargett Street.
(b) *Exchange Plaza:*
The area from a point at the southwest corner of Lot 5, Block A-48, Wake County Tax Map, 210.4 feet east to the southeast corner of Lot 22, Block A-48; thence 42.09 feet south along the Wilmington Street right-of-way line to a point at the northeast corner of Lot 28, Block A-48; thence 42.09 feet south along the Wilmington Street right-of-way line to a point at the northeast corner of Lot 28, Block A-48; thence west 210 feet to a point at the northwest corner of Lot 4, Block A-48; thence north 42.09 feet along the Fayetteville Street right-of-way line.
(c) *Market Place:*
The area from a point at the southwest corner of Lot 4, Block A-48, Wake County Tax Map, 70 feet east; thence south 41.35 feet; thence west 70 feet to a point at the northwest corner of Lot 3, Block A-48; thence north 41.35 feet along the Fayetteville Street right-of-way line.
(*Code 1959* , §27-2; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-700, §1, 7-7-81)

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

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

(b) Parking or operation of any motor vehicle, or of any self-propelled motorized equipment*used for* excavation, construction or related purposes, *shall* be punishable by a civil penalty of twenty-five dollars ($25.00) for each vehicle and piece of equipment for each offense, unless the vehicle or equipment displays a valid permit for this purpose. Such permit *shall* specifically identify the vehicle(s) and equipment authorized and the time, date(s) and portion of the malls allowed for parking or operation. Parking or operation of the vehicle or equipment at a time, date or place not authorized on the permit *shall* void the permit.
(*Code 1959* , §27-3; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1989-442, §1, 10-19-89)

Sec. 9-7004. SPECIAL EVENTS AT MALLS.

(a) Permit required.
Any*person* or group, except those holding a valid *City* picketing permit issued pursuant to §12-1056 of this Code, or an outdoor restaurant dining permit issued pursuant to §9-7007 of this Code, presenting any concert, performance, exhibition, ceremony or other activity tending to create a public congregation *shall* require a special event permit.
(b) Permit procedure.
An application for a special event permit*shall* be made *in writing* at least forty-eight (48) hours before the time the event *shall* be scheduled to begin and *shall* contain the *following* information:
(1) The name, if any, of the organization or group sponsoring the event;
(2) The area of the mall where this event is to take place;
(3) The date and hour for which the permit is sought;
(4) The*person* or *persons* in charge of the event and who will carry the permit at all times;
(5) A detailed description of the activities for which the permit is being requested;
(6) The expected number of participants in the event; and
(7) Any other information necessary to administer this chapter.
The application*shall* be submitted to the City Manager or his designee who *shall* issue a special event permit if he finds that the nature, area, scope and size of the requested use will not hinder or impede any regularly established use of the mall and will not adversely affect its care, protection and maintenance. If it is determined otherwise, the permit will not be issued. The duration and number of special event permits which *may* be in effect at any one time, or the number of participants in any special event or show, *may* be limited so as not to hinder or impede the regularly established use of the malls; adversely affect their care, protection, and maintenance; or endanger *persons* thereon; and requests for permits *shall* be acted on in the same order in which completed requests are received.
(c) Fee schedule for special events.
All applications for a special events permit*shall* be accompanied by a filing fee. The fees established herein partially defray the *City's* expense in keeping records relating to the application, verifying the application, monitoring the events, and performing other services required by statute or ordinance in processing the application to its conclusion. Special event fees *shall* be as follows:
(1) Special event of not more than three (3) individual participants . . . $10.00
(2) Special event occupying not more than one-half of one block of the malls at one time . . . 20.00
(3) Special event occupying more than one-half of one block of the malls, per block . . . 30.00
(*Code 1959* , §27-4; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1980-393, §§1--4, 6-3-80; Ord. No. 1980-409, §2, 7-1-80; Ord. No. 1982-884A, §1, 4-6-82; Ord. No. 1983-98, §2, 4-19-83; Ord. No. 1990-673, §1, 11-6-90)

Sec. 9-7004.1. NAME OF SPECIAL EVENTS SPONSOR TO BE DISPLAYED.

Any*person* or group obtaining a special events permit *shall* , at the time and place of the special event, prominently and continuously display the name of the individual, group or organization sponsoring the event, as indicated on the permit application.
(Ord. No. 1980-488, §1, 10-7-80)

Sec. 9-7005. REVOCATION OF SPECIAL EVENT PERMITS.

Falsification of a special events permit *shall* make it subject to revocation upon notice given to the permit holder by the City Manager or his designee.
(*Code 1959* , §27-5; Ord. No. 1977-598, §1, 8-16-77)

Sec. 9-7006. CLEANING AND REPAIRING AFTER USE FOR SPECIAL EVENT; LIABILITY.

Any*person* , firm or organization issued a special events permit under the provision of this chapter *shall* be responsible for any and all injuries, damages to the mall surface, fixtures or plantings, and for the removal of excess trash, litter and debris that *may* occur as a result of such use. All applicants *shall* agree, as a part of the consideration for a special event permit, to save harmless the *City* for any and all accounts, bills, damages, suits and claims in any way arising out of the use of the mall by the applicant. Applicants *may* be required to post with the *City* a bond or proof of liability insurance policy issued by an insurance company authorized to do business within the State of North Carolina, in an amount specified by the *City* , securing the *City* for *property* damage, personal injuries and wrongful deaths as a result of such use.
(*Code 1959* , §27-6; Ord. No. 1977-598, §1, 8-16-77)

Sec. 9-7007. OUTDOOR RESTAURANT DINING.

(a) Permit required.
No restaurant operator*shall* use any portion of any pedestrian mall as defined by this chapter for the operation of a restaurant without first obtaining a permit.
(b) Permit procedure.
An application for an outdoor dining permit*shall* be made *in writing* to the City Manager or his designee. The permit *shall* be granted if it is found that:
(1) The restaurant has frontage on a pedestrian mall so that the mall and the building in which the restaurant is located share a common boundary line.
(2) There is a minimum nineteen-foot distance between the common*property* line shared by the restaurant and the mall and the nearest planter, bench or other permanent fixture on the mall, or the *street* furniture appurtenant thereto. This distance *shall* be measured along a line perpendicular to the *property* line and extending from the *property* line to the obstruction.
(3) The applicant submits a valid insurance policy which will indemnify the*City* for damages to the physical mall and for any damages which the *City* might incur due to personal injury or *property* damage incurred by anyone due to the use of the mall for dining. The minimum liability limits of the policy *shall* be five hundred thousand dollars ($500,000.00).
(4) The applicant*shall* pay a license fee of seventy-five dollars ($75.00) per fiscal *year* or part thereof during which he intends to operate on the mall.
(c) Permittees' obligations.
Any*person* granted a permit pursuant to this section *shall* conform to the *following* requirements:

(1) As long as the minimum nineteen-foot width is available, the permittee *may* use up to fifty (50) per cent of the available width except that in no case *shall* the width used by the permittee exceed twenty-five (25) per cent of the width of right-of-way of the mall in front of the location for which the permit is issued. The area designated for use *shall* be set out in the permit as an addendum thereto and *may* not be expanded during the life of the permit.
(2) The area to be*used for* restaurant purposes *shall* be fenced off and separated from the rest of the mall by a barrier not to exceed three (3) feet in height and conforming to the general architectural and aesthetic character of the mall and the surrounding development. Any such barrier *shall* also meet the requirements of the Wake County Health Department. The barrier *shall* be portable and *shall* be placed in a manner so as not to damage the surface of the mall.
(d) Special circumstances.
In an area of a mall where the requirements of §9-7007 are met but in which the City Manager or his designee feels pedestrian flow will be seriously disrupted, a permit*shall* be denied. The applicant *may* appeal such a denial to the City Council which *may* uphold the Manager's decision or *may* grant the permit. Likewise, in areas which do not meet the strict distance requirements, the City Council *may* allow a permit upon the affirmative showing by the applicant that pedestrian flow will not be impeded and that no health or safety hazards are created.
(e) Revocation of permits.
Violation of any of the laws and regulations relating to the operating of outdoor dining areas will be grounds for the revocation of a permit. The City Manager*shall* cause notice of all such violations to be given to the City Council which *shall* hold a hearing to determine whether to revoke the permit. The *Council* may consider all relevant matters at such a hearing including the gravity of the violation, the frequency of violation and past operations.
(Ord. No. 1983-98, §4, 4-19-83)

Sec. 9-7008. EXCAVATION.

(a) Excavation on the malls is prohibited without a permit issued by the Inspections Department. Excavation without such permits*shall* be punishable by a civil penalty of one hundred dollars ($100.00) in addition to the fees normally payable for such excavation.
(b) Excavation of brick pavers or other hard surfaces on the malls*shall* require a payment of twelve dollars ($12.00) per square foot for the area to be excavated. The fee *shall* be paid prior to excavation, based on the estimated area to be excavated. Where the actual size of the area excavated differs from the estimate, an additional payment or partial refund of excavation fees, as appropriate, *shall* be made.
(c) Should the party responsible for the excavation return the disturbed area to its original condition, as determined by the*City* , the excavation fee *shall* be refunded.
(Ord. No. 1989-442, §2, 10-19-89)
Secs. 9-7009 -- 9-7020. RESERVED.

ARTICLE B. PROHIBITED ACTIVITIES*

---

*Editor's note: Section 1 of Ord. No. 1981-559, adopted Jan. 6, 1981, repealed Art. B, "Advisory Commission," §§9-7021--9-7024, as derived from *Code 1959* , §§27-7--27-10, as enacted by Ord. No. 1977-598, §1, adopted Aug. 16, 1977. §2 of Ord. No. 1981-559 then renumbered §§9-7031--9-7040, Art. C, as §§9-7021--9-7030, Art. B.

Sec. 9-7021. RESERVED.

Editor's note: Ord. No. 2002-218, §1, adopted June 4, 2002, set out provisions repealing §9-7021, which pertained to animals and derived from*Code 1959* , §27-11; Ord. No. 1977-598, §1, adopted Aug. 16, 1977; and Ord. No. 1981-559, §2, adopted Jan. 6, 1981.

Sec. 9-7022. BICYCLES.

It*shall* be unlawful for any *person* to ride a bicycle on the mall. However, nothing in this chapter *shall* prohibit the pushing or walking of bicycles on the mall or the parking of bicycles on any apparatus provided for that purpose.

Bicycles being utilized by the City Police Department*shall* be exempted from the provisions of this section.

(*Code 1959* , §27-12; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-559, §2, 1-6-81; Ord. No. 1988-257, §1, 10-18-88)

Sec. 9-7023. FOUNTAINS.

It*shall* be unlawful for any *person* to place any part of his body, to wade, swim, or place any animal, trash, liquid or solid object other than domestic or foreign coins in any fountain or pond located on the mall.

(*Code 1959* , §27-13; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-559, §2, 1-6-81)

Sec. 9-7024. LITTERING; REFUSE.

It*shall* be unlawful for any *person* to deposit refuse, rubbish or litter anywhere on the mall surface except in containers provided for that purpose.

(*Code 1959* , §27-14; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-559, §2, 1-6-81)

Sec. 9-7025. ROLLER SKATES.

No*person* *shall* roller skate, ride on a skateboard or operate any similar device or toy having wheels or rollers on the mall.

(*Code 1959* , §27-15; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-559, §2, 1-6-81; Ord. No. 1993-226, §1, 7-6-93)

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

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

(*Code 1959* , §27-16; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-559, §2, 1-6-81)

Cross reference: Sound magnification, §12-5008.

Sec. 9-7027. VANDALISM.

It*shall* be unlawful for any *person* to climb or ascend any statuary object, fountain or tree situated upon the mall except for duly authorized personnel engaged in the maintenance or repair of the mall.

(*Code 1959* , §27-17; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-559, §2, 1-6-81)

Sec. 9-7028. EXISTING ORDINANCES.

(a) All applicable*City* ordinances now in effect *shall* apply to the mall areas unless said ordinance is superseded by one of the aforementioned rules or regulations.
(b) Nothing in this chapter*shall* be interpreted to exclude any *person* , firm or corporation from the necessity of obtaining any applicable license, permit or approval as *may* be required by any other provision of this Code.
(*Code 1959* , §27-18; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-559, §2, 1-6-81)

Sec. 9-7029. SEVERABILITY.

If any clause, sentence, paragraph, subsection, section or any part of this chapter*shall* , for any reason, be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment *shall* not affect, impair or invalidate the remainder of this chapter, but *shall* be confined in its operation to the part thereof directly involved in said judgment. If any part or clause of this chapter *shall* be declared unconstitutional, and if such part so declared unconstitutional embraces subject matter controlled and provided for by any law, public or private, in effect at the time of the adoption of this chapter, such preexisting laws *shall* continue and remain in effect, notwithstanding any repealing clause contained herein.
(*Code 1959* , §27-19; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-559, §2, 1-6-81)

Sec. 9-7030. PENALTIES.

Any violation of this chapter *shall* be a misdemeanor, and punishable by law. Each day's continuance of such violation *shall* be a separate offense.
(*Code 1959* , §27-20; Ord. No. 1977-598, §1, 8-16-77; Ord. No. 1981-559, §2, 1-6-81)

CHAPTER 8. TREES AND VEGETATION*

*Cross references: Waiver of sidewalk construction standards for purposes of tree preservation, §7-2008; landscaping regulations, §10-2068et seq.

Sec. 9-8001. Purpose and intent.
Sec. 9-8002. Definitions.
Sec. 9-8003. Creation of position of Urban Forester.
Sec. 9-8004. Duties of Urban Forester.
Sec. 9-8005. Trimming, pruning, planting, and removal of trees on public property; permit required.
Sec. 9-8006. Injuring trees or shrubbery on public places.
Sec. 9-8007. Trees and other vegetation to be kept trimmed; responsibility of owner and Urban Forester.
Sec. 9-8008. Authority to treat or remove trees or shrubbery on private grounds.
Sec. 9-8009. Standards and permits.
Sec. 9-8010. Planting plan required where more than twenty-five trees to be planted.
Sec. 9-8011. Appeals.
Sec. 9-8012. Exceptions.
Sec. 9-8013. Legality of chapter or parts thereof.
Sec. 9-8014. Violations; penalty.

Sec. 9-8001. PURPOSE AND INTENT.

The purpose of this chapter is to regulate and control the planting of trees and vegetation, to encourage the protection of existing trees and vegetation on the*streets* and public and private grounds within the *City* , and to establish the standard arboricultural specifications and practices for existing and future trees and vegetation in the *City* and on *City* -owned *property* outside the corporate limits.
(*Code 1959* , §21A-1)

Sec. 9-8002. DEFINITIONS.

City-owned or -controlled property . *Property* owned or leased by the *City* ; or for which the *City* has a vegetation easement or planting contract; or upon which the *City* has an easement for *street* , sidewalk, greenway, park, alley, utility or other public purpose.

Planting contract . A two-party contract between the *City* and a *property* owner allowing the *City* to plant and maintain vegetation on private *property* , if agreeable to the *owner* .

Right-of-way . A strip of land upon which Raleigh has the right to construct a *street* , sidewalk, bicycle path, use for public utilities or landscape with plants or to carry out any other public purpose.

Tree permit . Consent given *in writing* by the Urban Forester to a *person* , firm or *agency* to alter or remove any tree or to do anything that would affect that *City* -owned or controlled tree, including cutting or filling the soil around the roots, or allowing any toxic pollutant to injure the tree.

Urban Forester . Any *person* qualified through formal education or practical experience in the fields of urban forestry, arboriculture or horticulture who is capable of administering a complete urban tree management program.

Vegetation . Any living plant or groups of plants (tree, shrub or groundcover).

Vegetation easement . An easement across private *property* authorizing the *City* to plant and maintain vegetation and prohibiting the cutting or damaging of trees without *City* approval.

(*Code 1959* , Sec. 21A-2; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8003. CREATION OF POSITION OF URBAN FORESTER.

(a) The position of Urban Forester*shall* be created within the Department of Parks and Recreation. The Urban Forester, as the agent of the Parks and Recreation Department of the *City* , *shall* direct, regulate and control the planting and managing of trees and shrubs on all *City* -owned or controlled land.

(b) For the purpose of carrying out the provisions of this chapter, the Urban Forester *shall* have the authority, control, supervision and direction over all trees and shrubs growing on *City* -owned or controlled *street rights-of-way* and the planting, removal, care, maintenance and protection thereof. The Urban Forester *shall* advise on all *City* -initiated construction projects in an effort to plan for and manage the *City's* vegetative resources.

(*Code 1959* , Sec. 21A-3; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8004. DUTIES OF URBAN FORESTER.

The Urban Forester*shall* have the authority to promulgate the rules and regulations governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on *City-owned or controlled property* , and *shall* direct, supervise, regulate and control the planting, maintenance and removal of all the trees growing now or hereafter on said *property* . It *shall* be the duty of the Urban Forester to plan for an urban forestry program (*City* tree program), which should include:

(a) Planting and managing trees for their functional use as well as for the aesthetic qualities.

(b) Recycling trees and fiber.

(c) A comprehensive tree plan for the*City* after consideration of existing and future utility and environmental factors when recommending a specific species for each of the *streets* and other public sites in the *City* .

(d) Tree planting priorities.

(e) Suggested tree list for Raleigh, with priorities, the purpose of which would be to guide the voluntary efforts of citizens in selecting trees for planting on private*property* or for donation to the *City* , such list to distinguish generally among the conditions or places of use.
(f) A*vegetation* education program for the public, including advisory guidelines, planting and maintenance details, costs and benefits of *vegetation* in the *City* .
(g) A tree and landscape inventory and analysis.
(h) Advising other*City* departments on all projects that would affect Raleigh *vegetation* .
(i) The Urban Forester*shall* have the authority to review all requests for *permits* for any planting, removal and/or trimming or cutting of trees on all *City* -owned or controlled *rights-of-way* . The Urban Forester *shall* also have authority to attach reasonable conditions to these *permits* and to grant or deny them.
(j) Objective standards, criteria and procedures for trimming, pruning, cutting, removal, moving, fencing and protection of*vegetation* . Criteria *shall* include sight distances required at *street* intersections and other places. Specific procedures and criteria for utility companies and building contractors *shall* be prepared.
(k) List and description of undesirable conditions that would probably require on-site examination by the Urban Forester and prompt treatment as described in §9-8008, such list not to be considered exhaustive.
(l) The comprehensive tree plan, the tree list and other plans and policies recommended by the Urban Forester must be approved by the director of the Parks and Recreation Department, the Parks and Recreation Advisory Committee and/or the Greenway Commission, where the greenways are involved.
Public hearings*shall* be conducted by the Parks and Recreation Advisory Committee and/or Greenway Commission prior to final approval. Notice of the hearings *shall* be sent to the CAC.
(*Code 1959* , Sec. 21A-4; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8005. TRIMMING, PRUNING, PLANTING, AND REMOVAL OF TREES ON PUBLIC PROPERTY; PERMIT REQUIRED.

Any *person* desiring to remove, destroy, cut, severely prune, including root system, treat with a view to its preservation from disease or insects, any tree or shrub in or upon any public *street* [or other] *City-owned or controlled property, shall* first obtain a *written permit* as hereinafter provided for, on forms furnished by the Urban Forester. Any work performed under such *permit* must be done in strict accordance with the conditions of the *permit* and the provisions of this chapter. Any *person* desiring to plant a tree or shrubbery upon any public *street* must also obtain a *permit* from the Urban Forester. Before issuance of a *permit* to plant, the request must also be reviewed by the Department of Transportation to determine if the planting would create a sight distance hazard.
(*Code 1959* , Sec. 21A-5; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8006. INJURING TREES OR SHRUBBERY ON PUBLIC PLACES.

(a) It*shall* be unlawful for any *person* , except with *written permit* hereinafter provided for, to place or maintain upon the ground in any public *street* or other *City-owned or controlled property* , any stone, cement or other impervious matter or substance in such a manner as *may* obstruct the free access of air and water to the roots of any tree or shrub in any *street* or place. This provision *shall* not apply to paving, repairing or altering *streets* or sidewalks authorized by the *City* .
(b) It*shall* be the responsibility of the *person* in charge of the erection, repair, alteration or removal of any building or structure, to place a guard or protector around any tree on *City-*

owned or controlled property . If the erection, repair, alteration or removal of any structure *shall* require the trimming, pruning or removal of any tree upon *City-owned or controlled property* , a *written permit shall* be obtained.
(c) Its*shall* be unlawful for any *person* to attach to any tree or shrub in or upon *City-owned or controlled property* , or the guard or stake intended for the protection of such tree, any rope, wire, chain, sign, or other device whatsoever, except for the purpose of protecting the tree or the public.
(*Code 1959* , Sec. 21A-6)

Sec. 9-8007. TREES AND OTHER VEGETATION TO BE KEPT TRIMMED; RESPONSIBILITY OF OWNER AND URBAN FORESTER.

(a) Trees, vines, bushes, shrubbery or flowers standing in or upon any lot or land adjacent to any public*street* or public place and having branches, limbs, trunks, or other parts projecting into the public *street* or place *shall* be kept trimmed by the *owner* or occupant of the *property* on which such vines, trees, shrubbery or flowers are growing so as not to interfere with the free and safe passage along the public way by pedestrians and vehicular traffic.
(b) If the*owner* or occupant of the *property* does not keep this growth from projecting into or on public ground, then the Urban Forester *shall* have the authority to order its removal. The order *shall* be acted upon within fifteen (15) days from the time of the receipt of the notice which *shall* be sent by registered mail, return receipt requested. If, after fifteen (15) days, the *owner* has not responded or acted to remove the projecting growth from said vines, trees, bushes, shrubbery, or flowers, then the Urban Forester or any member of his staff *shall* have the authority to enter upon the *owner's property* to perform the work. The cost of such action *may* be charged against the *property* owner pursuant to the procedures set forth in Chapter 6 of Part 12 of this Code.
Cross reference: Abatement of public nuisances, §12-6001et seq.
(c) The*City* , its agents and contractors are required to adhere to all regulations of this section in the same manner as private *property* owners. They *may* be challenged in the same manner by the Urban Forester or his designated agent on the personal complaint of either, or by any citizen of Raleigh.
(*Code 1959* , Sec. 21A-7; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8008. AUTHORITY TO TREAT OR REMOVE TREES OR SHRUBBERY ON PRIVATE GROUNDS.

(a) When necessary for the immediate preservation of the public health or safety, the Urban Forester, under the power herein given,*may* cause or order the removal of any tree or part hereof on private ground which is in an unsafe condition, or which by reason of its nature is injurious to sewers or other public improvements, or which is affected with any injurious fungus, insect or other pest which *may* spread to public or other private *property* .
(b) When not immediately necessary, but when still amounting to a public nuisance, unsafe trees as defined above*may* be removed, pruned or otherwise treated, and the cost of such action *shall* be charged against the subject *property* pursuant to the procedure set forth in Part 12, Chapter 6, of this Code.
(*Code 1959* , §21A-8; Ord. No. 1990-695, §1, 12-11-90)
State law reference: 1985 S.L., Chapter 556.

Sec. 9-8009. STANDARDS AND PERMITS.

(a) The parks and recreation advisory board*shall* , after due investigation and study, and after consideration of both aesthetic and practical utilitarian problems, promulgate a set of objective standards and criteria for the trimming, pruning, cutting and removal of trees and shrubs on *City owned or controlled property* .
(b) The*permits* provided for herein *shall* be granted by the Urban Forester upon application *in writing* on forms supplied by his office.
(*Code 1959* , §21A-9; Ord. No. 1990-695, §1, 12-11-90)
Cross reference: Parks and greenway advisory board, §9-1011et seq.

Sec. 9-8010. PLANTING PLAN REQUIRED WHERE MORE THAN TWENTY-FIVE TREES TO BE PLANTED.

Any*person* or organization desiring to plant more than twenty-five (25) trees or shrubs on *City-owned or controlled property* shall, in addition to applying for a *permit* , submit a planting plan or *written* statement in duplicate to the Urban Forester, who *shall* return one copy to the applicant and keep one copy on file with the *City* . The Urban Forester *shall* review and approve before issuing a *permit* to plant. All planting plans *shall* show accurately:
(a) The proposed*street* width together with its subdivision of pavement, curb and gutter, parking strip and sidewalk areas to a definite indicated scale.
(b) The location and variety of each and every proposed and existing tree or shrub within the proposed*street* line in scaled relation to the other features of the plan.
(c) The nature of the soil in the planting space to a depth of three (3) feet, and all existing and proposed surface or subsoil drainage systems. All statements filed in lieu of a planting plan*shall* contain the same information as required on the plan.
(*Code 1959* , §21A-10; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8011. APPEALS.

In the event any*person* is dissatisfied with a decision of the Urban Forester involving the application or interpretation of this chapter, such *person* may make a *written* request to the *Council* for review.
(*Code 1959* , §21A-11; Ord. No. 1990-695, §1, 12-11-90)

Sec. 9-8012. EXCEPTIONS.

(a) Notwithstanding other provisions of this chapter to the contrary, nothing herein*shall* prohibit the trimming, pruning, cutting or removal of any tree or shrub on a public *street* or *right-of-way* or upon any *City-owned or controlled property* , if such trimming, pruning, cutting or removal is done in the ordinary maintenance or repair of *streets* , sidewalks, pavement markings, existing utility lines, *street* signs, traffic signs, or is done in order to repair or replace the same as a result of damage or deterioration as a result of accident, casualty, or natural elements such as wind, rain, ice, electrical storm, or the like.
(b) Provided, also, that trimming, pruning, cutting and removal of trees and shrubs is permitted in connection with the extension of utility service from existing facilities into new or additional areas without the necessity of a special*permit* or permission, provided that such trimming, pruning, cutting and removal *shall* conform to any standard or criteria adopted by the parks and recreation advisory board under the provisions of this chapter.
(*Code 1959* , §21A-12)

Sec. 9-8013. LEGALITY OF CHAPTER OR PARTS THEREOF.

Should any section, clause or provision of this chapter be declared by the courts to be invalid, the same*shall* not affect the validity of any other provision of this chapter.

(*Code 1959* , §21A-13)

Sec. 9-8014. VIOLATIONS; PENALTY.

The violation of any provision of this chapter*shall* constitute a misdemeanor as provided by *G.S.* 14-4 and Part 14 of this Code.
(*Code 1959* , §21A-14)
State law reference: Violation of local ordinance a misdemeanor,*G.S.* 14-4.

CHAPTER 9. RALEIGH TELECOMMUNICATIONS COMMISSION

Sec. 9-9001. Commission created.
Sec. 9-9002. Membership.
Sec. 9-9003. Terms of members.
Sec. 9-9004. Powers and duties.
Sec. 9-9005. Commission staff.

Sec. 9-9001. COMMISSION CREATED.

There is hereby created the Raleigh Telecommunications Commission, of such composition and having the powers and duties herein provided.
(Ord. No. 1983-167, §1, 8-2-83)

Sec. 9-9002. MEMBERSHIP.

The Raleigh Telecommunications Commission (hereinafter referred to as the "Commission")*shall* be composed of nine (9) members named by the City Council with the Commission Chairman elected by the Commission from among the membership. Up to three (3) members of the Commission *may* come from any areas outside the *City* limits over which the *City* exercises telecommunications administrative authority either by grant or franchise or contract with another franchising and governmental unit. The Chairman of the Commission *shall* at all times be a resident of the *City* .
(Ord. No. 1983-167, §1, 8-2-83; Ord. No. 1983-218, §1, 11-3-83; Ord. No. 1984-469, §1, 12-18-84; Ord. No. 1985-476, §1, 1-15-85; Ord. No. 1988-141, §1, 4-5-88; Ord. No. 1990-475, §1, 1-2-90)

Sec. 9-9003. TERMS OF MEMBERS.

The term of office of members of the Commission *shall* be two (2) *years* , except that of the fifteen (15) initial appointments, seven (7) *shall* be for one- *year* terms (not to include the Chairman); thereafter all appointments *shall* be for two (2) *years* .
(Ord. No. 1983-167, §1, 8-2-83; Ord. No. 1983-218, §2, 11-3-83)

Sec. 9-9004. POWERS AND DUTIES.

The responsibilities and powers of the Commission *shall* include:
(a) Monitoring the performance of all grantees to determine whether the grantees are complying with their respective franchise obligations.
(b) Making or causing to be made such reasonable inspections, tests and demonstrations of the grantees' systems as the Commission deems necessary in order to protect the public health, safety and welfare and to assure the adequate operation of the various grantees.
(c) To take the necessary steps to cure franchise violations it discovers by invoking the penalty provisions of the*City's* minimum cable television standards ordinance or by recommending the revocation of franchise agreements in extreme cases. Before levying any penalties the Commission *shall* establish and promulgate sufficient rules and regulations to assure the due process interests of the franchisees, the *City* and the public are protected. These rules *may* allow for the initial invocation of fines and penalties to be made by the

cable administrator with appeal to the Commission. All such rules and regulations must be approved by the City Council before becoming effective.

(d) To make recommendations to the*Council* regarding the renewal, termination, and forfeiture of franchises; the exercise of buyout authority; and the transfer of system ownership or control.

(e) To evaluate each grantee's system not less than every five (5)*years* , and based on the evaluation, issue a report to the *Council* containing recommendations for the *City* .

(f) To monitor the manner in which operation of the institutional and access networks is conforming with the intent of the cable standards ordinance and the specific franchise agreements in force.

(g) To review and as appropriate audit all reports filed by grantees with the*City* . The Commission *may* require any grantee to prepare and file additional reports as necessary or desirable to carry out its duties. After consultation with affected grantees, the Commission *may* adopt regulations establishing the form of reports to be filed with the *City* ; the place at which filings are to be made; and criteria and procedures for the protection of the material contained in the reports that is not open for public disclosure.

(h) To receive and investigate any unresolved complaint about a grantee's service filed with the Commission or referred to the Commission by the office of cable communications. After consultation with the affected grantees, the Commission*may* adopt regulations establishing methods and procedures to ensure that complaints have recourse to a satisfactory hearing and method for settling complaints.

(i) To use its regulatory powers in order to bring about and guide the development of systems in the*City* in a manner that will be in the public interest, with particular emphasis on nonentertainment cable communication services for homes, businesses and institutions and on new and innovative services.

(j) To coordinate, as necessary and desirable, the interconnection of the systems of grantees with each other, with systems of the*City* , and with systems outside the *City* ; provided, however, that the Commission *may* not require any grantee to interconnect to a system without *Council* approval. The Commission *may* cooperate with other governmental units in the supervision of the interconnection of systems.

(k) To prepare an annual report for inclusion in the budget request of the Commission. The report*shall* cover activities of the Commission during the past *year* ; planned activities of the Commission during the upcoming *year* ; the general performance of grantees; the development and use of systems within the *City* ; any recommendations of the Commission; and such other matters as the Commission *may* deem appropriate.

(l) To use*officers* , employees, and facilities of the *City* on such a basis as *may* be agreed to by the City Manager.

(m) To develop budgets for its operation for approval by City Council and to exercise authority hereby granted in conformance with such approved budget. No power or duty herein enumerated*shall* be exercised or carried out except consistently with and according to the approved budget.

(Ord. No. 1983-167, §1, 8-2-83; Ord. No. 1983-218, §3, 11-3-83)

Sec. 9-9005. COMMISSION STAFF.

The City Manager*shall* provide staff to the Commission to assist in its duties. The City Manager *may* meet this obligation by establishing an office of cable communications headed by a cable administrator directly responsible to and supervised by the City Manager.

(Ord. No. 1983-167, §1, 8-2-83)

CHAPTER 10. ARTS COMMISSION*

*Editor's note: Ord. No. 1977-578, §§1--5, adopted July 5, 1977, has been included herein at the direction of the*City* as Part 9, Ch. 10. Assignment of section numbers was at the discretion of the editor.

Sec. 9-10001. Commission created.
Sec. 9-10002. Membership.
Sec. 9-10003. Organization.
Sec. 9-10004. Purposes.
Sec. 9-10005. Activities.

Sec. 9-10001. COMMISSION CREATED.

There is hereby established, pursuant to Raleigh City Charter §22 [§2.14] a Raleigh Arts Commission, as the official municipal advisory body on the arts broadly defined, which will promote, coordinate and strengthen public programs to further the cultural development of the*City* .
(Ord. No. 1977-578, §1, 7-5-77)

Sec. 9-10002. MEMBERSHIP.

The commission created herein*shall* consist of sixteen (16) *persons* to be appointed by the City Council. Members *shall* reside in the City of Raleigh. No organization which is a potential recipient of *City* arts funding *shall* have on the commission more than one *person* who serves on its board or staff.
Each member*shall* serve for a term of two (2) *years* or until his successor is appointed and qualified, except that half of the original appointees to the Raleigh Arts Commission *shall* serve for a term of one *year* following the establishment of the commission.
No member who has served two (2) consecutive two-*year* terms *may* be reappointed until he has not served for one *year* . A vacancy in mid-term *shall* be filled in the same manner as the original appointment to fill the unexpired term. All members of the commission *shall* serve without salary.
(1977-578, §2, 7-5-77)

Sec. 9-10003. ORGANIZATION.

(a) The commission*shall* organize and adopt administrative rules and procedures necessary to accomplish its purposes, and elect from its members a chairperson and such other *officers* as it *shall* deem necessary.
(b) All regular or special meetings of the commission*shall* be open to the public as governed by North Carolina General Statute §143-318.1, Meetings of Governmental Bodies. Any *person* shall be entitled and encouraged to appear and be heard on any matter pertaining to the arts before the commission.
(c) The commission*shall* have a director and suitable staff appointed by the City Manager and maintain an office properly equipped to discharge its functions.
(Ord. No. 1977-578, §3, 7-5-77)

Sec. 9-10004. PURPOSES.

The purpose of the commission *shall* be as follows:

(a) To advise the City Council on ways in which *City* government might best serve the public with regard to matters involving the arts.
(b) To encourage and aid the appreciation and awareness of, and participation in, the arts among all citizens of Raleigh.
(c) To encourage cooperation and coordination among individuals, organizations and institutions concerned with the arts in Raleigh.
(d) To promote and expand the cultural resources of Raleigh, thereby facilitating employment for artists and the development of self-sustaining arts programs.
(e) To formulate in cooperation with other *City* agencies a longrange plan for the development of a thriving cultural climate in Raleigh.
(Ord. No. 1977-578, §4, 7-5-77)

Sec. 9-10005. ACTIVITIES.

The activities of the commission *shall* include the *following* :
(a) To initiate, sponsor, conduct or support, alone or in cooperation with other public or private *agencies* , public programs in the arts.
(b) To serve as a clearinghouse for information about Raleigh artists, art programs, facilities, organizations and institutions and to actively encourage public awareness, utilization and support of such resources.
(c) To advise the *City* as to the availability and adequacy of facilities and space for the presentation of cultural activities.
(d) To review and advise on the aesthetic aspects of all works of art or designs or public monuments accepted or commissioned by the *City* .
(e) To prepare and submit budgetary recommendations to the City Council and Manager for annual expenditures necessary to the continuation and development of public programs furthering the arts.
(f) To review funding requests and recommend to the City Council the allocation of public monies to cultural organizations.
(g) To seek out and encourage contributions and grants to the arts from private and public sources and to receive and allocate such monies appropriated and/or granted and donated for such purposes.
(h) To initiate proposals for Federal and state assistance to the arts, and to review arts-related proposals and programs originating with other *City* agencies.
(i) To keep abreast of what other communities are doing to further the arts and to adapt their accomplishments to the needs of Raleigh.
(j) To prepare an annual report on the activities of the commission and the State of the arts in Raleigh.
(1977-578, §5, 7-5-77)