

Town of Gamewell

Ordinance for

Loitering, Disorderly Conduct, Vagrancy, Panhandling, Urban Camping

10-05-2023

Proposed Amendment

Section 1.0 Enforcement

Ordinance Sections as provided herein are intended to be enforced by the Caldwell County Sheriff Department plus any other law enforcement agency or under NC and Federal governments.

Area of enforcement of this section shall be solely within municipal boundaries for the Town of Gamewell, NC.

Section 1.1 Loitering and Disorderly Conduct On Public Property. (A) *Purpose and intent.* Generally, public property has a specific or primary purpose. Public streets are intended to be used for vehicular and some pedestrian travel. Public sidewalks are intended for pedestrian travel. Public parks normally carry a recreational use and each public building or other public parcel of land will have its own specific purpose. For some public areas, use as a public assembly or public forum is an incidental use. Public places are not intended as a place of business for crime nor does any particular group of citizens have the right to appropriate public areas for their specific purpose and use without necessary permission. Public streets and sidewalks must remain open for public travel and law-abiding citizens must not be discouraged or intimidated from using such streets and sidewalks. There are two identifiable conditions which discourage legitimate public use of public property. Firstly, under some circumstances, unruly groups simply impede the flow of vehicular and pedestrian traffic. Secondly, soliciting for drug related activities will create public areas controlled by the criminal element of the community if allowed to go unchecked. This chapter is intended to restore the use of the streets, sidewalks and other public parks and public areas within the city to lawful use by law-abiding citizens.

(B) *Definition.* For purposes of this section, the term **PUBLIC PLACE** means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot, transportation facility, public vehicular area as defined in G.S. § 20-4.01, as amended from time to time, other publicly owned or leased property, school and school grounds or property, common areas of apartments or condominium communities, common areas of public housing projects, any place of business or amusement which

is open to the public, or the doorways and entrances to any buildings which front on any of these places or a motor vehicle in or on any of these places, or any other place to which the public has ready access.

(C) *Impeding traffic.* It shall be unlawful for any person to congregate with others, loiter, stand around, lounge, sit upon parked vehicles, stop or leave cars or vehicles parked or standing with the intent or under circumstances evidencing the purpose to interfere with or impede the flow of vehicular or pedestrian traffic, to litter, to consume or use alcoholic beverages, or to otherwise disturb the public peace.

(D) *Loitering for purposes of engaging in illegal drug activity.*

(1) It shall be unlawful for any person to loiter, remain or wander about in a public place with the intent to or in a manner and under circumstances indicating the purpose to violate any provision of the North Carolina Controlled Substances Act, G.S. Chapter 90, Article 5 (G.S. §§ 90-86 *et seq.*), or any other law defining or prohibiting illegal drug activity.

(2) No arrest or charge is permitted under this subsection unless the circumstances establish probable cause to believe that the person intended to violate one or more of the provisions of the North Carolina Controlled Substances Act.

(E) *Violation.* A violation of this section is a misdemeanor as set forth in G.S. § 14-4.

Section 1.2 Vagrants

Any and all tramps, vagrants, persons under suspicion, who shall be found with no visible means of support, either male or female, shall not be allowed on the streets or other public places.

Section 1.3 Urban Camping and improper use of public lands and places.

Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(a) **Available Shelter.** A public or private shelter, with an available overnight space, open to an individual or family unit experiencing homelessness at no charge. A shelter shall not be considered available when the individual cannot occupy said space due to overcapacity, exhaustion of stay limitations, or when religious observance is required as a condition of gaining shelter. If the individual cannot utilize the overnight shelter space due to voluntary actions including, but not limited to, intoxication, drug use, unruly behavior, or violation of shelter rules, the overnight shelter space shall be considered available.

(b) **Camp** means residing in or using a public street, sidewalk or park for private living accommodations, such as erecting tents or other temporary structures or

objects providing shelter; sleeping in a single place for any substantial prolonged period of time; regularly cooking or preparing meals; or other similar activities.

Other public property includes all public or municipal buildings, facilities, structures, properties upon which the buildings, facilities or structures are located, lots, parcels, and any other public properties.

Public park includes all municipal parks, public playgrounds, public plazas, attractions and monuments.

Public street includes all public streets, highways, rights-of-way, public sidewalks, public benches, public parking lots and medians.

Storing personal property means leaving one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for any substantial prolonged length of time. The term "storing personal property" shall not include parking a bicycle or other mode of transportation.

(c) Public parks. It shall be unlawful to camp or to store personal property in any park, as defined above, owned by the town.

(d) Public streets. It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public street as defined above.

(e) Other public property—*Blocking ingress and egress; interfering with the normal course of business associated with the designated public property.* It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public property so as to interfere with ingress or egress from buildings or to interfere with the normal course of business or operations for which the buildings or properties are designated.

(f) Warning. No person may be arrested for violating this code section until he has received an oral or written warning to cease the unlawful conduct. If the violator fails to comply with the warning issued, he is subject to arrest for urban camping.

(g) Exceptions. This section shall not be construed to prohibit the following behavior:

- (1) Persons sitting or lying down as a result of a medical emergency;
- (2) Persons in wheelchairs sitting on sidewalks;
- (3) Persons sitting down while attending parades;
- (4) Persons sitting down while patronizing sidewalk cafes;
- (5) Persons lying down or napping while attending performances, festivals, concerts, fireworks or other special events;

- (6) Persons sitting on chairs or benches supplied by a public agency or abutting private property owner;
- (7) Persons sitting on seats in bus shelters occupied by people waiting for the bus;
- (8) Persons sitting or lying down while waiting in an orderly line awaiting entry to any building, including shelters or awaiting social services, such as provision of meals;
- (9) Children sleeping while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage; or
- (10) Camping by groups or persons with prior approval of the town council or their representative.
- (11) Persons camping on private property must have written permission in their possession at all times and must produce proof thereof upon law enforcement request.

Penalty. A violation of this section is a Class 3 misdemeanor as set forth in G.S. 14-4. and be subject to a maximum fine not to exceed \$500 pursuant to NCGS 160A-175 as provided in GS 14-4. Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(12) Any encampment on publicly-owned property within the city that is deemed a high risk to the public's health and safety will be posted "No Trespass", removed, and cleaned.

(13) **Severability.** If any provision of this section is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and shall continue in full force and effect.

Section 1.3 Panhandlers

Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(a) *Automatic teller machine* means a device linked to a financial institution's account records, which is able to carry out transactions, including but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and mortgage, loan, and credit card payments.

Automatic teller machine facility means the area comprised of one or more automatic teller machines and any adjacent space which is made available to banking customers after regular banking hours

Public place means a place where a governmental entity has title and/or to which the public or a substantial group of persons has access, including, but not limited to, any street, highway, parking lot, plaza, restaurant, theater, transportation facility, vendor location, school, place of amusement, park or playground.

(b) Aggressive panhandling includes:

- (1) Accosting a person by approaching or speaking to the individual or individuals in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession;
- (2) Touching someone without his/her/they consent;
- (3) Using obscene or abusive language toward someone while attempting to panhandle or solicit him;
- (4) Forcing oneself upon the company of another by continuing to solicit in close proximity to an individual who has made a negative response by verbal or physical signs or by attempting to leave the presence of the person soliciting, or by other negative indication;
- (5) Blocking the path of the individual being solicited; otherwise engaging in conduct that could reasonably be construed as intending to force a person to accede to a solicitation;
- (6) Other conduct that a reasonable person being solicited would regard as intended to compel or force the person to accede to the solicitation.

(c) Prohibited conduct while soliciting, peddling, or panhandling. It shall be unlawful for any person to solicit, peddle, or panhandle, as defined in subsection

(a) of this section:

- (1) By engaging in any acts of aggressive soliciting, peddling, or panhandling as defined in subsection (a) of this section;
- (2) Within 50 feet of the entrance to any financial institution, any automatic teller machine or any automatic teller facility;
- (3) At any permitted outdoor dining area or outdoor merchandise area, provided such areas are in active use at the time;

(c) At any transit stop or taxi stand, or in a public transit vehicle;

(1) While the person being solicited is standing in line waiting to be admitted to a commercial establishment;

(d) On private property, unless the person has written permission from the owner of the property to beg or solicit alms on the property;

(e) After dark, which shall mean one-half hour after sunset until one-half hour before sunrise;

(f) While under the influence of alcohol or after having illegally used any controlled substance as defined in the North Carolina Controlled Substance Act;

(g) Within 20 feet of any crosswalk;

(h) In or on city streets to include the right-of-way, median or shoulder thereof;

(i) By standing, sitting or loitering in any street or highway, including shoulders or medians, but excluding sidewalks, and/or to stop or attempt to stop any vehicle for the purpose of obtaining employment, business or contribution from the driver or any occupants of the motor vehicle in accordance with G.S. 20-175. This provision shall not apply to licensees, employees or contractors of the department of transportation or city employees engaged in construction, maintenance or in making traffic engineering surveys;

(j) In a school zone during the time of arrival of students at the beginning of the school day and/or during the time of the departure of students at the end of the school day;

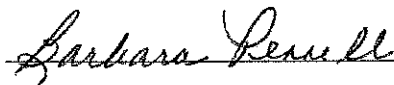
(k) Within 20 feet of the entrance or exit of any parking deck, garage, or surface parking lot;

(l) Within 50 feet of any town-owned or -operated building or facility.

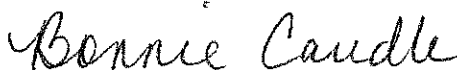
(m) Persons panhandling on private property must have written permission in their possession at all times and must produce proof thereof upon law enforcement request.

Penalty. A violation of this section is a misdemeanor as set forth in G.S. 14-4. Each day continues after the offender has been notified of the violation shall constitute a separate offense.

Adopted this day 9th day of October 2023.



Barbara Pennell, Mayor



Attest: Bonnie Caudle, Town Administrator