

Town of Burgaw

Ordinance List

Below are the responses from the Town of Burgaw in relation to Session Law 2018-69 and Session Law 2019-198 as it applies to criminal enforcement of our ordinances.

Sec. 1-6. - General penalty; enforcement of ordinances; continuing violations.

- (a) Unless otherwise specifically provided, violation of any provision of this Code or any other town ordinance shall be a misdemeanor, as provided by G.S. 14-4.
- (b) Any provision of this Code or any other town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.
- (c) Any provision of this Code or any other town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such a provision occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular. In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this Code or such ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.
- (d) The provisions of this Code and any other town ordinance may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section.
- (e) Except as otherwise specifically provided, each day's continuing violation of any provision of this Code or any other town ordinance shall be a separate and distinct offense.

(Code 1975, § 1-6)

State Law reference— Authority to impose fines and penalties for violation of municipal ordinances, G.S. 160A-175; violation of municipal ordinances a misdemeanor, G.S. 14-4.

Chapter 4 - ANIMALS AND FOWL [\[1\]](#)

Footnotes:

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Cross reference— Environment, ch. 14.

State Law reference— Dogs generally, G.S. 67-1 et seq.; rabies control generally, G.S. 130A-184 et seq.; regulation of domestic animals, G.S. 160A-186.

Sec. 4-1. - Running at large.

No person owning or having control of any animal or fowl shall permit it to run at large within the corporate limits.

(Code 1975, § 3-1)

State Law reference— Bitch at large, G.S. 67-2; dogs running at large at night, G.S. 67-12.

Sec. 4-2. - Riding, leading or driving animals on sidewalks.

It shall be unlawful to ride, lead or drive any animal upon the sidewalks.

(Code 1975, § 3-2)

Sec. 4-3. - Keeping hogs or swine.

It shall be unlawful to keep, maintain or enclose hogs or swine within the corporate limits.

(Code 1975, § 3-3)

Sec. 4-4. - Disposition of dead animals.

The owner of every dead horse, mule, cow, ox, goat, sheep, hog, dog or other animal found dead within the town and not slaughtered for food and the owner or occupant of the lot or premises where such dead animal or carcass thereof may be found shall, within 24 hours after discovery of the dead animal, remove and bury the carcass outside the corporate limits. In case such removal and burial is not performed by the owner of the dead animal, it shall be done by direction of the chief of police at the expense of the owner. Any person failing to remove such carcass and bury it, failing to make a report of the presence of such carcass or failing to pay costs of removal and burial thereof shall be subject to the penalty in section 1-6.

(Code 1975, § 3-4)

Cross reference— Solid waste management, ch. 22.

Sec. 4-5. - Bird sanctuary.

It shall be unlawful for any person to hunt, kill or trap any birds within the territorial limits of the town; provided, that this section shall not be construed as protecting any birds classified as predatory by the wildlife resources commission of the state, nor shall this section be construed as extending protection to pigeons, crows, starlings or sparrows.

(Code 1975, § 3-5)

State Law reference— Municipal authority to establish a bird sanctuary, G.S. 160A-188.

Sec. 4-6. - County ordinance to apply in town.

The Pender County animal control ordinance shall be applicable within the corporate limits of the town.

(Ord. No. 94-5, § 1, 7-1-1994)

Chapter 6 - BUILDINGS AND BUILDING REGULATIONS⁴¹

Footnotes:

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Cross reference— Environment, ch. 14; fire prevention and protection, ch. 16; solid waste management, ch. 22; stormwater management, ch. 26; streets and sidewalks, ch. 28; property numbering, § 28-31 et seq.; subdivisions, ch. 30; trees and shrubs, ch. 34; utilities, ch. 36; water and sewer impact fees, § 36-98 et seq.; zoning, ch. 38.

State Law reference— Municipal authority to regulate the construction of buildings, G.S. 160A-412.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Interpretation of chapter.

In interpreting the requirements or provisions of this chapter, the decision of the building inspector shall be final; except, that an appeal from the decision of the building inspector may be taken to the courts as provided by law. The building inspector shall have the authority to permit the use of materials or methods of construction not specifically set forth within the chapter, provided that any such alternate materials or methods of construction are proven to the satisfaction of the building inspector to be at least the equivalent of the requirements prescribed by this chapter for safety, strength, quality and effectiveness, including fire resistance.

(Code 1975, § 5-1)

Sec. 6-2. - Enforcement.

The building inspector shall have the power to enforce the provisions of this chapter.

(Code 1975, § 5-2)

Sec. 6-3. - Building permit—Required; revocation.

The erection, construction or alteration of any building, structure or part thereof shall not be commenced until a written permit is issued. The work shall conform strictly to the application and plans, and the building inspector shall have power to revoke any permit in the event that any false statement or representation as to a material fact relating to the erection, alteration or removal of the building has been made.

(Code 1975, § 5-3)

Sec. 6-4. - Same—Application; plans, specifications required.

Before the erection, construction or alteration of any building, structure or part thereof, there shall be submitted to the town clerk for the attention of the building inspector, signed by the owner, an application on appropriate blanks to be furnished by the town containing a detailed statement of the specifications and accompanied by a full and complete copy of all necessary plans of such proposed work. Each application for a building permit shall be accompanied by a plat, drawn to scale, showing accurate dimensions of the lot to be built upon and the building to be erected and its location on the lot. If it shall appear to the building inspector that the provisions of this chapter, the town's zoning ordinance, and the state building laws have been complied with and all required fees have been paid, the building inspector will then issue the building permit. A copy of the plans as approved by the building inspector shall be kept at the building during the progress of the work and shall be open to inspection by the building inspector. Plans and specifications submitted to the building inspector shall be kept in files in his office or returned to the owner. It shall be within the discretion of the building inspector to issue permits for minor construction work without plans and specifications.

(Code 1975, § 5-4)

Sec. 6-5. - Securing of permits by contractors.

- (a) The awarding of a contract for completely constructing a residence, building, structure or group thereof shall be cause for the contractor to secure a city building permit covering the construction cost of his contract in its entirety.
- (b) The awarding of separate contracts for the various crafts of constructing a residence, building, structure or group thereof shall be cause for each contractor of each craft to secure a city building permit covering the construction cost of his contract.

(Code 1975, § 5-6.1)

Sec. 6-6. - Fire zones.

- (a) Pursuant to G.S. 160A-435, the following described areas, as shown on the official town map, are hereby established as central fire (zone) district:

Marker one: Located in the center of Walker Street approximately 207 feet from the intersection of Wilmington Street to the southern boundary of Town Hall parking lot, running westward to:

Marker two: Located in the center of Wright Street, 207 feet, westward to:

Marker three: Located in the center of Dickerson Street, 207 feet, westward to:

Marker four: Located in the center of Dudley Street, 207 feet, westward to:

Marker five: Located in the center of the intersection of Satchwell Street, eastward to:

Marker six: Located in intersection of Walker Street, northward to:

Marker one: The beginning.

- (b) The area within these markers will constitute the central fire (zone) district. This district is governed by local and state ordinances as set forth in the town Code and this section and North Carolina Building Code, appendix F.

- (c) The area known as the secondary fire zone will be eliminated. This area will be governed by the building and zoning codes of the state and the town.

Cross reference— Fire prevention and protection, ch. 16.

Secs. 6-7—6-30. - Reserved.

ARTICLE II. - REGULATORY CODES

Sec. 6-31. - Applicability of article and regulatory codes.

The provisions of this article and of the regulatory codes adopted in this article shall apply to the following:

- (1) The location, design, material, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to such building or structure.
- (2) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems and all fixtures and appurtenances thereof.
- (3) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel-burning equipment and appurtenances thereof.
- (4) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.

(Code 1975, § 5-5)

Sec. 6-32. - International Building, Mechanical, Plumbing and Fire Code adopted.

That a certain document, of which are on file in the office of the Building Inspections Department of the Town of Burgaw, being marked and designated as the International Building, Mechanical, Plumbing and North Carolina State Building Code: Fire Prevention Code 2012 Edition and Appendices B, C and F, as published by the International Code Council and the North Carolina Code Council is hereby adopted as the code of the Town of Burgaw for regulating and governing the safeguarding of life, health and property in the occupancy of buildings and premises in the Town of Burgaw and its ETJ and providing for the issuance of permits; and each and all of the regulations, provisions, conditions and terms of such International Building, Mechanical, Plumbing and North Carolina State Building Code: Fire Prevention Code 2012 Edition and Appendices B, C and F Fire Code, published by the International Code Council, on file in the office of the Town of Burgaw Inspections Department are hereby referred to, adopted and made a part hereof as if fully set out in this section.

(Ord. No. 2006-63, § 1, 1-1-2007; [Ord. No. 2014-05, § 1, 2-11-2014](#))

Secs. 6-33, 6-34. - Reserved.

Editor's note— Ordinance No. 2006-63, § 1, adopted January 1, 2007, did not specifically amend the Code. Therefore, such ordinance has been added as replacing §§ 6-32—6-34 with § 6-32 as herein set out. Formerly, such sections pertained to building code, plumbing code, heating

and mechanical code adopted and derived from § 5-6 of the 1975 Code; Ord. No 2002-2, §§ a.—c., 1-8-2002; Ord. No. 2002-16, 8-12-2002.

Sec. 6-35. - Electrical code adopted.

The current edition of the North Carolina Electrical Code, including appendix, as adopted by the state building code council and as amended, is hereby adopted by reference as fully as though set forth herein as the electrical code for the town.

(Code 1975, § 5-9; Ord. No. 2002-2, § d., 1-8-2002; Ord. No. 2002-16, 8-13-2002)

Sec. 6-36. - Residential building code adopted.

The current edition of the North Carolina Uniform Residential Building Code, including appendix, as adopted by the state building inspectors association and as published by the state building code council and as amended is hereby adopted by reference as fully as though set forth herein as the residential building code for one- and two-family residential buildings in the town.

(Code 1975, § 5-10; Ord. No. 2002-2, § e., 1-8-2002; Ord. No. 2002-16, 8-13-2002)

Sec. 6-37. - Amendments.

Amendments to the regulatory codes adopted by reference in this article, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time such amendments are adopted by the board of commissioners and filed with the town clerk as provided in section 6-39.

(Code 1975, § 5-11)

Sec. 6-38. - Required compliance.

- (a) All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished or moved shall conform to the requirements, minimum standards and other provisions of either the International Building Code or the North Carolina Uniform Residential Building Code, whichever is applicable, or of both if both are applicable.
- (b) Every building or structure intended for human habitation, occupancy or use shall have plumbing, plumbing systems or plumbing fixtures installed, constructed, altered, extended, repaired or reconstructed in accordance with the minimum standards, requirements and other provisions of the International Plumbing Code.
- (c) All mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel-burning equipment and appurtenances shall be installed, erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the International Mechanical Code.
- (d) All electrical wiring, installations and appurtenances shall be erected, altered, repaired, used and maintained in accordance with the minimum standards, requirements and other provisions of the North Carolina Electrical Code.
- (e) No ceiling or walls shall be sealed until the framing, electrical, plumbing and vent systems have been inspected and an inspection certificate issued for compliance with predetermined standards and specifications.

(Code 1975, § 5-12; Ord. No. 2002-2, § h., 1-8-2002; Ord. No. 2006-63, § 1, 1-1-2007)

Sec. 6-39. - Copies on file in building inspector's office.

An official copy of each regulatory code adopted in this article and official copies of all amendments thereto shall be kept on file in the office of the building inspector. Such copies shall be the official copies of the codes and the amendments.

(Code 1975, § 5-13)

Sec. 6-40. - Fuel gas code adopted.

The current edition of the North Carolina Fuel Gas Code, including appendix, is hereby adopted by reference as fully as though set forth herein as the fuel gas code for the town.

(Ord. No. 2002-2, § f., 1-8-2002; Ord. No. 2002-16, 8-13-2002)

Sec. 6-41. - Energy conservation code adopted.

The current edition of the North Carolina Energy Conservation Code, including appendix, is hereby adopted by reference as fully as though set forth herein as the energy conservation code for the town.

(Ord. No. 2002-2, § g., 1-8-2002; Ord. No. 2002-16, 8-13-2002)

Secs. 6-42—6-60. - Reserved.

ARTICLE III. - MINIMUM HOUSING CODE^{[2](#)}

Footnotes:

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State Law reference— Municipal authority to adopt minimum housing standards, G.S. 160A-444.

DIVISION 1. - GENERALLY

Sec. 6-61. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. When the words "dwelling," "dwelling unit," "roominghouse," "rooming unit" or "premises" are used, they shall be construed as though they were followed by the words "or any part thereof."

Alter and *alteration* mean any change or modification in construction or occupancy.

Approved means approved by the housing inspector.

Basement means a portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" shall be construed as if followed by the words "or part thereof."

Cellar means a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Deteriorated means that a dwelling is unfit for human habitation and can be repaired, altered or improved to comply with all the minimum standards established by this article at a reasonable cost in relation to its value, as determined by findings of the inspector.

Dilapidated means that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all the minimum standards established by this article at a reasonable cost in relation to its value, as determined by findings of the inspector.

Dwelling means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants whether or not such building is occupied or vacant, provided that temporary housing, as hereinafter defined, shall not be regarded as a dwelling.

Dwelling units means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating, whether or not such unit is occupied or vacant.

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by other recognized and legal pest elimination methods approved by the inspector.

Family means one or more persons living together, who are related by blood, marriage or adoption, and having common housekeeping facilities.

Floor area means the total area of all habitable rooms in a building or structure.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

Hearing officer means a public officer designated by the town, as defined in G.S. 160A-442, who is charged with conducting hearings, including administering oaths and affirmations, examining witnesses, receiving evidence, making findings of fact, and issuing orders, as provided in the requirements of this article.

Housing inspector means a public officer designated by the town, as defined in G.S. 160A-442, with a minimum of three years of housing inspection experience, who is charged with the administration and enforcement of this article.

Infestation means the presence, within or around a dwelling, of any insects, rodents or other pests in such numbers as to constitute a menace to the health, safety or welfare of the occupants or to the public.

Multiple dwelling means any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of more than two families, living independently of each other and doing their own cooking in the building, and shall include flats and apartments.

Occupant means any person over one year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

Openable area means that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Operator means any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

Owner means the holder of the title in fee simple and every mortgagee of record.

Parties in interest means all individuals, associations and corporations who have interests of record in a dwelling or any who are in possession thereof; or shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Plumbing means the practices, materials and fixtures used in the installation, maintenance, extension and alteration of all piping, fixtures, appliances and appurtenances in connection with any of the following: sanitary drainage or storm drainage facilities; the venting system; and public or private water supply system within or adjacent to any building, structure or conveyance; also, the practice and materials used in the installation, maintenance, extension or alteration of stormwater, liquid waste or sewerage, and water supply systems of any premises to their connection with any point of public disposal.

Premises means a lot, plot or parcel of land, including the building or structure thereon.

Public areas means an unoccupied open space adjoining a building and on the same property that is permanently maintained accessible to the fire department and free of all encumbrances that might interfere with its use by the fire department.

Required means required by some provision of this article.

Residential occupancy means buildings in which families or households live or in which sleeping accommodations are provided. Such buildings include, among others, the following: dwellings, multiple dwellings, lodginghouses and all dormitories.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Roominghouse means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not members of the family of the owner or operator.

Rubbish means combustible and noncombustible waste materials, except garbage, and the term shall include ashes, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

Stairway means one or more flights of stairs and the necessary landings and platforms connecting them, to form a continuous and uninterrupted passage from one story to another in a building or structure.

Story means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

Supplied means paid for, furnished or provided by or under control of the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

Unfit for human habitation means the same as defined by section 6-114.

Ventilation means the process of supplying and removing air by natural or mechanical means to or from any space.

Yard means an open, unoccupied space on the same lot with a building extending along the entire length of a street, or rear or interior lot line.

(Ord. of 5-16-1989, § 1-103)

Cross reference— Definitions generally, § 1-2.

Sec. 6-62. - Findings.

Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation and/or are inimical to the welfare and dangerous and injurious to the health, safety and morals of the people of the town due to dilapidation defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light or sanitary facilities; and due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety, or morals, or otherwise inimical to the welfare of the residents of the town.

(Ord. of 5-16-1989, § 1-101)

Sec. 6-63. - Scope.

- (a) This article is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof—which are public safety, health and general welfare—through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, roominghouses or buildings, structures or premises used as such.
- (b) The provisions of this article shall apply to all existing housing and to all housing hereafter constructed within the town. Portable, mobile or demountable buildings or structures, including trailers when used or intended for use for housing within the town shall be subject to the applicable provisions of this article. This article establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in this article.

(Ord. of 5-16-1989, § 1-102)

Sec. 6-64. - Conflicting provisions.

In any case where a provision of this article is found to be in conflict with a provision of any zoning, building, fire, safety or health provisions of this Code or ordinances or codes of the town, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(Ord. of 5-16-1989, § 3-310)

Sec. 6-65. - Reports by employees of police department.

The employees of the police department of the town shall make a report, in writing to the housing inspector, of each dwelling which they know or suspect may be unfit for human habitation or dangerous within the scope of this article. Any such report shall be delivered to the housing inspector within 48 hours of the discovery of such dwelling by such employee of the police department.

(Ord. of 5-16-1989, § 1-104)

Secs. 6-66—6-80. - Reserved.

DIVISION 2. - MINIMUM STANDARDS FOR BASE EQUIPMENT AND FACILITIES

Sec. 6-81. - Compliance generally.

No person shall occupy as owner-occupied or let or sublet to another for occupancy, any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the requirements set out in this division.

(Ord. of 5-16-1989, § 2-201)

Sec. 6-82. - Sanitary facilities required; location.

- (a) Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower and a water closet, all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition, free from defects, leaks and obstructions.
- (b) All required sanitary facilities shall be located within the dwelling unit and shall be accessible to the occupants. The water closet, tub or shower, and lavatory in at least one bathroom shall be located in a room affording privacy to the user, and such rooms shall have minimum floor space of 30 square feet.

(Ord. of 5-16-1989, § 2-201(1), (2))

Sec. 6-83. - Hot and cold water supply.

Every dwelling unit shall have connected to the kitchen sink, lavatory and tub or shower an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(Ord. of 5-16-1989, § 2-201(3))

Sec. 6-84. - Heating facilities.

- (a) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit therein to a temperature of at least 60 degrees Fahrenheit at a distance three feet above the floor during ordinary minimum winter conditions.
- (b) Where a gas or electric central heating system is not provided, such dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents, whereby heating appliances may be connected so as to furnish a minimum temperature of 60 degrees Fahrenheit measured at a point three feet above the floor during ordinary minimum winter conditions, and in safe and proper working order.

(Ord. of 5-16-1989, § 2-201(4))

Sec. 6-85. - Cooking and heating equipment.

All cooking and heating equipment and facilities shall be installed in accordance with the appropriate building, gas or electrical code and shall be maintained in a safe and good working condition.

(Ord. of 5-16-1989, § 2-201(5))

Sec. 6-86. - Garbage storage and disposal.

Every dwelling unit or multifamily dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit; an incinerator unit, to be approved by the housing inspector, in the structure for the use of the occupants of each dwelling unit; or an approved outside garbage can.

(Ord. of 5-16-1989, § 2-201(6))

Sec. 6-87. - Light and ventilation.

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking and eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:

- (1) *Windows facing outdoors.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be eight percent of the floor area of such room. Whenever the only window in a room is a skylight-type window in the top of the room, the total window area of such skylight shall equal at least 15 percent of the total area of such room.
- (2) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can safely be opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type size, as required, or the room shall have other approved equivalent ventilation.
- (3) *Bathroom.* Every bathroom shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms equipped with an approved ventilation system.
- (4) *Electrical lights and outlets.* Every dwelling shall be adequately and safely wired for electrical lights and convenience receptacles. Every habitable room and hallway shall have provisions for adequate lighting and other necessary electrical service.
- (5) *Light in public halls and stairways.* Every public hall and stairway in every multiple dwelling containing five or more dwelling units shall be adequately lighted at all times. Every public hall and stairway in structures devoted solely to dwelling occupancy and containing not more than four dwelling units may be supplied with conveniently located light switches, controlling an adequate lighting system which may be turned on when needed instead of fulltime lighting.

(Ord. of 5-16-1989, § 2-202)

Sec. 6-88. - Electrical systems.

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:

- (1) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed and connected to the source of electric power in accordance with the adopted electrical code of the county.
- (2) The minimum capacity of the service supply and the main disconnect switch shall be sufficient to adequately carry the total load required in accordance with the adopted electrical code of the county.

(Ord. of 5-16-1989, § 2-203)

Sec. 6-89. - Exterior and interior structural requirements.

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking, or eating therein, nor shall any vacant dwelling building be permitted to exist which does not comply with the following requirements:

- (1) *Foundation.* The building foundation walls, piers or other elements shall be maintained in a safe manner and capable of supporting the load which normal use may cause to be placed thereon.
- (2) *Exterior walls.* The exterior walls shall be substantially weathertight, watertight and shall be made impervious to the adverse effects of weather and shall be maintained in sound condition and good repair.
- (3) *Roofs.* Roofs shall be maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.
- (4) *Means of egress.* Every dwelling unit shall have two safe, unobstructed means of egress with minimum ceiling height of seven feet leading to a safe and open space at ground level.
- (5) *Stairs.* Every inside and outside stair shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.
- (6) *Porches and appurtenances.* Every outside porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.
- (7) *Windows and doors.* Every window, exterior door and basement or cellar door and hatchway shall be substantially weathertight, watertight and rodentproof, and shall be kept in sound working condition and good repair.
- (8) *Windows to be glazed.* Window panes or an approved substitute shall be maintained without cracks or holes which allow passage of air.
- (9) *Window sash.* Window sash shall be properly fitted and weathertight within the window frame.
- (10) *Hardware.* Every exterior door shall be provided with proper hardware and maintained in good condition.
- (11) *Door frames.* Every exterior door shall fit reasonably well within its frame so as to substantially exclude rain and wind from entering the dwelling building.
- (12) *Accessory structures.* Garages, storage buildings and other accessory structures shall be maintained and kept in good repair and sound structural condition.
- (13) *Interior floors, walls and partitions.* Every floor, wall or partition shall be substantially rodentproof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

- (14) *Ceilings.* Every interior ceiling shall be substantially rodentproof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- (15) *Structural supports.* Every structural element of the dwelling shall be structurally sound and show no evidence of deterioration which would render it incapable of carrying loads which normal use may cause to be placed thereon.
- (16) *Protective railings.* Protective railings shall be required on any unenclosed structure over 30 inches above adjacent finish grade or on any steps containing four risers or more. Interior stairs and stairwells more than four risers high shall have handrails located in accordance with requirements of the building code. Handrails or protective railings shall be capable of bearing normally imposed loads and shall be maintained in good condition.

(Ord. of 5-16-1989, § 2-204)

Sec. 6-90. - Space and use requirements.

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking and eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:

- (1) *Required space in dwelling unit.* Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor area per each additional occupant.
- (2) *Required space in sleeping rooms.* In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof.
- (3) *Minimum ceiling height.* At least one-half of the floor area of every habitable room, foyer, hall or corridor shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than seven feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- (4) *Occupancy of dwelling unit below grade.* No basement or cellar space shall be used as a habitable room or dwelling unit unless meeting all specifications for habitable rooms.

(Ord. of 5-16-1989, § 2-205)

Sec. 6-91. - Sanitation.

No person shall occupy as owner-occupant or let or sublet to another for occupancy any dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking and eating therein, nor shall any vacant dwelling be permitted to exist which does not comply with the following requirements:

- (1) *Sanitation.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.
- (2) *Cleanliness.* Every owner or occupant of a dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or controls or which is provided for his particular use.
- (3) *Garbage disposal.* Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and

sanitary manner by placing it in the garbage disposal facilities or garbage or rubbish storage containers.

- (4) *Extermination.* Every occupant of a single dwelling and every owner of a building containing two or more dwelling units shall be responsible for the extermination of any insects, rodents or other pests within the building or premises.
- (5) *Use and operation of supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- (6) *Sanitary conditions.* The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every other part of the roominghouse; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

(Ord. of 5-16-1989, § 2-206)

Sec. 6-92. - Roominghouses.

No person shall occupy a roominghouse, nor shall occupy or let to another for occupancy any rooming unit in any roominghouse, except in compliance with the provisions of every section of this division and particularly the provisions of section 6-81 and section 6-90. In addition:

- (1) *License required.* No person shall operate a roominghouse unless he holds a valid roominghouse license.
- (2) *Water closet, lavatory and bath facilities.*
 - a. At least one flush water closet, lavatory basin and bathtub or shower properly connected to a water and sewer system and in good working condition shall be supplied for each four rooms within a roominghouse wherever such facilities are to be shared.
 - b. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing the facilities.
- (3) *Water heater required.* Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.
- (4) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one person shall contain at least 70 square feet of floor space and every room occupied for sleeping purposes by more than one person shall contain at least 50 square feet for each occupant thereof.
- (5) *Exit requirement.* Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by all applicable building codes.

(Ord. of 5-16-1989, § 2-207)

Sec. 6-93. - Application of North Carolina Uniform Residential Building Code.

The North Carolina Uniform Residential Building Code, 1996 edition and amendments, shall govern all repairs, alterations and/or additions to any existing structure where not specified herein.

(Ord. of 5-16-1989, § 2-208)

Secs. 6-94—6-110. - Reserved.

DIVISION 3. - ENFORCEMENT

Sec. 6-111. - Housing inspector, hearing officer—Offices created.

The offices of the housing inspector and hearing officer are hereby created. The minimum housing hearing officer and/or the minimum housing inspector shall be the officers to enforce the provisions of the article and to exercise the duties and powers herein prescribed. The housing inspector shall have housing inspection experience.

(Ord. of 5-16-1989, § 3-301)

Cross reference— Officers and employees, § 2-101 et seq.

Sec. 6-112. - Same—Powers generally.

The housing inspector and/or hearing officer shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article including, without limiting the generality of the foregoing in addition to others herein granted, the following powers:

- (1) *Investigations.* To investigate dwelling and building conditions in the town in order to determine which dwellings therein are unfit for human habitation and dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this article.
- (2) *Oaths, witnesses, etc.* To administer oaths and affirmations and to examine witnesses and receive evidence.
- (3) *Right of entry.* To enter upon and within premises and dwellings for the purpose of making examinations and investigations, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.
- (4) *Delegation of functions, powers.* To delegate any of his functions and powers under this article to such officers and agents as he may designate.

(Ord. of 5-16-1989, § 3-302)

Sec. 6-113. - Inspections; duties of owners and occupants.

The housing inspector is hereby authorized and directed to make inspections in compliance with the minimum housing code approved by the board of commissioners to determine the condition of dwellings, dwelling units, rooming units and premises located within the town in order that he may perform his duty of safeguarding the health and safety of the occupant of dwellings and of the general public. For the purpose of making such inspections, the housing inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purpose of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit or its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

(Ord. of 5-16-1989, § 3-303)

Sec. 6-114. - Residential buildings unfit for human habitation; determination.

- (a) The housing inspector shall determine that a resident building is unfit for human habitation if he finds that any of the following conditions exist in such building:
 - (1) Interior walls or vertical studs which seriously list, lean or buckle to such an extent as to render the building unsafe.
 - (2) Supporting member or members which show 33 percent or more damage or deterioration, or nonsupporting, enclosing or outside walls or covering which show 50 percent or more of damage or deterioration.
 - (3) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
 - (4) Such damage by fire, wind or other causes as to render the building unsafe.
 - (5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the town.
 - (6) Inadequate facilities for egress in case of fire or panic.
 - (7) Defects significantly increasing the hazards of fire, accident or other calamities.
 - (8) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the town.
 - (9) Lack of proper electrical, heating or plumbing facilities required by this article which constitutes a health or a definite safety hazard.
- (b) Notwithstanding the provisions of subsection (a) of this section, a residential dwelling unit shall be construed by the housing inspector to be unfit for human habitation and he shall so find if such dwelling unit contains more than seven separate types of violations of any of the minimum standards set forth in this article.

(Ord. of 5-16-1989, § 4-402)

Sec. 6-115. - Procedure for enforcement.

- (a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the inspector by a public authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the inspector, upon inspection, on his own motion, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and any parties in interest in such dwellings or dwelling units, a complaint stating the charges in that respect and containing a notice that a hearing will be held before the inspector, or his designated agent, at a place within the county in which the property is located, fixed not less than ten nor more than 30 days after the serving of the complaint. The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of the hearing shall also be given to at least one of the persons signing a petition relating to the dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.
- (b) *Procedure after hearing.*
 - (1) After notice and hearing pursuant to subsection (a) of this section, the inspector shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

- (2) If the inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of his determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter in order to render it fit for human habitation within a specified period of time, not to exceed 90 days. The order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made.
 - (3) If the inspector determines that the dwelling or dwelling unit is dilapidated, he shall state in writing his findings of fact to support his determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to vacate and close the dwelling, and to remove or demolish it and clear the debris therefrom, or repair, alter or improve it to comply with the minimum standards of fitness established by this chapter in order to render the dwelling or dwelling unit fit for human habitation within a specified period of time, not to exceed 90 days.
- (c) *Ordinance required to effectuate purpose of article; owner to be given reasonable time to comply.* The duties of the hearing officer set forth in subsections (b)(2) and (b)(3) of this section shall not be exercised until the board of commissioners has, by ordinance, ordered the hearing officer to proceed to effectuate the purpose of this article with respect to the particular property or properties which the hearing officer has found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. Such ordinances shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.
- (d) *Cost to be a lien against the real property; procedure for dispensing proceeds from sale of demolished dwelling.* The amount of the cost of such repairs, alterations or improvements; vacating and closing; or demolition and removal by the town shall be a lien against the real property upon which such cost was incurred; which lien shall be filed, have the same priority and be collected as provided by G.S. 160A-216 et seq. If the dwelling is demolished and removed by the town, the hearing officer shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the demolition and removal, and any balance remaining shall be deposited in the superior court by the hearing officer, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order of decree of the court (in a special proceeding brought before the clerk of superior court for that purpose).
- (e) *Section provisions not to limit power of town to declare nuisances; other remedies.* Nothing in this section shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided in this section prevent the enforcement of the other remedies provided in this section.

(Ord. of 5-16-1989, § 3-304)

Sec. 6-116. - Methods of service of complaints, orders.

- (a) Complaints issued by an inspector or orders issued by a hearing officer shall be served upon persons either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the whereabouts cannot be ascertained by the inspector in the exercise of reasonable diligence and the inspector shall make an affidavit to that effect, then the serving of such complaint or order upon such person may be made by publishing the complaint or order at least once in a newspaper printed and published in the town and no later than the time at which personal service would be required under provisions of this division. When service is made by publication, a

copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order.

- (b) Failure on the part of any owner or party in interest to receive or have served upon him any complaint, notice or order herein provided for shall not affect or invalidate the proceedings with respect to any other owner or party in interest or any other person.

(Ord. of 5-16-1989, § 3-307)

Sec. 6-117. - Right of appeal.

Any owner or person who is aggrieved with the ruling or decision of the hearing officer in any matter relative to the interpretation or enforcement of any of the provisions of this article may appeal any such decision, as outlined in G.S. 160A-446.

(Ord. of 5-16-1989, § 3-308)

Sec. 6-118. - Recovery of costs; supervision of contract work.

The amount of the cost of such repairs, alterations or improvements, vacating and closing; or removal or demolition by the town pursuant to this division shall be a lien against the real property upon which such cost was incurred. If the dwelling is removed or demolished by the town, the hearing officer shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the hearing officer, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order of decree of the court. Repairs, alterations, improvements or demolitions may be made under the supervision of the housing inspector or he may let such repairs, alterations, improvements or demolitions to contract on competitive bids, or by private contract if no bids are received. Vacating and closing buildings shall be done under the supervision of the housing inspector.

(Ord. of 5-16-1989, § 3-309)

Chapter 8 - BUSINESSES^{[11](#)}

Footnotes:

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Cross reference— Utilities, ch. 36.

State Law reference— License taxes generally, G.S. 105-33 et seq.; authority of town to regulate and license businesses, trades, etc., G.S. 160A-194; privilege license taxes on trades, professions, etc., G.S. 160A-211.

ARTICLE I. - IN GENERAL

Secs. 8-1—8-30. - Reserved.

ARTICLE II. - PRIVILEGE LICENSE TAXES

DIVISION 1. - GENERALLY

Sec. 8-31. - Definitions.

When used in this article, unless the context requires a different meaning, the following words shall have the meanings respectively ascribed:

Business means each trade, occupation, profession, business, and franchise taxed under this article. A business is seasonal in nature when it is conducted for profit six months out of the year or less.

Conducts business means engaging in a business activity of any type, either as owner or operator of the business by:

- (1) Maintaining a business location within the town;
- (2) Soliciting business within the town; or
- (3) Performing services within the town.

Person means any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

Seasonal means a business which is conducted for profit six months out of the year or less.

(Ord. No. 1999-1, § 1, 4-12-1999)

Cross reference— Definitions generally, § 1-2.

Secs. 8-32—8-50. - Reserved.

DIVISION 2. - LEVY

Sec. 8-51. - Levy of tax.

An annual privilege license tax is hereby levied on each business conducted within this town.

(Ord. No. 1999-1, § 2, 4-12-1999)

Sec. 8-52. - Who must pay tax.

Each person who conducts business within this town is subject to this article.

(Ord. No. 1999-1, § 3, 4-12-1999)

Sec. 8-53. - Period of license; due date.

- (a) *Annual licenses*. Unless the section of this article levying the privilege license tax applicable to a particular business provides otherwise, a license issued in accordance with this article is good for the 12-month period beginning July 1 and ending June 30. The tax is due on July 1 of each year. However, if a person begins business after July 1 of a year, the tax for that year is due before the business is begun.
- (b) *Licenses for periods shorter than one year*. If the privilege license tax applicable to a particular business so provides, a license may be issued for a period of one day, one week, or some comparable period of less than a full license year. A person may not commence a business conducted within the town and taxed under such a provision until the privilege license tax due is paid and may not continue such a business beyond the period for which the license is issued.

(Ord. No. 1999-1, § 4, 4-12-1999)

Sec. 8-54. - Proration of tax.

If a business is begun after January 31 and before July 1, the amount of the annual tax due is half the amount otherwise due. If a business is seasonal in nature and the amount of tax is not based on gross receipts, the amount of annual tax due is half the amount otherwise due.

(Ord. No. 1999-1, § 5, 4-12-1999)

Sec. 8-55. - Refunds.

If for any reason a licensee discontinues his business during the license year, he is not entitled to a refund.

(Ord. No. 1999-1, § 6, 4-12-1999)

Sec. 8-56. - Separate businesses.

A separate license is required and a separate privilege license tax must be paid for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other, and are operated as a unit. In addition a separate privilege license tax must be paid for each business taxable under this article conducted by the taxpayer at any one location; however, the tax collector may issue a single license for all taxable business conducted at one location by a single taxpayer.

(Ord. No. 1999-1, § 7, 4-12-1999)

Sec. 8-57. - Exemptions.

- (a) *Generally.* Except as otherwise provided in this section or by state law, no person is exempt from payment of a privilege license tax levied by this article.
- (b) *Charitable organizations.* A person who operates a business for a religious, educational, civic, patriotic, charitable, or fraternal purpose, when the entire gross income of the business is used for such a purpose, is exempt from paying any privilege license tax levied by this article.
- (c) *Blind persons and members of the armed forces and merchant marine.* Blind persons and persons who serve in the United States armed forces or the merchant marine are exempt from paying any privilege license tax levied by this article to the extent provided by G.S. 105-249 and G.S. 105-249.1.
- (d) *Must obtain license.* A person exempt from paying a privilege license tax levied by this article shall nevertheless obtain a license from the tax collector. The license shall state that the licensee is exempt from paying the privilege license tax.

(Ord. No. 1999-1, § 8, 4-12-1999)

Secs. 8-58—8-75. - Reserved.

DIVISION 3. - LICENSES

Sec. 8-76. - Application.

A person shall apply to the tax collector for each license required by this article no less than 30 days before the date the tax is due. The application, which shall be submitted on forms provided by the tax collector, shall contain:

- (1) The name of the applicant and whether the applicant is an individual, a partnership, a corporation, or some other entity.
- (2) The nature of the business.
- (3) Where the business is conducted.
- (4) An address where notices and statements can be mailed as required by this article.
- (5) Any other information the tax collector determines to be necessary to compute the amount of tax due.

(Ord. No. 1999-1, § 9, 4-12-1999)

Sec. 8-77. - Reasons for revocation of license.

The tax collector shall refuse to issue or shall revoke a license for either of the following reasons:

- (1) The applicant misrepresents a fact relevant to the amount of tax due or his qualifications for a license.
- (2) The applicant refuses to provide information necessary to compute the amount of tax due.
- (3) The applicant fails to comply with any town zoning ordinance.

(Ord. No. 1999-1, § 10, 4-12-1999)

Sec. 8-78. - Unqualified applicants; rights to a conference.

- (a) After receipt of the completed application, if the tax collector believes that a reason exists for refusing a license under section 8-77, the tax collector shall refuse to accept payment of the tax and shall not issue the license. At the applicant's request, the tax collector shall in accordance with section 8-87, give the applicant a written statement of the reason for refusing the license. The applicant may, within ten days after the day the statement is received, request a conference to discuss the refusal. In the request the applicant shall specify why the application for a license should not be refused. The tax collector shall arrange the conference within a reasonable time.
- (b) If the collector refuses to issue a license, the applicant may reapply for a license at any time thereafter. If the reason for which the application was refused no longer exists, and if no other reason exists for refusing to issue a license, the tax collector shall issue the license in compliance with section 8-79.

(Ord. No. 1999-1, § 11, 4-12-1999)

Sec. 8-79. - Tax collector to issue license; payment of tax a prerequisite.

After receipt of the completed application, if the tax collector believes that no reason exists for refusal of a license under section 8-77, the tax collector shall forward the completed application to the zoning administrator, who will determine if the operation is permitted at the stated location and if any other planning oriented permits are necessary. Upon review and approval of the application by the zoning administrator the application will be returned to the tax collector. The tax collector shall then determine the amount of tax due and notify the applicant of that amount. The tax collector shall not issue a license until the tax is paid.

(Ord. No. 1999-1, § 12, 4-12-1999)

Sec. 8-80. - Amount of tax disputed.

If disputes arise over the amount the tax collector determines to be due, the applicant may either refuse to pay and request a conference with the tax collector to discuss the determination or pay the amount of the tax and request a conference to discuss the right to a refund. If a conference is requested the tax collector shall arrange it within a reasonable time.

(Ord. No. 1999-1, § 13, 4-12-1999)

Sec. 8-81. - Revocation.

- (a) The tax collector shall revoke a license if reason exists to revoke it as set forth in section 8-77. Before revoking a license, the tax collector shall give licensee written notice of the grounds for revocation, in accordance with section 8-87. The licensee may within ten days after the day on which the notice is served request a conference with the tax collector in writing. The request shall specify the reasons why the license should not be revoked. The tax collector shall arrange the conference within a reasonable time.
- (b) If the licensee fails to request a conference within ten days after the day on which the written notice is served, the tax collector shall revoke the license. If the licensee requests a conference, the tax collector may not revoke the license until after the conference.
- (c) If the tax collector revokes a license, the former licensee may apply for a new license at any time thereafter. If the reason for which the license was revoked no longer exists and no other reason exists for refusing to issue a license, the tax collector shall issue the license in accordance with section 8-79.

(Ord. No. 1999-1, § 14, 4-12-1999)

Sec. 8-82. - Form and content of license.

A license shall show the name of the person licensed, the place where the business is conducted (if it is to be conducted at one place), the nature of the business licensed, the period for which the license is issued, and the amount of tax paid. In addition, if a machine is licensed, the license shall show the serial number of the machine. The tax collector shall keep a copy of each license issued.

(Ord. No. 1999-1, § 15, 4-12-1999)

Sec. 8-83. - Assignments.

A license may be assigned if:

- (1) A business licensed under this article and carried on at a fixed place is sold as a unit to any person; and
- (2) The purchaser is to carry on the same business at the same place.

Such a change shall be reported to the tax collector in accordance with section 8-84. Otherwise, each license issued under this article is a personal privilege and is not assignable.

(Ord. No. 1999-1, § 16, 4-12-1999)

Sec. 8-84. - Changes in the business conducted by licensee during the tax year.

A licensee or assignee shall report a change in the information contained in the license application to the tax collector within ten days after the change occurs. If information shown on the license itself is affected, the licensee shall surrender the license to the tax collector when reporting the change.

- (1) *Changes affecting the amount of tax due.* If there are no reasons for revoking the license under section 8-77 and the change results in the imposition of a separate or additional tax, the tax collector shall reissue a license reflecting the change upon payment of the separate or additional tax.
- (2) *Changes not affecting the amount of tax due.* If there are no reasons for revoking the license under section 8-77 and the change does not result in an imposition of a separate or additional tax, the tax collector shall reissue a license reflecting the change upon payment of a fee of \$10.00.
- (3) *Change requiring refusal of a license.* If there is reason for revoking the license under section 8-77, the tax collector shall refuse to reissue a license and shall instead begin proceedings to revoke the license in accordance with section 8-81.

(Ord. No. 1999-1, § 17, 4-12-1999)

Sec. 8-85. - Tax collector to furnish duplicates.

Upon satisfactory proof that a license has been lost or destroyed, the tax collector shall furnish a duplicate for a fee of \$10.00.

(Ord. No. 1999-1, § 18, 4-12-1999)

Sec. 8-86. - Record of conferences.

The tax collector shall maintain for three years a record of each conference held in accordance with this article. The record shall contain the applicant's or licensee's name, the date of the conference, and a brief statement of the issues discussed and the result reached. After three years, the tax collector shall dispose of the record in accordance with G.S. 121-5.

(Ord. No. 1999-1, § 19, 4-12-1999)

Sec. 8-87. - Providing notice to an applicant or licensee.

Whenever this article requires the tax collector to give a written statement or notice to an applicant or a licensee, the tax collector may do so in one of three ways:

- (1) By personally delivering the statement or notice to the applicant or licensee;
- (2) By mailing the statement or notice by registered or certified mail and returning the receipt requested to the address specified for that purpose in the license application; or
- (3) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under rule 4, North Carolina Rules of Civil Procedure.

(Ord. No. 1999-1, § 20, 4-12-1999)

Secs. 8-88—8-105. - Reserved.

DIVISION 4. - ENFORCEMENT AND COLLECTION

Sec. 8-106. - Duty to determine whether tax due.

Each person has the duty to determine whether the business he conducts is taxed under this article and if so, whether tax has been paid for the current tax year.

(Ord. No. 1999-1, § 21, 4-12-1999)

Sec. 8-107. - Investigation.

If the tax collector has reason to believe that a person is conducting a business in the town in violation of this article, the tax collector shall conduct an investigation to determine the person's tax liability.

(Ord. No. 1999-1, § 22, 4-12-1999)

Sec. 8-108. - Duty to keep books.

Each person who conducts a business taxed under this article shall keep all records and books necessary to compute the tax liability. If a person fails to keep books and records as required, the tax collector shall make a determination of that person's tax liability from the information available.

(Ord. No. 1999-1, § 23, 4-12-1999)

Sec. 8-109. - Duty to permit inspection.

Each person who conducts business in the town shall permit the tax collector to inspect the business premises during normal business hours to determine the nature of the business conducted there and to examine the books and records to determine the nature and amount of business transacted.

(Ord. No. 1999-1, § 24, 4-12-1999)

Sec. 8-110. - Duty to post license.

A licensee shall post the license conspicuously in the place of business licensed. If the licensee has no regular place of business, the license must be kept where it may be inspected at all times by the proper town officials. If a machine is licensed, the license shall be affixed to the machine.

(Ord. No. 1999-1, § 25, 4-12-1999)

Sec. 8-111. - Notice of deficiency.

If the tax collector determines that a person has not paid the full amount of tax due under this article, either for the current license year or for a prior license year, the tax collector shall give the person written notice of the deficiency in accordance with section 8-87. The notice of deficiency shall specify the total amount of tax due, the section of this article upon which the tax is based, the amount of tax paid, any interest due, the balance owed, the manner and time period in which the person may respond to the notice of the deficiency, and the consequences of failing to respond as specified.

(Ord. No. 1999-1, § 26, 4-12-1999)

Sec. 8-112. - Request for a conference.

The person may, within ten days after the day on which the notice is served, request a conference in writing. The request shall specify the person's objections to the notice of deficiency. By way of illustration but not limitation, a person who receives notice of deficiency may object on the following grounds:

- (1) That the tax due has already been paid;
- (2) That the tax collector miscalculated the amount of tax due;
- (3) That the tax collector based his calculation on incorrect or insufficient information concerning either the nature or the amount of business conducted; or
- (4) That the tax collector based the determination on an erroneous interpretation of a section of this article that establishes a category of business subject to a particular tax.

(Ord. No. 1999-1, § 27, 4-12-1999)

Sec. 8-113. - Deficiency to become final.

If the taxpayer fails to request a conference under section 8-112, the deficiency becomes final and the tax collector shall proceed to collect the deficiency.

(Ord. No. 1999-1, § 28, 4-12-1999)

Sec. 8-114. - Conference held.

If the taxpayer requests a conference, the tax collector shall not proceed to collect the deficiency until hearing the taxpayer's objections and determining that the deficiency should become final. The tax collector shall maintain a record of each conference held for three years in accordance with section 8-86. The record shall contain the name of the taxpayer, the date of the conference, a brief statement of the issues discussed, and the results of the discussion. After three years, the tax collector shall dispose of the record in compliance with G.S. 121-5.

(Ord. No. 1999-1, § 29, 4-12-1999)

Sec. 8-115. - Collection of deficiency.

- (a) The tax collector may use any of the following methods to collect a deficiency:
 - (1) Criminal prosecution in accordance with subsection 8-116(a);
 - (2) Equitable relief in accordance with subsection 8-116(b);
 - (3) The remedies of levy, sale, attachment and garnishment in accordance with G.S. 105-109.
- (b) Any person who commences or continues to conduct a business taxed under this article without payment of the tax is liable for an additional tax of five percent every 30 days as imposed by G.S. 105-109.

(Ord. No. 1999-1, § 30, 4-12-1999)

Sec. 8-116. - Enforcement of article.

- (a) *Criminal remedies.* Conducting business within this town without having paid the privilege license tax imposed by this article, or without a valid license issued in accordance with this article, or without

posting a license in compliance with section 8-110 is a misdemeanor, punishable as provided in G.S. 105-109. Each day that a person conducts business in violation of this article is a separate offense. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this article.

- (b) *Equitable remedies.* In addition to the criminal remedies set forth in subsection (a) of this section and in compliance with G.S. 160A-175(d), the town may seek an injunction against any person who conducts business in violation of this article.

(Ord. No. 1999-1, § 31, 4-12-1999)

Sec. 8-117. - License fee schedule.

The license fee schedule is not printed herein but is on file in the office of the town clerk.

Secs. 8-118—8-140. - Reserved.

ARTICLE III. - TAXICABS^[2]

Footnotes:

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Cross reference— Traffic and vehicles, ch. 32.

State Law reference— Municipal authority to regulate taxis, G.S. 160A-304.

DIVISION 1. - GENERALLY

Sec. 8-141. - Definitions.

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

Contract vehicle means any passenger vehicle with a seating capacity of 15 persons or less which does not indiscriminately accept or solicit passengers and operates solely pursuant to a contract or agreement with a federal, state or local government agency or with a private business for the purpose of carrying, transporting or conveying persons or passengers from one place to another for which a charge or fee that is paid by the federal, state or local government agency or by a private business. Such contract vehicles shall not be subject to the provisions applicable to taxicabs within article III, chapter 8 of the Code of Ordinances. Contract Vehicles shall be subject to the same regulations as any other business operating within the town and they are required to obtain a privilege license annually with the town as provided for in section 8-53.

Driver, operator, etc., means to operate one or more taxicabs to engage in the taxicab business with such taxicabs in the town by causing taxicabs which are under one's ownership or control to be propelled, either by himself or by someone under his direction or supervision, for the purpose of carrying passengers for hire. An operator is a person who operates one or more taxicabs. To drive a taxicab shall mean to be physically in control of a taxicab whether or not such taxicab is in motion, when such taxicab is being used for, or is available or ready to be used for, the carrying of passengers for hire. A driver is one who drives a taxicab. The same person may or may not be both an operator and a driver.

Driver's permit means a permit issued after examination, by which authority is granted to a person to drive a taxicab under this article.

Exclusive ride service means the operation of a taxicab by transporting one passenger or a group of passengers from one trip origin to one destination or round trip and not allowing additional passengers to board until the prescribed destination is reached.

Limousines means any for-hire passenger vehicles which do not indiscriminately accept or solicit passengers for the purpose of carrying, transporting or conveying persons or passengers from place to another for which a charge or fee is made shall not be subject to the provisions applicable to taxicabs within article III, chapter 8 of the Code of Ordinances. Limousines shall be subject to the same regulations as any other business operating within the town and they are required to obtain a privilege license annually with the town as provided for in section 8-53.

Operator's license means the license issued to any person who is the owner of any taxicab operated under this article.

Taxicab means and includes any motor vehicle (other than those operated under the jurisdiction of and regulated by the North Carolina Utilities Commission) that indiscriminately accepts or solicits passengers for the purpose of carrying, transporting or conveying such persons or passengers from place to another for which a charge or fee is made, excluding contract vehicles and limousines as defined herein this article III, chapter 8 of the Code of Ordinances.

Taxicab inspector means and the person designated by the town manager or their designee, who is charged with the duties under article III, chapter 8 of the Code of Ordinances to inspect and license taxicabs and the drivers thereof.

Taximeter means an approved mechanical or electronic instrument or device attached to a taxicab by which the charge for the hire of a taxicab and its corresponding waiting time at a predetermined rate is mechanically or electronically calculated and registered for distance traveled and the period of time awaited and upon which such charges shall be identified by means of figures clearly visible for the passengers' information each time the taximeter flag is thrown for nonearning to earning position.

Waiting time means the period of time consumed which a taxicab is not in motion at the direction of a passenger from the time of acceptance or a passenger(s) to the time of discharge and also the time consumed while a driver is waiting for a passenger after having responded to a call; however, waiting time does not include:

- (1) The time consumed by a premature response;
- (2) The first three minutes following the timely arrival in response to a call;
- (3) The delay caused by traffic interruption;
- (4) The inefficiency of the taxicab or its driver; or
- (5) Any cause other than the request, act or fault of a passenger.

(Ord. of 2-15-1991, § 1; Ord. No. 2009-27, § I, 9-8-2009)

Cross reference— Definitions generally, § 1-2.

Sec. 8-142. - Markings.

Every taxicab operated within the town shall have the name of the owner thereof legibly painted on each side of the taxicab and on the rear, and the number thereof assigned by the owner. The lettering shall be painted upon the cab at the locations provided and be at least 2½ inches high and spaced at least one inch apart. If the taxicab is being operated by a lessee, the name of the lessee shall be prominently displayed on or inside such taxicab. The numbering and painting of letters and names as provided in this section shall be considered a condition precedent to the operation of any taxicab within the town, and no such taxicab shall be operated in taxicab service or for hire until the taxicab has been marked, numbered and lettered as required by this section.

(Ord. of 2-15-1991, § 2)

Sec. 8-143. - Reserved.

Editor's note— Ord. No. 2009-27, § II, adopted September 8, 2009, repealed § 8-143, which pertained to inspection of vehicles and derived from Ord. of 2-15-1991, § 3. See Division 4 to Article III for similar provisions.

Sec. 8-144. - Driver's permit.

- (a) No person shall drive any taxicab until such person shall have been granted a permit by the town manager to do so. Each application for a permit shall contain the name, age and address of the applicant, as well as a statement of whether the applicant has been convicted of a felony, the violation of any federal or state statute relating to the use, possession or sale of intoxicating liquors, any federal or state statute relating to prostitution or any federal or state statute relating to the use, possession or sale of narcotic drugs, whether such applicant is a citizen of the United States, whether the applicant is an habitual user of intoxicating liquors or narcotic drugs and whether the applicant has been an habitual violator of traffic laws and ordinances, the name of the owner of each vehicle for which a permit and license is applied, the motor and serial number, if a motor vehicle and such description of each vehicle as is required for the proper identification thereof.
- (b) Each driver's permit issued by the town manager under this section shall indicate the name, age and residence of the permittee and a copy of the photograph of the permittee shall be attached thereto. Every driver of a taxicab shall, at all times while driving the such taxicab upon the public streets of the town, carry and display in such taxicab the driver's permit issued to him under this section. All drivers' permits shall expire on June 30 following the date of issuance.
- (c) No permit issued under the provisions of this section shall be transferable. Every such permit shall be subject to cancellation by the town manager for the violation of any of the provisions of this article or any state law governing and regulating the operation of taxicabs. A driver's permit shall be issued only to the owner or lessee of the vehicle or an employee of such owner or lessee. A lessee shall not be required to hold an operator's license in addition to a driver's permit. A charge prescribed in the fee schedule shall be made for the issuance of a driver's permit.

(Ord. of 2-15-1991, § 4)

Sec. 8-145. - Driver's identification card.

When a driver's permit is granted under the provisions of section 8-144, the town manager shall issue to the permittee an identification card, which shall show the name, age and residence of the person to whom such driver's permit was granted together with the date of issuance thereof.

(Ord. of 2-15-1991, § 5)

Sec. 8-146. - Duty of driver to give information to passenger.

The driver of a taxicab shall, upon the request of any passenger, give to such passenger the correct name and address of such driver and such other information as will identify the vehicle, driver and owner thereof.

(Ord. of 2-15-1991, § 6)

Secs. 8-147—8-165. - Reserved.

DIVISION 2. - OPERATOR'S LICENSE AND CERTIFICATE

Sec. 8-166. - Generally.

- (a) Before any person shall operate a taxicab on the streets of the town, he shall obtain a license to do so. The application therefor shall be in writing and such application shall be filed with the chief of police. After receiving such license, such person shall then be authorized to operate such taxicab within the town. A separate application shall be filed for every vehicle operated as a taxicab, and a license obtained for each such vehicle.
- (b) The town manager shall determine whether or not licenses shall be issued in accordance with this article for the privilege of operating one vehicle, as well as subsequent licenses for the privilege of operating additional vehicles.
- (c) The license issued for the operation of any vehicle may be transferred and used to the end of the fiscal year by and with the consent of the town manager.
- (d) An operator's license shall be issued only in the name of the owner of the taxicab or other motor vehicle.
- (e) An annual license fee, as provided in the fee schedule on file in the office of the town clerk, shall be charged each owner for each taxicab so operated upon the public streets of the town.
- (f) Operator's licenses shall expire on June 30 following the date of issuance.

(Ord. of 2-15-1991, § 7)

Sec. 8-167. - Liability insurance.

- (a) No operator's license, as provided for in section 8-166, shall be issued with reference to any taxicab in the town until the provision of this section shall have been fully complied with.
- (b) No person shall operate or cause to be operated any taxicab over and upon the streets of the town without first taking out and keeping in force and effect at all times a policy or policies of liability insurance in some company licensed to do business in the state, in an amount required by G.S. 20-280. Such liability insurance shall be conditioned upon the payment of any final judgment rendered on account of any personal injury or property damage caused by any taxicab by operating on any of the streets of the town by or under the direction of such person.
- (c) Any person who has otherwise qualified for operating taxicabs in the town as provided in this article and who desires to furnish liability insurance provided herein as a condition precedent to the operation of any such taxicab shall file with the town manager a certificate of the insurance carrier certifying that there is in effect a policy or policies of liability insurance carried by such a person.
- (d) Any such insurance shall contain a provision for continuing liability thereunder to the full amount thereof notwithstanding any recovery thereon.
- (e) If the taxicab or other vehicle for hire is to be operated by a lessee, such insurance shall be posted by the owner or the lessee or by both.

(Ord. of 2-15-1991, §§ 8, 9)

Sec. 8-168. - Maximum number of licenses.

Not more than five taxicabs are required to meet the requirements for the convenience and necessity of the public. No operator's license to operate additional taxicabs in the town shall be issued until the total number of licenses outstanding for the operation of taxicabs has been reduced below five.

(Ord. of 2-15-1991, § 10)

Sec. 8-169. - Regularity of operation.

Every person having complied with the provisions of this article and obtained an operator's license, as provided for in section 8-166, shall operate such taxicab in such business with reasonable regularity. Every operator of a taxicab who fails to operate the taxicab as provided in this article over any period of 60 days shall be given ten days' notice to appear before the board of commissioners to show cause why such license should not be revoked. If, upon such hearing, it shall appear that such taxicab is not being operated in the interest of the convenience and necessity of the public and not being operated with reasonable regularity, the board of commissioners is authorized to revoke such license.

(Ord. of 2-15-1991, § 11)

Sec. 8-170. - Issuance, form of certificates.

Upon compliance with section 8-167 and upon the issuance of an operator's license, as provided for in section 8-166, a taxicab certificate shall be issued showing that:

- (1) The operator of such taxicab has complied with the provisions of section 8-167 by providing liability insurance as required.
- (2) The public convenience and necessity require the operation of such taxicabs.

(Ord. of 2-15-1991, § 12)

Sec. 8-171. - Authorization for performance of criminal background check.

- (1) The town manager or their designee with the assistance of a licensed North Carolina State Bureau of Investigation Division of Criminal Information Network operator within the Town of Burgaw Police Department shall conduct and perform a criminal background check on each applicant who has made application with the town for a taxicab license and for which the applicant states under oath that they have been a lifelong resident of the State of North Carolina. In the event that the applicant states under oath that they have been a non-resident of the State of North Carolina for any period of time after attaining the age of 16, the town manager or their designee shall require the applicant to be subjected to a national criminal history background check in addition to criminal history background check through the North Carolina State Bureau of Investigation Division of Criminal Information Network.
- (2) The records of the Federal Bureau of Investigation may be utilized for any applicant who is subjected to a national criminal history background check.

([Ord. No. 2012-20, § I, 6-12-2012](#))

Sec. 8-172. - Collection of fees for criminal history background check.

Prior to having a criminal history background check performed for an applicant the town manager or his designee shall collect any fees from the applicant that are required to be paid in advance of obtaining a criminal history background check.

([Ord. No. 2012-20, § I, 6-12-2012](#))

Sec. 8-173. - Cooperation of applicant to provide certain documentation for criminal history background check.

Each applicant for a taxicab license shall provide to the town manager or their designee prior to the performance of the criminal history background check the following documents:

- (a) A valid issued state driver's license or identification card;
- (b) A certified copy of the applicant's birth certificate;
- (c) Applicant's social security number; and
- (d) One set of applicant's finger prints.

([Ord. No. 2012-20, § I, 6-12-2012](#))

Sec. 8-174. - Ineligibility to receive a taxicab license.

Any criminal history background check resulting in an applicant for a taxicab license who has been convicted of the hereinafter classification of crimes shall be disqualified from receiving a taxicab license.

- (a) Conviction of a felony against the State of North Carolina or a conviction of any offense against any other state within the United States of America which would have been a felony if committed in the State of North Carolina;
- (b) Violation of any federal or North Carolina state law relating to the use, possession or sale of alcoholic beverages, or narcotic or barbiturate drugs;
- (c) Addiction to or habitual use of alcoholic beverages or narcotic or barbiturate drugs;
- (d) Violation of any federal or North Carolina state law relating to prostitution;
- (e) Noncitizenship in the United States of America;
- (f) Habitual violation of traffic laws or ordinances.

([Ord. No. 2012-20, § I, 6-12-2012](#))

Sec. 8-175. - Criminal history background check not a public record.

Any criminal history background check obtained for an applicant shall be privileged, confidential and not a public record as defined pursuant to G.S. ch. 132.

([Ord. No. 2012-20, § I, 6-12-2012](#))

Sec. 8-176. - Adoption of a policy and procedures for the performance of criminal history background checks.

The board of commissioners upon the advice and consultation with the town manager and the town police chief may adopt a policy and procedures for the town manager or their designee to perform criminal history background checks on each applicant for taxicab licensure.

([Ord. No. 2012-20, § I, 6-12-2012](#))

Secs. 8-177—8-185. - Reserved.

DIVISION 3. - RATES AND TAXIMETERS

Sec. 8-186. - Taximeters required.

It shall be unlawful for any person to operate any taxicab in the town unless such taxicab is equipped with a taximeter of a type and design which shall be approved by the police department. It shall be the

duty of the person operating such taxicab and also the driver thereof to keep such meters operating at all times within five percent of absolute accuracy. No passenger shall be carried in such taxicab unless such taximeter shall be in operation and such meter shall be kept operating continuously during the entire time that it is engaged in the transportation of passengers for compensation and during any waiting time.

(Ord. of 2-15-1991, § 21)

Sec. 8-187. - Installation, location of taximeters.

Each taximeter under this division must be installed so as to be driven direct from the taxicab transmission or connected with the speedometer driving shaft to the taximeter head and it shall be placed in each taxicab so that the reading dial showing the amount to be charged shall be easily seen and read by a passenger riding in any part of the taxicab.

(Ord. of 2-15-1991, § 22)

Sec. 8-188. - How charge indicated by taximeter; flag; telltale light.

Taximeters installed under this division shall indicate the charge by means of legible figures which are electrically lighted each time the taximeter flag is thrown from a nonearning to an earning position. Each taximeter shall be equipped with a tamperproof switch and electrical system so that when the flag is in the nonearning position a light operating at the same time, located on the exterior of the cab, will be lighted. The type, design and location of the telltale light shall be approved by the police department. No taxicab shall be driven or operated for hire if the telltale light is out of order. At all times while the taxicab is engaged, the flag of the taximeter shall be thrown into position to register charges for mileage or into a position to register charges for waiting time. It shall be unlawful for any driver of any taxicab, while carrying passengers, to display the flag attached to the taximeter in such position as to denote that such vehicle is unemployed or to fail to throw the flag of the taximeter to a position indicating that such vehicle is unemployed at the termination of every service. The flag shall not be changed to the nonearning position until after the fare is paid.

(Ord. of 2-15-1991, § 23)

Sec. 8-189. - Inspection, approval, etc., of taximeters.

No person shall drive a taxicab to which is attached a taximeter that has not been duly inspected and approved by the police department. All taximeters shall be inspected and checked for accuracy by the police department periodically at the times and places prescribed by the police department. In addition, every taximeter used in the operation of taxicabs shall be subject to inspection at any time by the police department. Upon the discovery of any inaccuracy in the taximeter, the operator thereof shall remove or cause to be removed from service the vehicle equipped with the taximeter until such taximeter shall have been repaired and accurately adjusted.

(Ord. of 2-15-1991, § 24)

Sec. 8-190. - Sealing, repair of taximeters.

It shall be unlawful for any person other than the owner's repairman, previously approved by the police department, and the person designated by the police department to break the seal on or undertake to repair any taximeter installed under this division. After any taximeter has been repaired and the seal has been broken, the taxicab must be presented to the police department for inspection and approval for accuracy and proper operation before such taxicab is again placed in operation for hire.

(Ord. of 2-15-1991, § 25)

Sec. 8-191. - Multiple passengers.

If the taxicab is occupied by more than one passenger and they are not to be discharged at the same destination, the first passenger leaving the taxicab shall be chargeable for the amount of fare shown on the taximeter and before proceeding to transport the remaining passenger or passengers to his or their destination, the flag shall again be placed in earning position so as to designate the beginning of a new and separate trip as to the remaining passenger or passengers in such taxicab. Such process shall be repeated each time a passenger reaches his destination and alights from the taxicab so that the remaining passenger or passengers leaving the taxicab shall be chargeable with such fare appearing upon the taximeter upon leaving the taxicab.

(Ord. of 2-15-1991, § 26)

Sec. 8-192. - Schedule of charges.

No person owning, operating or controlling any taxicab within the town limits shall charge fares in excess of those prescribed in the schedule of taxicab fares adopted by resolution of the board of commissioners, a copy of which shall be on file in the town clerk's office and shall also be available from the town manager.

(Ord. of 2-15-1991, § 27)

Sec. 8-193. - Posting of rates.

There shall be posted in a conspicuous place on the inside of each taxicab operated under this division a card showing the rate charged by such taxicab for the distance traveled and the waiting time.

(Ord. of 2-15-1991, § 28)

Sec. 8-194. - Refusal to pay charges.

It shall be unlawful for any person to fraudulently engage or use any taxicab, not intending at the time to pay for the use of the taxicab, and then refuse to pay the rates prescribed.

(Ord. of 2-15-1991, § 29)

Sec. 8-195. - Flat rate fees for one way and round trip destinations.

Each taxicab operator may charge one flat rate fee for exclusive ride service for any one-way or round trip originating within the corporate limits of the Town of Burgaw to the following destinations:

- (a) Corporate limits of the Town of Wallace or two miles from its corporate limits;
- (b) Corporate limits of the Town of Atkinson or two miles from its corporate limits;
- (c) Corporate limits of the Town of Surf City or two miles from its corporate limits;
- (d) Corporate limits of the City of Wilmington or two miles from its corporate limits;
- (e) Corporate limits of the City of Jacksonville or two miles from its corporate limits;
- (f) The unincorporated area of Hampstead, North Carolina;

- (g) The unincorporated area of Rocky Point, North Carolina;
- (h) Wilmington International Airport located in New Hanover County, North Carolina.

The flat rate fee shall be paid in advance of the commencement of the one way or round trip exclusive ride service to the taxicab operator.

A schedule of charges for exclusive ride service for one way or round trip destinations to the destinations set forth in section 8-195 shall be adopted by resolution by the board of commissioners, a copy of which shall be on file in the town clerk's office.

For the purpose of initially establishing the schedule of charges for exclusive ride service for one way and round trip destinations, the board of commissioners waives the adoption of a resolution to establish such fees as adopts the following schedule of charges until such time that the schedule of charges are amended by a resolution of the board of commissioners.

- (a) The maximum sum of \$20.00 for a one way destination to the Town of Atkinson, Town of Wallace and the unincorporated area of Rocky Point, as each are defined in section 8-195;
- (b) The maximum sum of \$30.00 for a round trip destination to the Town of Atkinson, Town of Wallace and the unincorporated area of Rocky Point, as each are defined in section 8-195;
- (c) The maximum sum of \$35.00 for a one-way destination to the Town of Surf City, City of Jacksonville, City of Wilmington and the unincorporated area of Hampstead, as each are defined in section 8-195;
- (d) The maximum sum of \$45.00 for a round trip destination to the Town of Surf City, City of Jacksonville, City of Wilmington and the unincorporated area of Hampstead, as each are defined in section 8-195;
- (e) The maximum sum of \$30.00 for a one way destination to the Wilmington International Airport, as referenced in section 8-195; and
- (f) The maximum sum of \$40.00 for a round trip destination to the Wilmington International Airport, as referenced in section 8-195.

(Ord. No. 2009-27, § III, 9-8-2009)

Secs. 8-196—8-199. - Reserved.

DIVISION 4. - INSPECTION OF TAXICABS AND TAXIMETERS

Sec. 8-200. - Inspection of taxicabs.

Prior to the issuance of a license and from time to time thereafter, the town manager shall require evidence of an inspection or cause to be made an inspection of taxicabs licensed under this article. Evidence of the inspection of a motor vehicle shall be in the form of a copy of a safety inspection certificate completed by a certified North Carolina Inspection Station. Such certificate shall be provided at the time of the issuance or renewal of a license. All taxicabs shall:

- (1) Have and maintain properly functioning road lamps, tail lights, directional signals, brakes and rearview mirrors;
- (2) Be maintained in a safe mechanical condition with all safety equipment remaining intact and operative at all times when the vehicle is in service;
- (3) Be maintained in a clean, litter-free and sanitary condition. The exterior of a vehicle shall be washed at least weekly. The interior of a vehicle shall be vacuumed and cleaned at least weekly. Any upholstery shall be maintained so it is free of tears, stains, dirt, and trash;

- (4) Be free of substantial rust, dents, scratches, chips and abrasions and have no broken or cracked windows or mirrors;
- (5) Have a properly maintained exhaust system;
- (6) Have a properly working and operating heating and air conditioning system with the passenger area of the taxicab.

The operator shall have all vehicles inspected weekly for compliance with this section. If after issuance of a license, any vehicle for hire shall be found unsafe or unfit for operation, notice shall be given to the holder of the operator's license, and such vehicle shall not thereafter be operated as a vehicle for hire until it has been put in a safe condition for such operation. Nothing herein shall be construed to relieve any owner or operator of any vehicle from all or any duties imposed by law nor relieve such owner or operator from liability resulting from the unfitness of such vehicle or the negligent operation thereof.

(Ord. No. 2009-27, § II, 9-8-2009)

Sec. 8-201. - Approved taximeter required.

- (a) No person may operate any taxicab unless such vehicle is equipped with a taximeter of a type and design which properly and accurately computes and registers on its face the charge for distance traveled by and the waiting period of the taxicab.
- (b) No taximeter may be used on any taxicab unless the town manager or their designee approves the type and design of such taximeter as being in compliance with the provisions of this article.

(Ord. No. 2009-27, § II, 9-8-2009)

Sec. 8-202. - Characteristics of taximeter.

- (a) Each taximeter shall be driven direct from the taxicab transmission, instead of merely connecting with the speedometer driving shaft to the taximeter head itself, using a flexible shaft and a flexible housing so connected and sealed as to be tamperproof.
- (b) Each taximeter shall be furnished with a tamperproof switch and system of electrical distribution so that when the taximeter flag is in the earning or hired position the fare indicator on the taximeter will be lighted and the tell-tale light, located elsewhere on the taxicab and synchronized with the lights on the fare indicator, will be lighted. The type, design, number and location of the tell-tale lights shall be approved by the city manager. No person may operate any taxicab if the tell-tale lights are out of order.
- (c) No person may tamper with the taximeter or any of the electrical wiring attached to the taximeter or lights on any taxicab or attach any wires, switches, pins or any other device whatsoever to the taximeter or its system or electrical distribution that could result in the improper functioning or operation of the taximeter or the light required by this article.

(Ord. No. 2009-27, § II, 9-8-2009)

Sec. 8-203. - Inspection of taximeters.

- (a) Each taxicab operator shall have each taximeter certified by a mechanic or inspector that is qualified to test and inspect taximeters based on experience and training as approved by the town manager or their designee. Such mechanic or inspector shall certify that the taximeters are accurate and functioning properly. Taximeters shall be tested at least annually at the time of license renewal and at such other times as warranted by repairs, changes in equipment or other occurrences that may affect the accuracy of the taximeter.

- (b) Evidence of the testing and inspection of taximeters shall be provided to the town manager or his designee in the form of a certificate signed by the mechanic or inspector.
- (c) No person may drive a taxicab to which is attached a taximeter that has not been duly inspected and certified.
- (d) No person may change the size of wheels or tires of a taxicab, the gears operating the taximeter, change a taximeter from one taxicab to another, or make any other change affecting the operation of a taximeter unless the taximeter is retested and approved before using.

(Ord. No. 2009-27, § II, 9-8-2009)

Sec. 8-204. - Defective taximeters.

- (a) No person may operate any taxicab with a taximeter that is defective or that does not properly and accurately compute and register on its face the charge for distance traveled and waiting time.
- (b) No person may operate a taxicab equipped with a taximeter the case of which is unsealed or which does not have its cover and gear intact.

(Ord. No. 2009-27, § II, 9-8-2009)

Sec. 8-205. - Location and operation of taximeter and flag.

- (a) All taximeters shall be placed in such position in the taxicab so that the face thereof and the fare numerals may be easily seen and read by a passenger sitting in any part of the taxicab.
- (b) When a passenger engages and enters a taxicab the flag, signal or other device affixed to such taximeter shall be placed in such position as to denote that such taxicab is employed.
- (c) The taximeter flag or signal affixed to a taximeter shall not be changed from a vacant or for-hire position until the person engaging such taxicab has entered the taxicab, and at the conclusion of the trip the flag or signal shall not be changed or moved to a vacant or for-hire position until the fare is paid.
- (d) No taxicab may, while occupied by any person other than the driver, be operated with the flag or signal affixed to such taximeter in such a position as to denote that such vehicle is not employed.

(Ord. No. 2009-27, § II, 9-8-2009)

Chapter 10 - CEMETERIES^{[11](#)}

Footnotes:

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Editor's note— Ord. No. 2005-10, adopted April 12, 2005, repealed the former Ch. 10, §§ 10-1, 10-2, and enacted a new Ch. 10 as set out herein. The former Ch. 10 pertained to similar subject matter and derived from § 6-1 of the 1975 Code.

Cross reference— Streets and sidewalks, ch. 28.

State Law reference— Cemeteries generally, G.S. 65-1—65-36.8; municipal cemeteries, G.S. 65-37—65-40; authority of town as to cemeteries, G.S. 160A-341—160A-348; regulation of town cemeteries, G.S. 160A-348.

ARTICLE I. - IN GENERAL

Sec. 10-1. - Title.

This chapter shall be known as the Burgaw ordinance for the operation, maintenance, regulation and control of the Burgaw Cemetery.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-2. - Definitions.

As used in this chapter:

Board of commissioners shall mean the elected officials for the Town of Burgaw.

Cemetery shall mean the Burgaw Cemetery located on Ashe Street in the Town of Burgaw bordered by the Burgaw Elementary School and the Town of Burgaw Wastewater Treatment Facility.

Stacking shall mean the burial of a human body on top of a previously buried human body.

Town shall mean Town of Burgaw, a municipal corporation organized and existing under the laws of the State of North Carolina.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-3. - Title and power to regulate.

Title to the cemetery shall be vested in the board of commissioners who shall have the power to adopt ordinances, resolutions and regulations necessary to operate, maintain, regulate and care for the cemetery.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-4. - Hours of operation.

The cemetery will be open to the public from 7:00 a.m. to 8:00 p.m. beginning on April 1 and continuing through September 30 each year and from 7:00 a.m. to 6:00 p.m. beginning on October 1 and continuing through March 31 each year. The cemetery shall be open to the public at such other times as adopted by resolution of the board of commissioners. Gates to the cemetery will be opened and closed at appropriate times by the Burgaw Police Department.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-5. - Activity in the cemetery.

The activities in the cemetery shall be limited to the burial, funeral services, memorial services, visitation, placing and removing grave markers, maintenance of the cemetery, operational functions of the cemetery as performed by the town, walking and any other activities as authorized by resolution of the board of commissioners. Any other activity that is not authorized pursuant to chapter 10 of the Town of Burgaw Code of Ordinances is unlawful.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-6. - Injuring property.

No person shall intentionally injure or deface in any manner whatsoever any building, tombstone, monument, seat, bench, chair, railing, enclosure, tree, shrub, vine, bulb, flower or other thing placed, put or growing in the cemetery.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-7. - Animals.

No person shall take any animal into cemetery or allow any animal to run at large within the cemetery.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-8. - Vehicles.

No person shall drive a vehicle or equipment on or over any grave plot or walkway unless it is specifically for the maintenance of the cemetery, opening or closing a grave, and the erection or removal of a grave monument, marker or mausoleum.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-9. - Speed of vehicles.

No person shall drive a motor vehicle, motorcycle, moped or any other motorized conveyance as defined by G.S. § 20-4.01(23) within the cemetery at a rate of speed in excess of 15 miles per hour.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-10. - Plantings.

- (a) No person shall plant or maintain any tree, shrub or ground cover in the town cemetery, unless such planting is with the approval of the board of commissioners.
- (b) The town reserves the right to prune, exclude or remove from any lot any tree, planting, plant or shrubbery that is unsightly or detrimental by reason of roots, branches or otherwise to adjacent walks or roads, or which detract from the general appearance of the cemetery.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-11. - Removal of flower arrangements.

- (a) All cut flowers shall be removed when they become wilted, impaired or unsightly. If flowers are not removed by the owners, then they shall be removed by the Burgaw Public Works Department. Any containers left at the graveside after the flowers have wilted or become impaired or unsightly may be removed by the Burgaw Public Works Department for subsequent disposal.
- (b) All artificial arrangements shall be removed when they become worn, partially destroyed or are unsightly. If such artificial arrangements are not removed by the owners, then they shall be removed by the Burgaw Public Works Department for subsequent disposal.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-12. - Maintenance.

It shall be the responsibility of the town to maintain the cemetery on an as needed basis, including but not limited to the following: cutting grass, trimming grass and weeds, filling sunken gravesites, trimming trees and shrubs and maintaining roadways throughout the cemetery. The lot owner must provide access to any lot that is enclosed with brick, blocks, etc. in order for the town to maintain the lot. The town shall not have any liability for the maintenance or repair to any monument, grave marker, head stone, footstone or mausoleum.

(Ord. No. 2005-10, 4-12-2005)

ARTICLE II. - INTERMENTS

Sec. 10-13. - Burial.

- (a) *Generally.* Burial in the cemetery will only be permitted after all permits and fees have been paid to the town. The minimum size for all gravesites will be 4' x 11'. The town board of commissioners will set the cost of a plot and the cost of perpetual care. No burials will take place without authorization by the Town of Burgaw.
- (b) *Usage of gravesite.* Usage of each gravesite shall be limited to one of the following:
 - (1) The interment of one human body unless provided for in section 10-13(c) of this chapter;
 - (2) The interment of one human body and one cremation urn;
 - (3) The interment of one or two cremation urns.
- (c) *Stacking.* The stacking of graves will be allowed within the cemetery beginning on April 15, 2005, and in graves that do not have a previous buried human body. Any gravesite that will utilize the stacking of human burial shall meet the following requirements;
 - (1) The gravesite must be dug to a depth of at least eight feet seven inches to accommodate the burial of the first human body for burial within the gravesite; and
 - (2) A vault must be utilized in the burial of each human body.
- (d) *Permit.* No interment or disinterment of a human body or the burial of a cremation urn shall be made without first obtaining a permit from the town clerk whose office is located at the Burgaw Town Hall.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-14. - Hours of interment.

Burial services shall be scheduled between the hours of 8:00 a.m. and 5:00 p.m.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-15. - Opening and closing of graves.

The town shall not be responsible for the opening or closing of graves for any purpose; nor shall the town assume any financial responsibility for the opening or closing of any grave. It shall be the responsibility of the person, firm, company or entity opening or closing a grave to repair any damage done to the cemetery while opening or closing the gravesite as well as the responsibility for any cleanup of the cemetery that is associated with the interment or disinterment.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-16. - Vaults.

All burials will require a burial vault as approved by the State of North Carolina for the disposal of human remains that are to be buried in ground.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-17. - Minimum cover.

When final disposition of a human body entails interment, the top of the uppermost part of the burial vault shall be a minimum of 18 inches below the original ground surface.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-18. - Headstones/footstones.

No headstone and/or footstone shall be set without the person, firm, corporation or entity setting the headstone or footstone obtaining a permit from the town prior to the erection of the headstone or footstone. It shall be the responsibility of the company setting the stone to contact the town prior to this activity. The company will be responsible for cleanup and repair to any area damaged during this activity. All footstones will be set flush with the ground surface and set in a way to prevent the settling of the stone. Perpetual care shall not cover the maintenance and repair to any grave marker, head stone or footstone. Any grave marker, headstone or footstone erected and located within the cemetery is the property of the plot owner.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-19. - Above ground burial.

In accordance with section 10-13(b), a human body or cremation urn may be buried above ground so long as it is contained within a mausoleum or tomb approved by the State of North Carolina to accommodate the burial of human remains above ground. Further, any human body to be buried above ground shall be placed in a casket approved by the State of North Carolina for burial of human remains, prior to being placed within the mausoleum or tomb. Perpetual care shall not cover the maintenance and repair to any mausoleum or tomb. Any mausoleum or tomb erected and located within the cemetery is the property of the plot owner.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-20. - Tents and private property.

If used in the cemetery in connection with a funeral or burial service, any tent, benches or flower stands erected shall not remain at the gravesite for more than seven days from the date that it is erected within the cemetery. Any private equipment other than a tent, benches, and flower stands shall be removed immediately upon the conclusion of the funeral or burial service. The town shall not assume the responsibility for damage sustained to any private property located within the cemetery.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-21. - Records.

The town clerk or other person as designated by the board of commissioners shall keep a record of all interments and removals from the cemetery. The record shall include the section of the cemetery, the lot number, the name of deceased, date of permits applied for and issued regarding interment or disinterment, and date of permits applied for and issued regarding the erection of any grave marker, footstone or headstone. It shall be the responsibility of any person, firm, corporation or other entity applying for any permits as required under this ordinance to provide all pertinent information prior to issuance of a permit. No burial or erection of a grave marker, footstone or headstone shall be allowed prior to a permit being obtained from the town clerk.

(Ord. No. 2005-10, 4-12-2005)

Sec. 10-22. - Violations.

Violation of any provisions within this chapter shall result in a civil fine being imposed against the violator up to the amount of \$500.00.

(Ord. No. 2005-10, 4-12-2005)

ARTICLE III. - PERPETUAL CARE FUNDS

Sec. 10-23. - Perpetual care funds.

The board of commissioners may establish a perpetual care fund for the purpose of maintaining any town cemetery. The perpetual care fund shall be established and administered by the board of commissioners in accordance with G.S. § 160A-347.

(Ord. No. 2005-10, 4-12-2005)

Chapter 12 - EMERGENCY MANAGEMENT^{[11](#)}

Footnotes:

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Cross reference— Administration, ch. 2; fire prevention and protection, ch. 16; law enforcement, ch. 18.

State Law reference— Riots and civil disorders, G.S. 14-288.1—14-288.19; power of town to enact ordinances dealing with state of emergency, G.S. 14-288.12.

ARTICLE I. - IN GENERAL

Secs. 12-1—12-30. - Reserved.

ARTICLE II. - STATE OF EMERGENCY

Sec. 12-31. - When state of emergency deemed to exist.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives or property.

(Code 1975, § 8-1)

Sec. 12-32. - Issuance of emergency proclamation.

- (a) In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town or threatening damage to or destruction of property, the mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency and, in order to more effectively protect the lives and property of people within the town, to place in effect any of the restrictions authorized in this chapter.
- (b) The mayor is hereby authorized and empowered to limit by the proclamation the application of such restrictions to any area specifically designated or described within the corporate limits and to specific hours of the day or night; and to exempt from such restrictions law enforcement officers, firefighters and other public employees; doctors, nurses, employees of hospitals and other medical facilities; on-duty military personnel, whether state or federal; on-duty employees of public utilities, public transportation companies and newspaper, magazine, radio broadcasting and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town.

(Code 1975, § 8-2)

Sec. 12-33. - Imposition of emergency restrictions.

- (a) During the existence of a proclaimed state of emergency, the mayor may impose by proclamation any of the following restrictions:
 - (1) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition or dangerous weapons of any kind and prohibit the purchase, sale, transfer or other disposition thereof.
 - (2) Prohibit or regulate the buying or selling of beer, wine or intoxicating beverages of any kind and their possession or consumption off one's own premises.
 - (3) Prohibit or regulate any demonstration, parade, march, vigil or participation therein from taking place on any of the public ways or upon any public property.
 - (4) Prohibit or regulate the sale of gasoline, kerosene, naphtha or any other explosive or inflammable fluids or substances.
 - (5) Prohibit or regulate travel upon any public street, alley or roadway or upon any other public property, except by those in search of medical assistance, food or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof.
 - (6) Prohibit or regulate the participation in or carrying on of any business activity and prohibit or regulate the keeping open of places of business, places of entertainment and any other places of public assembly.
- (b) Any proclamation may be extended, altered or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation.

(Code 1975, § 8-3)

Sec. 12-34. - Violation of restrictions.

During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this chapter.

(Code 1975, § 8-4)

Sec. 12-35. - Proclamation of end of state of emergency.

The mayor shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the board of commissioners.

(Code 1975, § 8-5)

Sec. 12-36. - Price gouging; prohibited.

- (a) Price gouging as it relates to the sales price of goods is defined as the sale of goods at a price above the pre-emergency level, unless the merchant can document purchase of the goods at an increased cost. Price gouging as it relates to the cost of services is defined as the providing of such services at a cost greater than that customarily charged for such services in a nonemergency situation unless the contractor can document special circumstances or expenses justifying a higher cost. Any restrictions imposed under this subsection shall extend for a period of 90 days following the date of the declaration of the state of emergency unless sooner terminated by subsequent proclamation or resolution.
- (b) Violation of this section shall constitute a misdemeanor punishable by a fine not to exceed \$500.00, or imprisonment not exceeding 30 days.

Sec. 12-37. - Building permit fees; waived.

During the issuance of the emergency proclamation all building permit fees will be waived for 30 days. This action does not waive any inspections for work to be done. A permit shall be issued before any work commences.

Secs. 12-38—12-55. - Reserved.

ARTICLE III. - TEMPORARY STRUCTURES FOR VICTIMS OF NATURAL DISASTERS

Sec. 12-56. - Temporary permit for manufactured units in rear yard of existing residential structures.

The town will authorize administrative approval, by use of a temporary permit, of the location of manufactured units in the rear yard of existing residential structures or on a site authorized by the board of commissioners for location of multiple units. This temporary permit applies only to individuals displaced due to natural disasters. Applications must include written permission from the legal occupant authorizing the temporary location of the manufactured unit prior to approval.

(Ord. No. 1999-4, § 1, 10-12-1999)

Sec. 12-57. - Temporary permit for residential use of buildings not located in residential districts.

The town will authorize administrative approval, by use of a temporary permit, of residential use of buildings not located within residential districts. For residential uses within the B-1 zoning district, the permit must be approved by the fire inspector. Temporary electric heating units, open flames, or other heat sources will not be allowed as part of the temporary permit in any building located within the central fire district.

(Ord. No. 1999-4, § 2, 10-12-1999)

Sec. 12-58. - Duration of permit.

A temporary permit under this article shall be authorized for a period not to exceed 12 months from the date of approval.

(Ord. No. 1999-4, § 3, 10-12-1999)

Sec. 12-59. - Location in floodway prohibited.

No manufactured units permitted under this article shall be located within a floodway. Units located in a 500-year floodplain must be elevated no less than two feet above the base flood elevation.

(Ord. No. 1999-4, § 5, 10-12-1999)

Chapter 14 - ENVIRONMENT^{[\[1\]](#)}

Footnotes:

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Cross reference— Animals and fowl, ch. 4; buildings and building regulations, ch. 6; solid waste management, ch. 22; stormwater management, ch. 26; streets and sidewalks, ch. 28; subdivisions, ch. 30; trees and shrubs, ch. 34; utilities, ch. 36; zoning, ch. 38.

ARTICLE I. - IN GENERAL

Secs. 14-1—14-30. - Reserved.

ARTICLE II. - NUISANCES^{[\[2\]](#)}

Footnotes:

--- (2) ---

State Law reference— Authority of town as to abatement of public health nuisances, G.S. 160A-193.

Sec. 14-31. - What constitutes a nuisance.

The existence of any of the following conditions on any lot or parcel of land within the corporate limits of the Town of Burgaw is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (a) The uncontrolled growth of noxious weeds or grass on a developed lot to a height in excess of 24 inches, causing or threatening to cause a hazard detrimental to the public health or safety. Developed lots do not include areas which customarily have growth, such as predominantly forested areas with numerous trees, planted areas required for screening or buffering purposes, or fields.
- (b) Any accumulation of animal or vegetable matter, rubbish, or discarded items that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which are or may be dangerous or prejudicial to the public health.

- (c) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind that may be dangerous or prejudicial to the public health.
- (d) An open place of collection of water for which no adequate drainage is provided and where insects tend to breed or that is likely to become a nuisance or a menace to public health.
- (e) Any accumulation of hazardous refuse or concentration of combustible items such as mattresses, boxes, paper, automobile tires or tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials or objects of a like nature.
- (f) Any open place of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind.
- (g) Any dilapidated furniture, appliances, machinery, equipment, building materials, or any similar items not enclosed in a structure with functional doors.
- (h) Any furniture, appliances, or other products of any kind or nature openly kept that have jagged edges of metal or glass or areas of confinement.
- (i) Any motor vehicle located on private property that is wholly or partially dismantled and any related motor vehicle parts and tools not enclosed in a garage with functional doors, when not actively being repaired.
- (j) Any improper or inadequate drainage on private property that causes flooding, interferes with the use of, or endangers in any way, the streets, sidewalks, parks, or other public property of any kind.
- (k) Any condition that blocks, hinders, or obstructs, in any way, the natural flow of branches, streams, creeks, surface waters, ditches, or drains to the extent that lots or properties are not free from standing water.
- (l) Any litter or refuse that is scattered, discarded, cast, thrown, blown, placed, swept, or deposited in a persistent, continuous, or ongoing manner so as to accumulate in any open space. The owner or occupant of any property or dwelling unit shall exercise reasonable diligence at all times to keep the exterior of such property or dwelling unit clean of litter, and other used or waste materials from being scattered, discarded, cast, thrown, blown, placed, swept, or deposited on such premises in a persistent, continuous, or ongoing manner, and shall prevent from drifting or blowing to adjoining premises any such matter by removing it or ensuring that the same is placed in approved refuse containers or other appropriate location for collection.
- (m) Any accumulation of trash and/or garbage that is the result of overflowing or improperly closed trash or garbage containers.
- (n) Any other condition specifically declared to be a danger to the public health, safety, morals, or general welfare of inhabitants of the town and a public nuisance by the board of commissioners.

(Ord. No. 96-6, § 12-1, 8-12-1996; Ord. No. 2000-1, 2-8-2000; [Ord. No. 2013-01, § 1, 1-8-2013](#).)

Sec. 14-32. - Investigation.

The town manager or his designee, upon notice of the existence of any of the conditions described in section 14-31, shall cause to be made by the appropriate town official such investigation as may be necessary to determine whether, in fact, such conditions exist as to constitute a public nuisance as described in section 14-31. The burden of proving that such conditions exist as to constitute a public nuisance as described in section 14-31 may be on the complainant if town investigation does not find conditions are hazardous to the public health or safety.

(Ord. No. 96-6, § 12-2, 8-12-1996; [Ord. No. 2013-01, § 1, 1-8-2013](#).)

Sec. 14-33. - Notice and order to abate nuisance.

- (a) If a determination is made that such condition constituting a public nuisance exists, the code enforcement officer shall notify in writing the property owner and occupant of the property, if applicable, by certified and first class mail of such conditions and shall order the abatement thereof within 15 days of such notice, unless such time frame is determined to be impracticable by the town manager due to the nature of the nuisance.
- (b) If after due diligence, a respondent's address cannot be determined, then the required notice shall be published at least once in a newspaper having general circulation in the town and posted conspicuously on the property where the condition exists. The notice shall order the abatement of the public nuisance within 15 days of such notice, unless such time frame is determined to be impracticable by the town manager due to the nature of the nuisance. Informal notice to the property owner or occupant may also be issued, but written notice as described above shall be required before the town may abate said nuisance.
- (c) The town may notify a chronic violator of the town's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The annual notice shall be served by certified mail to the owner of the property as listed by the tax collector. A chronic violator is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times under any provision of the public nuisance ordinance.

(Ord. No. 96-6, § 12-3, 8-12-1996; [Ord. No. 2013-01, § 1, 1-8-2013](#))

Sec. 14-34. - Appeal.

At any time before the expiration of the abatement period specified in subsection 14-33, the respondent may request a hearing before the town manager to appeal the finding of the town official that a public nuisance exists. Upon completion of the hearing, the town manager shall consider the evidence before him and shall confirm or revoke the initial order or issue a final order that differs from the initial order.

A request for a hearing in accordance with this section must be in writing and must be filed with the town manager. The town manager shall fix a time and place for the hearing, and the initial abatement order shall be temporarily suspended pending the hearing. The hearing shall be held by the town manager within 30 calendar days following receipt of the request for hearing by office of the town manager. After the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings that supported that abatement order.

(Ord. No. 96-6, § 12-3.1, 8-12-1996; [Ord. No. 2013-01, § 1, 1-8-2013](#))

Sec. 14-35. - Abatement of nuisance by town.

If any person, having been ordered to abate a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within the time period established by the written notice of violation or at the appeal hearing, if applicable, the town manager or his designee shall cause such condition to be removed or otherwise remedied by having employees of the town or an independent contractor employed by the town go upon such premises and remove or otherwise abate such nuisance.

(Ord. No. 96-6, § 12-4, 8-12-1996; Ord. No. 2005-11, 3-8-2005; [Ord. No. 2013-01, § 1, 1-8-2013](#))

Sec. 14-36. - Cost of removal charged to owner.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance plus 25 percent of actual cost levied as an administrative fee shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the code enforcement officer to mail a statement by certified and first-class mail of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days of such notice. If mail is not accepted or is returned, the code enforcement officer shall post the statement on the subject property with instructions that such charges are due and payable within 30 days of such notice.

(Ord. No. 96-6, § 12-5, 8-12-1996; [Ord. No. 2013-01, § 1, 1-8-2013](#).)

Sec. 14-37. - Creation of lien.

If charges for the removal or abatement of the public nuisance are not paid within 30 days of mailing the statement of charges or of posting the subject property, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes.

(Ord. No. 96-6, § 12-6, 8-12-1996; [Ord. No. 2013-01, § 1, 1-8-2013](#).)

Sec. 14-38. - Provisions of chapter cumulative.

The procedures set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this article shall not prevent the town from proceeding in a criminal action or civil proceeding against any person violating the provisions of this chapter, as provided in section 1-6.

(Ord. No. 96-6, § 12-7, 8-12-1996; [Ord. No. 2013-01, § 1, 1-8-2013](#).)

Secs. 14-39—14-60. - Reserved.

ARTICLE III. - JUNKED OR ABANDONED MOTOR VEHICLES^[3]

Footnotes:

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Editor's note— [Ord. No. 2014-09, §§ I—III, adopted March 11, 2014](#), amended article III in its entirety to read as herein set out. Former article III, §§ 14-61—14-64, 14-81—14-87, pertained to similar subject matter. See Code Comparative Table for complete derivation.

Cross reference— Traffic and vehicles, ch. 32.

State Law reference— Authority of town relative to removal and disposal of junked and abandoned motor vehicles, G.S. 160A-303.

Sec. 14-61. - Definitions.

Aesthetic junked motor vehicle: As defined in G.S. § 160A-303.2, a motor vehicle on public or private property that does not display a current license plate and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

- (3) Is more than five years old and appears to be worth less than \$100.00.

Authorizing official: The chief of police or the planning administrator or their respective designee.

Junked motor vehicle: As defined in G.S. § 160A-303, the term junked motor vehicle is a vehicle that is an abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or
- (3) Is more than five years old and worth less than \$100.00; or
- (4) Does not display a current license plate.

([Ord. No. 2014-09, § I, 3-11-2014](#))

Sec. 14-62. - Administration.

- (a) *Responsibilities of city departments.* The chief of police and the planning administrator for the town shall be responsible for the overall administration and enforcement of this article III. The chief of police shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the town and on property owned or operated by the town and shall further be authorized to designate such vehicles as abandoned vehicles as described herein. The chief of police shall further be responsible for administering the removal and disposition of vehicles designated as abandoned motor vehicles on private property, junked motor vehicles and aesthetic junked motor vehicles. The planning administrator shall be responsible for designating a motor vehicle as an abandoned motor vehicle located on private property, a junked motor vehicle, or an aesthetic junked motor vehicle as defined in this article.
- (b) *Right to contract.* The town may contract with private tow truck operators or towing businesses, to remove, store, and dispose of abandoned, junked and aesthetic junked motor vehicles in compliance with this article and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or power of officers of the town's police department in enforcing other laws or in otherwise carrying out their duties.
- (c) *Right to inspect on private property.* Duly authorized officials of the town shall have the right, upon presentation of proper credentials and identification, to enter any premises within the jurisdiction of this article during daylight hours to determine if any vehicle violates the provisions of this article and post said vehicle with a notice as authorized herein.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-63. - Abandoned vehicle unlawful; removal authorized.

- (a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.
- (b) Upon investigation, the proper authorizing officials as defined herein may determine that a vehicle is an abandoned vehicle pursuant to the provisions set forth in this article and order the vehicle removed.
- (c) Once a motor vehicle has been designated as an abandoned motor vehicle on the public streets and highways within the town and on property owned or operated by the town, such designation shall be a valid determination for a 12-month period and shall require no additional notice beyond the initial notice to cause its immediate removal.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-64. - Junked motor vehicle unlawful; removal authorized.

- (a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle to leave or allow the vehicle to remain on the property after it has been declared a junked motor vehicle by the proper authorizing official as set forth in this article.
- (b) Upon investigation, the planning and development director may determine and declare that a motor vehicle is junked. If the planning and development director determines that the vehicle is junked, the planning and development director may then determine that the vehicle is a health or safety hazard and order the vehicle removed if one or more of the following conditions apply:
 - (1) A breeding ground or harbor for mosquitoes, insects, snakes, rats or other pests, or being used for storage in a manner which may attract such pests; or
 - (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or
 - (3) A point of collection of pools or ponds of water; or
 - (4) A point of concentration or source of leaking of concentrated gasoline, oil or other flammable or explosive materials; or
 - (5) So situated or located that there is a danger of it failing or turning over; or
 - (6) One which is a source of danger for children through entrapment in areas of confinement that cannot be opened from the inside, or from exposed surfaces of metal, glass or other jagged materials; or
 - (7) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-65. - Aesthetic junked motor vehicle regulation; removal authorized.

- (a) It shall be unlawful for the registered owner or person entitled to the possession of an aesthetic junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which an aesthetic junked vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.
- (b) Upon investigation, the planning and development director may order the removal of an aesthetic junked motor vehicle as defined herein after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss to the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant facts may be considered:
 - (1) Protection of property values;
 - (2) Promotion of tourism and other economic developments opportunities;
 - (3) Indirect protection of public health and safety which may be indicated when one or more of the following conditions exist:
 - a. A breeding ground or harbor for mosquitoes, insects, snakes, rats or other pests, or being used for storage in a manner which may attract such pests; or
 - b. A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or
 - c. A point of collection of pools or ponds of water; or
 - d. A point of concentration or source of leaking of concentrated gasoline, oil or other flammable or explosive materials; or

- e. So situated or located that there is a danger of it falling or turning over; or
 - f. One which is a source of danger for children through entrapment in areas of confinement that cannot be opened from the inside, or from exposed surfaces of metal, glass or other jagged materials; or
- (4) Preservation of the character and integrity of the community; and
 - (5) Promotion of the comfort, happiness and emotional stability of area residents.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-66. - Removal of abandoned, junked or aesthetic junked motor vehicle; pre-towing notice requirements.

- (a) Except as set forth in section 14-67 below, an abandoned, junked or aesthetic junked motor vehicle which is to be removed shall be towed only, after notice to the registered owner or person entitled to possession of the vehicle.
- (b) Notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice stating that the vehicle will be removed by the town on a specified date, no sooner than seven days after the notice is affixed, unless the vehicle is moved by the owner or legal possessor prior to that time. In the case of an aesthetic junked motor vehicle, pre-towing notice shall be effectuated in the same manner as for abandoned or junked motor vehicles, except the notice shall further advise the registered owner or person entitled to possession of the right to a pre-towing hearing as described hereinafter in section 14-70 of this article.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-67. - Exceptions to prior notice requirement.

Prior notice need not be given to remove an abandoned or junked motor vehicle if the police chief or the planning and development director determine there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the police chief or the planning and development director in the appropriate daily records. Circumstances justifying the removal of such vehicles without prior notice includes:

- (1) *Vehicles abandoned on the streets:* For vehicles left on the public streets and highways, the town board of commissioners hereby determines that immediate removal of such vehicles may be warranted when they are:
 - a. Obstructing traffic; or
 - b. Left upon a street or highway in violation of a law or ordinance prohibiting parking; or
 - c. Parked in a no stopping or standing zone; or
 - d. Parked in loading zones; or
 - e. Parked in bus zones.
- (2) *Other abandoned or junked motor vehicles:* With respect to abandoned or junked motor vehicles left on town-owned property other than the streets or highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the police chief or the planning and development director make written findings that a special need exists for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a

location or manner as to pose a traffic hazard, and vehicles that represent an imminent threat to life or property.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-68. - Removal of vehicles; post-towing notice requirements.

- (a) Except as set forth herein, any abandoned, junked or aesthetic junked motor vehicle which has been removed may, as directed by the police chief, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the police chief shall immediately notify the last known registered owner of the vehicle of the following:
 - (1) A description of the vehicle; and
 - (2) The place where the vehicle is stored; and
 - (3) The violation with which the owner is charged, if any, or the reason(s) for removal; and
 - (4) The procedure the owner must follow to have the vehicle returned to him; and
 - (5) The procedure the owner must follow to request a probable cause hearing on the towing.
- (b) The authorizing official as set forth herein shall, if feasible, give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.
- (c) If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in North Carolina, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.
- (d) Whenever a motor vehicle is towed under the provisions of this article, and such vehicle has neither a valid registration nor registration plates, the police chief shall make reasonable efforts including checking the vehicle identification number to determine the last known registered owner of the vehicle. Provided, however, the provisions of this section shall not apply to aesthetic junked motor vehicles for which the owner has exercised the right to appeal prior to the towing of the vehicle in accordance with section 14-70 of this article.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-69. - Prerequisites to removal of abandoned or junked vehicles on private property.

- (a) In the case of abandoned or junked motor vehicles left on private property without the consent of the owner, occupant or lessee, the vehicle may be removed by the town only after the following conditions are met:
 - (1) The owner, occupant or lessee of the real property upon which the vehicle is located submit to the town a written request that the vehicle be removed, which written request shall contain a certification that the vehicle has remained on said property without consent in excess of seven days.
 - (2) The owner, occupant or lessee pay any required pre-towing fees or charges at the time of removal.
 - (3) The owner, occupant or lessee agree to indemnify the town against any loss, expense (including attorney fees) or liability incurred because of the removal, storage or sale thereof.
- (b) This section shall apply only in those instances when an abandoned or junked vehicle remains on private property without the consent of the owner, occupant or lessee of the real property.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-70. - Right to pre-towing hearing.

With respect to aesthetic junked motor vehicles, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is an aesthetic junked motor vehicle, such appeal shall be made to the chairperson of the towing appeals committee as hereinafter defined, in writing, within seven days of the posting of the notice required in section 14-66 of this article. Further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. Written appeals may be hand delivered to the town manager whose office is located at the Burgaw Town Hall, 109 North Walker Street, Burgaw, North Carolina and having the written appeal stamped with a notice of receipt, with a copy of the receipt provided to the appealing party. Notice may also be mailed to the chairperson at the following address:

Town		of		Burgaw
Town		Manager's		Office
109	North		Walker	Street
Burgaw, NC 28425				

The date of postmark shall be utilized in determining the timeliness of the appeal. The chairperson of the towing appeals committee shall notify the owner or the person entitled to possession and the planning administrator of the time and place of the hearing, which shall be held within seven days of receipt of the written appeal. The issues before the committee are: (1) whether the vehicle in question is an aesthetic junked motor vehicle; and (2) if the vehicle is an aesthetic junked motor vehicle, is removal warranted under the provisions of the ordinance. The committee shall render a written decision within three days after hearing the case. The committee's written decision shall order the planning administrator to proceed with the removal of the vehicle or return the vehicle to the owner or person entitled to possession. Any aggrieved party may appeal the committee's written decision to the Pender County District Court within ten days of the date of the written decision. In the absence of a timely appeal, the committee's decision is final and the authorizing official may proceed to carry out the provisions of this article.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-71. - Towing appeals committee.

There is hereby created a three-member towing appeals committee for the Town of Burgaw. The committee shall consist of the town manager and the two board of commissioners serving on the policy and finance committee. The chairman of the policy and finance committee shall serve as the chairperson of the committee and have overall responsibility for the proper functioning of the committee, the committee's jurisdiction shall be limited to hearing appeals from the planning administrator that a vehicle is an aesthetic junked motor vehicle.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-72. - Right to probable cause hearing; post-towing.

When a vehicle is removed pursuant to the provisions of this article and for which there has been no appeal for a pre-towing hearing, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the Pender County Small Claims Magistrate within seven days of the date shown on the notice required in section 14-68 of this article. The magistrate shall set the hearing within 72 hours of receipt of the request and shall otherwise proceed in accordance with G.S. § 20-219.11. The only issue at this hearing is whether probable cause existed for the towing. If the magistrate finds probable cause did exist, the tower's lien continues. If no probable cause is found, the tower's lien is

extinguished. Any aggrieved party may appeal the magistrate's decision to the Courts of General Justice located in Pender County, North Carolina within ten days of the date of the decision.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-73. - Redemption of vehicle during proceedings.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or the towing business having custody of the vehicle. If no probable cause is found as set forth in section 14-72 above, then the owner shall be entitled to a full refund of any funds paid by the owner to the tow truck operator or the towing business. Upon regaining possession of such vehicle, the owner or person entitled to possession of such vehicle shall not allow or engage in further violation of this article.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-74. - Sale and disposition of unclaimed vehicle.

Any abandoned junked or aesthetic junked motor vehicle which is not claimed by the owner or other party entitled to possession may be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in accordance with G.S. ch. 44A, art. 1.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-75. - Protection against criminal or civil liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked or aesthetic junked motor vehicle, for disposing of such vehicle as provided in this article and by North Carolina law.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-76. - Exceptions.

- (a) Nothing in this chapter pertaining to abandoned or junked motor vehicles shall apply to any motor vehicle that:
 - (1) Is located in an enclosed building; or
 - (2) Is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
 - (3) Is in an appropriate storage place or depository maintained in a lawful place and manner in the town.
- (b) Nothing in this chapter pertaining to aesthetic junked motor vehicles shall apply to any motor vehicle that:
 - (1) Is located in a bona fide automobile graveyard or junkyard as defined in G.S. § 136-43; or
 - (2) Is used on a regular basis for business or personal use.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-77. - Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this article unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

([Ord. No. 2014-09, § II, 3-11-2014](#))

Sec. 14-78. - Duty of owner.

It shall be the duty and responsibility of the owner of any abandoned or junked motor vehicle to cause the removal thereof immediately and to pay all costs incident to such removal. It shall be unlawful for any person to allow such motor vehicle owned by him to remain after notice has been given to such person to have the vehicle removed.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Sec. 14-79. - Liability of persons acting under article provisions.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost or stolen motor vehicle for disposing of the vehicle as provided in this article.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Sec. 14-80. - Certain vehicles exempted.

Nothing in this article shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, nor to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Sec. 14-81. - Generally.

Any junked or abandoned motor vehicle may be removed by the town to a storage garage or area, provided, that no such vehicle shall be removed from private property without the written request of the owner, lessee or occupant of the premises unless the town or a duly authorized town official or employee has declared such vehicle to be a health or safety hazard.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Sec. 14-82. - Indemnification of town by person requesting removal.

Any person requesting the removal of a junked or abandoned motor vehicle from private property shall indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale of such vehicle.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Sec. 14-83. - Notice.

When any junked or abandoned motor vehicle is removed, the town shall give written notice of the removal to the registered owner at his last known address according to the latest registration certificate or certificate of title on file with the state department of motor vehicles. Such notice shall inform the owner of the possible sale or other disposition that can be made of the vehicle under this article. Notice need not be given to the registered owner of the vehicle when such vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Sec. 14-84. - Redemption by owner.

The owner of an abandoned or junked motor vehicle may regain possession of any vehicle removed by the town pursuant to the provisions of this article by paying to the town all reasonable costs incidental to the removal and storage of such vehicle.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Sec. 14-85. - Sale of abandoned vehicles.

- (a) After holding an unclaimed abandoned motor vehicle for 30 days, the town shall sell or dispose of it as provided by this section.
- (b) If the vehicle appears to be worth less than \$100.00, the town may dispose of the vehicle as a junked motor vehicle as provided by section 14-86.
- (c) If the vehicle is worth \$100.00 or more, it shall be sold at public auction. Twenty days' written notice of the sale shall be given to the registered owner at his last known address, the holders of all liens of record against the vehicle and the state department of motor vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date.
- (d) The proceeds of the sale shall be paid to the town treasurer who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale and liens in that order. If the owner of such vehicle does not claim the remainder of the proceeds 60 days after the sale, the funds shall be deposited in the town's general fund, and the owner's rights therein shall be forever extinguished.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Sec. 14-86. - Sale of junked vehicles.

- (a) After holding an unclaimed junked motor vehicle for 15 days, the town may destroy it or sell it at private sale as junk.
- (b) Within 15 days after final disposition of a junked motor vehicle, the town shall notify the state department of motor vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. Such notices shall contain as full and accurate a description of the vehicle as can be reasonably determined.
- (c) Any proceeds from the sale of a junked motor vehicle, after all costs of removal, storage, investigation and sale and satisfying any liens of record on the vehicle have been deducted therefrom, shall be held by the town for 30 days and paid to the registered owner upon demand. If the owner does not appear to claim the proceeds within 30 days after disposal of the vehicle, the

funds shall be deposited in the town's general fund and the owner's rights therein shall be forever extinguished.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Sec. 14-87. - Vehicles not displaying license plate or legible identification numbers.

Sections 14-85 and 14-86 shall not apply when the vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. Such vehicles may be destroyed or sold at private sale, without regard to value, after being held for 48 hours.

([Ord. No. 2014-09, § III, 3-11-2014](#))

Secs. 14-88—14-110. - Reserved.

ARTICLE IV. - REPAIR, CLOSING OR DEMOLITION OF ABANDONED STRUCTURES^[4]

Footnotes:

--- (4) ---

State Law reference— Municipal authority to require repair, closing and demolition, G.S. 160A-443.

Sec. 14-111. - Finding; intent.

It is hereby found that there exists within the town abandoned structures which the board of commissioners finds to be hazardous to the health, safety and welfare of the residents of the town due to the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities. Therefore, pursuant to the authority granted by G.S. 160A-441, it is the intent of this article to provide for the repair, closing or demolition of any such abandoned structures in accordance with the provisions and proceedings as are set forth by law for the repair, closing or demolition of dwellings unfit for human habitation.

(Ord. No. 96-6, § 12-86, 8-12-1996)

Sec. 14-112. - Duties of the building inspector.

The building inspector is hereby designated as the town officer to enforce the provisions of this article. It shall be the duty of the building inspector to:

- (1) Locate abandoned structures within the town and determine which structures are in violation of this article.
- (2) Take such action pursuant to this article as may be necessary to provide for the repair, closing or demolition of such structures.
- (3) Keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this article.
- (4) Perform such other duties as may be prescribed in this article or assigned to him by the board of commissioners.

(Ord. No. 96-6, § 12-87, 8-12-1996)

Sec. 14-113. - Powers of the building inspector.

The building inspector is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this article, including the following powers in addition to others granted in this article:

- (1) Investigate the condition of buildings within the town in order to determine which structures are abandoned and in violation of this article.
- (2) Enter upon premises for the purpose of making inspections.
- (3) Administer oaths and affirmations, examine witnesses and receive evidence.
- (4) Designate such other officers, agents and employees of the town as he deems necessary to carry out the provisions of this article.

(Ord. No. 96-6, § 12-88, 8-12-1996)

State Law reference— Powers and duties of inspectors, G.S. 160A-412, 160A-417, 160A-420 et seq.

Sec. 14-114. - Standards for enforcement.

- (a) Every abandoned structure within the town shall be deemed in violation of this article whenever such structure constitutes a hazard to the health, safety or welfare of the town citizens as a result of:
 - (1) The attraction of insects or rodents.
 - (2) Conditions creating a fire hazard.
 - (3) Dangerous conditions constituting a threat to children.
 - (4) Frequent use by vagrants as living quarters in the absence of sanitary facilities.
- (b) In making the preliminary determination of whether or not an abandoned structure is in violation of this article, the building inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:
 - (1) Holes or cracks in the structure's floors, walls, ceilings or roof which may attract or admit rodents and insects, or become breeding places for rodents and insects.
 - (2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects.
 - (3) Violations of the state building code, the state electrical code, or the fire prevention code which constitute a fire hazard in such structure.
 - (4) The collection of garbage, rubbish or combustible material which constitutes a fire hazard in such structure.
 - (5) The use of such structure or nearby facilities by children as a play area.
 - (6) Violations of the state building code which might result in danger to children using the structure or nearby grounds or facilities as a play area.
 - (7) Repeated use of such structure by transients and vagrants, in the absence of sanitary facilities for living, sleeping, cooking or eating.

(Ord. No. 96-6, § 12-89, 8-12-1996)

State Law reference— Municipal authority to adopt standards, G.S. 160A-444.

Sec. 14-115. - Procedure for enforcement.

- (a) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the inspector by at least five residents of the town charging that any structure exists in violation of this article or whenever it appears to the inspector, upon inspection, that any structure exists in violation of this article, the inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such structure. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the inspector.
- (b) *Procedure after hearing.* After such notice and hearing, the inspector shall state in writing his determination whether such structure violates this article. If the inspector determines that the dwelling is in violation he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such structure or else remove or demolish the structure within a specified period of time not to exceed 90 days.
- (c) *Failure to comply with order.*
 - (1) If the owner of any structure shall fail to comply with an order of the inspector within the time specified therein, the inspector may submit to the board of commissioners at its next regular meeting a resolution directing the town attorney to petition the superior court for an order directing such order to comply with the order of the inspector, as authorized by G.S. 160A-446(g).
 - (2) After failure of an owner of a structure to comply with an order of the inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (c)(1) of this section, the inspector shall submit to the board of commissioners an ordinance ordering the inspector to cause such structure to be removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition, to placard such dwelling as provided by G.S. 160A-443.
- (d) *Petition to superior court by owner.* Any person aggrieved by an order issued by the inspector shall have the right, within 30 days after issuance of the order, to petition the superior court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. 160A-446(f).

(Ord. No. 96-6, § 12-90, 8-12-1996)

Sec. 14-116. - Methods of service of complaints and orders.

Complaints or orders issued by the inspector pursuant to this article shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the whereabouts cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publication in a newspaper having general circulation in the town at least once, no later than the time at which personal service is required under section 14-115. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. No. 96-6, § 12-91, 8-12-1996)

Sec. 14-117. - In rem action by inspector; placarding.

- (a) After failure of an owner of a structure to comply with an order of the inspector issued pursuant to the provisions of this article, and upon adoption by the board of commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. 160A-443(5), and section 14-115, the inspector shall proceed to cause such structure either to be repaired or else removed or demolished, as directed by the ordinance of the board of commissioners and shall cause to be posted on the main entrance of such structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a violation.
- (b) Each such ordinance shall be recorded in the office of the register of deeds of the county, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160-443(5).

(Ord. No. 96-6, § 12-92, 8-12-1996)

Sec. 14-118. - Creation of lien.

As provided by G.S 160A-446(6), the amount of the cost of any removal or demolition caused to be made or done by the inspector pursuant to this article shall be a lien against the real property upon which cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. 160A-216 et seq.

(Ord. No. 96-6, § 12-93, 8-12-1996)

Sec. 14-119. - Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process, and the enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy or remedies provided in this article or in other ordinances or laws.

(Ord. No. 96-6, § 12-94, 8-12-1996)

Secs. 14-120—14-140. - Reserved.

ARTICLE V. - NOISE^[5]

Footnotes:

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State Law reference— Authority of town to regulate, restrict or prohibit loud noises, etc., G.S. 160A-184.

Sec. 14-141. - Sound control.

- (a) Subject to the provisions of this section, the creation of any unreasonably loud and disturbing sound is prohibited. Sound of such character, intensity and duration as to be detrimental to the life or health of a reasonable person of ordinary sensibilities is prohibited.

- (b) The following acts, among others, are declared to be loud and disturbing sounds in violation of this section, but this enumeration shall not be an exclusive listing:
- (1) The sounding of any horn or signal device on a vehicle except as a signal of impending danger; the creation by means of such a device of any unreasonably loud or harsh sound; and the sounding of such a device for an unreasonable period of time.
 - (2) The use of any gong or siren upon any vehicle other than the police, fire or other emergency vehicle when used for an emergency purpose.
 - (3) The playing of any radio, phonograph or other musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of a reasonable person of ordinary sensibilities in any dwelling, hotel or other type of residence.
 - (4) The keeping of any animal or bird which, by causing frequent or long continued sound, shall disturb the comfort and repose of a reasonable person of ordinary sensibilities in the vicinity.
 - (5) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud grating, grinding, rattling or other sound.
 - (6) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.
 - (7) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine except through a muffler or other device which will effectively prevent loud or explosive sounds.
 - (8) The use of any mechanical device operated by compressed air, unless the sound created thereby is effectively muffled or reduced.
 - (9) The erection, including excavation, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety, and then only with a permit from the building inspector, which permit may be renewed for a period of three days or less while the emergency continues.
 - (10) The creation of any excessive sound on any street adjacent to any school, institution of learning or court while the such school, institution of learning or court is in session, or within 150 feet of any hospital, which unreasonably interferes with the working of such institutions; provided that conspicuous signs are displayed in such street indicating that the street is a school, court or hospital street.
 - (11) The creation of any excessive sound on Sundays on any street adjacent to any church, provided that conspicuous signs are displayed in such streets adjacent to churches indicating that the streets are church streets.
 - (12) The creation of loud and excessive sound in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers.
 - (13) The sounding of any bell or gong attached to any building or premises, which disturbs the quiet or repose of a reasonable person of ordinary sensibilities in the vicinity thereof. This subsection shall not apply to bells used in connection with religious services provided such sounding shall not last more than ten minutes.
 - (14) The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.
 - (15) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of sound to any performance, show, or sale or display of merchandise.
 - (16) The use of any mechanical loudspeaker or amplifier on trucks or other moving vehicles for advertising or other purposes, except where a specific license is received from the police department.

- (17) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive sounds to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.
- (18) The creating or permitting the creation of any vibration which is above the vibration perception threshold of a reasonable person of ordinary sensibilities at or beyond the property boundary of the source of the vibration. For purposes of this section, the term "vibration perception threshold" means the minimum ground or structure born vibrational motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.
- (19) The sounding of a device attached to a vehicle exterior to the passenger compartment except:
 - a. To signal impending danger;
 - b. An intent to overtake another vehicle in compliance with the General Statutes of North Carolina; or
 - c. To signal the use of a police, fire or emergency medical vehicle for an emergency purpose.

(Ord. No. 91-18, § 13.1, 9-3-1991)

Sec. 14-142. - Permits.

- (a) This section shall not apply to the holder of an outdoor amplified sound permit.
- (b) Any person desiring an outdoor amplified sound permit shall apply as provided in this section, and shall provide all information required.
- (c) The town manager or his designee shall act upon all requests for permits. In acting on requests the town manager shall consider, but shall not be limited to, the nature of the requested activity, previous experience with the applicant, the time of the event, other activities in the vicinity of the proposed location, the frequency of the application, the cultural or social benefits of the proposed activity and the effect of the activity on any residential area of the town.
- (d) Applicants shall pay the currently required administration fee if the application is made more than 48 hours in advance of an event for which the permit is requested. Applications made less than 48 hours prior to an event will require the payment of the currently required administration fee.
- (e) Outdoor amplified sound permits shall specify the duration for which noncompliance shall be permitted and shall prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood. The town manager or his designee may impose reasonable conditions, which shall not deny anyone's right to freedom of speech or assembly, in the permit, including that:
 - (1) No sound speakers may be set up more than ten feet off the ground; and
 - (2) The permit holder changes the arrangement of amplifying equipment or sound instruments upon the request of any town police officer so as to minimize the disturbance to others resulting from the position or orientation of the amplifying equipment or from atmospherically or geographically caused dispersal of sound beyond the property lines.
- (f) The permit holder shall cooperate with the police department in enforcing this article by having the holder of the permit available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing this article. Failure of the holder of a permit to be present or to assist the police in complying with this chapter shall be cause for revocation of such permit.

(Ord. No. 91-18, § 13.2, 9-3-1991)

Chapter 16 - FIRE PREVENTION AND PROTECTION^[1]

Footnotes:

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Cross reference— Buildings and building regulations, ch. 6; fire zones, § 6-6; emergency management, ch. 12.

State Law reference— Fire protection in municipalities, G.S. 160A-291—160A-293.

ARTICLE I. - IN GENERAL

Sec. 16-1. - Removal of unused utility wires.

No electric light, telegraph or telephone company shall permit any of its disconnected, dead or unused wires to hang or remain on any pole, tree or house where such wires have been formerly connected and in use. All such wires shall be taken down and removed immediately upon notice by the chief of police. The chief of the fire department shall notify the chief of police whenever he has knowledge of the existence of such conditions.

(Code 1975, § 9-4)

Cross reference— Utilities, ch. 36.

Sec. 16-2. - Accumulations presenting fire hazard.

No person shall permit rubbish, refuse or articles of combustible or inflammable nature to accumulate or remain on any lot or premises.

(Code 1975, § 9-5)

Sec. 16-3. - Mobile home sales lots.

The manager, dealer, owner or other person having the authority to direct the placement of mobile homes on a mobile home sales lot or facility within the town shall not allow mobile homes to be placed on the sales lot in violation of the following open space requirements:

- (1) There shall be at least five feet between any and all units or mobile homes on the lot.
- (2) No unit or mobile home shall be closer to any street right-of-way than 20 feet.
- (3) No unit or mobile home shall be closer to any property line than ten feet.

(Ord. of 10-7-1986)

Sec. 16-4. - Tampering, interfering with alarm systems.

It shall be unlawful to use or interfere with any telephone or alarm gong, radio or other fire alarm mechanism belonging to the town, except in case of fires and police calls.

(Code 1975, § 9-21)

Secs. 16-5—16-30. - Reserved.

ARTICLE II. - FIRE PREVENTION CODE^[2]

Footnotes:

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State Law reference— Municipal authority to adopt technical codes by reference, G.S. 160A-76.

Sec. 16-31. - Adoption.

There is hereby adopted by the board of commissioners, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the North Carolina State Building Code: Fire Prevention Code 2012 Edition and Appendices B, C and F, save and except such portions as are deleted, modified or amended by this article. Not less than three copies of such code have been and now are filed in the office of the clerk and such code is hereby adopted and incorporated as fully as if set out at length herein, and the provisions thereof shall be controlling within the limits of the town and its extraterritorial jurisdiction (ETJ).

(Code 1975, § 9-6; Ord. No. 91-14, 7-2-1991; Ord. No. 2002-3, § 1, 1-8-2002; Ord. No. 2006-63, § 1, 1-1-2007; [Ord. No. 2014-06, § 1, 2-11-2014](#))

Sec. 16-32. - Enforcement.

The fire prevention code adopted in this article shall be enforced by the Fire Marshal for the Town of Burgaw. Enforcement of the fire prevention code adopted in this article will be completed through periodic inspections as outlined in Section 106 of the adopted fire prevention code.

(Code 1975, § 9-7; [Ord. No. 2014-06, § 2, 2-11-2014](#))

Sec. 16-33. - Definitions.

Wherever the word "municipality" is used in the fire prevention code adopted in this article it shall be held to mean the town.

(Code 1975, § 9-8)

Cross reference— Definitions generally, § 1-2.

Sec. 16-34. - Amendments.

The fire prevention code adopted in this article may be amended and changed from time to time by ordinance of the board of commissioners.

(Code 1975, § 9-9)

Sec. 16-35. - Modifications.

The Fire Marshal for the Town of Burgaw shall have the power to modify any of the provisions of the fire prevention code adopted in this article upon application in writing by an owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided, that the spirit of the fire prevention code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the fire marshal thereon shall be entered upon the records of the department, and a signed copy shall be furnished to the applicant.

(Code 1975, § 9-10; [Ord. No. 2014-06, § 3, 2-11-2014](#))

Sec. 16-36. - Appeals.

Whenever the Fire Marshal for the Town of Burgaw disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code adopted in this article do not apply or that the true intent and meaning of such code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire marshal chief of the fire department to the town manager within 30 days from the date of the decision appealed.

(Code 1975, § 9-11; [Ord. No. 2014-06, § 4, 2-11-2014](#))

Sec. 16-37. - Penalties.

- (a) Any person who shall violate any of the provisions of the fire prevention code adopted in this article or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the board of commissioners or by a court of competent jurisdiction, within the time fixed herein, shall, for each and every such violation and noncompliance respectively, be punished as provided by section 1-6. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time.
- (b) When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.
- (c) The application of the penalty as set forth in this section shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1975, § 9-12)

Sec. 16-38. - Open burning; permit.

North Carolina Department of Environment and Natural Resources (NCDENR) (or its successor) regulates open burning and what materials may be burned. The town has adopted this regulation to parallel the existing regulation governing open burning and the establishment of a permitting system.

([Ord. No. 2014-08, § 1, 3-11-2014](#))

State Law reference— Authority of state environmental management commission to adopt regulations relating to water and air resources, G.S. 143-215.3(a)(1), 143-215.107(a)(5).

Secs. 16-39—16-60. - Reserved.

ARTICLE III. - FIRE DEPARTMENT^[3]

Footnotes:

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Cross reference— Officers and employees, § 2-101 et seq.

State Law reference— Municipal authority to appoint fire chief, establish, organize and maintain fire department, etc., G.S. 160A-291.

Sec. 16-61. - Composition, organization.

The fire department shall consist of a chief, an assistant chief and such other officers as may be authorized by the bylaws of such department and a sufficient number of firefighters to maintain and operate the department in an efficient manner.

(Code 1975, § 9-13)

Sec. 16-62. - Command at fires.

The chief, or in his absence, the assistant chief, shall command the fire department. All firefighters shall report to the officer in command. Firefighters who refuse to obey his orders shall be subject to dismissal from the fire department.

(Code 1975, § 9-14)

Sec. 16-63. - Rules of conduct during drills, proceedings.

The conduct of the fire department in drills or exercises and its proceedings in all alarms for fire shall be governed by its own bylaws, provided they do not conflict with town ordinances, in which event town ordinances shall prevail.

(Code 1975, § 9-15)

Sec. 16-64. - Authority of officers.

During any fire the chief or assistant chief shall have the power to call on any and all persons to assist in extinguishing the fire, or in pulling down or blowing up any building or in removing any goods, wares, merchandise and furniture from any building on fire or in danger. The chief and the assistant chief shall be vested with all the powers of a police officer of the town insofar as authority to make arrests within the town during the existence of a fire.

(Code 1975, § 9-16)

State Law reference— Authority of firefighters, G.S. 69-39.

Sec. 16-65. - Interfering with firefighters, equipment; loitering around fire house.

No person shall interfere with any firefighter in the discharge of his duty, loiter around any fire house where fire apparatus is stored or meddle with any apparatus stored in the fire house belonging to the fire department.

(Code 1975, § 9-17)

State Law reference— Willful interference with firefighters, G.S. 69-39.

Sec. 16-66. - Riding on fire truck, apparatus.

It shall be unlawful for any person, except a member of the fire department, to ride on any truck, vehicle or apparatus of the department while going to or returning from a fire, except by permission of the chief of the fire department.

(Code 1975, § 9-18)

Sec. 16-67. - Right-of-way of fire department vehicles.

The members of the fire department with fire apparatus going to, on duty or returning from a fire and the officers and vehicles of the police department shall have the right-of-way through any street in the town over all other vehicles. All persons operating motor vehicles or other vehicles shall stop or move so as to permit fire apparatus and other vehicles driven by the fire department and the police department to have the right-of-way in carrying on their respective work.

(Code 1975, § 9-19)

State Law reference— Right-of-way of fire department vehicles, G.S. 20-157.

Sec. 16-68. - Keeping distance from fire apparatus, scene of fire.

It shall be unlawful to follow any automobile, truck, bicycle or other vehicle, unless transporting firefighters to a fire in response to a fire alarm, closer than one block, or to pass, stop or park within the block in which the fire occurred for the duration of such fire.

(Code 1975, § 9-20)

State Law reference— Distance to be kept from fire apparatus, G.S. 20-157.

Sec. 16-69. - Unauthorized removal of equipment.

No person shall be permitted to take any equipment of the fire department from its place of storage without first obtaining the consent of the chief of the fire department.

(Code 1975, § 9-22)

Sec. 16-70. - False alarms.

If an address has more than two false alarms within a 30-day period, a fee of \$100.00 will be imposed. A fire department representative will be in contact with the address representative and discuss

the call before making any determination. It shall be the decision of the fire department representative if the call is false.

Chapter 18 - LAW ENFORCEMENT^{[11](#)}

Footnotes:

--- (1) ---

Cross reference— Administration, ch. 2; emergency management, ch. 12; offenses and miscellaneous provisions, ch. 20; traffic and vehicles, ch. 32.

State Law reference— Municipal law enforcement, G.S. 160A-281 et seq.

Sec. 18-1. - Composition of department; manager to have general control.

The police department shall consist of the chief of police and as many police officers and officers with special duties as the manager shall from time to time provide. The manager shall have general control of the police department and may, at any time for cause, suspend any member of the police force.

(Code 1975, § 16-1)

State Law reference— Authority of town to appoint chief of police and employ other police officers, G.S. 160A-281.

Sec. 18-2. - Jurisdiction.

The police department of the town shall have jurisdiction within the corporate limits and in such other areas as may be designated or authorized by state law.

(Code 1975, § 16-2)

Sec. 18-3. - Duties generally.

It shall be the duty of the police to patrol the town at reasonable intervals to:

- (1) Give their attention to the enforcement of this Code and other ordinances;
- (2) Perform all duties imposed upon them, as is provided under state law;
- (3) Arrest all offenders;
- (4) Suppress all disturbances;
- (5) Upon the occasion of fire, to be present, preserve order and protect property;
- (6) Give proper information to strangers; and
- (7) Act in a civil manner to all with whom they have official business.

(Code 1975, § 16-3)

State Law reference— Powers and duties of police officers, G.S. 160A-285.

Sec. 18-4. - Enforcement of licensing regulations.

It shall be the duty of all police officers to report promptly to the town clerk any person liable to a license tax under this Code or any other town ordinance. Any police officer shall have a right to demand any person to exhibit his privilege license, and upon failure of such person to do so, it shall be the duty of the chief of police or other officer under his direction to prosecute such person in the proper court for the violation of the provisions of this Code or other ordinances in such case made and provided.

(Code 1975, § 16-4)

Chapter 20 - OFFENSES AND MISCELLANEOUS PROVISIONS^[1]

Footnotes:

--- (1) ---

Cross reference— Law enforcement, ch. 18; traffic and vehicles, ch. 32.

State Law reference— State criminal code, G.S. 14-1 et seq.

ARTICLE I. - IN GENERAL

Sec. 20-1. - Begging prohibited without permit; exceptions.

It shall be unlawful to beg on any street or in any public building without a permit to do so; provided, that this section shall not apply to persons soliciting for any religious or charitable organization.

(Code 1975, § 15-1)

State Law reference— Authority of town to prohibit or regulate begging, G.S. 160A-179.

Sec. 20-2. - Indirect solicitation of alms by offering articles for sale.

It shall be unlawful to solicit alms in public places by offering for sale any article or merchandise.

(Code 1975, § 15-2)

Sec. 20-3. - Drinking alcoholic beverages in public; open containers.

- (a) It shall be unlawful for any person to drink beer, wine, whiskey or any alcoholic beverage as defined in G.S. 18B-101, or to offer a drink to another person, whether accepted or not, on any public road or street or in any other public place in the town.
- (b) It shall be unlawful for any person to make any public display of any open containers containing alcoholic beverages, on any road, street or other public place in the town.

(Code 1975, § 15-3)

Sec. 20-4. - Littering.

It shall be unlawful for any person to litter upon any town street, state highway within the town, alley, driveway or any property, whether public or private, within the town. Any person violating this section shall be punished as provided in section 1-6.

(Code 1975, § 15-6)

Sec. 20-5. - Playing ball games in street prohibited.

No person shall play baseball, town ball, football or other games of a similar nature on or in any public street of the town.

Sec. 20-6. - Smoking in town hall prohibited.

- (a) It shall be unlawful for a person to smoke or possess any burning tobacco, weed or other plant product within the town hall. This prohibition shall be in effect at all times.
- (b) Signs designated "No Smoking" shall be conspicuously posted at the entrances of the town hall to give notice of the prohibition.
- (c) Violation of this section shall subject the offender to a civil penalty in the amount of \$25.00 which shall be payable within 72 hours of the offender being cited. If the offender fails to pay the civil penalty within the time prescribed, such offender shall be charged with a misdemeanor pursuant to G.S. 14-4.

State Law reference— Smoking in public places, G.S. 143-593 et seq.

Sec. 20-7. - Unauthorized use of police whistles and fire signals.

No person, without special authority from the police department or fire department, shall carry or use any whistle, bell, horn or siren similar in appearance or sound to the whistles, horns or sirens used by the police department or fire department.

Sec. 20-8. - Certain activities of minors prohibited.

- (a) *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:
Public place means any street, sidewalk, bridge, alley or alleyway, plaza, park, driveway, parking lot, or transportation facility, or the doorways and entranceways to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the town.
- (b) *Prohibited conduct.* It is unlawful for any person under 18 years of age to stand or walk upon any public place in the town within 25 feet of the entranceway of an establishment which has pool tables, billiard tables, or games devices or serves food or beverages after a request by a law enforcement officer to move.

(Ord. No. 1998-17, 12-8-1998)

Sec. 20-9. - Expectorating, urinating, or defecating in public places.

- (a) *Purpose.* It is the purpose of this section to enhance the sanitary conditions within the town and to promote the use of the public sewer system within the town.
- (b) *Prohibited conduct.* It shall be unlawful for any person to expectorate, urinate, or defecate in any public place, sidewalk, street, alley, alleyway, easement, or building, except in designated water

closets or toilet facilities, or on any private property. Permission of the owner or person in lawful possession of private property shall be a defense to the offense created by this section.

(Ord. No. 1998-18, 12-8-1998)

Secs. 20-10—20-30. - Reserved.

ARTICLE II. - OFFENSES AGAINST PUBLIC SAFETY^[2]

Footnotes:

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State Law reference— Offenses against public safety, G.S. 14-278 et seq.

Sec. 20-31. - Firearms.

- (a) *Discharge prohibited.* It shall be unlawful and it is hereby prohibited for any person to shoot or discharge within the corporate limits of the town any firearm. The term "firearm" is hereby defined as being any gun, pistol, rifle, shotgun, paint ball gun or other device which impels with force shot or pellet by means of an explosive shell or cartridge except as permitted pursuant to paragraph (c) of this section.
- (b) *Confiscation authorized.* The chief of police or any member of the police department is hereby authorized to seize and hold, subject to order of the court, any such firearm which shall be used, shot or discharged within the town in violation of this section.
- (c) *Permitted discharge.* A person shall be allowed to discharge a firearm within the corporate limits of the Town of Burgaw upon providing satisfactory proof to the town manager or his designee that the applicant has first obtained a permit from the North Carolina Wildlife Resources Commission that authorizes the applicant to harvest deer on the land owned or leased by the applicant that is utilized for raising agriculture crops. That the permit issued by the town to the applicant shall not exceed the duration of the permit as issued to the applicant by the North Carolina Wildlife Resources Commission and such permit may be revoked by the town in the event that the applicant's permit to harvest deer is revoked by the North Carolina Wildlife Resources Commission or in the event that the applicant is discharging a firearm in violation of the terms and conditions of the permit issued to applicant by the North Carolina Wildlife Resources Commission or is discharging a firearm in disregard to the health and safety of the citizens and residents with the Town of Burgaw and the public. In the event that the applicant's permit is revoked for discharging a firearm in violation of the terms and conditions of the permit issued by the North Carolina Wildlife Resources Commission or is discharging a firearm in disregard of the health and safety of the citizens and residents of the Town of Burgaw and public as each may be determined upon a satisfactory investigation by Town of Burgaw Police Department and notice is given to the applicant revoking said permit by the Town of Burgaw Police Department, the applicant may appeal such revocation in writing to the town manager within five business days after the date of the notice of revocation of the applicant's permit is given by the Town of Burgaw Police Department. The town manager or in the absence of the town manager, the town clerk shall hear the applicant's appeal and shall make a final decision as to whether the applicant's permit should be reinstated or the revocation should remain in force and effect. The applicant shall not have a right to appeal the revocation of the issued permit if the permit was revoked due to the revocation of the applicant's permit issued by the North Carolina Wildlife Resources Commission. Prior to the issuance of such permit by the town, the applicant will pay to the town clerk a permit fee of \$10.00.

For purposes of this section a firearm is defined as a shotgun not to exceed 12 gauge and shall be utilized with number one buckshot only. No rifle or handgun shall be permitted.

- (d) *Penalty.* Any person who shall violate any provision of this section shall upon conviction be punished as provided by section 1-6.

(Ord. of 6-2-1981, §§ 1—3; Ord. No. 2006-42, §§ 1—5, 8-8-2006)

State Law reference— Municipal authority to regulate the discharge of firearms, G.S. 160A-189.

Sec. 20-32. - Concealed handguns.

- (a) It is prohibited, and not within the scope of any concealed handgun permit, for any person to possess or carry a concealed handgun upon any property of the town.
- (b) This section shall not apply to persons exempted from concealed weapons prohibitions under G.S. 14-269.
- (c) The town manager shall post at the entrance to all town property, conspicuous notices prohibiting concealed handguns on town property.
- (d) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor and shall be punished in accordance with section 1-6.

(Ord. No. 96-2, § 1, 4-1-1996)

Sec. 20-33. - Projectiles and hunting of wild deer by bow and arrow with the issuance of permit.

No person shall shoot or project any stone, rock, shot or other hard substance by means of a sling shot, bean shooter, shot shooter, air rifle, pop gun, bow, cross bow or other similar contrivance, provided, a person may be allowed to hunt and take possession of a wild deer by bow and arrow as follows:

- (a) *Permitted discharge restrictions within the corporate limits of the Town of Burgaw.* A person shall be allowed to discharge a bow and arrow within the corporate limits of the Town of Burgaw upon providing satisfactory proof to the Town of Burgaw Chief of Police that the applicant has first obtained a license from the North Carolina Wildlife Resources Commission that authorizes the applicant to harvest deer on the land owned or leased by the applicant. That the permit issued by the town to the applicant shall not exceed the duration of the license issued to the applicant by the North Carolina Wildlife Resources Commission.
- (b) *Revocation of applicant's permit.* Applicant's permit, as issued in accordance with the provisions set forth within this ordinance may be revoked by the town as follows:
 - (i) In the event that the applicant's license to harvest deer is revoked by the North Carolina Wildlife Resources Commission;
 - (ii) In the event that the applicant is discharging a bow and arrow in violation of the terms and conditions of the permit issued to applicant by the town; or
 - (iii) Applicant is discharging a bow and arrow in disregard of the health and public safety of the citizens and residents of the town and the general public.
- (c) *Appeal of revocation of permit.* In the event that the applicant's permit is revoked for the reasons set forth in subparagraphs (ii) and/or (iii) of paragraph (b) herein and after an investigation by Town of Burgaw Police Department and written notice is given to the applicant notifying applicant of the revocation of said permit by the Town of Burgaw Police Department, the applicant may appeal such revocation upon giving written notification to the Town of Burgaw

Town Manager within five business days after the date of the notice of revocation of the applicant's permit is given by the Town of Burgaw Police Department, with such written notice of revocation being deemed given on the date that the applicant is personally served with the written notice of revocation from the Town of Burgaw or the date that such written notice of revocation being mailed by first class United States Mail to the mailing address listed within applicant's permit application on file with the town. The town manager or in their absence, the town clerk, shall hear the applicant's appeal and shall issue within ten business days from the hearing of applicant's appeal a decision as to whether the applicant's permit should be reinstated or remain revoked. The applicant shall not have a right to appeal the revocation of the issued permit if the permit was revoked due to the revocation of the applicant's license issued by the North Carolina Wildlife Resources Commission.

- (d) *Eligibility requirements to obtain a permit from the Town of Burgaw to discharge a bow and arrow within the corporate limits of the Town of Burgaw.*
 - (i) Applicant must possess a valid hunting license from the North Carolina Wildlife Resources Commission that allowing the hunting and taking of wild deer; and
 - (ii) Applicant must own the real property which applicant will be hunting with a bow and arrow; or the applicant must have written permission from the real property owner who allows the applicant to hunt thereon with a bow and arrow and that such written permission from the real property owner must be stated on a form promulgated and provided by the Town of Burgaw and subject to verification by the Town of Burgaw Police Department prior to the issuance of a permit to the applicant; and
 - (iii) The real property where the applicant is authorized to hunt thereon pursuant to the terms of the permit shall consist of a minimum of two acres;
 - (iv) No hunting with a bow and arrow shall be allowed within 300 feet from a residence, residential structure, business, church, school, a licensed daycare facility, public park, the Osgood Walking Trail, a municipal street, or a public highway.
- (e) *Duration of permit.* A permit issued to an applicant pursuant to the provisions of this section shall be effective from the date of the issuance of the permit through the last day of the current deer hunting season, as established by the North Carolina Wildlife Resources Commission. Any permit issued pursuant to the provisions of this section shall not be automatically renewed from one deer hunting season to the next.
- (f) *Permit fee.* The Town of Burgaw is hereby authorized to charge and collect a fee prior to the issuance of the permit authorized pursuant to this section and in an amount, as set forth within the Town of Burgaw's annual budget ordinance schedule of fees.
- (g) *Definition.* For purposes of this section the following terms are defined:
 - A *cross bow* shall mean a weapon consisting of a bow fixed transversely on a stock having a trigger mechanism to release the bowstring.

([Ord. No. 2011-28, § 1, 8-9-2011](#))

Sec. 20-34. - Display, possession, concealed carry of deadly weapons prohibited on town property.

- (a) *Prohibition.* It shall be unlawful for a person to possess, on or about his person, either concealed or otherwise, any deadly weapon, as defined in subparagraph (b) herein, while on the premises of any town owned or leased building, including the appurtenant premises or in any town owned park or in any town owned cemetery. This prohibition does not apply if such weapon is otherwise lawfully stored within a motor vehicle.
- (b) *Definitions.* For purposes of this section the following defined terms shall control:

"Appurtenant premises" means the area surrounding any building owned or leased by the town to include but limited to, parking lot or lot(s), yard surrounding the building, outside storage area, and any other portion that constitutes the real property where the building is situated thereon.

"Deadly weapons" means any gun, rifle, shotgun, pistol, paint ball gun, or other device that propels with force shot or pellet by means of an explosive shell or cartridge, bowie knife, dagger, sling shot, loaded cane, metallic knuckles, razor, shuriken, stun gun, air rifle, air pistol, BB gun, dynamite cartridges, bombs, and powerful explosives as defined by G.S. 14-284.1(d).

"Ordinary pocket knife" means a small knife designed for carrying in a pocket or purse that has its cutting edge and point entirely enclosed by its handle and that it may not be opened by a throwing, explosive or spring action.

(c) *Exemptions.* The prohibition set forth within subparagraph (b) herein shall not to the following persons:

- (1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons.
- (2) Civil and law enforcement officers of the United States while in the discharge of their official duties.
- (3) Officers and soldiers of the militia and National Guard when called into actual service.
- (4) Officers of the state, any county, city, town or company police agency charged with the execution of the laws of the State, when acting in the discharge of their official duties.
- (5) Sworn law enforcement officers of the Town of Burgaw.
- (6) United States Military and veterans organizations conducting military funerals on town owned property.
- (7) A person who possess such deadly weapon only while recovering the same from or delivering the same to the evidence section of the Town of Burgaw Police Department.
- (8) A person engaged in a function or activity which is specifically authorized by the town as an approved educational or recreational activity.
- (9) A town employee, other than a sworn enforcement officer, who utilizes a deadly weapon in performing certain duties of their employment.

(d) *Posting of signs required.* The town manager is authorized to post conspicuous signage stating "The Display, Possession, and Concealed Carry of Firearms and Deadly Weapons Are Prohibited on Town Property" or other comparable language on or within each park, each cemetery, and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such building.

(e) *Location of signs.* Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building, appurtenant premises, cemetery or park. The town manager shall exercise discretion in determining the necessity, appropriate location and number of signs posted on the interior of town owned or leased buildings, appurtenant premises or parks.

(f) *Severability.* If this section or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section which can be given separate effect and to that end the provisions of this section are declared to be severable. All ordinances or parts of ordinances in conflict with this section are hereby repealed.

(g) *Violation.* Any person found to be in violation of the provisions within this section shall be guilty of a class 3 misdemeanor and subject to a fine not to exceed the sum of \$500.00.

([Ord. No. 2010-08, § 1, 5-11-2010](#))

ARTICLE III. - OFFENSES AGAINST PROPERTY^[3]

Footnotes:

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State Law reference— Offenses against property, G.S. 14-70 et seq.

Sec. 20-61. - Injuring or interfering with property used in water, sewer, police or fire alarm systems.

No person shall willfully or negligently injure or interfere with any valve, valve box, meter, meter box, storm or sanitary sewer manhole cover, storm sewer catch basin cover, fire hydrant, police or fire alarm box, traffic signal or any other property used in the town's water, sewer, police or fire alarm system.

Sec. 20-62. - Marking or painting advertising on sidewalks and streets prohibited.

It shall be unlawful for any person to advertise or attempt to advertise by marking or painting on any of the streets or sidewalks within the town.

Sec. 20-63. - Placing advertising matter in motor vehicles.

No person shall distribute advertising or printed matter of any kind by placing such advertising or printed matter in or on a motor vehicle that is parked on any street or other public places.

Sec. 20-64. - Posting advertisements on property of others.

No person shall post any bills, signs or advertisements on any building, fence or other property belonging to another without the consent of the owner thereof. Such consent shall be secured in writing, and such written consent shall be exhibited by the person having the consent to any police officer of the town on demand.

Sec. 20-65. - Posting bills on poles.

No person shall post any bills, posters, signs or advertisements on any telegraph, telephone, electric light or other pole along any of the streets of the town; provided, that this section shall not be construed to include street signs placed on such poles by the town for designating names of streets. Each sign, poster, bill or advertisement posted in violation of this section shall constitute a separate offense.

Sec. 20-66. - Promiscuous scattering of handbills.

No person shall promiscuously distribute handbills or advertisements of any kind by placing or throwing such handbills or advertisements on any street or lot or otherwise. Such handbills or advertisements shall be enclosed in an envelope, or clipped, and placed under, or in the door of each house where such advertising matter is left.

Chapter 22 - SOLID WASTE MANAGEMENT^[1]

Footnotes:

--- (1) ---

Cross reference— Disposition of dead animals, § 4-4; buildings and building regulations, ch. 6; environment, ch. 14; utilities, ch. 36.

State Law reference— Municipal authority to regulate the disposal of garbage and trash, G.S. 160A-192.

Sec. 22-1. - Town collection and disposal service—Established; billing of charges.

There shall be established a service for the collection and disposition of garbage within the town. Charges therefor shall be included as a part of the water and sewerage charges, but separately stated in the water bill.

(Code 1975, § 10-3)

Sec. 22-2. - Same—Rules and regulations.

All residents and businesses within the town shall comply with such rules and regulations as are adopted and established by the board of commissioners in connection with collection and disposition of garbage within the town. Notice of such rules and regulations shall be given to such residents and businesses upon their adoption.

(Code 1975, § 10-4)

Sec. 22-3. - Same—Charges.

The charges for collection and disposal of garbage by the town shall be established from time to time by the board of commissioners. A current schedule of such charges shall be maintained on file in the office of the town clerk.

(Code 1975, § 10-5; Ord. of 10-3-1989)

Sec. 22-4. - Placing trash, sharp objects, etc., upon street or public road.

No person shall willfully deposit any trash, debris, garbage or litter, or throw, place or deposit any glass or can or other sharp or cutting substance, or any injurious obstruction, or leave or cause to be placed or left, temporarily or permanently, any scrapped automobile, scrapped truck, scrapped machinery, or part thereof on the right-of-way or upon any street or public road, without permission from the police department. All such trash, debris, etc., shall be placed in a proper location and in containers as prescribed by the board of commissioners.

(Code 1975, § 10-2)

State Law reference— Placing trash, etc., on right-of-way of public road outside town limits, G.S. 14-399.

Sec. 22-5. - Scavenging containers.

- (a) No person shall go upon, enter into or otherwise be upon and use any town waste or garbage container situated within the limits of the town for the purposes of pilfering, searching or rambling in or upon the container.
- (b) Any person who shall violate the provisions of this section shall be punished in accordance with section 1-6.

(Ord. of 10-6-1987, § 2)

Sec. 22-6. - Limited use dumpsters and trash receptacles.

- (a) *Definitions.* For purposes of this section, the following words and phrases are defined and shall be construed as follows:

Limited use dumpster and *trash receptacle* mean any dumpster or other trash receptacle placed and intended for deposit of garbage, trash and other materials only by residents of immediately surrounding apartment or residential units, or by employees of immediately surrounding business establishments, and which is emptied on a regular basis by arrangement with the sanitation force of the town.

Unauthorized person means any person who is neither a resident or guest of a resident of an apartment or residential unit in immediate proximity to a limited use dumpster or trash receptacle, nor an employee or patron of a business establishment in immediate proximity to such a dumpster or receptacle.

- (b) *Prohibited deposits.* It shall be unlawful for any unauthorized person to deposit garbage, trash or any other materials in any limited use dumpster or trash receptacle located within the corporate limits of the town.

- (c) *Penalty.* Violation of this section shall constitute a misdemeanor, punishable upon conviction in accordance with section 1-6.

(Ord. No. 92-15, §§ 1—3, 8-4-1992)

Chapter 24 - SPECIAL EVENTS, PARADES AND DEMONSTRATIONS^[1]

Footnotes:

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Cross reference— Streets and sidewalks, ch. 28; traffic and vehicles, ch. 32.

State Law reference— Picketing and parading, G.S. 14-318.17; authority to regulate mass gatherings, G.S. 130A-258; authority to regulate use of streets and sidewalks, etc., G.S. 160A-296.

Sec. 24-1. - Definitions.

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

Block means that portion of any street lying between its intersections with other streets.

Parade means any parade, march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks or other public places, involving more than four persons or more than three vehicles.

Person means any person, firm, corporation, partnership, association or other organization, whether formal or informal.

(Ord. of 5-4-1989(1), § 1)

Cross reference— Definitions generally, § 1-2.

Sec. 24-2. - Permit required.

It shall be unlawful for any person to organize, conduct or participate in any parade or demonstration in or upon any street, sidewalk, alley or other public place within the town unless a permit has been issued by the town in accordance with the provisions of this chapter.

(Ord. of 5-4-1989(1), § 2)

Sec. 24-3. - Unlawful participation.

It shall be unlawful for any person to conduct or participate in any parade or demonstration for any purpose or in any manner other than those set out in the application and permit.

(Ord. of 5-4-1989(1), § 3)

Sec. 24-4. - Permit application.

A written application on a form supplied by the town shall be made to the chief of police by persons desiring to have a parade or demonstration. Such applications shall be submitted no less than ten days in advance. However, where good cause is shown or, in the judgment of the chief, the activity would involve significant political or religious features and therefore be entitled to enhanced deference or protection under the state and federal constitutions, the chief of police shall consider applications filed after the deadline. Employees of the police department shall immediately indicate the time of receipt on the face of the application. The application shall be signed by the applicant and shall include the following:

- (1) The name, address and telephone number of the applicant.
- (2) If the parade or demonstration is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible head of the organization.
- (3) The name, address and telephone number of the person to be present and responsible for the conduct of the parade or demonstration.
- (4) The date when the parade or demonstration will be conducted.
- (5) The location by streets or any assembly areas for the parade or demonstration.
- (6) The time when units of the parade or demonstration will begin to assemble at any such assembly area or areas.
- (7) The times when the parade or demonstration will begin and terminate.
- (8) The route to be traveled, the starting point and the termination point, or the location if stationary.
- (9) A statement as to whether the parade or demonstration will occupy all or only a portion of the width of the streets, sidewalks, parks, alleys or other public places proposed to be traversed or occupied.
- (10) The approximate number of persons, animals and vehicles expected to participate, and the type of animals and a description of the vehicles.
- (11) Whether minors are likely to participate.

(Ord. of 5-4-1989(1), § 4)

Sec. 24-5. - Issuance of permits; conditions.

- (a) The application for a parade or demonstration permit is expressly included as part of any permit granted. A permit shall be issued on a form supplied by the town, to the person who signed the

application. Such person shall be required to accompany the parade or demonstration, and the permit shall be invalid unless in his possession. The permit shall be deemed issued under the terms and for the purposes stated in the application only, unless otherwise noted. The permit shall set the duration, speed of travel and space between persons or vehicles in the parade or demonstration, may prescribe the portions or areas of streets, alleys, sidewalks or other public places to be used, and may impose such other reasonable requirements necessary for the control and free movement of pedestrian or vehicular traffic and to protect the safety and property rights of participants and the general public.

- (b) The chief of police shall issue a permit unless he makes written findings based upon specified facts that:
- (1) The activity cannot be conducted without unreasonable interference with normal pedestrian or vehicular traffic in the area.
 - (2) The activity cannot be held without unreasonably interfering with provision of normal police and fire protection to the public.
 - (3) The activity is being held for an unlawful purpose, or would violate a federal, state or local law or ordinance.
 - (4) The event will require the closing of or unreasonably restrict the flow of vehicular traffic along a highway under the control of the state, in which case permission should be sought by the applicant from appropriate state officials.

(Ord. of 5-4-1989(1), § 5)

Sec. 24-6. - Waiver agreement.

The applicant for a parade permit shall file with the chief of police a waiver signed by the applicant releasing and saving the town and its employees harmless for any claims, actions and lawsuits arising out of the conduct of the parade, excepting injuries or damages proximately caused by the town.

(Ord. of 5-4-1989(1), § 6)

Sec. 24-7. - Alternate permits.

The chief of police, in denying an application as submitted under this chapter, may grant a permit for a date, time, place or over a route different from that named by the applicant, or subject to stated requirements and conditions. An applicant desiring to accept an alternate permit shall, within 24 hours after notice of the action of the chief of police, file a written notice of acceptance with the chief of police, on a form supplied by the town.

(Ord. of 5-4-1989(1), § 7)

Sec. 24-8. - Processing time, notice.

Applications for permits under this chapter shall be processed and decisions made as expeditiously as possible, and at least within 48 hours. If the application was submitted more than ten days in advance of the event, the permit, alternate permit or written notice of denial shall be mailed to the applicant. Otherwise, the police department shall exercise reasonable diligence in attempting to notify the applicant of the action taken as soon as possible by telephone or other means. Any person aggrieved by action taken on a permit application may file a written notice of appeal with the board of commissioners. The board of commissioners shall hear an appeal as expeditiously as possible in good faith.

(Ord. of 5-4-1989(1), § 8)

Sec. 24-9. - Revocation of permit.

The chief of police may revoke any permit granted for a parade or demonstration for the following causes:

- (1) The substantial violation of this chapter or the terms and conditions of a permit; or
- (2) Violation of other laws by those participating in the parade or demonstration.

(Ord. of 5-4-1989(1), § 9)

Sec. 24-10. - Interference prohibited.

No person shall hamper, obstruct, impede or interfere with any parade or demonstration being conducted under authority of a lawfully issued permit. No driver of any vehicle shall drive between the vehicles or persons comprising a parade or demonstration when such vehicles or persons are in motion and identifiable as a parade or demonstration under this chapter.

(Ord. of 5-4-1989(1), § 10)

Sec. 24-11. - Carrying signs.

Signs or posters carried by parade or demonstration participants shall be made of cardboard no thicker than one-fourth inch. Supports for such signs or posters shall be made of a nonmetallic material no wider than 3½ inches nor thicker than one inch. The diameter of round supports may not exceed two inches.

(Ord. of 5-4-1989(1), § 11)

Sec. 24-12. - Parking restrictions.

The chief of police, when reasonably necessary, may prohibit or restrict the parking of vehicles along a street or highway constituting a part of the route of a parade or demonstration. The chief of police shall cause signs to be posted to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street if such signs are posted less than 24 hours in advance.

(Ord. of 5-4-1989(1), § 12)

Sec. 24-13. - Violation of state law.

The prohibition contained in G.S. 14-277.2 against possession of dangerous weapons and other provisions of law shall be strictly enforced.

(Ord. of 5-4-1989(1), § 13)

Sec. 24-14. - Sidewalk obstructions.

Police officers observing unreasonable obstructions of sidewalks as a result of a parade or demonstration, such that pedestrians are unreasonably hindered or forced to step into the street, shall take reasonable steps to make the sidewalk available for pedestrian travel.

(Ord. of 5-4-1989(1), § 14)

Sec. 24-15. - Exemptions.

The provisions of this chapter shall not apply to:

- (1) Funeral processions.
- (2) Students going to or from school classes or participating in educational or recreational activity where such activity is under the supervision and direction of the proper school authorities.
- (3) Any governmental agency acting within the scope of its functions.
- (4) Picketing or other orderly processions on the sidewalks, involving fewer than ten persons, and conducted entirely within one block, that do not violate any other municipal or state law.
- (5) A parade that is conducted under the sponsorship of the town.

(Ord. of 5-4-1989(1), § 15)

Sec. 24-16. - Enforcement.

Violation of this chapter shall be punishable upon conviction in accordance with section 1-6.

(Ord. of 5-4-1989(1), § 16)

Sec. 24-17. - Designation of alternate public forum to exercise free speech.

During any festival where the Pender County Courthouse Square is utilized for festival activities, the western portion of the block located between West Bridgers Street and West Wilmington Street and immediately adjacent to North Dudley Street shall be designated as the alternate public forum for any individual who desires to exercise their right of free speech pursuant to the First Amendment to the United States Constitution from 7:00 a.m. on the day before the commencement of the festival until 7:00 p.m. on the day after the commencement of the festival. The designation of this alternate public forum shall be effective only when the Pender County Courthouse Square and the sidewalks and streets located within the immediate area to the Pender County Courthouse Square have been authorized by the Town of Burgaw's governing body to be utilized for festival activities pursuant to a request by an organized festival committee. Unless otherwise preempted by an ordinance of the County of Pender, a resolution of the governing body of the County of Pender, federal or North Carolina law, the Pender County Courthouse Square is acknowledged as a public forum where members of the public can exercise their right to free speech.

([Ord. No. 2015-25, § I, 10-13-2015](#))

Editor's note— [Ord. No. 2015-25, § I, adopted October 13, 2015](#), set out provisions intended for use as § 24-30. For purposes of clarity, and at the editor's discretion, these provisions have been included as § 24-17.

Footnotes:

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Cross reference— Any ordinance dedicating, naming, establishing, locating, relocating, opening, widening, paving, etc., any street or public way in the town saved from repeal, § 1-9(6); any ordinance providing for local improvements and assessing taxes therefor saved from repeal, § 1-9(9); any ordinance establishing or prescribing street grades of the town saved from repeal, § 1-9(15); buildings and building regulations, ch. 6; cemeteries, ch. 10; environment, ch. 14; special events, parades and demonstrations, ch. 24; stormwater management, ch. 26; subdivisions, ch. 30; traffic and vehicles, ch. 32; trees and shrubs, ch. 34; utilities, ch. 36; zoning, ch. 38.

State Law reference— General municipal authority relative to streets and sidewalks, G.S. 160A-296 et seq.

ARTICLE I. - IN GENERAL

Sec. 28-1. - Obstructing sidewalks, streets or alleys.

It shall be unlawful to obstruct the sidewalks, streets or alleys; provided, that building material may be placed on any street or alley for immediate use, when the building material is placed so as to allow the passage of vehicles and a light is kept at such building material at night.

(Code 1975, § 17-1)

Sec. 28-2. - Barricades, warning lights required for excavations, repairs, etc.

Any person while making excavations or repairs on any street, sidewalk or bridge in the town or while having building materials of any kind deposited on any of such streets, sidewalks or bridges shall, throughout every night of the presence or continuance of such condition, keep at least two red lights burning near such obstructions or dangerous places and shall establish any other reasonable safeguards, such as railings, for the protection of the public which may be demanded by the town clerk.

(Code 1975, § 17-4)

Sec. 28-3. - Sidewalks to be kept clean; removal of snow.

The tenant or occupant or, if there is no tenant, the owner, agent or custodian of any building or lot of land bordering on any street in the town where there is a sidewalk abutting shall keep such sidewalk in front of and adjoining such property clean. After any fall of snow, such tenant, occupant, owner, agent or custodian shall, within 24 hours after the snow has ceased to fall, remove or cause such snow to be removed from the sidewalk of his premises.

(Code 1975, § 17-5)

Sec. 28-4. - Use while under construction or repair.

It shall be unlawful for any person to walk on, ride or lead a horse or any other animal or drive a wagon or any other vehicle over, across or along any sidewalk or street while such street or sidewalk is under construction or is being repaired and barricades or signs have been posted to give notice of such prohibition, and it shall be unlawful for any person knowingly to tamper with or molest any such construction or repair work.

(Code 1975, § 17-6)

Sec. 28-5. - Utilities burying cables or lines.

No utility shall bury any cable or line on public property in the town without first filing an application and obtaining a permit from the director of public works. Application blanks shall be provided by the town clerk.

(Code 1975, § 17-7)

Cross reference— Utilities, ch. 36.

Sec. 28-6. - Riding on skateboards, rollerskates and in-line skates restricted.

Riding on a skateboard, rollerskates and in-line skates is prohibited in the following areas of town:

- (1) The primary and secondary fire zones, which is the area inside the boundary formed by the following: starting at the corner of Cowan and Bridgers Streets extending south to Fremont Street, then east along Fremont Street to the Osgood Canal, then south along the Osgood Canal to Cowan Street, then north along Cowan Street to Fremont Street, then west along Fremont Street to Walker Street, then south along Walker Street to Satchwell Street, then west along Satchwell Street to McRae Street, then north along McRae Street to Fremont Street, then west along Fremont Street to Smith Street, then north on Smith Street to Wilmington Street, then east on Wilmington Street to McRae Street, then north on McRae Street to Bridgers Street, then east on Bridgers Street back to the corner of Bridgers and Cowan Streets.
- (2) Wright Street from the Middle School on the south end to Burgaw Elementary School on the north end.
- (3) All county property.

(Ord. of 10-4-1988; Ord. of 8-21-1990)

Sec. 28-7. - Excavations.

- (a) *Permit required.* No person shall make any excavation or opening or dig any ditch, trench, tunnel, or hole in, along, across, or under any street, sidewalk, or other public place for the purpose of laying or placing therein any pipe, wires, poles, or for any other purposes unless a written permit therefor has been issued by the director of public works or his designee provided that a permit shall not be required where the work is performed under a contract with the town, but if the work requires a sidewalk or street to be wholly or partially obstructed, the party performing the work shall notify the town at least two hours before obstructing the sidewalk or the street, unless prevented by such emergency.
- (b) *Application; fees.* All persons desiring a permit to make an opening in any street or sidewalk, as set forth in subsection (a) of this section shall make written application therefor, which application shall show the location of the proposed opening, the purpose of the proposed opening, and the approximate number of square yards of surface to be cut. A fee may be required by the board for such permit.
- (c) *Street repair; after excavation.* When any part of any street, sidewalk, alley, or other public place of the town shall be torn or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening, and the refilling shall be done in accordance with the standards and specifications of the town.

- (d) *Leaving unprotected.* It shall be unlawful for any person who obtains a permit under the sections of this chapter to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the town without placing and maintaining proper barriers a minimum of three feet from the ground and signal lights or other warnings at, in, or around the excavation or work, sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care from injuries on account of the excavation or work.

(Ord. No. 96-11, § 17-7, 11-12-1996)

Sec. 28-8. - Driveways; permit required.

No person shall begin to construct, reconstruct, or alter any driveway on the public streets, unless a written permit therefor has been issued by the town.

(Ord. No. 96-12, § 17-8, 12-10-1996)

Sec. 28-9. - Indemnification of town by users of public rights-of-way and property.

All persons placing any encroachment, obstruction, or object, undertaking any repairs or construction activity, or making any excavation over, under, or upon any of the streets, sidewalks, or other public places in the town shall indemnify and hold harmless the town, its officers, and employees, from any loss, liability, or damage, including expenses and costs, for bodily or personal injury, and for property damage sustained by any person as a result of such activities.

(Ord. No. 1999-3, § 1, 8-10-1999)

Sec. 28-10. - Sidewalk cafe.

- (a) The sidewalk cafe must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities, and other customer convenience facilities as the restaurant. The sidewalk cafe must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.
- (b) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk cafe may not be more than 30 percent of the interior seating capacity of the associated restaurant.
- (c) The placement of tables, chairs, and other furnishings, as shown in the drawing, submitted with the site plan, must be done in such a manner that 50 percent of the sidewalk area is left unobstructed, as measured from the front facade of the structure to the street side edge of the sidewalk, for clear passage by pedestrians. Trees, poles, signs, hydrants, trash receptacles, tree grates, etc., are all considered obstructions. Provided, however, a tree grate shall not be considered an obstruction if:
- (1) The owner of the sidewalk cafe pays the full cost of installing a tree grate approved as complying with the Americans with Disabilities Act as an acceptable surface for pedestrians and wheelchairs; and
 - (2) The owner maintains the grate so that it provides smooth and level surface for passage.
- (d) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant.
- (e) The area designated for the sidewalk cafe shall be physically separated from the remaining sidewalk by visible barricades with a height of at least 24 inches and no more than 36 inches. The

barricades must be constructed of materials of a finished quality, including but not limited to wrought iron, planters, or velvet ropes.

- (f) The tables, chairs, barricades, and other furnishings used in the sidewalk cafe shall be of a type that is easily removed from the public right-of-way. Tables, chairs, barricades, and other furnishings used in the operation of the sidewalk cafe must be removed within 24 hours of notice from the town. If such items are not removed upon 24 hours notice, the town shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The town shall also have the right to remove such items immediately in emergency situations and in case of downtown events in which such items may interfere. The town shall not be responsible for damage to public sidewalk cafe barricades and furnishings under any circumstances.
- (g) Except as elsewhere permitted, the operation of furnishing of the sidewalk cafe shall not involve any permanent alteration to or encroachment upon any street, sidewalk, or pedestrian way or to the exterior of the associated restaurant. The owner of the sidewalk cafe shall be responsible for repairing any incidental damage to public sidewalks resulting from the operation of the sidewalk cafe or its patrons or customers.

(Ord. No. 1999-2, § 1, 8-10-1999)

Secs. 28-11—28-30. - Reserved.

ARTICLE II. - PROPERTY NUMBERING^[2]

Footnotes:

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Cross reference— Buildings and building regulations, ch. 6.

Sec. 28-31. - Street prefixes.

- (a) Prefixes for the following named streets or parts thereof are hereby designated as follows:
 - (1) *North and South prefixes.* Those portions of the streets named below and lying north of Wilmington Street are hereby designated or renamed with the prefix "North."
 - (2) *East and West prefixes.* Those portions of the streets or parts thereof named below and lying east of Wright Street are hereby designated or renamed with the prefix "East."
- (b) All public streets designated in this section shall be known by the prefix and the name as provided for in this section.

(Code 1975, § 17-8)

Sec. 28-32. - Property numbering map.

The property numbering map, entitled "Property Numbering Map, dated October 1966, Burgaw, N.C.," is hereby adopted as the official property numbering map of the town. All property numbers assigned shall be assigned in accordance with this numbering map, and no other property numbers shall be used or displayed in the town except numbers assigned in accordance with the official numbering map. The property numbering map shall be kept on file in the office of the town clerk.

(Code 1975, § 17-9)

Sec. 28-33. - Numbering system described.

On the property numbering map Wright Street is hereby designated as the north-south axis, and Wilmington Street is hereby designated as the east-west axis. All avenues, streets and alleys running generally north and south shall be numbered from the east-west axis consecutively to the corporate limits of the extremity of such avenue, alley or street. Avenues, streets or alleys running generally east and west shall be numbered from the north-south axis in the same manner. Wherever possible, 100 numbers shall be allowed to each block, so that the number of each consecutive block shall commence with consecutive hundreds and one. One whole number shall be assigned for every 60 feet of ground, whether improved property or vacant lot, on every street within the corporate limits. Odd numbers shall be assigned to the west side of the street on all north-south streets and even numbers to the east side. On east-west streets, odd numbers shall be assigned to the south side of the street and even numbers to the north side.

(Code 1975, § 17-10)

Sec. 28-34. - Display of numbers.

The owner of each building or property shall display in a way visible from an adjoining street the number designated for the property in accordance with this article.

(Code 1975, § 17-11; Ord. No. 91-20, § 2, 10-1-1991)

Sec. 28-35. - Altering, taking down or defacing numbers.

It shall be unlawful for any person to alter, deface or take down any number placed on any property in accordance with this article, except for repair or replacement of such number.

(Code 1975, § 17-12)

Chapter 30 - SUBDIVISIONS^{[\[1\]](#)}

Footnotes:

--- (1) ---

Cross reference— Any ordinance dedicating or accepting any subdivision plat saved from repeal, § 1-9(11); buildings and building regulations, ch. 6; environment, ch. 14; streets and sidewalks, ch. 28; trees and shrubs, ch. 34; utilities, ch. 36; zoning, ch. 38.

State Law reference— Municipal authority to regulate subdivisions, G.S. 160A-371 et seq.

Sec. 30-1. - Ordinance on file in town clerk's office.

The town's subdivision ordinance is not printed in this Code but is on file and available in the town clerk's office.

Chapter 32 - TRAFFIC AND VEHICLES^{[\[1\]](#)}

Footnotes:

--- (1) ---

Cross reference— Taxicabs, § 8-141 et seq.; junked or abandoned motor vehicles, § 14-61 et seq.; law enforcement, ch. 18; offenses and miscellaneous provisions, ch. 20; special events, parades and demonstrations, ch. 24; streets and sidewalks, ch. 28.

State Law reference— Motor vehicles, G.S. Ch. 20; powers of local authorities, G.S. 20-169; traffic control by municipalities, G.S. 160A-300 et seq.

ARTICLE I. - IN GENERAL

Sec. 32-1. - Definitions.

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

Authorized emergency vehicle means vehicles of the fire department, police vehicles and such ambulances designated or authorized by the chief of police.

Block means the length of that portion of any street which is located between two adjacent street intersections.

Business district means the territory contiguous to a highway, when 50 percent or more of frontage thereon, for a distance of 300 feet or more, is occupied by buildings which are in use for business purposes.

Crosswalk means that portion of a roadway which lies between the prolongation of the lateral sidewalk or boundary lines over an intersection. Any portion of a roadway distinctly indicated for pedestrian crossing, by lines or other markings on the surface.

Driver means every person who drives or is in actual physical control of a vehicle.

Intersection means the area embraced within the prolongations of the lateral curb or boundary lines of two or more roadways or highways which join or which join and cross one another at an angle.

Motor vehicle means every vehicle which is self-propelled, including those propelled by electric power obtained from overhead trolley wires but not operating upon rails.

Official traffic control devices means all signs, signals, markings and devices not inconsistent with this chapter, placed or erected by authority of the board of commissioners or an official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

Official traffic signals means any device, whether manually or automatically operated, by which traffic is alternately directed to stop and to proceed.

Park means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of loading or unloading.

Pedestrian means any person afoot.

Police officer means every officer of the municipal police department or any officer authorized to direct traffic or to make arrests for violations of traffic regulations.

Private road and driveway mean every road or driveway not open to the use of the public for purposes of vehicular travel.

Public conveyance means any vehicle which is engaged in the business of transporting persons for fare.

Railroad means a carrier, other than streetcars, of persons or property, with cars operated on stationary rails.

Railroad train means a steam engine, electric or other locomotor, with or without cars coupled thereto, operated upon rails, not including streetcars.

Residence district means the territory contiguous to a highway not comprising a business district, when the frontage on such highway, for a distance of 300 feet or more, is mainly occupied by residential dwellings, but also by dwellings or buildings which are in use for business purposes.

Right-of-way means the privilege of the immediate use of the roadway, not inconsistent with regulations and conditions imposed by this Code, other town ordinances or state law.

Roadway means that portion of a street which has been improved and designed for, or which is ordinarily used for, vehicular travel.

Safety zone means the area officially set apart within a roadway for the exclusive use of pedestrians, which area is either protected or plainly marked at all times while so set apart as a safety zone.

Sidewalk means that portion of a street between the curbline or the lateral line of a roadway and the adjacent property lines, exclusively intended for the use of pedestrians.

Signs. See *Traffic signs*.

Standing means any stopping of a vehicle, whether occupied or not.

Stop, when required, means complete cessation of movement.

Stop and stopping, when prohibited, mean any stopping of a vehicle, except when conflict with other traffic is imminent or when otherwise directed by a police officer.

Street and *highway* mean the entire area between lateral property lines, which is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

Traffic means pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances, either singly or together, while using any street for purposes of travel.

Traffic signs means authorized signs or markers which are assumed to be permanently or temporarily placed or erected or installed at certain places and which purport to give notice of direction or to convey a prohibition or warning; the presence of such signs, though not compulsory, is generally dictated by necessity or common sense, with a view to furtherance of public safety.

Vehicle means every device in or upon which any person or property may be transported; provided, that for the purposes of this chapter, a bicycle or a ridden animal shall also be deemed a vehicle.

(Code 1975, § 12-1)

Cross reference— Definitions generally, § 1-2.

Sec. 32-2. - Compliance.

It shall be unlawful for any person to do any act forbidden or fail to perform any act required in this chapter.

(Code 1975, § 12-2)

Sec. 32-3. - Obedience to police.

No person shall refuse to comply with any lawful order or direction of a police officer.

(Code 1975, § 12-3)

Sec. 32-4. - Authority of police in special cases.

In the event of a fire or other emergency, or when it is necessary to expedite traffic or to safeguard pedestrians, police officers may direct traffic as conditions may require, notwithstanding the provisions of this chapter.

(Code 1975, § 12-4)

Sec. 32-5. - Public employees to obey traffic regulations.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county or town, and it shall be unlawful for any such driver to violate any of the provisions of this chapter or state law.

(Code 1975, § 12-5)

State Law reference— Applicability of traffic laws to drivers of governmental vehicles, G.S. 20-168.

Sec. 32-6. - Exemptions for authorized emergency vehicles.

The provisions of this chapter regulating the operation, parking and standing of vehicles, shall also apply to authorized emergency vehicles, as defined in this chapter, except as follows:

- (1) Unless otherwise directed by a police officer, a driver when operating such vehicle in any emergency may:
 - a. Park or stand, notwithstanding the provisions of this chapter.
 - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
 - c. Exceed the prima facie speed limits, so long as he does not endanger life or property.
 - d. Disregard regulations governing direction of movement or turning in specified directions, so long as he does not endanger life or property.
- (2) The exemptions in subsection (1) of this section shall not, however, protect the driver of any such vehicle from the consequences of his reckless disregard for the safety of others.

(Code 1975, § 12-6)

State Law reference— When speed limits not applicable to emergency vehicles, G.S. 20-145.

Sec. 32-7. - Applicability of chapter to persons propelling pushcarts, riding bicycles, animals, etc.

Every person propelling any pushcart or riding a bicycle or an animal upon a roadway and every person driving any animal-drawn vehicle shall be subject to the provisions of this chapter which are applicable to any driver of any vehicle, except for those provisions of this chapter which by their very nature can have no application.

(Code 1975, § 12-7)

Sec. 32-8. - Boarding or alighting from moving vehicles.

No person shall board or alight from any public conveyance or other vehicle while such conveyance or vehicle is in motion.

(Code 1975, § 12-8)

Sec. 32-9. - Unlawful manner of riding.

No person shall ride on any public conveyance or vehicle not designated or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to persons riding within truck bodies in spaces intended for merchandise.

(Code 1975, § 12-9)

Sec. 32-10. - Entering, jumping on or riding vehicles without permission.

No person shall enter, jump on or ride any automobile or other vehicle without the consent of the owner or driver.

(Code 1975, § 12-10)

Sec. 32-11. - Persons riding vehicles to stay inside; hanging onto vehicles.

No person shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give such signals as are by law required, and no person shall hang onto any vehicle whatsoever.

(Code 1975, § 12-11)

Sec. 32-12. - Limit on number of persons in front seat.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three persons, including the driver, to ride in the front or driver's seat.

(Code 1975, § 12-12)

Sec. 32-13. - Violations of adopted regulations.

The violation of any ordinance set forth which was adopted pursuant to this chapter is hereby declared to constitute an infraction unless otherwise provided therein and violators shall be punished as by state law provided in such cases unless otherwise provided therein.

(Code 1975, § 12-12.1)

Secs. 32-14—32-30. - Reserved.

ARTICLE II. - TRAFFIC CONTROL DEVICES^[2]

Footnotes:

--- (2) ---

State Law reference— Authority of town to install traffic control devices, G.S. 20-169.

Sec. 32-31. - Obedience; when signs required for enforcement.

- (a) The driver of any vehicle shall obey the directions of any official traffic control device placed in accordance with the traffic regulations of this town, subject to certain exceptions which are granted the driver of an authorized emergency vehicle in section 32-6, unless otherwise directed by a police officer.
- (b) No provision of this chapter which provides for signs shall be enforced against an alleged violator if, at the time and place of the alleged violation, such official sign is not in proper position or is insufficiently legible to an ordinarily observant person. Whenever a particular section does not stipulate signs, such section shall be effective without signs being placed to give notice thereof.

(Code 1975, § 12-13)

Sec. 32-32. - No turn signs and turning markers.

Whenever authorized signs are placed which indicate that no right or left turn or U-turn is permitted, the driver of a vehicle shall obey the directions of any such sign. When authorized markers, buttons or other indications are placed within an intersection which indicate the course to be travelled by vehicles traversing or turning, the driver of a vehicle shall obey the directions of such indications.

(Code 1975, § 12-14)

Sec. 32-33. - No parking zone and safety zone markers.

Whenever authorized signs or markings are placed which indicate no parking zones or safety zones, the driver of a vehicle shall obey such regulatory indications.

(Code 1975, § 12-15)

Sec. 32-34. - Quiet zones.

Whenever authorized signs are placed indicating a quiet zone, the person operating a motor vehicle within such zone shall not sound the horn or any other warning device, except in an emergency.

(Code 1975, § 12-16)

Sec. 32-35. - Play streets.

Whenever authorized signs are placed designating any street or part thereof as a play street, no person shall drive a vehicle upon any such designated street, except persons who have business or who reside within the designated area. All such persons shall exercise the greatest care when driving upon such play street.

(Code 1975, § 12-17)

Sec. 32-36. - School zones.

Whenever authorized signs are placed designating any street or part thereof as a school zone, drivers of motor vehicles and operators of streetcars using such street shall exercise the greatest care for the protection of children.

(Code 1975, § 12-18)

Sec. 32-37. - Traffic control signal legend.

Whenever traffic is controlled by traffic control signals exhibiting the word "Go," "Caution" or "Stop" or exhibiting differently colored lights successively, one at a time, the following colors only shall be used, and such terms and lights shall indicate as follows:

(1) *Green alone or "Go."*

- a. Vehicular traffic facing the signal may proceed straight through or turn right or left, unless a sign prohibits such turn. Vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians who happen to be lawfully within the intersection.
- b. Pedestrians facing the signal may proceed across the roadway within the crosswalk area, whether marked or not.

(2) *Yellow alone or "Caution," when shown following the green or "Go" signal.*

- a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety, a vehicle may be driven cautiously through the intersection.
- b. Pedestrians facing such signal are thereby warned that there will not be sufficient time to safely cross a roadway; any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) *Red alone or "Stop."*

- a. Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection, or at such other point as may be indicated by a clearly visible line, and shall remain standing until green or "Go" is shown alone.
- b. No pedestrian facing such signal shall enter the roadway, unless he can do so without interfering with any vehicular traffic.

(4) *Red with green arrow.*

- a. Vehicular traffic facing such signal may cautiously enter the intersection and continue in the direction indicated by such arrow.
- b. No pedestrian facing such signal shall enter the roadway, unless he can do so without interfering with any vehicular traffic.

(Code 1975, § 12-19)

Sec. 32-38. - Flashing signals.

Whenever flashing red or yellow signals are used, they shall require obedience by vehicular traffic as follows:

- (1) *Flashing red (Stop signal).* When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection, or at a limit line when marked, and the right to proceed shall be subject to the rules of safety and noninterference with other traffic.

- (2) *Flashing yellow (Caution signal)*. When a yellow lens is illuminated by rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(Code 1975, § 12-20)

Sec. 32-39. - Failure of installed signal lights to operate.

Whenever an installed traffic signal light is not in operation, section 32-62 will prevail.

(Code 1975, § 12-21)

Secs. 32-40—32-60. - Reserved.

ARTICLE III. - OPERATION OF VEHICLES^[3]

Footnotes:

--- (3) ---

State Law reference— Operation of vehicles and rules of the road, G.S. 20-138 et seq.

Sec. 32-61. - Stop before entering through street.

- (a) Those streets and parts of streets described in the schedule which is on file in the office of the town clerk are hereby declared to be through streets for the purposes of this section.
- (b) When stop signs have been erected or installed at an intersection the driver of the vehicle must come to a complete stop in obedience to the sign and thereafter, must yield the right-of-way to pedestrians and other vehicles. When stop signs have been erected at three or more entrances to an intersection, the driver, after stopping in obedience thereto, may proceed with caution.
- (c) When a steady or strobe beam stoplight is emitting a red light controlling traffic passing through an intersection, an approaching vehicle facing the red light shall come to a stop and shall not enter the intersection until coming to a complete stop and thereafter, unless prohibited by an appropriate sign, may proceed with making a right turn with caution. Any vehicle that turns right under this subsection shall yield the right-of-way to other traffic and pedestrians using the intersection.
- (d) When a traffic signal is emitting a steady yellow circular light on a traffic signal controlling traffic approaching an intersection or a steady yellow arrow light on a traffic signal controlling traffic turning at an intersection, vehicles facing the yellow light are warned that the related green light is being terminated or a red light will be immediately forthcoming. When the traffic signal is emitting a steady green light, vehicles may proceed with caution through the intersection.
- (e) When a flashing red light has been erected or installed at an intersection, approaching vehicles facing the red light shall stop and yield the right-of-way to vehicles in or approaching the intersection. The motor vehicle may proceed through the intersection with caution unless it must yield the right-of-way to approaching vehicles entering the intersection.
- (f) When a flashing yellow light has been erected or installed at an intersection, approaching vehicles facing the yellow flashing light may proceed through the intersection with caution, but they must yield the right-of-way to vehicles approaching the intersection.
- (g) When a stop sign, stoplight, flashing light or other traffic controlled device has been erected that requires a vehicle to stop at an intersection, the driver shall stop (i) at an appropriately marked stop

line or in the absence of such a line, (ii) before entering a marked crosswalk or in the absence of such crosswalk, (iii) before entering the intersection at the point nearest the intersecting street where the driver has view of the approaching traffic at the intersecting street.

- (h) When a stop sign has been erected or installed at a place other than an intersection the driver of the vehicle must come to a complete stop in obedience to the sign and thereafter, must yield the right-of-way to pedestrians and other vehicles.
- (i) A violation of subsections (b) through (h) of this section shall result in a citation being issued to the violator and civil penalty being assessed in accordance with section 32-121(a).

(Code 1975, § 12-22; Ord. No. 2006-46, §§ 1, 2, 8-8-2006)

Sec. 32-62. - Stop before entering stop intersections.

Certain intersections described in the schedule which is on file in the office of the town clerk are hereby declared to be stop intersections when entered from the streets first named. When stop signs are placed at such intersections, every driver of a vehicle shall stop before entering the intersection, and he shall not proceed into or across the through street until he has first determined that no conflict with traffic will ensue.

(Code 1975, § 12-23)

Sec. 32-63. - One-way streets.

Upon certain streets described in the schedule which is on file in the office of the town clerk vehicular traffic shall move only in the direction indicated by traffic signs.

(Code 1975, § 12-24)

Sec. 32-64. - Obstructing intersections or crosswalks.

No driver shall move his vehicle across an intersection or a marked crosswalk unless he knows that there is sufficient space on the other side of the intersection or crosswalk to accommodate his vehicle without obstructing the passage of other vehicles or pedestrians, although a traffic control signal may be indicating his right to proceed.

(Code 1975, § 12-25)

Sec. 32-65. - Driving through funeral processions.

No vehicle may be driven through a funeral procession, except fire department vehicles, police patrols and ambulances, only if the fire department vehicles, police patrols or ambulances are responding to calls.

(Code 1975, § 12-26)

Sec. 32-66. - Left turns.

In making left turns at street intersections, all traffic when approaching an intersection shall keep close to the centerline of the street and shall make the left turn beyond the center of the intersection, as may or may not be indicated by buttons, markers or other directing signs, and shall proceed in the new

direction along the right-hand lane, except for certain intersections which may be expressly designated by the town.

(Code 1975, § 12-27)

Sec. 32-67. - Right or left turns prohibited at certain intersections.

- (a) No vehicle shall make a left turn at any street intersection described in the schedule which is on file in the office of the town clerk.
- (b) No vehicle shall make a right turn at any street intersection described in the schedule which is on file in the office of the town clerk.

(Code 1975, § 12-28)

Sec. 32-68. - Limitations on turning around.

No driver shall turn any vehicle and proceed in the opposite direction within the business district, except at street intersections. No vehicle, however, shall make such a turn at certain street intersections as described in the schedule which is on file in the office of the town clerk.

(Code 1975, § 12-29)

Sec. 32-69. - Limitations on backing.

The driver of a vehicle shall not back such vehicle into any intersection or over a crosswalk, nor shall he back it otherwise, unless such movement can be made in safety and unless ample warning has been given by hand and horn or other signals.

(Code 1975, § 12-30)

Sec. 32-70. - Emerging from alley, driveway or building.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to reaching the sidewalk or the sidewalk areas extending across any alleyway, and upon entering the roadway he shall yield the right-of-way to all vehicles approaching on the roadway.

(Code 1975, § 12-31)

Sec. 32-71. - Driving on sidewalks.

The driver of a vehicle shall not drive within any sidewalk area, except at a permanent or temporary driveway.

(Code 1975, § 12-32)

Sec. 32-72. - Clinging to moving vehicles.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall not attach such bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle or himself to any public conveyance or moving vehicle upon any roadway.

(Code 1975, § 12-33)

Sec. 32-73. - Riding on handlebars.

The operator of a motorcycle or bicycle, when upon a street, shall not carry any person upon the handlebars, frame or tank of his vehicle, nor shall any person so ride upon any such vehicle.

(Code 1975, § 12-34)

Sec. 32-74. - Use of handlebars required; riding bicycle on sidewalks.

No person shall ride a bicycle or motorcycle on any street, nor shall any person ride a bicycle upon any sidewalk or walkway within the business area of the town, other than the courthouse square and those sidewalks designated as part of the Osgood Canal Trail.

(Code 1975, § 12-35; [Ord. No. 2012-28, § 1, 10-9-2012](#))

Sec. 32-75. - Speed limits.

Except in those cases in which speed limits differing from those provided by state law have been adopted by ordinance of the board of commissioners and have been made effective by the adoption of a concurring ordinance by the state board of transportation and by the erection within the town of signs giving notice of the authorized speed limits, the speed limits established by state law shall apply within the town. A schedule of all authorized variations from such limits, together with copies of ordinances of the board of commissioners and of the state board of transportation authorizing such variations, shall be maintained on file in the office of the town clerk.

(Code 1975, § 12-38)

State Law reference— Speed restrictions and authority of town to impose certain speed limits, G.S. 20-141, 20-144, 20-145, 20-169.

Sec. 32-76. - Driving on roadways laned for traffic.

Any vehicle operated on any roadway which has been clearly marked with traffic lanes shall be driven, as nearly as practical, entirely within a single lane and shall not be moved out of such lane until the driver has first ascertained that such movement can be made with safety.

(Code 1975, § 12-39)

Sec. 32-77. - Limitations on overtaking and passing generally.

The driver of a vehicle shall not overtake and pass another vehicle on any portion of the highway or street which is marked by signs or markers placed by the state board of transportation or the board of commissioners stating or clearly indicating that passing should not be attempted.

(Code 1975, § 12-40)

State Law reference— Limitations on overtaking and passing, G.S. 20-150.

Sec. 32-78. - Through truck route adopted.

There is hereby adopted by the board of commissioners a through truck route to include Highway 53 and Highway 117; and it shall be unlawful for any person to operate any through truck traffic on any street or highway within the corporate limits of the town other than Highway 53 and Highway 117 declared by this section to be a through truck route.

Sec. 32-79. - Speeding in excess of posted speed limits.

- (a) No person shall operate a motor vehicle on a street, highway or public vehicular area within the corporate limits of the town in excess of the posted speed limits.
- (b) A violation of subsection (a) of this section shall result in a citation being issued to the violator and civil penalty being assessed in accordance with section 32-80.
- (c) For purposes of this section, motor vehicle, street, highway and public vehicular area are as defined by G.S. § 20-4.01 and as subsequently amended.

(Ord. No. 2006-45, §§ 1, 2, 8-8-2006)

Sec. 32-80. - Speeding enforcement.

- (a) Anyone who violates section 32-61 to 32-100 shall be subject to a civil penalty of \$25.00. Violators shall be issued a written citation which must be paid within ten days from the issuance of the citation.
- (b) Notwithstanding subsection (a) of this section, the provisions of this article may be enforced through equitable remedies.
- (c) The town attorney is authorized to file actions on behalf of the town to collect any unpaid citations and the town manager is authorized to verify and sign complaints on behalf of the town in such actions.
- (d) In addition to or in lieu of the remedies authorized by subsections (a) and (c) of this section, violations of this article may be prosecuted as an infraction in accordance with G.S. § 160A-175.

(Ord. No. 2006-45, § 3, 8-8-2006)

Secs. 32-81—32-100. - Reserved.

ARTICLE IV. - STOPPING, STANDING AND PARKING^[4]

Footnotes:

--- (4) ---

State Law reference— Authority of town to regulate parking, G.S. 160A-301; off-street parking facilities, G.S. 160A-302.

Sec. 32-101. - Vehicles not to stop in streets; exceptions.

No vehicle shall stop in any street, except for the purpose of parking as prescribed in this chapter, unless such stop is made necessary by the approach of fire apparatus, by the approach of a funeral or other procession which is given the right-of-way, by the stopping of a public conveyance, by the lowering of railway gates, by being given countermanding traffic signals, by the passing of some other vehicle or a

pedestrian or by some emergency. In all cases covered by these exceptions, such vehicles shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing or street intersection if it can be avoided.

(Code 1975, § 12-41)

Sec. 32-102. - Obstructing passage of other vehicles.

No vehicle shall stand on any street so as to interrupt or interfere with the passage of public conveyances or other vehicles.

(Code 1975, § 12-42)

Sec. 32-103. - Stopping, standing or parking prohibited in specified places.

No person shall stop, stand or park a vehicle, except when conflict with other traffic is imminent or when so directed by a police officer or traffic control device, in any of the following places:

- (1) On a sidewalk.
- (2) Within an intersection.
- (3) On a crosswalk.
- (4) Within 30 feet of any flashing beacon, stop sign or traffic control signal located at the side of a street or roadway.
- (5) On either side of any street leading to a railroad underpass or an overhead bridge, within 50 feet in any direction of the outer edge of such underpass or overhead bridge.
- (6) On either side of any street leading to a grade crossing, within 50 feet of the closest rail; provided, that where existing permanent structures are located closer than 50 feet, parking may be permitted in front of such structures, unless otherwise prohibited and if such parking does not block the view in either direction of the approach of a locomotive or train.
- (7) Alongside or opposite any street excavation or obstruction, if such stopping, standing or parking would obstruct traffic.
- (8) Upon any bridge or other elevated structure or within any underpass structure.
- (9) Within 15 feet in either direction of the entrance to a hotel, theatre, hospital, sanatorium or any public building.
- (10) On the roadway side of any vehicle stopping, standing or parking at the edge or curb of a street.
- (11) Within 15 feet of any fire plug or hydrant.

Any vehicle left parked under this Code for over 24 hours is subject to being towed at the owner's expense.

(Code 1975, § 12-43)

Sec. 32-104. - Stopping, standing or parking in alleyways.

No person shall stop, stand or park a vehicle on any alley or alleyway in the town, except for the purpose of loading or unloading. No tractor and/or trailer shall be left parked on any town right-of-way for any purpose other than an emergency.

(Code 1975, § 12-44)

Sec. 32-105. - Standing or parking for certain purposes prohibited.

No person shall stand or park a vehicle upon any street for the principal purposes of:

- (1) Displaying it for sale.
- (2) Washing, greasing or repairing such vehicle, excepting repairs necessitated by an emergency.
- (3) Storage thereof by garages, dealers or other persons.
- (4) Storage of any detached trailer or van, when the towing unit has been disconnected.
- (5) Transferring merchandise or freight from one vehicle to another.

(Code 1975, § 12-45)

Sec. 32-106. - Standing or parking vehicles for primary purpose of advertising.

No person shall stand or park on any street any vehicle for the primary purpose of advertising.

(Code 1975, § 12-46)

Sec. 32-107. - Lights on parked vehicles.

Parking lights upon a vehicle, when such is lawfully parked at night on a street in accordance with this chapter, shall not be required except where specifically demanded by the town.

(Code 1975, § 12-36)

State Law reference— Lights on parked vehicles, G.S. 20-134.

Sec. 32-108. - Moving cars from parked positions.

Parked cars shall move out in the direction headed or, if they are parked at an angle with the curb, they shall back out at that angle until they have cleared the other cars and shall then proceed in the direction they are most nearly headed in.

(Code 1975, § 12-37)

Sec. 32-109. - Moving vehicles of other operators into restricted areas.

No person shall move a vehicle not owned by such person into any prohibited area or sufficiently away from a curb to make such distance unlawful.

(Code 1975, § 12-47)

Sec. 32-110. - Parking in designated places—Prohibited at all times.

When signs are placed which prohibit parking or when the curbing has been painted yellow in lieu of such signs, no person shall park a vehicle at any time upon any of the streets described in the schedule which is on file in the office of the town clerk.

(Code 1975, § 12-48)

Sec. 32-111. - Same—Prohibited during certain hours; exceptions.

When respective signs are placed in certain streets, no person shall park a vehicle between the hours of 1:00 a.m. and 6:00 a.m. upon any of the streets described in the schedule which is on file in the office of the town clerk; provided, that this section shall not apply to automobiles or other vehicles if their owners are at work in the building or on the premises near which such vehicles are parked.

(Code 1975, § 12-49)

Sec. 32-112. - Same—Limited to two hours.

- (a) When respective signs are placed in certain streets, no person shall park a vehicle for longer than two hours, at any time between the hours of 6:00 a.m. and 6:30 p.m., on any day except Sundays and public holidays, upon any of the streets described in a schedule which is on file in the office of the town clerk.
- (b) When respective signs are placed in certain streets, no person shall park a vehicle for longer than two hours, at any time between the hours of 8:00 a.m. and 5:00 p.m. on any day except Saturdays, Sundays and public holidays, upon any of the streets described in a schedule which is on file in the office of the town clerk.
- (c) A change of position of a vehicle from one point directly to another point within the same designated area shall be one continuous parking period.

(Code 1975, § 12-50; Ord. No. 96-7, § 1, 8-12-1996)

Sec. 32-113. - Same—Limited to one hour.

When respective signs are placed in certain streets, no person shall park a vehicle for longer than one hour at any time between the hours of 6:00 a.m. and 6:30 p.m., on any day except Sundays and public holidays, upon any of the streets described in the schedule which is on file in the office of the town clerk. A change of position of a vehicle from one point directly to another point within the same block shall be deemed one continuous parking period.

(Code 1975, § 12-51)

Sec. 32-114. - Same—Limited to 15 minutes.

When respective signs are placed in certain streets, no person shall park a vehicle for longer than 15 minutes at any time upon any streets described in the schedule which is on file in the office of the town clerk. A change of position of a vehicle from one point directly to another point within the same block shall be deemed one continuous parking period.

(Code 1975, § 12-52)

Sec. 32-115. - Bus stands, taxi stands, etc.

Certain locations described in the schedule which is on file in the office of the town clerk shall be reserved as stands for the named specific purpose. No automobile or other vehicle, other than those so designated, shall park at such stands.

(Code 1975, § 12-53)

Sec. 32-116. - Parking parallel to curb; distance from curb.

Where not otherwise indicated by this chapter, all vehicles shall park parallel to the curb and not more than 12 inches from the curb.

(Code 1975, § 12-54)

Sec. 32-117. - Parking between marked lines.

On any street marked off with lines indicating the parking spaces for cars, such cars shall be parked between such lines.

(Code 1975, § 12-55)

Sec. 32-118. - Parking at 45-degree angle.

Automobiles and other vehicles shall be parked at an angle of approximately 45 degrees with the curb on the streets enumerated in the schedule which is on file in the office of the town clerk.

(Code 1975, § 12-56)

Sec. 32-119. - Double diagonal parking.

Double diagonal parking, at an angle of approximately 45 degrees shall be allowed as designated in the schedule which is on file in the office of the town clerk.

(Code 1975, § 12-57)

Sec. 32-120. - Parking of certain trucks and cars or trucks with trailers prohibited on streets designated for diagonal parking.

It shall be unlawful for any person to park any truck, except pickup trucks, or park any car or truck with trailer attached upon any street designated for diagonal parking.

(Code 1975, § 12-58)

Sec. 32-121. - Unlawful parking enforcement.

- (a) Anyone who violates sections 32-101 through 32-140, without the prior issuance of a special event permit, shall be subject to a civil penalty of \$25.00. Violators shall be issued a written citation which must be paid within ten days.
- (b) Each day's continuing violation shall be a separate and distinct violation.
- (c) Notwithstanding subsection (a) of this section, the provisions of this article may be enforced through equitable remedies.
- (d) The town attorney is authorized to file actions on behalf of the town to collect any unpaid citations, and the town manager is authorized to verify and sign complaints on behalf of the town in such actions.

- (e) In addition to or in lieu of the remedies authorized by subsections (a) and (c) of this section, violations of this article may be prosecuted as an infraction in accordance with G.S. 160A-175.

(Ord. No. 96-7, § 3, 8-12-1996; Ord. No. 2006-47, § 1, 8-8-2006)

Sec. 32-122. - Parking citations.

- (a) Parking citations shall be in a uniform form approved by the town manager.
- (b) It shall be unlawful to remove a parking citation from an automobile except for the purposes of answering the citation. Violation of this subsection shall be a misdemeanor.
- (c) It shall be unlawful to alter a parking citation. Violation of this subsection shall be a misdemeanor.

(Ord. No. 96-7, § 3, 8-12-1996)

Sec. 32-123. - No parking within a marked fire lane.

- (a) No person shall park or permit to be parked a farm tractor, moped, motorcycle, bus, motor home, or motor vehicle, whether attended or unattended, upon any public vehicular area, street, highway or roadway in any area marked as a fire lane. This prohibition includes marked fire lanes in any shopping center and any other public vehicular areas, providing however, persons loading or unloading supplies and merchandise may park temporarily in a marked fire lane as long as the motor vehicle is not left unattended. The owner of a motor vehicle parked in violation of this subsection shall be deemed to have appointed the officers within the Town of Burgaw Police Department as their agent for the purpose of arranging for the transportation and safe storage of such motor vehicle. No Town of Burgaw Police officer shall be held liable, criminally or civilly in any way for any acts or omissions arising out of or caused by the carrying out or enforcing any provisions of this section, unless the conduct of the officer arises to wanton misconduct or intentional wrongdoing.
- (b) A violation of subsection (a) of this section shall result in a citation being issued to the violator and civil penalty being assessed in accordance with section 32-121(a).
- (c) For purposes of this section, farm tractor, moped, motorcycle, bus, motor home, motor vehicle, public vehicular area, street, highway and roadway are as defined by G.S. § 20-4.01 and as subsequently amended.

(Ord. No. 2006-44, §§ 1, 2, 8-8-2006)

Sec. 32-124. - No parking within a marked handicapped parking zone.

- (a) No person shall park or permit to be parked a farm tractor, moped, motorcycle, bus, motor home, or motor vehicle, whether attended or unattended, within a marked handicapped parking zone. This prohibition includes, but is not limited to, marked handicapped parking zones located in any shopping center and any other public vehicular areas. The owner of a motor vehicle parked in violation of this subsection shall be deemed to have appointed the officers within the Town of Burgaw Police Department as their agent for the purpose of arranging for the transportation and safe storage of such motor vehicle. No Town of Burgaw Police officer shall be held liable, criminally or civilly in any way for any acts or omissions arising out of or caused by the carrying out or enforcing any provisions of this section, unless the conduct of the officer arises to wanton misconduct or intentional wrongdoing.
- (b) A person shall not be in violation of subsection (a) of this section if they have displayed a valid handicapped parking permit issued by the State of North Carolina or display a disabled veteran registration plate as issued by the North Carolina Department of Motor Vehicles.

- (c) A violation of subsection (a) of this section shall result in a citation being issued to the violator and civil penalty being assessed in accordance with Section 32-121(a).
- (d) For purposes of this section, farm tractor, moped, motorcycle, bus, motor home, motor vehicle and public vehicular area are as defined by G.S. § 20-4.01 and as subsequently amended.

(Ord. No. 2006-43, §§ 1, 2, 8-8-2006)

Sec. 32-125. - Parking of vehicles in residential districts.

- (a) It shall be unlawful for any person to park or stand any truck, semitrailer, truck-tractor, travel trailer, recreational vehicle, road tractor or related vehicle with a rated capacity of more than 2.5 tons upon any street or highway in a residential district except for the purpose of loading and unloading goods, merchandise, and/or equipment. Such exception shall only be allowed in instances where parking the vehicle and/or trailer on private property is not possible due to size constraints. These exceptions shall only be allowed during periods when items are actively being loaded or unloaded from the vehicle or associated trailer.
- (b) For the purpose of this section, residential districts shall mean those areas designated for residential zoning on the Official Zoning Map of the Town of Burgaw, on or after the effective date of this section, and to those areas solely dedicated for residential use by any ordinance or subdivision approval of the Town of Burgaw Board of Commissioners.
- (c) For the purposes of section 32-125, "street" or "highway" shall be defined as all unimproved or improved areas within the relevant public right-of-way.
- (d) This section shall apply to the operator of the vehicle, registered owner of the vehicle, lessee of the vehicle or any person who causes the vehicle to be parked in violation of this section in connection with a commercial enterprise or other activity abutting the public street.
- (e) No parking of any vehicles, regardless of size or weight, shall be allowed when such parking causes damage to any portion of the street or public right-of-way. Any person, who commits a violation and in doing so causes damage to any street or area within a public right-of-way, shall pay all replacement, repair, labor cost to the Town of Burgaw. Upon a proper police report being filed for the associated damage, the town may file a claim with the appropriate insurance company or allow the individual to pay for damages to be repaired by a contractor selected by the Town of Burgaw.
- (f) No parking of any vehicle, regardless of size or weight shall be allowed which presents a visual or physical impairment for the traveling public. The appropriate sight distance triangle shall be used to determine if impairment is present.
- (g) In addition to requirements in section 32-125(e), any person who commits a violation of section 32-125 may also be charged criminally with property damage as well as assess a civil penalty in the amount of \$50.00.

([Ord. No. 2015-14, § 1, 6-9-2015](#))

Secs. 32-126—32-140. - Reserved.

ARTICLE V. - VEHICLE REGISTRATION^[5]

Footnotes:

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State Law reference— Municipal authority to levy a registration fee, G.S. 20-97.

Sec. 32-141. - Required; period of registration; fee.

Every resident owner or operator of a motor vehicle operated in the town, except motor vehicles temporarily operated for a period of time not exceeding a total of 30 days, and except motor vehicles operated for car display or car exhibition purposes by car manufacturers or dealers, displaying dealers' license plates issued by the state, shall register such vehicle with the town clerk. The period of registration shall include 12 months, between January 1 and December 31. The fee for registration shall be set from time to time.

(Code 1975, § 12-70)

Sec. 32-142. - Plates or stickers—Issuance; duplication when lost or destroyed.

For every registered motor vehicle the town clerk shall issue to the person registering the vehicle an appropriate number plate or sticker. Upon satisfactory evidence that any such registration number plate or sticker has been lost or destroyed, the town clerk shall issue a duplicate to the owner of such registered vehicle.

(Code 1975, § 12-71)

Sec. 32-143. - Same—Transfer.

A number plate or sticker shall not be transferred from one vehicle to another, and shall not be used by any person upon any motor vehicle except upon the one for which it was issued; provided, that the owner of the registered vehicle may, upon the sale or exchange thereof, transfer the number plate or sticker assigned to the vehicle to the new owner of the vehicle by registering the transfer with the town clerk and by the payment of the current fee.

(Code 1975, § 12-72)

Secs. 32-144—32-149. - Reserved.

ARTICLE VI. - CIVIL PENALTIES

Sec. 32-150. - Authorization of civil penalties.

The Town of Burgaw may enforce any provision within chapter 32 of Town of Burgaw Code of Ordinances by imposing a civil penalty for the violation of any such enumerated ordinance and the town may bring a civil action in the nature of collection of a debt for the purpose of recovering any civil penalties imposed. The Town of Burgaw may enforce any of the enumerated ordinances within chapter 32 of the Burgaw Code of Ordinances pursuant to G.S. § 14-4; however, in the event of such enforcement, the Town of Burgaw expressly waives its right to impose a civil penalty, as an additional penalty, for the violation of an ordinance. Any person, firm, corporation or other entity who violates an ordinance as set forth within chapter 32 of Burgaw Code of Ordinances for which a civil penalty is imposed, the town shall cause a citation to be issued to the offender that notifies the offender of the violation, the date of the violation, the person issuing the citation, the fine imposed, and the right to appeal. The Burgaw Town Manager and Police Chief shall develop and implement a form for the citation that states the aforementioned information required to be given to each offender. A violation of an ordinance within chapter 32 of the Burgaw Code of Ordinances shall result in a penalty of \$50.00 to be paid to the Town of Burgaw within 15 days from the issuance of the citation giving notice of the violation.

(Ord. No. 2006-61, 12-12-2006)

Sec. 32-151. - Violation.

A violation of an ordinance within chapter 32 of the Burgaw Code of Ordinances shall result in a civil penalty of \$50.00 to be paid to the Town of Burgaw five calendar days after the date of the issuance of the citation.

(Ord. No. 2006-61, 12-12-2006)

Sec. 32-152. - Appeal.

Any person, firm, corporation or other entity who receives a citation, in accordance with section 32-150, for a violation of an ordinance as set forth within chapter 32 of the Burgaw Code of Ordinances may file a written notice of appeal within 15 calendar days after the receipt of the citation giving notice of the violation. Written notice of an appeal will be deemed to have been given timely upon the filing of the written appeal in the administrative offices of the Town of Burgaw or by depositing the written notice of appeal in the United States Postal Service postmarked on or before the 15th day after the receipt of the citation giving notice of the violation. The failure to give notice of appeal within this time period shall constitute a waiver of the right to contest the violation. An appellant's written appeal shall contain the following: (a) a statement that states the reasons for the appeal; (b) the date that appeal is made by the appellant; and (c) signed by the appellant with the appellant's current mailing address and telephone contact numbers. The appeal shall be heard through a nonjudicial administrative hearing process by a panel consisting of at least two members established by the town and under the direction of the town manager. A hearing shall be held within 14 calendar days from the town receiving an appellant's timely appeal with the town manager or his designee giving notice to the appellant of the hearing date, time and location of the hearing. Upon the hearing of the appeal, the panel or the town manager shall notify the appellant in writing, at the appellant's mailing address as stated in the notice of appeal, within five calendar days after the day of the hearing of the panel's decision regarding the appellant's appeal.

(Ord. No. 2006-61, 12-12-2006)

Chapter 34 - TREES AND SHRUBS^{[11](#)}

Footnotes:

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Cross reference— Buildings and building regulations, ch. 6; environment, ch. 14; streets and sidewalks, ch. 28; subdivisions, ch. 30; zoning, ch. 38.

State Law reference— Unlawful setting fire on timber, G.S. 1-539.1(b); injury to trees, wood of another, G.S. 14-128; permit required to plant, remove, etc., tree or shrub on any state road, G.S. 136-93.

ARTICLE I. - IN GENERAL

Sec. 34-1. - Definitions.

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

Park trees means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the town, or to which the public has free access as a park. (Note: Industry-owned public parks)

Street trees means trees, shrubs, bushes and all other woody vegetation on land lying within rights-of-way on either side of all streets, avenues or ways within the town.

(Code 1975, § 19A-1)

Cross reference— Definitions generally, § 1-2.

Sec. 34-2. - Street tree species list.

The town tree board shall be responsible for an official street tree species list comprised of three groups of trees: small trees, medium trees and large trees. No trees other than those included in the list may be planted as street trees without written permission of the tree board.

(Code 1975, § 19A-9)

Sec. 34-3. - Spacing.

The town tree board will be responsible for establishing guidelines for the spacing of town trees in accordance with the three species size classes listed in section 34-2. These guidelines will cover spacing between trees, the distance trees may be planted from curbs or curblines and sidewalks, the distance street trees may be planted from any street corner, the location of trees relative to overhead and underground water lines, sewer lines, transmission lines or other utilities, and any other areas involving the spacing of street trees, park trees or town-owned trees.

(Code 1975, § 19A-10)

Sec. 34-4. - Public tree care.

- (a) The town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.
- (b) The town tree board may remove or cause or order to be removed, any publicly owned tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is infected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees on adjacent property providing that the selection and location of such trees is in accordance with sections 34-2 and 34-3, and with the guidelines established by the tree board.
- (c) The tree board may reserve the right to approve any plantings that take place in right-of-way areas.

(Code 1975, § 19A-11)

Sec. 34-5. - Tree topping.

It shall be unlawful as normal practice except as described in this section for any person or town department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees that interfere with or are an eminent threat to utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the town tree board.

(Code 1975, § 19A-12)

Sec. 34-6. - Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

(Code 1975, § 19A-13)

Sec. 34-7. - Penalty.

Any person violating any provision of this chapter shall be, upon conviction or plea of guilty, subject to the penalty in section 1-6.

(Code 1975, § 19A-14)

Secs. 34-8—34-30. - Reserved.

ARTICLE II. - TREE BOARD^[2]

Footnotes:

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Editor's note— [Ord. No. 2013-31, § 3, adopted February 11, 2014](#), repealed §§ 34-31—34-37, which pertained to tree board. Also, [Ord. No. 2014-10, § 1, adopted March 11, 2014](#) repealed §§ 34-31—34-47. See Code Comparative Table for complete derivation. Subsequently, [Ord. No. 2014-16, § 1, adopted August 12, 2014](#), added new §§ 34-31, 34-32 to read as herein set out.

Cross reference— Boards, commissions and committees, § 2-201 et seq.

Sec. 34-31. - Creation; composition.

The Town of Burgaw Planning and Zoning Board will also serve as the Town of Burgaw Tree Commission in coordination with designated town staff and/or consultants who will serve as ex officio members.

([Ord. No. 2014-16, § 1, 8-12-2014](#); Ord. No. [2018-07](#), § 1, 7-10-2018)

Sec. 34-32. - Duties and responsibilities.

- (a) It shall be the responsibility of the tree commission to study, investigate, counsel, develop, update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, and in other public areas. Such plan will be presented annually to the board of commissioners and upon its acceptance and approval shall constitute the official comprehensive town tree plan.
- (b) The tree commission, when requested by the board of commissioners, shall consider, investigate, make findings, report and recommend upon any special matter or questions coming within the scope of its work.

- (c) The tree commission shall meet no less than two times per year to prepare and administer the official comprehensive town tree plan.

([Ord. No. 2014-16, § 1, 8-12-2014](#); Ord. No. [2018-07](#), § 1, 7-10-2018)

Chapter 36 - UTILITIES^[1]

Footnotes:

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Cross reference— Administration, ch. 2; buildings and building regulations, ch. 6; businesses, ch. 8; environment, ch. 14; removal of unused utility wire, § 16-1; solid waste management, ch. 22; stormwater management, ch. 26; streets and sidewalks, ch. 28; utilities burying cables or lines, § 28-5; subdivisions, ch. 30.

State Law reference— Municipal authority to construct, operate, etc., water supply and distribution systems, sewage collection systems, etc., G.S. 160A-312.

ARTICLE I. - IN GENERAL

Sec. 36-1. - Pertinent provisions of chapter made part of contracts.

All pertinent provisions of this chapter are hereby made a part of the terms and conditions whereby the town furnishes sewer or water service to any person or whereby the town makes any sewer or water connections or performs any work of any kind in connection with the furnishing of sewer or water services.

(Code 1975, § 20-1)

Sec. 36-2. - Laying of water mains without assessments.

Water mains will not be laid in any streets without assessment therefor, except in those streets where the board of commissioners may order increased size water mains for additional water distribution or fire protection.

(Code 1975, § 20-2)

Sec. 36-3. - Laterals to be laid only to inside of curb; exception.

Water or sewer laterals laid as a part of any water or sewer main improvement shall be laid only to the inside of the curb, unless in the resolution ordering the improvements the board of commissioners specifically directs otherwise.

(Code 1975, § 20-3)

Sec. 36-4. - Application required for extension of laterals.

After laterals are laid from water or sewer mains to the inside of the curb, no such lateral shall be extended to the property line until the owner or occupant of the property to be served thereby applies for such extension.

(Code 1975, § 20-4)

Sec. 36-5. - Installation and maintenance of meters.

- (a) The town will supply and install all water meters for water service within the district served by the town. This will not prevent a developer or contractor from installing the water main, water service laterals and associated equipment for each water service in housing developments within the town's water district.
- (b) All meters will be purchased from and installed by the town, at the rate per meter as established by the fee schedule in effect at the date of installation.
- (c) All meters, except such as are required to be furnished by particular users of water, shall be kept in good repair and working order by the town and at the expense of the town. Meters furnished by particular users of water shall be kept in good repair and working order by the town, but the expense thereof shall be paid by such users.
- (d) All multi-family housing units, either temporary or permanent housing, containing three or more units, built or expanded from the date of the adoption of this ordinance amendment, shall be serviced by one or more master meters as directed and approved by the public works director.

The meter shall be sized to meet fire flow requirements when private fire protection is provided.

(Code 1975, § 20-5; Ord. No. 2001-13, 6-12-2001; Ord. No. 2001-18, 7-10-2001; Ord. No. 2002-31, § 1, 11-12-02)

Sec. 36-6. - Prohibited discharges into sewers.

No person shall pour, throw or discharge any substance, either solid or liquid, into any sanitary or storm sewer at any manhole or at any opening therein other than a sewer connection, nor shall any person discharge into any sanitary or storm sewer any substance likely to obstruct or to cause undue damage to the sanitary or storm sewer or any substance of such high causticity or of a sufficiently acid nature to interfere materially with the equipment used in connection therewith.

(Code 1975, § 20-6)

Sec. 36-7. - Throwing trash, rubbish, etc., into water reservoirs or on pumping station lot.

It shall be unlawful to throw trash, rubbish, sticks, stones or any other substance into the storage tank or reservoir or other water system of the town. It shall further be unlawful to throw or place any trash, rubbish or any other substance on the grounds around the wells of the town or upon the grounds surrounding the buildings or any part of and pertaining to the town water system, known as the pumping station lot.

(Code 1975, § 20-7)

Sec. 36-8. - Tampering with, damaging, etc., water or sewer system.

It shall be unlawful to cut, break, obstruct, damage, change, alter or otherwise interfere or tamper with in any manner any water pipe, water main, hydrant, sewer pipe, water tank, manhole, flush tank or any other thing being a part of the waterworks or sewer system.

(Code 1975, § 20-8)

State Law reference— Willful injury to property of public utility, G.S. 62-323.

Sec. 36-9. - Discontinuance of connections for discharge of injurious substances.

The town manager shall have power to discontinue any connection with the public sewer in cases where substances liable to injure the sewer or obstruct the flow of sewage are discharged.

(Code 1975, § 20-9)

Sec. 36-10. - Climbing water towers or tanks.

It shall be unlawful, without first obtaining written authority from the town manager, to go or climb on or upon, or in any manner ascend, the town water tank or reservoir, its towers or supports or any part thereof.

(Code 1975, § 20-10)

Sec. 36-11. - Leaks on private property.

If a break occurs or a defect is found in any water pipe connected to the town's water supply beyond the meter connection, which causes or permits a leakage or waste of water on the customer's property, it shall be the responsibility and duty of the customer or owner of the property to make a timely and permanent repair. Timely repair shall be defined as repair made within 48 hours of notification by the public works director. Failure to make timely repairs will result in water service being disconnected to the customer until such time as repairs have been completed.

Restoration of service to a customer who has had water disconnected for failure to make timely repairs shall require a connection charge consistent with section 36-96 of the Town Code.

(Ord. No. 2002-13, 6-11-2002)

Sec. 36-12. - Continuity of service.

The town shall not be liable for any damages that may result to customers from the shutting off of water service for any cause, and no deduction in billing will be made in consequence thereof.

(Ord. No. 2002-14, 6-11-2002)

Secs. 36-13—36-30. - Reserved.

ARTICLE II. - CONNECTIONS^{[21](#)}

Footnotes:

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State Law reference— Municipal authority to require connections, G.S. 160A-317.

DIVISION 1. - GENERALLY

Sec. 36-31. - When required; supervision of licensed plumber and compliance with state building code required.

Within 30 days from the time when any water main in any street is completed and ready for use, the owner of any house and lot or building used for residential or business purposes, which lot abuts or adjoins a street or alley along which is located a public sewer, shall make water and sewer connections with the house or building. Such owner shall make sewer connections within 200 feet and water connections within 300 feet of such house or building. No person shall be required to cross the property of any other person to make such connections. All such connections shall be made by or under the supervision of a licensed plumber and in accordance with the state building code.

(Code 1975, § 20-11)

Sec. 36-32. - Water-flushed plumbing fixtures required.

No person shall build or remodel any structure for human occupancy which is not provided with water-flushed plumbing fixtures.

(Code 1975, § 20-12)

Sec. 36-33. - House sewer shall not connect to storm sewer.

A house sewer may not be connected to a stormwater sewer.

(Code 1975, § 20-13)

Sec. 36-34. - Permits required.

No water or plumbing fixture shall be installed and no building or toilet fixture shall be connected with a public or private sewer line or private septic tank without first obtaining a permit. No private septic tank disposal system or other means of sewage disposal shall be installed until a permit for such installation has been issued by the health department. This permit shall only be issued when the size, design and construction of such proposed sewerage treatment facilities shall conform to the standards and requirements of the state board of health.

(Code 1975, § 20-14)

Sec. 36-35. - Connections made only by town.

The construction of laterals for the connection of the sewer or water pipes on any lot with sewer or water pipes in any street, and the necessary excavation therefor, shall be done only by the town.

(Code 1975, § 20-15)

Sec. 36-36. - Connections made only upon approval of application.

No connection shall be made to any sewer or water laterals except after written application therefor has been approved by the director of public works.

(Code 1975, § 20-16)

Sec. 36-37. - Application for connection—Generally.

Every application for sewer or water connection shall state the name of the owner of the lot; the name of the street on which such lot is situated; the number of the house, if there is one on the lot, or if not, a description of the location of the lot; the number and kind of connections desired; and the character of the surface of the abutting street. Every application shall be signed by the person making the application, shall be accompanied by the proper fee for making the connection applied for and shall be filed with the director of public works.

(Code 1975, § 20-17)

Sec. 36-38. - Same—Town to do work upon approval.

Upon approval of any application for a sewer or water connection and the payment of the charges for such connection, the town shall, under the supervision of the director of public works, do the excavating, lay the water line or sewer pipe from the water or sewer mains to the property line, install a meter where necessary, make the connections to the main, fill the excavation and replace the surface of the street.

(Code 1975, § 20-18)

Sec. 36-39. - Sewer connections made at openings where openings provided.

Every sewer connection made directly to a main shall be made at the wye provided for the lot to be served, but if no such wye has been provided for the lot, the connection may be made directly to the main at any convenient point.

(Code 1975, § 20-19)

Sec. 36-40. - Separate connection required for each house or building; exceptions.

Every house or building abutting any water or sewer main and requiring a water or sewer connection shall be separately and independently connected, except in those cases where laterals have already been laid in macadam or improved streets from such main without provisions being made for such house or building, in which case the connection may be made to an existing lateral. If such house or building is on a macadam or improved street where laterals have not been laid, the connection may be made to any convenient lateral. When two or more houses or units are connected with the same water lateral, a separate meter shall be provided for each house or unit.

(Code 1975, § 20-20)

Sec. 36-41. - Meters, pipes, etc., to remain property of town.

All meters, meter boxes, pipes and other equipment furnished and used by the town in installing any water or sewer connection shall be and remain the property of the town.

(Code 1975, § 20-21)

Sec. 36-42. - Connections from outside town.

No connection of any water or sewer line or system outside the town shall be made to any part of the town water or sewer system without special permission from the board of commissioners and on such terms as the board of commissioners shall prescribe.

(Code 1975, § 20-22)

Sec. 36-43. - Fees and charges.

Fees and charges for water and sewer connections made pursuant to this chapter shall be as determined from time to time by the board of commissioners. A current schedule of such fees and charges shall be maintained on file in the office of the town clerk.

(Code 1975, § 20-23)

Secs. 36-44—36-60. - Reserved.

DIVISION 2. - CROSS CONNECTION CONTROL^[3]

Footnotes:

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Editor's note— Ord. No. 2006-51, §§ 1—13, adopted September 12, 2006, repealed the former Div. 2, §§ 36-61—36-70, and enacted a new Div. 2 as set out herein. The former Div. 2 pertained to similar subject matter and derived from Ord. of 12-6-1988, § 1.0—3.0, 6.0—12.0.

Sec. 36-61. - Introduction.

The purpose of this cross connection control ordinance is to define the authority of the Town of Burgaw as the water purveyor in the elimination of all cross connections within its public potable water supply.

This division shall apply to all users connected to the Town of Burgaw public potable water supply regardless of whether the user is located within the city limits or outside of the city limits.

This division will comply with the federal, state and local laws and regulations as they pertain to cross connections within the public water supply.

(Ord. No. 2006-51, § 1, 9-12-2006)

Sec. 36-62. - Objectives of ordinance.

The specific objectives of the cross connection control ordinance for the Town of Burgaw are as follows:

- (1) To protect the public potable water supply of the Town of Burgaw against actual or potential contamination by isolating, within the consumer's water system, contaminants or pollutants which could, under adverse conditions, backflow through uncontrolled cross connections into the public water system.
- (2) To eliminate or control existing cross connections, actual or potential, between the consumer's potable water system(s) and nonpotable or industrial piping system(s).
- (3) To provide a continuing inspection program of cross connection control which will systematically and effectively control all actual or potential cross connections that may be installed in the future.

(Ord. No. 2006-51, § 2, 9-12-2006)

Sec. 36-63. - Responsibilities.

- (a) *Responsibility: NC Department of Environment, Health and Natural Resources.* The North Carolina Department of Environment, Health and Natural Resources has the responsibility for promulgating and enforcing laws, rules, regulations and policies to be followed in carrying out an effective cross connection control program.

The NCDNR also has the primary responsibility of insuring that the water purveyor operates the public potable water system free of actual or potential sanitary hazards, including unprotected cross connections. They have the further responsibility of insuring that the water purveyor provides an approved water supply at the service connection to the consumer's water system and, further, that he requires the installation, testing and maintenance of an approved backflow prevention assembly on the service connection when required.

- (b) *Responsibility: Water purveyor.* Except as otherwise provided herein, the water purveyor's responsibility to ensure a safe water supply begins at the source and includes all of the public water distribution system, including the service connection, and ends at the point of delivery to the consumer's water system(s). In addition, the water purveyor shall exercise reasonable vigilance to insure that the consumer has taken the proper steps to protect the public potable water system. To insure that the proper precautions are taken, the Town of Burgaw is required to determine the degree of hazard or potential hazard to the public potable water system; to determine the degree of protection required; and to ensure proper containment protection through an on-going inspection program.

When it is determined that a backflow prevention assembly is required for the protection of the public system, the Town of Burgaw shall require the consumer, at the consumer's expense, to install an approved backflow prevention assembly at each service connection, to test it immediately upon installation and thereafter at a frequency of one time each year, to properly repair and maintain such assembly or assemblies and to keep adequate records of each test and subsequent maintenance and repair, including materials and/or replacement parts.

- (c) *Responsibility: Plumbing inspections.* The inspection department of the Town of Burgaw has the responsibility to not only review building plans and inspect plumbing as it is installed; but, has the explicit responsibility of preventing cross connections from being built into the plumbing system within its jurisdiction. Where the review of building plans suggests or detects the potential for cross connections being made an integral part of the plumbing system, the plumbing inspector has the responsibility, under the North Carolina Building Code, for requiring that such cross connections be either eliminated or provided with backflow prevention equipment.
- (d) *Responsibility: Consumer.* The consumer has the primary responsibility of preventing pollutants and contaminants from entering his potable water system(s) or the public potable water system. The consumer's responsibility starts at the point of delivery from the public potable water system and includes all of his water system(s). The consumer, at his own expense, shall install, operate, test and maintain approved backflow prevention assemblies as directed by the Town of Burgaw. The consumer shall maintain accurate records of tests and repairs made to backflow prevention assemblies and shall maintain such records for a minimum period of three years. The records shall be on forms approved by the Town of Burgaw and shall include the list of materials or replacement parts used. Following any repair, overhaul, repiping or relocation of an assembly, the consumer shall have it tested to insure that it is in good operating condition and will prevent backflow. The consumer will be responsible notifying the town of any and all repairs or replacements to the existing backflow assembly, as well as testing information.
- (e) *Responsibility: Certified backflow prevention assembly tester.* When employed by the consumer to test, repair, and overhaul or maintain backflow prevention assemblies, a backflow prevention assembly tester will have the following responsibilities:

- The tester will be responsible for making competent inspections and for repairing or overhauling backflow prevention assemblies and making reports of such repair to the consumer and responsible authorities on forms approved by the Town of Burgaw. The tester shall include the list of materials or replacement parts used. It will be the tester's responsibility to insure that original manufactured parts are used in the repair of or replacement of parts in a backflow prevention assembly. It will be the tester's further responsibility not to change the design, material or operational characteristics of an assembly during repair or maintenance. A certified tester shall perform the work and be responsible for the competency and accuracy of all tests and reports. A certified tester shall provide a copy of all test and repair reports to the consumer and to the Town of Burgaw within ten business days of any completed test or repair work. A certified tester shall maintain such records for a minimum period of three years.
- All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment that has been evaluated and/or approved by the Town of Burgaw.
- All test equipment shall be registered with the Town of Burgaw. All test equipment shall be checked for accuracy annually (at a minimum), calibrated, and certification of the accuracy supplied to the Town of Burgaw.
- All certified backflow prevention assembly testers must maintain their certification through continuing education hours each year.

(Ord. No. 2006-51, § 3, 9-12-2006)

Sec. 36-64. - Definitions.

Air-gap separation. The term "air-gap separation" shall mean physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel. An "approved air-gap separation" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the receiving vessel but in no case less than one inch (2.54 cm).

Approved. The term "approved" as herein used in reference to a water supply shall mean a water supply that has been approved by the North Carolina Department of Environment, Health, and Natural Resources.

The term "approved" is herein used in reference to air-gap separation, a pressure vacuum breaker, a double check valve assembly, a double check detector assembly, a reduced pressure principle backflow prevention assembly, a reduced pressure principle detector assembly or other backflow prevention assemblies or methods used.

Backflow. The term "backflow" shall mean the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the consumer or public potable water system from any source or sources.

Backflow prevention assembly-approved. The term "approved backflow prevention assembly" shall mean an assembly used for containment and/or isolation purposes that has been tested and approved by the Town of Burgaw and has been shown to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE), the American Water Works Association (AWA), or the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California.

The approval of backflow prevention assemblies by the Town of Burgaw or its contractor(s) is based on approval by the Foundation for Cross Connection Control and Hydraulic Research of the University of Southern California, recommending such an approval.

Backflow prevention device-approved. The term "approved backflow prevention device" shall mean a non-testable device used for isolation purposes that has been shown to meet the design and performance standards of the American Society of Sanitary Engineers (ASSE) and the American Water Works Association (AWWA).

Backflow prevention assembly-unapproved. The term "unapproved backflow prevention assembly" shall mean an assembly that has been investigated by the Town of Burgaw and has been determined to be unacceptable for installation within the Town of Burgaw's water system. Consideration for disapproval and removal from the "approved list" shall be based upon, but not limited to, the following criteria:

- (1) Due to poor performance standards (i.e., significant failure rate);
- (2) Lack of or unavailability of repair parts; and/or
- (3) Poor service or response from assembly's factory representative(s).

Backflow prevention assembly type. A "backflow prevention assembly" shall mean an assembly used to prevent backflow into a consumer or public potable water system. The type of assembly used should be based on the degree of hazard either existing or potential (as defined herein). The types are:

- (1) Double check valve assembly (DCVA).
- (2) Double check detector assembly (fire system) (DCDA).
- (3) Pressure vacuum breaker (PVB).
- (4) Reduced pressure principle assembly (RP).
- (5) Reduced pressure principle-detect assembly (fire system) (RPDA).

Backflow prevention assembly tester-certified. The term "certified backflow prevention assembly tester" shall mean a person who has proven their competency to the satisfaction of the Town of Burgaw. Each person who is certified to make competent tests, or to repair, overhaul, and make reports on backflow prevention assemblies shall be knowledgeable of applicable laws, rules, and regulations, and must hold a certificate of completion from an approved training program in the testing and repair of backflow prevention assemblies.

Back-pressure backflow. "Back-pressure backflow" shall mean any elevation in the consumer water system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of delivery, which would cause or tend to cause a reversal of the normal direction of flow.

Back-siphonage backflow. "Back-siphonage backflow" shall mean a reversal of the normal direction of flow in the pipeline due to a negative pressure (vacuum) being created in the supply line with the backflow source subject to atmospheric pressure.

Check valve approved. The term "approved check valve" shall mean a check valve that is drip-tight in the normal direction of flow when the inlet pressure is at least one psi and the outlet pressure is zero. The check valve shall permit no leakage in a direction reversed to the normal flow. The closure element (e.g. clapper, poppet or other design) shall be internally loaded to promote rapid and positive closure. An approved check valve is only one component of an approved backflow prevention assembly.

Consumer. The term "consumer" shall mean any person, firm or corporation using or receiving water from the Town of Burgaw's water system.

Consumer's water system. The term "consumer's water system" shall include any water system commencing at the point of delivery and continuing throughout the consumer's plumbing system, located on the consumer's premise, whether supplied by public potable water or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.

Containment. The term "containment" shall mean preventing the impairment of the public potable water supply by installing an approved backflow prevention assembly at the service connection.

Contamination. The term "contamination" shall mean an impairment of the quality of the water, which creates a potential or actual hazard to the public health, through the introduction of hazardous or toxic substances or through the spread of disease by sewage, industrial fluids or waste.

Cross connection. A "cross connection" shall mean any unprotected actual or potential connection or structural arrangement between a public or a consumer's water system and any other source or system through which it is possible to introduce any contamination or pollution, other than the intended potable

water with which the system is supplied. By-pass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross connections.

Double check valve assembly. The term "double check valve assembly" shall mean an assembly composed of two independently acting, approved check valves, including tightly closing shut-off valves, attached at each end of the assembly and fitted with properly located test cocks. This assembly shall only be used to protect against a non-health hazard (i.e., pollutant).

Double check-detector assembly. The term "double check-detector assembly" shall mean a specially designed assembly composed of a line-size approved double check valve assembly with a specific bypass water meter and a meter-sized approved double check valve assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall only be used to protect against a non-health hazard (i.e., pollutant).

Hazard, degree of. The term "degree of hazard" shall be derived from the evaluation of conditions within a system which can be classified as either "pollution" (non-health) or a "contamination" (health) hazard.

Hazard, health. The term "health hazard" shall mean an actual or potential threat of contamination of a physical, hazardous or toxic nature to the public or consumer's potable water system to such a degree or intensity that there would be a danger to health.

Hazard, non-health. The term "non-health hazard" shall mean an actual or potential threat to the quality of the public or the consumer's potable water system. A non-health hazard is one that, if introduced into the public water supply system, could be a nuisance to water customers, but would not adversely affect human health.

Hazard, pollution. The term "pollution hazard" shall mean an actual or potential threat to the quality or the potability of the public or the consumer's potable water system but which would not constitute a health or a system hazard, as defined. The maximum degree or intensity of pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

Health agency. The term "health agency" shall mean the North Carolina Department of Environment, Health and Natural Resources (NCDEHNR).

Industrial fluids. The term "industrial fluids" shall mean any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health or non-health hazard if introduced into a public or consumer potable water system. Such fluids may include, but are not limited to: process waters; chemicals in fluid form; acids and alkalis; oils, gases; etc.

Industrial piping system-consumer's. The term "consumer's industrial piping system" shall mean any system used by the consumer for transmission of or to confine or store any fluid, solid or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures equipment and appurtenances used to produce, convey or store substances that are or may be polluted or contaminated.

Isolation. "Isolation" is the act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies.

The Town of Burgaw may make recommendations, upon facility inspections, as to the usages of isolation devices/assemblies, but does not assume or have responsibility whatsoever for such installations.

Point of delivery. "Point of delivery" shall generally be at the property line of the customer or at a point on the customer's property where the meter is located. The customer shall be responsible for all water piping and control devices located on the customer's side of the water meter.

Pollution. The term "pollution" shall mean an impairment of the quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.

Potable water. The term "potable water" shall mean water from any source which has been approved by the North Carolina Department of Environment, Health and Natural Resources for human consumption.

Public potable water system. The term public potable water system shall mean any publicly or privately owned water system operated as a public utility, under a current North Carolina Department of Environment, Health, and Natural Resources permit, to supply water for public consumption or use. This system will include all sources, facilities, and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, equipment and appurtenances used to produce, convey, treat or store potable water for public consumption or use.

Reduced pressure principle backflow prevention assembly. The term "reduced pressure principle backflow prevention assembly" shall mean an assembly containing within its structure a minimum of two independently acting, approved check valves, together with a hydraulically operating, mechanically independent, pressure differential relief valve located between the check valves and at the same time below the first check valve. The first check valve reduces the supply pressure a predetermined amount so that during normal flow and at cessation of normal flow, the pressure between the checks shall be less than the supply pressure. In case of failure of either check valve, the pressure differential relief valve, by discharge to atmosphere, shall operate to maintain the pressure between the checks less than the supply pressure. The unit shall include tightly closing shut-off valves located at each end of the assembly and each assembly shall be fitted with properly located test cocks. The assembly is designed to protect against a health hazard (i.e., contaminant).

Reduced pressure principle-detector assembly. The term "reduced pressure principle-detector assembly" shall mean a specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a specific bypass water meter and a meter-sized approved reduced pressure principle backflow prevention assembly. The meter shall register (in U.S. gallons) accurately for only very low rates of flow and shall show a registration for all rates of flow. This assembly shall be used to protect against health hazard (i.e., contaminant).

Service connections. The term "service connection" shall mean the service connection from the public potable water system, to the consumer's water system.

Vacuum breaker-atmospheric type. The term "atmospheric vacuum breaker" shall mean a "device" containing an air inlet valve, a check seat and air inlet port. The flow of water into the body causes an air inlet valve to close the air inlet port. When the flow of water stops, the air inlet valve falls and forms a check against back siphonage. An AVB has no test cocks and as such is considered a "device". It can be used for non-health hazards (pollution) or a health hazard (contaminant) under back siphonage only. It is non-testable and can not be used for containment or isolation protection of the town's potable water system.

Vacuum breaker-pressure type. The term "pressure vacuum breaker" shall mean an assembly containing an independently operating internally loaded check valve and an independently operating loaded air inlet valve located on the discharge side of the check valve. The assembly is to be equipped with properly located test cocks and tightly closing shut-off valves attached at each end of the assembly. This assembly is designed to protect against a health hazard (i.e., contaminant) under a back-siphonage condition only.

Water purveyor. The term "water purveyor" shall mean the owner or operator of a public potable water system, providing an approved water supply to the public.

Water supply—Approved. The term "approved water supply" shall mean any public potable water supply that has been investigated and approved by the North Carolina Department of Environment, Health and Natural Resources. The system must be operating under a valid "permit to operate".

Water supply—Auxiliary. The term "auxiliary water supply" shall mean any water supply on or available to the premises other than the purveyor's approved public potable water supply. These auxiliary water may include water from another purveyor's public water supply or any natural source such as well, spring, river, stream, etc., "used water", or industrial fluids. These waters may be polluted, contaminated,

or objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

Water supply—Unapproved. The term "unapproved water supply" shall mean a water supply which has not been approved for human consumption by the North Carolina Department of Environment, Health and Natural Resources.

Water—Used. The term "used water" shall mean any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the point of delivery and is no longer under the control of the water purveyor.

This division is gender neutral and the masculine gender shall include the feminine and vice versa. Shall is mandatory, may is permissive and discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(Ord. No. 2006-51, § 4, 9-12-2006)

Sec. 36-65. - Right-of-entry.

Authorized representative(s) from Town of Burgaw or its contractor(s) shall have the right to enter, upon presentation of proper credentials and identification, any building, structure or premises during normal business hours, or at any time during the event of an emergency, to perform any duty imposed by this division. Those duties may include sampling and testing of water or inspections and observations of all piping systems connected to the public water supply. Where a user has security measures in force that would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with the security guards so that, upon presentation of suitable identification, Town of Burgaw personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Refusal to allow entry for these purposes may result in discontinuance of water service.

On request, the consumer shall furnish to the Town of Burgaw, any pertinent information regarding the water supply system on such property where cross connections and backflow are deemed possible.

(Ord. No. 2006-51, § 5, 9-12-2006)

Sec. 36-66. - Elimination of cross connections: Degree of hazard.

When cross connections are found to exist, the owner, his agent, occupant or tenant will be notified in writing to disconnect the same within the time limit established by the Town of Burgaw. Degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water supply system. The maximum time limits are as follows:

- (1) Cross connections with private wells or other auxiliary water supplies-immediate disconnection.
- (2) All facilities that pose a health hazard to the potable water system must have a containment assembly in the form of a reduced pressure principle backflow prevention assembly within 60 days.
- (3) All industrial and commercial facilities not identified as a "health hazard" shall be considered non-health hazard facilities. All non-health hazard facilities must install, as a minimum containment assembly, a double check valve assembly within 90 days.
- (4) If, in the judgment of Town of Burgaw, an imminent health hazard exists, water service to the building or premises where a cross connection exists may be terminated unless an air gap is immediately provided, or the cross connection is immediately eliminated.
- (5) Based upon recommendation from the Town of Burgaw, the consumer is responsible for installing sufficient isolation backflow prevention assemblies (i.e., air gap, pressure vacuum

breakers, reduced pressure principle backflow prevention assembly, double check valve assembly).

- (6) Water mains served by the Town of Burgaw but not maintained by the Town of Burgaw should be considered cross connections, with the degree of hazard to be determined by the Town of Burgaw. Degree of protection shall be based upon the degree of hazard, as determined by Town of Burgaw.
- (7) In the event that a Town of Burgaw does not have sufficient access to every portion of a private water system (i.e., classified research and development facilities; federal government property) to allow a complete evaluation of the degree of hazard associated with such private water systems, an approved reduced pressure principle assembly shall be required as a minimum of protection.
- (8) No person shall fill special use tanks or tankers containing pesticides, fertilizers, other toxic chemicals or their residues from the public water system except at a location equipped with an air gap or an approved reduced pressure principle backflow prevention assembly properly installed on the public water supply.

(Ord. No. 2006-51, § 6, 9-12-2006)

Sec. 36-67. - Installation of assemblies.

- (a) All backflow prevention assemblies shall be installed in accordance with the manufacturer's installation instructions or in the latest edition of the North Carolina Building Code, whichever is most restrictive.
- (b) Ownership, testing and maintenance of the assembly shall be the responsibility of the customer.
- (c) All double check valve assemblies must be installed in drainable pits whenever below ground installation is necessary, in accordance with detailed specifications provided by the manufacturer.
- (d) Reduced pressure principle assemblies must be installed in a position and location in which no portion of the assembly can become submerged in any substance under any circumstances (pit and/or below grade installations are prohibited). Double check valve assemblies may be installed in a vertical position with prior approval from the Town of Burgaw provided the flow of water is in an upward direction.
- (e) The installation of a backflow prevention assembly that is not approved must be replaced with an approved backflow prevention assembly.
- (f) The installer is responsible to make sure a backflow prevention assembly is working properly upon installation and is required to furnish the following information to the Town of Burgaw within 15 days after a reduced pressure principle backflow preventer (RP), double check-valve assembly (DCVA), pressure vacuum breaker (PVB), double check-detector assembly (DCDA) or reduced pressure principle detector assembly (RPDA) is installed:
 - (1) Service address where assembly is located.
 - (2) Owner (and address, if different from service address).
 - (3) Description of assembly's location.
 - (4) Date of installation.
 - (5) Installer (include name, tester certification number and test kit certification).
 - (6) Type of assembly, size of assembly.
 - (7) Manufacturer, model number, serial number.
 - (8) Test results/reports.

- (g) When it is not possible to interrupt water service, provisions shall be made for a "parallel installation" of backflow prevention assemblies. The Town of Burgaw will not accept an unprotected bypass around a backflow preventer when the assembly is in need of testing, repair, or replacement.
- (h) The consumer shall, upon notification, install the appropriate containment assembly not to exceed the following time frame:

Health Hazard	30 days
Non-Health Hazard	45 days

- (i) Following installation, all RP, DCVA, PVB, DCDA and RPDA are required to be tested by a certified backflow prevention assembly tester within ten days.

(Ord. No. 2006-51, § 7, 9-12-2006)

Sec. 36-68. - Testing and repair of assemblies.

- (a) Testing of backflow prevention assemblies shall be made by a certified backflow prevention assembly tester at the customer's expense. Such tests are to be conducted upon installation and annually thereafter or at a frequency established by the Town of Burgaw. A record of all testing and repairs is to be retained by the customer. Copies of the records must be provided to the Town of Burgaw within ten business days after the completion of any testing and/or repair work.
- (b) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing or routine inspection by the owner or by the Town of Burgaw, these repairs must be completed within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:
 - (1) Health hazard facilities: 14 days.
 - (2) Non-health hazard facilities: 21 days.
- (c) All backflow prevention assemblies with test cocks are required to be tested annually. Testing requires a water shutdown usually lasting five to 20 minutes. For facilities that require an uninterrupted supply of water, and when it is not possible to provide water service from two separate meters, provisions shall be made for a "parallel installation" of backflow prevention assemblies.
- (d) All certified backflow prevention assembly testers must obtain and employ backflow prevention assembly test equipment, which has been evaluated and/or approved by the Town of Burgaw. All test equipment shall be registered with the Town of Burgaw. All test equipment shall be checked for accuracy annually (at a minimum), calibrated and certified to the Town of Burgaw as to such accuracy/calibration.
- (e) It shall be unlawful for any customer or certified tester to submit any record to the Town of Burgaw that is false or incomplete in any material respect. It shall be unlawful for any customer or certified tester to fail to submit to the Town of Burgaw any record that is required by this division. Such violations may result in any of the enforcement actions outlined in section 36-72 of this division.

(Ord. No. 2006-51, § 8, 9-12-2006)

Sec. 36-69. - Facilities requiring protection.

Approved backflow prevention assemblies shall be installed on the service line to any premises that the Town of Burgaw has identified as having a potential for backflow.

The following types of facilities or services have been identified by the Town of Burgaw as having a potential for backflow of non-potable water into the public water supply system. Therefore, an approved backflow prevention assembly will be required on all such services according to the degree of hazard present. Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the Town of Burgaw. As a minimum requirement, all commercial services will be required to install a double check valve assembly, unless otherwise listed below.

DCVA	Double check valve assembly
RP	Reduced pressure principle assembly
DCDA	Double check detector assembly
RPDA	Reduced pressure detector assembly
AG	Air gap
PVB	Pressure vacuum breaker

1. Aircraft and missile plants: RP
2. Automotive services stations, dealerships, etc.: RP
3. Automotive plants: RP
4. Auxiliary water systems:
 - a. Approved public/private water supply: RP
 - b. Unapproved public/private water supply: AG
 - c. Used water and industrial fluids: RP
5. Bakeries:
 - a. No health hazard: DCVA
 - b. Health hazard: RP
6. Beauty shops/barber shops: RP
7. Beverage bottling plants: RP
8. Breweries: RP
9. Buildings hotels, apartment houses, public and private buildings, or other structures having unprotected cross connections: RP
10. Canneries, packing houses, and rendering plants: RP
11. Chemical plants manufacturing, processing, compounding or treatment: RP

12. Chemically contaminated water systems: RP
13. Commercial car-wash facilities: RP
14. Commercial greenhouses: RP
15. Commercial sales establishments (department stores, malls, etc.)
 - a. No health hazard: DCVA
 - b. Health hazard: RP
16. Concrete/asphalt plants: RP
17. Dairies and cold storage plants: RP
18. Dye works: RP
19. Film laboratories: RP
20. Fire systems:
Systems $\frac{3}{4}$ " (inch) to 2" (inch):
 - a. No health hazard: DCDA
 - b. Health hazard (booster pumps, foam, antifreeze solution, etc.): RPDASystems $2\frac{1}{2}$ " (inch) to 10" (inch) (or larger)
 - a. No health hazard: DCDA
 - b. Health hazard (booster pumps, foam, antifreeze solution, etc.): RPDA
21. Hospitals, medical buildings, sanitariums, morgues, mortuaries, autopsy facilities, nursing and convalescent homes, medical clinics, and veterinary hospitals: RP
22. Industrial facilities:
 - a. No Health Hazard: DCVA
 - b. Health Hazard: RP
23. Laundries: RP
24. Lawn irrigation systems: RP
25. Metal manufacturing, cleaning, processing, and fabricating plants: RP
26. Mobile home parks: RP
27. Oil and gas production, storage or transmission properties: RP
28. Paper and paper products plants: RP
29. Pest control (exterminating and fumigation): RP
30. Plating plant: RP
31. Power plants: RP
32. Radioactive materials or substances-plants or facilities handling: RP
33. Restaurants: RP
34. Restricted, classified or other closed facilities: RP
35. Rubber plants (natural or synthetic): RP
36. Sand and gravel plants: RP
37. Schools and colleges: RP

- 38. Sewage and storm drain facilities: RP
- 39. Swimming Pools: RP
- 40. Waterfront facilities and industries: RP

All assemblies and installations shall be subject to inspection and approval by the Town of Burgaw.

(Ord. No. 2006-51, § 9, 9-12-2006)

Sec. 36-70. - Connections with unapproved sources of supply.

- (a) No person shall connect or cause to be connected any supply of water not approved by the North Carolina Department of Environment, Health and Natural Resources to the water system supplied by the Town of Burgaw.
- (b) In the event of contamination or pollution of a public or consumer potable water system, the consumer shall notify the Town of Burgaw immediately in order that appropriate measures may be taken to overcome and eliminate the contamination or pollution.

(Ord. No. 2006-51, § 10, 9-12-2006)

Sec. 36-71. - Fire protection systems.

- (a) All connections for fire protection systems connected with the public water system, two inches and smaller, shall be protected with an approved double check valve assembly as a minimum requirement. All fire systems using toxic additives or booster pumps shall be protected by an approved reduced pressure principle assembly at the main service connection.
- (b) All connections for fire protection systems connected with the public water system, greater than two inches, shall be protected with an approved double check detector assembly as a minimum requirement. All fire protection systems using toxic or hazardous additives or booster pumps shall be protected by an approved reduced pressure principle detector assembly at the main service connection.
- (c) All existing backflow prevention assemblies, two and one-half inches and larger, installed on fire protection systems (that were initially approved by the Town of Burgaw shall be allowed to remain on the premises, as long as they are being properly maintained, tested and repaired as required by this Ordinance. If, however, the existing assembly must be replaced (once it can no longer be repaired), or in the event of proven water theft through an unmetered source, the consumer shall be required to install an approved double check detector assembly or reduced pressure principle detector assembly as required by this provision.

(Ord. No. 2006-51, § 11, 9-12-2006)

Sec. 36-72. - Enforcement.

- (a) The owner, manager, supervisor or person in charge of any installation found not to be in compliance with the provisions of this division shall be notified in writing with regard to the corrective action(s) to be taken. The time for compliance shall be in accordance with section 36-66.
- (b) The owner, manager, supervisor or person in charge of any installation which remains in non-compliance after the time prescribed in the initial notification, as outlined in section 36-66, shall be considered in violation of this division and may be subject to the discontinuation of water service by the Town of Burgaw.

- (c) Any offender who shall continue any violation beyond the time limit provided for in the aforementioned notification shall be subject to discontinuation of water service.
- (d) If, in the judgment of Town of Burgaw, any owner, manager, supervisor or person in charge of any installation found to be in non-compliance with the provisions of this division, neglects their responsibility to correct any violation, it may result in discontinuance of water service until compliance is achieved.
- (e) If a certified backflow prevention assembly tester submits falsified records to the Town of Burgaw, the town shall revoke the tester's certification to test backflow prevention assemblies within the areas served by the Town of Burgaw's potable water system.
- (f) Enforcement of this program shall be administered by the Town of Burgaw.

(Ord. No. 2006-51, § 12, 9-12-2006)

Secs. 36-73—36-90. - Reserved.

ARTICLE III. - RATES AND CHARGES^[4]

Footnotes:

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State Law reference— Municipal authority to fix and enforce water and sewer rates, G.S. 160A-314.

DIVISION 1. - GENERALLY

Sec. 36-91. - Water furnished at metered rates only.

Water shall be furnished to consumers at metered rates only.

(Code 1975, § 20-24)

Sec. 36-92. - Schedule generally.

Charges made for water delivered by the town to its customers residing within the corporate limits shall be as determined from time to time by the board of commissioners. A current schedule of such charges shall be maintained on file in the office of the town clerk. Sewer rates shall likewise be determined from time to time by the board of commissioners and shall be based upon what the board considers a necessary percentage of the water rates.

(Code 1975, § 20-25)

Sec. 36-93. - Water charges to consumers outside town; applicability of provisions to consumers outside town.

The charges for water shall be as set forth in section 36-92 to all customers residing outside of the corporate limits, and all sections of this chapter pertaining to the administration of the water department shall apply equally to any customers residing outside of the corporate limits.

(Code 1975, § 20-26)

Sec. 36-94. - Deposits.

A deposit, in such amount as may be determined from time to time by the board of commissioners, shall be required on all new connections, on connections cut off for failure to pay water bills and on any connection that is cut off and turned on again in a new location. This deposit shall be held to the credit of the depositor until water service is discontinued and final and full settlement of all water bills due the town is made.

(Code 1975, § 20-27)

Sec. 36-95. - When bills due and payable; discontinuance of service and cutting off of connections for failure to pay bills.

All bills for water service due the town for any one month shall be due on the first day of the month succeeding and shall be payable on or before the tenth day of such month and, on all bills on which full settlements have not been received in the office of the clerk, on or before the 15th day of such month. Water service shall be discontinued to customers whose bills are unpaid and the connection cut off from the town water mains without notice.

(Code 1975, § 20-28)

Sec. 36-96. - Administrative charge when water cut off for nonpayment of bill.

Where water service is discontinued and the connection cut off for failure to pay water bills as set forth under the provisions of section 36-95, a charge, the amount of which shall be determined from time to time by the board of commissioners, shall be made for nonpayment.

(Code 1975, § 20-29; Ord. No. 2004-03, §§ 1, 2, 2-10-2004)

Sec. 36-97. - Unauthorized cutting on of water after discontinuance of service for nonpayment of bill.

It shall be unlawful to turn the water on from the water mains into a meter or private connection, which connection has been cut off by the town for the nonpayment of water bills, without the permission of the town.

(Code 1975, § 20-30)

Secs. 36-98—36-107. - Reserved.

DIVISION 2. - IMPACT FEES⁵

Footnotes:

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Editor's note— Ord. No. 2001-30, §§ 1—3, adopted October 9, 2001, amended div. 2 in its entirety to read as herein set out. Former div. 2, §§ 36-108—36-110, pertained to similar subject matter, and derived from Ord. No. 96-3, §§ 1—3, 5-13-1996.

Cross reference— Buildings and building regulations, ch. 6.

Sec. 36-108. - Generally.

- (a) Revenues from impact fees shall be identified as a separate capital reserve and used solely for the purpose of providing adequate water and wastewater treatment capacity to meet the water and sewer needs.
- (b) Every applicant for a building permit or other required permit for a purpose and application as described in subsections (b)(1)—(3) below shall pay an impact fee as provided for in this section. Impact fees shall apply to:
 - (1) All new construction, including the placement of mobile or modular homes or other buildings to be connected to the town's water and/or sewer system;
 - (2) Connections of existing buildings or other improvements not previously connected to the town's water and/or sewer system;
 - (3) Renovations, improvements, additions, increases or changes in use of existing buildings requiring increased use of water and/or sewer from the town.
- (c) When it is determined that a renovation, improvement, addition, increase or change in use has been made that increases the capacity requirements of the town's water and/or sewer system, the impact fee calculation shall be made by calculating the impact fee for the total building including the improvement, addition, increase or change in use and deducting the fee for the original building or use. If an impact fee was not previously required, then the impact fee shall be calculated based only on the improvement, addition or change in use. The decision as to whether the result is an increased capacity requirement shall be made by the building inspector, whose decision is final.
- (d) Impact fees will not be charged on buildings or other improvements constructed or made to repair or replace like buildings or improvements, provided, however; that repair or replacement occurs on the same site, utilizes the same connections, taps and meter sizes as the previous building or improvement, does not result in an increase in building size, does not result in a change of use, and will not result in an increase in capacity requirements over that required to serve the replaced buildings or improvements. The decision as to whether the result is an increased capacity requirement shall be made by the building inspector, whose decision is final.

The full payment of the impact fee shall be made to the Town of Burgaw at the time of the application for a building or other required permit.

The impact fee shall be based on the Table of Equivalent Residential Units (ERU) for Major Land Uses. Residential units shall be that portion of any building that is designed for single family living and may include, but is not limited to, a single family detached dwelling, a condominium unit, a town house, an apartment, a mobile home, half of a duplex or any unit of similar nature. Costs for impact fees will be based on the costs of providing water distribution and wastewater treatment capacity for one gallon of water per day times the design factor for water flow of the development or establishment. All fees are based on an equivalent residential unit (ERU) of 360 gallons per day of water consumption and 360 gallons per day of wastewater discharge.

- (e) If the use of a building changes or increases after impact fees are paid, the total impact fee cost shall be equal to the greatest flow of the expected use.

Table of Equivalent Residential Units (ERU's) for Major Land Uses

USE	ERU
Single family residential dwelling	1.00
Multifamily dwelling per unit up to 3 bedrooms	1.00

Multifamily dwelling unit for 2 bedrooms	.75
Multifamily dwelling unit for 1 bedroom	.50
Barber and beauty shops per chair	.12
Churches, assembly halls, theaters per seat	.01
Coin operated laundry (per washer)	.80
Convenience stores per water closet or urinal	.57
Correctional institutions, per inmate	.22
Day care centers per person	.03
Factories per employee	.05
Fast food, per seat	.10
Hospitals, per bed	1.25
Hotels/motels without kitchens, per room	.35
Nursing home with laundry, per resident	.40
Nursing home without laundry, per resident	.22
Offices and warehouses, per 1,000 square feet	.05
Restaurants, 12 hours or less per day, per seat	.02
Restaurants, more than 12 hours per day, per seat	.05
Schools per student	.03
Shopping centers and stores, per 1,000 square feet	.30

- (f) The flow of establishments not identified in the table shall be determined by using available plumbing and engineering flow data, water-using fixtures, occupancy or operation patterns, water consumption history of similar establishments, and other measure data.
- (g) It has been determined that the fee for a major land use having a 1.00 ERU would be \$1,760.80 based on a cost of \$4.25 per gallon per day for water distribution. To determine fees for other major land uses for water distribution, multiply \$1,760.80 by the ERU times its respective measurement (per seat, per employee, etc.).
- (h) It has been determined that the fee for a major land use having a 1.00 ERU would be \$3,600.00 based on a cost of \$6.43 per gallon per day for wastewater treatment. To determine fees of other major land uses for wastewater treatment, multiply \$3,600.00 by the ERU times its respective measurement (per seat, per employee, etc.).

(Ord. No. 2001-30, § 1, 10-9-2001; Ord. No. 2005-20, §§ 1—3, 7-1-2005; Ord. No. 2006-16, §§ 1—3, 5-1-2006; Ord. No. 2006-49, § 1, 9-12-2006; [Ord. No. 2011-13, § 1, 4-12-2011](#); [Ord. No. 2011-18, § 1, 6-14-2011](#))

Sec. 36-109. - Adjustments.

Adjustments to the ERU's listed in the Table of Equivalent Residential Units of Major Land Uses may be granted by the board of commissioners upon a showing that the estimated daily flow of the establishment is substantially different from the flow amount identified in the Table. Documented data shall be submitted to the town, including plumbing and engineering reports. The submitted data shall also consist of at least 12 consecutive monthly total water consumption readings and at least 30 consecutive daily total water consumption readings of a similar establishment. The daily readings should be taken during a projected peak water flow month. The adjusted average daily flow shall be determined by taking the numerical average of the daily readings that fall within the upper 10 percent of the daily readings when ranked in descending order.

(Ord. No. 2001-30, § 2, 10-9-2001)

Sec. 36-110. - Refund of fee paid.

If a building permit expires and no construction has been commenced, then the fee-payer shall be entitled to a refund of the impact fee paid as a condition for its issuance except that the town shall retain six percent of the funds as an administrative fee to offset the costs of collection and refund.

(Ord. No. 2001-30, § 3, 10-9-2001)

Secs. 36-111—36-120. - Reserved.

ARTICLE IV. - SEWER USE

Sec. 36-121. - Ordinance on file in town offices.

The town's comprehensive sewer use ordinance is not printed in this Code but is on file and available in the town offices.

Secs. 36-122—36-150. - Reserved.

ARTICLE V. - WATER CONSERVATION^[6]

Footnotes:

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Note— The Town of Burgaw will review the plan after each water shortage event and every five years.

Sec. 36-151. - A water shortage deemed in water supply.

A water shortage may be declared to exist when the water supply available to the Town of Burgaw shall have reached the point where the water supply is not sufficient to protect the health and safety of the citizens of the Town of Burgaw. A water shortage may also be declared when water production, water transmission and water storage facilities are incapable of meeting the daily water demands without endangering the public safety and health of the citizens of the Town of Burgaw and when the North Carolina Drought Monitoring Council declares the region to be in a drought status and there is an increase in well pumping times that exceed more than 12 hours per day per well. The Town of Burgaw will use water meter readings to test the effectiveness of the restrictions. These readings will be compiled each day using supervisory controls and data acquisition (SCADA).

(Ord. No. 2002-21, 8-13-2002; Ord. No. 2010-02, 2-9-2010)

Sec. 36-152. - Proclamation of water shortage.

In the event of a water shortage in any of the degrees of severity as hereinafter set forth in the town water supply threatening the health and safety of the citizens of the town, the mayor of the Town of Burgaw or mayor pro tem in the mayor's absence is authorized, empowered, and directed to issue a public proclamation declaring to all persons the existence of such state and the severity thereof, and in order to more efficiently protect the health and safety of the people within the Town of Burgaw, to place in effect the restrictive provisions as hereinafter authorized.

(Ord. No. 2002-21, 8-13-2002)

Sec. 36-153. - Compliance required in the event of shortage.

In the event the mayor issues any such proclamation described in section 36-152, then in that event it shall be unlawful for any person, firm or corporation to use or permit the use of water from the water system within the Town of Burgaw for any of the purposes as hereinafter set forth until such times as this article be amended or repealed, or until the mayor, by public proclamation has declared certain provisions no longer in effect. In exercising this discretionary authority consideration shall be given to the availability of the water supply, water production, water transmission, water storage, available usage, outlook for precipitation, daily water use patterns and availability of water from other sources.

In the event of a water shortage, the Town of Burgaw will deal with variance requests on a case by case basis. Variance requests will be in writing and will be reviewed by the water and sewer committee.

In light of the many benefits that can be derived by conserving water, all residents, businesses and users of the water supply in the community should follow water conservation practices, regardless of the time of the year or whether or not a water shortage exists.

(Ord. No. 2002-21, 8-13-2002; Ord. No. 2010-02, 2-9-2010)

Sec. 36-154. - Restrictions applicable for water conservation.

The severity of water shortage shall be determined by static water levels within the Town of Burgaw's wells and the restrictive measures in effect at each stage are as follows:

- (1) In the event that the static water level in the town's wells begin to drop to a level which is below what is considered normal and where the well begins to operate for more than 12 hours per 24-hour day for any well a "voluntary restriction phase" may be declared in effect and the following water restrictions imposed:
 - a. A publicity campaign will be initiated using public media and specialized methods to inform the public of any impending water shortage. The Town of Burgaw will notify users and system employees by local newspapers, radio, and water bills. Water users and system employees will be notified at the time of shortage, of what will be required and measures to take to assist the town in reducing water usage. The Town of Burgaw will hold a public hearing to review and allow for public comments prior to final plan adoption.
 - b. Residential conservation measures will be encouraged and recommended including the following:
 1. Use shower for bathing rather than bathtub and limit shower to no more than five (5) minutes.
 2. Limit flushing of toilets by multiple usages.
 3. Do not leave faucets running while grooming or rinsing dishes.
 4. Limit use of clothes washers and dishwashers and when used, operate fully loaded.
 5. Limit lawn watering to that which is necessary for plants to survive.
 6. Water shrubbery the minimum required.
 7. Limit car washing to commercially operated car washes and gas or electric operated pressure washer.
 8. Do not wash down outside areas such as sidewalks, patios, houses and etc.
 9. Install water flow restrictive devices in showerheads.
 10. Use disposable and biodegradable dishes.
 11. No fundraisers that involve car washes.
 - c. It is recommended that water supply line pressure reducing valves be set to the minimum necessary for effective operations of fixtures and equipment.
 - d. Conservation in public buildings, schools, etc. is encouraged by reducing pressure at plumbing fixtures, by installation of restricting devices and shutting down on water flow control devices, and by periodic flushing of urinals.
 - e. All residents, business and schools are requested to temporarily delay new landscape work and installation of irrigation meters until water shortage has ended.
- (2) In the event that there is an observation of a drastic change in the static water level in the town's wells and where the wells consistently begin to operate for more than 12 hours per 24-hour day for any well a "Mandatory Restriction Phase" shall be declared in effect and the following water restrictions imposed:
 - a. To water lawns, grass, shrubbery, trees flower or vegetable gardens except as follows:

Customers located north of the intersection of Wilmington Street and Wright Street, Town of Burgaw may water lawns, grass, shrubbery, trees, and flower and vegetable gardens on Saturday morning between the hours of 6:00 a.m. and 10:00 a.m.

Customers located south of the intersection of Wilmington Street and Wright Street, Town of Burgaw may water lawns, grass, shrubbery, trees, and flower and vegetable gardens on Sunday morning between the hours of 6:00 a.m. and 10:00 a.m.

- b. To fill newly constructed swimming and/or wading pools or refill swimming and/or wading pools that have been drained. A minimal amount of water may be added to maintain continued operation of pools which are in operation at the time of the provisions of a "Mandatory Restriction Phase" are placed into effect.
 - c. To wash automobiles, trucks, boats, motorcycles, four wheelers, trailers or any other type of mobile equipment including commercial washing.
 - d. To wash down outside areas such as streets, driveways, service station aprons, parking lots, office buildings, exteriors of existing or newly constructed homes, apartment or buildings, sidewalks or patios, or to use water for other similar purposes.
 - e. To operate or introduce water into any ornamental fountain, pool or pond or other structure making similar use of water.
 - f. To serve drinking water in restaurants or other food establishments, except upon the request of a patron.
 - g. To use water from public or private fire hydrants for any purpose other than fire suppression or other public emergency.
 - h. To use water for dust control or compaction.
 - i. To use water for any unnecessary purpose or to intentionally waste water.
 - j. To install and use irrigation meters.
- (3) In the event that the wells cannot pump a sufficient quantity of water required for the health, welfare and safety of the citizens of the Town of Burgaw during periods of fire suppression and failure in the town's water distribution system, then an "Emergency Restriction Phase" may be declared and the following water restrictions imposed:
- a. To water or sprinkle any lawn.
 - b. To water any flower or vegetable garden or ornamental shrubs.
 - c. To introduce any water into a swimming pool, wading pool or pond.
 - d. To use water outside a structure for any use other than an emergency involving fire.
 - e. To make any nonessential use of water for commercial or public use.

(Ord. No. 2002-21, 8-13-2002; Ord. No. 2010-02, 2-9-2010)

Sec. 36-155. - Penalties.

Violation of this article shall result as follows:

- (1) A violation during a voluntary restriction phase or mandatory restriction phase shall be as follows:
- a. First violation shall result in the violator or violators receiving a written warning.
 - b. Second violation shall result in a \$250.00 fine being assessed against the violator.
 - c. Third violation shall result in a violator's water supply being turned off at the meter of the violator and that such water supply shall not be turned on at the violator's meter until all fines have been paid, and the water reconnection charge has been paid.

Such warnings and fines are considered civil penalties and are not punishable. Any town officer, public works department member, building inspector, fire administrator, planning officer, or town manager has the authority to issue such warnings and violations. When any violation occurs during the emergency restriction phase whereby a violator is cited for such violation, only a law enforcement officer is authorized to issue a criminal summons or citation for such violation.

No person shall be issued a warning or violation unless such warning or violation occurs during a declared voluntary restriction phase or mandatory restriction phase.

- (2) Violation of this article during an emergency restriction phase shall constitute a misdemeanor punishable upon conviction by a fine not to exceed \$500.00 or imprisonment not to exceed 20 days as provided by G.S. § 14-4 and in addition thereto such violation may be enjoined and restrained as provided in G.S. § 160-175.

(Ord. No. 2002-21, 8-13-2002)

Sec. 36-156. - Appeal.

A person who is issued a written warning or violation may appeal such warning or violation to the Town of Burgaw Water and Sewer Committee for such to be heard and reviewed by the committee. A person may appeal such warning and violation within five calendar days from the date of the issuance of said warning or violation. Any appeal that is made must be in writing and submitted to the Burgaw Town Clerk.

(Ord. No. 2002-21, 8-13-2002)

Sec. 36-157. - Injunctive remedies.

Pursuant to the provisions of G.S. § 160A-193, the injunctive remedies therein provided shall be applicable for the summary abatement or remedying of appropriate conditions dangerous or prejudicial to the public health, both within the town limits of the Town of Burgaw and within one mile thereof, and the expense thereof assessed as therein provided.

(Ord. No. 2002-21, 8-13-2002)

Sec. 36-158. - Severability.

If any section, subdivision, clause or provision of the article shall be adjudged invalid, such adjudication shall apply only to such section, subdivision, clause or provision so adjudged, and the remainder of this article may be declared valid and effective.

(Ord. No. 2002-21, 8-13-2002)

Secs. 36-159—36-170. - Reserved.

ARTICLE VI. - ABANDONMENT OF WELLS AND SEPTIC TANKS^[7]

Footnotes:

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Editor's note— Ord. No. 2003-01, adopted January 14, 2003, set out provisions intended for use as §§ 36-71, 36-72. For purposes of classification, and at the editor's discretion, these provisions have been included as §§ 36-171, 36-172.

Sec. 36-171. - Abandonment of wells.

- (a) Any well which has been abandoned, either temporarily or permanently, shall be abandoned in accordance with one of the following procedures:

(1) Procedures for temporary abandonment of wells:

- a. Upon temporary removal from service or prior to being put into service, the well shall be sealed with a water tight cap or seat compatible with the casing and installed in a manner that it cannot be removed easily by hand.
- b. The well shall be maintained during this time of closure so that it does not become a source of contamination.
- c. Every temporarily abandoned well shall be protected by a casing.

(2) Procedures for permanent abandonment of wells:

- a. All casing and screen materials may be removed prior to initiation of abandonment procedures if such removal will not cause or contribute to contamination of the groundwaters. Any casing not grouted in accordance with Rule .0107 Paragraph (e) of Title 15A shall be removed or properly grouted.
- b. The entire depth of the well shall be sounded before it is sealed to ensure freedom from obstructions that may interfere with sealing operations.
- c. Using a hypochlorite solution (such as HTH) the well shall be thoroughly disinfected prior to sealing, in accordance with the T15A NCAC 2C.0111. Do not use household liquid bleach as this is too weak a solution.
- d. In the case of gravel packed wells in which the casing and screens have not been removed, neat cement or bentonite grout shall be injected in the well completely filling it from the bottom to the top of the casing.
- e. Wells, other than "bored" wells, constructed in unconsolidated formations shall be completely filled with cement grout or bentonite grout by introducing it through a pipe extending to the bottom of the well which can be raised as the well is filled.
- f. Wells constructed in consolidated rock formations or that penetrate zones of consolidated rock may be filled with cement, bentonite grout sand, gravel, or drill cuttings. The top of the cement grout, bentonite grout, sand, gravel, or cuttings fill shall terminate at least ten feet below the top of this consolidated rock or five feet below the bottom of the casing. Cement grout or bentonite grout shall be placed beginning ten feet below the top of this consolidated rock or five feet below the bottom of the casing and extend five feet above the top of the consolidated rock. The remainder of the well, above the upper zone of consolidated rock shall be filled with cement grout or bentonite grout up to the land surface. For any well in which the depth of the casing is unknown or the depth of the bedrock cannot be confirmed, then the entire length of the well shall be filled with cement grout or bentonite grout up to land surface.
- g. Temporary wells or monitor wells:
 1. Wells less than 20 feet in depth which do not penetrate the water table shall be abandoned by filling the entire well up to land surface with cement grout, bentonite grout or material excavated during drilling of the well and then compacted in place; and
 2. That penetrate the water table shall be abandoned by completely filling with cement or bentonite grout-type grout.
- h. For bored or hand dug well, constructed into unconsolidated material:
 1. Remove all plumbing or piping entering the well, along with any obstructions in the well.

2. Remove as much of the well casing as possible and then fill the entire well up to the land surface with cement grout, bentonite grout, dry clay, or material excavated during drilling and then compacted into place.
- i. For wells that have standing water in them during all or part of the year:
1. Remove all plumbing or piping in the well, along with any obstruction in the well; and
 2. Remove as much of the well tile casing as possible, but no less than to be a depth of three feet below land surface.
 3. Remove all soil or other subsurface material present down to the top of the remaining well casing, and extending to a width at least 12 inches outside of the well casing on all sides.
 4. Using a hypochlorite solution (HTH) disinfect the well in accordance with 15A NCAC 2C .0111. Do not use a common household liquid bleach, as this is too weak a solution to ensure proper disinfection.
 5. Fill the well to the top of the remaining casing with cement grout, concrete grout, bentonite grout or dry clay or material excavated during the drilling of the well and then compact into place.
 6. Pour a one-foot thick concrete grout or cement grout plug that fills the entire excavated area above the top of the casing, including the area extending on all sides of the casing out to a width of at least 12 inches on all sides.
 7. Complete the abandonment process by filling the remainder of the well above the concrete or cement plug with additional concrete grout, cement grout or soil.

The owner shall be responsible for permanent abandonment of a well except that: The well driller is responsible for well abandonment if the driller improperly locates, constructs, repairs or completes the well or the person who installs, repairs, or removes the well pump is responsible for well abandonment, if the abandonment is required because of improper well pump installation, repair or removal.

(Ord. No. 2003-01, 1-14-2003)

Sec. 36-172. - Abandonment of septic tanks.

Abandonment of septic tanks was deregulated as a North Carolina state mandate and turned over to individual counties. Pender County has no regulations regarding the abandonment of septic tanks.

- (1) If a septic tank is required to be closed for any reason, it shall be pumped clean of all liquids; filled with material sealed with an appropriate septic tank lid.

(Ord. No. 2003-01, 1-14-2003)

ARTICLE VII. - PRIVATE WATER WELLS

Sec. 36-173. - Private water wells.

Any private water well located within the corporate limits of the Town of Burgaw shall not be permitted except in accordance with sections 36-174 and 36-175.

(Ord. No. 2009-17, § 1, 6-9-2009)

Sec. 36-174. - Location, depth and use of private water wells.

Any private water well located and constructed within the corporate limits of the Town of Burgaw commencing on or after 12:01 a.m. on June 10, 2009, shall be not be located within 200 feet from a public water well that supplies potable water for any public water system, exceeds the depth of 100 feet or be utilized as a potable water supply.

(Ord. No. 2009-17, § 1, 6-9-2009)

Sec. 36-175. - Application and issuance of private water well permit.

- (a) Prior to any private water well being located and constructed within the corporate limits of the Town of Burgaw, the landowner of the property where the private water well will be located must apply to the town through its building inspections office for a private water well construction permit which may be issued to the applicant landowner upon them meeting the following criteria:
 - (1) Obtaining a well construction permit from the Pender County Department of Environmental Health;
 - (2) Signing a written certification in an acceptable form to the building inspection office that the applicant landowner will use the water from the private water well for nonpotable purposes;
 - (3) Providing to the building inspection office, within 15 calendars day after the day the private water well is constructed with a well construction report prepared by a North Carolina licensed well drilling contractor that states the following information regarding the private water well:
 - (i) The date the private water well was constructed;
 - (ii) The actual depth of private water well;
 - (iii) The type of casing utilized to line the walls of the well;
 - (iv) The name of the landowner on whose property the private well is constructed; and
 - (v) The name, address, telephone number, license number and signature of the North Carolina licensed well drilling contractor who erected the private water well.
 - (4) Pay a private well construction permit fee to the Town of Burgaw contemporaneous with the issuance of the private well construction permit pursuant to the fee schedule adopted and approved each fiscal year by the Town of Burgaw Board of Commissioners.
- (b) Prior to the issuance of the private water well construction permit, the building inspection office shall verify that the private water well complies with the requirements of sections 36-174 and 36-175.
- (c) That the private water well construction permit shall be valid for 180 days after the date of its issuance.
- (d) Upon the receipt of the private water well construction report, the Town of Burgaw Building Inspections Office shall provide a copy of the report to the Town of Burgaw Public Works Department.

(Ord. No. 2009-17, § 1, 6-9-2009)

Sec. 36-176. - Notification of the date and time for actual construction of private water well.

At least 24 hours in advance of the actual drilling of the private water well, the well drilling contractor or landowner shall contact the Town of Burgaw Public Works Department and provide them with the date and approximate time that work will commence for the construction and drilling of the private water well.

(Ord. No. 2009-17, § 1, 6-9-2009)

Sec. 36-177. - Penalty for violation for this article.

Any person who violates of this article shall be guilty of a class 3 misdemeanor and by a fine not to exceed \$500.00 as provided for by G.S. § 14-4 and in addition thereto such violation may be enjoined and restrained as provided in G.S. § 160-175.

(Ord. No. 2009-17, § 1, 6-9-2009)

Chapter 38 - ZONING^{[\[1\]](#)}

Footnotes:

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Cross reference— Any zoning ordinance or zoning map amendment saved from repeal, § 1-9(10); buildings and building regulations, ch. 6; environment, ch. 14; streets and sidewalks, ch. 28; subdivisions, ch. 30; trees and shrubs, ch. 34.

State Law reference— Municipal authority to zone, G.S. 160A-381 et seq.

Sec. 38-1. - Ordinance on file in town offices.

The town's zoning and unified development ordinance is not printed in this code but is on file and available in the town offices.

Zoning Ordinances contained within Unified Development Ordinance

Section 14-10: Penalties for Violations

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class I misdemeanor pursuant to NC G.S. 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day that such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the **Town of Burgaw** from taking such other lawful action as is necessary to prevent or remedy any violation

Section 14-12: Floodplain Development Application, Permit, and Certification Requirements

Certification Requirements.

(b) An Elevation Certificate (*FEMA Form 086-0-33*) may be required as determined by the Floodplain Administrator after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project. Violators of stop work orders shall be subject to misdemeanor charges and may be subject to a civil citation carrying a \$50.00 a day fine, with each day of violations constituting a separate offense.

Section 14-13: Duties and Responsibilities of Floodplain Administrator

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(p) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor. Violators shall be subject to civil citation and fine not to exceed \$50 a day with each day constituting a separate offense.

Section 14-14: Corrective Procedures

(e) **Failure to Comply with Order.** If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class I misdemeanor pursuant to NC G.S. 143-215.58 and shall be punished at the discretion of the court.

Section 17-15: Penalties

Any person failing to take corrective action within the time period described in the written notice and any person operating a wireless telecommunications facility without a valid permit may be guilty of a misdemeanor and may be punished by a fine not to exceed five hundred dollars (\$500) or imprisonment not to exceed thirty (30) days. Each day such violation shall be permitted to exist shall constitute a separate offense.