Town of Burgaw
Unified Development Ordinance

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Board of Commissioners December 12, 2000

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Part I. Administration


Section 1-1: Title
This Ordinance shall be known and may be sited as the Town of Burgaw Unified Development Ordinance.

Section 1-2: Authority
A. This Ordinance is adopted pursuant to the authority contained in North Carolina General Statute 160A-174 which states that a town may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or general welfare of its citizens and the peace and dignity of the town and may define and abate nuisances.

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refers to or cites a section of the North Carolina General Statutes (NCGS) and that section is later amended or superseded, the Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 1-3: Jurisdiction
A. This Ordinance shall be effective throughout the town’s planning jurisdiction. The town’s planning jurisdiction comprises the area within the corporate boundaries of the town as well as the one mile extraterritorial area as shown on the “Official Zoning Map” for the Town of Burgaw. Such planning jurisdiction may be modified from time to time in accordance with NCGS 160A-360.

B. In addition to other locations required by law, a copy of the official zoning map showing the boundaries of the town’s planning jurisdiction shall be available for public inspection in the planning department.

Section 1-4: Effective Date
The provisions in the Ordinance were originally adopted and became effective on December 12, 2000.

Section 1-5: Relationship to Existing Zoning and Subdivision Ordinances
To the extent that the provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace in the town’s zoning and subdivision ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this Ordinance merely by the repeal of the zoning ordinance.
Section 1-6: Relationship to Coastal Area Management Act (CAMA) Land Use Plan

It is the intention of the Board of Commissioners that this Ordinance implement the planning policies adopted by the Board of Commissioners for the town and its extraterritorial planning area, as reflected in the CAMA land use plan and other planning documents. While the Board of Commissioners reaffirms its commitment that this Ordinance and any amendment to it be in conformity with adopted planning policies, the Board of Commissioners hereby expresses its intent that neither this Ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

Section 1-7: No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions

A. Subject to Article 4. Nonconforming Situations of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this Ordinance.

B. For purpose of this section, the “use” or “occupancy” of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 1-8: Fees

A. Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances, and other administrative relief. The amount of the fees charged shall be as set forth in the town’s budget or as established by resolution of the council filed in the office of the town clerk.

B. Fees established in accordance with subsection A shall be paid upon submission of a signed application or notice of appeal.

Section 1-9: Severability

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

Section 1-10: Computation of Time

A. Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that shall be excluded. When the period of time
prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

B. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice of paper is served by mail, three days shall be added to the prescribed period.
Article 2. Administrative Bodies

Section 2-1: Board of Commissioners

(A) The Board of Commissioners, in considering conditional use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Article 3, Chapter IV of this Ordinance.

(B) In considering proposed changes in the text of this ordinance or in the zoning map, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements of Article 3, Chapter III.

(C) Unless otherwise specifically provided in this Ordinance, in acting upon conditional use permit requests or in considering amendments to this Ordinance or the zoning map, the Board of Commissioners shall follow the regular voting and other requirements as set forth in other provisions of the town code.

NOTE: Chapter 2, Article II of the Burgaw Town Code provides a comprehensive discussion of procedures for conducting meetings of the Board of Commissioners.

Section 2-2: Planning and Zoning Board

A. Created, Membership

a. A town planning and zoning board is hereby created under the authority of the General Statutes Section 160A-361.

b. The Board shall be comprised of seven (7) members, of which one (1) member shall be a representative of the extraterritorial jurisdiction and at least three (3) shall be residents of the town. No more than two (2) qualified non-resident business and/or property owners within the Town of Burgaw’s jurisdiction may be appointed by the Board of Commissioners to serve at any one time.

c. It is permissible for an additional member to be added by the Board of Commissioners in the event that the chairperson desires to step down and the remaining members fail to successfully nominate a member to replace the chairperson. The addition of a tenth member shall only be allowed in circumstances where the current chairperson agrees to temporarily stay on the Planning and Zoning Board until such time as a permanent replacement can be found for the chairperson’s position. In the event that a tenth member is added, the chairperson shall remain a nonvoting member for a time period not to exceed one hundred eighty (180) days from the chairperson’s date of resignation.

d. The chairperson’s and vice chairperson’s positions shall be appointed by a majority vote of the presiding members of the Planning and Zoning Board and shall hold indefinite terms unless removed for cause pursuant to this section by a simple majority of the Planning and Zoning Board members or Board of Commissioners.

The duties and responsibilities shall be as follows:
Article 2. Administrative Bodies

Chairperson: The Chairperson shall preside at all meetings of the Board when present, appoint special or standing committees, and decide all points of procedure unless otherwise directed by a majority vote of the board members present.

Vice Chairperson. The Vice Chairperson shall preside as Chairperson at all meetings where the Chairperson is not present or the Chairperson temporarily vacates the position for cause and at such times shall have the same powers and duties as the Chairperson.

e. The Clerk to the Board shall be the Town Clerk or Land Use Administrator of the Town of Burgaw. The Clerk or his designee shall perform such tasks as may be assigned by the Chairperson, including the preparation of all correspondence for the Board, prepare and mail all notices required, and prepare and keep all minutes and records of the Board’s proceedings and records of attendance.

B. Rules of Conduct. Members of the Board may be removed for cause, including violation of any rule stated below:

a. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board. Absence from four (4) regularly scheduled Board meetings during any one (1) calendar year shall be considered cause for dismissal from the Board. A regular update of planning board member attendance shall be submitted to the Board of Commissioners for review. It shall be the responsibility of the Board of Commissioners to remove a planning board member for cause.

b. No Board member shall take part in the hearing, consideration, or determination of any application in which he/she is personally or financially interested. Personally interested is defined to mean that a Board member or a Board member’s family either owns, has financial interest in, or has property abutting property being considered by the Board.

c. No Board member shall discuss any case with any parties thereto prior to the meeting on that case; provided, however, that members may receive and/or seek information pertaining to the case from any other member of the Board or staff prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the Board. Failure to do so may be grounds for dismissal from the Planning and Zoning Board.

d. Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to the Board’s determination of that case. Violation of this rule shall be cause for dismissal from the Board.

e. If a planning board member is discovered to have violated the above rules of conduct, the planning board may decide whether to recommend dismissal to the Board of Commissioners. It shall be the responsibility of the Board of Commissioners to remove a planning board member for cause whether or not recommended for dismissal by the planning board.
C. Meetings

a. Meetings of the Planning and Zoning Board will normally occur on the third Thursday of the month, or as determined to be necessary by the Land Use Administrator or Planning and Zoning Board Chairperson, at a time and place designated by the Board and shall be open to the public. In the event that no time sensitive matters are scheduled for review by the Planning and Zoning Board, the Land Use Administrator, at their discretion, may cancel the regularly scheduled meeting.

b. A quorum shall consist of a majority of the full board, less any empty seats.

c. All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in subsection B above. A vote of the majority of the members present and voting shall decide issues before the Board.

d. Special meetings may be called by the Chairperson or Land Use Administrator. The Clerk shall notify all members of the Board in writing not less than five (5) days in advance of such special meeting. Notice of time, place, and subject of such meeting shall be published in a newspaper having general circulation in the Town of Burgaw when possible in accordance with G.S. 143-128.12(b).

e. The order of business at regular meetings shall be as follows:
   i.  Call to Order
   ii. Invocation
   iii. Approval of the Agenda
   iv. Approval of Minutes of Previous Meetings
   v.  Public Input
   vi. New Business
   vii. Other Items for Discussion
   viii. Announcements and Updates
   ix.  Adjournment

f. The applicant may withdraw the petition or application at any time, but if a motion is pending to make a recommendation to grant or deny, such motion shall have precedence. Withdrawal of the application by the applicant and/or a decision to deny the request by the Planning and Zoning Board shall not entitle the applicant to a return of the filing fee.

g. The Board shall render its decisions in the form of a recommendation on any properly filed petition or application within sixty (60) days after its introduction and shall transmit a signed copy of the decision to the Land Use Administrator to submit to the Board of Commissioners for consideration. The decision shall be in the form of a letter signed by the Chairperson and Clerk and attached to the minutes. Such letter shall indicate the reasons for the Board’s determination and its findings.
**Section 2-3: Board of Adjustment**

**A. Created, Membership**

a. A town Board of Adjustment is hereby created under the authority of the G.S. Section 160A-388.

b. In accordance with Section 2-2 of this Ordinance, five (5) regular Planning Board members shall act in the capacity of the Board of Adjustment, in addition to its capacity as planning agency. Two (2) additional members of the Planning Board shall serve as alternates on the Board of Adjustment. The attendance of these alternates for Board of Adjustment meetings shall only be required in the event that a quorum of regular members is not anticipated. All regular and alternate members of the Board of Adjustment shall be appointed by the Board of Commissioners and shall serve three (3) year terms. Upon the conclusion of their term, each member shall be replaced on the Board of Adjustment or reappointed. Members of the Board shall be compensated at a rate established in the fee schedule of the Town of Burgaw. Members failing to attend an official meeting will not receive compensation when absent.

**B. Meetings**

a. The Chairperson and Vice-Chairperson of the Board of Adjustment shall be the same as for the Planning Board. All regular meetings will be held on the third Thursday of the month prior to the regularly scheduled Planning Board meeting or as necessary. The Chairman, Vice Chairman when serving as active chair, or board clerk may administer oaths, and the Chair of the Board or Vice Chair when serving as acting chair may also compel the attendance of witnesses.

b. The Town Clerk or Planning Administrator or their designee shall serve as Clerk to the Board of Adjustment. The Clerk shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keep records of its examination and any other official action.

c. A quorum will consist of four (4) regular or alternate members of the Board.

**C. Power and Duties.** The Board of Adjustment shall have the following powers and duties:

a. To hear and decide appeals where it is alleged by the appellant that there is error in any decision made by the Planning Administrator or other administrative officials in carrying out or enforcing of any provision of the Unified Development Ordinance or any other ordinance that regulates land use or development.

b. To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance.
c. To consider requests for reasonable accommodation, in accordance with the Federal Fair Housing Act and/or Americans with Disabilities Act, as amended.

d. Reference Article 3, Chapter IV of this Ordinance for information about the items subject to Board of Adjustment review.

D. Rules of Conduct. Members of the Board may be removed for cause, including violation of any rule stated below:

a. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board. Absence from four (4) consecutive Board meetings shall be considered cause for recommendation to the Board of Commissioners of dismissal from the Board.

b. No Board member shall take part in the hearing, consideration, or determination of any application in which he/she is personally or financially interested. Personally interested is defined to mean that a Board member or a Board member’s family either owns, has financial interest in, or has property abutting property being considered by the Board.

c. No Board member shall discuss any case with any parties thereto prior to the meeting on that case; provided, however, that members may receive and/or seek information pertaining to the case from any other member of the board of staff prior to the meeting. Board members shall disclose publicly any contact made by any party to a matter before the Board. Failure to do so may be grounds for dismissal from the Planning and Zoning Board.

d. Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto prior to the Board’s determination of that case. Violation of this rule shall be cause for dismissal from the Board.

e. If any objection is raised to a member’s participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

Section 2-4: Land Use Administrator

A. Except as otherwise specifically provided, primary responsibility for administering and enforcing this Ordinance may be assigned by the town manager to one (1) or more individuals. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the “land use administrator” or “administrator.”

B. Decisions of the administrator charged with the enforcement of the Unified Development Ordinance or any other ordinance that regulates land use or development may be appealed to the Board of Adjustment. The official who made the decision shall give written notice to the owner of the property that is subject to the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
Article 3. Review and Approval Procedures

Chapter I. Common Requirements for Permits and Approvals

Section 3-1: Common Requirements

A. Permits Required

   a. The use made of property may not be substantially changed; substantial clearing, grading, or excavation may not be commenced; and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to all of the applicable following permits:

   i. A zoning permit issued by the administrator
   ii. A conditional use permit issued by the Board of Commissioners
   iii. Floodplain development permit(s)

   b. Zoning permits and conditional use permits are issued under this Ordinance only when a review of the application, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in this Article, all development shall occur strictly in accordance with such approved plans and applications.

   c. A zoning permit or conditional use permit shall be issued in the name of the property owner or lessee, shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit issuing authority.

B. Applications for zoning or conditional use permits will be accepted only from persons having the legal authority to take action in accordance with the permit. By way of illustration, in general this means that applications should be made by the owners or lessees of the property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this Ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees). The administrator may require an applicant to submit evidence of his authority to submit the application whenever there appears to be a reasonable basis for questioning this authority.

C. All applications for zoning or conditional use permits must be completed before the permit issuing authority is required to consider the application. An application is complete when it contains all of the information that is necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.

D. The administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the
application requirements and the form and type of information that must be submitted. In cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this Ordinance, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

E. Pre-Submittal Meeting with Staff
   a. Before submitting an application for development approval, each applicant is encouraged to schedule a pre-submittal meeting with planning staff to discuss the procedures, standards, and regulations required for development approval in accordance with this ordinance.
   b. A face-to-face pre-submittal meeting with planning staff shall be required for the following approvals prior to submission of an application unless waived by the administrator:
      i. Rezoning
      ii. Master Development Plan
      iii. Minor or Major Subdivision
      iv. Preliminary Plat
      v. Conditional Use Permit
      vi. Variance
      vii. Reasonable Accommodation
   c. All applications must be sufficient for processing prior to review.
   d. Technical review by town staff and/or consultants may be required prior to submission of application to the appropriate review board.

F. Upon receipt of a formal application for a zoning or conditional use permit, the administrator shall review the application and confer with the applicant to ensure that he understands the planning staff’s interpretation of the applicable requirements of this Ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

G. Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the town shall make every reasonable effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this Ordinance.

Section 3-2: Reserved
Chapter II. Administrative Approvals

Section 3-3: Staff Administered Permits and Decisions

A. Zoning Permits
   
   a. A completed application form for a zoning permit shall be submitted to the administrator by filing a copy of the application with the administrator in the planning department.
   
   b. The administrator shall issue the zoning permit unless he finds, after reviewing the application and receiving comments from other town departments or regulatory agencies if applicable, that:
      
      i. The requested permit is not in his jurisdiction, or
      
      ii. The application is incomplete, or
      
      iii. If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance (not including those requirements when a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article 4: Nonconforming Situations).
   
   c. Prior to the issuance of a zoning permit, a Town of Burgaw Business Privilege License may be required.
   
   d. Permits shall expire automatically if, within six (6) months after the issuance of such permits, the use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use. If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one (1) year, then the permit authorizing such work shall immediately expire.

B. Interpretations of the Ordinance
   
   a. Unless specifically assigned to another board or body by this ordinance, the administrator is responsible for making interpretations of the ordinance and issuing determinations as to zoning compliance.
   
   b. Such decisions are official when provided in writing in either a letter or in the issuance or denial of a zoning application.
   
   c. When required as part of the official decision by the administrator, a sign containing the words “Zoning Decisions” or “Subdivision Decision” in letters at least six (6) inches high and identifying the means to contact an official for information about the decision shall be prominently posted on the property that is subject of the decision by the landowner or applicant. The sign shall remain on the property for at least ten (10) days. Verification of the posting shall be provided to the official who made the decision.
   
   d. Official decisions may be appealed to the Board of Adjustment by the process outlined in Section 3-12.
Section 3-4: Reserved
Chapter III. Legislative Approvals

Section 3-5: Amendments to the Unified Development Ordinance and Official Zoning Map

The Town Board of Commissioners may amend this Ordinance and zoning map according to the following procedures:

A. Initiation of Amendments—Proposed amendments may be initiated by the Town Board of Commissioners, Planning Board, Board of Adjustment, members of the public, or by one or more interested parties.

B. Application—Any text and/or zoning map amendment not initiated by a Town board or staff shall require an application containing a description of the proposed zoning regulation or district boundary to be applied. Such application shall be filed with the Land Use Administrator not later than the last Friday of the month preceding the Planning Board meeting at which the application is to be considered.

C. For amendments to the zoning map, the applicant is required to provide addresses and names of adjacent property owners as currently listed by the Pender County Tax Office. The Land Use Administrator is required to notify by first class letter those adjoining property owners not later than five (5) working days prior to the Planning Board meeting at which the application is to be considered. The person or persons mailing such notice shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud. The letter shall contain the date, time, and location of the Planning Board meeting at which the application is to be discussed, as well as the date, time, and location of the following regular monthly meeting of the Board of Commissioners.

D. Based on the Town of Burgaw Schedule of Fees, a fee shall be paid to the town for each application for an amendment to cover the costs of advertising and other administrative expenses involved.

E. Planning Board Consideration—The Planning Board shall consider and make recommendations to the Town Commissioners concerning each proposed amendment.

F. If any town resident or property owner in the town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the town clerk at least two business days prior to the proposed vote on such change, the town clerk shall deliver such written statement to the city council prior to the public hearing.

G. Public Hearing—After the proposed amendment is referred to the Board of Commissioners, it shall hold a public hearing. Before taking such lawful action as it may deem advisable, the Town Commissioners shall consider the Planning Board’s recommendation on each proposed amendment. However, the Board of Commissioners is not bound by the recommendations of the Planning Board. All petitions for amendments shall receive a public hearing by the Board of Commissioners whether the Planning Board’s recommendations are favorable or unfavorable.

H. Required Notice
a. No amendment shall be adopted by the Town Commissioners until after public notice and hearing. Pursuant to GS 160A-364, notice of Public Hearing shall be published once a week for two (2) successive calendar weeks in the local newspaper. Public notice may also be posted on the property concerned indicating the proposed change and date of public hearing.

b. Whenever there is a zoning map amendment, the owner of that parcel of land as shown on the county tax listing and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing shall be mailed a notice of public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. The Land Use Administrator shall notify by first class mail those adjoining property owners not later than at least ten (10) calendar days but not more than twenty-five (25) calendar days prior to the date of the public hearing. The person or persons mailing such notice shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud. The letter shall contain the date, time, and location of the Board of Commissioners meeting at which the public hearing shall be held.

c. The first class mail notice shall not be required if the zoning map amendment directly affects more than fifty (50) properties owned by at least fifty (50) unique property owners. In this instance, the Land Use Administrator may elect to use the expanded notice provisions as outlined in GS 160A-384.

I. Resubmission—No resubmission of a denied or withdrawn petition may be resubmitted within six (6) months of its previous denial or withdrawal.

**Section 3-6: Conditional Zoning Amendments**

A. **Purpose**—Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted land use plan, and adopted district and area plans. The review process established in this section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties.

A conditional zoning district is not intended for securing early or speculative reclassification of property.

B. **Application**
Article 3. Review and Approval Procedures

a. Property may be rezoned to a conditional zoning district only in response to, and consistent with, an application submitted by the owner(s) of all property to be included in the district.

b. A petition for conditional zoning must include a preliminary site plan and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. The following information must be provided, if applicable:

   i. A boundary survey and vicinity map showing the property’s total acreage, its zoning classification(s), the general location in relation to adjacent properties, major streets, railroads, and/or waterways, the date, and north arrow;

   ii. All existing easements, reservations, and rights-of-way;

   iii. Approximate location on the site of existing and proposed buildings, structures, and other improvements;

   iv. Approximate dimensions, including height of proposed buildings, structures, and other improvements;

   v. Proposed use of all lands and structures, including the number and square footage of all units, residential and nonresidential;

   vi. All yards, buffers, screening, and landscaping required by these regulations or proposed by the petitioner;

   vii. All existing and proposed points of access to public streets;

   viii. Delineation of areas within the regulatory floodplain as shown on the Official Flood Insurance Rate Maps;

   ix. Location of all wetlands (must be confirmed by the Army Corps of Engineers if shown to be a probable wetland by the NC Division of Coastal Management);

   x. Proposed phasing, if any;

   xi. The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development;

   xii. Approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, pedestrian walkways, and open space;

   xiii. Generalized traffic, parking, and circulation plans. This shall include existing and planned bicycle and pedestrian facilities as well as vehicular facilities;

   xiv. Proposed screening, buffers, and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;

   xv. Existing and general proposed topography, if available, at five-foot contour intervals or less;
Article 3. Review and Approval Procedures

xvi. The location of existing vegetation and regulated trees;

xvii. Scale of buildings relative to abutting property;

xviii. Building elevations and exterior features of proposed development;

xix. Master Sign Plan;

xx. An evaluation of traffic impacts prepared in accordance with a scope of work established by NCDOT, if applicable. The evaluation shall be signed by a licensed traffic engineer and based on proposed density and intensity for the acreage;

xxi. Inventory of the existing environmental, cultural, historical, and natural site attributes;

xxii. A conceptual plan that shows with reasonable certainty the type and intensity of use for the proposal; and

xxiii. Any other information needed to demonstrate compliance with these regulations.

c. The site plan and any supporting text shall constitute part of the petition for all purposes under this section. The Land Use Administrator or designee may require the petitioner to submit as many copies of the petition and site plan as needed to circulate to other government agencies for review and comment.


d. The Planning Administrator or designee has the authority to waive any application requirements where the type of use or scale of proposal makes providing the information unnecessary or impractical.


e. In the course of evaluating the application, the Town Manager, Land Use Administrator, Planning Board, or Board of Commissioners may request additional information from the petitioner.

C. Required Community Meeting—Before the Planning Board will review a petition for a conditional zoning district, the applicant must file with the Planning Administrator a written report of a minimum of two (2) community meetings held by the applicant. Notice of such a meeting shall be given to property owners and tenants adjacent to the proposed project and within five hundred (500) feet of the area to be considered. At least one community meeting shall be after 6 pm in the evening. Notice of both meetings shall be given two weeks in advance. The report shall include, among other information, a listing of those persons and organizations contacted about the meeting and the manner and date of contact; the date, time, and location of the meeting; a roster of the persons in attendance at each meeting; a summary of issues discussed at the meeting; and description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was held. The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Board of Commissioners in the rezoning request but shall not be subject to judicial review.
Article 3. Review and Approval Procedures

D. Approval—Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standards of review as apply to general zoning decisions. In considering any petition for conditional zoning district, the Board of Commissioners shall act in accordance with Section 3-5, as modified by the specific procedures and requirements set forth in this ordinance. Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to comprehensive plans and other land use policy documents.

E. Conditions to Approval of Petition

a. The conditions and site specific standards in a Conditional Zoning District shall be limited to those addressing the conformance of the development and use of the site to the Development Ordinance, the comprehensive plan or other officially adopted plan, or those that address the impacts reasonably expected to be generated by the development of or use of the site as proposed. Conditions may be more restrictive or less restrictive than the requirements of the Development Ordinance. Less restrictive conditions shall be limited to those affecting dimensional, parking, and landscaping requirements.

b. Any conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffering areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions of approval may include, but are not limited to, dedication to the Town, County, or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

c. No condition shall be made part of the application, or attached to the approval of a Conditional Zoning District, which: specifies the ownership status, race, religion, or other characteristics of the occupation of housing units; establishes a minimum size of dwelling unit; establishes a maximum value of buildings or improvements; or is intended to exclude residents based on race, religion, or income. No condition shall be made part of the application that binds or obligates the Town to perform in any manner relative to the approval of the map amendment or development of this property.

d. The applicant shall have a reasonable opportunity to consider and respond to any conditions suggested by the Town prior to final action by the Board of Commissioners. Only those conditions mutually agreed upon by the applicant and the Town may be incorporated into the approved Conditional Zoning District.

F. Effect of Approval

a. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district’s category, the approved site plan for the district, and any
additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Map.

b. If a petition is approved, the petitioner shall comply with all requirements established for obtaining all required permits. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to the guidelines for alterations to approval outlined below.

c. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation with a number specifying the particular conditional zoning district (e.g. RA-CZ1, OI-CZ5).

d. Any violation of the approved site plan or any rules, regulations, or conditions for the district shall be treated the same as any other violation of this chapter and shall be subject to the same remedies and penalties as any such violation.

G. Alterations to Approval

a. Except as provided below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Zoning Map and shall be processed in accordance with the procedures of Section 3-6.

b. The Planning Administrator or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial.

c. Any changes that increase the intensity of the development are limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less.

d. The Planning Administrator or designee, however, shall always have the discretion to decline to exercise the delegated authority either because of uncertainty about approval of the change pursuant to the standards or because a rezoning petition for a public hearing and Board of Commissioners consideration is deemed appropriate under the circumstances. If the Planning Administrator or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Board of Commissioners decision.

e. Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the Planning Administrator detailing the requested charge. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the Planning Administrator.
Article 3. Review and Approval Procedures

f. If the Planning Administrator or designee denies approval of the requested amendment, then the applicant can appeal that decision to the Board of Adjustment, in accordance with Section 3-12 of this ordinance, or may file a rezoning petition for an amendment to the site plan to receive further consideration.

g. Any adjacent owner shall be entitled to appeal the approval of an administrative amendment change to the Board of Adjustment within fifteen (15) days of knowledge of the approval, with a maximum of thirty (30) days after the approval of the administrative amendment.

H. It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Board of Commissioners a report, which may recommend that the property be classified to another district.

Section 3-7: Planned Unit Development (PUD) Rezoning

(A) Application for Zoning Map Amendment. A petition for a zoning map amendment to establish a Planned Unit Development (PUD) district shall be submitted to the Planning Board and Board of Commissioners and administered in accordance with the provisions of Section 3-5 of this ordinance, in addition to the requirements outlined below:

a. General Requirements

   i. Each Planned Unit Development district shall be a minimum of twenty-five (25) contiguous acres in size. Parcels shall be considered contiguous if only separated by public right-of-way.

   ii. Property may be rezoned to a Planned Unit Development district only in response to, and consistent with, an application submitted by the owner(s) of all property to be included in the district.

   iii. No permit shall be issued for any development activity within a Planned Unit Development district except in accordance with an approved Master Development Plan.

   iv. Zoning of a Planned Unit Development district is not intended for securing early or speculative reclassification of property.

b. Criteria. In addition to other considerations, the following criteria shall be utilized by the Planning Board and Board of Commissioners in evaluation of a rezoning petition to establish a planned unit development district:

   i. The application’s consistency with the general policies and objectives of all adopted land use plans and applicable ordinances;

   ii. Planned Unit Development zoning is necessary for the proposed development concept:
iii. Planned Unit Development zoning is in harmony with adjacent areas;
iv. Existing or proposed utility and other public services are adequate for anticipated population densities; and
v. The area to be rezoned is under unified control.

c. **Concept Plan.** A concept plan indicating the percentage and types of residential and nonresidential uses and general locations for required open space shall be submitted as part of the application for rezoning to a Planned Unit Development district. If property is intended to be developed in phases, a general timeline for development shall be included as part of the concept plan. More information may be included on the concept plan; however, the Planning Board shall consider conformance with the concept plan as part of the Master Development Plan approval.

d. **Zoning Map Designation.** Following Board of Commissioners approval of a rezoning petition to establish a Planned Unit Development district, the property for which approval was granted shall be labeled “PUD” and numbered for display on the official zoning map of the Town of Burgaw. If a Master Development Plan is not filed with the planning department within twelve (12) months of such amendment, the planning department may initiate a rezoning action that would rezone the property to the original zoning classification or any conventional zoning district.

(B) **Master Development Plan Approval**

a. An application for a planned unit development project Master Development Plan shall only be considered when the property is zoned Planned Unit Development (PUD) district.

b. Approval of the Master Development Plan shall be in accordance with the procedures of Section 3-9(A).

c. Review of the Master Development Plan shall include the plan’s consistency with the concept plan presented at rezoning and the general policies and objectives of all adopted land use plans and applicable ordinances.

d. The Master Development Plan must include all land in the Planned Unit Development district and shall not include only one phase or portion of development.

(C) **Subdivision.** After the Master Development Plan has been approved and filed at the Pender County Register of Deeds, the developer shall be able to subdivide the property in accordance with the provisions of Article 3, Chapter V of this ordinance. All subdivision approvals are contingent on the plat’s conformance with the approved Master Development Plan.

(D) **Required Legal Instruments**

a. No final plat shall be approved until all required legal instruments have been reviewed and approved by the town attorney as to legal form and effect.
b. The final plat shall include reference to the Master Development Plan, which must be filed at the Pender County Register of Deeds, if the approved final plat includes only one portion or phase of a planned unit development project.

c. A homeowners or property owners association shall be required, and the owner or developer shall file a declaration of covenants, conditions, and restrictions that will govern such association prior to any sale or conveyance of property. Any such legal instrument shall include all property within the approved planned unit development Master Development Plan. The provisions of such declaration of covenants, conditions, and restrictions shall include, but not be limited to, the following:

   i. The homeowners association must be set up before any property is sold in the development or any certificates of occupancy issued;

   ii. Membership must be mandatory and automatic when property is purchased in the development;

   iii. The open space requirements must be permanent, not just for a period of years;

   iv. The association must be responsible for liability insurance, local taxes, and maintenance of recreational and other common facilities, including private streets;

   v. Homeowners must pay their pro rata share of the cost; the assessment levied by the association can become a lien on the property;

   vi. The association must be able to adjust the assessment to meet changed needs;

   vii. Covenants for maintenance assessments shall run with the land;

   viii. Provision insuring the control of such association will gradually be vested in the homeowners association; and

   ix. All land so conveyed shall be subject to the right of the grantee or grantees to enforce maintenance and improvement of the common facilities.
Chapter IV. Quasi-Judicial Approvals

Section 3-8: Hearing Procedures for Appeals and Applications

A. Before making a decision on an appeal or an application for a variance, conditional use permit, reasonable accommodation, or a petition from the planning staff to revoke a conditional use permit, the Board of Adjustment or the Board of Commissioners, as the case may be, shall hold a hearing on the appeal or application.

B. Subject to subsection C, the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify. The board shall hear and decide all appeals, variance requests, and requests for interpretation as expeditiously as possible, provide notice in accordance with the provisions below, and obtain the necessary information to make sound decisions.

C. The Board of Adjustment or Board of Commissioners may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.

D. The hearing board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

E. Notice—The administrator shall give notice of any hearing required by this section as follows:

   a. Notice shall be given to the appellant or applicant, to the owner of the property that is the subject of the hearing if the owner did not initiate it, and any other person who makes a written request for such notice by mailing to such person(s) a written notice not later than ten (10) days before the hearing.

   b. Notice shall be given to neighboring property owners by mailing a written notice not later than ten (10) days but not more than twenty-five (25) days before the hearing to those persons who have listed for taxation real property any portion of which is located within one hundred fifty (150) feet of the lot that is the subject of the application or appeal. Notice shall also be given by prominently posting signs in the vicinity of the property that is the subject of the proposed action at the same time that written notice is mailed.

   c. In the case of conditional use permits, notice shall be given to other potentially interested persons by publishing a notice one (1) time in a newspaper having general circulation in the area not less than seven (7) nor more than fifteen (15) days prior to the hearing.

   d. The notice required by this section shall state the date, time, and place of the hearing; reasonably identify the lot that is the subject of the application or appeal; and give a brief description of the action requested or proposed.
F. Evidence
   a. The provisions of this section apply to all hearings for which a notice is required by this chapter.
   b. All persons who intend to present evidence to the permit issuing board, rather than arguments only, shall be sworn.
   c. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

G. Modification of Application at Hearing—In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Commissioners or Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted. Unless such modifications are so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.

H. Written Decision
   a. Each quasi-judicial decision shall be reduced to writing and reflect the board’s determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or any other duly authorized member of the board.
   b. A quasi-judicial decision is effective upon filing the written decision with the town clerk. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The administrator shall certify that proper notice has been made.

I. Reconsiderations of Board Actions
   a. Whenever (1) the Board of Commissioners disapproves a conditional use permit application or (2) the Board of Adjustment disapproves an application for a variance or reasonable accommodation on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:
      i. Circumstances affecting the property that is the subject of the application have substantially changed, or
      ii. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis
must be filed with the administrator within the time period for an appeal to superior court as stated in this section. However, such a request does not extend the period within which an appeal must be taken.

b. Notwithstanding subsection (a), the Board of Commissioners or Board of Adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

J. Judicial Review

a. Every decision of the Board of Commissioners regarding the granting or denial of a conditional use permit and every final decision of the Board of Adjustment regarding a variance request shall be subject to review by the superior court of Pender County by proceedings in the nature of certiorari.

b. The petition for the writ of certiorari must be filed with the Pender County Clerk of Court within thirty (30) days after the later of the following occurrences:
   i. A written copy of the board’s decision has been filed in the office of the planning department, and
   ii. A written copy of the board’s decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

c. A copy of the writ of certiorari shall be served upon the Town of Burgaw.

Section 3-9: Site and Development Plans

A. Master Development Plan

a. **Intent.** The purpose of the Master Development Plan (MDP) is to promote orderly and planned development of property within the Town of Burgaw. It is the purpose of the MDP to ensure that such development occurs in a manner that suits the characteristics of the land, is harmonious with adjoining property, is in substantial compliance with the goals and policies of all adopted land use plans and the Unified Development Ordinance, and is in the best interest of the general public. The MDP shall be used to illustrate the characteristics of the property proposed for development and of surrounding properties.

b. **Review Process**
   i. Prior to submission of a Master Development Plan for review, the applicant shall request a pre-application conference with town staff to discuss the proposal in relation to the requirements of all adopted land use plans and the Unified Development Ordinance and to obtain advice on the preparation of the Master Development Plan. At the pre-application conference, the applicant shall provide a land use plan describing the following:
      1. The general location of the site
Article 3. Review and Approval Procedures

2. The general location of proposed roads
3. The general location of proposed uses, environmental areas, housing types, and open space
4. The uses on adjoining properties
5. Utility requirements

ii. After submission of the Master Development Plan application to the planning department with all required application materials, planning staff will forward the MDP to other town staff and/or consultants for technical review and will place the item on the appropriate planning board agenda.

iii. Prior to the planning board review of the MDP, planning staff will send notice through first-class mail to all adjacent property owners a minimum of ten (10) calendar days in advance, informing them of the time and date for planning board review.

iv. The Planning Board shall recommend approval or disapproval of the Master Development Plan to the Board of Commissioners within ninety (90) days of the date of the presentation of the plan to the Board or it will be automatically sent to the Board of Commissioners for final approval. However, the applicant may request time in addition to ninety (90) days if he or she deems it necessary.

v. The Board of Commissioners will make the final decision of approval or disapproval of a Master Development Plan, and approval shall be valid for two (2) years.

vi. The final MDP shall be signed by the mayor if approved as-is at the Board of Commissioners meeting.

vii. If the Board of Commissioners approves the MDP subject to required changes, a final MDP shall be submitted to the Planning Administrator or his designee for signing, and the Planning Administrator shall approve the final MDP if all required changes have been made and all requirements of the Town ordinances have been met, within sixty (60) days of its submission. Failure of the Administrator or his designee to act in sixty (60) days, without proper cause, shall be deemed approval.

viii. The final MDP shall include an approved block and signature line for the mayor or planning administrator to sign and must be recorded at the Pender County Register of Deeds.

c. Changes to Approved Plans

i. Changes to an approved MDP shall occur only after approval by the Planning Board using the procedures for the approval of a new plan.

ii. The Planning Administrator may, but is not required to, approve minor changes without following the full procedures if such approval does not violate the intent of this chapter and section. Such minor changes shall not include increases in the density or intensity of development, changes to
entrance or street layout, changes to stormwater layout, or other major design changes.

d. Master Development Plan Contents

   i. All Master Development Plans shall contain a conceptual plan showing the location and functional relationship between all proposed housing types and land uses, including the following information:

      1. The scale shall be one (1) inch equals one hundred (100) feet or larger (the ratio of feet to inches shall be no more than one hundred feet to one inch) or at a scale acceptable to the Planning Administrator. The scale shall be sufficient so that all features are clear.

      2. No sheet shall be smaller than 24” x 36” in size unless approved by the Planning Administrator. If the MDP is prepared on more than one sheet, match lines shall clearly indicate where the streets join.

      3. North arrow and a legend describing all symbols.

      4. A boundary survey of the entire property related to true meridian and certified by a registered surveyor with all dimensions in feet and decimals of feet. A vicinity map at a suitable scale shall be provided showing the location of the project along with the location of all existing or approved public roads, streets, or rights-of-way within 2,000 feet of the boundaries of the project.

      5. The total area of the property to be specified.

      6. The topography shown at 2-foot contour intervals.

      7. The title of the proposed project; the date, month, year the plan was prepared or revised; the name of the applicant(s), owner(s) and contract owner(s); and the names of the individuals or firms preparing the plan shall be clearly specified.

      8. A schedule of phases, with the approximate location of phase boundaries and the order in which the phases are to be developed, shall be provided.

      9. The use of all adjoining properties by zoning, parcel identification number (PIN), and current property owner(s).

   ii. Master Development Plans for Mixed Use Projects (including PUDs) shall also contain a conceptual plan, showing the location and functional relationship between all proposed housing types and land uses, including the following information:

      1. A land use plan, showing the location, arrangement, and approximate boundaries of all proposed land uses.

      2. The location and approximate boundaries of land features that are classified as natural or environmentally sensitive areas including
Special Flood Hazard Areas (SFHA), lakes, ponds, wetlands, natural stormwater retention areas, steep slopes, woodlands, stream buffers, water ways, riparian areas, and all other natural features

3. The proposed location of entrances to the development from existing public streets and proposed parking areas

4. The approximate acreage in common open space, each use, housing type, and in roads, streets, or rights-of-way for each phase and the total development

5. The approximate boundaries and location of common open space, with the percentage of the total acreage of the site to be placed in common open space

6. The proposed location, arrangement, and right-of-way widths of roads and streets, including roads and streets providing access to adjoining parcels

7. The use of adjoining parcels and the location of adjoining streets and utilities

8. The approximate location of sewer and water mains, sewage disposal and water sources with statements concerning the connection with and availability of existing facilities

9. A conceptual plan for stormwater management and description and the location of all stormwater facilities designed to serve more than one parcel

10. The proposed location and arrangement of all streets and utility systems

11. The location and extent of proposed buffers, with statements, profiles, cross sections, or examples clearly specifying the screening to be provided if applicable

12. The location and approximate boundaries of proposed housing types conceptually shown in accord and with other non-residential uses’ dimensional requirements

13. The proposed number of dwelling units of each type in each phase and in the total development accompanied by density calculation of the development

14. Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual

15. Based on estimated traffic counts, a Traffic Impact Analysis may be required stating the dates and times counts were conducted for the proposed development

16. Location and timing of construction for all amenities

17. Landscaping and Buffers, as required by this ordinance.
Section 3-10: Conditional Use Permit

A. Purpose. Conditional uses add flexibility to the Zoning Ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where those uses would not otherwise be applicable. By means of controls exercised through the conditional use permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties. Approval of a conditional use permit is made the duty of the Town Board of Commissioners.

B. Application Requirements. Detailed regulations for each conditional use are set forth in Section 8-5 along with additional information that must be submitted as part of the application for a conditional use permit and supplemental standards for evaluation of the permit application. All applications for a conditional use permit must include a site plan that includes:

- a. Location, size (in square feet), and function of all existing and proposed buildings and structures
- b. Parking area(s), including number of spaces
- c. Loading and unloading areas, if applicable
- d. Ingress and egress
- e. Pattern of internal circulation
- f. Required bufferyards, screens, and fencing, if applicable
- g. All setbacks
- h. Location, size, and function of any applicable recreation, storage, or external activity areas associated with the use
- i. Location and size of freestanding sign(s), if applicable

Required lighting plans shall show all outdoor fixtures, type, and wattage. Landscaping plans shall be included with all applications when required by Article 11 of this ordinance and must indicate the location and size (caliper, circumference, and height) of all proposed vegetation on the site, both existing and new plantings.

Further information may also be necessary at the time of application if required elsewhere in this Ordinance, such as Stormwater Plans and additional site plan information. If more than one conditional use is being applied for and regulations conflict, the more stringent regulation shall be required. Any accessory uses not included as part of the conditional use permit must be permitted separately in accordance with the requirements of this ordinance.

The applicant is responsible for obtaining all required federal, state, and local permits and approvals associated with the conditional use. Failure to obtain such permits and approvals may be grounds for the Board of Commissioners to revoke the conditional use permit.
C. Procedures

a. The administrator shall place the application on the agenda of the appropriate board when the applicant indicates that the application is as complete as he intends to make it. However, if the administrator believes that the application is incomplete, he shall recommend to the appropriate board that the application be denied on that basis.

b. For conditional use permits not requiring a technical review, a completed application and the accompanying plans shall be submitted to the Land Use Administrator at least by the last Friday of the month two months before the regular monthly Board of Commissioners meeting at which it is to be heard. For conditional use permits requiring technical review, the completed application and accompanying plans shall be submitted to the Land Use Administrator by the last Friday of the month preceding the Planning Board meeting at which the technical review shall take place. All applications for conditional use permits shall include all of the requirements pertaining to it as specified in this section.

c. Prior to the Board of Commissioners meeting at which the public hearing will be held, the Planning Administrator shall give notice of a public hearing in the newspaper of record for two (2) consecutive weeks prior to the date of the public hearing. The Planning Administrator shall provide the Board of Commissioners with a complete staff report no fewer than fifteen (15) calendar days prior to the public hearing.

d. At the public hearing, all interested parties shall be permitted to submit evidence consistent with quasi-judicial hearings. The conditional use permit, if approved, shall include approval of plans as may be required.

e. In reviewing the permit application, the Town Board of Commissioners shall find as a specific finding of fact and reflect in their minutes if the permit will comply with the following four standards based on the evidence presented during the hearing.

   i. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;

   ii. The use meets all required conditions and specifications;

   iii. The use will not adversely affect the use of or any physical attribute of adjoining or abutting property, or the use is a public necessity; and

   iv. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan, and NC Hwy 53 Corridor Study.

Each board member shall determine whether or not the plan as presented will meet each standard as based on evidence presented in open meeting with a “yes” finding, indicating the standard is met, or a “no” finding indicating the standard
has not been met. If a board member determines that the standard has not been met, he or she will state for the record the evidence upon which that determination is based. A majority vote will determine if the standard has been met for the purpose of granting or denial of a conditional use permit.

f. In approving the conditional use permit, the Town Board of Commissioners may designate such conditions in addition to any such required by this Ordinance. Each of these additional conditions imposed must be based on bringing the project into compliance with the four findings of fact stated above or additional standards as outlined by this ordinance and on substantial, competent, and material evidence entered into the review. All such additional conditions shall be entered in the minutes of the meeting at which the conditional use permit is granted and also on the conditional use permit approving and on the approved plans submitted therewith.

g. All specific conditions shall run with the land and shall be binding on the original applicant for the conditional use permit, the heirs, successors, and assigns. In order to ensure that such conditions and requirements for each conditional use permit will be fulfilled, the petitioner for the conditional use permit may be required to enter into a contract with the Town of Burgaw providing for the installation of the physical improvements required as a basis for the issuance of the conditional use permit. Performance of said contract shall be secured by cash or surety bond consistent with the terms and conditions outlined in Section 3-19 of this ordinance.

h. In the event of failure to comply with the plans approved by the Board of Commissioners or with any other conditions imposed upon the conditional use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction nor a certificate of occupancy under the conditional use permit shall be issued, and the use of all completed structures shall immediately cease and such completed structures shall not thereafter be used for the invalidated conditional use.

i. Where plans are required to be submitted and approved as part of the application for a conditional use permit, modifications of the original plans may be authorized by the Town Board of Commissioners.

D. Expiration of Permits

a. Conditional use permits shall expire automatically if, within six (6) months after the issuance of such permits, the use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary for commencement of such use.

b. If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one (1) year, then the permit authorizing such work shall immediately expire.

E. Effect of Permit on Successors and Assigns. Zoning and conditional use permits authorize the permittee to make use of the land and structures in a particular way. Such
permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

a. No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and

b. The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit is obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the person who subsequently obtains an interest in the property has actual or recorded notice of the existence of the permit at the time they acquired their interest.

A zoning permit issued for a permitted use will supersede a conditional use permit in single-tenant structures. In multi-tenant structures, zoning permits for new uses in other units shall not affect the conditional use permit, and such permits shall only be issued if in compliance with the existing conditional use permit. A conditional use permit for one unit in a multi-tenant structure may allow the use in additional units as long as required parking and other ordinance standards are met without changes to the approved site plan.

Section 3-11: Variances and Reasonable Accommodations

Variances

A. An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the administrator in the planning department. Applications shall be handled in the same manner outlined in this chapter.

B. A variance may be granted by the Board of Adjustment if it concludes that strict enforcement of the Ordinance would result in practical difficulties or unnecessary hardships for the applicant. It may reach these conclusions if it finds that:

a. The hardship of which the applicant complains is particular to the property, such as location, size, or geography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;

b. The hardship is not the result of the applicant’s own actions or those of the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;

c. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved; and
Article 3. Review and Approval Procedures

d. The variance will neither result in the extension of a nonconforming situation nor authorize the initiation of a nonconforming use of the land in violation of this ordinance.

C. The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the above conclusions, as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

D. No change in permitted uses may be authorized by variance.

E. In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties, provided that the conditions are reasonably related to the variance.

F. A variance may be issued for an indefinite duration or for a specified duration only.

G. The concurring vote of four-fifths of the board shall be necessary to grant a variance. Vacant positions on the board and members who are qualified from voting shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

H. Before granting a variance, the board must take a separate vote and vote affirmatively on each of the required findings stated above. Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth shall include a statement of the specific reasons or findings of fact supporting such motion.

I. A motion to deny a variance may be made on the basis that any one or more of the criteria set forth above are not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board’s decision if supported by more than one-fifth of the board’s membership (excluding vacant seats).

J. The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

**Reasonable Accommodations**

K. An application for a reasonable accommodation shall be submitted to the Board of Adjustment by filing a copy of the application with the administrator in the planning department. Applications may only be filed by the owner of the land affected by the reasonable accommodation; an agent, lessee, or contract purchaser specifically authorized by the owner to file such application; or any unit of government that is not the owner of the lot but proposed to acquire the lot by purchase, gift, or condemnation. No filing fee is required for such application.

L. A reasonable accommodation may be granted by the Board of Adjustment to any provision of this ordinance if it finds by a greater weight of the evidence that the proposed exception is determined to comply with the following standards:
Article 3. Review and Approval Procedures

a. The proposed exception is reasonable, in that it would not undermine the legitimate purposes and effects of existing zoning regulations and will not impose significant financial and administrative burdens upon the Town and/or constitute a substantial or fundamental alteration of the Town’s ordinance provisions;

b. The proposed exception is necessary, in that it would provide direct or meaningful therapeutic amelioration of the effects of the particular disability or handicap and would afford handicapped or disabled persons equal opportunity to enjoy and use housing in residential districts in the Town.

M. The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the above conclusions, as well as the burden of persuasion on these issues, remains with the applicant.

N. The reasonable accommodation shall be for the applicant only, and the Board of Adjustment shall determine whether the accommodation will be transferable to future property owners or lessees. The accommodation may be issued for an indefinite duration or for a specified duration only.

O. In granting a reasonable accommodation, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the reasonable accommodation applies will be as compatible as practicable with the surrounding properties, provided that the conditions are reasonably related to the accommodation and they do not negate the benefit of the accommodation for the applicant.

P. Before granting the reasonable accommodation, the board must take a separate vote and vote affirmatively on each of the required standards stated above.

Q. A motion to deny a proposed reasonable accommodation may be made on the basis that any one or more of the standards are not satisfied or that the application is incomplete.

R. If the board finds the proposed accommodation does not meet the standards of the ordinance, the board may approve an alternative accommodation but must take a separate vote and vote affirmatively on each of the required standards.

S. A motion to make an affirmative or negative finding that the proposed or alternative accommodation meets the standards shall, insofar as practicable, include a statement of the specific reasons or findings of fact supporting such a motion.

T. The nature of the reasonable accommodation and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may note the issuance of the accommodation and refer to the written record of the hearing for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this Ordinance.

Section 3-12: Appeals

A. An appeal from any final order or decision of administrative officials charged with enforcement of the Unified Development Ordinance or of any other ordinance that regulates land use or development may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the town clerk a written notice of appeal specifying the grounds therefore.
Article 3. Review and Approval Procedures

B. An appeal must be filed within thirty (30) days from the receipt of the written notice of
the official’s interpretation delivered by personal delivery, electronic mail, or by first-
class mail. Only written decisions as described in Section 2-4 of the ordinance are
considered official decisions subject to appeal.

C. Any other person with standing to appeal shall have thirty (30) days from receipt from
any source of actual or constructive notice of the decision within which to file an appeal.

D. Whenever an appeal is filed, the administrator shall forthwith transmit to the Board of
Adjustment all the papers constituting the record relating to the action appealed from.
The administrator shall also provide a copy of the record to the appellant and to the
owner of the property that is the subject of the appeal if the appellant is not the owner.

E. An appeal stays all actions by the administrator seeking enforcement of or compliance
with the order or decision appealed from unless the administrator certifies to the Board of
Adjustment after notice of appeal has been filed that because of the facts stated in the
affidavit, a stay would cause imminent peril to life or property or, because the violation is
transitory in nature, a stay would seriously interfere with enforcement of the ordinance.
In that case, proceedings shall not be stayed except by a restraining order, which may be
granted by a court.

F. If enforcement proceedings are not stayed, the applicant may file with the official a
request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to
hear the appeal within fifteen (15) days after such a request is filed.

G. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise
affirming that a proposed use of property is consistent with the ordinance shall not stay
the further review of an application for permits or permissions to use such property; in
these situations, the appellant may request and the board may grant a stay of a final
decision of permit applications or building permits affected by the issue being appealed.

H. The official who made the decision shall be present at the hearing as a witness. The
appellant shall not be limited at the hearing to matters stated in the notice of appeal. If
any part or the town would be unduly prejudiced by the presentation of matters not
presented in the notice of appeal, the board shall continue the hearing.

I. The administrator shall have the initial burden of presenting to the board sufficient
evidence and argument to justify the order or decision appealed from. The burden of
presenting evidence and argument to the contrary then shifts to the appellant, who shall
also have the burden of persuasion.

J. A concurring vote of a majority of the members shall be required for an appeal. Vacant
positions on the board and members who are disqualified from voting shall not be
considered members of the board for calculation of the requisite majority if there are not
qualified alternates available to take the place of such members.

K. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the
order, requirement, decision, or determination appealed from and shall make any order,
requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

L. A motion to reverse, affirm, or modify the order, requirements, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion. If a motion to reverse or modify is not made or fails to receive the vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the board’s decision if supported by more than one-fifth of the board’s membership (excluding vacant seats).

**Section 3-13: Interpretations**

A. The Board of Adjustment is authorized to interpret the zoning map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Land Use Administrator, they shall be handled as provided in Section 3-12.

B. An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the administrator in the planning department. The application shall contain sufficient information to enable the board to make the necessary interpretation.

C. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

   a. Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerline;

   b. Boundaries indicated as approximately following lot lines, town limits, or extraterritorial boundary lines shall be construed as following such lines, limits, or boundaries;

   c. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such shorelines;

   d. Where a district boundary divides a lot or where distances are not specifically indicated on the Official Zoning Map, the boundary shall be determined by measurement, using the scale of the Official Zoning Map;

   e. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

D. Interpretations of the location of floodway and floodplain boundary lines may be made by the administrator as provided in Section 14-13.
E. A concurring vote of a majority of the members shall be required for an appeal. Vacant positions on the board and members who are disqualified from voting shall not be considered members of the board for calculation of the requisite majority if there are not qualified alternates available to take the place of such members.
Chapter V. Subdivision Approvals

Section 3-14: Applicability of Subdivision Regulations

A. This ordinance regulates the subdivision of land within the Town of Burgaw and its extraterritorial jurisdiction.

B. Subdivisions, as regulated by this ordinance, shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and all divisions of land involving the dedication of a new street or a change in existing streets. The following, however, shall not be included within this definition or be subject to the regulations of this ordinance:

a. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;

b. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;

c. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors;

d. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance;

e. The creation of individual cemetery lots;

f. Subdivision activity resulting from court activities.

C. A final plat shall be prepared, approved, and recorded pursuant to the provisions of this Ordinance whenever any subdivision of land takes place within the corporate limits or extraterritorial jurisdiction of the Town of Burgaw. No final plat of subdivision within the Town’s jurisdiction shall be recorded by the Register of Deeds of Pender County until it has been approved as provided herein. To secure approval of a final plat, the subdivider shall follow the procedures established in this section.

D. Any plat or any part of any plat may be nullified by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated. Such an instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys. Such an instrument shall be executed, acknowledged or approved, and recorded and filed in the same manner as the final plat; and being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedication laid out or described in such plat. When lots have been sold, the plat may be nullified in the manner provided above by all owners of the lots in such plat joining in the execution of such writing.
E. While not all divisions of land or recombinations are subject to regulations under this ordinance, all plats creating a division or recombination of land shall be presented to the Town’s Review Officer, as designated by the Pender County Board of Commissioners, to ensure that such divisions are in fact exempt from the requirements of this ordinance and that they comply with the requirements of NCGS 47-30.

**Section 3-15: Minor Subdivision**

A. A minor subdivision is a tract to be subdivided that is five (5) acres or less in size and will result in five (5) or fewer lots after subdivision. In addition, all minor subdivisions must meet the following requirements:

   a. All lots must front on an existing approved street.
   
   b. The subdivision shall not involve any new public streets, right-of-way dedication, or prospectively require any new street for access to interior property.
   
   c. The subdivision shall not require drainage improvements or easements other than rear and side lot line easements required by this ordinance to serve the applicant’s property or interior property.
   
   d. The subdivision shall not involve any utility easements.
   
   e. The subdivision shall not require any easements other than rear and side lot line easements as required by this ordinance.

Furthermore, the minor subdivision procedure may not be used as second time within three (3) years on any property less than fifteen hundred (1,500) feet from the original property boundaries by anyone who owned or had an option on or any legal interest in the original subdivision at the time the subdivision received plat approval.

B. The procedures for approval of minor subdivisions are intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The differences between the minor and major subdivision procedures are that minor subdivisions do not require a preliminary plat and are approved on the staff level.

C. After completion of a pre-application conference and sketch plan review, the applicant for a minor subdivision may apply directly for approval of a final plat by submitting two (2) Mylar and four (4) paper copies to the Town’s Map Review Officer for review. All final plats shall contain all information outlined in this Article, conform to all required specifications, and comply with GS 47-30.

D. All final plats shall contain the following certificates as specified in this Article:

   a. Certificate of Ownership and Dedication (signed)
   
   b. Certificate of Survey and Accuracy (signed)
   
   c. Surveyor’s Certificate (signed)
   
   d. Certificate of Approval for Recording
   
   e. Review Officer Certification
   
   f. Parcel Identifier Certificate
Article 3. Review and Approval Procedures

E. Minor subdivision plats shall be approved only when the Town’s Map Review Officer finds that all of the following conditions exist:
   a. The plat complies with all the applicable standards of this Ordinance;
   b. The plat indicates that all subject lots will have frontage on existing approved streets or an access for ingress and egress created in conformance with this Ordinance;
   c. New or residual parcels conform to the requirements of this Ordinance and other applicable regulations;
   d. All necessary easements have been provided; and
   e. All required endorsements and certifications have been obtained.

F. During review of the minor subdivision plat, the Town’s Map Review Officer may appoint an engineer or surveyor to confirm the accuracy of the final plat if agreed to by the Town Manager. If errors are found that make the plat non-recordable, the costs shall be charged to the subdivider, and the plat shall not be recommended for approval until such errors have been corrected and all costs paid by subdivider.

G. If the Town’s Map Review Officer approves the final plat, he shall secure all required town signatures and transmit all copies of the final plat to the subdivider for recording with the Pender County Register of Deeds.

H. If the Town’s Map Review Officer disapproves the final plat, he shall instruct the subdivider concerning resubmission of a revised plat, and the subdivider may make such changes as will bring the plat into compliance with the provisions of this Ordinance and resubmit same for reconsideration by the Land Use Administrator.

I. Failure of the Town’s Map Review Officer to approve or make a written recommendation within twenty-eight (28) days after receipt of the subdivision plat shall constitute grounds for the subdivider to apply to the Board of Commissioners for approval.

J. The Town’s Map Review Officer may require a deposit, in accordance with the Town of Burgaw Official Fee Schedule, to be posted after returning signed copies of the subdivision plat to the subdivider to ensure that required recorded copies (one (1) Mylar and two (2) paper copies) are returned to the Town.

Section 3-16: Major Subdivision

A. All subdivisions shall be considered major subdivisions except those defined as minor subdivisions.

B. Preliminary Plat Procedures
   a. Every subdivision within the Town of Burgaw and its extraterritorial jurisdiction (ETJ) that does not qualify for minor subdivision procedures shall be required to submit a preliminary plat for Planning Board review and Board of Commissioners approval before any construction or installation of improvements may begin.
b. Prior to submitting a preliminary plat, the subdivider shall complete a pre-application conference and sketch plant review with the Town’s Map Review Officer.

c. An application for major subdivision and eight (8) copies of the preliminary plat (as well as any additional copies the Town’s Map Review Officer determines are needed for review by other agencies) shall be submitted to the Review Officer by the last Friday of the month preceding the Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat.

d. All preliminary plats shall meet the specifications outlined in this article, and all mapping shall comply with GS 47-30. A preliminary plat that is incomplete or does not have required documents submitted with it shall not be scheduled for Planning Board review until all missing information is supplied.

e. All preliminary plats shall contain the following certifications as specified in this Article:
   i. Certificate of Ownership and Dedication (signed)
   ii. Certificate of Survey and Accuracy (signed)
   iii. Surveyor’s Certificate (signed)
   iv. Certificate of Preliminary Plat Approval

f. When a subdivision is to be developed in stages, a master plan shall be submitted for the entire development and a preliminary plat and final plat shall be submitted for each individual stage.

g. The Town’s Map Review Officer shall review the application for major subdivision and associated preliminary plats and shall, in writing, recommend approval, conditional approval, or disapproval with reasons to the Planning Board. This recommendation shall be provided to both the Planning board and the applicant within fourteen (14) days after receipt of the application and preliminary plat.

h. The Town’s Map Review Officer may, at his discretion, or as directed by the Board of Commissioners, submit copies of the plat to other agencies for review and comment.

i. The Planning Board shall review the preliminary plat along with the comments and recommendations of the Town’s Map Review Officer and any other review agencies at a regularly scheduled public meeting.

j. The Planning Board shall then submit its recommendation for approval, conditional approval, or disapproval to the Board of Commissioners.

k. Once the Planning Board has submitted its recommendation on the proposed subdivision to the Board of Commissioners, the Board of Commissioners shall review the preliminary plat and the Planning Board recommendations and approve, conditionally approve, or disapprove the preliminary plat.
Article 3. Review and Approval Procedures

l. If the Board of Commissioners approves the preliminary plat, such approval shall be noted on two (2) copies of the plat. One (1) copy of the plat shall be retained by the Town, and one (1) copy shall be returned to the subdivider. If the Board of Commissioners approves the preliminary plat with conditions, approval shall be noted on two (2) copies of the plat along with a reference to the conditions. One (1) copy of the plat along with the conditions shall be retained by the Town, and one (1) copy of the preliminary plat along with the conditions shall be returned to the subdivider. If the Board of Commissioners disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One (1) copy of the plat and reasons for disapproval shall be retained by the Town, and one (1) copy of each shall be returned to the subdivider.

m. Preliminary plat approval shall be valid for a period of two (2) years.

n. Preliminary plat approval constitutes approval of the layout and authorizes the developer to proceed with construction of the subdivision and improvements in accordance with the approved preliminary plat and any conditions attached to the approval.

o. Limited changes to an approved preliminary plat may be approved by the Planning Director administratively. Administrative approval of limited modifications shall not have the effect of extending the period of preliminary plat validity.

p. Significant changes to an approved preliminary plat must be resubmitted for review and approval as a new application.

C. Final Plat Procedures

a. Upon approval of the preliminary plat by the Board of Commissioners, the subdivider may proceed with the preparation of the final plat and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this Ordinance.

b. After the improvements shown on the approved preliminary plat have been installed, or guaranteed, for the whole or portion of a subdivision, the applicant shall submit a final plat of the area covered by such improvements.

c. The completed final plat must be submitted within twenty-four (24) months of approval of the preliminary plat. Otherwise, such approval shall be null and void unless a written extension of this limit is granted by the Board of Commissioners upon written request of the subdivider on or before the twenty-four (24) month anniversary of the approval.

d. For subdivisions developed in stages, each successive final plat for a stage of the subdivision shall be submitted for approval within twenty-four (24) months of the date of approval of the previous final plat for a stage of the subdivision.
Article 3. Review and Approval Procedures

e. The final plat shall conform to the approved preliminary plat and to all conditions of approval of the preliminary plat and may constitute only that portion of the preliminary plat that is proposed for recordation.

f. All final plats shall be reviewed and approved by the Board of Commissioners before recordation after Planning Board review unless the Board of Commissioners, upon the approval of the preliminary plat, authorizes the Town’s Map Review Officer to issue approval or disapproval of the final plat.

g. No final plat will be accepted for review by the Planning Board or Board of Commissioners unless accompanied by written notice by the Town Clerk acknowledging compliance with the improvement and guaranteeing standards of this Ordinance.

h. The subdivider shall submit the two (2) Mylar and four (4) paper copies of the final plat, so marked, to the Town’s Map Review Officer by the last Friday of the month preceding the Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat.

i. If the Town’s Map Review Officer receives authorization from the Board of Commissioners to issue approval or disapproval of the final plat, the subdivider may submit the two (2) Mylar and four (4) paper copies of the final plat at any time within the twenty-four (24) month submission period, and the Town’s Map Review Officer will issue approval or disapproval within forty-five (45) days of receipt of the final plat.

j. The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors and shall conform to all requirements of the State of North Carolina, Pender County Register of Deeds, and this Ordinance.

k. All final plats shall contain the following certifications as specified in this Article, along with any other certification (e.g. regarding maintenance of private infrastructure) as required by the Board of Commissioners:

   A. Certificate of Ownership and Dedication (signed)
   B. Certificate of Survey and Accuracy (signed)
   C. Surveyor’s Certificate (signed)
   D. Certificate of Approval for Recording
   E. Review Officer Certification
   F. Parcel Identifier Certificate
   G. Certificate of Registry
   H. Certificate of the Design and Installation of Streets, Utilities, and Other Required Improvements (signed)
I. Certificate of Disclosure: Floodplain Management Regulations (signed) (if applicable)

J. Certificate of Disclosure: Private Developments (signed) (if applicable)

l. The Planning Board shall review the final plat along with the comments and recommendations of the Town’s Map Review Officer at a regularly scheduled, public meeting.

m. The Planning Board shall then submit its recommendation for approval, conditional approval, or disapproval to the Board of Commissioners within forty-five (45) days of its first review of the plat.

n. Once the Planning Board has submitted its recommendation on the proposed subdivision to the Board of Commissioners, the Board of Commissioners shall review the final plat and the Planning Board recommendations and approve or disapprove the final plat.

o. If the Board of Commissioners approves the final plat, such approval shall be shown on each copy of the plat by the Certificate of Approval for Recording as described in this Article.

p. The Town’s Map Review Officer may require a deposit, in accordance with the Town of Burgaw Official Fee Schedule, to be posted after returning signed copies of the subdivision plat to the subdivider to ensure that required recorded copies (one (1) Mylar and two (2) paper copies) are returned to the Town.

q. The subdivider shall file the approved final plat with the Register of Deeds of Pender County within thirty (30) days of the Board of Commissioners’ approval; otherwise, such approval shall expire. The plat may be resubmitted for review, and it shall be reviewed against the ordinance in effect at that time.

r. If the Board of Commissioners disapproves the final plat, the reasons for such disapproval shall be stated in writing, specifying the provisions of this Ordinance with which the final plat does not comply. One (1) copy of such reasons and two (2) copies of the plat shall be retained by the Board of Commissioners as part of its proceedings, and one (1) copy of the reasons and four (4) copies of the final plat shall be transmitted to the subdivider.

s. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance and resubmit modified final plat for reconsideration by the Planning Board and Board of Commissioners.

Section 3-17: Plat Requirements

A. Preliminary Plat Requirements. In addition to the required certificates and any other information deemed necessary by the Planning Administrator, Planning Board, or Board of Commissioners, each preliminary plat shall include the following information:

Site Map(s)

- Title Block containing:
Article 3. Review and Approval Procedures

- Name of subdivision
- Location of municipality, township, county, and state
- Name of owner
- Date or dates survey was conducted and plat prepared
- Scale denoted numerically (example 1” = 100’)
- Name and address of individual or firm preparing plans
- Name, address, registration number, and seal of Registered Land Surveyor
- Sheet number

- Sketch vicinity map showing the relationship between proposed subdivision and surrounding area (with scale)
- Graphic scale
- North arrow, noted whether true or magnetic
- The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented, with all bearings and distances shown
- Existing and proposed lot lines, both on the tract to be subdivided and on adjoining properties. Corporate limits, township boundaries, and county lines shall be depicted if applicable.
- The names of owners of adjoining property
- The names of any adjoining subdivisions of record or proposed and under review
- Zoning classification of tract to be subdivided
- Building line minimums
- Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains, or other features, both on the land to be subdivided and land immediately adjoining
- Proposed lot numbers and block letters, if applicable, and appropriate dimensions
- Wooded areas, marshes, swamps, rocky outcrops, ponds or lakes, streams or streambeds, and any other natural features affecting the site
- Location of floodway or flood zones as depicted on the official Flood Insurance Rate Map (FIRM)
- The following data concerning streets:
  - Proposed public streets
  - Proposed private streets
Article 3. Review and Approval Procedures

- Existing and platted streets on adjoining properties and in the proposed subdivision
- Rights-of-way, location, and dimensions in accordance with this ordinance
- Pavement widths
- Approximate grades
- Design engineering data for all corners and curves
- Typical cross-sections
- Street names
- Type of street dedication (all streets must be designated either ‘public’ or ‘private’)*

- Location and dimensions of proposed rights-of-way, utility and other easements, parks, school sites, recreational areas and trails, natural or required buffers, and open spaces, and designation of future ownership and/or dedication
- Location of 404 wetland areas as determined by the Wilmington District office of the US Army Corp of Engineers
- Location, with sizes and/or other information noted, of natural gas lines, telephone lines, electric lines, and any other utility required for the subdivision
- Location, with sizes and/or other information noted, of natural gas lines, telephone lines, electric lines, and any other utility required for the subdivision
- Location, with sizes and/or other information noted, of proposed water lines, fire hydrants, valves, sewer lines, storm drainage lines, manholes, catch basins, force mains, pumping stations or any other system intended or proposed to serve the development, showing tie-in locations to existing systems
- Plans for individual water supply and sewage disposal systems, if any, with profiles based on Mean Sea Level datum for sanitary sewers and storm systems

* The subdivider must submit all public or private street plans to the Planning Administrator for approval prior to preliminary plat approval. Where public streets are involved which will not be dedicated to the Town of Burgaw, the subdivider must submit the following documents to the NC Department of Transportation District Highway Office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade; and PI station and vertical curve length on site plan layout. The District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths, and details for either the curb and gutter or the shoulder and ditch proposed; and drainage facilities and areas.
Other Required Information

- Site calculations include
  - Acreage in total tract to be subdivided
  - Acreage in parks and recreation and open space areas and other nonresidential areas
  - Total number of parcels created
  - Acreage in the smallest lot in the subdivision

- A copy of any proposed deed restriction or similar covenants. Such restrictions are mandatory when private recreation areas or open spaces are established.

- Where land disturbing activity is an acre or more in size, a copy of the erosion control plan must be submitted to the appropriate office of the N.C. Department of Environment and Natural Resources, in compliance with NCGS 113A, Article 4 (Sedimentation Pollution Control Act of 1973). Evidence of approval must be provided prior to submittal of a final plat for approval.

- Topographic maps with contour intervals of no greater than five (5) feet at a scale of no less than 1” = 400’

- If any street is proposed to intersect with a state-maintained road, the subdivider shall apply for driveway approval as required by the N.C. Department of Transportation Division of Highways’ Policy on Street and Driveway Access to North Carolina Highways. Evidence of approval must be provided prior to submittal of final plat for approval.

B. Final Plat Requirements. In addition to the required certificates and any other information deemed necessary by the Planning Administrator, Planning Board, or Board of Commissioners, each final plat shall include the following information.

Site Map(s)

- Title Block containing:
  - Name of subdivision
  - Location by municipality, township, county, and state
  - Name of owner
  - Date or dates survey was conducted and plat prepared
  - Scale denoted numerically (example 1” = 100’)
  - Name and address of individual or firm preparing plans
  - Name, address, registration number, and seal of Registered Land Surveyor
  - Sheet number
Article 3. Review and Approval Procedures

- Sketch vicinity map showing the relationship between proposed subdivision and surrounding area (with scale)
- Graphic scale
- North arrow, noted whether true or magnetic
- The name and address of the owner, surveyor, land planner, architect, landscape architect, or professional engineer responsible for the design of the subdivision, and the registration number and seal of the professional engineer or registered surveyor
- The exact boundary lines of the tract to be subdivided (both existing and proposed), fully dimensioned by bearings and distances, and the location of boundary lines and names of owners of adjoining lands, with adjacent subdivisions identified by official names. Corporate limits, town boundaries, and county lines shall be depicted if applicable
- Building line minimums, if applicable (Planned Unit Development, etc.)
- Existing buildings or other structures to be retained within the subdivision
- The blocks lettered consecutively throughout the entire subdivision and the lots numbered consecutively throughout the subdivision
- Location of floodway or flood zones as depicted on the official Flood Insurance Rate Map (FIRM)
- Location and dimensions of rights-of-way, utility and other easements, parks, school sites, recreational areas and trails, natural or required buffers, and open spaces, and designation of future ownership and/or dedication
- Location of 404 wetland areas as determined by the Wilmington District office of the US Army Corp of Engineers
- Plans for individual water supply and sewage disposal systems, if any
- Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, right-of-way line and easement line, including dimensions, bearings or deflection angles, radii, chords, central angles and tangent distances from the center line or curved streets and curved property lines, to an appropriate accuracy and in conformance with good surveying practice
- The accurate locations and descriptions of all monuments, markers, and control points
- For major subdivisions, location, with sizes and/or other information noted, of proposed water lines, fire hydrants, valves, sewer lines, storm drainage lines, manholes, catch basins, force mains, pumping stations, or any other system intended or proposed to serve the development, showing tie-in locations to existing systems
• For major subdivisions, location, with sizes and/or other information noted, of natural gas lines, telephone lines, electric lines, and any other utility required for the subdivision

• For major subdivisions, the following data concerning streets:
  o Proposed public streets
  o Proposed private streets
  o Existing and platted streets on adjoining properties and in the proposed subdivision
  o Rights-of-way, location, and dimensions in accordance with this ordinance
  o Street names
  o Type of street dedication (all streets must be designated either ‘public’ or ‘private’)†

**Other Required Information**

• A copy of any proposed deed restriction or similar covenants. Such restrictions are mandatory when private recreation areas or open space areas are established.

• Where streets are dedicated to the public but not accepted into the Town of Burgaw system or the state system before lots are sold, improvement guarantees as outlined in this chapter are required.

• Where land disturbing activity is an acre or more in size, a copy of the erosion control plan must be submitted to the appropriate office of the N.C. Department of Environment and Natural Resources, in compliance with NCGS 113A-Article 4 (Sedimentation Pollution Control Act of 1973). Evidence of approval must be provided prior to submittal of a final plat for approval.

• If any street is proposed to intersect with a state-maintained road, the subdivider shall apply for driveway approval as required by the N.C. Department of Transportation’s Policy on Street and Driveway Access to North Carolina Highways. Evidence of approval must be provided prior to submittal of a final plat for approval.

† Where public streets are involved which will not be dedicated to the Town of Burgaw, the subdivider must submit the following documents to the NC Department of Transportation District Highway Office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade; and PI station and vertical curve length on site plan layout. The District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths, and details for either the curb and gutter or the shoulder and ditch proposed; and drainage facilities and areas.
Section 3-18: Required Certifications

A. Certificate of Ownership and Dedication for Minor Subdivision Final Plats

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Burgaw, and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

______________________________  __________________________
Owner                           Date

B. Certificate of Ownership and Dedication for Major Subdivision Preliminary and Final Plats

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Burgaw, and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, open space, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines to the Town of Burgaw.

______________________________  __________________________
Owner                           Date
C. **Certificate of Survey and Accuracy**. In accordance with GS 47-30, there shall appear on each plat a certificate made by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ratio or precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed. The certificate shall be in substantially the following form:

*I, ________________, certify that this map was (drawn by me)(drawn under my supervisions) from (an actual survey made by me)(an actual survey made under my supervision)(deed description in Book _____, Page ______)(other); that the error of closure as calculated by latitudes and departures is 1:____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page ____; that this map was prepared in accordance with GS 47-30 as amended. Witness my original signature, registration number, and seal this ____ day of ________, AD 20__.  

____________________________  
Surveyor  

Seal or Stamp  

____________________________
Registration Number
D. **Surveyor’s Certificate.** Notwithstanding any other provision contained in this section, it is the duty of the surveyor, by a certificate on the face of the plat, to certify to one of the following:

   a. That the survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land;

   b. That the survey is located in such portion of a county or municipality that is unregulated as to an ordinance that regulates parcels of land and is therefore not subject to regulation by a subdivision ordinance;

   c. That the survey is of an existing parcel or parcels of land;

   d. That the survey is of another category, such as the recombination of existing parcels, a court-ordered survey, and other exception to the definition of a subdivision;

   e. That the information available to the surveyor is such that the surveyor is unable to make a determination to the best of his or her professional ability as to provisions contained in (i) through (iv) above.

However, if the plat contains the certificate of a surveyor as stated in (i), (iv), or (v) above, then the plat shall have, in addition to said surveyor’s certificate, a certification of approval or no approval required, as may be required by local ordinance from the appropriate government authority before the plat is presented for recordation. If the plat contains the certificate of a surveyor as stated in (ii) or (iii) above, nothing shall prevent the recordation of the plat if all other provisions have been met.

E. **Certificate of Approval for Recording.** If the Land Use Administrator is the final approval authority (minor subdivisions and major subdivisions when authorized by the Board of Commissioners), he shall sign the following certificate. For major subdivisions, if final plat review authority is not waived, the Mayor shall sign the following certificate.

   I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Burgaw, North Carolina, and that this plat has been approved by the Board of Commissioners for recording in the Office of the Register of Deeds of Pender County.

   ______________________________
   (Mayor)(Land Use Administrator)

   Burgaw, North Carolina

   ______________________________
   Date
F. **Review Officer Certification**

_I, ______________, review officer of Pender County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording._

_____________________________  ______________________________

*Map Review Officer*  *Date*

G. **Parcel Identifier Certificate**

Parcel identifiers will be issued for all parcels upon recordation of this plat.

_____________________________  ______________________________

*Tax Office*  *Date*

H. **Certificate of Registry**

**STATE OF NORTH CAROLINA**

_FILE for registration on the ___day or _________ 20__, at ____ (AM/PM) and duly recorded in Map Book _____ at Page _____ Slide No. _____._

_____________________________  ______________________________

*Register of Deeds*  *Date*

By

I. **Certificate of Preliminary Plat Approval**

_Preliminary Plat approved by the Town of Burgaw Board of Commissioners for a period of two (2) years subject to the Town of Burgaw Unified Development Ordinance requirements and conditions of approval._

_____________________________  ______________________________

*Mayor, Town of Burgaw*  *Date*
Article 3. Review and Approval Procedures

J. Certificate of the Design and Installation of Streets, Utilities, and Other Required Improvements

I hereby certify that all streets, utilities, and other required improvements have been installed in accordance with NC Department of Transportation specifications and standards, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Burgaw has been received, and that the filing fee for this plat, in the amount of $30.00 has been paid.

____________________________________
Land Use Administrator, Town of Burgaw

________________________
Date

K. Certificate of Disclosure: Town of Burgaw Floodplain Management Regulations. If applicable, the following certification shall be signed by the owner:

I (we) hereby certify that prior to entering into any agreement or any conveyance with a prospective buyer, I (we) shall prepare and sign, and the buyer of the subject real estate shall receive and sign, a statement which fully and accurately discloses that the subject real estate, or a portion of the subject real estate, is located within a flood hazard area and that the buyer must satisfy the requirements of the Town of Burgaw floodplain management regulations prior to the issuance of building permits.

____________________________________  _______________________
Owner  Date

L. Certificate of Disclosure: Private Developments

I, _______________ (name of developer and/or seller), hereby certify that the streets, parks, open space, or other areas delineated hereon and dedicated to private use, and all traffic marking and control devices shall not be the responsibility of the public or the municipality, acting on behalf of the public, to maintain. Furthermore, prior to entering any agreement or any conveyance with any prospective buyer, I shall prepare and sign, and buyer of the subject real estate shall receive and sign, an acknowledgement of receipt of a disclosure statement. The disclosure statement shall fully and completely disclose the private areas, and include an examination of the consequences and responsibility as to the maintenance of the private areas, and shall fully and accurately disclose the party or parties upon whom the responsibility for construction and maintenance of such private areas shall rest.

____________________________________  _______________________
Developer  Date
Section 3-19: Improvement Guarantees

In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the Town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Board of Commissioners if all other requirements of this Ordinance are met.

To secure this agreement, the subdivider shall provide, subject to the approval of the Board of Commissioners any of the following forms of guarantee in an amount equal to one hundred twenty-five percent (125%) of the cost required to complete required improvements, as estimated by the subdivider and approved by the Board of Commissioners:

- Surety bond issued by any company authorized to do business in this State;
- Letter of credit issued by any financial institution licensed to do business in this State; or
- Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Board of Commissioners an agreement between the financial institution and himself guaranteeing the following:

A. Such escrow account shall be held in trust until released by the Board of Commissioners and may not be used or pledged by the subdivider in any other matter during the term of escrow.

B. In the case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the Board of Commissioners and submission by the Board of Commissioners to the financial institution of an engineer’s estimate of the amount needed to complete the improvements, immediately either pay to the Town the funds estimated to complete the improvement, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.

Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety or the financial institution holding escrow account shall, if requested by the Board of Commissioners, pay all or any portion of the bond or escrow fund to the Town of Burgaw, up to the amount needed to complete the improvements based on the engineer’s estimate. Upon payment, the Board of Commissioners, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the subdivider any funds not spent in completing the improvements.

The Board of Commissioners may release a portion of any security posted as the improvements are completed. Once the Board of Commissioners approves said improvements and accepts the infrastructure into the town system, if applicable, then it shall immediately release any security posted.
Chapter VI. Approved Permits and Developments

Section 3-20: Permit Amendments and Modifications

A. Insignificant deviations from the permit (including approved plans) issued by the Board of Commissioners or Land Use Administrator are permissible, and the Land Use Administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernable impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

B. Minor design modifications or changes in permits (including approved plans) are permissible within the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

C. All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Commissioners or Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment prior to the Board’s final decision and may then proceed in accordance with the previously issued permit. Any withdrawal of a request for an amendment may not entitle the applicant to a return of filing fee.

D. The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above.

E. A developer requesting approval of changes shall submit a written request for such approval to the administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

Section 3-21: Administration of Permit Provisions during Development

A. Authorizing Use, Occupancy, or Sale before Completion of Development

a. No final certificate of occupancy/compliance for a commercial, residential, or manufactured home park, or planned building group will be issued until all required site improvements have been completed. In lieu of completion of required site improvements, the developer of the planned group may enter into a contract with the Town of Burgaw providing for the installation of required improvements within a designated period of time. Performance of said contract shall be secured by a cash or surety bond which will cover the total estimated cost of the improvements as determined by the Town of Burgaw; provided, however, that said bond may be waived by the Town Board of Commissioners within its discretion.

b. In cases when because of weather conditions or other factors beyond the control of the conditional-use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this Article before commencing the intended use of the property,
or occupying any building, the permit-issuing authority may authorize the commencement of the intended use, or the occupancy of buildings (insofar as the requirements of this section are concerned) if the permit recipient provides a performance bond or other security satisfactory to the permit issuing authority to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve (12) months) as determined by the administrator.

c. When the developer proposes in the plans submitted to install amenities beyond those required by this Article, the Board may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensure as the result of any one or more of the following:

   i. A performance bond or other security satisfactory to the Board is furnished;
   
   ii. A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient’s compliance will be reviewed when application for renewal is made;
   
   iii. The name of the requirements or amenities is such that sufficient assurance of compliance is given by Article 5. Enforcement.

B. Completing Developments in Phases

   a. If a development is constructed in phases or stages in accordance with this section, then, subject to the requirements outlined below regarding improvements that are to be used by the entire development, all regulations regarding the use, occupancy, or sale of lots shall apply to each phase as if it were the entire development. As a prerequisite to taking advantage of this provision, the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this ordinance that will be satisfied with respect to each phase or stage.

   b. If a development that is to be built in phases or stages includes improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development), then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such improvements. The schedule shall relate completion of such improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as a part of the permit, provided that improvements comply with the provisions of subsection A above.
Section 3-22: Responsibilities of Permit Holder

(A) Maintenance of Common Areas, Improvements, and Facilities. The recipient of any zoning, conditional use, or sign permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities required by this Ordinance or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustration, and without limiting the generality of the foregoing, this means that all private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.
Chapter VII. Vested Rights

Section 3-23: Establishment of a Zoning Vested Right

A. The purpose of this section is to provide for the establishment of a zoning vested right, as created by NCGS 160A-385.1 upon the approval of a site specific development plan.

B. A zoning vested right is established upon the valid approval or conditional approval by the Board of Commissioners, as applicable of a site specific development plan, following notice and hearing.

C. The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.

D. Notwithstanding the provisions above, approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right until the necessary variance is obtained.

E. A site specific development plan is approved upon the effective date of the approval authority’s action or ordinance relating thereto.

F. A zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this section.

G. A zoning vested right is not a personal right but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

Section 3-24: Approval Procedures and Approval Authority

A. Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by Ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

B. In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the Land Use Administrator, that a zoning vested right is sought.

C. Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: “Approval of this plan established a zoning vested right under NCGS 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until ________________.”
D. Following approval or conditional approval of a site specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

E. Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning ordinance.

Section 3-25: Duration

A. A vested zoning right shall remain vested for a period of two (2) years unless the period is extended in accordance with the subsection B below. This vesting shall not be extended by amendments or modifications to a site specific development plan unless the approval authority extends it upon approval of the amendment or modification.

B. Notwithstanding subsection A above, the approval authority may provide that rights shall be vested for a period exceeding two (2) years, but not exceeding five (5) years, where warranted by relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need or desirability of the development, economic cycles, and market conditions. These determinations shall be at the sound discretions of the approval authority at the time the site specific development plan is approved.

C. Upon issuance of a building permit, the expiration provisions of NCGS 160A-418 and the revocation provisions of NCGS 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

Section 3-26: Termination

A zoning right that has been vested as provided in this section shall terminate:

A. at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

B. with the written consent of the affected landowner;

C. upon findings by the Board of Commissioners, by Ordinance after notice and public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

D. upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing and architectural, planning, marketing, legal, and other consultants’ fees incurred after approval by the town, together with interest thereon at the
legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

E. upon findings by the Board of Commissioners, by Ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

F. upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case, the approval authority may modify the affected provisions upon a finding that the change has a fundamental effect on the plan by Ordinance after notice and a hearing.
Chapter VIII. Annexation

Section 3-27: Voluntary Annexation

A. A petition for annexation filed with the town under NCGS 160A-31 or NCGS 160A-58.1 shall contain a signed statement declaring whether any zoning vested right with respect to properties subject to the petition has been established under NCGS 160A-385.1 or NCGS 153A-344.1. A statement that declares that no zoning vested right has been established under NCGS 160A-385.1 or NCGS 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

B. Upon approval of a petition for voluntary annexation by the Town of Burgaw Board of Commissioners, the applicant shall have thirty (30) days from the date of the passage of the annexation ordinance to complete the following actions:

   a. A map must be recorded in the Pender County Register of Deeds Office depicting the parcels annexed pursuant to the corresponding ordinance passed by the Board of Commissioners.

   b. A minimum of ten (10) recorded copies of the annexation map must be delivered to the Land Use Administrator or Town Clerk.

In the event these actions are not completed within forty-five (45) days from the adoption of the voluntary annexation ordinance passed by the Town of Burgaw Board of Commissioners, then the annexation shall be void unless an extension is granted by the Board of Commissioners to extend the time for compliance with this provision.

Following the adoption of the annexation ordinance, the Board of Commissioners shall adopt zoning for the newly annexed property if such parcels are outside of the Town of Burgaw’s extraterritorial jurisdiction. The new zoning classification shall be consistent with both the current land use of the property in question and, to the greatest extent possible, the current land uses in the surrounding area.

C. Nothing in this section shall create any vested right other than those established pursuant to NCGS 160A-385.1.

D. In the event that NCGS 160A-385.1 is repealed, this section shall be deemed repealed.

E. This section shall be effective February 4, 1992 and shall only apply to site specific development plans approved on or after February 4, 1992.
Article 4. Nonconforming Situations

Section 4-1: Purpose and Intent

Within the provisions established by this Ordinance, there exist uses of land, structures, and lots that were lawfully established before this Ordinance was adopted or amended that now do not conform to the terms and requirements of this Ordinance. The purpose and intent of this article is to regulate and limit the continued existence of those uses, structures, and lots that do not conform to the provisions of this Ordinance or any amendments thereto.

Section 4-2: Continuation of Nonconforming Situations

Nonconforming situations that were otherwise lawful on the effective date of this Ordinance or any subsequent amendments may be continued, subject to the restrictions and qualifications set forth in this Ordinance. A nonconforming situation shall be considered lawful if all Town regulations in place at the time of the adoption of this Ordinance or its amendment were met, including all required permits, and the situation has not been discontinued for a period of one hundred eighty (180) days or more as outlined in Section 4-6 of this Ordinance.

Section 4-3: Nonconforming Lots of Record

A. When a lot or parcel of land has an area, depth, or frontage which does not conform to the standards of this Ordinance but was a lot of record on the effective date of this Ordinance or any subsequent amendment, such lot or parcel of land may be developed for a single or two-family dwelling (in applicable districts), provided it complies with the regulations in existence at the time of its creation and all required dimensional standards are no less than eighty percent (80%) of those established in Section 8-1 of this Ordinance.

B. Whenever this Ordinance creates a nonconforming lot that is adjacent to another lot in the same ownership and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without hereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of paragraph A of this section.

Also, when two or more lots with contiguous frontage are in common ownership at any time after the adoption of this Ordinance and such lots are individually less than the minimum area or width required in a district, such lots shall be considered as a single lot or (if sufficient land exists) several lots of required area and width and shall be combined to the extent necessary to achieve a lot or lots of the area and width required of the district. Such lots shall comply with all yard space and other dimensional requirements of the district.

Section 4-4: Extension or Enlargement of Nonconforming Situations

(A) In General

a. Except as specifically provided in this subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.
Article 4. Nonconforming Situations

b. The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.

c. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged.

(B) Nonconforming Uses

a. Subject to paragraph (A)(b) of this subsection, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. No nonconforming use shall be expanded to occupy a greater area of land than was occupied by such use at the time it became nonconforming; specifically, no nonconforming use may expand to land not part of the original tract at the time the use became nonconforming.

b. A building or structure devoted to a nonconforming use may be enlarged, extended, reconstructed, or moved as long as it meets all standards of this ordinance.

c. Subject to Section 4-7 of this Ordinance (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land that was occupied by that use when it became nonconforming.

(C) Nonconforming Structures

a. Physical alteration, reconstruction, or replacement of nonconforming structures or the placement of new structures on open land is unlawful if they result in:
   i. An increase in the total amount of space devoted to a nonconforming use;
   ii. Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements; or
   iii. The enclosure of previously unenclosed areas, even though those areas were previously used in connection with the nonconforming activity. An area is unenclosed unless at least seventy-five percent (75%) of the perimeter of the area is marked by a permanently constructed wall or fence.

b. Notwithstanding the provisions above, any structures used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. In particular, a manufactured home may be replaced with a larger manufactured home, and a “single-wide” manufactured home may be replaced with a “double-wide.” This paragraph is subject to the limitations stated in Section 4-6 on abandonment and discontinuance of nonconforming situations.
Section 4-5: Change in Kind of Nonconforming Use

A. A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.

B. A nonconforming use may be changed to another nonconforming use only with a conditional use permit issued by the Board of Commissioners.

C. In order for a nonconforming use substitution to be approved, the Board of Commissioners must find that the application meets all general conditional use standards, all conditional use standards required for that use in any district, and the following:
   a. The proposed new nonconforming use, if a new nonconforming use is proposed, is more compatible with the development pattern of the surrounding area than the previous nonconforming use; and
   b. The proposed nonconforming use is expected to result in impacts which are less than or are similar to those associated with the existing use.

Section 4-6: Abandonment or Discontinuance of Nonconforming Situations

A. When a nonconforming use is (1) discontinued for a consecutive period of one hundred eighty (180) days or (2) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes, except as provided in paragraph B of this subsection.

B. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming manufactured home park for one hundred eighty (180) days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a manufactured home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of that manufactured home for one hundred eighty (180) days terminates the right to replace it.

C. When a structure or use is made nonconforming by any amendment to this ordinance and is vacated or discontinued at the effective date of said amendment, the one hundred eighty (180) day period for purposes of this subsection begins on the effective date of said amendment.

Section 4-7: Completion of Nonconforming Projects

Any nonconforming project with valid zoning and/or building permits or an approved site specific development plan as defined by this ordinance that is not complete on the effective date of this ordinance or its amendment shall be considered vested and may continue under the conditions of its original approval. However, after completion, such projects shall be subject to
the same regulations as other nonconforming uses of land, lots, or structures as described in this ordinance.

**Section 4-8: Exceptions**

A. **Cargo Storage Containers.** These types of structures are not eligible for grandfathering in the case of property rezonings to a district in which they are not allowed. In the instance of such a rezoning, containers must be removed within ninety (90) days of the effective date of the rezoning.

B. **RESERVED**
Article 5. Enforcement

Section 5-1: Complaints Regarding Violations
Upon receipt of a complaint alleging a violation of the Unified Development Ordinance, the Planning Administrator or his designee shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken. Complaints may be submitted in writing and verbally. However, written complaints are public record and upon request may be subject to public review.

In certain instances, the Planning Administrator may investigate and take whatever action he/she feels is warranted as stated in Section 5-4 of this Ordinance. These actions may be taken with or without a formal complaint being filed.

Section 5-2: Persons Liable
The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

Section 5-3: Procedures upon Discovery of Violations
A. If the Planning Administrator finds that any provision of the Unified Development Ordinance is being violated, he/she shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The written notice shall give those liable for the violation at least seven (7) calendar days to remedy the matter. At the Planning Administrator’s discretion, immediate remedy of the violation(s) may be ordered when the nature of the violation is such that delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, and/or welfare.

B. The final written notice (and the initial written notice may be the final notice) shall state what action the Planning Administrator intends to take if the violation is not corrected and shall advise that the Administrator’s decision or order may be appealed to the Board of Adjustment in accordance with Section 3-12.

C. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, and/or welfare, the Planning Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 5-4. Furthermore, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, and/or welfare, the Planning Administrator may issue an immediate stop work order pursuant to Section 5-4(C).

Section 5-4: Penalties and Remedies for Violations
A. Civil Penalties. Any act constituting a violation of the provisions of this Ordinance or a failure to comply with any of its requirements, including violations of any conditions and
safeguards established in connection with the grants of variances or conditional use permits, shall subject the persons liable, as defined in Section 5-2, to a civil penalty, which may be administered by the Burgaw Police Department, of one hundred dollars ($100) per day in violation. If a person liable fails to pay this penalty within ten (10) days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with Section 5-3 and did not take an appeal to the Board of Adjustment within the prescribed time. Upon determination by the Planning Administrator and/or Town Manager that the violation(s) have been rectified the person(s) liable may request that the town manager reduce or waive all accrued fines and/or penalties as related to the violation(s). In order to cover the enforcement associated with violations, all fines obtained pursuant to these civil penalties shall be distributed back to Town of Burgaw Planning Department.

B. Injunction. Any violation of the Unified Development Ordinance or permit or variance issued hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.

C. Stop Work Orders. Whenever a building, sign, or structure, or part thereof, is being constructed, reconstructed, altered or repaired in violation of this Ordinance, the Planning Administrator or his designee may order the work to be immediately stopped. The stop order shall be in writing and directed to the owner, occupant, or person doing the work. The stop order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Furthermore, any land development and/or land disturbing activities may be subject to an immediate stop work order if the Planning Administrator determines that the activities which are being conducted are in a manner which is not consistent with an activity as regulated and permitted by any of the following:

a. North Carolina Department of Environment and Natural Resources

b. North Carolina Division of Land Quality

c. North Carolina Division of Water Quality

d. US Army Corps of Engineers

e. Town of Burgaw, North Carolina Department of Emergency Management, and/or FEMA Floodplain Management Regulations

f. Town of Burgaw Stormwater Ordinance

D. Denial of Permit or Certificate. The Planning Administrator or his designee may withhold or deny any zoning compliance permit, sign permit, conditional use permit, subdivision permit, recombination permit, or Certificate of Appropriateness on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate, or other authorization previously granted.

E. This Ordinance may also be enforced by any appropriate equitable action as determined by the Planning Administrator.
Article 5. Enforcement

F. Each day that any violation continues after notification by the administrator that such violation exists shall be considered a separate offense for purposes of the penalties, fines, and/or remedies specified in this section.

G. Any one, all, or any combination of the foregoing penalties, fines, and/or remedies may be used to enforce this Ordinance.

Section 5-5: Permit Revocation

A. A zoning, sign, tree removal, or conditional use permit may be revoked or suspended if upon determination by the Planning Administrator, the permit recipient fails to develop or maintain the property in accordance with the approved plans submitted, the requirements of the Unified Development Ordinance, or any additional requirements lawfully imposed by the permit-issuing board or other government entity as listed in Section 5-4(C) of this Ordinance.

B. Before a conditional use permit may be revoked, all of the notice and hearing and requirements of Section 3-8 shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

C. Before a zoning or sign permit may be revoked, the administrator shall give the permit recipient ten (10) days’ notice of intent to revoke their permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons therefore.

D. No person may continue to make use of land or buildings in the manner authorized by any zoning, tree removal, sign, conditional use, subdivision, or recombination permit after such permit has been revoked in accordance with this Ordinance.
Article 6. Definitions

Section 6-1: Word Interpretation
For the purposes of this Ordinance, certain words shall be interpreted as follows. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

A. As used in this Ordinance, words importing the masculine gender include the feminine and neuter.
B. Words used in the singular in this Ordinance include the plural and words used in the plural include the singular. Words used in the present tense include future tense.
C. The word “person” includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.
D. The word “may” is permissive.
E. The word “shall” and “will” are always mandatory and not merely directive.
F. The word “used for” shall include the meaning “designed for.”
G. The words “used” or “occupied” shall mean “intended, designed, and arranged to be used or occupied.”
H. The word “lot” shall include the words “plot,” “parcel,” “site,” and “premises.”
I. The word “structure” shall include the word “building.”
J. The word “Town Commissioners” shall include “Board of Commissioners” of the Town of Burgaw, North Carolina.
K. The words “Zoning Board,” “Zoning Commission,” or “Planning Commission” shall mean the “Town of Burgaw Planning Board.”
L. The word “town” shall mean the “Town of Burgaw,” a municipal corporation of the State of North Carolina.
M. The word “map,” “zoning map,” and “Burgaw Zoning Map” shall mean the “Official Zoning Map for the Town of Burgaw, North Carolina.”
N. The words “board of adjustment” shall mean the “Town of Burgaw Board of Adjustment.”

Section 6-2: Definitions of Basic Terms
Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Ordinance.

Accessory Structure (including Accessory Buildings): A subordinate structure, the use of which is incidental to that of the principal building or use of the land, located on the same parcel as the principal building or use or on a contiguous abutting parcel owned by the same owner of the parcel that has the main use. For purposes of state, federal, and local regulations, in cases where definitions for accessory structure or accessory building differ, the more stringent
Article 6. Definitions

definition or regulation shall apply (e.g. for Federal Emergency Management Act regulations or Coastal Area Management Act permitting).

**Accessory Use**: A use incidental to, and on the same lot as, a principal use.

**Addition (to an existing building)**: An extension or increase in the floor area or height of a structure.

**Administrator**: The Land Use Administrator for the Town of Burgaw.

**Adult Arcade**: An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five (5) or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

**Adult Bookstore**: An establishment that has a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

**Adult Business**: An adult business shall be defined as any business activity, club, or other establishment which permits any employee, member, patron, or guest on its premises to exhibit any specified anatomical areas before any other person or persons.

**Adult Cabaret**: A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

**Adult Motion Picture Theater**: An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

**Adult Theater**: A theater, concert hall, auditorium, or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by special sexual activities.

**Agricultural—Livestock**: The use of land for dairying, pasturage, animal and poultry husbandry, and the necessary accessory uses. Intensive livestock operations as defined by this ordinance are excluded.

**Agricultural—Other Than Livestock**: The use of land for the production of cash grains, field crops, vegetables, fruits and nuts, and for horticulture and floriculture.

**Air Ambulance Service**: Emergency ambulance service provided by helicopter and operated in conjunction with an accredited hospital. All aircraft, equipment, personnel, and land areas must
be approved by appropriate town, emergency, and Federal Aviation Administration (FAA) officials.

**Alley:** A roadway easement which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

**Antenna:** Communications equipment that transmits and receives electromagnetic radio signals used in the provisions of all types of wireless communications services.

**Apartment:** A room or suite of one or more rooms, each of which has kitchen facilities, and is designed or intended to be used as an independent unit on a rental basis.

**Appeal:** A request for a review of the administrator’s interpretation of any provision of this Ordinance.

**Approval Authority:** The Board of Commissioners of the Town of Burgaw or other board or official designated by Ordinance as authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

**Area of Special Flood Hazard:** The land in the floodplain within a community subject to a one percent (1%) or greater chance of being flooded in any year.

**Assembly:** A joining together of completely fabricated parts to create a finished product.

**Assisted Living Home:** A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than nine (9) persons.

**Attached Dwelling Unit for Individual Ownership:** A dwelling unit having a common or party wall with another dwelling unit. Each attached dwelling unit is characterized by its own subdivided lot of record which is conveyed with the dwelling unit when purchased.

**Automobile Off-Street parking (commercial lot):** Any building or premises, except a building or premises described as a private garage, used for the storage of motor vehicles for the public or private businesses.

**Bar:** An establishment used primarily for the service of beer, wine, or liquor by the drink to be consumed on the premises and where food or packaged liquors may be sold only as accessory to the primary use. Interior live entertainment, pool tables, and other indoor recreation are customary accessory uses.

**Base Flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Basement:** For floodplain management purposes, any area of the building having its floor subgrade (below ground level) on at least three (3) sides.

**Bed and Breakfast Inn:** A house, or portion thereof, where short-term lodging rooms and meals are provided; includes boarding homes and tourist homes. The operator of the inn shall live on the premises or in adjacent premises.

**Block:** A piece of land bounded on one or more sides by streets or nodes.

**Board of Adjustment:** A semi-judicial body composed of representatives from the Town of Burgaw, which is given certain powers under and relative to this Ordinance.
**Board of Commissioners:** The Board of Commissioners of the Town of Burgaw.

**Bona Fide Farm:** Any single tract of property or identifiable portion of a single tract being used for bona fide farm purposes as outlined in GS 160A-36, GS 160A-360, and GS 106-581.1. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

A. A farm sales tax exemption certificate issued by the Department of Revenue;
B. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to GS 105-277.3;
C. A copy of the farm owner’s or operator’s Schedule F from the owner’s or operator’s most recent federal income tax return;
D. A forest management plan; and
E. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

**Buffer:** A strip of vegetation or vegetation and fencing meant to provide separation between incompatible adjacent land uses.

**Buildable Acres:** The portion of land that is available to be built on after all rights-of-ways, easements, setbacks, buffers, wetlands, and all other non-buildable areas are deducted from the parcel’s net acreage.

**Buildable Area:** The portion of a lot remaining after required yards have been made.

**Building:** Any structure building for support, shelter, or enclosure for any occupancy or storage.

**Building, Accessory:** See accessory structure.

**Building, Commercial:** Any building used for business purposes.

**Building, Detached:** A building having no party or common wall with another building except an accessory building or structure.

**Building Groups, Planned:** More than one (1) building on single lot or tract, or nine (9) or more dwelling units in a multifamily structure on a single lot or tract.

**Building, Height of:** The vertical distance from the average sidewalk or street grade, or finished grade of the building line, whichever is the highest, to the highest point of the building.

**Building Inspector:** The person, officer, and his authorized representatives, whom the Town Commissioners have designated as their agent for the administration and enforcement of the town building codes and minimum housing code.

**Building Line:** A line parallel to the street right-of-way which intersects the nearest point of the building to the street right-of-way.

**Building Line Minimum:** A line parallel to the street right-of-way which establishes the minimum allowable distance between the nearest portion of any building, excluding the outermost three (3) feet of any uncovered porches, steps, eaves, gutters and similar fixtures, and the street right-of-way line, when measured perpendicularly thereto, such minimum distance
Article 6. Definitions

from the street right-of-way line (being) as specified in Section 8-1: Dimensional Requirements of the Town of Burgaw Zoning Ordinance.

**Building, Main:** A building in which the principal use of the lot on which the building is situated is conducted.

**Building Site:** Any lot, or portion thereof, or two (2) or more contiguous lots, or portions thereof, of a parcel of land upon which a building or buildings may be erected in conformance with the requirements of the Town of Burgaw Zoning Ordinance.

**Caliper:** A standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for up to and including four (4) inches in caliper size, and twelve (12) inches above the ground for larger sizes.

**Central Fire District:** The area established by the following markers, as outlined in Section 6-6 of the Town of Burgaw Code of Ordinances:

A. **Marker 1:** Located in 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:

B. **Marker 2:** Located in the center of Wright Street, 207 feet, westward to:

C. **Marker 3:** Located in the center of Dickerson Street, 207 feet, westward to:

D. **Marker 4:** Located in the center of Dudley Street, 20 feet, southward to:

E. **Marker 5:** Located in the center of the intersection of Satchwell Street, eastward to:

F. **Marker 6:** Located in intersection of Walker Street, northward to:

G. **Marker 1:** The beginning.

**Certificate of Occupancy/Compliance:** A statement, signed by the Building Inspector or his authorized agents, setting forth that the building, structure, or use complies with the zoning ordinance, and that the same may be used for the purpose stated herein.

**Certify:** Whenever this Ordinance requires that some agency certify the existence of some fact or circumstance to the town, the town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the town may accept certification by telephone from some agency when the circumstances warrant it, or the town may require that the certification be in the form of a letter or other document.

**Child Care Home:** A home for not more than nine (9) orphaned, abandoned, dependent, abused, or neglected children, together with not more than two (2) adults who supervise such children, all of whom live together as a single housekeeping unit.

**Child Care Institution:** A institutional facility housing more than nine (9) orphaned, abandoned, dependent, abused, or neglected children.

**Church, Club, or Private Lodge:** An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literacy, political, recreational, or like activities, operated on a nonprofit basis for the benefit of its members, and certified as a nonprofit organization by the Secretary of State of the State of North Carolina.
Article 6. Definitions

**Circulation Area:** That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

**Collocation:** The installation of new wireless facilities on previously approved structures including towers, buildings, utility poles, and water tanks.

**Conditional Use Permit:** A permit issued by the Board of Commissioners that authorizes the recipient to make use of property in accordance with the requirements of the Town of Burgaw Zoning Ordinance as well as any additional requirements imposed by the Board of Commissioners.

**Condominium:** A dwelling unit in which the ownership of the occupancy rights to the dwelling unknit is individually owned or for sale to an individual and such ownership is not inclusive of any land.

**Contractor, General:** One who is engaged in one or more aspects of building construction and/or land development through a legal agreement.

**Contractor, Trades:** One who accomplishes work or provides facilities under contract with another and specifically engages in a specialized trade, such as plumbing, heating, wiring, sheet metal and roofing work, etc.

**Convenience Store:** A one-story, retail store containing less than two thousand (2,000) square feet of gross floor area that is designed and stocked to sell primarily food beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a “supermarket”). It is designed to attract and depends on a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the “Fast Fare,” “7-11,” and “Pantry” chains.

**Coverage:** An area determined in square footage.

**Critical Root Zone (CRZ):** A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree’s survival. The critical root zone is one (1) foot of radial distance for every inch of tree DBH, with a minimum of eight (8) feet or more to the tree’s drip line, whichever is greater.

**Curtain Wall:** A continuous, uniform foundation enclosure constructed of brick or concrete blocks and that is unpierced except for required ventilation and access.

**Day Care Center:** Any child care arrangement that provides day care on a regular basis for more than four (4) hours per day for more than five (5) children of preschool age.

**Dedication:** A gift by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument and is completed with an acceptance.

**Detention Facility:** A structure designed and constructed for the collection and storage of surface water for subsequent gradual discharge.

**Developer:** A person who is responsible for any undertaking that requires a zoning permit, special use permit, conditional use permit, or sign permit.
Development: For floodplain management purposes, any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation or drilling operations; or storage of equipment or materials.

Developmental Purposes: Site preparation for, and construction of, entirely new structures and/or significant extensions to existing structures whether or not the site was previously occupied and any other purposes that would lead to a change of use to a higher impact. For purposes of this section, the following list ranks differing uses from lowest to highest impact: undeveloped, agricultural/forestry, residential, mobile home park, institutional and cultural, commercial, industrial.

Diameter at Breast Height (DBH): The tree trunk diameter measured in inches at a height of four and one-half (4 1/2) feet above the ground.

Dimensional Nonconformity: A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

District: Any section of the Town of Burgaw and its extraterritorial jurisdiction in which zoning regulations are uniform.

Drip Line: A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

Drive-in Facility: An establishment at which employees provide curb service to customers and at which the customer does not customarily leave his vehicle; or accommodations through special equipment or construction from which a person may receive a service or place an order. Self-service gas pumps are excluded from this definition.

Driveway: That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Dwelling: Any buildings or structures (except a mobile home) that either is or is intended to be used for living or sleeping by one or more human occupants.

Dwelling, Multiple Family: A residential building designed for or occupied by two (2) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single Family: A detached building designed for or occupied exclusively by one (1) family.

Dwelling, Two Family (Duplex): A detached residential building containing two (2) dwelling units designed for occupancy by not more than two (2) families.

Dwelling Unit: A room or group of rooms within a dwelling forming a single, independent, habitable unit; containing an independent kitchen, sanitary, and sleeping facilities; and provided such dwelling unit complies with local minimum housing standards.

Easement: A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.
**Elevated Building:** For floodplain management purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, piling, or columns.

**Entertainment Establishment:** A place of business providing a venue for live entertainment including, but not limited to, concert halls, performing arts venues, and live music. This type of use may be either a primary use of a facility, a combined use, or an accessory use. Accessory uses may include offices, concessions, and snack bars. For primary uses, if alcohol is to be served, permits for a bar use must be issued.

**Erect:** Build, construct, rebuild, or reconstruct, as the same are commonly defined.

**Essential Site Improvement:** Any construction or reconstruction of site development features required by local, state, or federal regulation, ordinances, or laws, such as underground drainage, off-street parking, driveways, retention areas, or similar improvements required for the intended use of the site, which cannot be accommodated on the site without removal of regulated trees.

**Event Venue:** A facility for meetings and gatherings, such as reunions, conventions, private parties, and other similar ceremonies.

**Existing Construction:** For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective prior to that date. “Existing construction” may also be referred to as “existing structures.”

**Existing Manufactured Home Park or Manufactured Home Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before October 21, 1996.

**Expansions to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

**Extraterritorial Jurisdiction:** The area beyond the corporate limits within which the planning and zoning regulations of the town apply in accordance with state law. Such area is delineated on the official zoning map for the Town of Burgaw.

**Fabrication:** The processing and/or assembling of various components into a complete or partially completed commodity. Fabrication relates to stamping, cutting, or otherwise shaping the processed materials into useful objects. The refining aspects of manufacturing and other initial processing of basic raw material such as metal ores, lumber, and rubber, etc. are excluded.

**Family:** One (1) or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit; provided that a group of five (5) or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

**Family Care Home:** A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six (6) residents including handicapped and non-handicapped persons.
**Fence:** A continuous barrier constructed of wood, stone, steel, or wire or other similar material.

**Fence, Screen:** A continuous, opaque, imperforated barrier extending from the surface of the ground to a uniform height of not less than eight (8) feet constructed of wood, stone, steel, or similar material.

**Fence, Security:** A continuous barrier extending from the surface of the ground to a uniform height of not less than eight (8) feet constructed of wood, stone, steel, wire, or other similar material.

**Fill:** Any material used to raise the elevation of the surface of the land, excluding the grade base and paving.

**Flea Market:** A commercial operation held on a regular basis and patronized by individual entrepreneurs who transport a variety of merchandise (excluding motor vehicles, motor vehicle parts, tires, and mobile homes) to a common geographical area for the purpose of sale or trade to the general public. This definition does not include sporadic and infrequent yard sales held in residential areas.

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland waters; and

B. The unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Hazard Boundary Map (FHBM):** An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

**Flood Insurance Rate Map (FIRM):** An official map of the community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study:** The engineering study performed by the Federal Emergency Management Agency to identify flood hazard areas, flood insurance risk zones, and other flood data in a community. The study includes Flood Boundary and Floodway Maps (FBFM), Flood Hazard Boundary Maps (FHBM), and/or Flood Insurance Rate Maps (FIRM).

**Floodplain:** Any land area susceptible to be inundated by water from the base flood. As used in this Ordinance, the term refers to that area designated as subject to flooding from the base flood (100-year flood) on the “Flood Boundary and Floodway Map” prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the planning department.

**Floodway:** The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Floor:** The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.
Forestry: The professional practice of embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

Frontage: All property abutting on one side of a street measured along the street line.

G.S.: North Carolina General Statute.

Garage, Private: A building or space used as an accessory to or a part of the main building permitted in any residential district, that provides storage space for motor vehicles and in which no business, occupation, or service for profit is in any way conducted.

Gate: A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier and screen as part of the fence in which it is attached.

Gross Floor Area: The sum of the enclosed area on all floors of a building measured from the outside faces of the exterior walls. It includes any below grade floor areas used for habitation or storage.

Habitable Floor: Any floor for living purposes, which includes working, sleeping, eating, cooking, or recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

Half Street: A street whose centerline coincides with a subdivision plat boundary with one-half (1/2) the street right-of-way width being contained within the subdivision plat. Also, any existing street to which the parcel of land to be subdivided abuts on only one side.

Halfway House: A home for not more than nine (9) persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, eleven (11) of whom live together as a single housing unit.

Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

Home Occupation: Certain nonresidential uses conducted within a dwelling unit that are clearly customary, incidental, and subordinate to the residential use and that are conducted by a residing family member, generally cannot be discerned by the frontage, are seldom visited by clients, and require little parking and no signage. Criteria for the permitting of a home occupation are contained in Section 8-4.

Impervious Cover: Buildings, structures, and other paved, compacted gravel, or compacted areas, which by their nature do not allow the passage of sufficient oxygen and moisture to support and sustain healthy root growth.

Improvements: The addition of any building, accessory building, parking area, loading area, fence, wall, hedge, lawn or mass planting (except to prevent soil erosion) to a lot or parcel of property.

Inspector: The Building Inspector for the Town of Burgaw.

Intensive Livestock Operation: Any enclosure, pen, feedlot, building, or group of buildings intended to be used or actually used to feed, confine, maintain, or stable cattle, horses, sheep,
goats, turkeys, chickens, swine, or any combination thereof, with at any time a total of one hundred (100) animal units or more present, where their dietary needs are met primarily by means other than grazing.

**Internet and Sweepstakes Gaming:** Any business enterprise where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of change, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not value of such distribution is determined by electronic games played or by predetermined odds. This does not include any lottery approved by the State of North Carolina or any nonprofit that is otherwise lawful under state law (e.g. church and civic fundraisers).

**Jail:** A municipal or county operated facility designed for the holding of individuals for trial, contempt, or punishment when the period is not to exceed one hundred eighty (180) days.

**Junk:** Pre-used or unusable metallic parts and other nonmetallic manufactured products that are worn, deteriorated or obsolete, making them unusable in their existing condition, but are subject to being dismantled and salvaged.

**Junk Yard:** Any land or area used, in whole or in part, for commercial storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of scrapped vehicles or machinery and dismantling of such vehicles or machinery.

**Kennel:** A commercial operation that: (a) provides food and shelter and care of animals for purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), or (b) engages in the breeding of animals for sale.

**Level, Floor:** The bottom portion, inclusive of horizontal sills, of the first living floor of a structure intended for occupancy.

**Loading and Unloading Area:** That portion of the vehicle accommodation area used to satisfy the requirements of Article 9. It provides space for bulk pickups and deliveries, is scaled to delivery vehicles, and is accessible to such vehicles at all times even when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

**Lot:** Land area of defined boundaries in single ownership, set aside for separate use or occupancy, and recorded as such in the office of the Pender County Register of Deeds.

**Lot, Area of:** The parcel of land enclosed within the boundaries formed by the property lines, plus one-half (1/2) of any alley abutting the lot between the boundaries of the lot, if extended.

**Lot, Corner:** A parcel of land having frontage on more than one (1) street (road) which abuts an intersection of those streets (roads).

**Lot, Depth:** The depth of a lot is the distance measured in the mean direction of the sidelines of the lot from the midpoint of the front lines to the midpoint of the opposite lot line.

**Lot, Flag:** Lots or parcels with less frontage on a public street than is normally required. The panhandle is an access corridor to lots or parcels located behind lots or parcels with normally required street frontage.

**Lot, Interior:** A lot other than a corner lot with only one (1) frontage on a street.
Lot Line: Any boundary of a parcel of land.

Lot Line, Front:

A. If a lot line has one (1) property line which is coterminous with a street right-of-way line, such line shall constitute the front lot line;

B. If a lot has two (2) property lines which are also street right-of-way lines abutting different streets and those two (2) property (street right-of-way) lines form an angle between eighty (80) degrees and one hundred (100) degrees, then the shorter of those two (2) lines shall constitute the front property line; if both lines are equal, the front property line shall be determined by the property owner if a front property line has not been designated on the final plat (minimum building lines are construed to designate the front lot line);

C. If a lot is not encompassed by provision (a) or (b) and no front property line is designated on the final plat, the front property line shall be designated by the Land Use Administrator.

Lot Line, Rear: The rear lot line shall be the property line(s) which is (are) opposite the front property line. If no property line is deemed by the Land Use Administrator or his authorized agents to be opposite the front property line and no minimum building line exists on the final plat to establish a rear lot line, then there shall be no rear lot line; however, the rear yard setback shall be maintained from the point (apex) on the property’s perimeter which is the furthest removed from the midpoint of the front line. The rear yard minimum building line shall be a line perpendicular to a straight line connecting said apex and the midpoint of the front lot line.

Lot Line, Side: A boundary line which is not defined as front or rear lot line.

Lot of Record: A lot, a plat, or a map which has been recorded in the office of the Register of Deeds of Pender County, or a lot described by metes and bounds, the description of which has been recorded in the aforementioned office.

Lot, Reversed Frontage: A lot on which the frontage is at right angles or approximately right angles (interior angels less than one hundred thirty-five (135) degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot, or a through lot.

Lot, Single-Tier: A lot which backs up on a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

Lot, Through or Double Frontage: A lot other than a corner lot with frontage on one (1) or more streets. Through lots abutting two (2) streets may be referred to as double frontage lots.

Lot Width: The distance between the side property lines along the front minimum building line as specified by the applicable front yard setback in Section 8-I: Dimensional Requirements.

Lowest Floor: For floodplain management and flood insurance purposes, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building’s lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Ordinance.
Article 6. Definitions

Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained herein. “Manufactured home” includes any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq.

Manufactured Home (Mobile Home) Class A: A double- or triple-wide manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

A. The home has a length not exceeding four (4) times its width;
B. The pitch of the home’s roof has a minimum vertical rise of one (1) foot for each five (5) feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction.
C. The exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
D. A continuous permanent masonry foundation, unpierced except for required ventilation and access, is installed under the home; and
E. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

Manufactured Home (Mobile Home) Class B: A single-wide manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a Class A manufactured home.

Manufactured Home (Mobile Home) Class C: Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.

Manufactured Home Lot: A manufactured home lot is a piece of land within a manufactured home park whose boundaries are delineated in accordance with the requirements of the Ordinance.

Manufactured Home Park: Any single parcel of land upon which three (3) or more manufactured homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodations. Manufactured home parks are referred to in this Ordinance as “MH Park(s).”
Manufactured Home/Recreational Vehicle Space: A plot of land within a MH/RV park designed for the accommodation of a single manufactured home/recreational vehicle in accordance with the requirements set forth in this section.

Manufactured Home/Recreational Vehicle Stand: That portion of the manufactured home/recreational vehicle space designed for and used as the area occupied by the MH/RV proper.

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentations, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Mean Sea Level: For purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a FIRM are referenced.

Modular Home: A dwelling unit constructed in accordance with the standards set forth in the state or local building code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a manufactured home except that the modular home meets the state or local building code applicable to site-built homes, or a series of panels or room sections transported on a truck and erected or joined together on the site.

More Intensive Use: A use that will have a greater impact on the surrounding area than the previous use, including activities that will generate more traffic, require more employees or service deliveries, or utilize more square footage than the previous use existing on the site.

Multifamily Development: A single building on a single lot or tract containing more than two (2) dwelling units.

New Construction:

A. Any development occurring on property utilized for governmental, commercial, or residential subdivision purposes for which a building permit is required.

B. For floodplain management purposes, structures for which the “start of construction” commenced on or after the effective date of this Ordinance and includes an subsequent improvements on such structures.

C. For landscaping purposes, site preparation for, and construction of, entirely new structures and/or significant extensions to existing structures whether or not the site was previously occupied.

New Manufactured Home Park: A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs) is completed on or after October 21, 1996.
Article 6. Definitions

**Nonconforming Building or Use:** Any legally existing building or use which fails to comply with the provisions of the Ordinance.

**Nursing Care Institution:** Any institutional facility maintained for the purpose of providing skilled nursing care and medical supervision to nine (9) or more persons at a lower level than that available in a hospital.

**Office, General:** An establishment primarily engaged in the day-to-day administrative or clerical services for businesses or other organizations, with little to no walk-in traffic from the general public.

**Official Maps or Plans:** Any maps or plans officially adopted by the Town of Burgaw Board of Commissioners.

**Open Space:** An area (land and/or water) generally lacking in manmade structures and reserved for the enjoyment of residents of a Planned Unit Development or other group project. Common open spaces may contain accessory structures and improvements necessary or desirable for religious, educational, non-commercial, recreational, or cultural uses.

**Open Storage:** The keeping of any goods, junk, material, merchandise, or vehicles in the same place (yard) for a period of more than twenty-four (24) hours in an unroofed area. This definition does not include the temporary display of merchandise during normal business hours associated with a permitted commercial business.

**Outside Storage:** Storage areas outside of an enclosed building with a roof or overhang to protect stored items.

**“Park Model” Recreational Vehicle:** A manufactured home typically built in accordance with the construction requirements of HUD National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. but because of their limited size they are not required to be labeled by the HUD manufactured housing program. Since these park model type units are not under the jurisdiction of the HUD program, they are labeled and sold as recreational vehicles.

**Parking Area, Aisles:** A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

**Parking Space, Off Street:** For the purpose of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

**Perimeter Landscape Strip:** A planted strip of land having a minimum width of five (5) feet adjacent to and encircling a parking facility.

**Person:** An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

**Planned Building Group:** Planned Building Groups include

- **A.** Residential projects containing nine (9) or more attached dwelling units;
- **B.** All new commercial and/or institutional projects or expansions of existing commercial and/or office-institutional buildings located in the B-1 zoning district;
Article 6. Definitions

C. A commercial and/or office-institutional project located within an O&I, PUD, B-1, or B-2 zoning district involving the construction of a building greater than seven thousand (7,000) square feet;

D. A commercial and/or office-institutional project within an O&I, PUD, B-1, B-2, zoning district involving the construction of more than one (1) building; or

E. A manufactured home park.

Planned Unit Development (PUD): A development constructed on a tract of at least twenty-five (25) acres under single ownership, planned and developed as an integral unit, and consisting of a combination of residential and nonresidential uses on land within a PUD district in accordance with Section 3-7.

Planning Board: A commission appointed by the Town Board of Commissioners and by the Pender County Commissioners for the following purposes:

A. To develop and recommend long-range development plans and policies;

B. To advise the Town Board of Commissioners in matters pertaining to current physical development and zoning for the town’s planning jurisdiction.

Planting Strip or Area: A ground surface free of concrete, asphalt, stone, gravel, brick, or other paving material, aside from walkways, which is required or used for landscaping purposes.

Plat: A map or plan of a parcel of land which is to be, or has been, subdivided.

Private Driveway: A roadway serving two (2) or fewer lots, building sites, or other divisions of land and not intended to be public ingress or egress.

Private Street: An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. 136-102.6.

Processing: Any operation changing the nature of a material or a material’s chemical composition or physical properties; does not include operations described as fabrication.

Property Clearing: The removal of regulated trees from undeveloped property for the purpose of timber sales, value enhancement, or other nondevelopmental purposes.

Protected Tree: An individual tree having special regulatory procedures for removal on public or private property under development. Protected trees include all tree on public property, regulated trees as defined by this ordinance, and specimen trees as defined by this ordinance. Protected trees can include individuals or all individuals in a stand on a construction site designed to be preserved on the required landscape plan.

Pruning Standards: Generally accepted standards for pruning as defined in the current edition of Pruning Standards by the American Society of Consulting Arborists.

Public Sewage Disposal System: A system serving two (2) or more dwelling units and approved by the Pender County Health Department and the North Carolina Department of Environment and Natural Resources, Environmental Management Division.

Reasonable Accommodation: An exception to rules, policies, practices, or services, when such accommodations are necessary to afford persons with disabilities, as defined by the Fair Housing Act and/or Americans with Disabilities act, equal opportunity to use and enjoy a dwelling or access a structure.
**Recreation Area or Park:** An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

**Recreation Center:** A place of business providing regularly scheduled recreation or entertainment activities including, but not limited to, skating rinks and bowling alleys. For primary uses, if alcohol is to be served, permits for a bar use must be issued.

**Recreational Vehicle:** A recreational vehicle is a vehicle with is: (a) built on a single chassis; (b) self-propelled or permanently towable by a light duty truck; and (c) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational camping, travel, or seasonal use. Recreational vehicles must be ready, willing and able to move off-site within 48 hours. When a recreational vehicle is located within a special flood hazard area, the local Flood Prevention Ordinance must be met. Recreational vehicles include “park model” recreational vehicles as defined by this Ordinance.

**Recreational Vehicle Parks:** Any single parcel of land upon which two (2) or more recreational vehicles, occupied for sleeping purposes, are located regardless of whether or not a charge is made for such purposes. Recreational Vehicle Parks are referred to in this Ordinance as “RV Park(s).”

**Regulated Tree:** The subsurface roots, crown, and trunk of:

A. Any self-supporting wood perennial plant such as a large shade or pine tree, which usually has one main stem or trunk, and has a DBH as follows:
   a. Hardwood trees—eight (8) inches, such as oak, maple, etc.
   b. Pine trees—twelve (12) inches, such as a long leaf pine

B. Any small flowering tree, such as dogwood, with a measured caliper of at least four (4) inches, measured at six (6) inches above the root collar.

C. Any tree having several stems or trunks, such as crape myrtle, and at least one defined stem or trunk with a measured caliper of at least two (2) inches, measured at six (6) inches above the root collar.

**Remedy a Violation:** To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

**Remove (including removing and removal):** The cutting down of any live or dead regulated tree and all other acts which cause the death or destruction of any regulated tree.

**Repossession Services.** This use category covers repossession of passenger motor vehicles only; no repossession of commercial vehicles or planes allowed. No junked vehicles or tow truck parking allowed. This use category is not inclusive of motor vehicle towing, wrecker services, or other uses included in the Table of Permitted Uses.

**Reservation:** A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.
Article 6. Definitions

**Retail:** Sale of a commodity, [the sale being] to the ultimate consumer and [the commodity being] not customarily subject to sale again.

**Retention Pond Facilities:** A permanent structure that provides for the storage of runoff and is designed to maintain a permanent pool of water.

**Right-of-Way:** The property located within and adjoining the streets, roads, and highways within the town which rights-of-way are owned by the town or state or otherwise maintained by the town or the state.

**Roof:** A system designed to provide weather protection and resistance to design loads. The system may consist of two (2) components, roof cover and roof deck, or a single component serving as both the roof covering and the roof deck. The roof covering provides the weather protection and the roof deck provides the structural support for the design loads.

**Salvage Operation:** The reclamation, dismantling, or storage of pre-used commodities, junk and similar material for the purposes of resale, processing, distribution or deposition.

**School:** Any public or private institution for the teaching of children.

**Screening:** The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, vegetation, or other natural or man-made visual barriers.

**Service Station:** A building or lot dedicated to the rendering of automotive services such as the sale of gasoline, oil, grease, and accessories and the minor repair of automobiles such as tune-ups, brake adjustments, overhauling, and tire changes, excluding body work and painting.

**Setback:** The minimum required distance existing between the abutting street right-of-way line (if no street right-of-way line is involved, the subject property line) and the minimum building line as specified in Section 8-1: Dimensional Requirements.

**Sexual Encounter Establishment:** An establishment other than a hotel, motel, or similar establishment offering public accommodations which, for any form of consideration, provides a place where two (2) or more persons may congregate, associate, or consort in connection with specified sexual activities. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

**Sexually Oriented Business:** Any business activity, club, or other establishment within which the exhibition, showing, rental, or sale of materials distinguished or characterized by an emphasis on material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is permitted. Regulated businesses shall include, but are not limited to: adult arcades, adult bookstores, adult motion picture theaters, adult theaters. Specified sexual activities, massage parlors, and adult cabarets are prohibited.

**Sign:** Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names, or trademarks by which anything is made known, such as the designation of an individual, firm, association, profession, business commodity, or product, which are visible from any public way and used to attract attention.

**Sign, Area:** The surface area of a sign shall be computed as including the entire area visible from any one point, within a regular geometric form or combinations of regular geometric forms
comprising all of the display area of the sign including latticework, wall work, and individual letters and spaces between letters comprising part(s) of the sign. Computations of sign area shall include only one side of a double-faced sign structure. If a sign has two (2) sides joined at an angle of greater than sixty (60) degrees, the surface of both sides of the sign shall be included in the computation of area.

**Sign, Business Identification:** Any sign which advertises an establishment, service, commodity, or activity conducted upon the premises where such sign is located.

**Sign, Freestanding:** A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign. A sign that stands without supporting elements, such as a “sandwich sign,” is also a freestanding sign.

**Sign, Off-Premises:** A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.

**Sign, Outdoor Advertising:** Any sign which advertises an establishment, service, commodity, goods, or entertainment sold or offered on premises other than that on which such sign is located.

**Sign, Portable:** Any sign not exceeding fifty (50) square feet in billboard area and not permanently attached to the property on which it is located.

**Sign, Temporary:** A display, information sign, banner, or other advertising device constructed of cloth, canvas, fabric, wood, or other temporary material, with or without a structural frame (including banners), and intended for a limited period of display, including decorative displays for holidays or public demonstration.

**Site Specific Development Plan:** A plan of development submitted to the town to obtain one of the following zoning or land use permits or approvals:

- A. Final Subdivision Plat,
- B. Conditional Use Permit,
- C. Planned Unit Development Plan, or
- D. Special Use Permit

Notwithstanding the foregoing, a document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall not constitute a site specific development plan.

**Skirting:** A continuous, uniform foundation enclosure constructed of vinyl, or metal fabricated for such purpose, and this is unpierced except for required ventilation or access.

**Solar Energy System (SES):** The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

**Solar Farm:** A solar energy system that generates electricity from sunlight to a wholesale electricity market through a regional transmission organization and an interconnection with the local utility.
power grid and/or for direct distribution to more than one property or consumer as a commercial venture.

**Specified Anatomical Area:** As used herein, specified anatomical areas means and includes any of the following: (a) less than completely and opaquely covered human genitals, public region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or (b) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified Sexual Activities:** As used herein, specified sexual activities means and includes any of the following: (a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (b) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (c) masturbation, actual or simulated; or (d) excretory functions as part of or in connection with any of the activities set forth in subdivisions (a) through (c) of this definition.

**Specimen Tree:** Any healthy, living tree that:

A. Is a particularly impressive or unusual example of a species due to size, shape, age, or any other trait that epitomizes the character of that species as identified by a current Tree Board inventory, or

B. Has a trunk diameter at breast height (DBH) of six (6) inches or more in the case of the following species: Magnolia species, Oak (*Quercus* species), and Pecan (*Carya illinoensis*).

**Start of Construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**Storage:** A deposition of commodities or items for the purpose of future use or safekeeping.

**Storage, Self-Service:** A building consisting of individual, small, self-contained units that are leased or owned for the storage of goods and wares.

**Street:** A public thoroughfare which affords access to abutting property and is recorded as such in the office of the Pender County Register of Deeds. The following classifications apply:

A. **Major Thoroughfares:** Major thoroughfares consist of interstate, other freeway and expressway links, and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.
B. **Minor Thoroughfares:** Minor thoroughfares are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.

C. **Residential Collector Street:** A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from one hundred (100) to four hundred (400) dwelling units.

D. **Local Residential Street:** Cul-de-sacs, loop streets less than twenty-five hundred (2,500) feet in length, or streets less than one (1) mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than one hundred (100) dwelling units.

E. **Cul-De-Sac:** A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided. A cul-de-sac shall not exceed seven hundred fifty (750) linear feet in length.

F. **Frontage Road:** A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

G. **Alley:** A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

**Street Yard:** The area of a parcel immediately adjacent to a street right-of-way designed to provide continuity of vegetation adjacent to the right-of-way and to soften the impact of development by reducing glare and reflective and visual clutter.

**Structure:** For floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, or other manmade facility or infrastructure that is principally above ground.

**Subdivider:** Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision:** All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development, and all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

A. the combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards contained herein;

B. the division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;

C. the public acquisition by purchase of strips of land for the widening or opening of streets;

D. the division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved an where the resultant lots are equal to or exceed the standards contained in Section 8-1 of this Ordinance.
**Subdivision, Major:** All subdivisions shall be considered major subdivisions except those defined as minor subdivisions.

**Subdivision, Minor:** A minor subdivision is a tract to be subdivided which is five (5) acres or less in size and five (5) or fewer lots result after subdivisions:

A. all of which front on an existing approved street;

B. not involving any new public streets, right-of-way dedication, or prospectively requiring any new street for access to interior property;

C. not requiring drainage improvements or easements, other than rear and side lot line easements as required by Section 8-1, to serve the applicant’s property or interior properties;

D. not requiring any utility extensions; and

E. not requiring any easements, other than rear and side lot line easements as required by Section 8-1.

**Substantial Damage:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its undamaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. See definition of “substantial improvement.”

**Substantial Improvement:** Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either (a) any project to improve a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (b) any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

**Substantially Improved Existing Manufactured Home Park:** Repair, reconstruction, rehabilitation, or improvement of the streets, utilities, and pads which equals or exceeds fifty percent (50%) of the value of the streets, utilities, and pads before the repair, construction, or improvement commenced.

**Temporary Structure:** A prospective structure, intended for limited duration, to be located in the floodplain overlay district, for which a plan meeting the requirements of Section 14-17 has been approved by the Land Use Administrator.

**Tower:** A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities; this term is synonymous with *wireless support structure*.

**Town:** The Town of Burgaw, North Carolina.

**Townhome:** A dwelling unit having a common or party wall with another dwelling unit. Each townhome has its own subdivided lot of record, which is conveyed with the dwelling unit when purchased.
Tract: A tract is a piece of land whose boundaries have been described or delineated by a legal instrument or map recorded in the office of the Pender County Register of Deeds.

Tree Board: A commission created pursuant to Town of Burgaw Ordinance, Chapter 34.

Tree Protection Zone: Those areas designated for the protection of both preserved and planted trees depicted on the required landscape plan.

Use: The purpose for which land or structure thereon is designed, arranged, or intended to be occupied or used, or for which it is occupied, maintained, rented, or leased.

Use, Accessory: A use incidental to and customarily associated with the use-by-right and located on the same lot with the use-by-right, and operated and maintained under the same ownership with the operation of the use-by-right.

Use-By-Right: A use which is listed as an unconditionally permitted activity in this Ordinance.

Use, Nonconforming: A use of building or land that does not conform with the regulations of the district in which the building or land is situated.

Use, Non Farm: Any use of property which is not encompassed by the definition of a farm as so defined in this Ordinance.

Variance: A grant of relief to a person from the requirements of this Ordinance which permits construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

Violation: Failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in Article 14 is presumed to be in violation until such time as that documentation is provided.

Visible: Capable of being seen without visual aid by a person of normal visual acuity.

Warehouse: A building or compartment in a building used and appropriated by the occupant for the deposit and safekeeping or selling of his own goods at wholesale and/or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade to be again removed or reshipped.

Wholesale: Sale of a commodity for resale to the public for direct consumption.

Wine Shops: An establishment engaged in selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tasting, classes, and seminars about the selection, serving, and storing of wines and includes the sale of malt beverages and unfortified wine for consumption on the premises in accordance with a wine shop permit issued by the state Alcoholic Beverage Control Commission.

Wireless Telecommunications Facility: A structure, facility, or location designed or intended to be used as, or to support, antennas or other transmitting or receiving devices. This includes without limit, towers of all types, kinds, and structures, including but not limited to buildings, church steeples, silos, water towers, signs, or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters, and other structures associated with the site.
Yard: A required open space unoccupied and unobstructed by a structure or portion of a structure; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, Front: The space on the same lot with the principal building between the building (exclusive of steps) and the front property or street right-of-way line and extending across the full width of the lot.

Yard, Rear: An area extending across the full width of the lot and lying between the rear lot line, and a line parallel thereto at a distance therefrom as required in the applicable district.

Yard, Side: An area extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and a line parallel thereto and a distance therefrom as required in the various districts.

Zoning Compliance: A certification by the Land Use Administrator or his authorized agent(s) that a course of action to use or occupy a tract of land or a building, or to erect, install, or alter a structure, building, or sign situated in the extraterritorial jurisdiction of the town, fully meets the requirements of this Ordinance.

Zoning Vested Right: A right pursuant to N.C.G.S. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.
Part 2. Zoning Districts and Uses

Article 7. Zoning Districts Established

Chapter I. Zoning Districts

For the purpose of this Ordinance, the Town of Burgaw and its extraterritorial jurisdiction is divided into the following classes of zones.

Section 7-1: Conventional Zoning Districts

A. RA Rural-Agricultural District. The purpose of this district shall be to maintain a compatible mixture of single-family residential and agricultural uses with a maximum density of one (1) dwelling unit per acre. The regulations of this district are intended to discourage any use which, because of its character, would substantially interfere with the development of residences and which would be detrimental to the quiet residential nature of the areas included in this district. No RA district shall be less than ten (10) acres in area.

The Rural-Agricultural District is intended primarily for traditional agricultural use, preservation of natural areas, recreation space, and low density residential uses, as well as non-residential uses that are associated with, accessory to, or supplemental to typical agricultural uses. This district is not typically served by public water and sewer facilities.

B. R-20 Residential District. The R-20 Residential District is established as a district in which the principal use of land is for low-density residential uses. No R-20 district shall be less than five (5) acres in size. This district may be served by public water and sewer facilities.

C. R-12 Residential District. The R-12 Residential District is established as a district in which the principal use of land is for residential purposes. No R-12 district shall be less than four (4) acres in area. This district may be served by public water and sewer facilities.

D. R-7 Residential District. The R-7 Residential District is established as a higher density residential district in which single family, two-family (duplex), and multi-family dwellings are allowed. No R-7 district shall be less than ten (10) acres in area. This district may be served by public water and sewer facilities.

E. R-7 MH Residential Manufactured Home District. The R-7 MH Residential Manufactured Home District is defined as a higher density residential district encompassing individual manufactured homes and conventional single-family dwellings and additional open areas where similar residential development will be a viable land use. The uses permitted in this district are design to stabilize and protect the essential character of the area and to prohibit all activities of a commercial nature except certain home occupations controlled by specific limitations as outlined in this ordinance. No R-7 MH district shall be less than ten (10) acres in area.
F. **O&I Office and Institutional District.** The O&I Office and Institutional District is defined as certain land uses with structures that provide office space for professional services and for certain institutional functions and residential accommodations, usually medium or high-density in nature. This district is usually transitional in nature and as such may be situated between business and residential districts, and the regulations are designed to permit development of the permitted functions and still protect and be compatible with nearby residential districts. Although the primary role of this district is to provide office space for professional services and/or certain institutional uses as designated in Section 8-2 of this Ordinance, both multi-family and single family may be allowed. All O&I Office and Institutional Districts with a total area of less than four (4) acres shall serve as transitional zones between high intensity and low intensity land uses.

G. **B-1 Central Business District.** The B-1 Central Business District is intended to provide for concentrated development of appropriate uses within the central portion of Burgaw with emphasis on large scale stores and specialized shops serving a retail trading area. Any use which would hinder the pedestrian orientation of the area is prohibited. The B-1 Central Business District shall encompass the central fire district as described in Section 6-6 of the Town of Burgaw Code of Ordinances as well as some of the immediate residential and commercial uses in the National Register Historic District.

H. **B-2 Highway Business District.** The B-2 Highway Business District is defined as certain areas that are designed to serve both nonresidents and transients using the major arterials that run through or around the town. This district is intended to provide for a wide range of commercial uses which will serve the needs of the community as a whole. The district shall be located along the US Highway 117 Bypass and NC Highway 53 thoroughfares. All uses within this district should have ample parking, controlled traffic movement, and suitable landscaping. It is designed to accommodate retail or service establishments customarily patronized by transient traffic as well as non-transient traffic. No B-2 district shall be less than four (4) acres in area.

I. **I-1 Light Industrial District.** The I-1 Light Industrial District is intended to provide for industrial and other uses which would not be inherently obnoxious and yield only very minimal noise, odor, smoke, light, vibration, dust, or the use of dangerous chemicals and/or materials. Adequate buffering between uses within the district and other bordering districts will be required. The array of permitted uses is limited to support the environmental protection of the district and the surrounding areas of Burgaw. No I-1 district will be less than ten (10) acres in area.

J. **I-2 Heavy Industrial District.** The I-2 Heavy Industrial District is defined as an area where the widest spectrum of industrial uses may be developed. This district is customarily located in proximity to railroad sidings and/or major thoroughfares. The purposes of this district is to provide for major industrial development and operation. Only uses which would not be inherently obnoxious and yield only reasonable levels of noise, odor, smoke, light, vibration, dust, or the use of dangerous chemicals and/or materials are allowed. Adequate buffering between uses within the district and other bordering districts will be required. No I-2 district shall be less than ten (10) acres in area.
Section 7-2: Overlay Zoning Districts

Overlay zoning districts are special zoning area in which requirements are imposed in addition to the basic or underlying zoning district requirements.

A. C/P Conservation/Preservation District. The intent of the Conservation/Preservation (C/P) zoning district is to preserve and control development within certain land/or water areas of the Town of Burgaw which have any of the following characteristics:
   a. Serve as a wildlife refuge;
   b. Possess great natural beauty;
   c. Are utilized for outdoor recreational purposes;
   d. Provide needed open space for the health, safety, and general welfare of the town’s inhabitants;
   e. Are environmentally sensitive; or
   f. Provide essential drainage and/or watercourse buffering.

Uses in this district shall be restricted so as to not destroy or impair the natural flora, fauna, watercourses, or topography of the area.

The regulations which apply within the district are designed to reserve such areas for the purpose outlined and to discourage any encroachment by dense residential, commercial, industrial, or other uses capable of adversely affecting the relatively undeveloped character of the district.

B. GA Gateway Overlay District. The purpose of this district is to provide for architectural and site design features that will notify through-travelers that they are entering a community environment and transition from highway commercial and rural areas to residential and historic areas.

Section 7-3: Floating Zoning Districts

Floating zoning districts are a special kind of zoning district not applied to the zoning map unless requested by the applicant.

A. PUD Planned Unit Development District. The PUD Planned Unit Development District is a mixed use district that may only be developed in conformance with an approved Master Development Plan for a specific planned unit development. The purpose of a PUD district is to encourage the orderly integration of residential development, open space land uses, and in some cases, commercial non-residential development that conforms to the design requirements contained herein. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. A PUD district shall not be used as a means of circumventing the town’s adopted land development regulations for routine developments. This district may be served by public water and sewer facilities. No PUD district shall be less than twenty-five (25) acres in area.

B. Parallel Conditional Zoning (CZ) Districts. These zoning districts provide for those situations where a particular use, properly planned, may be appropriate for a particular
site but where the general district has insufficient standards to mitigate the site-specific impact on surrounding areas. Uses that may be considered for a parallel zoning district are restricted to those uses permitted in the corresponding general zoning district. No uses shall be permitted except those authorized by the Conditional Zoning District. All procedures for conditional zoning districts can be found in Section 3-6.

Parallel Conditional Zoning Districts are as follows: RA-CZ, R20-CZ, R12-CZ, R7-CZ, R7MH-CZ, O&I-CZ, B1-CZ, B2-CZ, I1-CZ, I2-CZ

C. PD-CZ Planned Development District. The PD-CZ Planned Development District is a conditional zoning district subject to the rezoning procedures outlined in Section 3-6. The purpose of the PD-CZ zoning district is to allow innovative land use and design for unified non-residential developments that would not otherwise be permitted under this Ordinance. This district encourages innovation by allowing flexibility in permitted use, design, and layout requirements in accordance with a Master Development Plan.

PD-CZ districts may include no more than one tract, and recombination of multiple tracts may be required for final zoning approval. Uses that may be considered for a PD-CZ zoning district may not include those listed in Section 8-2 as being allowed only in the I-1 and/or I-2 zoning districts or Intensive Livestock Production.

Chapter II. Official Zoning Map

Section 7-4: Zoning Map is a Part of this Ordinance

The planning area is hereby divided into districts whose locations and boundaries are shown on the official zoning map for the Town of Burgaw, which is hereby adopted by reference and declared to be a part of this Ordinance.

The map shall be identified by the signature of the Mayor, attested to by the Town Clerk, and bearing the official seal of the Town of Burgaw under the following words: “This is to certify that this is the official zoning map referred to in Article 7, Chapter II of the Unified Development Ordinance for the Town of Burgaw, North Carolina.” The date of adoption and subsequent amendments shall also be shown.

Section 7-5: Replacement of the Official Zoning Map

In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret, the Board of Commissioners may, by ordinance, adopt a new official zoning map which shall be the same in every detail as the map it supersedes. The new map shall bear the seal of the town under the following words: “This is to certify that this official zoning map supersedes and replaces the official zoning map adopted and referred to in Article 7, Chapter II of the Unified Development Ordinance for the Town of Burgaw, North Carolina.” The date of adoption of the new official zoning map shall also be shown.

Section 7-6: Maintenance of the Official Zoning Map

Upon notification by the Board of Commissioners that a zoning changes has been made, the town manager shall cause to be made the necessary changes on the official zoning map within
fourteen (14) calendar days of notification. The planning director shall be responsible for the maintenance and revision of the official zoning map after being notified by the town manager.

**Section 7-7: Interpretation of Zoning District Boundaries**

A. **Streets, rights-of-way, and easements.** Unless otherwise specifically indicated, where district boundaries are indicated on the zoning map as approximately following the centerline of a street, highway, railroad right-of-way, utility easement, stream or riverbed, or of such lines extended, then such lines shall be construed to be such district boundaries.

B. **Lot lines.** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. **Corporate Limits.** Boundaries indicated as approximately following the corporate limits shall be construed as following the corporate limits.

D. **Property divisions.** If a district boundary divides a lot, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot; provided, that such extension shall not include any part of such lot which lies more than one hundred (100) feet beyond the district boundary; and further provided, that the remaining parcel shall not be less than the minimum required for the district in which it is located.

E. **Vacation and abandonment.** Where any public street or alley is hereafter officially vacated or abandoned, the regulations applicable to parcels abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

F. **Further interpretation.** In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.
### Article 8. Zoning District Regulations

**Section 8-1: Dimensional Requirements**

Table of Area, Yard, and Height Requirements\(^{1,2,3,16}\)

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<th>MINIMUM YARD REGULATIONS (^{1-9})</th>
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<td>Area in Square</td>
<td>Square Feet per Dwelling Unit</td>
<td>Frontage in Feet (^{10})</td>
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<td>Two-Family</td>
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<td>Multi-Family</td>
<td>8,000 for the first two dwelling units and 2,000 for each additional dwelling unit to a maximum of 12 per acre</td>
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<td>O&amp;I Office and Institutional</td>
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<td>B-1 Central Business</td>
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<td>B-2 Highway Business</td>
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<td>I-1 Industrial (^{15})</td>
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<td>I-2 Industrial</td>
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<td>Office and Warehouse Structures</td>
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<td>FP Floodplain</td>
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\(^{1}\)Exceptions. Conditional use permit requirements and the regulations of other portions of this ordinance (including those for planned building groups and residential cluster developments) shall take precedence over area, yard, and height requirements as set forth in this section. The
Planning Administrator may also make minor exceptions to encroachment into required setbacks for handicap accessibility features if no more significant than those allowed by administrative variance or listed as miscellaneous exceptions below.

2 **Administrative Variance Due to Human Error.** If the Planning Administrator finds that any minimum dimensional requirement, including height of structure, specified in this section has not been specifically adhered to but that such deviation was the result of a good faith error and that said error would not adversely impact an adjoining property, they may permit a dimensional deviation up to and including one (1) foot. A combined total of one (1) foot can be granted for the front and rear yards, and a combined total of one (1) foot can be granted for both side yards.

3 **Requirements for Certificates of Occupancy.** The Building Inspector shall not issue a final Certificate of Occupancy for any structure or activity until the Planning Administrator has made a determination that the structure and site are in compliance with the requirements of this Ordinance.

4 **Minimum Yards.** The minimum yards or other open spaces required by this ordinance, including those provisions regulating intensity of use, for each and every building hereafter erected or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements or the intensity of use provisions for any other building.

5 **Miscellaneous Exceptions.**

A. Steps, fire escapes, stairways, balconies, and chimneys may only project a maximum of four (4) feet into any required setback, and an enclosed porch may project into the required rear yard no more than ten (10) feet.

B. Sills, cornices, buttresses, ornamental features, and similar items may project into a required yard no more than thirty (30) inches.

C. Carports open on three (3) sides may encroach on a side yard to a distance of not less than five (5) feet from a side lot line, except on the street yard side of a corner lot where the setback shall be one-half (1/2) of the distance of the required front yard setback up to a maximum of twenty (20) feet.

D. Storage areas may be constructed across the rear of a carport open on three (3) sides that encroaches on a side yard, provided such storage area shall not contain more than seventy-two (72) square feet nor constitute more than eighteen percent (18%) of the area contained in the carport, whichever is less.

E. When the adjacent lots of record are under single control by a lease agreement or combination of ownership and lease agreement, temporary structures such as manufactured homes, manufactured offices, utility buildings, accessory buildings, etc. may extend over across any common lot line(s) of the adjacent lots of record under such lease agreement. The location of such structures shall not conflict with any off-street parking requirements, on-site traffic circulation, or other applicable regulatory codes. Upon the expiration of the lease agreement or sale of one of the lots, such structures must be moved to conform to the standard side or rear yard setback of the district within sixty (60) days of the expiration of the lease agreement or change in ownership.

6 **Fences and Walls.**
A. **Fences.** A fence is any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land. Fences not exceeding a height of six (6) feet to be erected only in side or rear yards shall be exempt from the yard and building setback requirements of this Ordinance, provided that no fence exceeding a height of four (4) feet will be constructed within fifteen (15) feet of any street right-of-way. In all cases, the corner visibility provisions of this Ordinance shall be observed.

All front yard fences or walls for a residential use and fences along any street right-of-way shall be constructed of wood, stone, brick, decorative concrete block, wrought iron, products created to resemble these materials, or a combination of any of these materials. In addition, no front yard fence or wall for a residential use shall exceed four (4) feet in height. Front yard fences for commercial uses are not allowed without a conditional use permit. A fence is considered to be a front yard fence if it extends beyond the front corner of the primary structure.

Only conforming industrial and business lands (with the exception of an O&I zone) may have a solid or open fence or wall erected to a maximum height of ten (10) feet except as required by this Ordinance. An open fence or wall is one that has openings through which clear vision is possible from one side to the other on a horizontal plane, and such openings occupy fifty percent (50%) or more of the area of the fence or wall. A fence or wall that does not qualify as an open fence or open wall shall maintain a setback at entrances and exits of the site to provide an adequate sight distance easement as determined by the establishment of an isosceles triangle having legs of thirty-five (35) feet in length on each corner side of said entrance or exit. The same sight distance easement shall be applied to the corner of nonresidential lots that are characterized by a street intersection.

Licensed daycare centers and public and private schools are exempt from these requirements, provided that no fence exceeds six (6) feet in total height in the front, rear, or side yards. The fence shall be constructed of chain link or similar material to maintain visibility of the property for security reasons.

B. **Retaining Walls.** The setback and yard requirements of this Ordinance shall not apply to a retaining wall not more than five (5) feet high, as measured from the lowest ground elevation to the top of the wall. The Planning Administrator may permit a retaining wall greater than five (5) feet high when he/she finds that due to the topography of the lot such a wall is necessary.

7**Accessory Buildings.** Detached garages and accessory buildings no larger than five hundred (500) square feet in size may be constructed in the rear yard provided that they are located no closer than five (5) feet to any adjoining lot line, except on the street side yard of a corner lot where the setbacks shall be one-half (1/2) of the distance of the required front yard setback up to a maximum of twenty (20) feet. Accessory structures that are larger than five hundred (500) square feet must meet applicable setbacks as stated in the Table of Area, Yard, and Height Requirements.

8**Canopies.** Any non-residential land use that incorporates a canopy that is totally or partially supported by a structural pillar (upright support) such as, but not limited to, canopies over gasoline pumps, said canopy may extend to the street right-of-way line, or property line of a non-residentially used or zoned property if no street right-of-way line is involved, provided that each
pillar is located at least ten (10) feet from a property line and the canopy is open on all four (4) sides. Any side of a canopy may be enclosed provided that side meets the required yard setbacks. The canopy roof shall be located horizontally and vertically at least twelve (12) feet from any electrical conductor (line).

9**Foundation Survey.** All residential, commercial, or industrial structures built within the town limits or extraterritorial jurisdiction that have a setback of less than twice the required distance as stated in the Table of Area, Yard, and Height Requirements shall require a foundation survey after the foundation is complete. The foundation survey is required for all permanent principle and accessory structures that are greater than five hundred (500) square feet.

All required surveys shall be prepared by a professional land surveyor and must depict the footprint of the structure, lot boundaries, and distance from the structure to the lot boundaries. A copy of the survey must be provided to the Planning Administrator within twenty-one (21) days after the foundation is completed, or the Town of Burgaw Inspections Department may issue a stop-work order. All mobile homes subject to these requirements shall have fourteen (14) days after the home is set on the site in its permanent location.

**Exemptions to Survey Requirements** A foundation survey will not be required in the following circumstances:

A. For a structure erected on a bona fide farming operation

B. For individual mobile homes located in a mobile home park

C. For structures when the approved site plan shows the setbacks to be double those required by this ordinance and a building inspector upon visit to the site can observe and confirm that the structure has been located as shown on the site plan. The inspector shall verify his operations by providing a signed copy of the site plan or permit for the structure to the Planning Administrator.

10**Cul-de-Sac Frontage.** The frontage restriction for all residential and O&I lots whose nearest point is no farther (measured in feet) than the radius of the vehicular turnaround of the cul-de-sac from the geometric center of the vehicular turnaround of the cul-de-sac shall be forty (40) feet. However, the lot width at the building line must be one hundred (100) feet for RA and R-20 lots, seventy-five (75) feet for R-7 lots, and seventy (70) feet for R-12, R-7MH, and O&I lots.

11**Front Yard Setbacks for Prior Lots of Records.** If a vacant lot is adjacent to a lot where an existing building is located which is constructed less than the required minimum front yard setback, the required minimum front yard setback for the vacant lot shall not be less than the existing front yard setback for the adjacent dwelling. In cases where existing buildings are located on both sides of the vacant lot and each is constructed less than the required minimum front yard setback, the required minimum front yard setback for the vacant lot shall not be less than the average front yard setback for the two (2) existing buildings.

12**Corner Lots.** Relative to a corner lot, a side yard setback consisting of one-half (1/2) of the distance of the required front yard setback up to a maximum of twenty (20) feet shall be maintained between the prospective building and the side street. This requirement shall not be applied so as to reduce the building width of a residentially zoned corner lot of record at the time of passage of this Ordinance to less than thirty (30) feet or to prohibit the erection of any accessory building where this requirement cannot reasonably be complied with as determined by the Board of Commissioners.
13 **Height Restrictions/Modifications.** Chimneys, belfries, conveyors, cupolas, derricks, domes, gasholders, fire towers, flagpoles, flues, monuments, smokestacks, transmission towers, ventilators, water towers, tanks, radio towers, poles, antennae, wires, and similar structures may be erected to any height in accordance with this ordinance or any ordinance of the Town of Burgaw provided the foundation guy wires, supports, or anchorage of the structure is constructed in an acceptable method and approved by the Building Inspector or his authorized agents. The provisions of the Table of Area, Yard, and Height Requirements do not apply to the enumerated items.

Solar energy systems (SESs) mounted to the roof of a structure must meet the height requirements in the applicable zoning district.

14 **Side Yards.** Where a lot in a B-1 district abuts a lot in another zone, the side abutting such lot shall maintain a minimum side yard of ten (10) feet. When any side yard is provided, though not required, the same shall be not less than three and one-half (3 ½) feet.

15 **Side and Rear Setbacks in I-1 District.** In the I-1 district, in the event the rear and/or side line faces a residentially zoned or used lot, the space created by the rear and/or side yard setback shall remain clear and unobstructed unless a planting screen is maintained along the property line of such type and height as to obscure from view any automobile parked on the lot.

16 **Additions.** Additions to existing structures shall comply with the requirements for new construction, unless the addition, renovation or reconstruction does not equal fifty percent (50%) of the present market value of the structure. Where a firewall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and must comply with the standards for new construction.

**Section 8-2: Table of Permitted Uses**

Districts in which particular uses are permitted as a use-by-right are indicated by “X.” Districts in which particular uses are permitted as a use-by-right with certain conditions are indicated by “X” with a reference to a note in Section 8-4.

Districts in which particular uses are permitted as a conditional use upon approval of the Town Board of Commissioners are indicated by “C.” Conditional uses that will require an additional technical review by the planning board prior to a public hearing in front of the Board of Commissioners will be designated by “Ct.” See Section 8-5: Regulations for Conditional Uses for details of each conditional use.

A conditional use permit shall be required when use of a property comprises two (2) or more principal uses, at least one of which requires a conditional use permit.

Districts in which particular uses are prohibited are indicated by a blank.

If an application is submitted for a proposed use that is not specifically listed, but is similar to a listed use, the Planning Administrator may consider the proposed use part of that use category. When determining whether a proposed use is similar to a listed one, the Planning Administrator will consider the following criteria: actual or proposed characteristics of the proposed use; general land use category (residential, office, commercial, education, agricultural, industrial, etc.); anticipated traffic generation; and likely impact on surrounding properties. Should the Administrator determine that a materially similar use does exist, the regulations governing that
use shall apply to the particular use not listed and the Administrator’s decision shall be recorded in writing. Should the Administrator determine that a materially similar use does not exist, the proposed use shall be considered a conditional use requiring a technical review. This chapter may also be amended to establish a specific listing for the use in question.

Parties wishing to add, amend, or delete uses to the Table of Permitted Uses may submit an application for Text Change Amendment to the Planning Administrator for review by the Planning Board and Board of Commissioners.

Descriptions of each zoning district are defined in Article 7, Chapter I with the individual lot, setback, and dimensional requirements included in Section 8-1.
### TABLE OF PERMITTED USES

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<tr>
<th>Uses</th>
<th>NAICS(^3)</th>
<th>RA</th>
<th>R-20</th>
<th>R-12</th>
<th>R-7</th>
<th>R-7MH</th>
<th>PUD(^2)</th>
<th>O&amp;I</th>
<th>B-1</th>
<th>B-2</th>
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### Article 8. Zoning District Regulations

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³ Indicates a specific use within a broader category.
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² PUD: Planned Unit Development
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<sup>1</sup> NAICS: North American Industry Classification System

<sup>2</sup> PUD: Planned Unit Development

<sup>3</sup> Retail Sales: Includes both retail and wholesale sales.

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Article 8. Zoning District Regulations
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### Article 8. Zoning District Regulations

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2. O&I - Office and Industrial
3. B - Business
4. I - Industrial
5. C/P - Commercial/Professional

C = Yes, C = No

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### Article 8. Zoning District Regulations

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1 **NAICS.** References the North American Industrial Classification System (2007). Codes used in this section are for reference purposes.

2 **PUD (Planned Unit Development).** All uses listed as permitted or conditional within the PUD district must be reviewed and approved by the Board of Commissioners following the approval of a Planned Unit Development Master Plan. Any proposed use within the PUD must meet the conditional use requirements for the PUD as well as the conditional use requirements for that individual use.

3 **Standards Apply.** See Section 8-4 for use standards.

4 **Accessory Uses.**

   **Open Storage.** Open storage shall not be allowed as an accessory use in the R-20, R-12, R-7, R-7MH, O&I, B-1, and B-2 districts. See Section 8-4 for standards.

   **Outside Storage.** See Section 8-4 for standards.

   **Swimming Pool.** In-ground and above ground swimming pools shall be permitted as an accessory use in the RA, R-20, R-12, R-7, R-7MH, O&I, or PUD zoning districts. See Section 8-4 for standards.

   **Automatic Teller Machines and Ice Machines.** Automatic teller machines and ice vending machines shall be allowed as an accessory or principle use in the B-1, B-2, and PUD districts.

   **Drive-Ins.** See Section 8-4 for standards

   **Solid Waste Receptacles.** See Section 8-4 for standards.

5 **Adult Businesses.** The adult business use is inclusive of all sexually oriented businesses as defined in G.S. 14-202.10 and is subject to the requirements of Article 18 of this Ordinance. Adult Businesses including specified sexual activities, massage parlors, adult arcades, adult bookstores, adult cabarets, adult motion picture theaters, and adult theaters are prohibited.

6 **Single-Family Dwellings in the B-1 District.** Single family residential occupancy is only permitted as a use-by-right in structures originally designed and constructed as a single-family dwelling. New construction of single family dwellings shall require a conditional use permit to ensure compatibility with the surrounding land uses.

7 **Family or Group Care Homes.** Includes all uses in this section that fall under the definition of Family or Group Care Homes in G.S. 168-21. “Family care home” means a home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident persons with disabilities. “Person with disabilities” means a person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3. Consistent with G.S. 168-22 (a) no Family or Group Care Home may be within one-half (1/2) mile of any other Family or Group Care Home as defined by G.S. 168-21.

8 **Planned Building Group.** If any operation qualifying as a Planned Building Group under the definition outlined in Section 6-2 of this Ordinance is for a conditional use as listed in the Table
of Permitted Uses, all requirements for both the Planned Building Group and the conditional use shall apply. If there is any conflict between regulation, the most stringent shall be required.

9 **Only One Main Building, One Main Use on Lot, and Orientation of Building.** In all districts, every main building hereafter erected or altered shall be located on a separate lot, as defined in this ordinance, and in no case shall there be more than one main building and permitted accessory building on the lot nor more than one main use (e.g., commercial, industrial, or residential) per building and lot; provided that this requirement shall not apply to uses that are permitted within the same zoning district and located in the same building, nor to motels or manufactured home parks, nor to planned building groups approved by the board of Commissioners, nor to a bona fide farm use. In the case of applications for double occupancy permits involving a residential use and nonresidential use of the same building in an O&I or B-3 zone, where the Land Use Administrator or his authorized agents deem that an above-normal safety hazard exists due to the storage of chemicals of explosive commodities, such applications shall be forwarded to the Board of Adjustment for a determination of whether or not a safety hazard exists which would create a substantial detriment to the proposed residential occupancy, residential occupancy of that building shall be prohibited.

**Section 8-3: New Construction**

C. **Addressing.** All new primary structures, and new accessory structures if required by the Town of Burgaw Fire Marshal and/or Pender County Addressing Coordinator, within the Town of Burgaw corporate limits shall be addressed in accordance with Chapter 28, Article II of the Town of Burgaw Code of Ordinances, excepting those properties located in areas annexed by the town after June 30, 1994. New primary structures and applicable accessory structures in the areas of town annexed after June 30, 1994 or the town’s extraterritorial jurisdiction shall be subject to the addressing ordinances of Pender County and shall be issued addresses by the Pender County Addressing Coordinator, designee, or other official with addressing authority.

D. **Reserved**

**Section 8-4: Use Standards**

A. **Accessory Apartment.** Includes secondary dwelling unit(s) either (1) inside of or added to an existing single-family dwelling or (2) on any floor except for the ground floor of or behind a commercial use in the B-1 or PUD zoning districts. An accessory apartment is a complete, independent living facility equipped with a kitchen and with provisions for sanitation and sleeping. Accessory apartment also includes guest houses, mother-in-law suites, and a separate dwelling that is attached to the principal dwelling. Adequate water and sewer or an approved septic system shall be available for all accessory apartments. Manufactured homes may not be used as accessory apartments. Side and rear setbacks for any detached accessory apartment shall be a minimum of ten (10) feet.

B. **Accessory Structure/Building.** No residential occupancy shall be allowed in any accessory structure. Accessory Structures are limited to a maximum fifty percent (50%) of the total gross floor area of the primary structure, if applicable, or a conditional use permit must be issued by the Board of Commissioners in accordance with the standards and regulations of Article 2, Chapter IV of this ordinance. No more than two (2)
accessory structures shall be allowed on property being used for residential purposes. Plans for all accessory structures to be located in the Central Fire District must be approved by the fire marshal prior to issuance of a zoning permit. See Section 8-1 for additional requirements.

C. **Automobile Off-Street Parking (as the principal use).** Only parking of automobile/passenger vehicles is permitted. No loading or unloading of goods from vehicles is permitted. Long-term or dead storage of vehicles and any storage, repair, and/or sales of vehicles on-site is prohibited. If the Automobile Off-Street Parking site is used for off-site parking for a principal use on another property, no fee shall be charged for parking, and the site shall be operated solely as a convenience to the customers, patrons, employees, guests, or residents of the use that the parking facility is intended to serve. For all sites, a type I or II buffer shall be required along all lot lines adjoining residentially zoned or used properties. Each Automobile Off-Street Parking use shall be allowed one (1) sign no larger than ten (10) square feet per face with a two (2) face maximum. The sign shall be freestanding and not higher than seven (7) feet above the ground. Two (2) incidental unlighted entrance and exit signs not exceeding five (5) square feet each may be provided at each entrance and/or exit.

D. **Automobile and/or Trailer Rental.** Customer and employee parking and vehicles and trailers on display shall not be located in a required street yard or public right-of-way and may not impede vehicular or pedestrian traffic or sight triangles, if applicable. All vehicle display areas shall conform to landscaping requirements as set forth in Article 11 of this ordinance for parking areas. All vehicles shall be operable, suitable for driving, and ready for sale. Any vehicle not meeting these criteria shall be removed within seven (7) calendar days. Any visible damaged vehicle or one missing parts must be removed within three (3) calendar days.

E. **Automotive Detailing Service.** Three (3) minimum stacking spaces, measured from the bay, shall be provided for each full service car wash/detailing bay. No vehicles shall be stored for more than seventy-two (72) hours. Specific areas shall be provided for the manual drying, waxing, polishing, and vacuuming of automobile and other motor vehicles when those services are offered on the site. These areas shall not conflict with on-site circulation patterns. All car wash facilities shall be equipped with a water recycling system that conforms to the Town of Burgaw Sewer Ordinance and is approved by the Public Works Director and Waste Water Treatment Plan Supervisor.

F. **Cargo Storage Containers (including tractor trailers).** Cargo Storage Containers shall be subject to the standards for accessory buildings as outlined in Section 8-1 of this ordinance except that they must meet all setback requirements of the subject zoning district regardless of size. Cargo Storage containers must be located to the rear of the primary structure and screened with a fence tall enough to obscure the entire container (maximum height of eight (8) feet and/or vegetation from any adjacent property or public right-of-way. Containers may be used for storage purposes only. In the RA district, no more than two (2) containers shall be allowed on residentially-zoned properties, no more than three (3) shall be allowed on nonresidential properties, and no containers shall be allowed on properties without a primary structure. All containers shall be maintained in good condition free from structure damage, rust, and deterioration.
G. **Churches.** This use designation comprises all establishments for the operation of religious organizations regardless of denomination and includes religious temples, mosques, etc. as principal uses. Unless noted as part of conditional use permit, accessory uses not permitted as principal uses in the zoning district where proposed (including television stations, radio stations, printing presses, dormitories, etc.) are prohibited. A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used properties. One (1) parking space for every four (4) seats in the largest assembly area shall be required. On-street parking may serve to fulfill a portion of the parking requirements on streets where such parking is available. Parking for accessory uses proposed by the applicant (such as day cares) shall be calculated separately. Similar uses operated by the religious organization or non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and regulated as such. Any zoning permit or conditional use permit for a church shall not imply that properly permitted, pre-existing uses that are required to be located at a specified distance from churches (adult businesses, etc.) be required to move, cease and desist, or become nonconforming.

H. **Club or Lodge, Fraternal or Civic.** Accessory uses not permitted as principal uses in the zoning district (including television stations, radio stations, printing presses, and dormitories) are prohibited. A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots. One (1) parking space for every four (4) seats in the largest assembly area shall be required. On-street parking may serve to fulfill a portion of the parking requirements on streets where such parking is available. Parking for any accessory uses proposed by the applicant shall be calculated separately.

I. **Dairy Products, Sales & Storage.** Dairy Products, Sales & Storage uses located in the I-2 zoning district may not include on-site animal production or milking operations.

J. **Drive-Ins.** Any land use listed in the Table of Permitted Uses that incorporates or utilizes a drive-in facility must have its site design plan and proposed traffic circulation and parking plan approved by the Town of Burgaw. Those plans must be approved prior to construction of the drive-in facility.

K. **Food, Beverage, & Craft Processing and Production with Retail Sales.** These types of establishments include processing and manufacturing facilities for one type or group of merchandise sold at retail, and possibly wholesale, on-site. Permitted uses include, but are not limited to, breweries, wineries, butcher shops, candle makers, pottery studios, furniture makers, etc. Processing and manufacturing uses shall be limited to no more than 10,000 square feet of the subject property in the B-1 zoning district and no more than 30,000 square feet of the subject property in the B-2 zoning district. Retail sales in the I-1 zoning district shall occupy no more than 30% of the total square footage devoted to the operation.

L. **Home Occupations.** Home occupations shall be permitted only as a use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and may be permissible in any principal dwelling unit as allowed by the NC State Building Code. Such uses shall not be considered as a substitute to traditional retail establishments that rely on a substantial amount of walk-in traffic and shall be permitted subject to the following limitations:
a. No exterior or window display of products, goods, or pieces of merchandise for sale or rent upon the premises shall be allowed.

b. No signs pertaining to the home occupation are allowed on the premises.

c. No mechanical equipment shall be installed or used except such that is normally used for domestic or professional purposes and that does not cause noises or other interference in radio and television reception.

d. No outside storage shall be used in connection with the home occupation.

e. Not over twenty-five percent (25%) of the total floor area of the principal residence or five hundred (500) square feet, whichever is less, shall be used for a home occupation.

f. Only one employee may be employed by the home occupation who is not a resident of the dwelling.

g. No hazardous material may be manufactured, stored, processed, or disposed of on the premises.

h. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard or side yard.

i. All home occupations may be subject to periodic inspections by the Fire Marshal.

j. All home occupations shall have a current privilege license, when applicable, as well as a zoning compliance permit that expressly outlines the nature and extent of the home occupation.

M. Manufactured Homes. All manufactured homes to be placed within Burgaw’s planning and zoning jurisdiction shall have skirting placed around the base within fourteen (14) calendar days from the date the home is placed on a lot. All existing manufactured homes within Burgaw’s planning and zoning jurisdiction prior to December 8, 2009 that have no skirting or curtain wall shall be required to have skirting installed within eighteen (18) months following adoption of this Ordinance. All manufactured homes to be placed within Burgaw’s planning and zoning jurisdiction shall have electrical service within sixty (60) days from the date the home is placed on a lot. Manufactured homes left on a lot longer than sixty (60) days will be considered in storage, in violation of this Ordinance, and subject to penalties outlined in Article 5 of this Ordinance.

a. Class A manufactured homes are permitted within the town’s RA Residential and R-7MH Residential Manufactured Home zoning district.

b. Class B manufactured homes are permitted within the town’s R-7MH Residential Manufactured Home zoning district

c. Class C manufactured homes are not permitted within Burgaw’s planning jurisdiction

N. Mobile Food Services. All uses subject to this classification shall be allowed in the B-1 zoning district upon the Town of Burgaw receiving, in writing, a list of all items
Article 8. Zoning District Regulations

proposed to be sold as part of the service. Proprietors of mobile food services must provide the Town of Burgaw with an exhaustive list of the proposed location(s) where they plan to conduct business. Proprietors wishing to operate a business under the mobile food service classification must provide the Town of Burgaw with written authorization from the property owner outlining expressed permission to conduct a mobile food service on their property. All food shall either be prepackaged or prepared at a facility subject to regular inspections by the Pender County Health Department. No mobile food service shall be permitted on sidewalks, town property, town maintained rights-of-way, or state maintained rights-of-way.

O. Open Storage. All open storage areas shall be restricted to the rear or side of the principal building or structure. A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots. When applying for the zoning permit, a list of all items intended to be stored should be included with any site plan requirements and plans and specifications for buffer.

P. Outside Storage. All outside storage shall be completely screened from view from all streets and adjacent residentially zoned property. Plants, firewood, stone, or other items not subject to damage or deterioration from exposure to the outdoor environment and intended for outside uses shall be exempt from this regulation. Security fencing a minimum of six (6) feet in height shall be provided around all outside storage areas and shall conform to the provisions of Section 8-1 of this ordinance. Outside storage shall not be located in any required street yard, required setback, or public right-of-way and may not impede vehicular or pedestrian traffic or sight triangles, if applicable. A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Q. Public Utility Station or Substation. Where practical, public utility stations or substations shall be enclosed by both a fence and a solid vegetation barrier equal to the height of the fence at initial planting.

R. Recreational Vehicles. Recreational vehicles occupied for human habitation and intended for permanent residential uses must be placed in an approved manufactured home or recreational vehicle park. However, temporary residential use may occur in cases where the recreational vehicle is secondary to a primary residential uses, and when construction or repair of a single family home occurs. Two general restrictions for either temporary residential use shall apply, as well as specific restrictions and limitations for each.

The general restrictions and limitations are as follows:

a. R-7, R-7MH, R-12, R-20, RA, and O&I zoning is required.

b. Location of the recreational vehicle shall be in the rear yard, unless evidence can be provided to the Planning Administrator that size constraints or other factors prevent rear yard location.

The specific restrictions and limitations are as follows:

a. When secondary to a primary residential use, the period of human habitation shall not exceed fourteen (14) days and may not be re-established for a period of ninety (90) days from the last day terminated.
b. When construction or repair of a single family home occurs, the homeowner and his family may occupy a recreational vehicle for a period of one hundred eighty (180) days. An extension to a maximum of three hundred sixty-five (365) days may be granted by the Planning Administrator upon presentation of evidence that construction cannot be completed within one hundred eighty (180) days due to factors beyond their control. All recreational vehicles shall maintain an adequate disposal system and a source of potable water. Emptying of wastewater disposal systems shall be done in accordance with Section 4.1 of the Town of Burgaw Sewer Use Ordinance.

Recreational vehicles not used for temporary residential occupation that are parked on a residential lot shall be stored to the rear of the primary structure if possible. If not possible, recreational vehicles may be parked in a side yard.

S. Restaurants. In the B-1 District, new drive-thru or walk-up windows on pre-existing buildings are not allowed. In the B-1 district, if the restaurant has a drive-through window, ordering shall be limited to face-to-face orders with no outdoor intercom system allowed.

T. School; Business Technical, and Trade; School, Specialty Training; Teaching Studio. Such uses located in the Off-Street Parking and Loading Exemption Area shall be required to provide off-street parking as required by Article 9 of this ordinance for any students and staff in excess of thirty (30) who will be attending class at any one time. Off-street parking is not required to be located on-site, but all off-street parking must be approved as part of the zoning permit for the school. Off-street parking requirements may be met through shared parking lot agreements when lots will not be in use at the same times of day.

U. Solid Waste Receptacles. Approval of a solid waste plan outlining type, number, location, and screening (if applicable) is required for all new uses and primary structures prior to occupancy. All dumpster and/or refuse receptacles must be screened with a wooden fence made with pressure treated lumber or other material approved by the Land Use Administrator around the entire dumpster area. The fence must be of a height that will prevent the dumpster from being seen from any existing street. In the event that a fence over six (6) feet is necessary to satisfy these requirements, the height limitations of this ordinance may be waived by the Land Use Administrator. The owners/lessees of the dumpster shall take all reasonable actions to prevent unauthorized use and/or rummaging of the dumpster. All commercial dumpsters and/or refuse receptacles must be secured at all times unless being used or serviced in an authorized manner. These requirements may be extended to include all other commercial trans or waste disposal receptacles. Additional requirements may be added at the discretion of the Land Use Administrator in order to prevent or reduce the aesthetic and/or environmental impacts of the commercial dumpsters and refuse receptacles. All existing dumpsters and refuse containers must come into compliance with these requirements, if applicable, at the time of issuance of any new zoning permit.

V. Swimming Pool. In-ground and above-ground swimming pools shall be enclosed by protective fencing not less than four (4) feet in height or other approved barrier as allowed by the North Carolina State Building Code. Both in-ground and above-ground
swimming pools must be in the rear of the principal structure and must be set back a minimum of ten (10) feet from the side and rear property lines.

W. **Temporary Construction Building.** Temporary Construction Buildings, including manufactured homes used solely as temporary field offices for contractors, are permitted for use for a period of no longer than twelve (12) months. If a temporary field office is needed for a longer period of time, the use will be classified as Manufactured Home, Nonresidential Occupancy, shall be limited to the districts as outlined in the Table of Permitted Uses, and shall require a conditional use permit. All structures permitted under the Temporary Construction Building use shall be moved within twenty (20) days of completion of work or in the event that no work is conducted for a period of one hundred eighty (180) days.

X. **Wine Shop.** No wine shop shall be allowed to operate past 9 PM, provide live entertainment outdoors, or allow the consumption of alcoholic beverage outdoors.

Y. **Yard Sales.** Yard sales shall be permitted in appropriate zoning districts. These sales may only be conducted on property that the primary use is residential in nature. Yard sales are limited to a frequency of six (6) days per calendar year for any one family unit, location, lot, or premises and may not exceed three (3) consecutive days. Any yard sales that exceed this level of frequency shall be considered a flea market use and subject to all associated requirements.

**Section 8-5: Regulations for Conditional Uses**

Detailed regulations for each conditional use are set forth in this section along with the information that must be submitted as part of the application for a conditional use permit and supplemental standards for evaluation of the permit application. Unless otherwise noted, no detailed regulations or conditions set by the Board of Commissioners negate any other requirements of the Town of Burgaw Unified Development Ordinance. The Board of Commissioners may set conditions to the conditional use permit that are more restrictive than the detailed regulations listed within this section and any other provisions required by this Ordinance. Each of these additional or more restrictive conditions imposed must be based on bringing the project into compliance with the four findings of fact stated in Section 3-10 or additional standards outlined in this section and on substantial, competent, and material evidence entered into the record during the public quasi-judicial hearing.

The following conditional uses are also subject to the listed detailed regulations and required application information, along with any supplemental standards in addition to those detailed in Section 3-10.

**Accessory Apartment (R-12, R-7, PUD, O&I)**

**Detailed Regulations**

- For attached accessory dwellings, any outside entrance must be located along the side or rear of the principal dwelling.
The maximum size for attached accessory dwellings and detached accessory dwellings is fifty percent (50%) of the principal structure or eight hundred (800) square feet, whichever is less.

Additional Required Information for Application
- If for a detached accessory apartment, design plans for external appearance of structure
- Photograph(s) of primary structure

Supplemental Standards for Evaluation
- Adequate off-street parking shall be provided for any vehicles owned by occupants of the accessory dwelling or accessory apartment.
- Detached accessory dwelling units shall be architecturally compatible to the principal building (in terms of pitch of roof, wall or trim material, architectural style, window details, etc.).
- The accessory dwelling unit shall be subordinate to the primary living quarters.

Accessory Structure (RA, R-20, R-12, R-7, R-7MH, PUD, O&I, B-1, B-2, I-1, I-2)

Detailed Regulations
- Proposed accessory structures shall be located to the side or rear of the principal structure.

Additional Required Information for Application
- If visible from the street, renderings or photographs of exterior façade of structure
- Photograph(s) of primary structure and any other accessory structure(s)

Supplemental Standards for Evaluation
- The proposed structure is clearly incidental to the principal use and structure

Adult Business (I-1, I-2)
See Article 18.

Advertising Sign (R-20)

Detailed Regulations
- The maximum size for this type of sign would be thirty-two (32) square feet.
- The maximum height for this type of sign would be eight (8) square feet.
- Such signs shall be set back a minimum of ten (10) feet from the property line.
- Only copy and graphics approved during hearing shall be permitted. Permit is for individual sign, not just sign structure.

Additional Required Information for Application
- Information on the size, material, and height for sign
• The copy proposed
• Number of other signs on property
• Letter of permission from property owner, if not applicant

Supplemental Standards for Evaluation

• Off-premises signage is needed to direct out-of-town truck or tourist traffic.
• Proposed sign will not detract from the cultural or historic heritage of the Town of Burgaw.
• Location of sign does not encroach upon required sign triangles or utility or maintenance easements.

Airport Operations, Aircraft Port, etc. (RA, I-2)

Detailed Regulations

• A type III or IV buffer shall be provided along all exterior property lines and main traveled roadway right-of-way lines, within which no structure shall be erected and no taxi-ing or other aircraft movement, storage, or repair shall be permitted.
• One (1) parking space for every four (4) seats for waiting passengers, plus two (2) spaces for every three (3) employees and one (1) space for each vehicle used in the operation shall be required.
• Access shall be directly onto a state maintained road.
• There shall be a minimum three hundred (300) foot separation between landing strips and the nearest residence.
• There shall be outdoor and/or indoor storage for not more than ten (10) aircraft, including temporary or overnight storage.
• The landing strip must be setback at least two hundred (200) feet from all adjacent properties.
• No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.

Additional Required Information for Application

• In addition to the general requirements, the site plan must also include:
  o Location and size of all buildings within five hundred (500) feet
  o Storage areas for aircraft and fuel
  o Motor vehicle service areas for aircraft
  o Existing and proposed water, sewer, and storm drainage utilities
  o A configuration diagram depicting the layout of runways, taxiways, approach zones, and overrun areas
• Lighting plan
• Plans and specifications for buffer and fencing
• List of the number and type of aircraft proposed to be stored
• Description of the proposed security plan
- Description of how on-site fire and rescue services shall be provided and a letter from the appropriate agency stating service are available and adequate to protect the proposed facility

Supplemental Standards for Evaluation
- Fencing shall be sufficient to control access to runways and taxiways.
- Land sufficient to provide approach zones and overrun areas is owned or controlled by the applicant.

Alcohol and/or Substance Abuse Rehabilitation Facilities, Residential (more than 6 residents) (O&I, I-1, I-2)

Detailed Regulations
- The minimum lot size requirements as described in Section 8-1 shall be increased by seven hundred fifty (750) square feet for each person in excess of six (6) people for whom care is provided.
- A minimum of two hundred fifty (250) square feet of heated building shall be provided per resident.
- A type III buffer shall be required along any lot line adjoining residentially zoned or used lots.
- One (1) parking space for every five (5) temporary residents or fraction thereof, plus one (1) parking space for each employee on the premises shall be provided.
- Such facilities may not be located within a distance of twenty-five hundred (2,500) feet from any group care facility.
- One (1) monument-style sign a maximum of six (6) feet in height shall be permitted, not to exceed thirty-two (32) square feet per face with a two (2) face maximum.
- Only licensed facilities shall be permitted.
- Any more than three (3) final determinations of violation of the Town Code of Ordinances and/or criminal convictions related to the premises within one (1) month, or six (6) within one (1) year, shall constitute inadequate supervision and a violation of the conditional use permit. Offenders shall include property owners as well as lessees, tenants, and occupants.

Additional Required Information for Application
- Plans and specifications for buffer and security fencing
- Number of proposed residents and staff
- Written operating procedures or manual outlining the management plan for the facility, including all security measures and plans for supervision of residents

Supplemental Standards for Evaluation
• The facility shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjoining property owners because of traffic, noise, refuse, parking, or other activities.
• The facility shall be operated in a manner that will provide adequate supervision of all residents.

**Ambulance Service, Air (O&I, B-2)**

**Detailed Regulations**

• Buildings, storage, and maintenance areas shall be screened from adjacent residential land and public rights-of-way.
• At a minimum, a type II buffer shall be required along all lot lines shared with residentially zoned or used lots.
• If the heliport is at ground level, the operational heliport areas shall be fenced or marked with caution signs to prohibit the inadvertent or unauthorized entry of persons or vehicles.

**Additional Required Information for Application**

• In addition to the general requirements, the site plan must also include a configuration diagram depicting the layout of runways, taxiways, approach zones, and overrun areas
• Lighting plan
• Plans and specifications for buffer, screening, and security fencing, as applicable
• A list of the number and type of aircraft proposed to be stored
• How on-site fire and rescue services shall be provided and a letter from the appropriate agency stating services are available and adequate to protect the proposed facility

**Supplemental Standards for Evaluation**

• Land sufficient to provide approach zones and overrun areas is owned or controlled by the applicant.
• The heliport has appropriate permanent or temporary lighting available for night operations.

**Animal Medical Care (RA, B-2, I-1, I-2)**

**Detailed Regulations**
- A type I or II buffer may be required along all lot lines shared with residentially zoned or used lots.
- The facility must be owned and operated by a North Carolina licensed veterinarian.

**Additional Required Information for Application**
- A copy of the owner and operator’s North Carolina veterinary license
- Plans for facility construction regarding soundproofing of structures
- Waste disposal plan

**Supplemental Standards for Evaluation**
- The facility is constructed, designed, and located on the site to minimize noise, odor, and other impacts on neighboring properties.
- Adequate waste disposal is provided to maintain sanitary conditions and control of odor.

**Animal Production (including Intensive Livestock Operations) (RA)**

**Detailed Regulations**
- Minimum lot area is fifty (50) acres.
- A type III buffer may be required along all lot lines shared with residentially zoned or used lots.
- All structures, buildings, or enclosed areas used for housing of poultry, cattle, or other livestock or animals being bred shall be set back a minimum of one hundred (100) feet from all property lines or the minimum setback established by state regulations, whichever is greater.
- Any violation of state regulations concerning the operation of the Animal Production use shall be considered a violation of this Ordinance.

**Additional Required Information for Application**
- Plans and specifications for buffer

**Animal Shelters or Boarding Operations (RA, B-2, I-1, I-2)**

**Detailed Regulations**
- In the B-2 district, all boarding activities shall take place within a completely enclosed building. There shall be no outside runs or exercise areas for animals or pets. Any outside use of the property for the animals or pets must be supervised and on leashes.
- In the B-2 district, there shall be no noise generating activities between 6 pm and 8 am.
- All open exercise, boarding, training, or similar areas shall be designed to effectively buffer noise audible to surrounding properties and be enclosed by a fence or wall no less than six (6) feet in height.
- A type I or II buffer shall be required along any lot lines adjoining a residentially zoned or used lot.
• Outdoor runs and exercise and confinement yards shall be set back a minimum of fifty (50) feet from any property line and one hundred (100) feet from any residentially used lot.

• Any building housing animals shall be located a minimum of twenty-five (25) feet away from any residentially zoned or developed property.

• A sign clearly visible from the ground shall be posted at the main entrance of the facility and shall contain the names, addresses, and telephone numbers where persons responsible for the facility may be contracted at any hour of the day or night. The sign shall comply with dimensional requirements set forth in this ordinance.

• Animal wastes shall not be stored any closer than fifty (50) feet from any property line or surface waters. All animal wastes shall be removed daily.

• Operator of facility must hold a valid Boarding Kennel Operator license through the North Carolina Department of Agriculture and Consumer Services Veterinary Division.

Additional Required Information for Application

• In addition to the general requirements, the site plan must also include the size and location of outdoor runs and exercise areas.
• Lighting plan
• Waste treatment plan
• Plans and specifications for buffers and fences/walls
• Copy of the operator’s Boarding Kennel Operator license

Supplemental Standards for Evaluation

• The site is of adequate size and the facility is constructed, designed, and located on the site to minimize noise, odor, and other impacts of neighboring properties.

• Adequate waste disposal is provided to maintain sanitary conditions and control of odor.

Animal Slaughtering and Processing (RA, I-2)

Detailed Regulations

• All structures, buildings, or enclosed areas used for the operation shall be a minimum of one hundred fifty (150) feet from all property lines.

• No portion of any building or enclosures used for the retention of animals or the processing of animal products shall be located less than one hundred fifty (150) feet from residential, office and institutional, or commercial zoned lots.

• Security fencing a minimum of six (6) feet in height shall be provided around all outside storage areas.

• All storage and activity areas outside the principal structure shall be screened from any off-site view from a public street by a type II bufferyard.

• A type III or IV buffer shall be required along all lot lines adjoining residentially zoned or used lots.
• All unpaved storage areas shall be maintained in a manner that prevents dust from adversely impacting adjacent properties.

Additional Required Information for Application
• Plans and specifications for buffers, screens, and fences
• Evidence of soundproofing and odor buffering

Supplemental Standards for Evaluation
• The use will not generate fumes or odors beyond which normally occur in the zoning district in which it is located.

Asphalt/Concrete/Cement Manufacturing (I-2)

Detailed Regulations
• No asphalt/concrete/cement manufacturing operations, including all buildings, storage and processing areas, loading areas, truck operations, and parking areas shall be permitted within the 100-year floodplain or floodway as designated by the Flood Insurance Rate Map (FIRM).
• A type IV buffer shall be required around the perimeter of the property.
• Within the vegetative buffer, security fencing a minimum of six (6) feet in height shall be provided.
• The site shall be accessed by a major or minor thoroughfare or another access route maintained by the North Carolina Department of Transportation. No Asphalt/Concrete/Cement Manufacturing operation shall be constructed with direct access onto a town-maintained road.
• Access roads leading to any part of the operation shall be constructed with a gravel or asphalt stone surface and shall be maintained in a dust-free manner.
• Access roads shall be located no closer than thirty (30) feet to any property line.
• All buildings and related operations, including storage and processing areas, loading areas, truck operations, and parking areas shall be
  o A minimum of one hundred (100) feet from any adjacent property
  o A minimum of one thousand (1,000) feet from any school, library, church, or park
  o A minimum of one thousand (1,000) feet from any residentially or commercially zoned or used property
  o A minimum of one thousand (1,000) feet from perennial water bodies and public wells

Additional Required Information for Application
• In addition to the general requirements, the site plan must also include the location and size of all operations, including truck operations, and the location of all structures and water bodies within one thousand (1,000) feet.
• A plan showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic and shall be adhered to.
• Stormwater plans for both clean and contaminated stormwater
• Waste management plan (including processing of wastewater)
• Lighting plan

Assisted Living Facilities with On-Site Nursing Facilities (R-7, PUD, O&I)

See Assisted Living Facilities without On-Site Nursing Care Facilities.

In addition, Assisted Living Facilities with On-Site Nursing Facilities shall provide centrally located, shared food preparation, service, and major dining areas, though meals can be served to persons in their rooms.

Assisted Living Facilities without On-Site Nursing Care Facilities (R-7, PUD, O&I)

Detailed Regulations

• The minimum lot size requirement as described in Section 8-1 shall be increased by seven hundred fifty (750) square feet for each person in excess of six (6) people for whom care is provided.
• A minimum of two hundred fifty (250) square feet of heated building shall be provided per resident.
• One (1) parking space for each assisted living unit and one (1) parking space for each employee on the premises shall be provided.
• A type I buffer shall be required along all lot lines adjoining residentially zoned or used lots.
• One (1) monument style sign a maximum of six (6) feet in height shall be permitted, not to exceed thirty-two (32) square feet per face with a two (2) face maximum.
• All facilities, nursing care, and amenities shall be solely for the use of the residents and their guests.

Additional Required Information for Application

• A description of the type of persons to be cared for and the nature of the care to be provided
• Number of proposed residents and staff
• Plans and specification for buffer

Supplemental Standards for Evaluation

• The facility shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjoining properties because of traffic, noise, refuse, parking, or other activities.
Where located in a residential district, there must be ample site area, adequate open space on all sides of the proposed structure, and appropriate landscaping to preserve the residential character of the neighborhood.

Automobile and/or Parts Salvaging (including wrecking, dismantling, and storage of junked vehicles) (B-2, I-1, I-2)

Detailed Regulations

- Minimum lot area is five (5) acres.
- All access roads shall be paved.
- Dismantled, junked, and/or salvaged vehicles shall be stored no closer than fifty (50) feet from any property line.
- Storage of tires, batteries, or hazardous chemicals and/or solvents shall be prohibited.
- No outdoor disassembly or salvaging shall be permitted.
- No dismantling, disassembling, salvaging, wrecking, or processing operation on the premises shall be carried out between the hours of 9 pm and 7 am.
- No Automobile and/or Parts Salvaging operations, including all buildings, storage and processing areas, loading areas, truck operations, and parking areas shall be permitted within the 100-year floodplain or floodway as designated by the Flood Insurance Rate Map (FIRM).
- A solid fence or wall not less than six (6) feet in height shall be placed and maintained around all outside storage areas and shall be uninterrupted except for required vehicle access points.
- A type IV buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- Items inside the storage area shall not be stacked so as to be visible from adjacent properties or any right-of-way.

Additional Required Information for Application

- Plans and specifications for buffer and fencing
- Description of the type (including operating noise level) and number of motorized machines to be employed upon the site
- Proposed stormwater runoff and erosion control measures
- Hazardous waste plan (including proposed storage of combustible materials)
- Description of site management and operating hours

Automobile Car Wash (PUD, B-1, B-2)

Detailed Regulations
• Two (2) minimum vehicle stacking spaces, as measured from bay, shall be provided for each self-service car wash bay. Three (3) minimum vehicle stacking spaces, as measured from bay, shall be provided for each automatic car wash bay.

• Space shall be provided for the parking of one (1) car per bay to be used as a dry down areas.

• A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

**Additional Required Information for Application**

• In addition to the general requirements, the site plan must also include the number of car wash bays and location and size of stacking spaces and parking/dry down areas.

• Lighting plan

• Description of all machinery, including noise decibel level

• Plans and specifications for buffer

• Proposed water recycling system approved by Public Works Director and Waste Water Plant Superintendent

**Automobile Off-Street Parking (as the principal use) (B-1)**

**Detailed Regulations**

• If used for off-site parking for a principal use on another property, the parking site must be two hundred (200) feet or less, measured along the pedestrian access route, from the primary structure requiring the parking. The parking property must be under the same ownership as the principal use site or must provide copies of all applicable leases and/or easements that authorize applicants’ proposed use to the Board of Commissioners with application for permit.

**Additional Required Information for Application**

• In addition to the general requirements, the site plan must also include provisions for storm drainage, if applicable, and the location of pay meters.

• Plans and specifications for buffers, if applicable

• Description of the purpose of the facility

• Location in relation to the principal use if for off-site parking

• All applicable leases and/or easements authorizing proposed use, if applicable

**Supplemental Standards for Evaluation**

• Driveways are designed and pattern of internal circulation is sufficient to prevent vehicles from blocking traffic upon entrance and exit

**Automobile Oil Change and Lubrication Shops (B-1, B-2, I-1)**

**Detailed Regulations**
• A type I or II buffer shall be required along the rear lot lines and may be required along the side lot lines.
• Designated customer parking must be provided. All vehicles waiting to be repaired may be required to be parked in rear or side of building.
• Any servicing or other work of vehicles shall be conducted within an enclosed structure or behind an opaque fence or wall.
• No outside storage is permitted.
• This use shall be prohibited in the designated floodway as depicted on the Federal Emergency Management Act (FEMA) Flood Insurance Rate Maps (FIRM).

Additional Required Information for Application
• In addition to the general requirements, the site plan must also include the number of work bays.
• Plans and specifications for buffer and fencing
• Lighting plan
• Hazardous waste plan (including proposed storage of combustible materials)
• Hours of operation

Automobile and/or Trailer Rental (B-2)

Detailed Regulations
• The lot for the proposed Automobile and/or Trailer Rental use shall meet the minimum yard requirements for the B-2 district or shall be a minimum of fifteen thousand (15,000) square feet in size.

Additional Required Information for Application
• Number of vehicles/trailers to be displayed
• Lighting plan
• Hours of operation

Automobile Repair and/or Body Work (excluding commercial wrecking, dismantling, and/or storage of junked vehicles or parts) (B-2, I-1, I-2)

Detailed Regulations
• A type II buffer shall be required along all lot lines adjoining residentially zoned or used lots, and a type I or II buffer shall be required along rear lot lines and may be required along side lot lines.
• Designated customer parking must be provided. All vehicles waiting to be repaired may be required to be parked in rear or side of building.
• All flood lights shall be turned off at the close of business or 11 pm, whichever is earlier.
• No structure, outside storage area, or outside activity area shall be within a distance of thirty (30) feet from any adjoining residentially zoned or used lot.

• Any repair, servicing, maintenance, or other work on vehicles shall be conducted within an enclosed structure or behind an opaque fence six (6) feet in height.

• All vehicles, materials, or equipment shall be stored within an enclosed building or an outdoor or open storage area restricted to the rear yard enclosed with an opaque fence or wall six (6) feet in height.

• Storage of customer vehicles, vehicles with expired tags, unlicensed vehicles, junked vehicles, or any vehicle not used in the conduct of business operations for fifteen (15) days or more shall be prohibited, and no more than ten (10) such vehicles in the B-2 district and thirty (30) such vehicles in the I-1 and I-2 districts shall be allowed to be stored at any one time.

• This use shall be prohibited in the designated floodway as depicted on the Federal Emergency Management Act (FEMA) Flood Insurance Rate Maps (FIRM).

Additional Required Information for Application

• In addition to the general requirements, the site plan must also include the number of work bays.
• List of all services that will be provided
• Description of all machinery, including noise decibel level
• Lighting plan
• Plans and specifications for buffer and fencing
• Hazardous waste plan (including proposed storage of combustible materials)
• Proposed water recycling system approved by Public Works Director and Waste Water Plant Superintendent

Automobile Sales, New and Used (B-2, I-1)

Detailed Regulations

• The lot for the proposed Automobile Sales, New and Used use shall meet the minimum yard requirements for the zoning district or shall be a minimum of fifteen thousand (15,000) square feet in size.

• Customer and employee parking and vehicles on display shall not be located in any required street yard or public right-of-way and may not impede vehicular or pedestrian traffic or sight distance triangles, if applicable.

• All vehicular display areas shall conform to landscaping requirements as set forth in Article 11 of this ordinance for parking areas.

• All vehicles shall be operable, suitable for driving, and ready for sale. Vehicles failing to meet these criteria shall not be allowed. No vehicles with visible damage or missing parts shall be allowed.

• No outdoor public address system shall be permitted which can be heard beyond the boundaries of the property.
On-site loading and unloading areas shall be of a sufficient size to ensure that no such loading and unloading will occur in any public right-of-way or impede ingress, egress, or internal circulation.

A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Additional Required Information for Application
- Plans and specifications for buffer
- Number of vehicles to be displayed
- Lighting plan
- Hours of operation

Automobile Service Station Operations (B-1, B-2)

Detailed Regulations
- The service station is limited in function to dispensing gasoline, oil, grease, antifreeze, tires, batteries, and automobile accessories directly related to motor vehicles; to washing, polishing, and servicing motor vehicles, only to the extent of installation of the above-mentioned items; and to selling at retail the items customarily sold by service stations. The service station shall not overhaul motors or provide upholstery work, auto glass work, painting, welding, bodywork, tire recapping, or auto dismantling.
- A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots, and a type I or II buffer shall be required along rear lot lines and may be required along side lot lines.
- All vehicles that are waiting to be repaired must be parked in rear or side of building. Area in front of building must be reserved for customer parking.
- All floodlights shall be turned off at the close of business or 11 pm, whichever is earlier.
- Any repair, servicing, maintenance, or other work of vehicles shall be conducted within an enclosed structure or behind an opaque fence or wall.
- No outdoor display or storage of merchandise, materials, or rubbish shall be permitted.
- This use shall be prohibited in the designated floodway as depicted on the Federal Emergency Management Act (FEMA) Flood Insurance Rate maps (FIRM).

Additional Required Information for Application
- In addition to the general requirements, the site plan must also include the number of work bays.
- List of all services that will be provided
- Description of all machinery, including noise decibel level
- Lighting plan
- Proposed water recycling system approved by Public Works Director and Waste Water Plant Superintendent, if applicable
- Plans and specifications for buffer and fencing
Hazardous waste plan (including proposed storage of combustible and/or toxic materials)

Automotive Detailing Service (B-1)

Additional Required Information for Application

- List of all services offered on site
- Description of all machinery, including noise decibel level
- Lighting plan
- Proposed water recycling system approved by Public Works Director and Waste Water Plant Superintendent

Supplemental Standards for Evaluation

- The facility allows adequate traffic flow for cars to enter and exit the facility safely.

Automotive Tire Dealer (B-2, I-1)

Detailed Regulations

- In the B-2 district, no outside storage of tires and/or other materials shall be permitted.

Additional Required Information for Application

- Plans and specifications for fencing
Bars, Cocktail Lounge, and/or Nightclubs (PUD, B-1, B-2)

Detailed Regulations

- A type I or II buffer shall be required along all lot lines adjoining residually zoned or used lots.
- Within the Central Fire District, there shall be no minimum off-street parking requirements. For any other property, one (1) parking space for each employee on the shift of greatest employment and one (1) space for every two hundred (200) square feet of heated floor area shall be required.
- There shall be a minimum separation of two hundred fifty (250) feet for any Bar, Cocktail Lounge, and/or Nightclub with an occupancy of less than one hundred (100) and a minimum separation of five hundred (500) feet for any Bar, Cocktail Lounge, and/or Nightclub with an occupancy of one hundred (100) or greater from any similar establishment, church, elementary school, public park, or existing residential structure as measured by a straight line between the closest exterior walls of the principal structures.
- Within the Central Fire District, there shall be no minimum separation requirements, but no more than two (2) such establishments shall be located per city block, defined as the length of street between two (2) intersections.
- All food served and/or distributed by the establishment must receive prior written approval from the Town of Burgaw Building Inspections Department.
- Noise and/or music on Bar, Cocktail Lounge, and/or Nightclub premises shall not be audible on any adjacent residentially used property after 10 pm.

Additional Required Information for Application

- Floor plan of all structures accessible to the public, including areas of the building or structures used for the dispensing of food and beverages, entertainment, and/or dancing
- Lighting plan
- Occupancy of all structures
- Number of employees—total and on shift of greatest employment
- List of all services to be provided (e.g. dancing, food service, live entertainment, etc.)
- Security/management plan
- Hours of operation
Bed and Breakfast Inn (including Boarding Houses and Tourist Homes) (RA, R-20, R-12, R-7, PUD, O&I, B-1, B-2)

Detailed Regulations

- Off-street parking must be screened from adjacent residential uses with a type I or II buffer.

- One (1) parking space shall be provided for each guest room and two (2) spaces for the permanent residents. Parking shall not be permitted in the front yard. On-street parking may serve to fulfill parking requirements on streets where on-street parking is available.

- In residential zoning districts, the use shall be located in a structure that was originally constructed as a dwelling, and a structure that is used for a bed and breakfast inn shall not be altered in any way that changes its general residential appearance.

- In the R-20, R-12, R-7, and B-1 zoning districts, the maximum number of guest bedrooms for each proposed bed and breakfast inn shall be four (4) unless the applicant can demonstrate that the original floor plan of the structure contained a larger number of bedrooms, in which case the Board of Commissioners may approved the original number of bedrooms as allowable guest lodgings.

- In the RA, PUD, O&I, and B-2 zoning districts, the maximum number of guest bedrooms for each proposed bed and breakfast shall be eight (8).

- Signage shall be limited to one (1) unlighted sign not to exceed ten (10) square feet per face which may be either a free-standing ground sign, with a two (2) face maximum and a height of no more than four (4) feet, or flat-mounted on the structure.

- The Bed and Breakfast Inn shall be operated by a permanent resident manager.

- Meals served on the premises shall be only for overnight guests and residents of the facility.

- No long-term rental of rooms shall be permitted. The maximum length of stay shall be thirty (30) days.

- No receptions, private parties, or similar activities shall be permitted unless expressly approved as part of a conditional use permit.

Additional Required Information for Application

- Floor plan of the Bed and Breakfast Inn structure, designating the use and floor area of each room and showing ingress and egress from each room
- Number of possible guests, permanent residents, and employees
- List of services and amenities
- If serviced by a private well and/or septic system, certification that water supply and wastewater treatment methods will be adequate for proposed site
Boats and Accessories, Retail Sales and Service (B-2, I-1, I-2)

Detailed Regulations

- The lot for the proposed Boats and Accessories, Retail Sales and Service use shall meet the minimum yard requirements for the zoning district or shall be a minimum of fifteen thousand (15,000) square feet in size.
- A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- Any repair, servicing, maintenance, or other work on boats shall be conducted within an enclosed structure or behind an opaque fence six (6) feet in height.
- All boats under repair or waiting to be repaired, materials, and equipment shall be stored within an enclosed building or outdoor storage area restricted to the rear yard enclosed with an opaque fence or wall six (6) feet in height.
- All floodlights shall be turned off at the close of business or 11 pm, whichever is earlier.
- No outside storage area or boat repair area shall be within a distance of thirty (30) feet from any adjoining residentially zoned or used lot.
- Customer and employee parking and boats on display shall not be located in any required street yard or public right-of-way and may not impede vehicular or pedestrian traffic or sight distance triangles, if applicable.
- No boats under repair or waiting to be repaired shall be stored for more than fifteen (15) days, and no more than ten (10) such boats in the B-2 district and thirty (30) such boats in the I-1 and I-2 districts shall be allowed to be stored at any one time.
- This use shall be prohibited in the designated floodways as depicted on the Federal Emergency Management Act (FEMA) Flood Insurance Rate Maps (FIRM).

Additional Required Information for Application

- List of all services that will be provided
- Hours of operation
- Plans and specifications for buffers and fencing
- Description of all machinery, including noise decibel level
- Lighting plan
- Hazardous waste plan (including proposed storage of combustible materials)

Bus Repair and Storage Terminal Activities (I-1, I-2)

Detailed Regulations

- A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- No structure, outside storage area, or outside activity area shall be within a distance of thirty (30) feet from any adjoining residentially zoned or used lot.
• Any repair, servicing, maintenance, or other work on vehicles shall be conducted within an enclosed structure or behind an opaque fence six (6) feet in height.

• All buses, materials, or equipment shall be stored within an enclosed building or outdoor storage area restricted to the rear yard enclosed with an opaque fence or wall a minimum of six (6) feet in height.

• This use shall be prohibited in the designated floodway as depicted on the Federal Emergency Management Act (FEMA) Floor Insurance Rate Maps (FIRM).

Additional Required Information for Application

• In addition to the general requirements, the site plan must also include the location of any fuel pumps.
• List of all activities and services that will be provided
• Number of buses to be stored on-site
• Description of all machinery, including noise decibel level
• Lighting plan
• Proposed water recycling system approved by the Public Works Director and Waste Water Plant Supervisor if use includes washing of buses
• Plans and specification for buffer and fencing
• Hazardous waste plan (including proposed storage of combustible materials)

Bus Stops (B-1, B-2)

Detailed Regulations

• Any bus stop signage must be approved by the North Carolina Department of Transportation if located within a state right-of-way.

• No shelter or waiting structure may be located in any public right-of-way and may not impede vehicular or pedestrian traffic or sight distance triangles, if applicable.

• All structures and bus stop waiting areas must comply with the requirements of the Americans with Disabilities Act (ADA).

Additional Required Information for Application

• Location of all proposed signage and structures
• Written permission from property owners for the placement of a bus stop structure, if proposed

Supplemental Standards for Evaluation

• Bus stop activities will not cause undue traffic congestions or blockage of designated on-street parking or public and private driveways.
Cabinetmaking and Countertop Manufacturing (interior work and storage only) (B-1, B-2)

Detailed Regulations
- Outside processing or manufacturing activities shall not be permitted.
- These operations in the B-1 zoning district must include a retail component.

Additional Required Information for Application
- Plans and specifications for buffer and fencing
- Lighting plan
- Description of all machinery, including noise decibel level

Campgrounds and RV Parks (RA)

Detailed Regulations
- The maximum length of stay for any individual guest of a Campground and RV Park is thirty (30) consecutive days, ninety (90) days per calendar year.
- Each Campground and RV Park shall be a minimum of three (3) acres in size, with a maximum of one hundred (100) campsites at a density of ten (10) campsites per acre.
- Each campsite shall be a minimum of fifteen hundred (1,500) square feet in size.
- No campsite shall have direct vehicular access to a public road.
- A type III vegetative buffer shall be required along the perimeter of the property.
- Each campsite shall be identified by a permanent and visibly displayed identification number on each space. Each number shall be placed on concrete, wood, metal, or any permanent post and conspicuously located on the campsite.
- No more than one (1) camper or RV may be parked on any one campsite. Campers and RVs shall not be permitted on parcels, lots, or spaces other than those approved through these regulations.
- All water distribution and sewer collection systems must be approved by all appropriate agencies.
- Circulation drives must be a minimum of twenty (20) feet in width.
- Each campground shall have at least one (1) service structure to provide necessary sanitation and laundry facilities. This structure may also contain a retail sales counter and/or coin operated machine for the campground guests’ use, provided there is not exterior advertising. Vending machines also may be permitted in a sheltered area provided there is not exterior advertising on the structure. All service structures shall be maintained in a clean and sanitary condition and be kept in good repair at all times. Structures shall be conveniently located and easily accessible to all users of the campground.
- The minimum number of facilities per sex to be provided shall follow the schedule below:
Article 8. Zoning District Regulations

- Toilets: 1 per 15 spaces
- Urinals (male facilities only): 1 per 30 spaces
- Lavatories: 1 per 15 spaces
- Showers: 1 per 15 spaces

- All refuse shall be stored in conveniently located, leak-proof, rodent-proof containers with tight-fitting lids. One (1) such can with a capacity of at least twenty (20) gallons shall be provided for every two (2) campsites. Garbage cans shall be located no farther than one hundred (100) feet from any campsite.

- At least one (1) public telephone shall be provided at a convenient and easily accessible location in relation to all campsites.

- Each Campground and RV Park shall provide at least one (1) full-time attendant.

- It shall be the duty of the operator of a Campground and RV Park to keep an accurate register containing a record of all occupants of the park. The register shall contain the following information:
  - Name and address of the occupants of each campsite
  - Date entering and leaving the park
  - The license number of each vehicle (car, truck, camping vehicle, etc.) with state of issuance, make, and type of vehicle

- It shall be unlawful for a person to park or store a manufactured dwelling in a Campground and RV Park, except that one (1) manufactured dwelling may be located within the park for exclusive use as the dwelling quarters for the park manager or operator. Such a manufactured home shall be located in an area designated on the site plan approved as part of the conditional use permit.

Additional Required Information for Application

- In addition to the general requirements, the site plan must also include
  - Location, dimensions, and identification numbers of campsites
  - Sanitary and laundry facilities
  - Dwelling area for operator
  - Refuse collection sites

- Certification from the appropriate agency (Pender County Health Department and/or Town of Burgaw Public Works) that proposed water distribution and sewage collection systems are adequate for proposed use and meet all requirements and standards

- Description of the method of surfacing roads and parking areas
- Fire protection plan
- Waste management plan
- Stormwater management plan
- Lighting plan
- Plans and specifications for buffer and fencing
- Description of the type of facility planned, including the size, capacity, and use of all proposed buildings
- List of all recreational activities that will take place on-site
Cargo Storage Containers (including tractor trailers) (B-2)

Detailed Regulations

- A maximum of one (1) Cargo Storage Container shall be allowed.

Additional Required Information for Application

- Plans and specifications for fencing and/or vegetative screen
- Size of proposed Cargo Storage Container and materials to be stored

Cemeteries (RA, R-20, R-12, R-7, R-7MH, O&I)

Detailed Regulations

- All cemeteries shall be for interment of human remains only.
- Embalming or cremation facilities (as principal or accessory uses) are not permitted except where permitted by right under the Funeral Homes use designation as outlined in Section 8-2: Table of Permitted Uses.
- No cemetery use shall be allowed within the floodway as designated by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).
- A type I or II buffer shall be required along all lot lines adjoining residually zoned or used lots.
- Brick or stone walls between two and a half (2.5) feet and four (4) feet and wrought iron fences between two and half (2.5) feet and six (6) feet are permitted along the perimeter of the cemetery.
- Burial plots (including associated tombstones and monuments) shall meet the setbacks of the district where they are located unless a lot line abuts a pre-existing cemetery. In such cases, the burial plot setback may be reduced to five (5) feet for any common lot line with the pre-existing cemetery.
- All burial plots shall be set back a minimum of twenty-five (25) feet from any water body (including streams and ditches) or well (including irrigation wells).
- The maximum size of a sign shall be forty-eight (48) square feet with a maximum height of six (6) feet, and there is a limit of one (1) sign per street frontage.
- Primary access for all cemeteries containing more than five (5) acres shall be to a collector or thoroughfare street.
- Commercial cemeteries must meet all licensing requirements of state law prior to operation.
- Cemeteries exempt from state licensure requirements are not permitted as accessory uses to residential uses or on lots less than one (1) acre in size.
- The boundaries of private, non-commercial cemeteries and all easements must be recorded at the Pender County Register of Deeds as an addendum to the deed for the subject property.
• All cemeteries exempt from state licensure requirements must make legally binding provisions for the perpetual care and maintenance of the cemetery prior to issuance of a conditional use permit.

Additional Required Information for Application
• In addition to the general requirements, the site plan must also include the location of all gravesites or burial plots (numbered).
• Funeral procession route, if possible
• If a cemetery exempt from state licensure requirements, provisions for the perpetual care and maintenance of the cemetery property and easement maps for access to site if not directly accessible by public road.
• Certification from soils engineer that site is appropriate for proposed use

Supplemental Standards for Evaluation
• Adequate off-street parking for funeral processions is available.
• If applicable, the internal road system is designed for adequate parallel parking and stacking for vehicles and provides for convenient circulation for ingress and egress.

Churches (RA, R-20, R-12, R-7, R-7MH)

Detailed Regulations
• In the R-12, R-7, and R-7MH zoning districts, all contiguous lots not separated by a public street used for a single church shall be no more than three (3) acres in total area.
• Exterior lighting shall be located and refracted so as to not direct or reflect light upon adjoining properties.
• New church facilities located on sites of three (3) acres or more shall have primary access to a collector or thoroughfare street.
• Signage shall be limited to one (1) unlighted sign not to exceed forty-eight (48) square feet per face which may be either a free-standing ground sign, with a two (2) face maximum and a height of no more than six (6) feet, or flat-mounted on the structure.

Additional Required Information for Application
• Plans and specifications for buffer
• Proposed hours of operation
• List of all proposed accessory uses
• Lighting plan
Club or Lodge, Fraternal or Civic (R-12, R-7)

**Detailed Regulations**

- Exterior lighting shall be located and refracted so as to not direct or reflect light upon adjoining properties.
- Signage shall be limited to one (1) unlighted sign not to exceed twenty-four (24) square feet per face which may be either a free-standing ground sign, with two (2) face maximum and a height of no more than five (5) feet, or flat-mounted on the structure.
- Club or Lodge uses shall not be open after 12:00 midnight.
- The use shall be operated by a non-profit organization.

**Additional Required Information for Application**

- Plans and specifications for buffer
- Proposed hours of operation
- List of all proposed accessory uses
- Lighting plan

Coal Sales & Storage (I-2)

**Detailed Regulations**

- The proposed facility shall conform to the requirements of the Fire Prevention Codes of the North Carolina State Building Code, National Board of Fire Underwriters, and all applicable codes of the National Fire Protection Association.
- No Coal Sales & Storage operations or portion thereof shall be permitted within the 100-year floodplain or floodway as designated by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).
- A security fence at least eight (8) feet in height shall surround all facilities used for the storage and handling of coal.
- A type III or IV buffer shall be required where lot abuts a residentially zoned or used lot or is visible from a public right-of-way.

**Additional Required Information for Application**

- In addition to the general requirements, the site plan must also include the location of all structures and water bodies within one thousand (1,000) square feet.
- Stormwater plan
- Lighting plan
- Plans and specifications for buffer and fencing
- Method of controlling particulate matter emissions
- Certification from fire marshal and building inspector that proposed plan meets fire prevention requirements
Dairy Products, Sales & Processing (RA)

Detailed Regulations

- A type III buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- No portion of the building or any other enclosures to be used for the retention of animals or the processing of animal products shall be located less than three hundred (300) feet from residentially used lots.
- Dairy Products, Sales & Processing uses may be either the primary use of the lot or accessory to a permitted Animal Production use.

Additional Required Information for Application

- List of all proposed uses on the site
- Transportation plan for all truck and/or customer parking
- Waste treatment plan
- Plans and specifications for buffer

Dwelling, Multi-Family (R-7, PUD, O&I)

Detailed Regulations

- Dwelling, Multi-Family uses shall include no fewer than three (3) and no more than eight (8) individual dwelling units sharing a common roofline and building structure. Developments with nine (9) or more dwelling units and/or developments with more than one (1) building structure shall be classified as Planned Building Group—Residential Attached Units and regulated as described in Article 16, Chapter V of this ordinance.
- Common open space or other facilities and amenities shared by all dwelling units shall be maintained either by a homeowner’s association or property owners association if dwelling units are individually owned (i.e., townhouses, condos) or by the property owner or management firm if units are apartments.
- For each Dwelling, Multi-Family use, there shall be a minimum land requirement of eight thousand (8,000) square feet for the first two (2) dwelling units and two thousand (2,000) square feet for each additional dwelling unit.

Additional Required Information for Application

- In addition to the general requirements, the site plan must also include the location of signs and location and size of any common facilities.
- Description and location of water, sewer, and storm drainage utilities and solid waste storage facilities
- Solid waste plan
- Lighting plan
- Number of bedrooms/capacity per dwelling unit
- Certification from the Public Works Director that water/sewer facilities and plans are adequate for use.
Article 8. Zoning District Regulations

Engine Repair, Small (B-2, I-1, I-2)

Detailed Regulations
- All repair work shall be within an enclosed structure.

Additional Required Information for Application
- Plans and specifications for buffers and fencing
- Lighting plan
- Description of all machinery, including noise decibel level
- Hazardous waste plan (including proposed storage of combustible materials)

Entertainment Establishment (with outdoor use) (PUD, B-1, B-2)

Detailed Regulations
- Noise and/or music on Entertainment Establishment premises shall not be audible on any adjacent residentially used property after 10 pm.
- A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Additional Required Information for Application
- Size and location of all outdoor areas used for principal use
- Lighting plan
- List of all services to be provided
- Security/management plan
- Hours of operation
- Specifications for buffer, if required

Event Venue (with outdoor use) (PUD, B-1, B-2, I-1)

Detailed Regulations
- Noise and/or music on Entertainment Establishment premises shall not be audible on any adjacent residentially used property after 10 pm.
- A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Additional Required Information for Application
- Size and location of all outdoor areas used for principal use
- Lighting plan
- List of all services to be provided
- Security/management plan
- Hours of operation
- Specifications for buffer, if required
Fairground Activities (including carnivals and circuses) (RA)

**Detailed Regulations**

- Minimum lot size shall be five (5) acres.
- A type III buffer shall be required along all side and rear lot lines.
- The site shall have direct access to a major or minor thoroughfare street.
- Principal buildings or structures shall be set back a minimum of fifty (50) feet from all lot lines.
- No amusement equipment, machinery, or mechanical device of any kind may be operated within two hundred (200) feet of any residential structure.
- Hours of operation shall be limited to between 9 am and 11 pm.
- No outdoor public address system shall be permitted that can be heard beyond the boundaries of the property.
- All dumpster areas shall be screened with an opaque fence a minimum of six (6) feet in height.

**Additional Required Information for Application**

- In addition to the general requirements, the site plan must also include the location of amusement equipment.
- Plans and specifications for buffer and fencing
- Lighting plan
- Noise, dust, and traffic control measures
- Size and location of signage
- Proposed duration/days of operation
- Waste management plan
- Water and sewer plans

Family or Group Care Home (more than 6 residents) (O&I, I-1)

**Detailed Regulations**

- The minimum lot size requirement as described in Section 8-1: Dimensional Requirements shall be increased by seven hundred fifty (750) square feet for each person in excess of six (6) people for whom care is provided.
- A type I buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- A minimum of two hundred fifty (250) square feet of heated building shall be provided per resident.
- One (1) parking space for every four hundred (400) square feet of building space and one (1) space for each employee on the premises shall be provided.
Article 8. Zoning District Regulations

- Family or group care homes may not be located within a distance of twenty-five hundred (2,500) feet from any group care facility.
- One (1) monument-style sign a maximum of ten (10) feet in height shall be permitted, not to exceed thirty-two (32) square feet per face with a two (2) face maximum.

Additional Required Information for Application
- Description of the type of persons to be cared for and the nature of the care to be provided
- Number of proposed residents and staff

Supplemental Standards for Evaluation
- The family or group care home shall be operated in a manner that is compatible with the neighborhood and shall not be detrimental to adjoining properties as a result of traffic, noise, refuse, parking, or other activities.

Farm Machinery Sales and Servicing (B-2, I-1, I-2)

Detailed Regulations
- The lot for the proposed Farm Machinery Sales and Servicing use shall meet the minimum yard requirements for the zoning district or shall be a minimum of one half (1/2) acre in size.
- Customer and employee parking and machinery on display shall not be located in any required street yard or public right-of-way and may not impede vehicular or pedestrian traffic or sign distance triangles, if applicable.
- All machinery display areas shall conform to the landscaping requirements for parking areas as set forth in Article 11 of this ordinance.
- On-site machinery loading and unloading areas shall be of a sufficient size to ensure that no such loading or unloading will occur in any public right-of-way or impede ingress, egress, or internal circulation.
- A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- No structure or outside storage, display, or activity area shall be within a distance of thirty (30) feet of any abutting residentially zoned or used lot.
- Any repair, servicing, maintenance, or other work on machinery shall be conducted within an enclosed structure or behind an opaque fence six (6) feet in height.
- No outdoor public address system that can be heard beyond the boundaries of the property shall be permitted.
- All floodlights shall be turned off at the close of business of 11 pm, whichever is earlier.
- No farm machinery servicing shall be allowed in the designated floodways as depicted on the Federal Emergency Management Act (FEMA) Flood Insurance Rate Map (FIRM).

Additional Required Information for Application
• Description of all servicing equipment, including noise decibel level
• Plans and specifications for buffer and fencing
• Number of farm machines to be displayed
• Lighting plan
• Hours of operation
• List of all services to be provided
• Hazardous waste plan (including proposed storage of combustible materials)

Flea Market (B-2, I-1)
Detailed Regulations
• A minimum lot area of one (1) acre is required.
• Flea Market uses will not be allowed as an accessory use.
• Adequate and safe permanent public restrooms and/or toilet facilities are required. No portable restroom facilities will be allowed.
• If all or a portion of the Flea Market use will take place outdoors, the following regulations will apply:
  o Sales or display areas shall not encroach upon any required setback, block sidewalks or parking areas, or impede vehicular or pedestrian traffic
  o All tables, stands, and/or other display equipment and all vehicles shall be removed from the parcel any time that the flea market is not open to the public.
  o All sales items shall be stored indoors when the flea market is not open for business or removed from the site at the close of business each day.
  o A type I or II buffer shall be required along all lot lines adjoining residential zoned or used lots.

Additional Required Information for Application
• If all or a portion of the Flea Market use will take place outdoors, in addition to the general requirements the site plan must also include the location, dimensions, and number of individual booths or sales areas.
• Lighting plan
• Plans and specifications for buffer
• Proposed hours and days of operation

Gasoline and Liquefied Petroleum (LP) Gas Bulk Stations and Terminals (I-2)
Detailed Regulations
• All storage tanks and loading facilities shall be located at least twenty-five (25) feet from any side or rear property line.
• All storage tanks and loading facilities shall be located a minimum of eighty-five (85) feet from any exterior property line bordering a residential district.
• The minimum building setback shall be forty (40) feet from side and rear lot lines.
• A security fence at least eight (8) feet in height with three (3) strands of barbed or razor wire shall surround all facilities used for the storage and handling of flammable materials.
• A type III or IV buffer shall be required along all lot lines adjoining residentially zoned or used lots.
• A dike that forms a basin equal to the capacity of the largest tank shall surround all tanks constructed above the ground level.
• The proposed facility shall conform to the requirements of the Fire Prevention Code of the North Carolina State Building Code, National Board of Fire Underwriters, and the latest edition of the “Flammable and Combustible Liquids code, NFPA 30” of the National Fire Protection Association.
• No Gasoline and LP Gas Bulk Station and Terminal operation shall be allowed (at whole or in part) within the 100-year floodplain or floodway as designated on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).

Additional Required Information for Application

• In addition to the general requirements, the site plan must also include the location and capacity of all storage tanks.
• Proposed layout of pipelines
• Plans and specifications for buffer and fencing
• Certification from fire marshal and building inspector that proposed plan meets fire prevention requirements

Gasoline Stations with Convenience Stores (PUD, B-1, B-2)

Detailed Regulations

• The site shall front a thoroughfare or residential collector street.
• No aboveground equipment for the vehicular service of gasoline, oil, or other petroleum product shall be closer than twenty-five (25) feet to any public right-of-way and ten (10) feet to any exterior property line.
• Pump island canopies shall not be located closer than ten (10) feet to a public right-of-way or exterior property line.
• A type II buffer shall be required along all lot lines adjoining residentially zoned or used lots.
• All accessory uses shall be subject to all ordinance requirements as stated in this ordinance and must be approved as part of a conditional use permit.

Additional Required Information for Application

• In addition to the general requirements, the site plan must also include the location and size of gasoline, oil, or other petroleum product tanks.
• Lighting plan
• Location, type, and dimensions of signage
• List of all proposed accessory uses for site (e.g. food service, car wash, etc.)

Gasoline Stations without Convenience Stores (PUD, B-1, B-2)
See Gasoline Stations with Convenience Stores.

Grain Sales or Storage, Wholesale (B-2)
Detailed Regulations
• A type III buffer shall be required along all lot lines adjoining residentially zoned or used lots.
• No structure, outside storage area, or outside activity area shall be within a distance of thirty (30) feet from any adjoining residentially zoned or used lot.

Additional Required Information for Application
• Plans and specifications for buffer and fencing
• Lighting plan
• Stormwater management plan
• Description of all machinery, including noise decibel level

Hatchery Operations (RA, I-2)
See Animal Production.

Hospital (O&I, B-2)
Detailed Regulations
• Such institutions shall have primary access to a major or minor thoroughfare street.
• A type II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Additional Required Information for Application
• In addition to the general requirements, the site plan must also label parking areas if lot is specified for a certain use (e.g. emergency room, staff, etc.) and show the location of all signs.
• Plans and specifications for buffer
• Lighting plan
• Solid waste plan
• Certification from the Public Works Director that water/sewer facilities and plans are adequate for use
• List of all services and accessory uses provided by proposed Hospital (e.g. outpatient clinics, cafeterias, heliport, ambulance storage, etc.)
Household Appliance Repair (B-2)

Detailed Regulations
- All repair work shall be within an enclosed structure

Additional Required Information for Application
- Plans and specifications for buffer and fencing
- Lighting plan
- Description of all machinery, including noise decibel level

Internet and Sweepstakes Gaming (B-2)

Detailed Regulations
- Internet and Sweepstakes Gaming is not allowed as an accessory use.
- There shall be a minimum separation of fifteen hundred (1,500) feet for any Internet and Sweepstakes Gaming use from any other Internet and Sweepstakes Gaming use; Bar, Cocktail Lounge, and/or Nightclub; or Adult Business as measured by a straight line between the closest exterior walls of the principal structures.
- There shall be a minimum separation of five hundred (500) feet between any structure proposed for Internet and Sweepstakes Gaming and any existing residential structure as measured by a straight line between the closest exterior walls of the principal structures.
- Hours of operation shall be strictly limited to between 8 am and 10 pm Monday through Saturday and 12 pm to 10 pm on Sunday or as determined by the Board of Commissioners to ensure conformity with the surrounding area.
- Alcohol may not be consumed or sold on any premises with Internet and Sweepstakes Gaming.
- All food served and/or distributed by the establishment must receive prior written approval from the Town of Burgaw Building Inspections Department. Any non-prepackaged food that is served or distributed must be inspected and approved by the Pender County Health Department.
- Maximum daily cash payout for an individual customer shall not exceed $600. Winnings that exceed this amount shall be paid out in the form of a check. All establishments engaged in Internet and Sweepstakes Gaming operations must comply with all reporting requirements regulated by the Internal Revenue Service.
- Any building and/or zoning permits issued for the Internet and Sweepstakes Gaming operation shall be subject to annual review (from date of approval from the Town of Burgaw Board of Commissioners) to insure compliance with all relevant regulations and conditions.
- No person under the age of eighteen (18) will be allowed in the establishment, and age must be verified for each customer at the time of entry into the establishment.
- Applicant shall verify age of each customer at the time of entry into the establishment.
• In the event that the Internet and Sweepstakes use, based on the definition in this ordinance, is determined by a court of competent jurisdiction or by any law to be an illegal use in accordance with the laws of the State of North Carolina, the applicant shall cease its use upon notification from the Town of Burgaw.

Additional Required Information for Application

• Management plan for operation, including method of age verification and how sweepstakes machines will be used as part of the business
• Floor plan showing layout of operation
• Lighting plan
• Security plan
• Type and number of all sweepstakes equipment

Jails (RA, B-1, I-1, I-2)
Detailed Regulations

• Jails shall not be sited within two hundred (200) feet of any existing church, school, or daycare facility as measured by a straight line between the closest exterior walls of the principal structures.
• A type II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Additional Required Information for Application

• Plans and specifications for buffer
• Lighting plan
• Certification from the Public Works Director that water/sewer facilities and plans are adequate for use

Lawn and Garden Equipment Repair (B-2)
See Household Appliance Repair.

Manufactured Home, Nonresidential Occupancy (O&I, B-2, I-1, I-2)
Detailed Regulations

• Manufactured homes may be used solely as temporary field offices for contractors for a period of no longer than eighteen (18) months.
• The Manufactured Home, Nonresidential Occupancy use must be located on the same lot as the structure(s) under construction.
• All structures permitted under this category shall be moved within twenty (20) days of completion of work or in the event that no work is conducted for a period of one hundred eighty (180) days.
• The manufactured home may not be used for any purpose other than that incidental to on-site construction during daylight hours and may not be used for residential living quarters.

• The manufactured home must be connected with an approved sewer system.

Additional Required Information for Application

• In addition to the general requirements, the site plan must also include the proposed location and size of structure(s) under construction.

• Timeline for construction of all structures

Supplemental Standards for Evaluation

• The need for a temporary on-site field office is justified by the size and nature of the construction project.

Manufactured Home Parks (RA, R-7MH)

See Article 19: Manufactured Home Parks.

Manufactured Home Sales, Retail (B-2, I-1, I-2)

Detailed Regulations

• All manufactured homes displayed for sales (not in storage, repair, or screened areas) shall conform to all Federal Manufactured Home Construction and Safety Standards and/or building requirements and/or codes for Manufactured Homes and bear the required United States Department of Housing and Urban Development (HUD) tag and/or date plate.

• Signs shall conform to the sign regulations of the zoning district in which the use is located. In addition, each manufactured home on display may have a sign not to exceed three (3) square feet in area that gives information about the home.

• All manufactured homes shall be located on a pre-determined display pad (as shown on an approved site plan) equaling no more than one hundred twenty percent (120%) of the structure’s footprint.

• A minimum separation of at least ten (10) feet shall be maintained between display pads.

• Display homes shall be level and blocked. Manufactured homes that are visible off-site shall be provided with some type of material (skirting, low fence, or landscaping) around the base that will prevent open views underneath the manufactured home. Access to the display homes shall be through a stairway or other means that has a permanent appearance.

• In addition to the landscaping requirements of Article 11 of this Ordinance, the display area for manufactured home sales shall include two (2) medium shrubs and six (6) small shrubs per display pad.

• Portions of any display area not included in individual display pads shall be grassed or mulched and suitably landscaped.
• No outdoor public address system or machinery used in repairs shall be audible beyond the property line.

• No Manufactured Home Sales, Retail use may be located within twenty-five hundred (2,500) feet of another manufactured home sales lot.

• A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Additional Required Information for Application

• In addition to the general requirements, the site plan must also include the location and dimensions of all display pads and show the pattern of internal pedestrian circulation (along with internal automobile circulation).
• Plans and specifications for buffer
• Number of manufactured homes to be displayed
• Lighting plan
• Hours of operations
• Skirting or fencing materials to be used on display homes visible off-site

Manufactured Home Sales, Wholesale (I-1, I-2)

Detailed Regulations

• Only manufactured homes, prefabricated buildings, and/or construction materials in a suitable condition for immediate sale shall be allowed as part of a Manufactured Home Sale, Wholesale use.

Additional Required Information for Application

• Comprehensive list of all materials and/or products to be stocked as part of this use
• Number of manufactured homes and/or prefabricated buildings to be kept in stock, if applicable

Mental Health Facility, Inpatient (more than 6 residents) (O&I, I-1)

See Alcohol and/or Substance Abuse Rehabilitation Facilities, Residential (more than 6 residents).

Motels (B-1, B-2)

Detailed Regulations

• The number of sleeping units shall not exceed one (1) per one thousand (1,000) square feet of lot area.

• One (1) parking space shall be required for every rental room plus one (1) space for each of the maximum number of persons employed at any given time during a 24-hour period.

• One (1) loading space shall be required for every one hundred thousand (100,000) square feet of motel floor area or fraction thereof.
Article 8. Zoning District Regulations

- A type II buffer shall be required along all lot lines adjoining a residentially zoned or used lot.
- No long-term rental of rooms shall be permitted. The maximum length of stay shall be thirty (30) days.
- No receptions, private parties, or similar activities shall be permitted unless expressly approved as part of a conditional use permit. Any accessory commercial activities (including gift shops and restaurants) and outdoor recreation facilities (e.g. pools, tennis courts) must also be expressly approved as part of the conditional use permit.

Additional Required Information for Application

- Floor plan of the motel structure, designating the use and floor area of each room and showing ingress and egress from each room
- Plans and specifications for buffer and fencing
- Number of guests (based on number and capacity of guest rooms) and employees
- List of services, amenities, and any accessory uses
- Solid waste storage facilities
- Lighting plan

Motorcycle Repair Shops (B-2, I-1, I-2)

Detailed Regulations

- All repair work shall be within an enclosed structure, in the rear of the building, or behind a screen.
- Designated customer parking must be provided. All vehicles waiting to be repaired may be required to be parked in rear or side of building.
- Storage of customer vehicles, vehicles with expired tags, unlicensed vehicles, junked vehicles, or any vehicle not used in the conduct of business operations for fifteen (15) days or more shall be prohibited, and no more than ten (10) such vehicles in the B-2 district and thirty (30) such vehicles in the I-1 and I-2 districts shall be allowed to be stored at any one time.
- This use shall be prohibited in the designated floodway as depicted on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).

Additional Required Information for Application

- List of all services that will be provided
- Description of all machinery, including noise decibel level
- Lighting plan
- Plans and specifications for buffer and fencing
- Hazardous waste plan (including proposed storage of combustible materials)
Motor Vehicle Towing Service (with on-site storage of up to 10 vehicles) (B-2, I-1, I-2)

Detailed Regulations

- No repair work shall be done on motor vehicles while stored in the storage yard. No parts or other articles may be removed from the vehicles except for security purposes, not shall any parts or articles be sold. The sale of whole vehicles shall be permitted only to satisfy a mechanics lien or by order of a law enforcement agency.

- Storage of vehicles not used in the conduct of business operations for more than thirty (30) days shall be prohibited.

- No structure, outside storage area, or outside activity area shall be within a distance of thirty (30) feet from any residentially zoned or used lot.

- All vehicles, materials, or equipment shall be stored within an enclosed building or an outdoor or open storage area restricted to the rear yard enclosed with an opaque fence of wall six (6) feet in height.

- A type II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

- This use shall be prohibited in the designated floodway as depicted on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).

- No towing of tractor trailers, tankers, and/or any other vehicle carrying a hazardous material shall be allowed within the B-2 district. A motor vehicle storage yard that stores tankers containing hazardous substances shall be enclosed by a minimum six (6) foot high fence which shall be locked during non-operating hours. In addition, a spill containment structure certified by a registered professional engineer as being adequate for spill containment is required. No tanker shall be stored closer than two hundred (200) feet from any residentially used or zoned lot.

Additional Required Information for Application

- List of all services that will be provided
- Lighting plan
- Plans and specifications for buffer and fencing

Motor Vehicle Towing Services (with on-site storage of more than 10 vehicles) (I-1, I-2)

See Motor Vehicle Towing Services (with on-site storage of less than 10 vehicles).

In addition, no more than fifty (50) motor vehicles shall be stored on the premises at any one time.

Nursing Care Facilities, Nursing Homes (PUD, O&I, B-2)

See Assisted Living Facilities with On-Site Nursing Facilities.
Planned Building Group—Commercial and/or Office/Institutional (PUD, O&I, B-1, B-2)

See Article 16 for standards.

Supplemental Standards for Evaluation. For expansions of existing buildings in the B-1 district:

- The proposed addition meets the Secretary of the Interior’s Standards for the Treatment of Historic Properties.

Planned Building Group—Residential Attached Units (R-7, PUD, O&I)

See Article 16.

Planned Unit Development District (PUD) (R-20, R-12, PUD)

See Article 16.

Plating (I-2)

Detailed Regulations

- No plating operations, including all buildings, storage and processing areas, loading areas, and parking areas shall be permitted within the 100-year floodplain or floodway as designated by the Flood Insurance Rate Map (FIRM).
- A type III or IV buffer shall be required along the side and rear lot lines.
- A security fence a minimum of six (6) feet in height shall be provided along the perimeter of the lot.
- The site shall be accessed by a major or minor thoroughfare or another access route maintained by the North Carolina Department of Transportation. No Plating operation shall be constructed with direct access onto a town-maintained road.

Additional Required Information for Application

- In addition to the general requirements, the site plan must also include the location of all structures and water bodies within one thousand (1,000) square feet.
- Stormwater plans for both clean and contaminated stormwater
- Waste management plan (including processing wastewater)
- Lighting plan
- Plans and specifications for buffer and fencing

Prisons (I-1, I-2)

Detailed Regulations

- A type III or IV buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- Within the buffer, security fencing a minimum of six (6) feet in height shall be provided.
- Such facilities shall have primary access to a major or minor thoroughfare street.
Additional Required Information for Application

- Plans and specifications for buffer and fencing
- Lighting plan
- Number of employees
- Prisoner capacity
- Certification from the Public Works Director that water/sewer facilities and plan are adequate for use

Processed Meats Manufacturing (I-1, I-2)

Detailed Regulations

- Processed Meats Manufacturing does not include animal slaughtering or butchering.
- No Processed Meats Manufacturing operations, including all buildings, storage and processing areas, loading area, and parking areas shall be permitted within the 100-year floodplain or floodway as designated by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).
- A type III or IV buffer shall be required around all side and rear lot lines.
- The site shall be accessed by a major or minor thoroughfare or another access route maintained by the North Carolina Department of Transportation. No Processed Meats Manufacturing operation shall be constructed with direct access onto a town-maintained road.

Additional Required Information for Application

- In addition to the general requirements, the site plan must also include the location of all structures and water bodies within one thousand (1,000) square feet.
- Stormwater plans for both clean and contaminated stormwater
- Waste management plan (including processing wastewater)
- Lighting plan
- Plans and specifications for buffer and fencing
- Evidence of soundproofing and odor buffering

Supplemental Standards for Evaluation

- The use will not generate fumes or odors beyond which normally occur in the zoning district in which it is located.

Pulp and Paper Combined Manufacturing (RA, I-2)

Detailed Regulations

- No Pulp and Paper Combined Manufacturing operations, including all buildings, storage and processing areas, loading areas, and parking areas shall be permitted within the 100-year floodplain or floodway as designated by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM).
- A type III or IV buffer shall be required around all side and rear lot lines.
The site shall be accessed by a major or minor thoroughfare or another access route maintained by the North Carolina Department of Transportation. No Processed Meats Manufacturing operation shall be constructed with direct access onto a town-maintained road.

Additional Required Information for Application

- In addition to the general requirements, the site plan must also include:
  - Information on the types of materials to be stored at each storage location (e.g. chemicals, paper products, etc.)
  - Location and specifications for any proposed wells, if applicable
  - Location of all structures and water bodies within one thousand (1,000) square feet
- Stormwater plans for both clean and contaminated stormwater
- Waste management plan (including processing wastewater)
- Lighting plan
- Plans and specifications for buffer and fencing
- Evidence of soundproofing and odor buffering
- Certification from the Public Works Director that water/sewer facilities and plans are adequate for use
- Certification from the Public Works Director that any proposed wells will not negatively impact the town water system, groundwater supplies, or other properties, if applicable

Supplemental Standards for Evaluation

- The use will not generate fumes or odors beyond which normally occur in the zoning district in which it is located.

Quarry and/or Extraction Operation (RA, I-2)

Detailed Regulations

- Required setbacks from public rights-of-way or from adjacent property.

<table>
<thead>
<tr>
<th>Mining Activity</th>
<th>From I-2 zoned property</th>
<th>From any other zoning district</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any extraction area, road, or pit</td>
<td>50 ft.</td>
<td>100 ft.</td>
</tr>
<tr>
<td>Any crushing of rock, processing of stone, gravel, or other material</td>
<td>100 ft.</td>
<td>150 ft.</td>
</tr>
<tr>
<td>Any blasting</td>
<td>200 ft.</td>
<td>250 ft.</td>
</tr>
</tbody>
</table>

- No excavation shall take place within easements for underground transmission lines for oil, natural gas, other potentially hazardous material, water, sewer, or any other utility.
- The site shall be accessed by a major or minor thoroughfare or another access route maintained by the North Carolina Department of Transportation. No Quarry and/or Extraction Operation shall be constructed with direct access onto a town-maintained road.
Area being excavated shall be enclosed within a chain link fence no less than six (6) feet in height, or wire mesh, located no less than ten (10) feet from the excavation edge wherever in the determination of the Planning Administrator it shall be necessary for safety.

A type III or IV buffer shall be required along the side and rear lot lines.

A landscaped natural berm may be required along any public street.

Security fencing a minimum of six (6) feet in height shall be provided within the vegetative buffer and along the street-side of any required berm.

The operation shall provide an entrance gate to prevent vehicular access during non-operational hours.

Whenever a Quarry and/or Extraction Operation would in the course of its operation create a flooding hazard, the operator, before commencing any such excavation, and at such other times during the excavation as may be necessary, shall erect such dikes, barriers, or other structures as will afford the same protection as if not excavation were made.

No Quarry and/or Extraction operation shall impede the flow of any watercourse.

Quarry drilling, blasting, and crushing, except in cases of emergency involving safety on the site, shall not take place on Sundays and no Quarry and/or Extraction Operation may take place earlier than 7 am or later than 6 pm on any other day.

The Board of Commissioners shall require, for all extractive uses, a performance guarantee to insure that the provisions of the rehabilitation plan are met. Such performance guarantees shall be in a form approved by the Board. The amount of such guarantee shall cover the cost of rehabilitation. The applicant’s engineer shall certify the costs of rehabilitation on a per acre basis, if the cost does not exceed the amount posted with the State of North Carolina. If the rehabilitation costs exceed the amount required by the State, then the difference shall be made up in a performance guarantee to the Town of Burgaw.

Additional Required Information for Application

- **Site Plan.** Three copies of site plan, prepared by a NC Registered Land Surveyor or Engineer, which shall contain the following:
  - North Point, scale, and date
  - Extent of areas to be excavated or mined
  - Locations, width, and elevation of all easements and rights-of-way within or adjacent to the extraction site
  - Location of all existing or proposed structures on site
  - Location of all areas on the site subject to flood hazard or inundation, as shown on flood maps or soils maps
  - Location of all water courses on the site, including direction of flow and normal fluctuation of flow
  - Existing topography at a contour interval of 5 feet based on mean sea level datum
Article 8. Zoning District Regulations

- Proposed handling and storage areas for overburden, byproducts, and excavated materials
- Proposed fencing, screening, and gates; parking, service and other areas
- Any areas proposed for ponding
- Access roads to the site, as well as on-site roads, with indication of surface treatment to limit dust. Sight distances on all roads used for access to the site shall be shown.

• **Operation Plan.** An operations plan, which shall include:
  - The date proposed to commence operations and their expected duration
  - Proposed hours and days of operations
  - Estimated type and volume of extraction
  - Description of method of operation, including the disposition of topsoil, overburden, and byproducts
  - Description of equipment to be used in the extraction process
  - Any phasing of the operation and the relationship among the various phases
  - Description of proposed haul routes
  - Operating practices that will be followed to comply with the performance standards applicable to the operation

• **Rehabilitation Plan.** A rehabilitation plan, which shall include:
  - A statement of planned rehabilitation of the excavated land, including detailed methods of accomplishment and planned future use of the rehabilitated land
  - A map showing the final topography, after rehabilitation, to the same scale as the site plan; it shall also depict any water areas and methods for preventing stagnation and pollution thereof, landscaping and ground cover proposed to be installed, and the amount and type of backfill to be employed, if any
  - A phasing and timing plan, related to the phasing and timing portion of the operations plan, showing the progression of the rehabilitation and the date when it will be complete.
  - The method of disposing of all equipment, structures, dikes, and spoil piles associated with the operations
  - The name, address, and signatures of land owners and applicants
  - A written legal description and survey of the property, prepared by a NC Registered Land Surveyor or Engineer
  - A per acre cost of rehabilitation, certified by the applicant’s engineer

• Lighting plan
• Stormwater plan
• Plans and specifications for buffer and fencing
Racetracks (RA, I-2)

Detailed Regulations

- The site shall be accessed by a major or minor thoroughfare or another access route maintained by the North Carolina Department of Transportation.
- A type III or IV buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- Within the buffer, security fencing a minimum of six (6) feet in width may be required.
- Rules and regulations, including safety guidelines, for the proposed racetrack must be posted at the entrance to the racetrack.
- Any sale of merchandise or concessions on the premises shall be limited to the hours of operation of the racetrack and shall not be visible from the street right-of-way.
- One (1) parking space shall be required for every four (4) spectator seats, with one (1) seat equal to two (2) feet of bench length. One (1) additional space shall be required for every employee on the shift of greatest employment.
- Depending on the intensity of the use and proposed access points, a traffic impact study may be required.

Additional Required Information for Application

- Type of racetrack proposed (e.g. motocross, horse, etc.)
- List of all accessory uses proposed (e.g. concessions sales, merchandise sales, etc.)
- Plans and specification for buffer and fencing
- Lighting plan
- Waste collection plan
- Number of employees on shift of greatest employment
- Traffic study, if required
- Noise mitigation plan
- Certification from the Public Works Director that water/sewer facilities and plans are adequate for use
- Operations Plan that includes:
  - Hours of operation
  - Type and management of competitive events that will be held at racetrack
  - Management plan
  - Safety guidelines
  - Competitive event programming and management including traffic/access control; security measures to be implemented during competitive events, such as boundary protection, accident reporting procedures, and spectator management; and trespassing management plans, etc.
Radio or Television Studio Activities (O&I, B-2, I-1, I-2)

See Article 17. Wireless Telecommunications Facilities.

Additional Required Information for Application

- List of all activities to take place on the site
- Number of employees
- See Article 17 for additional requirements for broadcast transmissions.

Supplemental Standards for Evaluation

- If applicant is broadcasting and not collocating, the evidence presented shows that collocation is not reasonably feasible as defined in Article 17.

Repossession Services (PUD, B-2)

Detailed Regulations

- No more than twenty (20) motor vehicles shall be stored on the premises at any one time.
- A type II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Additional Required Information for Application

- Lighting plan
- Plans and specifications for buffer and fencing
- Number of vehicles proposed for storage

Residential Cluster Development (RA, R-20)

See Article 16, Chapter II.

Restaurant, Full Service (PUD, B-1, B-2)

Detailed Regulations

- A type I or II buffer may be required along all lot lines adjoining residences, churches, elementary or secondary schools, or public parks.
- Drive-through queuing lanes and service window(s) shall be located on the side and rear only and shall not interfere with the proper ingress and egress of the restaurant.

Additional Required Information for Application

- In addition to the general requirements, the site plan must also include the position of drive-through, drive-through queuing lane, and number of stacking spaces, if applicable.
- Lighting plan
- Layout of indoor seating
- Number and placement of outdoor seats proposed, if applicable.
Restaurant, Limited Service (PUD, B-2)

See Restaurant, Full Service.

Sawmill or Planing Activity (RA, I-2)

Detailed Regulations

- A type III buffer shall be required along all side and rear lot lines.
- Security fencing a minimum of six (6) feet in height shall be required around the perimeter of the property.
- The site shall be accessed by a major or minor thoroughfare or another access route maintained by the North Carolina Department of Transportation. No Sawmill or Planing Activity operation shall be constructed with direct access onto a town-maintained road.

Additional Required Information for Application

- Plans and specifications for buffer and fencing
- Waste management plan
- Description of all machinery, including noise decibel level

School Bus Services (I-1, I-2)

See Bus Repair and Storage Terminal Activities.

School; Elementary, Junior High, and High School (RA, R-20, R-12, R-7, R-7MH, PUD, O&I, B-1, B-2)

Detailed Regulations

- Dust-free, pervious surface areas are encouraged for overflow or event parking; such area need not conform with the parking lot specifications of this ordinance if they are maintained in a natural condition (e.g., as a grassed field).
- A school in or adjacent to any residential district shall have its principal vehicular entrance and exit on a thoroughfare street or on a collector.
- There shall be a minimum of two (2) access points to the site. Access points shall separate student drop-off areas and visitor parking from bus traffic, if applicable.
- There shall be a minimum of one (1) off-street loading or unloading space per fifty (50) students enrolled, appropriately located to the entrance(s) of the school building.
- A type I or II buffer shall be required along side and rear lot lines.
- Depending on the intensity of the use and proposed access points, a traffic impact study may be required.
- Sidewalk extensions and connections may be required in an effort to provide pedestrians safe means of travel.
Additional Required Information for Application

- In addition to the general requirements, the site plan must also include:
  - On-site vehicular and pedestrian traffic circulation, showing any proposed loading and unloading areas with stacking spaces identified, parking areas (including over-flow areas if applicable), drive lanes, sidewalks, and other transportation improvements
  - Number and dimensions of designated parking spaces for school buses, if applicable
  - Number and location of designated parking spaces for employees
  - Number and location of visitor parking spaces
  - Number and location of student parking spaces, if applicable
  - Location and dimensions of open recreation or training areas
  - Location and extent of open recreation or training areas
  - Total number of seats for spectators
  - Location of concession stands, if applicable

- Waste collection plan
- Water and sewer plan
- Student capacity of school as designed
- Total number of employees at time of greatest shift

Supplemental Standards for Evaluation

- No access points or loading and unloading areas are located so as to hinder or congest traffic movement on a public street.

School, Trade or Vocational

Detailed Regulations

- A type I or II buffer shall be required along all lot lines abutting a residentially zoned or used lot.
- Depending on the intensity of the use and proposed access points, a traffic impact study may be required.
- Sidewalk extensions and connections may be required in an effort to provide pedestrians safe means of travel.

Additional Required Information for Application

- In addition to the general requirements, the site plan must also include:
  - Pedestrian traffic circulation, drive lanes, sidewalks, and other transportation improvements
  - Number and location of designated parking spaces for employees
  - Number and location of visitor parking spaces
  - Number and location of student parking spaces
  - Location and extent of open recreation or training areas

- Waste collection plan
- Water and sewer plan
Article 8. Zoning District Regulations

- Student capacity of school as designed
- Total number of employees at time of greatest shift

Seafood Markets (PUD, B-1, B-2)

Detailed Regulations

- In PUD and B-2 districts, one (1) off-street parking space shall be required for every five hundred (500) square feet of retail space. For the purposes of this section, retail spaces shall be that area occupied for the display, sale, or storage of goods.
- Adequate and safe permanent public restrooms and/or toilet facilities are required. No portable restroom facilities will be allowed.
- If all or a portion of the Seafood Market will take place outdoors, the following regulations will apply:
  - Sales or display areas shall not encroach upon any required right-of-way setback, block sidewalks or parking areas, or impede vehicular or pedestrian traffic.
  - All tables, stands, and/or other display equipment and all vehicles shall be removed from the parcel any time the seafood market is not open to the public.
  - All sales items shall be stored indoors when the seafood market is not open for business or removed from the site at the close of business each day.
  - A type I or II buffer shall be required along all lot lines adjoining residentially zoned or used lots.

Additional Required Information for Application

- If all or a portion of the seafood market use will take place outdoors, in addition to the general requirements, the site plan must also include the location, dimensions and number of booths or sales areas.
- Lighting plan
- Plans and specifications for buffer
- Proposed hours, days, and months (if seasonal) of operation

Sewage Treatment Plants and/or Facilities (RA, R-20, R-12, R-7, R-7MH, PUD, O&I, B-1, B-2, I-1, I-2)

Detailed Regulations

- A type I buffer shall be required along all lot lines adjoining residentially zoned or used lots.
- A security fence a minimum of six (6) feet in height shall be required along the perimeter of the lot.

Additional Required Information for Application

- Lighting plan
- Plans and specifications for buffer and fencing
- Certification from Public Works Director or engineer that plans are adequate for use

**Solar Farms (I-1)**

**Detailed Regulations**

- All structures shall be set back 30 feet from the front property line, 15 from the side, and 25 feet from the rear. In addition, all structures must be set back a minimum of 100 feet from any residential dwelling unit.
- A type II or III buffer shall be required to be installed along any adjacent street right-of-way or residentially zoned or used property.
- Solar power electric generation structures shall not exceed twenty (20) feet in height as measured from the grade at the base of the structure to its highest point.
- Solar farms located within the floodway or 100-year floodplain shall elevate all electrical connections one foot above the base flood elevation (BFE).
- Physical access shall be restricted by fencing, walls, or other appropriate means. Razor wire is prohibited.
- If lighting is provided, it shall be shielded and downcast so that light does not spill onto adjacent parcels or rights-of-way. Motion sensor control is preferred.
- Solar collection devices shall be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard.
- With the exception of the manufacturer’s or installer’s identification, appropriate warning signs, and owner identification sign, all other signs shall be prohibited.
- A solar energy system shall be located to ensure that solar access to a solar energy system shall not be obstructed over time by permissible uses or activities on any adjacent property (i.e. by planting or growth of vegetation, new construction, etc.). It shall be the responsibility of the owner of the solar farm to obtain appropriate solar access easements from neighboring property owners and to notify the town upon the recording of any such easement. All solar access easements shall be recorded with the Pender County Register of Deeds.
- A decommissioning plan, approved by the town as part of the approved conditional use permit, prior to final electrical inspection.
- The placement of a bond covering the cost of decommissioning as estimated by the applicant and approved by the Town of Burgaw Board of Commissioners

**Additional Required Information for Application**

- A map analysis showing a radius of five (5) nautical miles from the center of the solar farm with any airport operations within this area highlighted.
• Copies of letters, proof of notification, and date of delivery of notice to NC Commanders Council of intent to construct the solar farm, including location of farm (i.e. map, coordinates, address, or parcel ID), technology, and the area of the system, if applicable.

• Copies of letters, proof of notification, and date of delivery of notice to Federal Aviation Administration’s (FAA) Airport District Office (ADO) with oversight of North Carolina, including a full Solar Glare Hazard Analysis Tool (SGHAT) report and contact information for the zoning administrator, if applicable.

• A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following:
  o Defined conditions upon when decommissioning will be initiated (i.e. end of lease, no power production for 12 months, etc.)
  o Removal of all non-utility owned equipment, conduit, structures, fencing, roads, and foundations
  o Restoration of property to condition prior to development of the SES
  o The timeframe for completion of decommissioning activities
  o Description of any agreement (e.g. lease) with landowner regarding decommissioning
  o The party currently responsible for decommissioning
  o Plans for updating this decommissioning plan

**Storage, Self-Service (B-2, I-1, I-2)**

**Detailed Regulations**

• Servicing, repair, or fabrication of motor vehicles, boats, lawn mowers, appliances, or other similar equipment; storage of hazardous chemicals, flammable liquids, or combustible and explosive materials; habitation of storage units by humans or animals; and commercial, wholesale, or retail sales and flea markets/yard sales shall be prohibited on the premises. However, once a month, the management of the Storage, Self-Service use may conduct a one (1) day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with State of North Carolina regulations.

• Open storage of recreational and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within the Storage, Self-Service use, provided that the following standards are met:
  o The storage shall occur only within a designated area. The designated area shall be clearly delineated.
  o The storage area shall not exceed twenty-five percent (25%) of the buildable area of the site.
  o The storage area shall be entirely screened from view from adjacent residential areas and public roads by a building and/or opaque fencing or fencing with landscaping along the fence’s exterior side.
Article 8. Zoning District Regulations

- Storage shall not occur within the area set aside for minimum building setbacks.
- No dry stacking of boats shall be permitted on the site.
- Boats shall be stored in a manner so as to prevent the collection of rainwater.
  - If separate structures are constructed, there shall be a minimum separation of ten (10) feet between the buildings within the facility.
  - Interior parking shall be provided in the form of aisles adjacent to the storage bays. These aisles shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisles shall be thirty (30) feet.
  - Outdoor lighting shall be required.

Additional Required Information for Application

- Lighting plan
- Plans and specifications for fencing, if applicable

Substance Abuse Treatment Hospital, Inpatient (O&I, B-2)

See Alcohol and/or Substance Abuse Rehabilitation Facilities, Residential (more than 6 residents).

Taxicab Operations (B-1, B-2)

Detailed Regulations

- Unless specified on a conditional use permit, any form of repair, overhauling, salvage, dismantling, and wrecking of vehicles shall be prohibited.
- All vehicles, materials, and equipment shall be stored within an enclosed building or an outdoor storage area restricted to the rear yard enclosed with an opaque fence or wall six (6) feet in height.
- Use shall comply with all relevant requirements as stated in Chapter 8 of the Town of Burgaw Code of Ordinances.

Additional Required Information for Application

- Number of taxicabs in fleet
- Certification from the Town of Burgaw Chief of Police that all relevant requirements in Chapter 8 of the Town Code have been met.
- If taxicabs are not to be stored on site, location of storage

Tire Recapping (I-1, I-2)

Detailed Regulations

- Outdoor storage of tires and/or other materials shall be screened with a type II buffer.

Additional Required Information for Application

- Plans and specifications for buffer and fencing
Tire Repair Shops (excludes recapping) (B-2)

Detailed Regulations

- No outside storage of tires and/or other materials shall be permitted.
- All repair work shall be within an enclosed structure.

Additional Required Information for Application

- List of all mechanical equipment, including noise decibel level

Truck Terminal Activities for Non-Passenger Vehicles (including repair, hauling, and/or storage) (I-1, I-2)

See Bus Repair and Storage Terminal Activities.

Utility Trailer Dealers (B-2)

Detailed Regulations

- The lot for the proposed Utility Trailers Dealers use shall be a minimum of fifteen thousand (15,000) square feet in size.
- Any repair, servicing, maintenance, or other work on trailers shall be conducted within an enclosed structure or behind an opaque fence six (6) feet in height.
- All trailers under repair or waiting to be repaired, materials, or equipment shall be stored within an enclosed building or outside storage area restricted to the rear yard enclosed with an opaque fence or wall six (6) feet in height.
- All floodlights shall be turned off at the close of business or 11 pm, whichever is earlier.
- Customer and employee parking and trailers on display shall not be located in any required street yard or public right-of-way and may not impede vehicular or pedestrian traffic or sight distance triangles, if applicable.

Additional Required Information for Application

- List of all services that will be provided
- Hours of operation
- Plans and specifications for fencing
- Description of all machinery, including noise decibel levels
- Lighting plan

Warehouse Clubs and Supercenters (PUD, B-1, B-2)

See Article 16, Chapter IV. Commercial and/or Office/Institutional Planned Building Groups.
Part 3. Development Regulations

Article 9. Off-Street Parking and Loading

Section 9-1: Exemptions

The off-street parking and loading requirements shall apply to all districts with the exception of the area shown on the Official Zoning Map of the Town of Burgaw as the Off-Street Parking and Off-Street Loading Exemption Area.

Section 9-2: General

A. Off-Street Parking Requirements. There shall be provided at the time of the erection of any building; or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area or before conversion from one type of use or occupancy to another, permanent off-street parking spaces in the amount specified by this Ordinance. Such parking space may be provided in a parking garage or properly graded open space. No off-street parking or loading shall be permitted in a required street yard (at least 8 feet in width) or open space, except in the case of a single- or two-family dwelling.

B. Minimum Parking Requirement. Each application for a building permit shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. Required off-street parking area for three (3) or more automobiles shall have individual spaces marked and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and unparked without moving another. This information shall be in sufficient detail to enable the Building Inspector to determine whether or not the requirements of this Ordinance are met. Each automobile parking space shall have the following minimum dimensions:

<table>
<thead>
<tr>
<th>Angle (degrees)</th>
<th>Stall Width (feet)</th>
<th>Curb Length per Car (feet)</th>
<th>Stall Depth (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>8</td>
<td>23</td>
<td>8</td>
</tr>
<tr>
<td>20</td>
<td>8</td>
<td>23 ½</td>
<td>14</td>
</tr>
<tr>
<td>30</td>
<td>8</td>
<td>16</td>
<td>16 ½</td>
</tr>
<tr>
<td>45</td>
<td>8</td>
<td>11 1/3</td>
<td>19 1/6</td>
</tr>
<tr>
<td>60</td>
<td>8</td>
<td>9 1/3</td>
<td>20 ½</td>
</tr>
<tr>
<td>70</td>
<td>8</td>
<td>8 ½</td>
<td>20 5/6</td>
</tr>
<tr>
<td>90</td>
<td>8</td>
<td>8</td>
<td>19</td>
</tr>
</tbody>
</table>

C. Combination of Required Parking Spaces. The required parking space for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use, except that one half (1/2) of the parking spaces
required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use that will be closed at night and on Sundays.

D. **Remote Parking Space.** If the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within four hundred (400) feet of the main entrance to such principal use.

E. **Separation from Walkways, Sidewalks, and Streets.** All parking, loading, and service areas shall be separated from walkways, sidewalks, and streets by curbing or other suitable protective device to prevent vehicles from intruding into these areas.

### Section 9-3: Minimum Parking Requirements

The following off-street parking space(s) shall be required and maintained:

<table>
<thead>
<tr>
<th>Category</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural—Livestock and Vegetative</td>
<td>One (1) space per 400 square feet of gross floor area.</td>
</tr>
<tr>
<td>Art Gallery</td>
<td>One (1) space per each 300 square feet of gross floor area.</td>
</tr>
<tr>
<td>Assemblies (Assembly Hall, Armory, Stadium, Coliseum, Entertainment Establishment, Event Venue)</td>
<td>One (1) parking space for every four (4) spectator seats (one seat is equal to two feet of bench length) or one (1) space for every 200 square feet if seats not provided.</td>
</tr>
<tr>
<td>Auction Sales</td>
<td>One (1) space for every two (2) seats, or two (2) spaces per 100 square feet of leasable area, whichever is greater.</td>
</tr>
<tr>
<td>Automatic Teller Machine</td>
<td>Two (2) spaces per machine.</td>
</tr>
<tr>
<td>Automobile Laundry/Car Wash, Full Service</td>
<td>One (1) space for every two (2) employees on shift of greatest employment, plus one (1) space for the manager. Plus sufficient space for twelve (12) stacking/queuing spaces per day.</td>
</tr>
<tr>
<td>Automobile Laundry/Car Wash, Self Service</td>
<td>Four (4) stacking spaces for each washing stall, plus two (2) drying spaces for each washing stall.</td>
</tr>
<tr>
<td>Automobile Parts and Accessory Sales</td>
<td>One (1) space for every 400 square feet of leasable area, plus one space for each employee on the maximum work shift.</td>
</tr>
<tr>
<td>Automobile Repair and/or Body Work</td>
<td>One (1) space for each service bay.</td>
</tr>
</tbody>
</table>
### Article 9. Off-Street Parking and Loading

<table>
<thead>
<tr>
<th>Business Type</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Automobile Service Station Operations</strong></td>
<td>One and a half (1.5) spaces for each fuel nozzle. In addition, one (1) parking space shall be provided for every 50 square feet of usable floor area in the cashier and office areas. In no instance shall such a facility provide fewer than three (3) parking spaces. In no instance shall a required parking space or its maneuvering area conflict with vehicles being fueled or awaiting fuel.</td>
</tr>
<tr>
<td><strong>Bank</strong></td>
<td>One (1) space for every 400 square feet of floor area up to 20,000 square feet, plus one (1) space for every 500 square feet of floor area in excess of 20,000 square feet.</td>
</tr>
<tr>
<td><strong>Barbering and Hairdressing Services</strong></td>
<td>Two (2) parking spaces per beauty or barber chair</td>
</tr>
<tr>
<td><strong>Bed and Breakfast Inn</strong></td>
<td>One (1) space for every rental room plus one (1) space for every two (2) permanent occupants.</td>
</tr>
<tr>
<td><strong>Bicycle Sales and Repair</strong></td>
<td>Three (3) spaces per 1,000 square feet of gross floor area.</td>
</tr>
<tr>
<td><strong>Bingo Parlor</strong></td>
<td>One (1) space for every three (3) seats (based on design capacity) or one (1) space per 100 square feet of total floor area, whichever is greater.</td>
</tr>
<tr>
<td><strong>Books and Printed Matter, Distribution</strong></td>
<td>Four and a half (4.5) spaces for every 1,000 square feet of gross floor area.</td>
</tr>
<tr>
<td><strong>Bowling Alley</strong></td>
<td>Three (3) spaces per alley plus requirements for any other use associated with the establishment such as restaurant, etc.</td>
</tr>
<tr>
<td><strong>Cemetery</strong></td>
<td>One (1) space per full-time employee.</td>
</tr>
<tr>
<td><strong>Churches</strong></td>
<td>One (1) parking space for every four (4) seats in the sanctuary.</td>
</tr>
<tr>
<td><strong>Clinic Services, Medical and Dental</strong></td>
<td>Four (4) parking spaces for each doctor plus one (1) space for each employee.</td>
</tr>
<tr>
<td><strong>Day Care Center</strong></td>
<td>One (1) space for each adult attendant and one (1) space for every six (6) children or fraction thereof.</td>
</tr>
</tbody>
</table>
### Article 9. Off-Street Parking and Loading

| Category                                      | Requirement                                                                iveau.
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Drug and Alcohol Treatment Center</td>
<td>One (1) space for every two (2) beds and one (1) space per staff member.</td>
</tr>
<tr>
<td>Dry Cleaning and Laundry</td>
<td>One (1) space for every 200 square feet of gross floor area used by the general public.</td>
</tr>
<tr>
<td>Dwelling, Two-Family</td>
<td>Two (2) parking spaces on the same lot for each dwelling unit.</td>
</tr>
<tr>
<td>Dwelling, Multi-Family</td>
<td>One and a half (1.5) parking spaces on the same lot for each dwelling unit. Requirements may be reduced to a minimum of one and a quarter (1.25) parking spaces for developments for independent living used solely by the elderly and/or disabled as defined by the Senior Housing Exemption of the Fair Housing Act. The Board of Commissioners shall determine the number of parking spaces that shall be reserved for office personnel and visitors to the facility upon the hearing of the applicant’s conditional use permit.</td>
</tr>
<tr>
<td>Eating and Drinking Facilities</td>
<td>One (1) space for every four (4) seats</td>
</tr>
<tr>
<td>Eating and Drinking Facilities, Fast Food</td>
<td>Thirteen (13) spaces per 1,000 square feet of gross floor area.</td>
</tr>
<tr>
<td>Exterminating Services</td>
<td>Three (3) spaces per 1,000 square feet of gross floor area.</td>
</tr>
<tr>
<td>Funeral Homes</td>
<td>One (1) parking space for every five (5) seats in the chapel or parlor, plus one (1) for each funeral vehicle.</td>
</tr>
<tr>
<td>Golf Course</td>
<td>Twenty-five (25) spaces per every nine (9) holes, plus one (1) space per employee on shift of greatest employment.</td>
</tr>
<tr>
<td>Health Club/Gymnasium</td>
<td>One (1) space for every 100 square feet of gross floor area.</td>
</tr>
<tr>
<td>Hospital or Sanitarium Care</td>
<td>Two (2) spaces for each bed.</td>
</tr>
<tr>
<td>Category</td>
<td>Requirement</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Industries</td>
<td>One (1) space for every 1.5 employees during maximum employment, and one (1) space for every truck to be stored or stopped simultaneously.</td>
</tr>
<tr>
<td>Kennel Operations, Care</td>
<td>One (1) space per 400 square feet, but no fewer than four (4) spaces</td>
</tr>
<tr>
<td>Motel, Hotel, or Motor Court Operations</td>
<td>One (1) space for every rental room plus one (1) space for every two (2) permanent occupants.</td>
</tr>
<tr>
<td>Nursery Operations (Plant)</td>
<td>One (1) space per 1,000 square feet of total sales area.</td>
</tr>
<tr>
<td>Nursing Home/Assisted Living</td>
<td>One (1) space for every three (3) residents, plus one (1) additional space for each employee.</td>
</tr>
<tr>
<td>Offices, General or Professional</td>
<td>One (1) parking space for every 300 square feet of gross floor area.</td>
</tr>
<tr>
<td>Post Office</td>
<td>One (1) space for every 400 square feet of gross floor area, plus one (1) space for every two (2) employees on the shift of greatest employment.</td>
</tr>
<tr>
<td>Recreation Center</td>
<td>One (1) space for every 200 square feet of floor area, not including storage areas.</td>
</tr>
<tr>
<td>Retail Use Not Otherwise Listed</td>
<td>One (1) parking space for every 300 square feet of gross floor area.</td>
</tr>
<tr>
<td>Schools, Elementary and Junior High</td>
<td>One (1) parking space for each classroom and administrative office, plus one (1) additional parking space for every one hundred (100) students.</td>
</tr>
<tr>
<td>Schools, Senior High</td>
<td>One (1) parking space for every ten (10) students for which the building was designed, plus one (1) parking space for each classroom and administrative office.</td>
</tr>
<tr>
<td>Storage, Self-Service</td>
<td>One (1) space for every 225 square feet of gross floor area, plus (1) space for each employee.</td>
</tr>
<tr>
<td>Swimming Pool</td>
<td>Two (2) spaces for every 100 square feet of water area.</td>
</tr>
</tbody>
</table>
Telecommunication Towers  Four (4) spaces per 1,000 square feet.

Theater Productions, Indoor  One (1) space for every four (4) seats in the largest assembly area.

Theater Production, Outdoor  One (1) space for every 45 square feet of assembly or floor area.

Travel Agency  Four (4) spaces per 1,000 square feet.

Veterinarian  One (1) space per 500 square feet.

Wholesale establishments, warehouse, and other businesses not catering to retail or package trade  One (1) space for every 1,000 square feet of gross floor area.

Special situations that are not covered by the above shall be handled by the Land Use Administrator. The Land Use Administrator shall make the final determination as to the number of spaces to be required but shall in all cases give due consideration to the needs therefore.

**Section 9-4: Driveways**

A. **General.** After the date of passage of this section, only driveways designed, approved, constructed, and surfaced in accordance with the provisions herein shall be allowed to provide motor vehicle access to or from any property upon which a building has been constructed, reconstructed, or physically altered. All driveways shall be paved with either asphalt or concrete, or with alternative paving material (e.g., concrete pavers, brick, “turfstone,” or similar material) determined to exhibit equivalent wear resistance and load bearing characteristics as asphalt or concrete.

Before a building permit is issued for construction, reconstruction, or change in use of any building or land used for purposes other than a single- or two-family residence, all driveways shall be reviewed and approved by the Land Use Administrator. Private driveways serving single-family and two-family dwellings shall not be regulated by the provisions of this Ordinance. “Construction, reconstruction, or change in use” refers to those improvements made to the site involving overall structure size or to changes in use that would require the addition of one or more parking spaces under the provisions this article. It is not intended to refer to construction activities that merely involve changes to exterior architectural features (e.g., painting, addition of siding, roofing activities, etc.)

When the use of any driveway has been permanently discontinued, the property owner of that driveway shall, at his expense, replace all necessary curbs, gutters, aprons, sidewalks, and appurtenances thereto, within sixty (60) days of receipt of a written notice from the Land Use Administrator.

No driveway shall conflict with any municipal facility such as traffic signal standards, catch basins, fire hydrants, crosswalks, loading zones, bus stops, utility poles, fire alarm
supports, meter boxes, and sewer clean-outs or other necessary structures, except with the express approval of the Director of Public Works. Any adjustments to municipal facilities to avoid such conflicts shall be at the expense of the driveway applicant.

**B. Permit Requirements.** A permit must be obtained from the Public Work Director prior to the removal, alteration, or construction of any curb, driveway, gutter, and/or pavement or prior to the performance of any other work in any public or private street. Conditions governing the issuance of such a permit are:

a. A continuing indemnity bond with sufficient surety acceptable to the town may be required of the party performing the work. All work must be done in conformity with the standards established herein.

b. The town shall be indemnified for any damages it might sustain as a result of the breach of condition above. The damages payable to the town shall be the amount required to make such improvement conform to town standards.

Based on the Town of Burgaw Schedule of Fees, a fee shall be paid to the town at the time the application for a driveway permit is made.

**C. Submission of Plans.** Two (2) copies of plans showing the location and dimensions of all proposed improvements shall be filed with the Land Use Administrator for his approval prior to the issuance of a driveway permit for uses other than single- or two-family residential.

All design and construction of driveways shall conform to the requirements of the North Carolina Department of Transportation.

**D. Driveway Location(s) and Design Standards**

a. Two driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds fifty (50) feet.

b. Three driveways entering the same street from a single lot shall be permitted only if the minimum distance between the closest edges of the driveways equals or exceeds one hundred fifty (150) feet.

c. Four (4) or more driveways entering the same street from a single lot shall be prohibited.

d. In no case may the total width of all driveways exceed fifty percent (50%) of the total property frontage.

e. No driveway (nearest edge) shall be located within ten (10) feet of a side lot property line except in the case of a shared driveway (single-curb/access point) utilized by two (2) or more lots.

f. No driveway (nearest edge) shall be located within twenty-five (25) feet of an intersection on a secondary road and forty (40) feet on a primary road except in the case where no other lot access to a public street or town-approved private road is available.
Article 9. Off-Street Parking and Loading

g. All proposed dwellings, unless otherwise exempt, shall have a primary driveway of at least twenty (20) feet wide extending from the front building line of the dwelling, tapering to a minimum of twelve (12) feet when it intersects with the street. The driveway shall be a minimum of twenty-five (25) feet deep extending from the existing paved surface to the front building line of the dwelling. The driveway must be made of any approved surface according to the Unified Development Ordinance. These conditions shall apply for all proposed dwellings except under the following circumstances:

i. The proposed dwelling has a front yard setback of at least fifty (50) feet off an existing dedicated street.

ii. All manufactured homes and/or mobile homes parks that do not front on a primary street.

iii. All attached multi-family development projects where mitigating the impact of on-street parking is accomplished through a conditional use permit.

E. Driveway Permit Inspection. Once the driveway permit is duly issued, the supervisor of the driveway construction site shall keep the permit available for on-the-job inspection by authorized personnel of the town. The inspector or other authorized representative of the town shall have the authority to require the immediate stoppage of work not performed either in accordance with the approved plans or under the requirements of this section and may order the nonconforming installations be corrected and/or blocked.

F. Brick Driveways. Brick driveways will be allowed consisting of smooth, hard-burned clay bricks with an appropriate concrete based conforming to the design standards of the Land Use Administrator.

In the event repairs are required after brick driveways are installed due to utility replacement or other construction work, the driveway applicant shall pay that portion of the repair cost that exceeds the cost of repair using standard concrete six (6) inches in thickness. Normal maintenance or replacement will be the responsibility of the driveway applicant.

Section 9-5: Off-Street Loading Requirements

In any district in which a building hereafter is to be occupied by any manufacturing, processing, assembly, wholesaling, retailing, laundering, dry cleaning, or similar activity requiring the receiving or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space plus one (1) additional space for every 20,000 square feet or major fraction thereof of gross floor space in excess of 10,000 square feet. Each such loading space shall be at least ten (10) feet in width, twenty-five (25) feet in length, and shall have height clearance of at least fourteen (14) feet.
Article 10. Signs

Section 10-1: Purpose and Intent

The purpose of this article shall be to coordinate the type, placement, and physical dimensions of signs within the different zoning districts, to promote proper maintenance of signs, and to guarantee equal treatment under the law through accurate record keeping and consistent enforcement. Furthermore, this ordinance is intended to:

- Ensure that signs are designed, constructed, installed, and maintained so that public safety is not compromised
- Provide for the safety of vehicular traffic by limiting visual interference
- Allow for the legitimate needs of identification of residential, office, commercial, industrial, and other activities while promoting signs that do not unduly detract from the overall aesthetics of the community
- Promote the efficient transfer of information in sign messages so customers and other persons may effectively locate a business or service

Section 10-2: Applicability

A. In General. The following regulations shall apply to all signs located in the Town of Burgaw and its extraterritorial jurisdiction unless exempted below.

B. Signs Exempt from Regulation. Unless otherwise prohibited hereinafter and subject to local, state, and federal laws, the following signs are exempt from regulation under this ordinance:

a. Signs not designed to be visible beyond the boundaries of the lot upon which they are located and/or from a public thoroughfare or right-of-way;

b. Official governmental notices and notices posted by governmental officers in the performance of their duties, including governmental signs or signs installed under governmental authority that note the donation of buildings, structures, or streetscape materials (trash cans, lamp posts, park facilities, etc.);

c. Flags, pennants, or insignia of any nation, organization of nations, state, county, or city; any religious, civic, or fraternal organization; any educational or cultural facility; and/or any one (1) corporate flags per lot unless such are used in connection with a commercial promotion, as an advertising device, or as an integral part of a sign regulated under this ordinance;

d. Temporary decorations or displays when such are clearly incidental and customarily and commonly associated with any national, local, or religious holiday/celebration;

e. Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines, and similar devices or signs providing directions around such conditions;
Article 10. Signs

f. Merchandise, pictures, models, products, or services incorporated as an integral part of a window display;

g. Unless such signs are used in the manner prohibited under subsection (C) hereinafter, signs displayed on trucks, buses, trailers, or other vehicles being operated in the normal course of business, such as signs indicating the name of the owner or business affixed to or painted on the vehicles and/or equipment, provided that such vehicles are parked or stored in areas appropriate to their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent feasible when not being operated.;

h. Trademarks or product names displayed as part of vending machines, dispensing machines, automatic teller machines, gasoline pumps, etc.;

i. Signs required for or specially authorized for a public purpose by any law, statute, or ordinance. These signs may be of any type, number, area, height above grade, location, or illumination authorized by law, statute, or ordinance under which such signs are required or authorized;

j. Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular piece of property (such as “No Trespassing” signs) when located on the premises to which the information pertains. No advertising may be affixed to such a sign;

k. Signs attached to pre-existing buildings identifying said buildings and permanently integrated by etching, embossing, and/or engraving on which are otherwise permanently made a part of building façades (e.g. commemorative cornerstones); and

l. Signs affixed to windows of vehicles displaying the terms of sale for said vehicles.

C. Prohibited Signs. The following signs are prohibited in all zoning districts

a. Signs on Roadside Appurtenances. On- or off-premises signs on roadside appurtenances, including, but not limited to roadside benches, bus stop shelters, planters, utility poles, trees, parking meter poles, and refuse containers, with the exception of governmental signs;

b. Signs on Vehicles. Signs placed on vehicles or trailers that are parked, located, or driven for the primary purpose of displaying said sign;

c. Roof Signs. Signs located in any way above the highest point of the roof or located above any part of the front building façade;

d. Signs of Illusion, Changing Display, or Movement. Signs with optical illusion of movement by means of a design that presents a pattern capable of reversible perspective, giving the illusion of motion; signs, except for temperature and date signs, with moving or changing display; and signs with animated or moving parts;

e. Signs Resembling Traffic Signals. Signs displaying intermittent light resembling the flashing light customarily used in traffic signals, or used by police, fire, ambulance, or other emergency vehicles, nor shall any sign use the word “stop,”
“danger,” or any other words, phrases, symbols, or characters in a manner that might be construed as a public safety warning or traffic sign;

f. **Flashing Signs.** Signs with flashing lights;

g. **Abandoned Signs.** Any sign advertising an activity, business, product, or service no longer conducted on the premises upon which the sign is located, unless such sign is recognized as a historic feature by the Board of Commissioners;

h. **Signs Obstructing Access.** Signs that obstruct free ingress to or egress from a driveway or a required door, window, fire escape, or other required exit way; and

i. Any other sign not permitted by this ordinance.

**Section 10-3: Definitions**

**Advertising Sign:** A sign directing attention to or advertising a business, commodity, service, product, or property not located, sold, or conducted on the same property or site as that on which the sign is located.

**Attached Sign:** Any sign attached to, applied on, or supported by any part of a building

**Awning Sign (includes canopy signs):** Any sign on a cloth, metal, plastic, or other cover designed to shade a window or entrance and attached to any structure.

**Banner:** Any sign made of a flexible, fabric-like material except an awning sign.

**Billboard:** A large outdoor board for displaying advertisements

**Changeable Copy Sign:** Any permanently framed sign that is principally devoted to and designed for changeable text and graphics, specifically excluding time/date/temperature signs, menu board, and sandwich board signs.

**Clearance:** The vertical distance from the established finished grade to the lowest edge of a projecting or suspended sign

**Column Sign:** A freestanding sign with a height at least twice its width

**Commemorative Sign:** Any sign erected in remembrance of a historical person, place, or event or that denotes, honors, celebrates, or acknowledges a historical person, place, or event

**Face:** The area of a sign on which copy is intended to be placed

**Freestanding Sign:** A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of a building or other structure having a principal function other than the support of a sign

**Gate Sign:** A sign attached to or a part of a subdivision entry gate

**Grade:** The lowest point at which a sign is attached to the ground
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**Ground Sign:** A freestanding sign attached directly to the ground by means of one or more upright pillars, braces, or post placed upon the ground and not to any part of a building (does not include column, pole, or monument signs for purposes of sign standards)

**Ex. Ground**

**Height:** The vertical distance measured from the highest part of the sign or its supporting structure, whichever is highest unless otherwise specified, and the base of the sign at grade

**Identification Sign:** A sign used to identify or indicate the name, logo, or other identifying symbol of a building, business, profession, institution, service, or entertainment conducted on the lot upon which the sign is located

**Menu Board:** A freestanding or wall-mounted sign primarily designed to inform the public of the list of entrees, specials, and entertainment available in a restaurant

**Monument Sign:** A freestanding sign supported by a solid base or integral structural frame the entire bottom of which is affixed to the ground, as opposed to a sign supported by an attached to poles or braces

**Ex. Monument Signs**

**Pole Sign:** A sign, the bottom of which is six (6) feet or higher above grade, attached to the ground by one or more poles or other upright support

**Projecting Sign:** A sign end-mounted or otherwise attached to an exterior wall of a building that projects from the wall

**Ex. Pole Signs**
Article 10. Signs

**Sandwich Board**: Any portable sign that is single or double faced that may readily be moved from place to place that is intended to be used on a sidewalk or pedestrian way; includes freestanding menu board signs

**Sign**: Any device, item, product, frame, letter, figure, character, mark, plane, point, design, picture, stroke, stripe, trademark, or reading matter used or intended to be used to attract attention or convey information when the same is placed in view of the general public. For the purpose of determining number of signs, a single display surface or a single display device containing different elements that are organized, related, and composed to form a unit shall be considered to be one (1) sign. Where different elements are displayed in a random manner without an organized relationship to each other, or where there is reasonable doubt as to the relationship between different elements, each element shall be considered to be a separate sign.

**Sign Structure**: Any structure that supports, has supported, or is capable of supporting a sign, including any decorative cover for said sign structure

**Suspended Sign**: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface

**Wall Sign**: A sign painted or attached against and parallel to the exterior wall or surface of a building or other structure, only one side of which is visible

**Section 10-4: Permits**

A. **General Requirements.** Except as otherwise provided in this section, it shall be unlawful to construct, erect, move, enlarge, illuminate, or substantially alter a sign without first obtaining a sign permit from the Land Use Administrator as required by this article. Application for the permit shall be made in writing on forms furnished by the Land Use Administrator and signed by the applicant or authorized agent. Failure to secure a permit shall constitute a violation of this section.

B. **Signs Exempt from Permit Requirements.** The following signs are allowed in all zoning districts and shall not require a sign permit. However, such signs shall conform to the requirements set forth below as well as all other applicable requirements of this ordinance.

   a. **Real Estate Signs.** Temporary signs advertising the sale, rental, or lease of the property on which said signs are located, provided such signs are not illuminated and are limited to no more than two (2) signs per lot. Such signs shall not exceed four (4) feet in height and four (4) square feet for property zoned residential and shall not exceed eight (8) feet in height and thirty-two (32) square feet for property zoned other than residential. All such signs shall be removed within seven (7) days after the closing of the sale, rental, or lease of the property.

   b. **Directional Signs.** Directional signs visible from the right-of-way shall be located on the premises to which directions are indicated. Directional signs shall not exceed three (3) feet in height if freestanding or six (6) feet in height if attached and four (4) square feet in area. The maximum number of such signs
allowed shall be two (2) per driveway. These signs may be internally or externally illuminated.

c. **Incidental Signs.** Signs containing information necessary or convenient for persons coming onto a premises shall be located on the premises to which the information pertains. No advertising may be affixed to such a sign, and such signs must be wholly attached to a building (including the windows or doors).

d. **Copy Changes and Maintenance.** No permit shall be required for copy changes made to a changeable copy sign, menu board, marquee sign, or billboard provided any such changes do not change the classification of the sign under this ordinance or for copy changes to existing sign structures. No permit shall be required for maintenance when no structural changes are made.

e. **Political Signs.** Signs of candidates for election, for issues on a ballot, or displaying other political speech shall be allowed in any zoning district, providing such signs do not exceed six (6) square feet in area. All such signs shall be located on private property and not within any public right-of-way within the corporate limits and extraterritorial jurisdiction of the Town of Burgaw, unless otherwise allowed. The town, through its officials, officers, public safety officers, zoning and building inspections staff, public works department and agents, is hereby authorized to remove any sign located or erected within any public right-of-way within the corporate limits of the Town of Burgaw and its extraterritorial jurisdiction and to dispose of such signs without having to give any notice, verbal or written to any political organization or committee whose sign(s) have been removed from any public rights-of-way within the corporate limits and/or extraterritorial jurisdiction of the Town of Burgaw, unless otherwise prohibited. All signs associated with political candidates for election or for issues on a ballot may not be erected prior to sixty (60) days before any scheduled primary, general, or run-off election or referendum.

f. **Construction Signs.** Construction signs shall be allowed provided such signs do not exceed one (1) sign per street frontage with a maximum of two (2) signs per construction site. Such signs shall not exceed four (4) square feet in area for single-family or duplex residential construction. Signs displayed for multi-family residential or non-residential construction shall be limited to thirty-two (32) square feet in area and a maximum of ten (10) feet in height. Construction signs shall not be erected prior to the issuance of a building permit and shall be removed within seven (7) days of the issuance of a certificate of compliance.

g. **Historical Markers.** Signs erected or placed by a bona fide historical associated or by a governmental agency. Such signs shall be directly related to the premises on which they are placed.

h. **Yard of Garage Sale Signs.** Signs announcing yard or garage sales located on the property on which said sale shall take place, provided such signs do not exceed one (1) sign per lot and four (4) square feet in area and are removed within seven (7) days of erection.
i. **Temporary Inflatable Balloon Sign.** One inflatable balloon sign shall be allowed per commercial or industrial zoning district at any one time, limited to once a year per business, not including community festivals or events permitted by the Town of Burgaw. Inflatable balloon signs shall not be internally illuminated, shall not be higher than twenty-five (25) feet above grade, and shall not be erected or maintained on a building parapet or roof. Such signs shall not be displayed for longer than ten (10) days. If located on an attached, tethered, or freestanding structure, the sign and its structure shall not block or inhibit the visibility of vehicular traffic or in any way pose a danger to pedestrians or vehicular traffic or property. The signs may advertise a product, service, or sponsor affiliated with the event or the event itself.

j. **Commemorative Sign.** Commemorative signs shall not exceed eight (8) square feet per face in area and eight (8) feet in height.

k. **Temporary Sale Sign.** Temporary signs, including banners, used to advertise special sales, products, events, and grand openings shall be allowed in all non-residential zoning districts twice a year per lot. In the event that more than one business is located on a single lot, each business shall be allowed two (2) temporary signs per year. Temporary signs shall be allowed for no longer than fifteen (15) days, and no time extensions shall be granted. No temporary signs shall exceed thirty-two (32) square feet in total area and must be located on the lot where the sale shall take place.

l. **Special Event Signs.** On- or off-premises signs or notices posted by a governmental or non-profit organization relating to fundraising events, fund drives, special events, or activities of interest to the general public are allowed. If on-precises, such signs shall be limited to one (1) sign thirty-two (32) square feet in area. If off-premises, such signs shall be limited to four (4) square feet in area, a total number of ten (10) within the Town of Burgaw’s zoning jurisdiction, and shall be located on private property. Permission from the property owner shall be required before replacement of sign, or property owner has the authority to remove and destroy any such sign.

C. **Revocation of Permits.** If actual work for the permitted sign on the site is not commenced within sixty (60) days from the date of such sign permit or if substantial work for the permitted sign is suspended for a period of sixty (60) consecutive days after issuance of the sign permit, the permit shall automatically become null and void. This provision shall not apply, however, when delays are not a result of willful acts or neglect of the persons obtaining the permit. In that event, the land use administrator may grant an extension of time within which operations must be started or resumed. All requests for such extensions and approval thereof shall be in writing.

D. **Master Sign Plan.** A master sign plan showing the dimensions, location, and common design of all signage in a development may be submitted with any development plan, site plan, unified development plan, or any other plan required for development, including application for a conditional use permit. If master sign plan approval is obtained from the approving body for the development or permit as party of the permitting process, such plan may only be amended by filing a new plan that complies with all requirements of the
ordinance and shall be subject to the approval of the approving body for the initial master plan. However, individual nonconforming signs shall be allowed as long as the master sign plan is in effect, even if they must be replaced due to removal, damage, or abandonment. If a new master sign plan is approved, the original development permit expires, or the development as a whole is expanded as described in Section 10-9, all development, joint identification, and individual identification signs must come into conformity with this ordinance.

**Section 10-5: Fees**

A sign permit fee shall be paid to the Town of Burgaw for each sign permit issued in accordance with this article in an amount determined by the Town of Burgaw Schedule of Fees. This permit fee does not include electrical permit fees, which shall be additional. Sign permit fees shall be paid upon the receipt of a sign permit, and no sign permit shall be considered effective until such required fee is paid. The sign permit fee must be paid prior to commencement of any sign construction on the lot where the sign will be located.

**Section 10-6: Sign Standards**

A. **Dimensions.** The area of a sign shall be considered to be that of the smallest rectilinear figure (with a continuous perimeter of not more than eight (8) straight lines) that encompasses all lettering, wording, design, or symbols, together with any background on which the sign is located and any illuminated part of the sign, if such background or such illuminated part is designed as an integral part of and is related to the sign. Any cutouts or extensions shall be included in the area of a sign, but supports and bracing that are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction, unless otherwise provided.

The space between one (1) identification sign and one (1) changeable copy sign on a signpost or structure or attached to a building shall not be included in the total square footage if both signs serve a single business located on the lot [See Figure A]. The space between two (2) or more changeable copy components of a sign or between two (2) or more permanent copy components of a sign shall be included, however, in the total square footage of sign area allowed [See Figures B and C].
Where three-dimensional figures are used as signs, the area shall be the total of all sides making an integral part of the projected figure used in conveying the intended message.

B. Installation and Location.

a. All on-premises and off-premises signs allowed by this ordinance shall be constructed in accordance with the requirements of the North Carolina State Building Code.

b. Except for banners, flags, temporary signs, and window signs conforming to the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

c. Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by the wind or other forces of nature and cause injury to persons or property.

d. Signs, whether temporary or permanent, shall not be allowed within any street or highway right-of-way except as expressly permitted by this ordinance under an encroachment agreement with the North Carolina Department of Transportation or the Town of Burgaw.

e. No sign shall obstruct the view of bicyclists or motorists using any street, approaches to any intersection, any sign triangle, or the view of any traffic sign, device, or signal or interfere with their effectiveness.

f. All signs shall be located in such a way that they maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code; provided that in no case shall an outdoor advertising sign be erected closer than ten (10) feet horizontally or vertically from any conductor or public utility guy wire.

g. No sign or outdoor advertising display shall be erected, constructed, or maintained so as to obstruct any fire escape or any window or door or opening used as a means of egress or so as to prevent free passage from one part of a roof to any other part thereof. No signs shall be attached in any form, shape, or manner to a fire escape, nor be placed in a manner as to interfere with any opening required for legal ventilation.

C. Illumination. Unless otherwise provided, all signs may be either externally or internally illuminated subject to the following conditions:

a. Neither direct nor reflected light from any light source shall create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares.

b. External lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into or cause glare onto a public right-of-way or any adjacent properties. In addition, such lighting shall be shielded to prevent the direct view of the light source from any residence, residential district, or public right-of-way.
Article 10. Signs

c. Internal lighting shall be limited to lighting from behind to silhouette letters and figures or lighted internally with glass or plastic faces bearing the advertising message. Provided, however, that exposed neon tubing not exceeding fifteen (15) watts shall be permitted. Electronic signage utilizing light emitting diodes (LED) or liquid crystal display (LCD) technology shall not be allowed unless expressly permitted by another provision in this ordinance or unless used to display time, temperature, and/or fuel pricing.

d. No sign may contain or be illuminated by flashing or intermittent light or lights that change in degree of intensity, except those that provide public information such as time, temperature, and date.

e. In the B-1 and B-2 zoning districts, incidental window signs (e.g. “open” signs) utilizing LED or LCD technology are allowed. Such signs shall not be illuminated by flashing or intermittent lights or lights of changing degrees of intensity and may not include scrolling text or pictures.

D. Maintenance. All signs and components thereof, including without limitation, supports, brackets, braces and anchors, shall be maintained in a state of good structural condition, in compliance with all building and electrical codes, and in conformance with this ordinance at all times. Specifically, the following maintenance requirements must be observed for all signs visible from any public right-of-way within the jurisdiction of this ordinance.

a. No sign shall have more than twenty percent (20%) of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than thirty (30) successive days.

b. No signs shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages, or struts or be allowed to stand more than fifteen (15) degrees away from the perpendicular for a period of more than thirty (30) successive days.

c. No sign shall be allowed to have weeds, vines, landscaping, or other vegetation growing upon it and obscuring its view from the street or highway from which it is to be viewed for a period of more than thirty (30) successive days.

d. No neon or internally illuminated sign may be allowed to stand with only partial illumination for a period of more than thirty (30) successive days.

Pursuant to NCGS 160A-193, the Land Use Administrator shall have the authority to summarily remove, abate, or remedy a sign which the Town of Burgaw Building Inspector determines to be dangerous or prejudicial to the public health or safety. The expense of the action shall be paid by the sign owner, or if the sign owner cannot be determined, by the property owner, and if not paid, shall be a lien upon the land or premises where the nuisance arose.
E. Setbacks.

a. All freestanding signs shall be located outside the right-of-way and a minimum of ten (10) feet from the edge of pavement.

b. All freestanding signs located at an intersection shall be installed outside the required sight triangle as determined by the NC Department of Transportation, if applicable, or the planning administrator.

c. Column signs must be setback a minimum of five (5) feet from the right-of-way and a minimum of fifteen (15) feet from the edge of pavement of any public or private street.

d. Pole signs must be set back a minimum of ten (10) feet from the right-of-way and a minimum of twenty-five (25) feet from the edge of pavement of any public or private street.
Section 10-7: Permitted Sign Standards by Zoning District

A. **Rural Agricultural.** The uses in this district are a mixture of residential, agribusiness, recreational, and commercial enterprises tied to the natural environment. As such, signage is needed to identify a variety of enterprises; however, such signage shall be limited to preserve the natural and rural character of the area.

Signs allowed in the Rural Agricultural zoning district without a permit are listed in Section 10-4(B) of this ordinance. The following table lists the signs that may be placed in this district subsequent to the issuance of a permit by the zoning administrator. Unless a sign is specifically allowed, it shall be prohibited. For uses requiring conditional use permits, unless different standards are specifically required or allowed, all signage shall conform to the regulations of this chart. See Section 10-8 for regulations for multi-tenant developments.

<table>
<thead>
<tr>
<th>Use</th>
<th>Type of Sign(s) Allowed</th>
<th>Number of Signs</th>
<th>Maximum Sign Area</th>
<th>Maximum Sign Height</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-residential uses (permitted or</td>
<td>Identification:</td>
<td>1</td>
<td>50 ft(^2)</td>
<td>6 ft.</td>
<td>May not be used in conjunction with any other identification sign</td>
</tr>
<tr>
<td>grandfathered)</td>
<td>Ground*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Monument*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Identification:</td>
<td>1</td>
<td>25 ft(^2)</td>
<td>8 ft. (cannot be</td>
<td>May not be used in conjunction with any other identification sign</td>
</tr>
<tr>
<td></td>
<td>Gate*</td>
<td></td>
<td></td>
<td>higher than gate)</td>
<td></td>
</tr>
<tr>
<td>Subdivisions or Multi-Family</td>
<td>Identification:</td>
<td>2 (one per</td>
<td>Primary entrance:</td>
<td>6 ft. (cannot be</td>
<td>May contain the name of the development only</td>
</tr>
<tr>
<td>Developments</td>
<td>Gate*</td>
<td>entrance)</td>
<td>16 ft(^2) per</td>
<td>higher than gate)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Monument*</td>
<td></td>
<td>face</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Secondary entrance:</td>
<td></td>
<td>Gates Signs: 2 separate sign faces allowed per entrance</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>8 ft(^2) per</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>face</td>
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</tbody>
</table>

* External illumination is allowed
B. **Residential (R-20, R-12, R-7, R-7MH).** The primary use in these districts is residential. Limited other uses such as schools and churches that benefit and do not conflict with surrounding uses are also permitted. To retain the residential character of the town’s neighborhoods, signage in these districts shall be unobtrusive.

Signs allowed in residential zoning districts without a permit are listed in Section 10-4(B) of this ordinance. The following tables lists the signs that may be placed in this district subsequent to the issuance of a permit by the zoning administrator. Unless a sign is specifically allowed, it shall be prohibited. For uses requiring conditional use permits, unless different standards are specifically required or allowed, all signage shall conform to the regulations of this chart.* See Section 10-8 for regulations for multi-tenant developments.

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<thead>
<tr>
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<th>Number of Signs</th>
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<th>Maximum Sign Height</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-residential uses (permitted or grandfathered)</td>
<td>Identification: Wall</td>
<td>1 per lot</td>
<td>16 ft²</td>
<td>Must be located below eave</td>
<td>May not be used in conjunction with any other identification sign Maximum projection from wall shall be 12 inches.</td>
</tr>
<tr>
<td></td>
<td>Identification: Ground** Monument**</td>
<td>1 per lot</td>
<td>32 ft²</td>
<td>4 ft.</td>
<td>May not be used in conjunction with any other identification sign</td>
</tr>
<tr>
<td>Undeveloped</td>
<td>Advertising Sign (R-20 only; conditional use permit required)</td>
<td>See Section 14-20</td>
<td>See Section 14-20</td>
<td>See Section 14-20</td>
<td>See Section 14-20</td>
</tr>
<tr>
<td>Subdivisions or Multi-Family Development</td>
<td>Identification: Gate** Monument**</td>
<td>2 (one per entrance)</td>
<td>Primary entrance: 32 ft² total Secondary entrance: 16 ft² total</td>
<td>6 ft. (cannot be higher than gate)</td>
<td>May contain the name of the development only Gates Signs: 2 separate sign faces allowed per entrance</td>
</tr>
</tbody>
</table>

* Churches, schools, and institutions located in residential zoning districts are allowed one additional ground, monument, or wall sign that may be only a changeable copy sign, with the total area of the changeable copy sign no greater than twelve (12) ft² and a maximum of six (6) feet in height, with a minimum setback of ten (10) feet.

**External illumination is allowed.
C. **Mixed Use (PUD, O&I, B-1).** Planned Unit Developments (PUDs) contain a mixture of residential and commercial uses, are designed as a cohesive whole, and often integrate land uses often separated in traditional zoning districts. Office and Institutional (O&I) districts are intended to serve as a transition from business and residential districts and include office, institutional, and residential uses. The Central Business (B-1) district contains a mixture of commercial, office, and residential uses and is located in the historic commercial center of the town. Because of the mix of uses allowed in these districts, signage regulations shall reflect the variety of different types of signs required without compromising the area’s character.

Signs allowed in the Central Business zoning district without a permit are listed in Section 10-4(B) of this ordinance. The following table lists the signs that may be placed in this district subsequent to the issuance of a permit by the zoning administrator. Unless a sign is specifically allowed, it shall be prohibited. For uses requiring conditional use permits, unless different standards are specifically required or allowed, all signage shall conform to the regulations of this chart. See Section 10-8 for regulations for multi-tenant developments.

<table>
<thead>
<tr>
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<th>Maximum Sign Area</th>
<th>Maximum Sign Height</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-residential Uses (permitted or grandfathered)*</td>
<td>Freestanding: Ground** Monument** Column**</td>
<td>1 (one additional sign may be allowed for a full access driveway on separate street)</td>
<td>75 ft²</td>
<td>Ground or monument: 10 ft. Column: 15 ft.</td>
<td>Time, date, and temperature signs ten (10) ft² or less shall not be included in allowable sign area but must be incorporated into freestanding sign. Such signs shall be maintained for functionality and accuracy or the sign shall be repaired or removed.</td>
</tr>
<tr>
<td>Attached: Wall Window (permanent)***</td>
<td>1 primary identification sign per business Corner lots are allowed 1 additional attached sign per business on separate street frontage A maximum of 2 secondary signs advertising products or services are allowed No more than 3 total signs allowed</td>
<td>10% of area of building façade maximum allowed for all signs</td>
<td>Must be located below eave Not allowed over third story of building</td>
<td>Wall: Maximum projection shall be 12 inches. In the event a freestanding sign is less than the maximum area allowed, the difference between the maximum area and the sign erected may be used to increase the size of the attached sign by that difference. Projecting and Awning: Maximum projection shall be 3 feet; clearance over sidewalks shall be a minimum of 9 feet; clearance over streets, alleys, or driveways shall be a minimum of 14 feet</td>
<td></td>
</tr>
</tbody>
</table>

*Changeable copy signs are allowed.

**External illumination allowed.

*** Neon signs shall be allowed in windows subject to the area limitations whether for business identification or other use.
D. **Highway Business (B-2).** The Highway Business (B-2) district is limited to the Highway 117 Bypass and Highway 53 corridors. The businesses in this district serve a combination of through-traffic and local residents. As a result, the signage in this area should be positioned and sized in such a way to clearly designate businesses while maintaining Burgaw’s small town character.

Signs allowed in the Highway Business zoning district without a permit are listed in Section 10-4(B) of this ordinance. The following table lists the signs that may be placed in this district subsequent to the issuance of a permit by the zoning administrator. Unless a sign is specifically allowed, it shall be prohibited. For uses requiring conditional use permits, unless different standards are specifically required or allowed, all signage shall conform to the regulations of this chart. See Section 10-8 for regulations for multi-tenant developments.

<table>
<thead>
<tr>
<th>Use</th>
<th>Type of Sign(s) Allowed</th>
<th>Number of Signs</th>
<th>Maximum Sign Area</th>
<th>Maximum Sign Height</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-residential Uses (permitted or grandfathered)*</td>
<td>Freestanding: Ground** Monument** Column** Pole**</td>
<td>1 (one additional sign may be allowed for a full access driveway on separate street)</td>
<td>75 ft²</td>
<td>Ground or monument: 10 ft. Column: 15 ft. Pole: 25 ft.</td>
<td>Time, date, and temperature signs ten (10) ft² or less shall not be included in allowable sign area but must be incorporated into freestanding sign. Such signs shall be maintained for functionality and accuracy or the sign shall be repaired or removed.</td>
</tr>
<tr>
<td>Attached: Wall</td>
<td></td>
<td>1 primary identification sign per business Corner lots are allowed 1 additional sign per business on separate street frontage A maximum of 2 secondary signs advertising products or services are allowed No more that 3 total signs allowed</td>
<td>10% of area of building façade maximum allowed for all signs</td>
<td>Must be located below eave Not allowed over third story of building</td>
<td>Wall: Maximum projection shall be 12 inches. In the event a freestanding sign is less than the maximum area allowed, the difference between the maximum area and the sign erected may be used to increase the size of the attached sign by that difference. Projecting and Awning: Maximum projection shall be 3 feet; clearance over sidewalks shall be a minimum of 9 feet; clearance over streets, alleys, or driveways shall be a minimum of 14 feet</td>
</tr>
<tr>
<td>Attached: Window (permanent)***</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attached: Projecting Awning</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attached: Menu Board</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Changeable copy signs are allowed.

**External or internal illumination allowed.

*** Neon signs shall be allowed in windows subject to the area limitations whether for business identification or other use.
E. **Industrial (I-1 and I-2).** Industrial zoning districts are located along major thoroughfares or are visited primarily by employee and truck traffic. As a result, signage should be prominent enough to provide adequate identification for visitors yet is not needed to attract the attention of through-traffic.

Signs are allowed in the industrial zoning districts without a permit are listed in Section 10-4(B) of this ordinance. The following table lists the signs that may be placed in this district subsequent to the issuance of a permit by the zoning administrator. Unless a sign is specifically allowed, it shall be prohibited. For uses requiring conditional use permits, unless different standards are specifically required or allowed, all signage shall conform to the regulations of this chart. See Section 10-8 for regulations for multi-tenant developments.

<table>
<thead>
<tr>
<th>Use</th>
<th>Type of Sign(s) Allowed</th>
<th>Number of Signs</th>
<th>Maximum Sign Area</th>
<th>Maximum Sign Height</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>On-Premises Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-residential Uses (permitted or grandfathered)</td>
<td>Freestanding: Ground* Monument* Pole*</td>
<td>1 (may be in addition to 1 attached sign)</td>
<td>125 ft² total**</td>
<td>Ground or Monument: 10 ft. Pole: 25 ft.</td>
<td>2 faces allowed with secondary face of sign smaller in area than primary face.</td>
</tr>
<tr>
<td>Attached: Wall</td>
<td>1 primary identification sign per business</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corner lots are allowed 1 additional attached sign per business on separate street frontage</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Window (permanent)</td>
<td>A maximum of 2 secondary signs advertising products or services are allowed</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Projecting Awning</td>
<td>No more than 3 total signs allowed</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Off-Premises Signs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Billboards (I-2 district only)</td>
<td>Billboards</td>
<td>150 ft²</td>
<td>25 ft.</td>
<td></td>
<td>There shall be no more than 2 faces allowed. External illumination only allowed for any billboard. Signs 0-75 ft² in area must be set back a minimum of 10 ft. from the right-of-way. Signs 76-150 ft² must be set back a minimum of 20 ft. from the right-of-way</td>
</tr>
</tbody>
</table>

*External or internal illumination is allowed.

**In the event the lot also contains an off-premises sign, the area of the off-premises and on-premises signs may not total greater than 125 ft² combined.
F. **Conservation/Preservation (C/P).** This zoning district has only limited uses due to its properties’ environmental sensitivity. As a result, signage in the C/P district shall be limited in type and size.

Signs allowed in the Conservation/Preservation zoning district without a permit are listed in Section 10-4(B) of this ordinance. The following table lists the signs that may be placed in this district subsequent to the issuance of a permit by the zoning administrator. Unless a sign is specifically allowed, it shall be prohibited. For uses requiring conditional use permits, unless different standards are specifically required or allowed, all signage shall conform to the regulations of this chart.

<table>
<thead>
<tr>
<th>Use</th>
<th>Type of Sign(s) Allowed</th>
<th>Number of Signs</th>
<th>Maximum Sign Area</th>
<th>Maximum Sign Height</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted non-residential uses</td>
<td>Identification:</td>
<td>1</td>
<td>50 ft²</td>
<td>6 ft.</td>
<td>May not be used in conjunction with any other identification sign</td>
</tr>
<tr>
<td></td>
<td>Ground*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Monument*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*External illumination allowed*
Section 10-8: Multi-Tenant Developments

The following sign regulations shall apply for all multi-tenant developments (includes multi-tenant buildings with a common signage plan). Any sign not specifically allowed is prohibited.

A. Number of Development or Joint Identification Signs Allowed. The development is allowed one (1) identification sign for each property boundary with street frontage, with a maximum of two (2) signs allowed per development. If a development possesses more than one street frontage and choose to install two (2) freestanding signs, one street frontage shall be designated as the secondary frontage.

B. Development and Joint Identification Sign Standards. When a developer chooses a development identification sign, such sign shall include only the name of the development, and freestanding signs shall meet the following requirements based on the zoning district in which it is located. For each type listed below, external or internal illumination is allowed. Attached signs shall comply with the size and height requirements as outlined in Section 10-7.

When a developer chooses a joint identification sign, such sign may include multiple tenant identification information; however, no tenant listing can be in print smaller than six (6) inches in height. Such signs shall only be freestanding and shall meet the following requirements based on the zoning district in which it is located. For each type listed below, external or internal illumination is allowed. For either type of sign, a freestanding sign located on the secondary frontage must comply with the freestanding sign regulations as outlined in Section 10-7.

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Type of Sign(s) Allowed</th>
<th>Maximum Sign Area</th>
<th>Maximum Sign Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural-Agricultural (RA)</td>
<td>Ground Monument</td>
<td>25 ft²</td>
<td>6 ft.</td>
</tr>
<tr>
<td>Residential (R-20, R-12, R-7, R-7MH)</td>
<td>Ground Monument Column</td>
<td>100 ft²</td>
<td>Ground or monument: 10 ft. Column: 15 ft.</td>
</tr>
<tr>
<td>Highway Business (B-2)*</td>
<td>Ground Monument Column Pole</td>
<td>190 ft²</td>
<td>Ground or monument: 10 ft. Pole: 25 ft.</td>
</tr>
</tbody>
</table>

*For developments with a development identification sign, in addition to the one (1) development sign allowed, a movie theater will be allowed one (1) additional freestanding or attached marquee sign in accordance with the regulations as outlined in Section 10-7 (D).

C. Individual Tenant Identification Signs. The choice of a development sign or joint identification sign impacts the size of individual tenant identification signs allowed.
Individual tenant identification signs shall only be attached and shall meet the following requirements in all zoning districts. For each type listed below, external or internal illumination is allowed only in the Highway Business (B-2) district. External illumination is allowed in Mixed Use (PUD, O&I, and B-1) zoning districts. Only one (1) attached sign is allowed for each exterior public business entrance.

<table>
<thead>
<tr>
<th>Type of Sign Allowed</th>
<th>Development Identification Sign Option</th>
<th>Joint Identification Sign Option</th>
<th>Maximum Sign Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Awning Wall Projecting Window Suspended</td>
<td>Primary entrance: 25 ft² or 10% of building façade used by business up to the maximum allowed in Section 7-8(B) Secondary entrance: 10% of building façade used by business where secondary entrance located (maximum of 2 secondary signs)</td>
<td>Primary entrance: 20 ft² or 8% of building façade used by business up to the maximum allowed in Section 7-8(B) Secondary entrance: 8% of building façade used by business where secondary entrance located (maximum of 2 secondary signs)</td>
<td>See Section 10-7 for regulations</td>
</tr>
</tbody>
</table>

D. Nonconforming Signs. If any nonconforming individual tenant identification sign, development sign, or joint identification sign must come into conformity with this ordinance due to removal, damage, or abandonment of the nonconforming sign as outlined in Section 10-9, only that sign shall be required to adhere to the new regulations. If the multi-tenant development as a whole is expanded as described in Section 10-9(G), all development, joint identification, and individual identification signs must come into conformity with this ordinance.

Section 10-9: Nonconforming Signs

A. Legal Nonconformities. Any permanent sign lawfully permitted, established, erected, or affixed prior to the adoption of this article and that complied with all regulations in force at the time it was erected or affixed, but that fails to conform to all applicable regulations and restrictions, shall be considered a legal nonconforming sign. A legal nonconforming sign may be continued so long as it is in conformance otherwise with these standards and is maintained in good condition. Any signs prohibited by this article or not lawfully permitted, established, erected, or affixed prior to the adoption of this article shall not be considered legal nonconforming signs, shall be considered a violation of this ordinance, and may be subject to the penalties outlined in Article 5 of this ordinance. Master sign plan nonconformities shall be subject to the remedies as described in Section 10-4(D).

B. Increasing Nonconformities. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming may be enlarged or altered, nor may any illumination be added to any nonconforming signs.

C. Removal of Nonconforming Sign. A nonconforming sign may not be moved or sign structure replaced except to bring the sign into complete conformity with this article.
Once a nonconforming sign is removed (i.e., the removal of any structural appurtenances or portions thereof above the base or footing, including the sign frame) from the premises or otherwise taken down or removed, said sign may only be replaced with a sign that is in conformance with the terms of this article.

D. Maintenance of Nonconforming Signs. Normal maintenance of a nonconforming sign shall be allowed, including changing of copy as provided herein, nonstructural repairs such as repainting or electrical repairs, and incidental alterations that do not increase the degree or extent of the nonconformity. The message contained on the sign may be changed provided no change is made to the sign structure and the sign area and dimensions are not changed.

E. Replacement of Nonconforming Signs. If a nonconforming sign is completely destroyed or damaged to an extent of greater than 50% of its current replacement costs, the sign may not be thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this article, and the remnants of the former sign structure shall be cleared from the land.

F. Abandonment of a Nonconforming Sign. If a nonconforming sign remains blank for a continuous period of six (6) months, that sign shall be deemed abandoned and, within 30 days after such abandonment, shall be required to comply with this article or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For the purposes of this section, a sign shall be deemed “blank” if it advertises a business, service, commodity, accommodations, attraction, or other enterprise or activity that is no longer operating, offered, or being conducted; the advertising message it displays becomes illegible in whole or substantial part; or it does not contain an advertising message. Signs with terms advertising the sign for rent, lease, or sale, etc. shall not be considered abandoned.

G. Expansions of Uses with Nonconforming Signs. Any nonconforming sign shall be brought into compliance with this article or be removed if additions or expansions of buildings exceed one thousand (1,000) square feet of gross floor area or if the total of additions or expansions of buildings and parking areas occur that collectively exceed three thousand (3,000) square feet.
Article 11. Landscaping

Section 11-1: General

A. Purpose and Intent. The importance of trees and shrubbery is recognized for their shade, cooling, noise and wind reduction, soil erosion prevention, oxygen production, dust filtration, carbon dioxide absorption, aesthetic and economic enhancement of all real property and for their contribution to the general well-being of the citizens of the town. Certain streets have a history of significant and attractive vegetative corridors, which has contributed to a realization of increased property value and general improvement of that specific neighborhood.

In the interest of public health, safety, and general welfare, this ordinance provides for the preservation, planting, and replacement of trees and shrubbery and is designed to prevent the indiscriminate pruning and removal of trees in town without denying the reasonable use and enjoyment of real property. This ordinance will regulate and control the planting of trees and shrubbery for town property; developing private property including commercial, industrial, and multi-family residential developments; and property clearing. Furthermore, this Ordinance is intended to:

a. Improve the quality of the built and natural environments through air quality enhancements; erosion conservation; reduce the amount and duration of stormwater runoff and erosion; stormwater runoff quality improvements; and increase the capacity for groundwater discharge.

b. Select, situate, and maintain street trees appropriately to enhance streetscapes by separating pedestrian and motor traffic; abating glare and moderating temperatures of impervious areas; filtering air of fumes and dust; providing shade; attenuating noise; and reducing the visual impact of large expanses of pavement.

c. Prevent the indiscriminate removal of trees, facilitate their replacement on public and private property for new and expanding developments, and encourage appropriate pruning and maintenance practices in order to establish and maintain maximum tree cover and urban forest health.

d. Safeguard and enhance property value to protect public and private investments through the protection of significant existing trees, the enhancement of appearance, and the augmentation of design compatibility between different land uses, ensuring attractive views from streets and adjacent properties.

e. Enact standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of the Town while allowing flexibility to promote well-designed and create landscape plantings, as well as to establish and preserve an optimal level of age and species diversity.
B. Definitions

a. **Caliper**: A standard trunk diameter measurement for nursery grown trees taken six (6) inches above the ground for up to and including four (4) inches in caliper size, and twelve (12) inches above the ground for larger sizes.

b. **Critical Root Zone (CRZ)**: A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree’s survival. The critical root zone is one (1) foot of radial distance for every inch of tree DBH, with a minimum of eight (8) feet or to the tree’s drip line, whichever is greater.

c. **Developmental Purposes**: Site preparation for, and construction of, entirely new structures and/or significant extensions to existing structures whether or not the site was previously occupied and any other purposes that would lead to a change of use to a higher impact. For purposes of this section, the following list ranks differing uses from lowest to higher impact: undeveloped, agriculture/forestry, residential, mobile home park, institutional and cultural, commercial, industrial.

d. **Diameter at Breast Height (DBH)**: The tree trunk diameter measured in inches at a height of four and one-half (4 ½) feet above the ground.

e. **Forestry**: The professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for the sustained use and enjoyment of their resources, materials, or other forest products.

f. **Impervious cover**: Buildings, structures, and other paved, compacted gravel, or compacted areas, which by their nature do not allow the passage of sufficient oxygen and moisture to support and sustain healthy root growth.

g. **New construction**: Site preparation for, and construction of, entirely new structures and/or significant extensions to existing structures whether or not the site was previously occupied.

h. **Protected tree**: An individual tree having special regulatory procedures for removal on public and private property under development. Protected trees include all trees on public property, regulated trees as defined by this ordinance, and specimen trees as defined by this ordinance. Protected trees can include individuals or all individuals in a stand on a construction site designed to be preserved on the required landscape plan.

i. **Regulated tree**: The subsurface roots, crown, and trunk of:

   i. Any self-supporting woody perennial plant such as a large shade or pine tree, which usually has one main stem or trunk, and has a DBH as follows:

      1. Hardwood tree—eight (8) inches, such as oak, maple, etc.
      2. Pine tree—twelve (12) inches, such as a long leaf pine

   ii. Any small flowering tree, such as a dogwood, with a measured caliper of at least four (4) inches, measured six (6) inches above the root collar.
iii. Any tree having several stems or trunks, such as crape myrtle, and at least one defined stem or trunk with a measured caliper of at least two (2) inches, measured at six (6) inches above the root collar.

j. **Specimen tree:** Any healthy living tree that

i. Is a particularly impressive or unusual example of a species due to size, shape, age, or any other trait that epitomizes the character of that species as identified by a current Tree Board inventory.

ii. Has a trunk diameter at breast height (DBH) of six (6) inches or more in the case of the following species: Magnolia species, Oak (*Quercus* species), and Pecan (*Carya illinoensis*).

k. **Street yard:** The area of a parcel immediately adjacent to a street right-of-way designed to provide continuity of vegetation adjacent to the right-of-way and to soften the impact of development by reducing glare and reflective and visual clutter.

l. **Tree board:** A commission created pursuant to Town of Burgaw Ordinance, Chapter 34.

m. **Tree protection zone:** Those areas designated for the protection of both preserved and planted trees depicted on the required landscape plan.

C. **Jurisdiction.** This ordinance shall apply to all public and private properties within the municipal limits of the Town of Burgaw, as well as the town’s extraterritorial jurisdiction.

D. **Disclaimer of Liability.** Nothing contained in this section shall be deemed to impose any liability upon the town, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub, or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley, or public place within the town.

E. **Enforcement.** All penalties and remedies for violations of this article shall be as described in Article 5 of this ordinance.

**Section 11-2: Planting on Public Property**

A. **Tree and Shrub Planting on Public Property.** The Town encourages the planting of trees and other approved vegetation by private individuals, groups, and businesses on public property and along street rights-of-way. However, to obtain maximum benefit from those efforts, all plantings on public rights-of-way or public property owned by the town, its agents, board, or commissions shall be done in accordance with predetermined guidelines set forth by the Board of Commissioners on a per request basis.

B. **Maintenance**

a. The Town of Burgaw Public Works Department shall have the authority to maintain trees and shrubbery planted on public rights-of-way or public property owned by the town, its agents, boards, authorities, or commissions.
b. The cutting, trimming, destruction, lopping of branches or mutilation in any manner of trees or shrubbery standing along, in, or extending over the street right-of-way of any municipal or state maintained street by any person is hereby prohibited, except when done under the supervision and according to the direction of the Planning Administrator and/or Public Works Director and covered by the stipulations set forth in this article.

c. No person shall, without prior written permission from the Town, place or maintain upon the ground of any Town property any stone, cement, or other impervious matter or any fill material in such a manner that may obstruct the free access of air and water to the roots of any tree or shrub on any such Town property.

d. No person shall cut or remove trees on public rights-of-way or public property owned by the town, its agents, boards, authorities, or commissions without prior written permission from the Tree Board in cases of unsafe conditions caused by said trees or dead or diseased vegetation.

Section 11-3: Tree Preservation and Replacement during Development

A. General. Preserving trees can improve the aesthetic quality of a site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to a proposed development. Existing vegetation shall be preserved whenever feasible. The decision to preserve regulated and specimen trees shall be made by the Planning Administrator with input from the developer and design team during the project approval process. When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition, and type of tree; and location of site improvements and utility connections.

The removal or clear cutting of trees and other existing vegetation on undeveloped or underdeveloped sites within the city limits of the Town of Burgaw or its extraterritorial jurisdiction is prohibited except in compliance with Section 11-5 of this article. Any vegetation removal on vacant, undeveloped, or underdeveloped sites must be done in accordance with an approved site and/or approved subdivision plan.

a. It is the intent of this provision to promote the retention and replanting of trees consistent with quality development practices. A tree removal permit shall be issued prior to any clearing, grading, or other construction activity beginning on a site which is regulated by these provisions. A tree removal fee shall be assessed for each tree removed from the site, as indicated by the tree removal permit.

b. Both regulated and specimen trees, as defined in Section 11-1 of this article, shall be considered protected and removal shall be mitigated as described below if for any developmental purpose.

i. Regulated trees shall be preserved to the greatest extent practical and incorporated into required landscaping. If removed, they are to be mitigated with a new tree of the same species or one listed on the Tree Board’s species list with a minimum caliper of two (2) inches.
ii. Specimen trees shall also be preserved to the greatest extent possible. If these trees are removed, regardless of location on the site, they are to be mitigated with replacement trees of the same species with a minimum caliper of two (2) inches for every specimen tree removed, unless the trees are shown to be dead, dying, or greater than fifty percent (50%) damaged or diseased as a result of natural factors.

c. No tree removal permit shall be issued in conjunction with projects involving new construction unless the project has met one of the minimum standards outlined below:

   i. If a protected tree exists in the front, rear, or side yard of any development affected by this section, it shall be retained. The total number of trees to be retained shall be at least fifteen (15) protected trees per acre. For sites proposed for partial development, only the acreage of that portion of the site to be developed shall be utilized in calculating the number of trees to be preserved. The undeveloped portion shall not be utilized in calculating the number of trees to be preserved or in determining the number of retained protected trees.

   ii. If there are fewer than fifteen (15) protected trees per acre on the site, then the difference shall be replaced with new or existing trees, to a total of fifteen (15) trees per acre equaling at least two (2) caliper inches per tree planted or retained

Protected trees that are retained may be used to fulfill some of the landscaping requirements of the street yard, parking facilities, or buffer yard sections, provided that they are adequately protected from damage by construction activities or the intended use of the property.

d. If any new, retained, or protected tree, shown on the approved site plan dies for any reason within twelve (12) months after the issuance of a certificate of occupancy, it shall be replaced by planting a new tree with a minimum caliper of two (2) inches.

e. For any unauthorized removal of a new, retained, or protected tree during construction or within twelve (12) months after the issuance of the certificate of occupancy, its replacement shall be the planting of a new tree, with a minimum caliper of five (5) inches, or one more than three (3) new trees with a combined minimum caliper of five (5) inches, in addition to any other enforcement provision available in this ordinance.

f. Unauthorized removal of a new, retained, or protected tree during construction or within twelve (12) months after the issuance of a certificate of occupancy may also be subject to a fine as specified in the Fee Schedule for the Town of Burgaw for each tree removed. Such decision is appealable to the Town Manager.

g. For permitted removal of a new, retained, or protected tree during construction or within twelve (12) months after the issuance of the certificate of occupancy, its replacement shall be planting of a new tree with a minimum caliper of two (2) inches.
B. Tree Removal Permit

a. All persons seeking a permit for removal of a protected tree shall make application to the Planning Administrator. The Tree Removal Permit Application shall be in writing and include the information specified herein.

b. Applications for tree removal permits shall include the following information: name and address of property owner of the site; address of the construction site or site of tree removal if different from property owner’s legal address; name, address, and telephone number of applicant if different from property owner; description of protected trees to be removed or a site plan, as required herein, for trees to be retained.

c. The Planning Administrator shall review all properly submitted applications for tree removal permits and shall grant or deny a permit in accordance with the provisions of this section within five (5) working days of submittal. In applying the provisions of this section, he shall follow normal landscaping practices. In the event that additional time may be needed to determine the issuance or denial of the application, a delay period not to exceed thirty (30) days is allowable in order for the Planning Administrator to seek technical assistance from landscaping professionals.

d. The issuance of a required tree permit shall be based on the following standards:
   
   i. The protected tree is dead, severely diseased, injured, or in danger of falling close to existing or proposed structures;

   ii. The protected tree is causing disruption of existing utility service or causing drainage or passage problems upon the right-of-way;

   iii. The protected tree violates state or local safety hazards; or

   iv. Removal of the protected tree is necessary to enhance or benefit the health or condition of adjacent trees.

A tree removal permit shall be issued for an application meeting at least one (1) of these standards and shall apply to the specifics of that request.

e. The Town may withhold or withdraw any town-issued permits, certificates, and any other authorizations, including but not limited to, building permits, driveway permits, and certificates of occupancy, until a tree removal permit is obtained. A tree removal permit, as required by this ordinance, must be obtained before a building permit may be issued.

f. Tree removal permits are valid for a period of ninety (90) days unless otherwise explicitly stated on the tree permit application. The Planning Administrator may grant permit extensions based upon evidence that the delay was due to circumstances beyond the control of the applicant.

g. A tree removal fee shall be applied if the request as described in the tree removal permit application does not meet one of the four standards outlined above. The tree removal fee shall be included in the Town of Burgaw Fee Schedule as part of the fiscal year budget.
h. The property owner and, if applicable, tree removal company are equally responsible for obtaining required tree removal permit(s) prior to tree removal.

C. Tree Survey

i. All applications for grading, building, demolition, land use, change of use, or rezoning on all property greater than five (5) acres shall include a tree survey in addition to the information required for a tree removal permit as outlined in this section.

j. A tree survey is a description of the existing vegetation on the site. This is necessary to ensure protection of native ornamental species and significant vegetation within required protection areas. The tree survey must be performed and certified by a registered land surveyor, professional engineer, or registered landscape architect. The survey shall, at a minimum, provide the following information:

   i. The shape and dimensions of the real property to be developed, together with the exiting and/or proposed locations of structures and improvements; existing and/or proposed utility services; roadways, bikeways, walkways, and parking areas;

   ii. The location, caliper, and species of all protected trees to be retained or new trees to be planted in accordance with the provisions of this section;

   iii. The proposed relocations of any existing protected tree with a statement of how the tree is to be relocated and maintained;

   iv. Any proposed grade changes which might adversely affect or endanger any protected tree to be retained with a statement of how the tree is to be protected and maintained; and

   v. The proposed method of protecting the remaining protected trees during construction, including the Critical Root Zone(s) of each individual tree or group of individual trees, in accordance with this section.

k. All applications for grading, building, demolition, land use, change of use, or rezoning permits on all property five (5) acres or less shall not include a tree survey. However, specimen and regulated trees shall be flagged and either preserved or approved for removal by the Planning Administrator. Property shall be cleared of underbrush sufficiently so planning staff can inspect the property without impediment when performing a physical review of site and trees. The Planning Administrator may waive the requirements for a certified tree survey based on the size of the property, number of trees, and accessibility.

D. Retention Standards for Protected Trees. Protected trees may be removed only if essential site improvements cannot be accommodated elsewhere on the site or unless one of the criteria of Section 11-4(B) of this article is met, as determined by the Planning Administrator. If any protected trees are to be cleared from the site for essential site improvements, the proposed removal must be indicated, the reasons for doing so shall be clearly stated on the tree survey, and a tree removal permit must be obtained from the Planning Administrator. Such factors as non-selective clearing by bulldozers is less
expensive than selective clearing by chainsaw or removal to accommodate non-essential site improvements shall not be valid reasons for removal of protected trees. Clearing of sites shall be limited to areas approved for construction.

E. **Negligence.** If a tree required to be protected is destroyed, substantially damaged, or dies as a result of negligence or failure to comply with the requirements of this section on the part of any property owner and/or agent of the owner, within four (4) years of commencement of construction, then replacement of trees of a similar species with a caliper of at least two (2) inches, as approved by the Planning Administrator, shall be planted on this site.

**Section 11-4: Property Clearing for Non-Developmental Purposes**

A. **Forestry**
   
   a. In accordance with § 160A-458.5, the Town may deny a building permit or refuse to approve a site or subdivision plan for either a period of up to:
      
      i. Three (3) years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under the Town’s regulations governing development from the tract of land for which the permit or approval is sought.
      
      ii. Five (5) years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under city regulations governing development from the tract of land for which the permit or approval is sought and the harvest was a willful violation of the Town’s regulations.

   A harvest may be considered a willful violation of the Town’s regulations in cases where Town staff has written evidence of an individual’s or entity’s notification of town regulations prior to harvesting and in cases where an individual or entity has already suffered a three-year approval moratorium for unintentional violation of the Town’s regulations.

   b. To maintain the visual character of the site from adjoining properties and rights-of-way, a vegetated perimeter buffer shall be maintained while tree harvesting for forestry occurs. A ten (10) foot wide buffer of naturally existing vegetation shall be maintained along all boundaries of the property being forested that adjoin other developed properties or those approved for development. Along public rights-of-way, a twenty (20) foot buffer of naturally occurring vegetation shall be maintained, exclusive of areas required for access to the site.

B. **Lot Repair.** Upon completion of the property clearing, the owner must remove all cut timber and related vegetative debris from the property and repair any damage that may cause standing water and a potential breeding point for mosquitoes. The Town will not be responsible for removal of any vegetative debris or trees. Lot repair must be completed within ninety (90) days from the date of permit issuance or from the end of property clearing.
**Section 11-5: Landscaping**

A. Applicability and Exemptions

   a. The landscaping requirements of this section shall apply to any new public or private development with the exception of single or two-family homes. However, single and two-family homes are required to stabilize all yardage with a viable and sustainable grass/groundcover before a certificate of occupancy can be issued.

   b. Requirements of this section do not apply to:

      i. Existing residential properties.
      ii. Properties within the Central Fire District as defined by the Town of Burgaw Code of Ordinances, Section 6-6.

B. Street Yard Landscaping

   a. A street yard, as defined herein, must be provided for new construction of principal structures or expansions to such structures or uses whenever additional off-street parking is required. However, no such street yard improvements shall be required for those portions of lot frontage used for driveways. The purpose of street yards is to provide continuity of vegetation along the street right-of-way, creating a pleasing view from the road, and establishing a transition from vehicular thoroughfares, pedestrian areas, or the built environment.

   b. When a street yard is required, it must be at least twelve (12) feet in width and extend the entire length of all adjacent street rights-of-way. Width shall be measured from the respective right-of-way/property line. Where street yards turn at street corners, the length measurements determining plant quantities shall not be required to overlap. It is intended that street yards be landscaped by meeting the requirements of either (i) or (ii) as follows in order to provide continuity of vegetation and a pleasing view from the road:

      i. Minimum standards:

         1. For every thirty (30) linear feet of frontage, or fraction thereof, the street yard shall contain

            a. One (1) tree, eight (8) feet in height, OR
            b. Three (3) flowering trees, five (5) feet in height only when approved by the Planning Administrator in cases where there are height constrictions due to public power lines.

         2. For every thirty (30) linear feet of frontage, or fraction thereof, the street yard shall contain five (5) shrubs

      ii. Creative standards: to promote creative designs, a street yard may consist of trees and shrubbery which cover at least fifty percent (50%) of its area and are selected in accordance with subsection (f) below as long as there is no net reduction in the number of plants as outlined in the minimums standards.
c. No more than fifteen percent (15%) of the required street yard shall be covered with an impervious surface for properties with at least one hundred seventy (170) feet of linear frontage. This portion of the street yard may be used for walkways, fountains, walls or fences, but not for parking or storage.

d. Sidewalks, when constructed, shall be exempt from impervious limits as specified in above.

e. If there are existing trees in the proposed street yard area, the Planning Administrator may grant credit toward meeting the landscaping requirements of this section for the preservation of those healthy and sustainable trees provided their caliper is at least two (2) inches or more.

f. All street yard shall be landscaped with a combination of live vegetation, groundcover, grass, trees, and shrubs. Vegetation to be planted pursuant to this section shall be selected from the list approved by the Tree Board. After the landscaping has been planted, the owner shall maintain the street yard to ensure that the material lives and prospers. When the total number of trees required under the provisions of this article equals twenty (20) or more, then no single tree species shall comprise more than twenty-five percent (25%) of the trees planted on the development site.

g. Corner lots, and in situations where driveways and alleys interact with street rights-of-way, shall be kept free of landscaping and plant materials that interfere with the vision of a motorist or pedestrian.

h. Street yards, as required by this ordinance, may be used to accommodate setbacks as stated in Section 8-1: Dimensional Requirements.

C. Parking Facilities Landscaping

a. All parking facilities containing more than four (4) spaces shall submit the site plan required by this Ordinance to the Planning Administrator for review and approval of the landscaping requirements of this section.

b. Minimum standards: At least eight percent (8%) of the gross paved area of a parking facility shall be landscaped and located in the interior. For purposes of this section, interior shall mean the area within the parking facility curb or pavement and extensions that create a common geometric shape such as a square, rectangle, or triangle.

i. Trees and shrubbery planted pursuant to this section shall include at least one (1) tree a minimum of eight (8) feet in height and six (6) shrubs at least eighteen (18) inches in height at planting. At least fifty percent (50%) of the trees planted shall be of a shade/canopy species as outlined by the Tree Board.

ii. The minimum planting size for trees under this section shall be the same as established in Section 11-5 (B).

iii. In support of the above, the following standards shall apply to interior plantings:
1. All plantings shall be evenly distributed throughout the parking facility.

2. All interior plantings shall be curbed or otherwise physically protected.

3. Consecutive parking spaces shall incorporate landscape peninsulas no more than fifteen (15) spaces apart and at least at the ends of all parking rows. Peninsulas shall contain at least one hundred (100) square feet in area and at least eight (8) feet in width, measured from back of curb/barrier to back of curb/barrier.

iv. For every protected tree, as defined herein, that is retained in a parking facility in addition to the requirements of Section 11-3, a reduction of the above eight percent (8%) interior planting requirement may be allowed equaling one-half of one percent (0.5%) per protected tree retained. The reduction shall be limited to a maximum credit of two percent (2%) or four (4) protected trees retained.

c. For parking facilities containing five (5) to twenty-four (24) spaces or stalls inclusive, a perimeter landscape strip may be provided in lieu of interior landscaping, subject to the following requirements:

i. The minimum width of such strip shall be twelve (12) feet.

ii. For every thirty (30) linear feet or fraction thereof the perimeter landscape strip shall contain one (1) canopy tree of at least eight (8) feet in height, and a continuous row of at least six (6) evergreen shrubs at least eighteen (18) inches in height.

iii. When a perimeter landscape strip overlays a street yard or buffer yard required elsewhere in this ordinance, the more stringent requirements shall apply.

All perimeter landscaping strips shall be planted with a combination of live green vegetation, groundcover, grass, trees, and/or shrubs. Vegetation planted pursuant to this section shall be selected from the list approved by the Tree Board and shall be maintained to ensure continued growth.

d. When a parking facility is within fifty (50) feet of the public right-of-way, a perimeter planted strip shall be installed, consisting of a low buffer incorporated into the street yard.

e. The Planning Administrator may waive the requirements of this section for temporary parking lots when determined that a waiver is necessary to relieve hardship and will not violate the purposes of this section.

D. Landscaping Required for Expansions to Existing Principal Structures

a. For expanding principal structures, the following table shall be utilized in calculating the extent of the landscaping upgrade required for the previously developed portions of the site (up to the maximum landscaping requirements of this section). All newly developed portions of the site shall be subject to the full
Article 11. Landscaping

landscaping requirements of this section. For expansions where options are listed for street yard and parking facility landscaping, the higher option shall be utilized except where Town Planning Department staff have determined that practical difficulties in site development exist in which the lower option is preferable.

<table>
<thead>
<tr>
<th>Amount of Expansion</th>
<th>Tree Preservation</th>
<th>Street Yard</th>
<th>Parking Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-25% increase in gross floor area or 5-20 new parking spaces as required by zoning ordinance, whichever is more restrictive</td>
<td>15 per acre</td>
<td>8 feet</td>
<td>4%</td>
</tr>
<tr>
<td>25-50% increase in gross floor area; or over 10,000 square feet increase in gross floor area; or 21-50 new parking spaces new parking spaces as required by zoning ordinance, whichever is more restrictive</td>
<td>15 per acre</td>
<td>10 feet</td>
<td>8%</td>
</tr>
<tr>
<td>Greater than 50% increase in gross floor area; or over 20,000 square feet increase in gross floor area; or more than 50 new parking spaces required by zoning ordinance, whichever is more restrictive</td>
<td>15 per acre</td>
<td>12 feet</td>
<td>10%</td>
</tr>
</tbody>
</table>

b. When subdivision of previously developed property occurs and a building permit for new construction is obtained for any newly created tract within two (2) years of the effective date of the subdivision, all parcels of the original tract shall be subject to the above provisions for expansions to existing structures or uses.

c. For consecutive expansion occurring within a two (2) year period, the amount of the expansions shall be summed and the maximum landscaping requirements for the total extent of the expansions shall be provided.

d. Notwithstanding the above requirements, expansions to existing structures or uses amounting to not more than a total increase of five hundred (500) square feet in gross floor area over a two (2) year period shall be exempt from meeting the street yard and parking facility landscaping requirements.

E. Tree Protection during Construction

a. Except by permit, construction activities under the drip line of a regulated tree are prohibited. Activities include, but are not limited to, treating or grading, storage
of materials or equipment, passage of heavy equipment within the drip line and spillage of chemicals or other materials which are damaging to trees.

b. To preserve existing trees specified on the required landscape plan to remain on the site as a function of fulfilling the purposes of this section, the critical root zone shall be protected by proper installation of barricades and signage from vehicular movement, material storage, compacting, grading, excavating, and other development related activities during construction and in the final landscape design.

c. When applying for a permit, the party doing construction work under the drip line of a regulated tree shall submit a plan showing in full detail the method or means by which a tree or trees will be protected during the entire construction process. The plan must be approved prior to a permit being issued.

d. If the entire CRZ cannot be preserved, the disturbed areas shall extend no closer to the protected tree trunk than one half (1/2) the radius of the CRZ. In no case can more than forty percent (40%) of the CRZ be disturbed. Disturbance of the CRZ will only be allowed with prior approval by the Planning Administrator.

e. No equipment is allowed on the site until all tree protection fencing and silt fencing has been installed and approved by the Planning Administrator. The protective fencing shall remain in place through completion of construction activities.

Section 11-6: Maintenance

A. All planted and retained living material, required to meet the provisions of this ordinance, shall be maintained by the owner of the property on which the material is located. Any planted material which becomes damaged or diseased or dies shall be replaced by the owner within thirty (30) days of the occurrence of such condition. If, in the opinion of the Planning Administrator, there are seasonal conditions which will not permit the timely replacement of vegetation (e.g., too hot or too cold for successful replanting), this requirement may be administratively waived until a time certain.

B. Nonliving screening buffers shall be maintained, cleaned, or repaired by the owner of the property on which the buffer is located. Such buffers shall be kept free of litter and advertising.

Section 11-7: Exemptions

A. The Planning Administrator may waive the requirements of this section during an emergency such as a hurricane, tornado, windstorm, tropical storm, flood, or other act of God.

B. If any tree shall be determined to be in a hazardous condition so as to (a) immediately endanger the public health, safety, or general welfare, or (b) cause an immediate disruption of public service, the Public Works Director or Planning Administrator may determine that replacement with additional trees is also necessary. In making determinations, these officials shall utilize such professional criteria and technical assistance as may be necessary.
Article 12. Buffer Strips

Section 12-1: Purpose
Vegetative buffer strips and screens shall be provided in accordance with this ordinance to separate adjacent land uses and fulfill the following purposes:

- To shield adjacent properties from any adverse external effects of the development so as to render incompatible adjacent uses more compatible;
- To shield development from the negative impacts of adjacent land uses so as to render incompatible adjacent uses more compatible; and
- To preserve open space and existing vegetation, using supplemental plantings only when necessary.

Section 12-2: Application
Vegetative buffer strips and screens shall be required as noted in Section 4: Use Standards, Section 8-5: Regulations for Conditional Uses, and any other section of this ordinance. Primarily, buffering shall be required when a use is located adjacent to less intensive land uses and shall be required at the time of initial construction or change in use.

Section 12-3: Types of Buffers

Type I Bufferyard. A type I bufferyard is a narrow vegetative screen designed to obscure views and create spatial separation between adjacent land uses in cases where the activities of one use would visually impact the adjacent land use.

Type I buffers shall be between five (5) and ten (10) feet in width and shall be composed of a combination of trees and shrubs, at least fifty percent (50%) of which will be evergreen species, that will provide visual obstruction from the ground to a height of at least six (6) feet at planting and twenty (20) feet at maturity.

Type II Bufferyard. A type II bufferyard is a narrow vegetative screen used in conjunction with a fence or wall designed to obscure views and create spatial and physical separation between adjacent land uses and zoning districts in cases where the activities of one use would visually impact the adjacent land use or where physical separation limiting the possibility of pedestrian traffic would be desirable.

Type II bufferyards shall be between two (2) and ten (10) feet in width and shall be composed of a fence or wall with a vegetative screen facing the adjacent property. The fence or wall shall be constructed of wood, stone, brick, decorative concrete block, wrought iron, products created to resemble these materials, or a combination of any of these materials. The fence shall be a maximum of six (6) feet tall unless greater height is allowed elsewhere in this ordinance. The vegetative screen shall be composed of shrubbery, at least fifty percent (50%) of which shall be evergreen species, that shall not reach a height higher than that of the fence or wall. If the fence or wall is not opaque, the vegetative screen shall be dense enough to provide a semi-opaque visual barrier to the property.
Type III Bufferyard. A type III bufferyard is a semi-opaque buffer designed to obscure views and provide physical separation from adjacent land uses in cases where noise, traffic, lighting, etc. from one use would negatively affect the adjacent land use.

Type III buffers shall provide a semi-opaque screen from the ground to a height of between three (3) and six (6) feet with openings no greater than ten (10) feet. Trees shall obtain a height of between eighteen (18) and forty (40) feet at maturity and have no unobstructed openings greater than twenty (20) feet between canopies. Large trees shall be spaced no wider than forty (40) feet at time of planting, and small trees shall be spaced no more than twenty (20) feet. At least seventy-five percent (75%) of the required shrubs must be evergreen species.

Type IV Bufferyard. A type IV bufferyard is an opaque buffer designed to obscure views and provide physical separation from adjacent land uses in cases where noise, traffic, lighting, etc. from one use would negatively affect the adjacent land use. This type of bufferyard is used instead of a type III buffer when a land use is intensive and requires complete separation from adjacent land uses.

Type IV bufferyards shall function as an opaque screen from the ground to a height of at least six (6) feet. Plantings of deciduous and evergreen trees shall obtain a height at maturity of between eighteen (18) and sixty (60) feet and have no unobstructed openings between tree canopies at maturity. Large trees shall be spaced no wider than fifteen (15) feet at time of planting. Screening plants for the Type IV buffer shall be evergreen and between five (5) and six (6) feet tall at the time of installation. At least fifty percent (50%) of the required trees and one hundred percent (100%) of the shrubs must be evergreen species.

Section 12-4: Location
All buffers shall be located along the outer perimeter of the parcel, within the required setback, and shall extend to the parcel boundary line or right-of-way line, if applicable. Buffers shall not include any portion of an existing public or private street, proposed public street, easement, or right-of-way. The required buffer width does not just determine a simple setback but is to be totally planted to meet the requirements for the applicable buffer type. Therefore, the plants comprising the buffer shall be spread across the entire width of the buffer and not just planted in a row or rows. A type I or II buffer may be allowed outside of the requisite setback if required for screening purposes.

Section 12-5: Existing and Planted Vegetation
Existing vegetation within the required buffer shall be preserved and credited toward standards for the type of buffer required at the time of permit approval. In order to determine which existing vegetation shall be preserved, the applicant may be required to provide a tree survey per the requirements of Article 11: Landscaping.

If existing significant vegetation and other site features do not fully meet the standards for the type of buffer required, then additional vegetation and/or site features (including fences) shall be planted or installed within the required buffer area.


Section 12-6: Maintenance

The buffer strip shall be maintained for the life of the development. Maintenance shall be the responsibility of the property owner or homeowner’s association. For conditional uses, the Board may require a maintenance bond for the buffer as a condition of approval.

Maintenance shall be considered to include prompt replacement of unhealthy or dead plants and good function and aesthetic repair of all fencing.
Article 13. Stormwater Discharge Control

Section 13-1: General Provisions

A. Title, Purpose

a. This chapter shall continue and be known and may be cited as the “Stormwater Discharge Control Regulations of the Town of Burgaw, North Carolina.”

b. The purpose of this chapter is to protect, maintain, and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased stormwater associated with future land development within the Town of Burgaw. Proper management of stormwater runoff will include the following beneficial effects:

i. Will minimize damage to public and private property;

ii. Ensure a functional drainage system;

iii. Reduce the effects of development on land and stream channel erosion;

iv. Assist in the attainment and maintenance of water quality standards;

v. Reduce local flooding and drainage problems;

vi. Maintain as nearly as possible the pre-developed runoff characteristics of the area; and

vii. Facilitate economic development by mitigating associated flooding and drainage impacts.

c. The application of this chapter and the provisions expressed herein shall be the minimum stormwater discharge control requirements and shall not be deemed a limitation or repeal of any other obligations imposed by State statute or judicial decisions. The Town Public Works Director or designee shall be responsible for the coordination and enforcement of the provisions of this chapter.

B. Definitions. As used in this chapter, unless the content clearly indicates otherwise, the following terms, phrases, and words, and their derivatives shall have the meaning given herein:

a. Agriculture: Land-disturbing activities undertaken on land for the production of plants and animals useful to man, including, but not limited to, forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of any or all such animals; bees and apiary products; and fur animals.

b. As-built Plan: Plans reflecting actual field conditions which may include the construction plans with any charges identified and shown on the plan.

c. Designer: A professional—who is permitted to prepare plans and studies required by this chapter.
d. **Detention Structure**: A permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water.

e. **Develop**: The construction, landscaping, clearing projects, or any other project which in any manner alters the natural structure of the land mass.

f. **Development**: Any site plan or subdivision.

g. **Developed Land Use Conditions**: The land use conditions that would be permitted according to the current official Town Zoning Maps.

h. **Developed Peak Discharge Rates**: The peak discharge rates, in cubic feet per second, calculated during developed land use conditions.

i. **Drainage facilities**: See storm drainage facilities.

j. **Easement**: Right of use over the property of another for a specific purpose or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

k. **Existing Land Use Conditions**: The land use conditions existing at the time the design plans are submitted for approval, including previously approved upstream developments.

l. **Forestry**: A woodland area where all of the following occur:

   i. the growing of trees;

   ii. the harvesting of timber, leaves, or seeds;

   iii. the regeneration of either timely replanting of trees or natural generation in accordance with a forest management plan acceptable to the Division of North Carolina Forest Resources;


m. **Impervious surface**: Any material that significantly reduces and prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, patios, balconies, decks, streets, parking areas, driveways, sidewalks, and any concrete, stone, brick, asphalt, or compacted gravel surface.

n. **Infiltration**: The passage or movement of water into the soil sub-surface.

o. **Maintenance**: Any action necessary to preserve drainage and flood control facilities in proper working condition, so that such facilities shall continue to comply with the standards of this chapter and to prevent failure of such facilities. Maintenance shall not include actions taken solely for the purpose of enhancing the aesthetic aspects associated with stormwater discharge control facilities.

p. **On-site Stormwater, Discharge Control Facilities**: The design and construction of the facilities necessary to control stormwater runoff within and for a single development.
q. **Off-site Stormwater, Discharge Control Facilities:** The design and construction of the facilities necessary to control stormwater runoff for multiple sites.

r. **Preliminary stormwater discharge control plan:** The overall proposal to control discharges from the proposed development. Also included are the supporting engineering calculations, input data for any computer analysis, and results of any computer analysis needed for preliminary design of any stormwater discharge control facilities. This plan shall be in enough detail to determine if stormwater discharge control facilities will be needed.

s. **Predevelopment:** The conditions that existed prior to the proposed project, site plan, or subdivision being in place.

t. **Regional Stormwater, Discharge Control Facilities:** The design and construction of a facility capable of controlling stormwater runoff for a large portion of a watershed, usually located on the stream channel. This may be used in conjunction with on-site and off-site facilities.

u. **Town of Burgaw Stormwater Management Technical Manual:** Manual approved by reference in this chapter, by the Board of Commissioners, which presents recommended design procedures and criteria for conducting hydrologic and hydraulic evaluations.

v. **Retention structures:** A permanent structure that provides for the storage of runoff and is designed to maintain a permanent pool of water.

w. **Storm Drainage Facilities:** The man-made system of inlets, conduits, or other such facilities, and appurtenances which collect, store, and convey stormwater.

x. **Stormwater Discharge Control Design Plan:** The set of drawings and other documents that comprise all of the information and specification for the drainage systems, structures, concepts, and techniques that will be used to control stormwater discharges as required by this chapter and the Town of Burgaw Stormwater Management Technical Manual. Also included are the supporting engineering calculations, input data for any computer analysis, and results of any computer analysis.

y. **Subdivision:** All divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development, and all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

   i. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards contained herein;

   ii. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;

   iii. The public acquisition by purchase of strips of land for the widening or openings of streets;
iv. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards contained in Section 8-1 of this Ordinance.

z. Ten-Year, Twenty-Five-Year, Fifty-Year, and 100-Year Storms: Rainfall intensity with a probability of being equaled or exceeded, on the average, in any given year 10%, 4%, 2%, and 1% of the time, respectively. The selected duration should produce the maximum peak rate of runoff for the watershed of interest, under average antecedent wetness conditions.

C. Scope of Chapter. No person shall develop any land without having provided for appropriate stormwater discharge control measures to control or manage stormwater runoff, in compliance with this chapter, unless included in the exemptions of (D) below.

D. Exemptions from Requirements. The following development activities are exempt from the provisions of this chapter.

a. Agricultural and forestry activities.

b. Additions or modifications to existing detached single-family dwellings, as long as the total impervious cover does not exceed ten percent (10%) of the area of the lot.

c. Any residential development, single or multiple lots, that does not have an impervious area greater than twenty-five percent (25%) of the lot size.

Section 13-2: Stormwater Discharge Control Preliminary and Design Plans

A. Stormwater Discharge Control Preliminary and Design Plans

a. A preliminary stormwater discharge control plan for each development shall be submitted for review and approval by the Town of Burgaw prior to preliminary plan or subdivision approval, unless exempted by (D) above. The preliminary stormwater discharge control plan shall contain information as required by the Town of Burgaw Stormwater Management Plan Technical Manual.

b. The purpose of the preliminary stormwater discharge control plan is to provide enough information, including engineering calculations, to determine if stormwater discharge control facilities will be needed to control runoff from the proposed development.

c. After a review of the preliminary stormwater discharge plan, the Town of Burgaw can:

i. Accept the preliminary stormwater discharge control plan as submitted which calls for construction of stormwater discharge control facilities that comply with this chapter, or

ii. Reject the preliminary stormwater discharge control plan.
If the preliminary stormwater discharge control plan is rejected, the Town of Burgaw shall specify what actions will be necessary to produce a plan that is acceptable to the town.

d. Upon approval of the preliminary stormwater discharge control plan, the applicant shall submit a final stormwater discharge control plan (as part of the construction plans) to the Town of Burgaw for review and approval if stormwater discharge control facilities will be required. If the stormwater discharge control preliminary plan is submitted in sufficient detail and identifies the location and type of facilities needed, the Town of Burgaw can accept the preliminary plan as the final stormwater discharge control design plan.

B. Minimum Runoff Control Requirements and Waiver of Requirements. The minimum stormwater control requirements shall provide control measures necessary to control velocities of flow from stormwater discharge control facilities to a level which will comply with both the North Carolina Soil Erosion Act and North Carolina Administrative Code Section 15A NCAC 2H.1000, Stormwater Management. In addition, stormwater discharge control measures shall be provided to limit the 10-year developed peak discharge rates to existing peak discharge rates. The design of these facilities shall be based on procedures contained in the Town of Burgaw Stormwater Management Technical Manual or procedures approved by the Town of Burgaw. The Stormwater Best Management Practices by the NC Department of Environment and Natural Resources (NCDENR) should also be complied with where applicable.

C. Stormwater Discharge Control Facilities.

a. Stormwater discharge control facilities may include both structural and nonstructural elements. Natural swales and other natural runoff conduits shall be retained where practicable.

b. Where additional stormwater discharge control facilities are required to satisfy the minimum control requirements, the following measures are examples of what may be used.

   i. Stormwater detention structures (dry ponds).

   ii. Stormwater retention structures (wet ponds).

   iii. Facilities designed to encourage overland flow, slow velocities of flow, and flow through buffer zones.

   iv. On-site infiltration practices used to control runoff from small areas.

   v. Reduction of impervious surfaces directly connected to the drainage system.

   vi. Off-site channel improvements designed to contain a 10-year design storm under developed land use conditions (the analysis for the channel improvements shall extend downstream to where the proposed development represents ten percent (10%) of the total watershed).

   vii. Other methods acceptable to the Town of Burgaw which assure no harm to downstream properties.
c. Where detention and retention structures are used, designs which consolidate these facilities into a limited number of large structures will be preferred over designs which utilize a large number of small structures.

d. The stormwater discharge control facilities within the town (including both public and private facilities) will be designed to the same engineering and technical criteria and standards. The town’s review will be the same whether the facilities will be under public or private control or ownership.

e. All stormwater discharge control facilities shall be designed using the Stormwater Best Management Practices, developed by the NC Department of Environment and Natural Resources and in accordance with the design criteria contained in the Town of Burgaw Stormwater Management Technical Manual, or other procedures approved by the Town of Burgaw.

(D) Stormwater Discharge Control Design Plan Requirements. Stormwater discharge control design plans shall include the following:

a. A determination that no proposed stormwater discharge control facility will create flooding or drainage problems for the 10- and 50-year flood events.

b. Stormwater discharge control design plans shall include designation of all easements needed for inspection and maintenance of the stormwater discharge control facilities. The location of all stormwater management facilities shall be specified prior to recording of easement.

c. A plan for maintenance of all stormwater discharge control facilities shall be included as part of the stormwater discharge control design plan.

d. In determining downstream effects from stormwater discharge control structures and the development, hydrologic-hydraulic engineering studies, using the 10-year design storm, shall extend downstream to a point where the proposed development represents ten percent (10%) of the total watershed. If the discharge calculations indicate that adjacent properties, between the exit of the proposed development and the “10% downstream point” might be adversely impacted by the proposed development, then the town will require backwater calculations and the determinations of flood elevations for the areas impacted.

(E) Plan Criteria for the Stormwater Discharge Control Preliminary Plan and the Stormwater Discharge Control Design Plan. The hydrologic criteria to be used for the stormwater discharge control preliminary and stormwater discharge control design plans shall be as follows:

a. 25-year design storms for all detention and retention basins, and

b. All stormwater discharge control designs shall be checked to insure that no increase in local flooding and flood hazards to adjacent structures and/or property occurs, using the 100-year storm.

(F) Town Participation. When the Town of Burgaw determines that additional storage capacity beyond that required by the applicant for on-site stormwater discharge control is desirable to correct unacceptable or undesirable existing conditions or to provide
Article 13. Stormwater Discharge Control Regulations

protection in a more desirable fashion for future development, the town, with approval from the Board of Commissioners, may:

a. Develop an agreement with the applicant to enlarge the required stormwater discharge control facility, and
b. Participate financially in the construction of such a facility to the extent that such a facility exceeds the required on-site stormwater discharge control required of this chapter.

(G) Permit Requirements. No building or zoning permits for improvements or plan recordation for a subdivision, for which a stormwater discharge control plan is required, shall be approved or modified by the town without the approval of the following discharge control regulatory items:

a. Right of entry for emergency maintenance.
b. Any recorded off-site easements needed.
c. An approved stormwater discharge control design plan.
d. A maintenance agreement.
e. Recorded easements for stormwater discharge control facilities.

(H) Permit Suspension and Revocation. A land disturbing activity permit may be suspended or revoked seven (7) working days from receipt of a certified letter by the owner or authorized appointed agent stating that one of the following violations has been committed:

a. Any violation(s) of the conditions of the stormwater discharge control design plan approval,
b. Construction not in accordance with the approved plans,
c. Noncompliance with correction notice(s), or
d. The existence of an immediate danger in a downstream area in the judgment of the Town of Burgaw.

(I) Professional Registration Requirements. Stormwater discharge control preliminary and discharge control design plans that are incidental to the design of a residential subdivision shall be prepared by a qualified registered North Carolina Professional Engineer, Surveyor, or Landscape Architect, using acceptable engineering standards and practices. All other stormwater discharge control preliminary and plans shall be prepared by a qualified registered North Carolina Professional Engineer, using acceptable engineering standards and practices.

The engineer, surveyor, or landscape architect shall perform services only in areas of his/her competence, shall undertake to perform engineering, landscape architecture, or land surveying assignments only when qualified by education and/or experience in the specific technical field.
**Section 13-3: Ownership, Inspection, and Maintenance**

**A. Ownership and Maintenance of Stormwater Discharge Control Facilities**

a. Any stormwater discharge control facility which services a single lot or developments other than detached single-family dwellings and their accessory uses will be privately owned and maintained; provided, however, the owner thereof shall grant to the town a perpetual, nonexclusive easement which allows for public inspection and emergency repair, in accordance with the terms of the maintenance agreement outlined below.

b. Stormwater discharge control facilities shall be publicly owned and/or maintained only if accepted for maintenance by the town. If a stormwater discharge control facility is not accepted by the town, the property owner has a maintenance responsibility for this facility.

c. Private maintenance requirements shall be a part of the deed to the affected property.


**B. Inspection Schedule**

a. Prior to the approval of the stormwater discharge control design plan, the applicant shall submit a proposed inspection schedule. The stormwater discharge control design plan shall indicate a phase line for approval; otherwise, the inspection schedule will be for the entire development. The town may make additional inspections during and after construction if deemed necessary by the town.

b. If, after an inspection, the condition of a facility presents an immediate danger to the public health, safety, or general welfare due to unsafe conditions or improper maintenance, the town shall have the right, but not the duty, to take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the town shall be paid by the owner. In addition, the town shall notify the owner(s) of the facility of any violation, deficiency, or failure to comply with this chapter. Upon a failure to correct violations requiring maintenance work, within ten (10) days after notice thereof, the town may provide for all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the costs of the work performed by the town.

c. The permittee shall provide the Town of Burgaw an as-built plan certified by a registered professional (as outlined in Section 13-2(I)). The registered professional shall certify to the town that:

   A. The facility has been constructed as shown on the as-built plan, and

   B. The facility meets the approved stormwater discharge control design plan and specifications or achieves the function for which it was designed.

**C. Maintenance Agreement (Privately-Owned Facilities Only)**
a. A proposed maintenance agreement shall be submitted to the town for all private on-site stormwater discharge control facilities prior to the approval of the stormwater discharge and control design plan and recordation of lots in a subdivision to be served by the discharge control facility. Such agreement shall be in a form and content acceptable to the town and shall be the responsibility of the private owner. The agreement shall identify who will have the maintenance responsibility and shall be recorded by the landowner in the Pender County Register of Deeds prior to subdivision recording and/or building permit, and shall be binding on all subsequent owners of land served by the discharge control facility.

b. The maintenance agreement shall specify how proper maintenance of the facilities will be accomplished, and an identification of a financial arrangement which will assure the long term financial capability to implement perpetual maintenance procedures. The agreement shall specify the type of security that will be used within the financial arrangement (escrow, letter of credit, etc.).

c. The maintenance agreement shall provide for access to the facility by virtue of a non-exclusive perpetual easement in favor of the town, at reasonable times, for inspection by the town to ensure that the discharge control facilities are maintained in proper design working condition.

D. **Acceptance of Certification in Lieu of Inspections.** The Town of Burgaw, at its sole discretion, may accept the certification of a registered engineer in lieu of any inspection required by this chapter.

**Section 13-4: Miscellaneous Provisions**

**A. Variances from Requirements**

(1) The Board of Commissioners may grant an exception from the requirements of this chapter if there are unique circumstances applicable to the site such that strict adherence to the provisions of the chapter will result in unnecessary hardship and not fulfill the intent of the chapter.

(2) A written request for an exception shall be required and shall state the specific variance sought and the justification therefor. It shall include descriptions, drawings, calculations, and any other information that is necessary to evaluate the proposed variance.

**B. Appeals.** The disapproval or required modifications of any proposed preliminary stormwater discharge control plans or design plans or the determination of noncompliance or failure to maintain by the town shall entitle the aggrieved person to appeal this decision or lack of action to the Board of Commissioners. Such appeal must be made in writing to the Town Clerk and the Director of Public Works within fifteen (15) days of written notice of disapproval, or modification of a preliminary or design stormwater discharge control plan, or determination of noncompliance or failure to maintain.

**C. Penalties.** See Section 5-4.
Section 13-5: Sedimentation Pollution Control

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, or other drainage networks, the subdivider shall comply with all requirements of the State of North Carolina sedimentation pollution control requirements or any locally adopted sediment control ordinances.

Section 13-6: Stormwater Drainage

The subdivider shall provide an adequate drainage system for the proper drainage of all surface water. The design of such a system shall be subject to the approval of the Board of Commissioners.

A. No surface water shall be channeled or directed into a sanitary sewer.
B. Where feasible, the subdivider shall connect to an existing storm drainage system.
C. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
D. Surface drainage courses shall have side slopes of at least three (3) feet of horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding and designed to comply with the current State of North Carolina standards and specifications for erosion control and any locally adopted erosion and sedimentation control ordinances.
E. Unless necessitated by exceptional topography and subject to the approval of the Board of Commissioners, street grades shall not be more than eight percent (8%) or less than one-half of one percent (0.5%). Grades approaching intersections shall not exceed five percent (5%) for a distance of not less than one hundred (100) feet from the centerline of said intersection.
F. Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with current State of North Carolina sedimentation pollution control requirements.
G. Anyone constructing a dam or impoundment within the subdivision must comply with current State of North Carolina dam construction standards.
H. In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

Section 13-7: Retention Pond Facility Requirements

Within areas zoned for commercial or multi-family uses, retention pond facilities shall be required for all development which exceeds forty percent (40%) on a tract of land less than one (1) acre or for development on tracts of land greater than one (1) acre which have an impervious surface of twenty-five percent (25%) or greater.

NOTE: The designer should refer to the NC Department of Environment and Natural Resources, “Erosion and Sediment Control Planning and Design Manual” for supplemental information.
Section 13-8: Detention and Wet Retention Facilities

The town encourages the use of innovative techniques and designs which will provide the necessary protection for the receiving watercourse. These facilities shall be designed for the run-off produced by the 10-year storm and checked for the 50-year storm. The 50-year storm check is to verify that no structures become flooded. Detailed drawings, substantiating data, calculations, and specifications shall be submitted for designs of this nature. The use of open ponds has been utilized most frequently for stormwater control and, therefore, design standards and procedures for this approach have been included in this design guide. However, the town suggests that the developer or owner incorporate stormwater controls into the overall site as an amenity and/or visual enhancement. The following are minimum requirements for detention/retention facilities:

A. Minimum Slopes. Side slopes where vegetation is used for stabilization shall be 2.5 (horizontal) to 1 (vertical) or flatter. The side slopes shall be a minimum of 3 to 1 where mowing will be necessary. Where the side slopes are protected with riprap, fabric form, or other approved armoring, side slopes of 2 to 1 will be permitted. Steeper slopes may be approved by the town on a case-by-case basis.

B. Vegetation. Vegetation for stabilization of side slopes shall be a hearty ground cover such as the following listed in order of best overall suitability:
   a. Tall Fescue
   b. Bermuda Grass
   c. Pensacola Bahia grass
   d. Reed Canary grass

All of these are well suited for flooding tolerance and waterways and channels. The Bahia grass is excellent for sandy sites. The others spread by rootstocks making a well-anchored and stable ground covering.

The designer shall consult with the town Code Enforcement Office regarding landscape standards such as selection, spacing, location, and planting requirements of all grasses and plants which are to be incorporated in the system. Approval of a landscaping plan by the Code Enforcement Office will be required prior to issuance of a construction permit.

C. Risers. Risers should be a minimum of eight (8) inches in diameter and pipes shall be a minimum of six (6) inches in diameter to reduce the potential for clogging the outlet system. A trash rack with 6-inch maximum openings shall be provided to avoid pipe clogging. The design shall include consideration of anti-vortex measured where deemed necessary for stability of the outlet structure.

D. Drain. The design of the pond should incorporate a method of draining all water by use of a valve assembly. Where this is determined not possible by the reviewing engineer, a well-defined low point shall be constructed to allow for pumping out the facility.

E. Overflow. An emergency outlet or overflow designed for the 50-year storm shall be provided for all detention/retention facilities. This overflow should be designed assuming the principal spillway is obstructed and cannot convey any water.
F. **Other Utilities.** No other utilities shall be constructed within five (5) feet of the stormwater detention/retention pond unless specifically approved by the town.

G. **Landscaping.** Open basins shall be provided with a minimum 5-foot landscaped zone around the periphery of the ponds which have a surface area up to 0.5 acres as measured at the top bank. A minimum 10-foot landscaped zone as measured outward from the top of the bank shall be provided for ponds larger than 0.5 acres.

H. **Access.** A stable access and maintenance shoulder with a minimum width of ten (10) feet measured from the top of bank shall be provided sufficient to allow the periodic removal of sediment from the system. This access shall be coordinated with the landscaping zone around the basin. The landscaping zone shall not be incorporated into the access/maintenance way.

I. **Fencing.** Fencing for private facilities shall be at the option of the developer.

J. **Flooding of Parking Areas.** The town discourages the flooding of parking areas for providing stormwater storage volume. When this method is used, no more than sixty percent (60%) of the required parking may be flooded by six (6) inches or more for the ten-year storm. The stormwater system shall be designated to completely drain from the parking lot within two (2) hours after the storm.

The designer is referred to the Division of Environmental Management’s Coastal Stormwater Regulations. The requirements of the Coastal Stormwater Regulations will impact design of facilities in the Town of Burgaw. In case of conflicting requirements, the more stringent shall apply. Otherwise, stormwater facilities will be required to meet both criteria.

The designer shall coordinate with the Pender County Health Department for vector control considerations.

Dams constructed as part of stormwater facilities which meet the criteria for regulation by the NC Department of Environment and Natural Resources shall obtain a dam safety permit prior to the town’s approval.
Article 14. Flood Damage Prevention

Chapter I. Statutory Authorization, Findings of Fact, Purpose, and Objectives

Section 14-1: Statutory Authorization

A. Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the Board of Commissioners of the Town of Burgaw, North Carolina, does ordain as follows:

B. Findings of Fact

The flood prone areas within the jurisdiction of the Town of Burgaw are subject to periodic inundation which results in loss of life, property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

C. Statement of Purpose

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

a. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

b. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

c. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

d. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

e. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.
D. Objectives

The objectives of this ordinance are:

a. To protect human life and health;

b. To minimize expenditure of public money for costly flood control projects;

c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. To minimize prolonged business losses and interruptions;

e. To minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

f. Minimize damage to private and public property due to flooding;

g. Make flood insurance available to the community through the National Flood Insurance Program;

h. Help maintain the natural and beneficial functions of floodplains;

i. To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

j. To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

Chapter II. Definitions

Section 14-2: Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it’s most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports, and storage sheds are common urban accessory structures. Pole barns, hay shed, and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing structure)” means an extension or increase in the floor area or height of a building or structure.

“Appeal” means a request for a review of the floodplain administrator’s interpretation of any provision of this ordinance.
“**Alteration of a Watercourse**” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“**Area of Shallow Flooding**” means a designated Zone AO on a community’s Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“**Area of Special Flood Hazard**” see “Special Flood Hazard area (SFHA)”

“**Area of Future-Conditions Flood Hazard**” means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology.

“**Basement**” means any area of the building having its floor subgrade (below ground level) on all sides.

“**Base Flood**” means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

“**Base Flood Elevation (BFE)**” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area,” it may be obtained from engineering studies available from a Federal or State or other sources using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard,” establishes the “Regulatory Flood Protection Elevation.”

“**Building**” see “Structure”

“**Chemical Storage Facility**” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“**Development**” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

“**Development Activity**” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“**Digital Flood Insurance Rate Map (DFIRM)**” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“**Disposal**” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“**Elevated Building**” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before January 19, 2000.

“Existing Manufactured Home Park or Manufactured Home Division” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

A. the overflow of inland or tidal waters; and/or

B. the unusual and rapid accumulation of runoff surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).”

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Flood Insurance Study (FIS)” mean an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance study report includes Flood Insurance Rate Maps (FIRM)s and the Flood Boundary and Floodway Maps (FBFM)s, if published.

“Flood Prone Area” see “Floodplain”

“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.
“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

“Freeboard” means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the “Regulatory Flood Protection Elevation.”

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as limited to a docking or port
facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste Facility” means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program;” or

D. Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or
Article 14. Flood Damage Prevention

A parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community’s floodplain management regulations.

(d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082 and is:

(a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(c) Available with special features enabling off-street or off-highway operation and use.

“Lowest Adjacent Grade (LAG)” means the elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building’s lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

“Manufactured Home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include “recreational vehicle.”

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.
“New Construction” means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

“Non-Encroachment Area” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

“Principally Above Ground” means that at least fifty-one percent (51%) of the actual cash value of the structure is above ground.

“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

A. Built on a single chassis;
B. 400 square feet or less when measured at the largest horizontal projection;
C. Designed to be self-propelled or permanently towable by a light duty truck; and
D. Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
E. Is fully licensed and ready for highway use.

“Reference Level” is the top of the lowest floor for structures with Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard.” In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least four (4) feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with State and community floodplain management regulations or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.
“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances, and related machinery.

“Solid Waste Disposal Facility” means, as defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 14-4 of this ordinance.

“Start of Construction” includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any five-year (5) cumulative period whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. See definition of “substantial improvement.” Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any five-year (5) cumulative period for which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
A. Any correction of existing violations of State or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

B. Any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 14-15 of this ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

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

“Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Chapters IV and V of this ordinance is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

Section 14-3: Lands to Which this Ordinance Applies

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

Section 14-4: Basis for Establishing the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) dated February 16, 2007 for Pender County including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of The Town of Burgaw are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

In addition, upon annexation to the Town of Burgaw or inclusion in the Extra-Territorial Jurisdiction (ETJ), the Special Flood Hazard Areas identified by the Federal Emergency Management Agency (FEMA) and/or produced under the Cooperating Technical State Agreement between the State of North Carolina and FEMA as stated above, for the Unincorporated Areas of Pender County, with accompanying maps and other supporting data are adopted by reference and declared to be a part of this ordinance.

Section 14-5: Establishment of a Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 14-4 of this ordinance.

Section 14-6: Compliance

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

Section 14-7: Abrogation and Greater Restriction

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

Section 14-8: Interpretation

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

A. Considered as minimum requirements;

B. Liberally construed in favor of the governing body; and
C. Deemed neither to limit nor repeal any other powers granted under State statutes.

Section 14-9: Warning and Disclaimer of Liability

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

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.

Chapter IV. Administration

Section 14-11: Designation of Floodplain Administrator

The Director of Inspections and/or Planning Administrator, or their designated agent, hereinafter referred to as the “Floodplain Administrator,” is hereby appointed to administer and implement the provisions of this ordinance.

Section 14-12: Floodplain Development Application, Permit, and Certification Requirements

Application Requirements. Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

A. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 14-4, or a statement that the entire lot is within the Special Flood Hazard Area;
c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 14-4;

d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 14-14;

e) The Base Flood Elevations (BFE) where provided as set forth in Section 14-4; Section 14-13; or Section 14-19;

f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

g) The easement dedication, as determined to be necessary by the Flood Plain Administrator, in order to insure the proper drainage of land and unobstructed flow along ditches and/or water courses as defined herein.

B. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;

b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE, A, or AO will be flood-proofed; and

c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

C. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

D. A Foundation Plan, drawn to scale, which shall include details of the proposed system to ensure all provisions of this ordinance are met. These details include but are not limited to:

a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls)

b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 14-17 (D)(c), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.
E. Usage details of any enclosed areas below the regulatory flood protection elevation.

F. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

G. Signed disclosure statement and release of liability: “I, ________________________, certify that all activities proposed within the Special Flood Hazard Area comply with all regulations of the following Local, State, and Federal agencies/permits relevant to floodplain development (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.).”

H. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 14-17 (F and G) of this ordinance are met.

I. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

Permit Requirements.

The Floodplain Development Permit shall include, but not be limited to:

A. A description of all the development to be permitted under the floodplain development permit e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

B. The Special Flood Hazard Area determination for the proposed development per available data specified in Section 14-4.

C. The regulatory flood protection elevation required for the reference level and all attendant utilities.

D. The regulatory flood protection elevation required for the protection of all public utilities.

E. All certification submittal requirements with timelines.
Article 14. Flood Damage Prevention

F. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 14-21 have been met.

G. The flood openings requirements, if in Zones A, AO, AE, or A1-30.

H. Limitations of below BFE enclosure uses (if applicable) (i.e., Parking, Building Access, and Limited Storage only).

Certification Requirements.

A. Elevation Certificates

   a) An Elevation Certificate (FEMA Form 086-0-33) may be required as determined by the Floodplain Administrator prior to the actual start of any new construction. 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. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

   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.

   c) A final as-built Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of
Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. 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 Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

B. Floodproofing Certificate

i. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, operational plan, and inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan and inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

ii. A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation of NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by the same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan.
Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

C. If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than thirty-six (36) inches in height above grade, an engineered foundation certification is required per Section 14-17 (C).

D. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer’s certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

E. Certification Exemptions. The following structures, if located within Zone A, AO, AE, or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

a) Recreational Vehicles meeting requirements of Section 14-17 (F)(a);

b) Temporary Structures meeting requirements of Section 14-17 (G); and

c) Accessory Structures less than one hundred fifty (150) square feet and meeting requirements of Section 14-17 (H).

Section 14-13: Duties and Responsibilities of Floodplain Administrator

The Floodplain Administrator shall perform, but not be limited to, the following duties:

A. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

B. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State, and Federal permits have been received.

C. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 14-21 are met.

F. Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 14-12.

G. Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Section 14-12.

H. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with Section 14-12.

I. When floodproofing is utilized for a particular structure, obtain certification from a registered professional engineer or architect in accordance with Section 14-12 and Section 14-17 (B).

J. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

K. When Base Flood Elevation (BFE) data has not been provided in accordance with Section 14-4, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 14-19, in order to administer the provisions of this ordinance.

L. When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 14-4, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other local source in order to administer the provisions of this ordinance.

M. When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, may advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA.
Article 14. Flood Damage Prevention

Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

N. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection recognizing that such information may be subject to the Privacy Act of 1974, as amended.

O. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

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.

Q. Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specification; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

R. Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
S. Follow through with corrective procedures of Section 14-14.

T. Review, provide input, and make recommendations for variance requests.

U. Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM, and other official flood maps and studies adopted in accordance with Section 14-4 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

V. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revisions (LOMR).

Section 14-14: Corrective Procedures

A. Violations to Be Corrected. When the floodplain administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notifications.

B. Actions in Event of Failure to Take Corrective Actions. If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner’s last known address or by personal service, stating:

a. that the building or property is in violation of the Flood Damage Prevention Ordinance;

b. that a hearing will be held before the floodplain administrator and town manager at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

c. that following the hearing, the floodplain administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

C. Order to Take Corrective Action. If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days,
nor more than (180) calendar days. Where the floodplain administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

D. **Appeal.** Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

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 14-15: Variance Procedures**

A. The Board of Adjustment as established by Town of Burgaw, hereinafter referred to as the “appeal board,” shall hear and decide requests for variances from the requirements of this ordinance.

B. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

C. Variances may be issued for:

a. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

b. Functionally dependent facilities if determined to meet the definition as stated in Section 14-2 of this ordinance, provided provisions of Section 14-15 (I)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages.

c. Any other type of development provided it meets the requirements stated in this section.

D. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
Article 14. Flood Damage Prevention

a. the danger that materials may be swept onto other lands to the injury of others;

b. the danger of life and property due to flooding or erosion damage;

c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. the importance of the services provided by the proposed facility to the community;

e. the necessity to the facility of a waterfront location as defined under Section 14-2 of this ordinance as a functionally dependent facility, where applicable;

f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

g. the compatibility of the proposed use with existing and anticipated development;

h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. the safety of access to the property in times of flood for ordinary and emergency vehicles;

j. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

k. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges;

l. the conditions established in Article 3, Section 3-11 of the Town of Burgaw’s Unified Development Ordinance.

E. A written report addressing each of the above factors shall be submitted with the application for a variance.

F. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

G. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood
insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

H. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

I. Conditions for Variances:

   a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

   b. Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

   c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

   d. Variances shall only be issued prior to development permit approval.

   e. Variances shall only be issued upon:

      i. a showing of good and sufficient cause;

      ii. a determination that failure to grant the variance would result in exceptional hardship; and

      iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

J. A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

   a. The use serves a critical need in the community.

   b. No feasible location exists for the use outside the Special Flood Hazard Area.

   c. The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.

   d. The use complies with all other applicable Federal, State, and local laws.
e. The Town of Burgaw has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

Chapter V. Provisions for Flood Hazard Reduction

Section 14-16: General Standards
In all Special Flood Hazard Areas, the following provisions are required:

A. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

C. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

D. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.

E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

G. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

H. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of “new construction” as contained in this ordinance.

I. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 14-15(J). A structure or tank for
chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevate or floodproofed to at least the regulatory flood protection elevation and certified according to Section 14-12 Certificate Requirements of this ordinance.

J. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

K. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

L. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

M. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

N. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

O. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and highest Base Flood Elevation (BFE) shall apply.

Section 14-17: Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 14-4, or Section 14-13(K & L), the following provisions, in addition to Section 14-16, are required:

A. Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 14-2 of this ordinance.

B. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 14-2 of this ordinance. Structures located in A, AE, AH, AO, A99 Zones may be floodproofed to the regulatory flood protection elevation.
in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capacity of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 14-22. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 14-12 Certificate Requirements, along with the operational plan and the inspection and maintenance plan.

C. Manufactured Homes.

(a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 14-2 of this ordinance.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 14-17(D)(a), (b), and (c).

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.

D. Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor.

(a) Shall not be designed or be used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area
shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) Shall not be temperature-controlled or conditioned;

(c) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(d) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

i. A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;

ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

iii. If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

iv. The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both direction; and

vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

E. Additions/Improvements.

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with an interior modifications to the existing structure are:
Article 14. Flood Damage Prevention

i. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.

ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

i. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

ii. A substantial improvement, both the existing structure and the addition and/or improvement must comply with the standard for new construction.

(d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a five-year (5) period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the five-year (5) period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

(ii) Any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.
F. **Recreational Vehicles.** Recreational vehicles shall either:

(a) Temporary Placement

i. be on site for fewer than one hundred eighty (180) consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions);

(b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

G. **Temporary Non-Residential Structures.** Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;

(a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

(b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(c) The time frame prior to the event at which a structure will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);

(d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

H. **Accessory Structures.** When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);

(b) Accessory structures shall not be temperature-controlled;
(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with Section 14-16(A);

(f) All service facilities such as electrical shall be installed in accordance with Section 14-16(D); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Section 14-12(D).

An accessory structure with a footprint less than one hundred fifty (150) square feet that satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 14-17 (B). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 14-12.

I. **Tanks.** When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

   (a) **Underground Tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

   (b) **Above ground tanks, elevated.** Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

   (c) **Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of Section 14-17(B) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

   (d) **Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:
a. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

b. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

J. Other Development.

(a) Fences in regulated floodways and Non-Encroachment Areas that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 14-21.

(b) Retaining walls, sidewalks and driveways in regulated floodways and Non-Encroachment Areas. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 14-21.

(c) Roads and watercourse crossings in regulated floodways and Non-Encroachment Areas. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 14-21 of this ordinance.

Section 14-18: Reserved

Section 14-19: Standards for Floodplain without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 14-4, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to Section 14-16 and 14-17, shall apply:

A. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

B. The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:
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a. If Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 14-16 and 14-17.

b. When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Chapter V, Section 14-17 and Section 14-21.

c. All subdivision, manufactured home park, and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference per Section 14-4 to be utilized in implementing this ordinance.

d. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Section 14-2.

Section 14-20: Standards for Riverine Floodplains with BFE without Established Floodways or Non-Encroachment Areas

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- Standards outlined in Section 14-16 and 14-17; and

Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

Section 14-21: Floodways and Non-Encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 14-4. The floodways and non-encroachment areas are extremely hazardous due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 14-16 and 14-17, shall apply to all development within such areas:

A. No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless it has been demonstrated that:
a. The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permits, or

b. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

B. If Section 14-21(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

C. No manufactured homes shall be permitted, except replacement of manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

   a. the anchoring and the elevation standards of Section 14-17(C); and

   b. the no encroachment standard of Section 14-21(A).

Section 14-22: Standards for Areas of Shallow Flooding (Zone AO)

Located within the Special Flood Hazard Areas established in Section 14-4 are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 14-16, all new construction and substantial improvements shall meet the following requirements:

A. The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade plus a freeboard of two (2) feet if no depth number is specified.

B. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 14-22(A) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Section 14-12 Certification Requirement and Section 14-17(B).

C. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.
Chapter VI. Legal Status Provisions

Section 14-23: Effect on Rights and Liabilities under the Existing Flood Hazard Prevention Ordinance

This ordinance in part comes forward by re-enactment of some of the flood damage prevention ordinance enacted December 12, 2000 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit, or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Burgaw enacted on December 12, 2000, as amended, which are not reenacted herein, are repealed.

Section 14-24: Effect upon Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

Section 14-25: Severability

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 14-26: Effective Date

This ordinance shall become effective upon adoption by the Town of Burgaw Board of Commissioners.

Section 14-27: Adoption Certification

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the Board of Commissioners of Town of Burgaw, North Carolina, on the __________ day of ____________, 20__.

WITNESS my hand and the official seal of ______________________, this the ________ day of ____________, 20__.

________________________
(signature)
Article 15. Subdivision Standards of Design and Required Improvements

**Section 15-1: General**

Each subdivision shall contain the improvements specified in this Article, which shall be installed in accordance with the requirements of this Ordinance and paid for by the subdivider unless other means of financing is specifically stated in this Ordinance. Land shall be dedicated and reserved in each subdivision as specified in this Article. Each subdivision shall adhere to the minimums standards of design established by this Article and contain the following improvements:

- Paved streets per Section 15-6
- Drainage
- Central water and hydrants
- Central sewer
- Street lighting

**Section 15-2: Suitability of Land**

A. Land which has been determined by the Board of Commissioners on the basis of engineering and other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the proposed use shall not be platted for that purpose unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.

B. Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Pender County Health Department, a structural engineer, and a soils expert determine that the land is suitable for the purpose proposed.

C. **Preventions of Flood Damage.** Lands known to be within a floodplain or any area known to be subject to flooding shall be so identified on the preliminary plat. Appropriate deed restrictions shall be filed for those lands subject to flooding, prohibiting their development for dwellings or other uses unless the site are floodproofed as follows:
   
   a. No structures or fill shall be placed in the floodway which would interfere with the natural water course.
   
   b. Streets and structures may be placed within the floodplain only if their elevation is raised above maximum flood heights or if they are otherwise floodproofed. Utility lines shall be placed so as to minimize the flood damage and infiltration.
   
   c. Dwellings and self-contained sewage disposal units (if used) shall be built at an elevation above maximum flood heights.
   
   d. The subdivision drainage system shall be designed to prevent increased flood flows due to newly developed impervious surfaces and other factors.
Section 15-3: Natural Assets

In any subdivision, due consideration will be given to preserving natural features such as trees, ponds, streams, rivers, lakes, and for any historical sites which are of value not only to the subdivision but to the town’s area of jurisdiction as a whole.

Section 15-4: Name of Subdivision

The name of a subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the jurisdiction of the town.

Section 15-5: Water and Sewerage System

The preliminary subdivision plat must be accompanied by satisfactory evidence as to the proposed method and system of water supply and sanitary sewage collection and disposal.

A. Sanitary Sewers. All subdivisions within the town’s corporate limits, or subdivisions which may be provided access to a town-owned sewer line via one hundred (100) linear feet or less of existing publicly owned right-of-way or easement, shall have sanitary sewers installed with minimum 8-inch gravity lines by the subdivider in such a manner as to serve adequately all lots with connection to the town’s public sewerage system. Sewer line services shall be provided to all lots. Connection to the town’s sewer system will not be required unless the town can provide the owner/developer a guarantee of capacity available in the town’s collection system and sewage treatment plan to accept and treat the additional sewer discharge. Sewer connection shall comply with the regulations of the state Board of Health and shall be constructed under the supervision and approval of the County Health Official and the Land Use Administrator. Installment shall be in accordance with approved permits, and the design approved by the town in the subdivision review process.

Where the sewer system is to be connected to the system owned and operated by the town or to a private system approved by the Division of Environmental Management and Pender County Environmental health Department but not constructed by the town, the preliminary subdivision plat shall be accompanied by a complete set of construction plans for the proposed system prepared by a registered engineer and approved by the engineer of the public sewer system and the appropriate state agency.

B. Water Supply System. All subdivisions within the town’s corporate limits or subdivision which may be provided access to a town-owned water line via one hundred (100) linear feet or less of existing publicly owned right-of-way or easement shall be properly connected with a minimum 8-inch feeder or trunk supply line to the town’s water system and shall be constructed in such a manner as to serve adequately for both domestic use and for fire protection on all lots shown on the subdivision plat. Water line services shall be provided to all lots. Lines internal to the subdivision shall have a minimum size of eight (8) inches. The subdivider shall provide all labor, pipe, and necessary materials. The size of water mains, the location and types of valves and hydrants, the amount of soil cover over the pipes, and other features of the installation shall be approved by the Land Use Administrator and the engineer of the public water system. The improvements shall be installed in accordance with approved permits and the design approved by the town in the subdivision review process.

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Water supply systems should be approved by the fire department as to location of hydrants and size of mains. All water lines shall be laid out so as to create a complete circuit with no dead end lines in excess of seven hundred fifty (750) feet. A blowoff shall be placed at all dead ends.

C. Water and sewer lines should be installed in the street rights-of-way where possible.

D. Utility Extension Policy. The Utility Extension Policy is intended to define how extensions of the Town utility systems will be made. The Policy establishes procedures for installing new services and the financial obligations thereto.

a. Objectives. The Town’s primary objective is to provide reliable and affordable utility service to its existing customers. New customers to the system are therefore expected to share in a majority of the expense for their new services. The specific objectives of this policy are to:

   i. Define how requests for new service shall be submitted to the Town.
   ii. Define facilities necessary to provide new services.
   iii. Define the construction responsibilities for these new facilities.
   iv. Define the financial responsibilities for these new facilities.
   v. Establish funding mechanisms for private contributions to publicly funded utility extensions.

b. Definitions.

   i. Major Facilities: Major water facilities generally consist of the treatment works, storage facilities, pumping facilities, and water transmission lines twelve (12) inches in diameter and larger.
   ii. Major wastewater facilities: generally consists of the treatment works, pumping facilities with capacity in excess of seven hundred (700) gallons per minute and sewers twelve (12) inches in diameter and larger.
   iii. Minor facilities: facilities to provide local service
   iv. Service Connection: lines and appurtenances connecting a new customer to the Town system at the point of sale
   v. Tap Fee: a fee paid by all new customers to defray, in part, the cost of service connection and meter.
   vi. Impact Fee: a fee paid by all new customers to defray, in part, the cost of the existing major facilities through which service will be provided.
   vii. System Development Charge: a fee paid by all new customers outside the Town limits to defray, in part, the cost of extending the major facilities to new service areas.

c. Applications and Petitions. Any interested party may request water and/or sewer service from the Town. If the service is to be provided within the corporate limits and adequate public water and sewer mains are available adjacent to the property, service will be provided upon payment of the applicable fees. If the
service is to be provided outside the corporate limits or requires extension of a service main, a formal petition for service shall be submitted to the Town Board for consideration. All petitioners requesting water and sewer service shall, at the request of the Town, file a petition for annexation to the Town. The Town will generally consider annexation and extension of utilities to areas within the ETJ. Failure to file a petition for voluntary annexation or satellite annexation on notice from the Town may result in immediate termination of water service.

d. **Town Response to Request.** Upon receipt of a petition to extend a water and/or sewer main, the Town Board has the following options for response:

i. Install the extension at the Town’s expense.

ii. Approve and allow the petitioner to install the extension at his expense.

iii. Install the extension at the petitioner’s expense.

iv. Install and jointly finance the extension in cooperation with the petitioner.

v. Jointly finance and install the extension in cooperation with the County in accordance with the intergovernmental agreement.

vi. Deny the request.

The criteria under which an option will be chosen are generally defined herein; however, the Town Board may act according to any aforementioned option that it feels is in the best interest of the Town. The Town Board may also extend water and/or sanitary sewer mains on their own volition without receipt of a petition and assess the cost or collect utility fees as described herein from those who connect to the main.

e. **Construction and Service Connection.** New service connections to existing mains will generally be installed by the Town and paid for by the new customer. Where new service connections are to be installed in conjunction with extension of water and sewer lines, the customer may, at the Town’s discretion, install service connections. No new service shall be commissioned until construction and testing are completed, all applicable fees have been paid, and the Town has commissioned the facilities for public use.

f. **Minor Facilities.** All extensions to Town utilities shall be made in accordance with Town standards and applicable State and Federal regulations. Where extension of utilities is funded entirely or partly by the Town, the Town shall design and construct the facilities. Extensions funded entirely by the petitioner may, at the Town’s discretion, be designed and constructed by the petitioner in accordance with Town standards. Extensions utilizing Town funds shall generally be Town projects. The petitioner shall make a non-refundable deposit of twenty percent (20%) of the estimated project cost prior to the Town undertaking design. Prior to construction, the petitioner shall pay the balance of the project cost or the petitioner’s share of the cost. Privately funded extension projects constructed by the petitioner shall be reviewed and approved by the Town prior to the petitioner submitting the plans to any other review agency. Upon approval of the plans, the Town will issue written notification to the petitioner who shall then
secure all additional approvals and construct the facilities. The petitioner shall commence construction within eighteen (18) months of the approval and complete the installation and make service connections within thirty-six (36) months. Failure to comply with the approved plan or time schedule will automatically terminate the approval for services.

g. **Major Facilities.** Major facilities shall be funded, designed, and constructed by the Town. These facilities, as established by the Water and Wastewater Plan, shall be constructed in order of priority as adopted in the Town’s Capital Improvement Plans. Projects will only be undertaken as adequate capital improvement funds are available. Projects to improve existing services will generally be funded by Impact Fees and sales revenues. Projects to extend the major facilities will generally be funded by System Development Charges and private contributions. Petitioners wishing to expedite a major utility extension project may be asked by the Town Board to prepay System Development Charges, make a contribution to the project cost, or both such that accelerating the project does not adversely impact existing customers or the orderly expansion of the utility system.

h. **Fees and Charges.**

i. **Tap Fees.** Tap fees will be collected from each new customer prior to initiating service. The fees are established by the Town to reflect the average cost to the Town for installation of taps and meters. Where new service connections are installed as part of a new development, the fee reflects the cost of meter installations only. The schedule of required fees shall be periodically revised to reflect changes in the Town’s actual cost. Payment of the Tap Fees shall be made prior to installation of any meter or commission any new service connection.

ii. **Impact Fees.** Impact fees will be collected from each new customer prior to initiating service. The fees are established to defray, in part, the cost of the existing major facilities. These facilities include the treatment works and major facilities to which new service extensions would connect. The impact fee may also include funds for capital reserves for the expansion or replacement of these facilities. The schedule of required fees shall be periodically revised to reflect changes in facility needs and associated costs. Where the Town board has extended the town limits pursuant to statutory involuntary annexation and water and/or sewer lines are extended to or through the newly annexed area to comply with statutory requirements relating to the annexation, property owners may be required to pay a special assessment, tap fees, and utility impact fees. However, the utility impact fee is subject to a credit in the amount of the special assessment, up to the amount of the utility impact fee. Payment of the impact fees shall be made prior to installation of any meter or commissioning any new service connection.

iii. **System Development Charge.** System Development Charges will be collected from each new customer outside the Town Limits as of the
adoption of this Policy. System Development Charges will be collected prior to initiating service. The fees are established to defray, in part, the cost of extending the Major Facilities to serve new areas within the ETJ. The facilities include the major facilities as described by the Water and Wastewater Plan and the Capital Improvement Plans. The System Development Charge is based on each customer’s pro-rata share of the cost of major facilities needed to extend service through the ETJ.

Section 15-6: Streets

A. Coordination and Continuation of Streets. The proposed street layout within a subdivision shall be coordinated with the existing street system of the surrounding area, and where possible, existing principal streets shall be extended.

B. Access to Adjacent Properties. Where, in the option of the Board of Commissioners, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround shall be provided.

C. Private Streets. Streets designated as private may be allowed in subdivisions when in the opinion of the Board of Commissioners they provide adequate ingress and egress onto collector streets and sufficient assurance is provided through a legally established homeowners’ association that the street shall be properly maintained.

All such streets shall be designated a “Private Street” on the preliminary plans and final plats. Whenever a private street intersects a US or NC highway or NC secondary road, a statement of approval for the intersection signed by the District Engineer of the North Carolina Department of Transportation Division of Highways for Pender County shall be submitted concurrent with the final plat.

All private streets must meet Department of Transportation standards for construction and maintenance.

A homeowners’ association shall be established for each subdivision containing private streets and drainage systems. The final plat for each such subdivision shall contain a certificate indicating the book and page number of the homeowners’ association covenants, conditions, and restrictions. The covenants, conditions, and restrictions shall specify lot owners’ responsibilities for maintenance of private streets and drainage systems and shall provide for assessments to finance all maintenance activities. Covenants shall provide that the homeowners’ association will construct all stub streets prior to offering any connecting for acceptance by NCDOT or the town. Final plats for subdivisions containing private streets and drainage improvements will not be approved until the subdivider’s homeowners’ association documents have been submitted and approved by the Board of Commissioners.

D. Marginal Access Street. Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial street. Where reverse frontage is established, private driveways shall be prevented from having direct access to the expressway.
E. **Subdivision Street Disclosure Statement.** All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6, and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or state system before lots are sold, a statement explaining the status of the street shall be included with the final plat.

F. **Half-Streets.** The dedication of half-streets of less than sixty (60) feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than sixty (60) feet of right-of-way is required, a partial width right-of-way, not less than sixty (60) feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider, provided that the width of the partial dedication is such as to permit the installation of such facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

G. **Street Names.** Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided, and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Board of Commissioners.

H. **Collector and Minor Streets.** Collector and minor streets shall be so laid out that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, and other places of public assembly.

I. **Design Standards.** The design of all streets and road within the jurisdiction of this Ordinance shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways as taken or modified from the American Association of State Highway Officials (AASHO) manuals. The NC Department of Transportation, Division of Highways’ Subdivision Roads minimum construction standards for subdivision roads, January 2000 or current adopted standards shall apply.

J. **Nonresidential Streets.** The subdivider of a nonresidential subdivision shall provide streets in accordance with I.F-4 of the North Carolina Roads, Minimum Construction Standards, July 1, 1985 or current applicable North Carolina Department of Transportation Standards and the standards of this Ordinance, whichever are stricter in regard to each particular item.

K. **Right-of-Way Widths.** Right-of-way widths shall not be less than the following:

<table>
<thead>
<tr>
<th>Minimum Right-of-Way (ft.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal Arterial</td>
</tr>
<tr>
<td>Freeways</td>
</tr>
<tr>
<td>Other</td>
</tr>
<tr>
<td>Major Collector</td>
</tr>
</tbody>
</table>
Article 15. Subdivision Standards of Design and Required Improvements

Minimum Right-of-Way (ft.)

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Minimum Right-of-Way</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Thoroughfare other than Freeway and Expressway</td>
<td>90</td>
</tr>
<tr>
<td>Minor Thoroughfare</td>
<td>70</td>
</tr>
<tr>
<td>Local Street</td>
<td>60</td>
</tr>
<tr>
<td>Cul-de-sac</td>
<td>100’ diameter for turnaround and 45’ for street right-of-way</td>
</tr>
</tbody>
</table>

L. **Pavement Widths.** Pavement widths or graded widths shall be as follows:

- Streets without Curb and Gutter
  - Minor Thoroughfare: 40 ft.
  - Local Road: 20 ft.
  - Marginal Access (frontage): 20 ft.
  - Cul-de-sac: 20 ft.
  - Cul-de-sac turnaround: 80 ft. in diameter

Pavement widths for principal arterials and major thoroughfares shall be determined in concert with the NC Department of Transportation and the Burgaw Thoroughfare Plan.

M. **Roads and Street Surfaces.** All public and private subdivision streets and roads shall be constructed and paved to meet the current requirements of the North Carolina Department of Transportation, Division of Highways’ standards for state maintenance.

N. **Tangents.** A tangent of at least one hundred (100) feet shall be provided between reverse curves on all streets.

O. **Street Intersections.** Street intersections shall be laid out as follows:

   a. All streets shall intersect as nearly as possible at right angles, and no street shall intersect at less than sixty (60) degrees.

   b. Intersections with a major street shall be at least one thousand (1,000) feet apart, measured from centerline to centerline.

   c. Where a centerline offset (jog) occurs at an intersection, the distance between centerline of the intersecting streets shall be not less than two hundred (200) feet.

   d. Property lines at intersections should be set so that the distance from the edge of pavement of the street turnout to the property line will be at least as great as the distance from the edge of pavement to the property line along the intersection streets. The property line can be established as a radius or as a sight triangle. Greater offsets from the edge of pavement to the property lines will be required, if necessary, to provide sight distance for the vehicle on the side street.

P. **Alleys.**

   a. Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured
Article 15. Subdivision Standards of Design and Required Improvements

provision is made for service access. Alleys shall not be provided in residential subdivisions unless necessitated by unusual circumstances.

b. All alleys shall be designed in accordance with the Department of Transportation, Division of Highways’ specifications and standards and shall meet the following requirements.

- Right-of-way width 20 ft.
- Property line radius at alley intersection 15 ft.
- Minimum centerline radius when deflection angle of not more than 10 degrees occurs 35 ft.
- Minimum turnaround diameter of dead end alley (right-of-way width) 80 ft.

c. Sharp changes in alignment and grade shall be avoided.

d. All alleys shall be designed in accordance with NC Department of Transportation Standards.

Q. Geometric Characteristics. The standards outlined below shall apply to all subdivision streets for addition to the State Highway System or Municipal Street System. In cases where a subdivision is sought adjacent to a proposed thoroughfare corridor, the requirements of dedication and reservation discussed under Right-of-Way shall apply.

a. Design Speed. The design speeds for subdivision-type streets shall be

<table>
<thead>
<tr>
<th></th>
<th>Desirable (Minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban</td>
<td></td>
</tr>
<tr>
<td>Minor Thoroughfare</td>
<td>60</td>
</tr>
<tr>
<td>Local Streets</td>
<td>40</td>
</tr>
</tbody>
</table>

b. Maximum and Minimum Grades. The maximum grades in percent shall be:

<table>
<thead>
<tr>
<th>Type of Topography</th>
<th>60 Desirable (50 Minimum)</th>
<th>40 Desirable (40 Minimum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flat—NCDOT Divisions</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>1,2,3,4, and 5</td>
<td>(4)</td>
<td>(5)</td>
</tr>
</tbody>
</table>

The minimum grade in no case shall be less than 0.5%. Grades for one hundred (100) feet each way from intersections should not exceed five percent (5%).
Article 15. Subdivision Standards of Design and Required Improvements

R. Minimum Sight Distances. In the interest of public safety, the minimum sight distance applicable shall be provided in every instance. Vertical curves that connect each change in grade shall be provided and calculated using the following parameters. (General practice calls for vertical curves to be multiples of fifty (50) feet. Calculated lengths should be rounded up in each case.)

<table>
<thead>
<tr>
<th>Design Speed, MPH</th>
<th>20</th>
<th>30</th>
<th>40</th>
<th>50</th>
<th>60</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stopping Sight Distance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Stopping Distance, Ft.</td>
<td>150</td>
<td>200</td>
<td>275</td>
<td>350</td>
<td>475</td>
</tr>
<tr>
<td>Desirable Stopping Distance, Ft.</td>
<td>150</td>
<td>200</td>
<td>300</td>
<td>450</td>
<td>650</td>
</tr>
<tr>
<td>Minimum K* Value for:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Crest Vertical Curve</td>
<td>16</td>
<td>28</td>
<td>55</td>
<td>85</td>
<td>160</td>
</tr>
<tr>
<td>Desirable Crest Vertical Curve</td>
<td>16</td>
<td>28</td>
<td>65</td>
<td>145</td>
<td>300</td>
</tr>
<tr>
<td>Minimum SAG Vertical Curve</td>
<td>24</td>
<td>35</td>
<td>55</td>
<td>75</td>
<td>105</td>
</tr>
<tr>
<td>Desirable SAG Vertical Curve</td>
<td>24</td>
<td>35</td>
<td>60</td>
<td>100</td>
<td>155</td>
</tr>
<tr>
<td>Passing Sight Distance</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Passing Distance, Ft. (2 lane)</td>
<td>1100</td>
<td>1500</td>
<td>1800</td>
<td>2100</td>
<td></td>
</tr>
<tr>
<td>Minimum K* Value for Crest Vertical Curve</td>
<td>365</td>
<td>686</td>
<td>985</td>
<td>1340</td>
<td></td>
</tr>
</tbody>
</table>

K* is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve which will provide minimum sight distance.

Sight distance provided for stopped vehicles at intersections should be in accordance with “A Policy on Geometric Design of Rural Highways” and the Zoning Ordinance for the Town of Burgaw.

S. Design Speeds. The following table shows the maximum degree of curve and related maximum superlevation for design speeds. The maximum rate of roadway superelevation (e) for roads with no curb and gutter is .08. The maximum rate of superlevation for streets with curb and gutter is .06 and 0.4 being desirable.

<table>
<thead>
<tr>
<th>Design Speed MPH</th>
<th>Maximum e*</th>
<th>Minimum Radius (Rounded), Feet</th>
<th>Maximum Degree of Curve (Rounded), Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>.04</td>
<td>125</td>
<td>45.00</td>
</tr>
<tr>
<td>30</td>
<td>.04</td>
<td>302</td>
<td>19.00</td>
</tr>
<tr>
<td>40</td>
<td>.04</td>
<td>573</td>
<td>10.00</td>
</tr>
</tbody>
</table>
Article 15. Subdivision Standards of Design and Required Improvements

<table>
<thead>
<tr>
<th>Design Speed MPH</th>
<th>Maximum e*</th>
<th>Minimum Radius (Rounded), Feet</th>
<th>Maximum Degree of Curve (Rounded), Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>.04</td>
<td>955</td>
<td>6.00</td>
</tr>
<tr>
<td>60</td>
<td>.04</td>
<td>573</td>
<td>10.00</td>
</tr>
<tr>
<td>20</td>
<td>.06</td>
<td>115</td>
<td>50.00</td>
</tr>
<tr>
<td>30</td>
<td>.06</td>
<td>273</td>
<td>21.00</td>
</tr>
<tr>
<td>40</td>
<td>.06</td>
<td>509</td>
<td>11.15</td>
</tr>
<tr>
<td>50</td>
<td>.06</td>
<td>844</td>
<td>6.45</td>
</tr>
<tr>
<td>60</td>
<td>.06</td>
<td>1380</td>
<td>4.15</td>
</tr>
<tr>
<td>20</td>
<td>.08</td>
<td>110</td>
<td>53.50</td>
</tr>
<tr>
<td>30</td>
<td>.08</td>
<td>252</td>
<td>22.45</td>
</tr>
<tr>
<td>40</td>
<td>.08</td>
<td>468</td>
<td>12.15</td>
</tr>
<tr>
<td>50</td>
<td>.08</td>
<td>764</td>
<td>7.30</td>
</tr>
<tr>
<td>60</td>
<td>.08</td>
<td>1206</td>
<td>4.45</td>
</tr>
</tbody>
</table>

* Maximum rate of roadway superelevation, foot per foot

T. Cul-de-Sacs. Cul-de-sacs shall not exceed seven hundred fifty (750) feet in length.

Section 15-7: Design Standards for Blocks

A. General. The lengths, widths, and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements as to lot sizes and dimensions; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

B. Block Length. Blocks shall not be less than four hundred (400) feet nor more than thirteen hundred twenty (1320) feet in length.

C. Block Width. Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use or when abutting a water area.

D. Pedestrian Crosswalks. Where deemed necessary by the Board of Commissioners, a pedestrian crosswalk at least ten (10) feet in width may be required to provide convenient public access to a public area such as a park or school or to a water area such as a stream or lake.

E. Block Numbers. Block numbers shall conform to the town numbering system.
**Section 15-8: Design Standards for Lots**

A. **Subdivisions Subject to Zoning Ordinance District Regulations.** All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. No lot shall hereafter be so reduced in area as to cause any open space required by this ordinance to be less in any dimension than is herein required by the minimum yard requirements of the zone in which the lot in question is situated. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning ordinance. It is not sufficient merely for the average lot to meet zoning requirements.

B. **Large Tracts or Parcels.** Where land is subdivided into larger parcels than ordinary building lots, such parcels should be arranged so as to allow for the opening of future streets and logical further resubdivision.

C. **Flag Lots.** Flag lots are prohibited.

D. **Access.** All lots subdivided under the terms of this Ordinance shall front on an approved public or private street.

**Section 15-9: Design Standards for Easements**

Easements shall be provided as follows:

A. **Utility Easements.** Easements for underground or above ground utilities shall be provided where necessary across lots or preferably centered on rear or side lot lines and shall be at least ten (10) feet wide in width. As a minimum, a five (5) foot utility easement shall be required and shown on all final plats along all rear and side property lines. This easement shall be reserved for future use if not utilized at the time of initial subdivision construction, including storm drainage facilities.

B. **Drainage Easement.** Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming to the lines of such stream and of sufficient width as will be adequate for the purpose.

C. **Buffer Strips.** A buffer strip at least fifty (50) feet in width may be required by the Board of Commissioners adjacent to a major street or a commercial or industrial development. This strip shall be in the platted lot and shall be reserved for the planting of trees and shrubs by the owners.

**Section 15-10: Other Requirements**

A. **Through Traffic Discouraged on Residential Collector and Local Streets.** Residential collector and local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

B. **Sidewalks.** Sidewalks may be required by the Board of Commissioners on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks shall be constructed to a minimum width of four (4) feet and shall consist of a minimum thickness of four (4) inches of concrete. All
sidewalks shall be placed in the right-of-way unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossings.

C. **Street Names.** Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Board of Commissioners.

D. **Street Name Signs.** The subdivider shall be required to provide and erect street name signs to the town standards at all intersections within the subdivision.

E. **Permits for Connection to State Roads.** An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the Division of Highways.

F. **Offsets to Utility Poles.** Whenever possible, poles for overhead utilities should be located clear of roadway shoulders, preferably a minimum of at least thirty (30) feet from the edge of pavement on major thoroughfares. On streets with curb and gutter, utility poles should be set back a minimum distance of six (6) feet from the face of the curb when possible.

G. **Wheelchair Ramps.** In accordance with Chapter 136, Article 2A, Section 136-44.14 all street curbs in North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason after September 1, 1973 shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

H. **Placement of Monuments.** Permanent monuments shall be placed at the point of intersection on the centerlines of intersecting streets and at the point of intersection of the tangents or curves when such point lies completely within the pavement of the proposed street. Otherwise, monuments shall be placed on the centerline at the points of curvature and also at the points of tangency of all curved areas which are to be dedicated for street purposes. Such monuments shall be set nine (9) inches below the finished grade of pavement. A metal casting of approved type shall be mounted over said monument. Permanent monuments shall be either of stone or concrete. They shall be at least thirty (30) inches in length, minimum four (4) inches in diameter, and shall have a metal pin or punchmarked metal plates imbedded therein marking the point represented on the final plat. The location of all monuments shall be shown on the final plat.

I. **Street Lights.** All subdivisions shall have street lights installed throughout the subdivision in accordance with the standards of the town as found in the town street lighting policy and Carolina Power and Light Company. The developer shall be required to pay to the electric company the cost of street lighting installation. The street lighting system shall become the property of the Carolina Power and Light Company.
**J. Open Space Requirement.** All subdivisions of ten (10) acres or more shall be required to maintain at least fifteen percent (15%) dedicated open space. Such open space shall be designated on the final plat prior to being recorded with the Pender County Register of Deeds.

The open space must be on-site and owned completely by a homeowners or property owners association. Buildings constructed for recreational purposes and/or sidewalks may be considered as part of the open space requirements. Street rights-of-way (excluding sidewalks, as constructed), parking lots, and yards held in individual ownership shall not constitute any part of the required open space. In addition, at least thirty percent (30%) of the required open space must be based on the total buildable acres (as defined) within the development.

**Section 15-11: Construction Procedures**

A. **Commencement.** No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved and all plans and specifications have been approved by the appropriate authorities.

B. **Permits.** No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this Ordinance until all requirements of this Ordinance have been met.

C. **Access.** The Land Use Administrator shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance.

D. **Inspection.** The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Land Use Administrator to provide for adequate inspection. The approving authorities having full jurisdiction, or their representatives, shall inspect and approve all completed work prior to release of the sureties.

E. **Construction.** Construction at any given time shall be confined to the smallest practical area and the shortest practical period of time.

**Section 15-12: Reimbursement of Subdivider by Town for Improvement Costs Over and Above Those Required to Serve a Subdivision**

A. The Town of Burgaw may require installation of certain oversized improvements or the extension of utilities to adjacent property when it is in the interest of future development. The Town, under conditions specified below, shall reimburse the subdivider for improvement costs incurred over and above those required to serve his immediate subdivision where required by the Board of Commissioners. Such reimbursement shall be made within sixty (60) days following the date of final inspection and acceptance of the improvement by the Board of Commissioners.

B. **Installation Subject to Reimbursement.**

   a. Street paving costs within the corporate limits which are above those requirements provided in Section 15-6 of these regulations;
b. The cost of materials for water mains over eight (8) inches in size, including the extra costs of lines over eight (8) inches incurred by the subdivider to reach his subdivision; and

c. The costs of materials for gravity sewer lines over eight (8) inches in size, including the extra costs of lines over eight (8) inches incurred by the subdivider to reach his subdivision.

C. Procedures for Reimbursement.

a. After plans and specifications for the improvements have been approved by the Board of Commissioners, the subdivider shall advertise for formal sealed bids to be opened publicly at the Town Hall for any improvements in which the town will be requested to participate. After approval by the Board of Commissioners, the contract will be awarded to the lowest responsible bidder, who shall be required to furnish a performance bond guaranteeing fulfillment of the contract.

b. Following completion of improvements and acceptance by the Board of Commissioners, the subdivider shall furnish an itemized list of costs to be reimbursed by the town.
Article 16. Development and Design Standards

Chapter I. Design Standards

Section 16-1: Purpose and Intent

It is the intent of this section to protect the public health, safety, and general welfare by regulating the appearance of certain types of development in order to protect and preserve the appearance, character, and value of adjacent properties. In addition, these design standards are intended to identify the Town’s goals and expectations for the quality of new development as a means of establishing greater predictability during the development review process.

Specifically, the purposes of this section are to:

- Establish a strong sense of place with high-quality development in key areas of town;
- Encourage a more pedestrian-friendly environment through attention to human-scaled design and site features;
- Ensure compatibility with the context of surrounding areas; and
- Preserve the unique visual character and quality of life of the Town.

Section 16-2: Applicability

A. New Structures. The provisions in this section shall apply to all new structures in the B-1, B-2, and Gateway Overlay zoning districts and to Planned Building Groups—Commercial and/or Office/Institutional.

B. Expansions.

   a. B-1 Zoning District. Expansions of existing structures of 25% or greater of the current floor area shall comply with all standards for the expansion areas only.

   b. Planned Building Groups—Commercial and/or Office/Institutional (excluding the B-1 District) and B-2 and Gateway Overlay Zoning Districts.

      i. Expansions of existing structures of less than 50% of the current floor area shall be required to comply with these standards to the expansion areas only.

      ii. Expansions of 50% or greater of the current floor area shall comply with all standards on façades visible from a public right-of-way.

C. Renovations.

   a. Exterior structural renovations to Planned Building Groups—Commercial and/or Office/Institutional (excluding the B-1 District) and to existing structures in the B-2 and Gateway Overlay Zoning Districts shall be required to comply with these standards on the renovation areas only, excepting mirrored glass or glass tinted over 30% shall not be allowed to be replaced.
Article 16. Development and Design Standards

b. Renovations of existing structures in the B-1 zoning district are not required to comply with these standards, excepting mirrored glass or glass tinted over 30% shall not be allowed to be replaced.

Section 16-3: Design Standards for B-1 Central Business District

A. Orientation. A primary entrance façade shall be oriented toward the primary public street, to be designed for the pedestrian, and be distinguished from the rest of the building and other entrances. Additional entrances may be oriented toward the side or rear parking lots.

B. Parking. No more than two rows of parking shall be allowed in front of the primary entrance façade.

C. Design Features.

a. Permitted architectural features shall be required on primary façades according to the schedule outlined below:

<table>
<thead>
<tr>
<th>Façade Width</th>
<th>Minimum # Feature Types</th>
<th>Minimum # Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;60 ft.</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>60-119 ft.</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>120+ ft.</td>
<td>4</td>
<td>8</td>
</tr>
</tbody>
</table>

b. Allowed feature types include:

i. Offsets of the building wall or other elements in plan of 4 ft.;

ii. A colonnade with columns or other vertical elements;

iii. Awnings or canopies;

iv. Covered entries or porticos;

v. Recessed entries;

vi. Storefront (mid-wall) cornice;

vii. Transom;

viii. Masonry piers;

ix. Ground-level bulkhead;

x. Trellises;

xi. Bay window or balcony;

xii. Decorative cornice;

xiii. Pilasters, which must be a different material or contrasting color from their background;

xiv. Arcades or arches;

xv. Tile work and moldings that are integrated into the building structure;

xvi. A combination of the above list; and
xvii. Any other type of feature not listed here that is deemed by the approval authority to meet the intent of this Ordinance.

c. Required features must be distributed throughout the building façade and shall not be clustered.

d. All façades visible from a public street shall be configured with three of the same façade details as provided on the front façade.

D. Transparency.

a. Windows shall be provided along at least ten percent (10%) of the building’s ground floor street-facing elevation(s), excluding accessory structures.

b. Mirrored glass is prohibited from use. Reflective tinted glass is acceptable up to 30% tint.

E. Materials. Building walls shall incorporate brick, cast stone, stone, formed concrete, or other masonry material over a minimum seventy-five percent (75%) surface area, excluding windows. The remainder of the wall area may incorporate other materials.

F. Colors. Façade colors shall be of low reflectance earth tone, muted, subtle, or neutral colors. Building trim may feature brighter colors as an accent material. The use of high-intensity, metallic, fluorescent, dayglow, or neon colors shall be prohibited.

G. Mechanical Screening and Equipment. All mechanical equipment shall be screened from view from all streets and public ways.

H. Outdoor Storage and Accessory Structures. Storage and other accessory buildings shall be located behind the primary building or shall be architecturally compatible with the primary building.

Section 16-4: Design Standards for Gateway Overlay District

A. Transparency.

a. Windows shall be provided along at least ten percent (10%) of the building’s ground floor street-facing elevation(s), excluding accessory structures.

b. Mirrored glass is prohibited from use. Reflective tinted glass is acceptable up to 30% tint.

B. Materials.

a. Building walls of new structures shall incorporate brick, cast stone, stone, formed concrete, or other masonry material over a minimum seventy-five percent (75%) surface area, excluding windows. The remainder of the wall area may incorporate other materials.

b. Expansions shall use materials comparable and/or compatible to those used in the existing structure.

C. Mechanical Screening and Equipment. All mechanical equipment shall be screened from view from all streets and public ways.
D. **Outdoor Storage and Accessory Structures.** Storage and other accessory buildings shall be located behind the primary building or shall be architecturally compatible with the primary building.

E. **Signage.** All freestanding ground signs are required to be monument signs with a masonry based composed of the same primary material used for the building walls.

F. **Outparcel Buildings.** Outparcel buildings shall include exterior materials and colors that are compatible with the primary building in the development.

G. **Cross Access.** For all new developments or redevelopment (including changes to the parking lot layout of an existing business), cross access drives a minimum of twenty (20) feet in width are required to provide at least one connection with all lines that are coincident for at least sixty (60) feet with another lot zoned for non-residential use. If applicable, the connection shall align with a connection that has been previously constructed or designed on an adjacent property.

Cross access shall not be required if significant natural features, vehicular safety features, existing cross access provisions, and/or existing infrastructure obstructions exist.

Cross access must be built to the property line (or lease line) and may not be blocked off, parked in, or otherwise “obstructed.” A cross-access easement must be recorded with the Pender County Register of Deeds on the final plat for property involving a subdivision or by separate instrument when no plat is proposed.

**Section 16-5: Design Standards for B-2 Highway Business District**

A. **Transparency.**
   a. Windows shall be provided along at least ten percent (10%) of the building’s ground floor street-facing elevation(s), excluding accessory structures.
   b. Mirrored glass is prohibited from use. Reflective tinted glass is acceptable up to 30% tint.

B. **Materials.**
   a. Building walls shall incorporate brick, cast stone, stone, formed concrete, or other masonry material over a minimum fifty percent (50%) surface area, excluding windows. The remainder of the wall area may incorporate other materials.
   b. Expansions shall use materials comparable and/or compatible to those used in the existing structure.

C. **Outdoor Storage and Accessory Structures.** Storage and other accessory buildings shall be located behind the primary building or shall be architecturally compatible with the primary building.
Section 16-6: Design Standards for Planned Building Groups—Commercial and/or Office/Institutional excluding the B-1 District

A. Design Features.

a. Permitted architectural features shall be required on primary façades according to the schedule outlined below:

<table>
<thead>
<tr>
<th>Façade Width</th>
<th>Minimum # Feature Types</th>
<th>Minimum # Features</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;40 ft.</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>40-79 ft.</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>80-119 ft.</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>120+ ft.</td>
<td>4</td>
<td>8</td>
</tr>
</tbody>
</table>

b. Allowed feature types include:
   i. Offsets of the building wall or other elements in plan of 4 ft.;
   ii. A colonnade with columns or other vertical elements;
   iii. Awnings or canopies;
   iv. Covered entries or porticos;
   v. Recessed entries;
   vi. Storefront (mid-wall) cornice;
   vii. Transom;
   viii. Masonry piers;
   ix. Ground-level bulkhead;
   x. Trellises;
   xi. Bay window or balcony;
   xii. Decorative cornice;
   xiii. Pilasters, which must be a different material or contrasting color from their background;
   xiv. Arcades or arches;
   xv. Tile work and moldings that are integrated into the building structure;
   xvi. A combination of the above list; and
   xvii. Any other type of feature not listed here that is deemed by the approval authority to meet the intent of this Ordinance.

c. Required features must be distributed throughout the building façade and shall not be clustered.
d. All façades visible from a public street shall be configured with three of the same façade details as provided on the front façade.

B. Transparency.
   a. Windows shall be provided along at least ten percent (10%) of the building’s ground floor street-facing elevation(s), excluding accessory structures.
   b. Mirrored glass is prohibited from use. Reflective tinted glass is acceptable up to 30% tint.

C. Composition. Primary façades 100 feet in width or wider shall be divided into architecturally distinct sections 60 feet or less in width.

D. Materials.
   a. Building walls shall incorporate brick, cast stone, stone, formed concrete, or other masonry material over a minimum seventy-five percent (75%) surface area, excluding windows. The remainder of the wall area may incorporate other materials. Structures in the O&I and PUD district may also use concrete siding.
   b. Expansions shall use materials comparable and/or compatible to those used in the existing structure.

E. Colors. Façade colors shall be of low reflectance earth tone, muted, subtle, or neutral colors. Building trim may feature brighter colors as an accent material. The use of high-intensity, metallic, fluorescent, dayglow, or neon colors shall be prohibited.

F. Mechanical Screening and Equipment. All mechanical equipment shall be screened from view from all streets and public ways.

G. Outparcel Buildings.
   a. Loading, service, and equipment areas that are associated with an outparcel building shall be screened through the use of structural elements and similar materials attached to and integrated with the building.
   b. Outparcel buildings shall include a consistent level of architectural detail on all four sides of the building as well as exterior materials and colors that are compatible with the primary building in the development.
Chapter II. Residential Cluster Subdivision

Section 16-7: Purpose and Intent

A. The purpose of residential cluster development is to provide an alternative development option that will:
   a. Promote more efficient use of land resources than is otherwise possible under conventional zoning and subdivision regulations.
   b. Reduce the per unit site development costs of dwellings by concentrating residential units on a portion of the site without increasing the overall net density above that which would normally be allowed pursuant to the dimensional requirements of this ordinance.
   c. Preserve the natural character of the site.
   d. Preserve farmland and scenic views.
   e. Provide for desirable and usable open space, tree cover, and the preservation of environmentally sensitive areas.
   f. Provide variety in residential buildings and properties and provide design flexibility that can relate the location of units to unique site conditions.

B. For the purposes of this section, a residential cluster development is defined as:
   a. A development design wherein conventional zoning standards are relaxed to permit modifications in lot area, lot width, lot frontage, lot coverage, required yards, and public street access, and to save infrastructure development cost, environmental damage, energy use and land resources by concentrating dwellings in specific areas of the site without increasing the net density above that which would normally be allowed pursuant to the dimensional requirements of this ordinance.
   b. Such development shall contain detached single-family dwellings only; and
   c. Such development shall provide a program for the provision, operation, and maintenance of such areas, facilities, and improvements as shall be required for the perpetual common use by the occupants of the development.

Section 16-8: Dimensional Standards

A. Residential cluster developments shall contain no less than ten (10) net acres. For purposes of this section “net acres” shall be the total area of all lots and common area(s) exclusive of public street rights-of-way or private street easements. Addition to any existing residential cluster development may be allowed provided such addition meets or exceeds all other applicable requirements.

B. A residential cluster development may as an option be allowed within the RA and R-20 zoning districts. Such developments shall be exempt from the conventional zoning standards relative to lot area, lot width, lot frontage, lot coverage, required yards and public street access normally applicable to such districts, provided such development complies with the minimum standards set forth under this section.
Article 16. Development and Design Standards

C. Dwelling units within a residential cluster development may be constructed on lots front private streets.

D. A residential cluster development shall provide open space(s) subject to all the following requirements:
   a. Such open space shall be greater or equal in area to the total amount of area by which each lot was reduced below the minimum size requirement of the prevailing zoning district, or shall reserve no less than fifteen percent (15%) of the gross acreage as common open space, whichever is greater;
   b. Such area shall not be used as a building site. For purposes of this section, picnic areas or shelters, ball fields, walking or jogging trails, boat ramps, and docks or other similar recreational facilities may be allowed;
   c. Such area shall not be devoted to any public street right-of-way or private street easement, private driveway, or parking area;
   d. Such area shall be left in its natural or undisturbed state if wooded at the time of development, except for the cutting of trails for walking or jogging or, if not wooded at the time of development, is improved for the recreational uses allowed above, or is properly vegetated and landscaped with the objective of creating a wooded area or other area that is consistent with the objectives set forth in subsection (f) below;
   e. Such area shall be capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation or for horticulture if not devoted to other allowable uses in this subsection;
   f. Such area shall be legally and practically accessible to the residents of the development, or to the public if so dedicated;
   g. A minimum of one-half (1/2) of the required open space shall be contained in one (1) continuous undivided part;
   h. Not more than twenty-five percent (25%) of the required open space shall lie within any floodway zone;
   i. Not more than twenty-five percent (25%) of the required open space may be devoted to allowable improvements as set forth in subsection (b) above;
   j. Such area shall be perpetually owned and maintained for the purposes of this article by a homeowners association or, at the option of the town, dedicated or deeded to the public;
   k. The location and arrangement of any open space(s) shall be subject to Board of Commissioners approval;
   l. The owner shall, pursuant to the subdivision regulation, cause a final subdivision plat to be recorded in the Pender County Register of Deeds which clearly describes the open space(s), required deed restrictions, and conditions thereof, prior to the issuance of any building permit(s).
E. Residential density shall not exceed that which would normally be permitted under single-family standards within the prevailing zoning district on a net area basis. Public street rights-of-way and private street easements shall not be included or count towards the total net area for purposes of calculating allowable density. Area dedicated or deeded to the town pursuant to the sections above shall count toward net area for purposes of density calculation.

F. Minimum Dimensional Requirements.
   a. **Lot area:** not less than sixty percent (60%) of the minimum lot area which would normally be required under the single-family standards of the prevailing zoning district;
   b. **Lot width:** forty (40) feet;
   c. **Lot frontage:** forty (40) feet, except on the radius of a cul-de-sac where such distance may be reduced to twenty (20) feet;
   d. **Public or private street setback:** no principal or accessory structure shall be closer than fifteen (15) feet to a public street right-of-way or private street easement or as further provided herein;
   e. **Side yard setback:** shall be subject to subsection G or not less than twelve (12) feet, provided, however, that no structure shall be located on more than one (1) side lot line. Dwellings that do not use the provisions of subsection G and are not located adjacent to a lot line section subject to subsection G shall maintain a minimum side setback of not less than six (6) feet;
   f. **Rear yard setback:** shall be subject to subsection G or not less than twelve (12) feet;
   g. **Building separations:** no portion of any principal structure shall be located less than twelve (12) feet from any other principal structure or less than ten (10) feet from any accessory structure as measured to the closest point;
   h. **Periphery boundary setback:** except as further provided, no principal or accessory structure shall be located less than twenty-five (25) feet from the peripheral boundaries of the residential cluster development;
   i. **Transition area setback:** where a residential cluster development adjoins or borders an existing single-family zoning district or other predominantly single-family development sharing common frontage on the same or opposite side of a public or private street, the minimum right-of-way and/or easement setback requirement of said single-family zone or development shall be utilized for the entire opposite frontage and three hundred (300) feet from such common border;
   j. **Maximum height:** thirty-five (35) feet;
   k. **Detached accessory structure requirements:**
      i. Shall not be located within any front yard setback;
      ii. Shall not be located within ten (10) feet of any other principal structure or within five (5) feet of any other accessory structure;
iii. Shall not cover more than twenty percent (20%) of any side or rear yard; and

iv. The side or rear yard requirements for detached accessory structures shall be subject to the provisions of subsection G or not less than five (5) feet.

G. **Zero Side and/or Rear Yard Setbacks.** A zero (0) side and/or rear yard setback as permitted herein may be permitted subject to the following provisions:

a. Any wall constructed on the side or rear lot line shall be a solid, doorless, and windowless wall. Such wall shall contain no electrical, mechanical, heating, air condition, or other fixtures that project beyond such wall. If there is an offset of the wall from the lot line, such offset shall be subject to the applicable side and rear setback provision outlined above. Roof eaves may encroach two (2) feet into the adjoining lot.

b. A five (5) foot maintenance and access easement with a maximum eave encroachment easement of two (2) feet within the maintenance easement shall be established on the adjoining lot and shall assure ready access to the lot line wall at reasonable periods of the day for normal maintenance.

c. Where zero (0) side or rear yard setbacks are proposed, the buildable area for each lot shall be indicated on the preliminary and final subdivision plat.

**Section 16-9: Additional Provisions**

A. Private streets may be allowed pursuant to the subdivision regulations.

B. All development regulated in accordance with this article shall be subject to the requirements, conditions, and restrictions of the subdivision regulations.
Chapter III. Planned Unit Development (PUD)

Section 16-10: Intent

The intent of the Planned Unit Development (PUD) District is to provide a development alternative to a conventional development. The PUD zoning district allows projects of innovative design and layout that would not otherwise be permitted under this ordinance because of the strict application of zoning district or general development standards. The PUD district encourages progressive land planning and design concepts. Some of these techniques and concepts include but are not limited to:

A. To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands, and wildlife habitat.
B. To protect prime agricultural land and preserve farming as an economic activity.
C. To permit clustering of houses and structures in a manner that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
D. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
E. To promote interconnected greenways and wildlife corridors.
F. To create continuous greenspace within and adjoining the development site.
G. To preserve important historic and archaeological sites.

Section 16-11: Development Standards

A. Uses Allowed. Each planned unit development must have a mix of residential and non-residential uses. Individual uses allowed in a PUD zoning district area are outlined in the Table of Permitted Uses.

B. Mix of Nonresidential and Residential Uses. Each planned unit development must have a minimum of twenty percent (20%) and maximum of eighty-five percent (85%) residential acreage. Recreational amenities shared by the members of any required homeowners or property owners association and/or required open space shall not be considered nonresidential for the purposes of this requirement.

C. Maximum Overall Residential Density. Five (5) dwelling units per acre. The density is calculated as total tract acreage subtracting the following:
   - Areas reserved for non-residential development
   - Rights-of-way and parking areas
   - Required active and passive open space

D. Open Space Requirement. Each planned unit development (PUD) must maintain a minimum of fifteen percent (15%) dedicated open space. This open space must be on-site and owned completely by a homeowners or property owners association. Buildings constructed for recreational purposes and/or privately-maintained sidewalks may be
considered as a part of the open space requirements. Street rights-of-way, parking lots, and yards held in individual ownership shall not constitute any part of the required open space. At least fifty percent (50%) of required open space must be provided on buildable acreage, and a minimum of fifty percent (50%) of required open space shall be contiguous.

Chapter IV. Commercial and/or Office/Institutional Planned Building Groups

Section 16-12: Compliance

Commercial and/or Office/Institutional planned building groups must be approved by the Board of Commissioners unless otherwise specified. Planned building groups shall be submitted to the Land Use Administrator at least twenty-one (21) days prior to the regular Planning Board meeting at which it is to be reviewed.

Section 16-13: Standards for Construction or Expansion in B-1 District

The following planned building group regulations shall apply to all new construction or expansion of existing buildings on B-1 zoned property. These requirements shall be in effect for both the development of individual buildings and parcels and two (2) or more buildings on a single parcel.

A. Parking. As specified in Article 9 of this ordinance. Parking area shall have a stabilized surface with parking space and traffic lanes clearly marked.

B. Loading. As specified in Article 9 of this ordinance.

C. Screening and fencing. A screen not less than six (6) feet high of dense plant material and/or fence where a lot abuts a residentially zoned lot.

D. Signs. The applicable zone sign regulations shall apply to this planned building group requirement.

E. Curb and Gutter. Installation of curb and gutter shall be mandatory.

F. Plans are required and must show:

a. Structures. Location and approximate size of all structures.

b. Circulation. Proposed points of access and egress and proposed pattern of internal automobile and pedestrian circulation. Curb cuts at a maximum combined width of twenty-five (25) feet shall be allowed for each eighty (80) feet of lot frontage or portion thereof. The locations of all points of ingress and egress shall be approved by the Board of Commissioners.

c. Size and location of all signs.

d. Size and location of all fences, walls, and hedges.

e. Proposed provision for storm drainage (including retention pond facilities, when applicable), approved by the Land Use Administrator.
f. Proposed solid waste storage facilities.

g. Lighting plan, inclusive of wattage and illumination.

h. Depict traffic control devices.

Section 16-14: Standards for Planned Building Groups in O&I, B-1, and B-2 Districts

The following planned building group regulations shall apply in the development of O&I, B-1, B-2, and B-3 districts involving the construction of a building greater than seven thousand (7,000) square feet or projects involving the construction of more than one (1) building, structure, or combination thereof shall also comply with the following regulations:

A. Parking and Loading. Four (4) parking spaces per one thousand (1,000) square feet of leasable building area for planned building groups having a leasable building area of four hundred thousand (400,000) square feet or less; four and a half (4 ½) parking spaces per one thousand (1,000) square feet of leasable building area for planned building groups having a leasable building area from 400,001 to 600,000 square feet; and five (5) parking spaces per one thousand (1,000) square feet of leasable building area for planned building groups having a leasable building area over 600,000 square feet.

One loading bay for up to twenty thousand (20,000) square feet of leasable building area; one loading bay for each thirty thousand (30,000) square feet over twenty thousand (20,000) square feet, up to one hundred ten thousand (110,000) square feet; one loading bay for each fifty thousand (50,000) square feet over one hundred thousand (100,000) square feet.

Warehouse and office-institutional planned building groups shall adhere to the respective parking ratios as listed in Article 9 of this Ordinance.

B. Screening and Fencing. A screen not less than six (6) feet height of dense plant material and/or fence where the lot abuts a residential lot.

C. Lots Fronting on a Public Street. The Board of Commissioners may approve plans with lots within the interior of a business planned building group project provided that the Board finds that adequate access is assured by the design of the planned building group.

D. Minimum Yard Requirements. The Board of Commissioners may approve plans which do not provide minimum yards along interior lines within a business planned building group project. All exterior lot lines located along the perimeter of the business planned building group shall satisfy the standards listed in Section 8-1: Dimensional Requirements.

E. Hydrants. Hydrants shall be located within three hundred (300) feet of any building or portion thereof. Where possible, such hydrants shall be located at least fifty (50) feet from any building. If buildings have standpipes and sprinkler systems, one (1) hydrant shall be located within seventy-five (75) feet of each standpipe and sprinkler system connection.

F. Curb and Gutter. Installation of curb and gutter shall be mandatory.
Article 16. Development and Design Standards

G. Points of access and egress shall consist of driveways or roadways at least twenty (20) feet in width and shall be set back a sufficient distance from highway intersections to minimize traffic hazards, inconvenience, and congestion.

H. Parking areas shall have a stabilized surface with parking spaces and traffic lanes clearly marked.

I. Exterior walls of unattached buildings shall be located no closer than a distance equal to the height of the taller building.

J. Any courtyard created by the placement of the buildings shall have at least twenty-five (25%) of its perimeter open for access by emergency vehicles.

K. Plans are required and must show:
   a. Structures. Location and approximate size of all existing and proposed structures with the site, and all buildings and structures within five hundred (500) feet, in addition to public or private easements or rights-of-way adjoining or intersecting each property.
   b. Circulation. Proposed points of access and egress and proposed pattern of internal automobile and pedestrian circulation.
   c. Parking and Loading. Location and extent of proposed parking and loading areas.
   d. Timing. Proposed schedule of development, including stages likely to be followed.
   e. Proposed provision for storm drainage (including retention pond facilities, when applicable) and sanitary sewerage, approved by the Land Use Administrator.
   f. Size and proposed location of any signs.
   g. Proposed solid waste storage facilities.
   h. Proposed water system.
   i. Types of surfacing, slope, grade and cross-section of driveways, sidewalks, malls, etc.
   j. The location and heights of all fences, walls, and hedges shall be shown.
   k. Profiles of publicly maintained water and sewer lines.
   l. Profiles, cross-sections, and slopes of on-site and off-site ditches carrying water runoff.
   m. Erosion and sedimentation control plan.
   n. Lighting plan, inclusive of wattage and illumination.
   o. Depict traffic control devices.
   p. All plans and construction details must meet the current specifications of the Town of Burgaw.
Chapter V. Residential Attached Unit Planned Building Groups

Section 16-15: Compliance

Residential planned building groups must be approved by the Board of Commissioners unless otherwise specified. Planned building groups shall be submitted to the Land Use Administrator at least twenty-one (21) days prior to the regular Planning Board meeting at which it is to be reviewed.

Section 16-16: Standards for Apartments, Condominiums, and Townhomes

(A) Minimum Lot Area. As required by the zoning district in which the Planned Building Group is located.

(B) Parking. As specified in Article 9 of this ordinance.

(C) Recreation Area. Play areas shall be provided for all apartment and condominium planned building groups with over five (5) dwelling units. A minimum play area of two thousand (2,000) square feet, having a minimum width of forty (40) feet or a minimum radius of twenty-six (26) feet shall be provided for the first six (6) to twenty-five (25) dwelling units. For each dwelling unit over twenty-five (25) in number, an additional fifty-six (56) feet per dwelling unit shall be provided. Swimming pools and their accessory areas shall not constitute any part of the open space requirements. No part of the required play area shall be used for any other purpose. All recreation areas, except swimming pools, shall be enclosed with permanent fencing at least five (5) feet in height. For swimming pools, the fence height requirement shall be four (4) feet.

(D) Placement of Buildings.

a. There shall be maintained at least twenty (20) linear feet of open space between individual and unattached buildings in a residential planned building group.

b. Any group of buildings forming a courtyard shall have at least twenty-five percent (25%) of the perimeter of such courtyard open for access by emergency vehicles.

c. Where the length of a street exceeds two hundred (200) feet and where there exists six (6) or more dwelling units, an area must be provided for the turnaround of firefighting vehicles on a paved or graveled surface. This area shall not be used for parking and shall subscribe a circular area having a radius of thirty-five (35) feet or shall have a configuration which provides comparable turnaround space.

d. All fire hydrants, whenever possible, should be located adjacent to the paved roadways suitable for transporting firefighting vehicles. Where possible, such hydrants shall be located at least fifty (50) feet from any building. Hydrants shall be located at entrance and exit ways, and additional hydrants shall be located so that each building and portion thereof will be within three hundred fifty (350) feet of a hydrant. If buildings have standpipes and sprinkler systems, one (1) hydrant shall be located within seventy-five (75) feet of each standpipe and sprinkler connection system. All hydrants must be served by a water main of sufficient
Article 16. Development and Design Standards

size. In no case shall the minimum size main be less than six (6) inches in diameter.

(E) Plans are required and must show:

a. Proposed schedule of development including stages likely to be followed.

b. Proposed provision for storm drainage (including retention pond facilities, when applicable) and sanitary sewerage, approved by the Land Use Administrator.

c. Size and proposed location of any signs.

d. Proposed solid waste storage facilities.

e. Proposed water system and firefighting facilities such as hydrants and sprinkler connections.

f. Types of surfacing, slope, grade, and cross section of drives, sidewalks, malls, etc.

g. The location and heights of all fences, walls, and hedges shall be shown.

h. Profiles of publicly maintained water and sewer lines.

i. Profiles, cross-sections, and slopes of on-site and off-site ditches carrying water runoff.

j. Erosion and sedimentation control plan.

k. Lighting plan inclusive of wattage and illumination.

l. Installation of curb and gutter may be required by the Board of Commissioners.

m. Depict traffic control devices.

n. Location and amount of recreation area.

o. All plans and construction details must meet the current specifications of the Town of Burgaw.

Chapter VI. Manufactured Home Park Planned Building Groups

Section 16-17: Existing Manufactured Home Parks

A. All manufactured home parks existing on the effective date of this ordinance are required to comply with all applicable procedures and requirements of this ordinance, excepting existing parks with lot size or home space size smaller than what is required by this ordinance do not have to comply with those standards until such time when a new conditional use permit is issued. Any manufactured home park failing to comply with the applicable provisions of this ordinance is hereby declared to be a nonconforming use of land. All manufactured home parks shall continuously comply with the general requirements of this ordinance. Failure to meet continuously each of the general requirements shall be grounds for revocation of the certificate of occupancy/compliance.

B. No person shall begin construction of a manufactured home park or make any addition to a manufactured home park that either alters the number of sites for manufactured homes within the park or affects the facilities required therein until he first secures a conditional use permit authorizing such construction or addition.
Section 16-18: Detailed Regulations

A. The minimum lot area for a new manufactured home park shall be three (3) acres in size, exclusive of any public right-of-way.

B. The maximum number of units shall be in accordance with the density requirements for the zoning district in which it is to be located.

C. If wells or septic tanks are required, the amount of land for each manufactured home space shall be determined by the Pender County Health Department after an investigation of soil conditions, the proposed method of sewerage disposal, and proposed water system. However, in no case shall the size of a manufactured home space be less than eight thousand five hundred (8,500) square feet.

D. The manufactured home park shall be located on ground that is not susceptible to flooding. The park shall be graded so as to prevent any water from ponding or accumulating on the premises. All ditch banks shall be sloped and seeded.

E. Parking space sufficient to accommodate at least two (2) automobiles shall be located on each manufactured home space.

F. There shall be at least twenty (20) feet of clearance between manufactured homes, including manufactured homes parked end to end. No manufactured home shall be located closer than twenty (20) feet from any exterior boundary line of the park, no closer than fifteen (15) feet to the edge of any interior drive right-of-way, or closer than ten (10) feet to any manufactured home space boundary line.

G. A type II buffer shall be installed along all lot lines, excepting any public right-of-way.

H. Each manufactured home space shall be graded and grassed to prevent erosion and provide adequate storm drainage (including retention pond facilities, when applicable) away from the manufactured home.

I. All manufactured home spaces shall abut an interior drive of no less than thirty-six (36) feet in right-of-way, which shall have unobstructed access to a public street or highway. It is the intent of this section that manufactured home spaces shall not have unobstructed access to public streets or highways except through said interior drive. All interior drives shall be graded to their full right-of-way and shall have a road at least twenty (20) feet in width. Drives shall intersect as nearly as possible at right angles, an no drive shall intersect at less than seventy-five (75) degrees. Where a drive intersects a highway, the design standards of the North Carolina Department of Transportation shall apply.

J. All interior drives shall be designed in accordance with the standards and requirements of the Town of Burgaw Public Works Director and Fire Marshal.

K. Each manufactured home space shall be identified by a permanent number that shall not be changed. The appropriate number of each manufactured home space must be permanently and visible displayed on a post made of concrete, wood, metal, or any other permanent material approved by the administrator and conspicuously located on the lot.

L. One permanent identification sign per driveway from a public road shall be required.
M. Each manufactured home space shall be equipped with plumbing and electrical connections and shall be provided with electrical current in sufficient amounts to safely meet the maximum anticipated requirements of a manufactured home.

N. Each manufactured home space shall be provided with and shall be connected to sanitary sewerage and water supply systems approved by the appropriate authority.

O. All electrical wiring shall be installed in accordance with the National Electrical Code and shall be approved by the Town of Burgaw Building Inspector or designated electrical inspector. Distribution lines shall be installed underground.

P. Exterior lighting shall be provided for all streets, walkways, buildings, and other facilities subject to nighttime use. The average illumination level in manufactured home parks shall be at least three tenths (0.3) footcandle, and a minimum level of one tenth (0.1) footcandle shall be maintained on all streets. Potentially hazardous locations such as street intersections and walkways shall be individually illuminated with a minimum level of six tenths (0.6) footcandle.

Q. The park owner is responsible for seeing to refuse collection. All refuse shall be collected at least once a week or more if the need is indicated.

R. All manufactured homes placed in a manufactured home park after adoption of this Ordinance shall comply with all skirting and other standards required for individual manufactured homes.

S. All structural additions to manufactured homes other than those that are built into the unit and designed to fold out or extend from it shall be erected only after a zoning permit and building permit have been obtained, and such additions shall conform to the building code of the state, where applicable, and shall meet the standards of special regulations adopted with respect to such additions. The zoning permit shall specify whether such structural additions may remain permanently, must be removed when the manufactured home is removed, or must be removed within a specified length of time after the manufactured home is removed.

T. Storage of a manufactured home or recreational vehicle is prohibited.

U. The permittee or a duly authorized attendant or caretaker shall be in charge at all times to keep the manufactured home park, its facilities, and equipment in a clean, orderly, safe, and sanitary condition.

V. It shall be the duty of the operator of a manufactured home park to keep an accurate register containing a record of all registered occupants. The operator shall keep the register available at all times for inspection by law enforcement officials, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.

W. It shall be unlawful to sell on a commercial basis manufactured home or trailers within manufactured home parks, to sell a manufactured home space within the manufactured home park, or to operate any business within a manufactured home park.
Article 17. Wireless Telecommunications Facilities

Section 17-1: Authority

The Telecommunications Act of 1996 affirmed the Town of Burgaw’s authority concerning the placement, construction, and modification of Wireless Telecommunications Facilities. North Carolina General Statute 160A, Article 19, Part 3E provides for the safe and efficient integration of facilities necessary for the provision of advanced wireless telecommunications services throughout the community and for ensuring the ready availability of reliable wireless services to the public, government agencies, and first responders to further public safety and general welfare.

Section 17-2: Purpose

The purpose of this Wireless Telecommunications Facilities ordinance is to provide for the public health, safety, and welfare by ensuring that residents, businesses, and public safety operations in the Town of Burgaw have reliable access to wireless telecommunications networks and state of the art mobile broadband communications services while also ensuring that this objective is accomplished according to Town of Burgaw’s zoning, planning, and design standards.

To accomplish the above stated objectives and to ensure that the placement, construction, or modification of wireless telecommunications facilities complies with all applicable federal laws, including without limitation Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L No. 112-96, which, among other things, creates a national wireless emergency communications network for use by first responders that in large measure will be dependent on facilities placed on existing wireless communications support structures, the Town of Burgaw adopts this wireless telecommunications facilities ordinance. The intent of this ordinance is to:

- Ensure Town of Burgaw has sufficient wireless infrastructure to support its public safety communications through Town of Burgaw;
- Ensure access to reliable wireless communications services throughout all areas of Town of Burgaw;
- Encourage coordination among suppliers of telecommunications;
- Minimize the impact of wireless telecommunications facilities on surrounding properties; and
- Establish a fair and efficient process for review and approval of applications.

Section 17-3: General Provisions

A. Application of this Ordinance. This section shall govern the erection and/or construction of all wireless telecommunications facilities and/or associated antennas and associated buildings within the Town of Burgaw’s planning and zoning jurisdiction.

B. Adherence to State and/or Federal Rules and Regulations. Unless the holder of a Town of Burgaw permit for a wireless telecommunications facility has received relief or
Article 17. Wireless Telecommunications Facilities

is otherwise exempt from appropriate State and/or Federal agency rules or regulations, then the permit holder shall adhere to and comply with all applicable rules, regulations, standards, and provisions of any State or Federal Agency, including, but not limited to, the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC). Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical, and RF emission standards.

If applicable rules, regulations, standards, and provisions—specifically including any regarding height, lighting, and security—of any State or Federal Agency (e.g. FAA, FCC, etc.) are changed and/or modified during the duration of a Town of Burgaw permit for wireless telecommunications facilities, then the permit holder shall conform the permitted facilities to the applicable changed and/or modified rule, regulation, standard, or provision. Such conformities shall take place within a maximum of twenty-four (24) months of the effective date of the applicable, changed, and/or modified rule, regulation, standard, or provision or sooner as may be required by the issuing entity.

C. Conflict with Other Laws or Regulations. When the requirements of this Ordinance conflict with the requirements of other lawfully adopted rules, regulations, or ordinances applicable to this jurisdiction, the more stringent requirements shall govern.

D. Severability of Ordinance. If any word, phrase, sentence, part, section, subsection, or other portion of this Article or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, it shall be severable, and the remaining provisions of this Article and applications thereof not declared void, unconstitutional, or invalid shall remain in full force and effect.

Section 17-4: Interference with Public Safety Communications

A. Required Written Statements. In order to facilitate the regulation, placement, and construction of antennas and to ensure that all parties are complying to the fullest extent possible with the rules, regulations, and/or guidelines of the FCC, each owner of an antenna, antenna array, or applicant for a collocation shall agree in a written statement to the following:

a. Compliance with “Good Engineering Practices” as defined by the FCC in its rules and regulations;

b. Compliance with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFT); and

c. In the case of an application for co-located telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant’s proposed facilities will not cause radio frequency interference with any local, state, and federal public safety communications equipment and will implement appropriate technical measures, as described in antenna element replacements, to attempt to prevent such interference.
B. **Radio Frequency Interference.** Whenever the Town has encountered radio frequency interference with its public safety communications equipment and believes that such interference has been or is being caused by one or more antenna arrays, the following steps shall be taken:

a. The Town shall provide notification to all wireless service providers operating in the Town of possible interference with the public safety communications equipment. Upon such notification, the owners shall use their best efforts to cooperate and coordinate with the Town and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the FCC’s most recent joint wireless industry-public safety “Best Practices Guide,” including “Good Engineering Practices."

b. If any equipment owner fails to cooperate with the Town in complying with the owner’s obligations under this section or if the FCC makes a determination of radio frequency interference with the Town’s public safety communications equipment, the owner who failed to cooperate and/or the owner of the equipment that caused the interference will be responsible, upon FCC determination of radio frequency interference, for reimbursing the Town for all costs associated with ascertaining and resolving the interference. Such costs shall include, but not be limited to, any engineering studies obtained by the Town to determine the source of the interference. For the purposes of this section, failure to cooperate shall include failure to initiate any response or action as described in the “Best Practices Guide” within twenty-four (24) hours of the Town’s notification.

**Section 17-5: Definitions**

For purposes of this Article, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words used in the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory, and not merely directory.

**Abandonment:** cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this ordinance

**Accessory equipment:** any equipment serving or being used in conjunction with a wireless facility or wireless support structure. This term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters, or similar structures.

**Administrative approval:** approval that the planning administrator or designee is authorized to grant after administrative review

**Administrative review:** non-discretionary evaluation of an application by the planning administrator or designee as outlined in this ordinance. This process is not subject to a public hearing.

**Application:** all necessary and required documentation that the wireless service provider submits in order to receive a permit for development of wireless telecommunications facilities
Article 17. Wireless Telecommunications Facilities

**Antenna:** communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless telecommunications services

**Base stations:** a station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics

**Carrier on wheels or Cell on wheels (COW):** a portable, self-contained wireless facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

**Collocation:** the placement or installation of wireless facilities on existing structures, including electrical transmission towers, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes

**Concealed wireless facility:** any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer

**Equipment compound:** an area surrounding or near the base of a wireless support structure within which are located wireless facilities

**Existing structure:** a wireless support structure, erected prior to the application for collocation or substantial modification under this ordinance, that is capable of supporting the attachment of wireless facilities, including, but not limited to, electrical transmission towers, buildings, and water towers. The term shall not include any utility pole.

**Fall zone:** the area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards

**Height:** when referring to a tower or structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device

**Modification** or **Modify:** the addition, removal, or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change-out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a telecommunications tower or site as a collocation is a modification.

**Monopole:** a single, freestanding pole-type structure supporting one or more antennas. For the purposes of this ordinance, a monopole is not a tower or a utility pole.

**Ordinary maintenance:** ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure’s foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape, and color and accessory equipment within an existing equipment compound and relocating the
antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include substation modifications.

**Replacement pole:** pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.

**Substantial modification:** the mounting of a proposed wireless facility or wireless facilities on a wireless support structure that:

A. Increases the existing vertical height of the wireless structure by
   a. More than ten percent (10%), or
   b. The height of an additional antenna array with separation from the nearest existing antennas not to exceed twenty (20) feet, whichever is greater, or

B. Involves adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure more than twenty (20) feet, or more than the width of the wireless support structure at the level of the appurtenance, whichever is greater (except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable); or

C. Increases the square footage of the existing equipment compound by more than 2,500 square feet.

**Tower:** a lattice-type structure, guyed or freestanding, that supports one or more antennas

**Utility pole:** a structure owned and/or operated by a public utility, municipality, electric membership corporation, or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting

**Water tower:** a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water

**Wireless telecommunications facility:** the set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless telecommunications services

**Section 17-6: Approvals Required for Wireless Facilities and Wireless Support Structures**

A. **Administrative Review and Approval.** The following types of applications are subject to the administrative review and approval process. No other type of zoning or site plan review is necessary.
   a. New Wireless Support Structures that are less than sixty (60) feet in height, in any zoning district except C/P;
   b. New Wireless Support Structures that are less than one hundred fifty (150) feet in height, in any Industrial District;
c. New Wireless Support Structures that are less than two hundred (200) feet in height in the Rural Agricultural (RA) District;
d. Concealed Wireless Facilities that are sixty (60) feet or less in height, in any residential district;
e. Concealed Wireless Facilities that are one hundred fifty (150) feet or less in height, in any nonresidential zoning district, except C/P;
f. Monopoles or replacement poles located on public property or within utility easements or rights-of-way, in any zoning district except C/P, which have an engineered fall zone entirely within the property, easement, or right-of-way;
g. COWs, in any zoning district, if the use of the COW is either not in response to a declaration of an emergency or disaster by the Governor, or will last in excess of one hundred twenty (120) days;
h. Substantial modifications to structures that were administratively approved and which would still meet all qualifications for administrative approval; and
i. Collocations.

B. **Conditional Use Permit Process.** Any application for Wireless Facilities and/or Wireless Support Structures is not subject to administrative review and approval pursuant to this ordinance and not exempt from all approval processes, as outlined below, shall be permitted in any district, except C/P, upon the granting of a conditional use permit by the Town of Burgaw Board of Commissioners, with technical review by the Town of Burgaw Planning and Zoning Board, in accordance with the procedures outlined in this ordinance.

C. **Exempt from All Approval Processes.** The following are exempt from all Town of Burgaw zoning approval processes and requirements:
   a. Removal or replacement of transmission equipment on an existing wireless tower or base station that does not result in a substantial modification as defined in this ordinance.
   b. Ordinary maintenance of existing Wireless Facilities and Wireless Support Structures, as defined in this ordinance;
   c. Wireless facilities placed on utility poles; and
   d. COWs placed for a period of not more than one hundred twenty (120) days at any location within the Town of Burgaw or its extraterritorial jurisdiction or after a declaration of an emergency or disaster by the Governor.

**Section 17-7: Administrative Review and Approval Process**

A. **Content of Application Package for New Sites.** All Administrative Review Application packages for new sites must contain the following information:
   a. Permit application form signed by applicant;
   b. Copy of lease or letter of authorization from property owner evidencing applicant’s authority to pursue application. Such submissions need not disclose financial lease terms.
c. Site plans conforming with Town of Burgaw’s requirements that detail proposed improvements. Drawings must depict improvements related to the applicable requirements, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements;

d. Documentation from a licensed professional engineer of calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this ordinance; and

e. All required written statements as outlined in this Article.

B. Content of Application Package for Other Sites/Facilities. All Administrative Review applications not for new sites must contain the following information:

- Permit application form signed by applicant;
- For collocation and substantial modification, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas;
- For substantial modifications, drawings depicting the improvements, along with their dimensions; and
- All required written statements as outlined in this Article.

C. Fees. The total fees for review of an Administrative Review application are outlined below. Applications for new wireless support structures with proposed wireless facilities shall be considered together as one application requiring only a single application fee. An applicant for Administrative Review shall submit an initial deposit of $500 toward the fees to be paid under this section of the ordinance. The balance of required fees must be paid by the applicant before any permit will take effect, and any refund owed by the town will be paid to the applicant within thirty (30) days of issuance of the permit.

- In the case of an application for collocation, a monopole or replacement pole, a concealed wireless facility, a non-exempt COW, or a qualifying substantial modification, the lesser of the general zoning compliance permit fee and Town of Burgaw’s actual, direct costs (including third-party costs such as consultant fees) incurred for review, or $500.

- In the case of an application for a new wireless support structure subject to administrative review and approval, the lesser of the general zoning compliance permit fee and Town of Burgaw’s actual, direct costs (including third-party costs such as consultant fees) incurred for the review, or $1,500.

D. Procedures

- Applications for Collocations, Monopoles or Replacement Pole, a Concealed Wireless Facility, a non-exempt COW, or a qualifying Substantial Modification. Within thirty (30) days of receipt of an application, including all required information, the Planning Administrator will
i. Review the application for conformity with this ordinance. If an application accepted as complete by the town is found during this review to be missing required information, the Planning Administrator will notify the applicant, and the thirty (30) day review period initiated at the time of receipt of application will be suspended until the applicant provides the required information;

ii. Make a final decision to approved or disapprove the application; and

iii. Advise the applicant in writing of the final decision. If the Planning Administrator denies an application, written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this ordinance, will be provided to the applicant.

iv. If extenuating circumstances preclude the Planning Administrator’s ability to make a final decision and/or to provide the applicant with written notice of such decision within the thirty (30) day review period, the Town of Burgaw shall notify the applicant prior to the end of the thirty (30) day review period to report the delay. The Town of Burgaw may specify an extension of up to ten (10) calendar days to make a final decision and advise the applicant in writing. Failure to make a final decision and advise the applicant in writing by the specified extension deadline shall constitute an approval of the application.

b. Applications for New Wireless Support Structures Subject to Administrative Review. Within forty-five (45) days of the receipt of an application, including all required information, the Planning Administrator will

i. Review the application for conformity with the ordinance. If an application accepted as complete by the town is found during this review to be missing required information, the Planning Administrator will notify the applicant, and the forty-five (45) day review period initiated at the time of receipt of application will be suspended until the applicant provides the required information;

ii. Make a final decision to approve or disapprove the application; and

iii. Advise the applicant in writing of the final decision. If the Planning Administrator denies an application, written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and the ordinance, will be provided to the applicant.

iv. If extenuating circumstances preclude the Planning Administrator’s ability to make a final decision and/or to provide the applicant with written notice of such decision within the forty-five (45) day review period, the Town of Burgaw shall notify the applicant prior to the end of the forty-five (45) day review period to report the delay. The Town of Burgaw may specify an extension of up to ten (10) calendar days to make a final decision and advise the applicant in writing. Failure to make a final decision and advise the applicant in writing by the specified extension deadline shall constitute an approval of the application.
Section 17-8: Conditional Use Permit Process

A. Any wireless facilities or support structures not subject to administrative review or exempt from all approval processes shall be permitted in all zoning districts except the C/P upon the granting of a conditional use permit by the Town of Burgaw Board of Commissioners, with technical review by the Town of Burgaw Planning and Zoning Board, subject to

a. The submission requirements outlined below;
b. The applicable general standards outlined below; and
c. The design requirements outlined below.

B. Content of Conditional Use Permit Application Package. All conditional use permit applications must contain the following information:

a. Conditional use permit application form signed by the applicant;
b. Copy of lease or letter of authorization from the property owner evidencing the applicant’s authority to pursue zoning application. Such submissions need not disclose financial lease terms;
c. Written description and scaled drawings of the proposed wireless support structure or facility, including structure height, ground and structure design, engineered fall zone, and proposed materials;
d. Number of proposed antennas and their height above ground level, including the proposed placement of antennas on the wireless support structure;
e. Line-of-sight diagram or photo simulation, showing the proposed wireless support structure set against the skyline and viewed from at least four (4) directions within the surrounding areas; and
f. A statement that the proposed wireless support structure will be made available for collocation to other service providers at commercially reasonable rates, provided space is available and consistent with all required standards; and
g. All required statements as outlined in this Article.

C. Fees. The total fees for reviewing a conditional use permit shall be the lesser of the conditional use permit application fee and Town of Burgaw’s actual, direct costs (including third-party costs such as consultant fees) incurred for the review, or $3,000. Applications for new wireless support structures with proposed wireless facilities shall be considered together as one application requiring only a single application fee. An applicant for conditional use permit review shall submit an initial deposit of $1,000 toward the fees to be paid under this section of the ordinance. The balance of required fees must be paid by the applicant before any permit will take effect, and any refund owed by the town will be paid to the applicant within thirty (30) days of issuance of the permit.

D. Procedure

a. Within forty-five (45) calendar days of the receipt of an application, including all required information, the Planning Administrator will review the application for
conformity with this ordinance and submit the application to the Town of Burgaw Planning and Zoning Board for technical review. If an ordinance accepted as complete by the town is found during the review to be missing required information, the Planning Administrator will notify the applicant, and the forty-five (45) day staff review period initiated at the time of receipt of application will be suspended until the applicant provides the required information;

b. The Town of Burgaw Planning and Zoning Board and Board of Commissioners will review the application in accordance with Section 3-10: Conditional Use Permits of this ordinance;

c. The Town of Burgaw Board of Commissioners will make a final decision to approve or disapprove the application within one hundred thirty (130) days of the receipt of application; and

d. Advise the applicant in writing of its final decision. If the Board of Commissioners denies an application, written justification of the denial will be provided to the applicant.

e. In no case will the entire process, from Town of Burgaw receipt of a complete application to final written decision by the Town of Burgaw Board of Commissioners, take longer than one hundred fifty (150) days. Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

Section 17-9: General Standards and Design Requirements

A. Design

a. Wireless support structures will be subject to the following:

   i. Support structures sixty (60) to one hundred (100) feet in height shall support a minimum of two (2) telecommunications providers;

   ii. Support structures greater than one hundred (100) feet but less than one hundred fifty (150) feet in height shall support a minimum of three (3) telecommunications providers;

   iii. Support structures greater than one hundred fifty (150) feet in height shall support a minimum of four (4) telecommunications providers; and

   iv. The equipment compound area surrounding the wireless support structure must be of sufficient size to accommodate accessory equipment for the appropriate number of telecommunications providers required above.

b. Concealed wireless facilities shall be designed to accommodate the collocation of other antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured, or otherwise not readily apparent to a casual observer.

c. Upon request of the applicant, the town may waive the requirement that new wireless support structures accommodate the collocation of other service providers if it finds that the collocation at the site is not essential to the public
interest, or that the construction of a shorter support structure with fewer antennas will promote community compatibility.

d. A monopole or replacement pole may be permitted within utility easements or rights-of-way, in accordance with the following requirements;
   i. The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.
   ii. The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eight (80) feet or greater in height.
   iii. The height of the monopole or replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.
   iv. Monopoles and the accessory equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.
   v. Single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by subsection iii above.
   vi. Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.

B. Setbacks. Unless otherwise stated herein, each wireless support structure shall be set back from all property lines and structures not accessory to the wireless facility or support structure a distance equal to its engineered fall zone.

C. Height. In residential districts, wireless support structures shall not exceed a height equal to one hundred ninety-nine (199) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the Town of Burgaw Board of Commissioners shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request, the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Board of Commissioners.

D. Aesthetics
   a. Lighting and Marking. Wireless facilities or wireless support structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
   b. Signage. Signs located at the wireless facility shall be limited to ownership and contact information, FCC antenna registration number (if required), and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this ordinance shall prohibit signage that is approved for other uses on property on which wireless facilities are located (e.g., approved signage at locations on which concealed facilities are located).

E. Accessory Equipment. Accessory equipment, including any buildings, cabinets, or shelters, shall be used only to house equipment and other supplies in support of the
operation of the wireless facility or wireless support structure. Any equipment not used in direct support of such operation shall not be stored on site.

F. Fencing.
   a. Ground mounted accessory equipment and wireless support structures shall be secured and enclosed with a fence not less than six (6) feet in height as deemed appropriate by the review authority.
   b. The review authority may waive the above requirements if it is deemed that a fence is not appropriate or needed at the proposed location.

Section 17-10: Miscellaneous Provisions

A. Removal and Performance Security. The applicant and the owner of record of a new wireless support structure property shall, at their own cost and expense, be jointly required to execute and file with the Town a bond to assure the faithful performance of the terms of this Section and conditions of any conditional use permit issued pursuant to this Section. The amount of the bond shall be determined by the Town based on at least two (2) estimate provided by separate contractors as obtained by the applicant and owner of record on the property site. The average of these estimates shall be posted annually with the bond adjusted at a rate of one hundred twenty-five percent (125%) the cost of demolition. The full amount of the bond or security shall remain in full force and effect throughout the term of the permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that existing prior to the issuance of the original permit. The bond shall be required to be executed and filed with the Town prior to issuance of any building permit.

B. Multiple Uses on a Single Parcel or Lot. Wireless facilities and support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

Section 17-11: Liability Insurance

A. Prior to the issuance of a building permit, the applicant may be required to provide certificates of insurance demonstrating it has a minimum of one million dollars ($1,000,000) in general liability insurance covering any liability arising out of its construction or operation of the wireless telecommunications facility or support structure. The applicant shall be required to maintain such coverage in full force until all aboveground portions of the facility (not including any part of the foundation) have been removed and all other conditions of its maintenance/removal agreement have been satisfied.

B. For a wireless telecommunications facility on Town property, the commercial general liability insurance policy shall specifically name the Town and its officers, boards, employees, committee members, attorneys, agents, and consultants as additional insureds.

C. The insurance policy shall contain an endorsement obligating the insurance company to furnish the Town with at least thirty (30) days prior written notice in advance of the cancellation of the insurance.
D. Renewal or replacement policies or certificates shall be delivered to the Town at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.

E. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than fifteen (15) days prior to the grant of the development permit, the holder of the conditional use permit shall deliver the Town a copy of each of the policies or certificates representing the insurance in the required amount.

**Section 17-12: Wireless Facilities and Wireless Support Structures in Existence on the Date of Adoption of this Ordinance**

A. Wireless facilities and support structures that were legally permitted on or before the date this ordinance was enacted shall be considered a permitted and lawful use.

B. Activities at Nonconforming Wireless Support Structures. Notwithstanding any provision of this ordinance:
   a. Ordinary maintenance may be performed on a nonconforming wireless support structure or wireless facility.
   b. Collocation of wireless facilities on an existing nonconforming wireless support structure shall not be construed as an expansion, enlargement, or increase in intensity of a nonconforming structure and/or use and shall be permitted through the administrative approval process outlined in this ordinance, provided the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing nonconformity.
   c. Substantial modification may be made to nonconforming wireless support structures utilizing the conditional use process as outlined in this ordinance.

**Section 17-13: Abandonment, Obsolescence, and Financial Responsibility**

Under the following circumstances, the Town may determine that the health, safety, and welfare interests of the Town warrant and require the removal of wireless telecommunications facilities.

A. Wireless telecommunications facilities that have not been used for a period of at least six (6) months shall be determined to be abandoned and shall be removed.

B. Permitted wireless telecommunications facilities that fall into such a state of disrepair that it creates a health or safety hazard as determined by the Town of Burgaw Building Inspector.

C. Wireless telecommunications facilities that have been located, constructed, or modified without first obtaining, or in a manner not authorized by, all required permits.

If the Town determines that one of these circumstances requires the removal of wireless telecommunications facilities, the Town shall notify the holder of the permit that said wireless telecommunications facilities are to be removed.

Towers, antennas, mounts, equipment shelters, platforms, and security barriers shall be removed at the owner’s expense within one hundred eighty (180) days of cessation of use or notification.
Article 17. Wireless Telecommunications Facilities

by the town of the necessity of the facility’s removal. The Building Inspector may establish a shorter period of time for the removal of a tower that is structurally unsound.

An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The Town may extend the time for removal or reactivation up to sixty (60) additional days upon a showing of good cause. If the tower or antenna is not removed within the time allotted, the Town may give notice that it will contract for removal within thirty (30) days following written notice to the owner. After the holder of the permit has been issued a final order to remove wireless telecommunications facilities, the town may use the bond or security provided to remove the facility.

Section 17-14: Enforcement

If the Town shall find that any of the provisions of this Ordinance are being violated, it shall notify in writing the permit holder(s), specifying the nature of the violation and what corrective measures must be taken. The Town shall order discontinuance of illegal use of land, buildings, or structure; discontinuance of any illegal work being done; or shall take any other action authorized by law to insure compliance with or to prevent violation of the provisions of this Ordinance. The Town may also use the bond or security given to take corrective action.

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.

Section 17-16: Reservation of Authority to Inspect Wireless Telecommunications Facilities

In order to verify that the holder of a permit for uses specified in this article places and constructs all wireless telecommunications facilities in accordance with all applicable codes, laws, ordinances, regulations, and other applicable requirements, the Town may inspect all facets of said holder’s facilities including but not limited to towers, antennas, and buildings or other structures constructed or located on the permitted site.
Article 18. Adult or Sexually Oriented Business

Section 18-1: Purpose and Intent

It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the Town of Burgaw and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Town of Burgaw. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material or participation in any such acts.

Section 18-2: Determination of an Adult or Sexually Oriented Business

Determinations of what classifies an adult or sexually oriented business in regard to the conditions stated in this Article shall include but not be limited to any adult arcades, adult bookstores, adult cabarets, adult motion picture theaters, massage parlors, outcall or escort services, sexual encounter establishments, sexually oriented businesses, and specified sexual activities.

As with all proposed uses within the corporate limits of the Town of Burgaw and its associated extraterritorial jurisdiction, the Land Use Administrator is responsible for making all determinations regarding the classification of uses.

Section 18-3: Conditional Use Permit

Regarding the zoning districts within the Town of Burgaw, adult and sexually oriented businesses are conditionally allowed within the I-1 and I-2 zoning districts. Any person wishing to operate an adult or sexually oriented business within the Town of Burgaw must receive a conditional use permit. A petition requesting the approval of a conditional use permit pursuant to Section 3-10: Conditional Use Permit shall be reviewed at a public hearing. In addition, as with all conditional use applications, an adult or sexually oriented business may only be granted a conditional use permit once the Planning Administrator and the Planning and Zoning Board have recommended the approval of the permit to the Board of Commissioners. Once these recommendations have occurred, the Board of Commissioners may grant approval, conditional approval, denial, or remand the application back to the Planning Administrator and the Planning and Zoning Board for further review.

In addition to the conditions set forth within the Unified Development Ordinance, any adult and sexually oriented business must comply with the following conditions:

A. The proposed adult or sexually oriented establishment is in compliance with all development standards, development requirements, and general regulations applicable to the use and development as generally set forth in this UDO.
B. The proposed adult or sexually oriented establishment is in compliance with all applicable laws of the State of North Carolina.

C. The proposed adult or sexually oriented establishment is in compliance with all terms and conditions set forth by the Board of Commissioners as a condition prior to the approval of the conditional use permit.

D. Adult Business including specified sexual activities, massage parlors, adult arcades, adult bookstores, adult cabarets, adult motion picture theaters, and adult theaters are prohibited.

Section 18-4: Buffers

In the development and adoption of this Section, it is recognized that there are some adult establishment uses which, due to their very nature, have certain objectionable operational characteristics particularly when located in close proximity to residential neighborhoods, sensitive uses such as churches and schools, and/or other adult businesses. The presence of these types of adult entertainment establishments may have an adverse impact upon property values and the quality of life in such sensitive areas. It has been acknowledged by communities across the nation that state and local governmental entities have a special concern in regulating the operation of adult establishments so as to ensure that these adverse effects will not contribute to the blighting or downgrading of adjacent neighborhoods.

The special regulations deemed necessary to control the undesirable externalities arising from these adult establishments are set forth below. The purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods, to deter the spread of urban blight, and to protect minors from the objectionable operational characteristics of these adult establishment uses by restricting their close proximity to religious uses, town parks, public or private schools, family child care homes, child care centers, and residential districts.

Section 18-5: Buffer Requirements and Other Sensitive Uses

An adult or sexually oriented business shall be at least one thousand (1,000) feet from the property line of any lot(s) devoted to a residential use as defined in the UDO and/or from the property line of:

A. A church, synagogue, mosque, temple, or building which is used primarily for religious worship and related religious activities.

B. A public or private education facility, including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds but does not include facilities used primarily for another purpose and only incidental as a school.

C. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the town which is under the control, operation, or management of the town park and recreation authorities.
D. An entertainment business which is oriented primarily towards children or family entertainment.

E. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.

F. Other adult or sexually oriented business. No more than one (1) sexually oriented business shall be operated, established, or maintained in the same building, structure, or portion thereof.

**Section 18-6: Determination of Buffer Distance**

For the purpose of this ordinance, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted to the nearest property line of the adult or sexually oriented business. Presence of a town, county, and/or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this ordinance.

**Section 18-7: Signage**

*Exterior Display*

Notwithstanding any other provisions of this Unified Development Ordinance to the contrary, all exterior displays for an adult establishment shall comply with the following regulations.

A. **Display.** No adult establishment shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window, or other opening from any public right-of-way.

B. **Number of Signs.** Not more than one (1) business wall sign shall be permitted for an adult establishment and said business wall sign shall be permitted only on the front façade of the building. All other signs or sign structures shall be prohibited.

C. **Sign Surface Area.** The sign surface area of a business wall sign for an adult establishment shall not exceed thirty (30) square feet.

**Section 18-8: Prohibition of Minors in Sexually Oriented Business**

Persons under the age of eighteen (18) years shall not be allowed on the premises of any sexually oriented business.

**Section 18-9: Injunction of Sexually Oriented Business**

A person who operates or causes to be operated a sexually oriented business without a valid conditional use permit is subject to a suit for injunction as well as prosecution for any and all criminal violations.
Section 18-10: Civil Penalties

A person who violates this ordinance shall be assessed a $200.00 civil penalty. Each day that a violation continues unabated shall constitute a separate violation subjecting the person to daily civil penalties. Furthermore, all other relevant state and federal laws which regulate sexually oriented businesses apply to such business operating within the Town of Burgaw. In addition, violations of these state and federal laws may be assessed any associated fines and/or penalties.