



AGENDA | BOARD OF COMMISSIONERS REGULAR MEETING

November 12, 2024 at 4:30 PM

Burgaw Town Center
108 E Wilmington St

1. Call to Order

2. Invocation

3. Pledge of Allegiance

4. Approval of Agenda

5. Approval of Consent Agenda

*Items under Consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.

A. Approval of the September 10, 2024 Regular Meeting Minutes

B. Approval of the September 10, 2024 Closed Session Minutes

C. Approval of the October 8, 2024 Regular Meeting Minutes

D. Approval of the October 8, 2024 Closed Session Minutes

E. Ordinance 2024-28 Amending the FY 2024-2025 Annual Budget to recognize additional Building Permit revenue and Inspections departmental expenditures.

F. Ordinance 2024-29 Amending the FY 2024-2025 Annual Budget to reflect changes to the Schedule of Fees

6. Special Requests/Presentations

A. Employee Introductions

- B. Swearing In of Burgaw Firefighters Michael Willingmyre, Joseph Williams Jr., and Parker Brown - Mayor Dawson
- C. Life Saving Award and Citizens Commendation Award - Johnathan Prevatte, Fire Chief
- D. Recognition of the Promotion of Sergeant Kennedy, Burgaw Police Department - Jim Hock, Police Chief
- E. FY 2023-2024 Audit Presentation - Lee Grissom, S. Preston Douglas & Associates
- F. Burgaw Rotary Club - Fee Waiver Request
- G. Burgaw Area Chamber of Commerce - Street Closure Request for Annual Christmas Parade

7. Departmental Items

- A. **Information Technology Department**
Dustin McCullen, IT Manager
- B. **Public Works Department**
Alan Moore, Public Works Director
- C. **Fire Department**
Johnathan Prevatte, Fire Chief
- D. **Facilities & Grounds Department**
Damon Stanley, Facilities & Grounds Director
- E. **Parks, Recreation & Tourism Department**
Cody Suggs, Parks & Recreation Director
- F. **Planning Department**
Ron Meredith, Planning Director
- G. **Building Inspections Department**
Louis Hesse, Building Code Administrator
- H. **Finance Department**
Wendy Pope, Finance Officer

I. Human Resources Department

Kimberly Rivenbark, Human Resources Director/Deputy Town Clerk

J. Police Department

Jim Hock, Police Chief

8. Public Forum

9. Public Hearing

A. Consideration of a text amendment to the Unified Development Ordinance requested by Planning Staff to amend Section 8.14, to add Auction Houses (excluding livestock) as a use in the I-1.

I. Resolution 2024-29 Adopting a statement of consistency regarding text amendments of the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 8 Zoning, Section 8.14. Table of Permitted Uses, to add Auction Houses (excluding livestock) as a by-right use in the I-1 zoning district.

II. Ordinance 2024-30 A text change amendment to the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 8, Section 8.14. Table of Permitted Uses, to add Auction Houses (excluding livestock) as a by-right use in the I-1 zoning district.

B. Consideration of a text amendment to the Unified Development Ordinance requested by Planning Staff to amend Section 9.27.3, to modify tree mitigation requirements and tree removal requirements of public property.

I. Resolution 2024-30 Adopting a statement of consistency regarding text amendments of the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 9, Sections 9.27.3 to add language related tree mitigation requirements and tree removal requirements of public property.

II. Ordinance 2024-31 A text change amendment to the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 9, Sections 9.27.3 to add language related tree mitigation requirements and tree removal requirements of public property.

C. Consideration of a text amendment to the Unified Development Ordinance requested by Planning Staff to amend Section 9.27.3, to modify the tree inventory requirements.

- I. Resolution 2024-31 Adopting a statement of consistency regarding text amendments of the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 9, Sections 9.27.3. to add language providing an additional option for the tree inventory.
- II. Ordinance 2024-32 A text change amendment to the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 9, Sections 9.27.3. to add language providing an additional option for the tree inventory.

10. Items from Assistant Manager

- A. Project Updates

11. Items from Manager

- A. Burgaw Business Improvement District (BID) Extension
- B. Project Updates

12. Items from Attorney

13. Items from Mayor and Board of Commissioners

14. Closed Session

- A. Pursuant to NC GS 143-318.11(a)(3) Attorney/Client Privilege

15. Adjournment

**TOWN OF BURGAW BOARD OF COMMISSIONERS
REGULAR MEETING**

DATE: September 10, 2024
TIME: 4:30 PM
PLACE: Burgaw Town Center
108 E Wilmington St
BOARD MEMBERS PRESENT: Mayor Olivia Dawson
Mayor Pro-tem James Malloy
Commissioner Jan Dawson
Commissioner Bill George
Commissioner Michael Pearsall
BOARD MEMBERS ABSENT: Commissioner William Rivenbark

1. Call to Order

The meeting was called to order by Mayor Dawson.

2. Invocation

The invocation was led by Commissioner Malloy.

3. Pledge of Allegiance

The Pledge of Allegiance was said by all.

4. Approval of Agenda

Mayor Dawson asked the board to consider amending the agenda by adding item #6E, Burgaw Baptist Church-Street Closure Request, and item #7EII, Pender High School Homecoming Parade. Commissioner George made a motion to approve the agenda with the amendments requested. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

5. Approval of Consent Agenda

*Items under Consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.

Commissioner George made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

A. Approval of the June 18, 2024 Closed Session Minutes

- B. Approval of the July 9, 2024 Regular Meeting Minutes
- C. Approval of the July 9, 2024 Closed Session Minutes
- D. Resolution 2024-24 Adopting the most recent Municipal Records Retention and Disposition Schedule
- E. Ordinance 2024-21 Amending the FY 2024-2025 budget to include a Fund Balance Appropriation for sidewalk repair
- F. Ordinance 2024-22 Amending the FY 2024-2025 budget to include a Fund Balance Appropriation for purchase of speed limit signs
- G. Ordinance 2024-23 Adoption of Capital Project Ordinance for the Town of Burgaw Stormwater Masterplan

6. Special Requests/Presentations

A. Employee Recognitions

Ron Meredith, Planning Director, introduced Donna Sayre as the new Community Development Coordinator.

Alan Moore, Public Works Director, introduced Justin Murray as the new Equipment Operator.

Johnathan Prevatte, Fire Chief, advised four (4) new part time Firefighters have recently been hire (employee photos shown on the screen). Chief Prevatta also recognized Fire Marshal MaryBeth Kratovel for achieving the Level 3 Fire Inspector certification.

B. Sydney Lewis - Special Events Application

Sydney Lewis, Burgaw's Best/Lion's Crest Martial Arts, advised her business would like to host a trunk-or-treat event on October 31st between 5:00 PM and 7:00 PM, and requested parking spaces be blocked on Wright Street between Courthouse Avenue and Fremont Street and on Fremont Street between Walker Street and Wright Street. She also said if this was not acceptable due to safety concerns, her other plan would be to request use of Town Hall parking lot. After discussion by the board and considering the Fire Department would be handing out candy, along with the churches along Bridgers Street, Commissioner Malloy made a motion to allow use of the parking lot behind the Burgaw Town Center for set up of a trunk-or-treat event beginning at 4:00 PM on October 31, 2024, including use of 4-5 garbage roll carts. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

C. Pender United - Street Closure Request

A representative with Pender United advised their annual Community Day will be held on September 28, 2024 and requested closure of Fremont Street from Wright Street to Walker Street from 3:00 PM to 7:00 PM for two food trucks. Mr. Suggs said we could close it at 3:00 PM but there is no guarantee there will not be cars in the area. He added that it would be the event host's responsibility to have the vehicles removed if needed. Pender United also requested use of the town stage within their special event application. After discussion, it was determined that set up would begin at 11:00 AM and the best area for the food trucks would be on Wright Street between Courthouse Avenue and Fremont Street. There was additional discussion about the town stage. Mr. Suggs advised it is getting older and there are a few cosmetic issues. Attorney Rivenbark recommended having a hold harmless agreement for any type of town property that is loaned out for use. He can prepare a draft form to include in the special event application.

Commissioner Malloy made a motion to approve closure of Wright Street between Courthouse Avenue and Fremont Street beginning at 11:00 AM on Saturday, September 28, 2024. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

D. Duke Energy Progress, LLC Franchise Ordinance Renewal

Pam Hardy, District Manager for Duke Energy Progress, was present for the discussion of renewal of the Duke Energy Progress, LLC Franchise Ordinance. Ms. Hardy gave a brief overview of her position as District Manager and updates within the community.

Mr. Gantt advised the current 30-year franchise ordinance is up for renewal this year. He advised Duke Energy Progress has requested a 60-year renewal ordinance. Ms. Hardy said the request is for 60 years, but are open to 30 years. She said maintenance is included within the agreement. Mr. Gantt said the town has worked with with Duke

Energy Progress in the past. Commissioner Pearsall asked the difference in a 30-year term verses a 60-year term agreement. Mr. Gantt said there is really nothing different between the two lengths of terms on a town perspective. Certain aspects of the agreement are governed by the Utilities Commission. The agreement between the town and Duke Energy Progress is mainly for the purpose of allowing Duke Energy Progress access to their poles and on-going maintenance. Commissioner Pearsall said he believes the 30 year agreement is more reasonable. Commissioner Dawson and Mayor Dawson agreed. Commissioner George asked about the power poles along the sides of NC Highway 53 East. Ms. Hardy introduced Kelly Penny, Senior Stakeholder Engagement, briefly spoke and advised those poles would be in the area of Four County Electric. Mr. Gantt said, according to town ordinance, the board must consider franchise agreements during two regular meetings. Commissioner Malloy said he would like further discussion on this matter before voting. Commissioner Pearsall spoke about issues with poles around town and communication with Duke Energy Progress. There was discussion about the process of replacing Duke Energy Progress poles and a delay of the old poles being removed. Mr. Gantt said there are other utilities that are attached to the Duke Energy Progress poles that take time to be moved. Ms. Penny also spoke about the process of work orders, etc. Commissioner Dawson asked if there was anything the town could do to help speed the process up when other utility companies need to remove or move their lines. Ms. Hardy said she would have a conversation with Mr. Gantt on ways the town could possibly help. She also said she understands the town may not have received the best service from Duke Energy Progress in the past, but as the District Manager of six counties, she is here to engage with the communities and make sure the best service is provided.

Commissioner George made a motion to approve the agreement for 30 years. The motion was seconded by Commissioner Pearsall. Commissioner Dawson, George, and Pearsall voted in favor of the motion; Commissioner Malloy abstained. Commissioner Malloy stated he would not vote against this and would approve it, but he has questions that he wants answers to first.

E. Burgaw Baptist Church - Street Closure Request

Laura Hinson, with Burgaw Baptist Church, requested closure of Bridgers Street between Wright Street and Walker Street again this year on October 31, 2024 for a trunk-or-treat event hosted by the Baptist Church and the Methodist Church. The request is to close the street beginning at 4:30 PM and will reopen by 8:00 PM at the latest. Commissioner George made a motion to approve the request. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

7. Departmental Items

A. Information Technology Department

Dustin McCullen, IT Manager

Dustin McCullen, IT Manager, reported approximately 60 IT service requests had been completed over the past month. He also said we have begun the process of updating the town website. Mr. McCullen said he continues to improve our IT system to keep it secure.

B. Public Works Department

Alan Moore, Public Works Director

Alan Moore, Public Works Director, said his department has been working on installing water and sewer taps, I&I issues, re-reads, patching, and service line inventory. He also advised the box culvert for North Walker Street should be here within the next couple of weeks.

Mayor Dawson how much notice does the sidewalk contractor need to begin work on Courthouse Avenue, as previously discussed in the work session. Mr. Moore said they would need about a 2 week notice.

C. Fire Department

Johnathan Prevatte, Fire Chief

Johnathan Prevatte, Fire Chief, reported his department responded to approximately 75 calls for service over the past month. 325 training hours were completed in August and three (3) new volunteers joined the department. Chief Prevatte advised the department assisted with numerous community events, station tours, education opportunities and smoke detector installations at residences. He also said a few of the volunteer members are moving forward with state certification.

D. Facilities & Grounds Department

Damon Stanley, Facilities & Grounds Director

Damon Stanley, Facilities & Grounds Director, was not present at the meeting.

E. Parks, Recreation & Tourism Department

Cody Suggs, Parks & Recreation Director

Cody Suggs, Parks & Recreation Director, gave an update about the splash pad fundraiser from the Parks Foundation. He said the committee has agreed to set a goal of \$150k. He said once that goal is met, a charitable donation will be made from the Parks Foundation to the town account so that we can apply for matching PARTF grant funding.

Mr. Suggs gave an update on the West Side Trail project. He said the contractor is preparing a timeline for the project, survey work is complete, and design work has

begun. Commissioner Pearsall requested the timeline once that is complete. Mr. Suggs said he would include the timeline in the weekly manager update.

Mr. Suggs said he is working on the Parks & Recreation Master Plan and plans to present to the board in the coming months.

I. Master List of Street Closures

Instead of coming before the board for street closure requests for reoccurring town events, Mr. Suggs presented a master list of street closure for routine events hosted by the town. There being no concerns voiced by the board, Commissioner Dawson made a motion to approve the list of street closures below. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

October 11th and 25th – Autumn Concerts

- Closure of parking spaces on Courthouse Avenue from Wright Street to Alley way. 5:00am-9:00pm day of the event.
- Closure of Courthouse Ave from Wright Street to Alley way. 3:00pm – 9:00pm day of the event.

October 19th – Autumn Fest

- Closure of Fremont Street from Wright Street to Walker Street. 12:00am – 7:00pm day of the event.
- Closure of Wright Street from Fremont Street to Highway 53. 12:00am -7:00pm day of the event.
- Closure of Courthouse Avenue from Wright Street to the Alley. 12:00am-7:00pm day of the event.

November 30th – Christmas Tree Lighting

- Closure of parking spaces on both sides of Wright Street from Fremont Street to Courthouse Avenue. 5:00am – 9:00pm day of the event.
- Closure of Wright Street from Courthouse Avenue to Fremont Street. 4:30pm – 9:00pm day of the event.

December 7th - Christmas on the Square

- Closure of Wright Street from Courthouse Avenue to Fremont Street. 6:00am – 5:00pm the day of the event.

December 31st - New Years Eve Blueberry Drop

- Closure of parking space on both sides of Wright Street from Fremont Street to Courthouse Avenue. 5:00am – 9:00pm.
- Closure of Wright Street from Fremont Street to Courthouse Avenue. 4:00pm – 9:00pm day of the event.
- Closure of Fremont Street from Wright Street to Walker Street. 5:00am – 9:00pm day of the event.
- Dickerson Street from Industrial Drive to Williams Street. 7:00pm – 7:30pm day of the event.
- Clark Street from Dudley Street to Dickerson Street. 7:00pm-7:30pm day of the event.

Summer on the Square – June 6th, June 20th, July 11th, July 25th, Aug 8th (2025)

- Closure of parking spaces on Wright Street (courthouse side) from Fremont Street to Courthouse Ave. 5:00am – 9:00pm.

II. Pender High School Homecoming Parade

On behalf on Pender High School, Mr. Suggs requested approval of temporary street closures for the upcoming annual Pender High School Homecoming Parade on September 27, 2024 beginning at 4:00 PM. The route will be the same as years past: leave the middle school and circle downtown, including South Dickerson Street, East Fremont Street, South Wright Street and West Williams Street. Chief Hock is aware of the request and will have staff on site during said event. There being no discussion, Commissioner Malloy made a motion to approve the request as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

F. Planning Department

Ron Meredith, Planning Director

Ron Meredith, Planning Director, advised he is working on the RCCP grant, Pender County Health & Human Services site plan review, code enforcement, text amendments and UDO updates. He also said he and Mr. Hesse have been training their new employee, Donna Sayre.

I. Road Naming Request by Applicants Jamie and Chad Getz

Mr. Meredith advised a road naming request was received by Jamie and Chad Getz along US Highway 117 North near the area of Peterson Hill Avenue, to name a private road "Tatum Trail." Mr. Meredith advised the name has been reviewed by Pender County E-911 Addressing department and there are no issues. Commissioner George made a motion to approve the road name request as presented. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

II. Road Naming Request by Applicant Patricia Adams

Mr. Meredith advised a road naming request was received by Patricia Adams to name two streets in the area of 701 North Wright Street. One street is requested to be named Alonza James Road and MJ Woods Drive. Mr. Meredith advised the names have been reviewed by Pender County E-911 Addressing department and there are no issues. Commissioner Malloy made a motion to approve the road name request as presented. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

G. Building Inspections Department

Louis Hesse, Building Code Administrator

Louis Hesse, Building Code Administrator, advised all projects are making progress. Commissioner Pearsall commented on the amount of building occurring in his neighborhood and the ongoing concern with the erosion and drainage from the construction work. Mayor Dawson spoke about the infill going on around town and clarified these lots did not have to be rezoned.

H. Finance Department

Wendy Pope, Finance Officer

Wendy Pope, Finance Officer, advised she is the ex-officio member of the Parks Foundation and reminded everyone that donations for the splash pad are tax deductible.

I. Town of Burgaw Internal Control Policies

Ms. Pope briefly explained the policy included in the agenda packet to the board for review. She said the policy would apply to all town departments, not just the Finance Department. There being no concerns or questions, Commissioner Pearsall made a motion to approve the policy presented by Ms. Pope. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

II. Resolution 2024-25 Allowable Costs and Cost Principles for Expenditure of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds by North Carolina Local Governments

Ms. Pope briefly explained Resolution 2024-25. Attorney Rivenbark has reviewed the resolution. Commissioner Pearsall made a motion to approve the resolution as

presented. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

I. Human Resources Department

Kimberly Rivenbark, Human Resources Director/Deputy Town Clerk

Kimberly Rivenbark, Human Resources Director, advised of current employment opportunities.

J. Police Department

Jim Hock, Police Chief

Jim Hock, Police Chief, said he recently assisted UNCW by helping with Police Chief assessments. Captain Fuller will be helping them with their Captain assessments as well. Chief Hock gave other updates within the department, including Patrol Officer vacancies and visiting James Sprunt Community College to speak with the BLET class.

8. Public Forum

Mayor Dawson called for a break between 5:18 PM and 5:31 PM, prior to Public Forum.

There were no speakers for Public Forum.

9. Items from Assistant Manager

A. Updates on current projects

Chief Hock said there was not much more to speak about outside of what was already listed in the weekly manager updates. He added that some of the older police vehicles are ready to be surplussed with Enterprise and will be getting additional vehicles soon.

B. Other items to be announced

10. Items from Manager

A. Updates on current projects

Mr. Gantt gave an update on the Storm Water Master Plan project. He said the contract and funding allows up to 800 structures to inventory and engineering staff will be in various areas of town beginning at the end of the month.

Mr. Gantt advised he recently met with a representative from Senator Ted Budd's office regarding possible funding opportunities for renovation of the second floor of the Old Jail.

Mr. Gantt said he has a meeting scheduled with Duke Energy Progress to look at the downtown area regarding the feasibility of moving power lines.

Mr. Gantt advised staff is moving forward with details regarding sidewalk improvements on Courthouse Avenue. He said he is waiting to see what Duke Energy Progress says about the power lines. Mayor Dawson reminded everyone of the upcoming events planned for Courthouse Avenue.

Mr. Gantt gave an update on Wall Recycling regarding trash collection in town since they began servicing our area in July. He said there was one complaint about a dumpster being picked up prior to 7:00 AM. Mr. Gantt said he reached out to our representative and they assured it would not happen again. Mr. Gantt also said there are still some lingering issues with GFL and Waste Management; there are some roll carts still around town, as well as a dumpster that is currently blocking access to a Wall Recycling dumpster. After discussion, Mr. Gantt requested the board consider implementing a fine for the containers in town that are not Wall Recycling and adding this fee to our fee schedule. Mayor Dawson suggested to send a final notice to the companies in violation. After discussion, Commissioner Pearsall made a motion to approve the recommended fee to be added to the FY 2024-2025 fee schedule: "Violation of Exclusive Solid Waste Contract by Nonauthorized Parties, \$250/container/day, applies to all commercial, institutional, educational, government, and residential containers placed by contractors other than the Town of Burgaw's contracted Solid Waste Provider (excludes construction dumpsters placed on a temporary basis for construction purposes). The motion was seconded by Commissioner George and carried by unanimous vote.

B. Other items to be announced

11. Items from Attorney

Attorney Rivenbark stated he only had items for Closed Session.

12. Items from Mayor and Board of Commissioners

Mayor Dawson requested the board consider allocating additional funds to the Beautification Committee for Christmas decor. Commissioner Dawson said the Burgaw

Town Center will be on the Christmas Home Tour hosted by the Pender County Historical Society this year and the committee wants to make sure it is nicely decorated for Christmas. Mayor Dawson and Commissioner Dawson asked the board to approve \$500-\$700 for additional Christmas decor. After brief discussion, Commissioner Pearsall made a motion to approve \$700. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

13. Closed Session

- A. Pursuant to NC GS 143-318.11(a)(3) Attorney/Client Privilege and NC GS 143-318.11(a)(6) Personnel

Commissioner Dawson made a motion to go into closed session at 6:31 PM pursuant to NC GS 143-318.11(a)(3) Attorney/Client Privilege and NC GS 143-318.11(a)(6) Personnel. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

Commissioner Malloy made a motion to go back into open session at 7:44 PM. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

Upon returning to open session, a motion was made by Commissioner Pearsall to approve Commissioner Malloy to serve as Chaplin for the Fire Department, Police Department, and Town Hall. The motion was seconded by Commissioner George and carried by unanimous vote.

14. Adjournment

Commissioner George made a motion to adjourn the meeting at 7:45 PM. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

**TOWN OF BURGAW BOARD OF COMMISSIONERS
REGULAR MEETING**

DATE: October 8, 2024
TIME: 4:30 PM
PLACE: Burgaw Town Center
108 E Wilmington St
BOARD MEMBERS PRESENT: Mayor Olivia Dawson
Mayor Pro-tem James Malloy
Commissioner Jan Dawson
Commissioner Bill George
Commissioner Michael Pearsall
Commissioner William Rivenbark
BOARD MEMBERS ABSENT:

1. Call to Order

Mayor Dawson called the meeting to order at 4:30 PM.

2. Invocation

The invocation was led by Commissioner Malloy.

3. Pledge of Allegiance

The Pledge of Allegiance was said by all.

4. Approval of Agenda

Mayor Dawson asked to amend the agenda by adding item #6B, North Carolina Blueberry Festival Association Street Closure Request, under Special Requests, as well as adding item #13B, Duke Energy Progress, LLC Franchise Ordinance Renewal, under Items from Mayor and Board of Commissioners. Commissioner George made a motion to approve the agenda as amended. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

5. Approval of Consent Agenda

*Items under Consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Board.

Commissioner Dawson made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

- A. Approval of the August 27, 2024 Special Meeting Minutes
- B. Approval of the August 15, 2024 Special Meeting Minutes
- C. Approval of the August 13, 2024 Regular Meeting Minutes
- D. Approval of the August 13, 2024 Closed Session Minutes
- E. Approval of the February 27-28, 2024 Special Meeting Minutes
- F. Ordinance 2024-24 Amending the FY 2024-2025 budget to include a Fund Balance Appropriation for T-shirt purchase in the Fire Department
- G. Ordinance 2024-25 Amending the FY 2024-2025 budget to include a Fund Balance Appropriation for the Beautification Committee

6. Special Requests/Presentations

A. Employee Recognitions

Damon Stanley, Facilities & Grounds Director, introduced the newest employee to Facilities & Grounds, Andy Barnes. Mr. Barnes has filled the part-time Maintenance Worker position.

Johnathan Prevatte, Fire Chief, announced Michael Willingmyre is now a full-time Firefighter with the Fire Department.

Alan Moore, Public Works Director, announced the promotion of employee Ramiro Castaneda, Jr., as Water & Sewer Superintendent Trainee.

B. North Carolina Blueberry Festival Association - Street Closure Request

Crystal Batts, Executive Director of the NC Blueberry Festival, requested closure of Courthouse Avenue from Wright Street to Dickerson Street, as well as use of Dees Park, from 12:00 AM to 6:00 PM on November 16, 2024 for a chili cookoff fundraiser for the festival. All businesses on Courthouse Avenue have been notified.

Commissioner Dawson made a motion to approve the request as presented. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

7. Departmental Items

Prior to Departmental Updates, Mayor Dawson allowed John Westbrook to speak to the board regarding a tree he wishes to donate to the town in memory of Judy Futch. There was prior discussion about planting it in the green space area next to the Burgaw Town Center. After discussion, the board was in agreement to move forward with planting the tree in the appropriate location in the green space next to the Planning & Inspections building/Burgaw Town Center. Mayor Dawson will reach back out to Mr. Westbrook once the exact location is determined.

A. Information Technology Department

Dustin McCullen, IT Manager

Dustin McCullen, IT Manager, reported approximately 30 help desk tickets were resolved during September. He also said we are on schedule to replace several laptops in the Police Department that was approved in the budget. Website updates have begun.

B. Public Works Department

Alan Moore, Public Works Director

Alan Moore, Public Works Director, advised of routine work within his department, including water and sewer taps, water leak repairs, and sidewalk improvements in the area of Fremont Street and Walker Street. He said the box culvert for North Walker Street is in but it is being held in storage at the company until work can be completed. Mr. Moore said Christmas decorations will begin going up around town on November 1, 2024.

C. Fire Department

Johnathan Prevatte, Fire Chief

Johnathan Prevatte, Fire Chief, advised there were approximately 76 calls for service during September. 265 training hours were completed as well. He advised several members of the department attended Eastern Carolina Fire College at Cape Fear Community College recently. Chief Prevatte spoke about improvements on training resources, as well as the success of the touch-a-truck event recently held at Pender Memorial Park.

D. Facilities & Grounds Department

Damon Stanley, Facilities & Grounds Director

Damon Stanley, Facilities & Grounds Director, updated the board on the progress of the electrical upgrades around the Courthouse Square. He also said there are mold issues in the Planning & Inspections building and work is in progress to get this taken care of.

Commissioner Pearsall asked Mr. Stanley about uniforms for the employees in his department. Mr. Stanley advised his employees should be wearing them, but sometimes they have on safety vests. Mr. Stanley will reiterate to his staff to make sure they are wearing their uniforms each day.

E. Parks, Recreation & Tourism Department

Cody Suggs, Parks & Recreation Director

Cody Suggs, Parks & Recreation Director, advised there is an event at Dees Park every Friday night in October. Autumn Fest is happening on October 19, 2024 from 10:00 AM to 6:00 PM on the Courthouse Square. Mr. Suggs gave an update on the Parks Foundation's splash pad fundraiser, and also gave a brief update on the progress of the West Side Trail project.

F. Planning Department

Ron Meredith, Planning Director

Ron Meredith, Planning Director, advised the site plan for Pender County Health & Human Services facility has been approved. He also said he would work with John Westbrook on the placing of the tree he wants to donate to the town in memory of Judy Futch. Mr. Meredith said he is working on updating the UDO and if the board has any requests to let him know. He also said he spoke to the state regarding the erosion concerns at construction sites, voiced by Commissioner Pearsall. Mr. Meredith said some of the sites don't qualify for the state regulations because they are less than an acre in lot size, but the town can implement guidelines in the UDO if they wish.

G. Building Inspections Department

Louis Hesse, Building Code Administrator

Louis Hesse, Building Code Administrator, said inspections are very busy and gave an overview of various projects, including the Health & Human Services plans and Pender County Law Enforcement Center. He added there are over 20 residential permits currently underway.

There was discussion about NC DOT improvements along Old Savannah Road in the area of the new Pender County Law Enforcement Center, as well as moving the driveway to enter the facility that would be located directly across from a residence. Commissioner Rivenbark said the last he heard in a NC DOT meeting, was that the

driveway was staying in the same location as originally presented. Commissioner Dawson and Pearsall spoke about the dangerous curves along the area. Mr. Meredith said he could reach back out to NC DOT but curves are normally looked at during the driveway permitting. Commissioner Dawson requested that we stress to NC DOT regarding the large trucks traveling that road and the curves need to be wider. Mayor Dawson also commented on the neighbor that requested a buffer next to the property and said the county needs to touch base with them regarding this.

H. Finance Department

Wendy Pope, Finance Officer

Wendy Pope, Finance Officer, advised she is working on the June 30, 2024 audit and everything is on track to be submitted by the October 31st deadline. She also said it looks like we are going to have to pull money from fund balance due to budget appropriations that occurred during FY 2023-2024. Commissioner Rivenbark and Mayor Dawson requested the most recent audit be visible on the website. Mayor Dawson also asked Ms. Pope if we are on track with ARPA deadline; she advised we were.

I. Human Resources Department

Kimberly Rivenbark, Human Resources Director/Deputy Town Clerk

Kim Rivenbark, Human Resources Director, advised a new Patrol Officer will be starting soon. Commissioner Pearsall asked about the vacant positions in the Fire Department. Ms. Rivenbark advised those have been filled.

J. Police Department

Jim Hock, Police Chief

Jim Hock, Police Chief, advised the new Patrol Officer, Jacob Valade, will be starting October 14, 2024.

8. Public Forum

Mayor Dawson called for a break between 5:18 PM and 5:30 PM, prior to Public Forum.

John Westbrook signed up to speak, but stated he would allow Vernon Harrell to speak on his behalf.

Jon Martel, 235 Oakland Drive, Wilmington, spoke about the local hospital services and the importance of quality care.

Vernon Harrell, 108 N. McRae Street, spoke about the improvements along Courthouse Avenue and gave a petition to the Town Clerk for the record, showing support of the improvements along Courthouse Avenue. Mayor Dawson advised we

are meeting with Duke Energy Progress regarding improvements to the utility lines and then we will move forward from there.

9. Public Hearings

- A. Consideration of a text amendment to the Unified Development Ordinance requested by Planning Staff to amend Section 8.15, to add recreational and vacation camps (except campgrounds) as a use in the I-1 and O&I.

Mayor Dawson declared the public hearing open at 5:41 PM.

Mr. Meredith reviewed the request as explained in Ordinance 2024-26. Mayor Dawson and Commissioner Rivenbark asked for clarification on this change and what this would allow the applicant to do. Mr. Meredith recognized Joe Boyd, representing the project requesting the change, said this would allow overnight stays for special needs camps at a facility in the zoning district. After explanation and brief discussion, the board agreed to allow this type of use.

Mayor Dawson declared the public hearing closed at 5:47 PM.

- I. Resolution 2024-26 Adopting a statement of consistency regarding text amendments of the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 8 Zoning, Section 8.14, Table of Permitted Uses, to add the use of recreational and vacation camps (except campgrounds) as a use in the I-1 and O&I.

Commissioner Pearsall made a motion to approve Resolution 2024-26 as presented. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

- II. Ordinance 2024-26 A text change amendment to the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 8 Zoning, Section 8.14, Table of Permitted Uses, to add the use of recreational and vacation camps (except campgrounds) as a use in the I-1 and O&I.

Commissioner Rivenbark made a motion to approve Ordinance 2024-26 as presented. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

- B. Consideration of a text amendment to the Unified Development Ordinance requested by Planning Staff to amend Section 8.15 use standards, to modify language related to the Bars, Cocktail Lounge, and/or Nightclubs use in the (PUD) (B-1, B-2) and to modify separations between uses.

Mayor Dawson declared the public hearing open at 5:47 PM.

Mr. Meredith reviewed the request as described in Ordinance 2024-27. There was brief discussion regarding parking and clarification on the request. Mr. Meredith said this amendment would remove the minimum separation between bars, cocktail lounge, and/or nightclubs to churches, schools, public parks or existing residential structures.

Mayor Dawson declared the public hearing closed at 5:56 PM.

- I. Resolution 2024-27 Adopting a statement of consistency regarding text amendments of the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 8 Zoning, Section 8.15 Use Standards, to remove the minimum separation between Bars, Cocktail Lounges, and/or Nightclubs to churches, elementary schools, public parks, or existing residential structures as measured by a straight line between the closest exterior walls of the principal structures.

Commissioner Malloy made a motion to approve Resolution 2024-27 as presented. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

- II. Ordinance 2024-27 A text amendment to the Town of Burgaw Unified Development Ordinance requested by staff of the Town of Burgaw to amend Chapter 8 Zoning, Section 8.15 Use Standards, to remove the minimum separation between Bars, Cocktail Lounges, and/or Nightclubs to churches, elementary schools, public parks, or existing residential structures as measured by a straight line between the closest exterior walls of the principal structures.

Commissioner Rivenbark made a motion to approve Ordinance 2024-27 as presented. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

10. Items from Assistant Manager

Chief Hock advised the box culvert for the North Walker Street project will be held in storage at the company until it is ready to be installed. Chief Hock also advised items are being purchased as approved with the \$240k state grant funding.

11. Items from Manager

Mr. Gantt updated the board on the Storm Water Master Plan project and advised the surveying has had a delayed start due to weather. They will begin downstream and work their way upstream.

Mr. Gantt advised we are still waiting on final documents for the Water & Sewer Master Plan. He said once these are received, we can bid the project out. He said it would be expensive but will be covered within the \$10.6 million dollar grand funding, as

previously approved and discussed by the board.

12. Items from Attorney

Attorney Rivenbark was not present at this meeting.

13. Items from Mayor and Board of Commissioners

Commissioner Dawson suggested to include wording on the advisory board applications that town boards are working boards such as attending meetings and events. Ms. Wells will update the application.

Commissioner Malloy said he was thankful for the work from everyone.

Mayor Dawson spoke about striping no parking areas and crosswalks. There was also discussion about various signs around town that need to be replaced or cleaned. Mr. Gantt will get a list of what needs to be done.

There was discussion about parking on the railroad right-of-way, as previously spoken about in the past. Mr. Gantt said NC DOT Rail has no issues, but the town needs to understand the designated parking areas would be removed if the rail plans to come back through town. Commissioner Malloy requested to work on getting this taken care of, to provide additional parking in the downtown area. Mr. Gantt will work on getting an encroachment agreement for this project.

Commissioner Rivenbark asked about the permitting process for the golf carts, as previously approved by the board. Chief Hock said we are working on implementing the program and will begin advertising in November with permitting starting in January.

Mayor Dawson mentioned to Mr. Meredith about looking at vape shops when updating the UDO.

A. Consideration of a Parks & Recreation Advisory Board application

Mayor Dawson advised William Stanfield has applied to be on the Parks & Recreation Advisory Board. She said he owns a business and is interested in being involved with the town. There being no objections, Commissioner Rivenbark made a motion to appoint William Stanfield to the Parks & Recreation Advisory Board. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

B. Duke Energy Progress, LLC Franchise Ordinance Renewal

Mr. Gantt advised this renewal was first reviewed and voted on during the September meeting. According to the town Code of Ordinances, this type of ordinance renewal must be considered and voted on twice in two regular meeting sessions by the Board of Commissioners. Commissioner Pearsall advised Attorney Rivenbark was going to

review the summary statement within the renewal and if he was okay with it, then he was in agreement. After brief comments, Commissioner Malloy made a motion to approve the Duke Energy Progress, LLC Franchise Ordinance Renewal for a 30-year term, as previously discussed at the September meeting. The motion was seconded by Commissioner Pearsall and carried by unanimous vote.

14. Closed Session

A. Pursuant to NC GS 143-318.11(a)(6) Personnel

Commissioner Rivenbark made a motion to go into closed session at 6:15 PM pursuant to NC GS 143-318.11(a)(6) Personnel. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Commissioner Dawson made a motion to go back into open session at 7:47 PM. The motion was seconded by Commissioner Malloy and carried by unanimous vote.

15. Adjournment

Upon returning to open session, Commissioner Malloy made a motion to approve a Building Inspector position and increase revenues by \$200k as well as expenditures by \$200k. The motion was seconded by Commissioner Rivenbark and carried by unanimous vote.

Commissioner Dawson made a motion to adjourn the meeting at 7:49 PM. The motion was seconded by Commissioner Malloy and carried by unanimous vote.



**Town of Burgaw
ITEM REPORT**

Item: 5E

DATE OF MEETING: November 12, 2024 DEPARTMENT OF ORIGIN: Finance	DATE SUBMITTED: 11/05/2024 SUBMITTED BY: Wendy Pope, Finance Director
AGENDA ITEM DESCRIPTION: Ordinance 2024-28 Amending the FY 2024-2025 Annual Budget to recognize additional Building Permit revenue and Inspections departmental expenditures.	
SUMMARY STATEMENT: Due to the anticipated demand for building in the area, the Inspections department expects increased revenues. By amending the budget to account for these revenues, the Town can increase the budgeted expenditures for additional personnel.	
STAFF RECOMMENDATION AND REQUESTED ACTION:	
FINANCIAL IMPACT INCLUDING FUNDING SOURCE:	
FINANCE DIRECTOR COMMENTS:	
ATTACHMENTS (IF ANY): BOA Building Permit Revenues	

ORDINANCE 2024-28

AMENDING FISCAL YEAR 2024-2025 ANNUAL BUDGET Increasing Revenues and Expenditures

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2024-2025 on June 26, 2024; and

WHEREAS, the General Fund is anticipating more revenue than originally budgeted from Building Permits within the Town, and the Board of Commissioners would like to recognize this revenue to cover expenses related to personnel and other costs the Town incurs; and

WHEREAS, the Town of Burgaw would like to recognize \$200,000 of these revenues, therefore additional revenues and expenditures must be recognized.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

Section 1: The FY 2024-2025 budget be altered to reflect the following changes:

INCREASE BUDGETED REVENUE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
10-3510-40-400	Building Permits	\$ 200,000

INCREASE BUDGETED EXPENDITURE

<u>Account Number</u>	<u>Account Description</u>	<u>Amount</u>
10-5500-10-020	Inspections Salaries & Wages	\$ 100,000
10-5500-10-020	Inspections Capital Outlay	\$ 100,000

Adopted this the 12th day of November 2024.

Attest: _____
Kristin J. Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor



**Town of Burgaw
ITEM REPORT**

Item: 5F

DATE OF MEETING: November 12, 2024 DEPARTMENT OF ORIGIN: Finance	DATE SUBMITTED: 11/06/2024 SUBMITTED BY: Wendy Pope, Finance Director
AGENDA ITEM DESCRIPTION: Ordinance 2024-29 Amending the FY 2024-2025 Annual Budget to reflect changes to the Schedule of Fees	
SUMMARY STATEMENT: Amending the Schedule of Fees to include fee for non-approved solid waste containers within Town limits	
STAFF RECOMMENDATION AND REQUESTED ACTION:	
FINANCIAL IMPACT INCLUDING FUNDING SOURCE:	
FINANCE DIRECTOR COMMENTS:	
ATTACHMENTS (IF ANY): BOA Sch of Fee Change - SOLID WASTE, Violation - solid waste container	

ORDINANCE 2024-29

***AMENDING FISCAL YEAR 2024-2025 ANNUAL BUDGET
Change to Schedule of Fees***

WHEREAS, the Town of Burgaw Board of Commissioners passed an ordinance adopting a budget for FY 2024-2025 on June 26, 2024; and

WHEREAS, the request to amend the Schedule of Fees is requested by the Town of Burgaw Board of Commissioners to include a violation for unapproved solid waste containers; and

WHEREAS, the Schedule of Fees in the budget ordinance will need to be amended to reflect these changes in the Solid Waste section.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

The FY 2024-2025 Schedule of Fees be altered to reflect the following changes as attached.

(See attachment)

Adopted this the 12th day of November 2024.

Attest: _____
Kristin J. Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor

Unauthorized use of water/sewer system	up to \$1,000 per day plus \$75 administrative fee & applicable water consumption charges
Resident requested meter testing	\$ 200.00

Storm Water Management Utility Fee

Residential	\$ 2.50 flat rate
Commercial/Industrial/Institutional/Multi-family	\$ 2.50 per ERU
*ERU calculated as 2,400 sq ft of impervious surface	

Solid Waste *third party contracted with Wall Recycling, LLC*

Residential	\$ 22.00	includes one roll cart & one recycling roll cart
Commercial	\$ 39.35	includes two roll carts & one recycling roll cart
*commercial/business customers are required to maintain, at least, two garbage roll carts & one recycling roll cart (unless commercial dumpster onsite)		
additional garbage cart	\$ 17.35	each
additional recycle cart	\$ 4.65	each

Dumpster Service provided by Wall Recycling, LLC

****any other container used within Town Limits subject to**

2 CUBIC YARD (MSW)	MONTHLY COST PER UNIT	\$250 fee per container/per day
1XWEEK	\$143.75	
2XWEEK	\$243.75	
3XWEEK	\$343.75	
4 CUBIC YARD (MSW)	MONTHLY COST PER UNIT	
1XWEEK	\$168.75	
2XWEEK	\$268.75	
3XWEEK	\$368.75	
4XWEEK	\$468.75	
5XWEEK	\$568.75	
6 CUBIC YARD (MSW)	MONTHLY COST PER UNIT	
1XWEEK	\$212.50	
2XWEEK	\$325.00	
3XWEEK	\$437.50	
4XWEEK	\$550.00	
5XWEEK	\$662.50	
8 CUBIC YARD (MSW)	MONTHLY COST PER UNIT	
1XWEEK	\$250.00	
2XWEEK	\$418.75	
3XWEEK	\$575.00	
4XWEEK	\$731.25	
5XWEEK	\$887.50	
8 CUBIC YARD (OCC)	MONTHLY COST PER UNIT	
1XWEEK	\$187.50	
2XWEEK	\$375.00	
ADDITIONAL FEES		
EXTRA DUMPSTER PICK-UP	\$112.50	
LOCK BAR	\$15.00	

****violation applies to all commercial, institutional, educational, governmental, and residential containers placed by contractors other than the Town of Burgaw's contracted Solid Waste Provider (excludes construction dumpsters placed on a temporary basis for construction purposes)**



**Town of Burgaw
ITEM REPORT**

Item: 9A

DATE OF MEETING: November 12, 2024 DEPARTMENT OF ORIGIN: Planning	DATE SUBMITTED: 11/01/2024 SUBMITTED BY: Ron Meredith, Planning Director
AGENDA ITEM DESCRIPTION: Consideration of a text amendment to the Unified Development Ordinance requested by Planning Staff to amend Section 8.14, to add Auction Houses (excluding livestock) as a use in the I-1.	
SUMMARY STATEMENT: Consideration of a text amendment to the Unified Development Ordinance requested by Planning Staff to amend Section 8.14, to add Auction Houses (excluding livestock) as a use in the I-1. <i>Assigned staff: Ron Meredith, rmeredith@burgawnc.gov, 910.663.3451</i>	
STAFF RECOMMENDATION AND REQUESTED ACTION: Approval	
FINANCIAL IMPACT INCLUDING FUNDING SOURCE:	
FINANCE DIRECTOR COMMENTS:	
ATTACHMENTS (IF ANY): 1. Staff Summery for Auction Houses as a by-right use in the I-1 zoning district, 2.TA TCONSISTENCY Auction Houses as a by-right use in the I-1 zoning district	



CASE SUMMARY Board of Commissioners

UDO Text Amendment November 12, 2024

Ron Meredith, 910-663-3451, rmeredith@burgawnc.gov

Staff Recommendation	Approval
Planning Board	10/17/2024; A unanimous vote was made to recommend approval.
Board of Commissioners	11/12/2024

Request

Code Section(s)	Unified Development Ordinance (UDO) Section 8.14. Table of Permitted Uses	
Request	To add the use of Auction Houses (excluding livestock) as a by-right use in the I-1 district.	
Applicant	Staff	rmeredith@burgawnc.gov 910.663.3451

REQUEST

The proposed UDO text amendment would add Auction Houses (excluding livestock) as a by-right use in the I-1 zoning district.

1. Background

This is a staff-initiated text amendment request to add a use to the Table of Permitted Uses. The amendment proposes to allow Auction Houses (excluding livestock) as a by-right use in the I-1 Light Industrial District. Currently, some of the existing buildings located in the I-1 may accommodate this use.

A by-right use means that all reviews and approvals would be handled administratively at the staff level through the Technical Review Committee (TRC) or as a change of use if there is an existing building.

2. Analysis

The purpose of the I-1 Light Industrial District is meant for industries that do not create large amounts of noise, smell, smoke, light, vibration, dust, or use dangerous chemicals.

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 with 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.*



3. Proposed Amendment

The following is the proposed amendment to the Unified Development Ordinance. Additions are highlighted in green.

Section 8.14. Table of Permitted Uses

Uses	NAICS*	RA	R-20	R-12	R-7	R-7MH	PUD	O&I	B-1	B-2	I-1	I-2	C/P
AUCTION HOUSES (excluding livestock)	453998								X	X	X		

3.1 Benchmark Summary

Adjacent jurisdictions, including the Town of Knightdale, New Bern, and Pender County, categorize auction houses (excluding livestock) as retail, based on a more generalized interpretation of their respective Tables of Permitted Uses. This means that these specific uses are not specifically mentioned in the table of permitted uses, but through interpretation, our staff would categorize them under retail. This broader categorization is a strategic approach designed to facilitate the classification of diverse uses and to better accommodate the needs of applicants. Notably, these jurisdictions feature zoning districts similar to the I-1 zoning district, which permits similar retail uses.

The I-1 zoning district is particularly well-positioned to support auction houses (excluding livestock) due to its inherent flexibility, as well as its proximity to adjacent uses and existing structures that are suitable for repurposing into non-agricultural activities. This compatibility underscores the district's potential to foster a diverse range of business opportunities while promoting efficient land use.

CONSISTENCY WITH APPROVED PLANS

Town of Burgaw Comprehensive Land Use Plan

The proposed amendment is consistent with the policy intent of the Town of Burgaw Comprehensive Land Use Plan. Policies that are most pertinent to the proposed amendment are below. Not all policies carry equal weight and may depend on the specifics of the proposal. The following symbology is employed:

				
Strong Support	Modest Support	Modest Non-support	Strong Non-support	
Governance				
Goal 1: To improve and streamline the delivery of services to all customers				
Invest in creating a culture of customer service at all staff levels				
ECONOMIC DEVELOPMENT				
Goal 1: To support the profitability and sustainability of existing businesses and industries				
Consider the impacts of the town's policies on Burgaw's economic vitality when making decisions regarding taxes, fees, utility rates, development ordinances, etc., while				



recognizing the balance between economic development, the maintenance of high-quality services, and the financial health of town government	
Goal 2: To attract businesses and industries that will enhance the economic health and livability of the town	
Ensures the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms	●

AT THE PLANNING BOARD

The planning staff presented the proposal. The Planning Board deliberated on UDO Section 8.14, Table of Permitted Uses, to add the use of auction houses (excluding livestock) as a by-right use in the I-1 district. A motion was made in favor of the text amendment, and a unanimous vote was made to recommend approval.

CONCLUSIONS AND RECOMMENDATION

The proposed modifications to the UDO would allow Auction Houses (excluding livestock) by-right in the I-1 districts. This use will add to Burgaw's economic vitality by allowing more versatility within the use table to accommodate appropriate businesses and industries.

The Town of Burgaw Comprehensive Land Use Plan (LUP) supports this proposal by streamlining the delivery of services to all customers and ensuring the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms.

As a result, Staff recommends approval of the request and suggests the following motion:

I move to **RECOMMEND APPROVAL** of the proposed amendment to the Town of Burgaw Unified Development Ordinance to allow the use of Auction Houses (excluding livestock) as by-right use in the I-1 district. I find it to be **CONSISTENT** with the purpose and intent of the Comprehensive Land Use Plan because it ensures the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms. I also find **RECOMMENDING APPROVAL** of the proposed amendment reasonable and in the public interest because it aligns with the overall goals and standards of the Comprehensive Land Use Plan.

Alternative Motion for Denial (If based on information presented at the public hearing or other consideration beyond the scope of staff review, the board finds denial appropriate.)

I move to recommend **DENIAL** of the proposed amendment. While I find it to be generally **CONSISTENT** with the purposes and intent of the Comprehensive Land Use Plan because it ensures the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms, I find recommending **DENIAL** of the amendment request is reasonable and in the public interest because the use does not align with the zoning district standards.



ACTIONS TO DATE

<i>Planning Board</i>	10/17/2024; A unanimous vote was made to recommend approval.
<i>Board of Commissioners</i>	11/12/2024

Attachments

1. Application
2. Consistency statement
3. Resolution
4. Ordinance



Request: To add the use of Auction Houses (excluding livestock) as a by-right use in the I-1 district.

Hearing Date: 11/12/2024

Board of Commissioners Consistency Statement
(To be read into the record as a motion, seconded and voted upon)

I move to **RECOMMEND APPROVAL** of the proposed amendment to the Town of Burgaw Unified Development Ordinance to allow the use of Auction Houses (excluding livestock) as by-right use in the I-1 district. I find it to be **CONSISTENT** with the purpose and intent of the Comprehensive Land Use Plan because it ensures the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms.

____ Approval – this request is consistent with the goals and policies of the following plan(s) adopted by the Town of Burgaw:

- () Burgaw 2030: Town of Burgaw Comprehensive Land Use Plan
() Other: _____

The Board of Commissioners considers its approval to be reasonable and in the public interest because: (Please provide reasons which can be found in the staff report)

I also find **RECOMMENDING APPROVAL** of the proposed amendment reasonable and in the public interest because it aligns with the overall goals and standards of the Comprehensive Land Use Plan.

____ Rejected – this request is not consistent with the goals and policies of the following plan(s) adopted by the Town of Burgaw:

- () Burgaw 2030: Town of Burgaw Comprehensive Land Use Plan
() Other: _____

I move to recommend **DENIAL** of the proposed amendment. While I find it to be generally **CONSISTENT** with the purposes and intent of the Comprehensive Land Use Plan because it ensures the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms, I find recommending **DENIAL** of the amendment request is reasonable and in the public interest because the use does not align with the zoning district standards.

Therefore, The Board of Commissioners recommends rejection of this request.

Comments:

This report reflects the recommendation of the Town of Burgaw Board of Commissioners, this the 12th day of November 2024.

Attest:

Mayor

RESOLUTION 2024-29

ADOPTING A STATEMENT OF CONSISTENCY REGARDING TEXT AMENDMENTS OF THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE REQUESTED BY STAFF OF THE TOWN OF BURGAW TO AMEND CHAPTER 8 ZONING, SECTION 8.14. TABLE OF PERMITTED USES, TO ADD AUCTION HOUSES (EXCLUDING LIVESTOCK) AS A BY-RIGHT USE IN THE I-1 ZONING DISTRICT.

WHEREAS, the applicant, staff of the Town of Burgaw, has requested to amend the Town of Burgaw's Unified Development Ordinance, Chapter 8, Section 8.14 table of Permitted Uses, to add auction houses (excluding livestock) as a by-right use in the I-1 zoning district; and

WHEREAS, Planning Staff has reviewed the proposed text change amendments for consistency with the Town of Burgaw 2030 Comprehensive Land Use Plan and has presented those findings to the Town of Burgaw Planning Board and the Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning Board, at their October 17, 2024, meeting, recommended the adoption of the Draft Comprehensive Plan Consistency Statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the Staff Report and Draft Comprehensive Plan Consistency Statement at their November 12, 2024, meeting and found the proposed text change amendments to be consistent with the Town of Burgaw's 2030 Comprehensive Land Use Plan, being reasonable, and in the public interest; and

NOW, THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed Unified Development Ordinance text amendment is consistent with the Town of Burgaw 2030 Comprehensive Plan by ensuring the town's zoning and development code can accommodate appropriate businesses and industries and a variety of development forms.

Adopted this 12th day of November 2024.

Attest: _____
Kristin Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor

ORDINANCE 2024-30

A TEXT CHANGE AMENDMENT TO THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE REQUESTED BY STAFF OF THE TOWN OF BURGAW TO AMEND CHAPTER 8, SECTION 8.14. TABLE OF PERMITTED USES, TO ADD AUCTION HOUSES (EXCLUDING LIVESTOCK) AS A BY-RIGHT USE IN THE I-1 ZONING DISTRICT.

WHEREAS, the applicant, staff of the Town of Burgaw, has requested to amend the Town of Burgaw's Unified Development Ordinance, Chapter 8, Section 8.14 table of Permitted Uses, to add auction houses (excluding livestock) as a by-right use in the I-1 zoning district; and

WHEREAS, Planning Staff has reviewed the proposed text change amendments for consistency with the Town of Burgaw 2030 Comprehensive Land Use Plan and has presented those findings to the Town of Burgaw Planning Board and the Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning Board, at their October 17, 2024, meeting, recommended the adoption of the Draft Comprehensive Plan Consistency Statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the Staff Report and Draft Comprehensive Plan Consistency Statement at their November 12, 2024, meeting and found the proposed text change amendments to be consistent with the Town of Burgaw's 2030 Comprehensive Land Use Plan, being reasonable, and in the public interest; and

NOW, THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed Unified Development Ordinance text amendment is consistent with the Town of Burgaw 2030 Comprehensive Plan by ensuring the town's zoning and development code can accommodate appropriate businesses and industries and a variety of development forms.

SECTION 1. The Town of Burgaw Unified Development Ordinance is amended as follows:

8.14 USE STANDARDS

Uses	NAICS*	RA	R-20	R-12	R-7	R-7MH	PUD	O&I	B-1	B-2	I-1	I-2	C/P
AUCTION HOUSES (excluding livestock)	453998								X	X	X		

SECTION 2. These amendments become effective immediately upon adoption of this ordinance on this, 12th day of November 2024.

Attest: _____
Kristin Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor



CASE SUMMARY Board of Commissioners

UDO Text Amendment November 12, 2024

Ron Meredith, 910-663-3451, rmeredith@burgawnc.gov

Staff Recommendation	Approval
Planning Board	10/17/2024; A unanimous vote was made to recommend approval.
Board of Commissioners	11/12/2024

Request

<i>Code Section(s)</i>	Unified Development Ordinance (UDO) Sections 9.27.3	
<i>Request</i>	To add language related tree mitigation requirements and tree removal requirements of public property.	
<i>Applicant</i>	Staff	rmeredith@burgawnc.gov 910.663.3451

REQUEST

The proposed UDO amendment would modify mitigation requirements and tree removal on public property.

1. History/Background

Current regulations

Chapter 9 Section 9.27.3 of the UDO covers development design standards and processes. Specifically focusing on tree mitigation and tree inventory standards. It establishes protocols for assessing the impact of development on existing tree resources, requiring developers to conduct a comprehensive tree inventory before any removal activities. This allows for informed decision-making that balances development needs with stewardship.

The tree mitigation standards outlined in this section are designed to ensure that any trees removed as part of a development project are adequately mitigated. This not only helps to preserve the town's tree canopy, but also enhances the overall ecological health of the area.

2. Proposed Amendment

The following is the proposed amendment to the UDO. Additions are below, and no strikethroughs are proposed. This amendment creates a new addition as Section 9.27.3.G.

Section 9.27.3.G Tree Preservation and Replacement During Development:



(G) This section establishes the standards for the removal of trees on public property to promote community aesthetics and protect environmental resources.

1. Tree Removal Requirements

- A permit shall be required for the removal of any significant tree on public property.
- Applications must include justification for the removal and a description of proposed mitigation measures.
- A site plan is required as part of an administrative review process indicating the proposed removal and mitigation requirements. The Planning Director may exempt the site plan if it is determined that the change is not significant enough to validate a site plan review.

2. Conditions for tree removal

- Removal shall only be approved under the following circumstances:
 - The tree poses a safety hazard or risk to public infrastructure or property.
 - The tree is dead, diseased, or otherwise deemed unhealthy.
 - The removal is necessary for public improvement projects.

3. Requested tree mitigation requirements and standards

- For each significant tree removed, it is requested that they provide the following:
 - **Tree Replacement:** Plant one new tree for each significant tree removed, with a minimum caliper of two inches at the time of planting. Trees planted in street yards, buffers, and internal parking landscaping can be counted towards this.
 - **Alternative Mitigation:** If planting is not feasible due to site constraints or other mediating factors, a contribution can be made to the municipality's tree fund. In this case, the Town of Burgaw Tree Board will determine how tree funds will be spent in accordance with Section 9.27.3(F) of the UDO.
 - Replacement trees shall be selected from the municipality's approved tree list and planted in appropriate locations as determined by the Planning Director.
 - Replacement trees shall be maintained for a minimum of three years to ensure survival, including watering and pest management.

4. Final Approval

- The town shall conduct a final zoning inspection of planted trees for verification of approved landscaping.



2.1 Benchmark Summary

Municipal regulations regarding tree mitigation for governmental and public uses, the Town of Boiling Springs Lakes and the Town of Leland do not offer exemptions for such tree mitigation standards. In contrast, the City of Wilmington provides an exemption for the payment instead of the mitigation option, allowing government/public developments more flexibility in meeting their landscaping obligations. This difference highlights the varying approaches to managing public spaces and environmental compliance among neighboring municipalities.

CONSISTENCY WITH APPROVED PLANS

Town of Burgaw Comprehensive Land Use Plan

The proposed amendment is consistent with the policy intent of the Town of Burgaw Comprehensive Land Use Plan. Policies that are most pertinent to the proposed amendment are below. Not all policies carry equal weight and may depend on the specifics of the proposal. The following symbology is employed:

				
Strong Support		Modest Support	Modest Non-support	Strong Non-support
Governance				
Goal 1: To improve and streamline the delivery of services to all customers				
Invest in creating a culture of customer service at all staff levels				
ECONOMIC DEVELOPMENT				
Goal 1: To support the profitability and sustainability of existing businesses and industries				
Consider the impacts of the town's policies on Burgaw's economic vitality when making decisions regarding taxes, fees, utility rates, development ordinances, etc., while recognizing the balance between economic development, the maintenance of high-quality services, and the financial health of town government				
Goal 2: To attract businesses and industries that will enhance the economic health and livability of the town				
Ensure the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms				



AT THE PLANNING BOARD

Planning staff presented the proposal. The Planning Board deliberated on UDO Sections 9.27.3 to add language-related tree mitigation requirements and tree removal requirements of public property. A motion was made in favor of the text amendment, and a unanimous vote was made to recommend approval.

CONCLUSIONS AND RECOMMENDATION

The proposed modifications to the UDO would still allow for the tree preservation that the Town of Burgaw expects from development and make reasonable accommodations by allowing other methods of tree mitigation while keeping in line with state statutes.

The Town of Burgaw Comprehensive Land Use Plan (LUP) supports this proposal by streamlining the delivery of services to all customers and ensuring the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms.

Given the support identified by the LUP and the support from jurisdictions that contain larger parcels of undeveloped land, planning staff recommends approval of the text amendment as proposed.

As a result, Staff recommends approval of the request and suggests the following motion:

I move to **RECOMMEND APPROVAL** of the proposed amendment to the Town of Burgaw Unified Development Ordinance to add language for tree mitigation requirements for public properties. I find it to be **CONSISTENT** with the purpose and intent of the Comprehensive Land Use Plan because it ensures the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms. I also find **RECOMMENDING APPROVAL** of the proposed amendment reasonable and in the public interest because it aligns with the overall goals and standards of the Comprehensive Land Use Plan.

Alternative Motion for Denial (If based on information presented at the public hearing or other consideration beyond the scope of staff review, the board finds denial appropriate.)

I move to recommend **DENIAL** of the proposed amendment. While I find it to be generally **CONSISTENT** with the purposes and intent of the Comprehensive Land Use Plan because it ensures the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms, I find recommending **DENIAL** of the amendment request is reasonable and in the public interest because the tree mitigation requirements for public properties do not meet the intent of the UDO.

ACTIONS TO DATE

<i>Planning Board</i>	10/17/2024; A unanimous vote was made to recommend approval.
<i>Board of Commissioners</i>	11/12/2024



Attachments

1. Application
2. Consistency statement
3. Resolution
4. Ordinance



Request: To add language related tree mitigation requirements and tree removal requirements of public property.

Hearing Date: 11/12/2024

Board of Commissioners Consistency Statement
(To be read into the record as a motion, seconded and voted upon)

I move to **RECOMMEND APPROVAL** of the proposed amendment to the Town of Burgaw Unified Development Ordinance to add language for tree mitigation requirements for public properties. I find it to be **CONSISTENT** with the purpose and intent of the Comprehensive Land Use Plan because it ensures the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms.

____ Approval – this request is consistent with the goals and policies of the following plan(s) adopted by the Town of Burgaw:

- () Burgaw 2030: Town of Burgaw Comprehensive Land Use Plan
() Other: _____

The Board of Commissioners considers its approval to be reasonable and in the public interest because: (Please provide reasons which can be found in the staff report)

I also find **RECOMMENDING APPROVAL** of the proposed amendment reasonable and in the public interest because it aligns with the overall goals and standards of the Comprehensive Land Use Plan.

____ Rejected – this request is not consistent with the goals and policies of the following plan(s) adopted by the Town of Burgaw:

- () Burgaw 2030: Town of Burgaw Comprehensive Land Use Plan
() Other: _____

I move to recommend **DENIAL** of the proposed amendment. While I find it to be generally **CONSISTENT** with the purposes and intent of the Comprehensive Land Use Plan because it ensures the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms, I find recommending **DENIAL** of the amendment request is reasonable and in the public interest because the tree mitigation requirements for public properties do not meet the intent of the UDO.

Therefore, The Board of Commissioners recommends rejection of this request.

Comments:

This report reflects the recommendation of the Town of Burgaw Board of Commissioners on, this the 12th day of November 2024.

Attest:

Mayor

RESOLUTION 2024-30

ADOPTING A STATEMENT OF CONSISTENCY REGARDING TEXT AMENDMENTS OF THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE REQUESTED BY STAFF OF THE TOWN OF BURGAW TO AMEND CHAPTER 9, SECTIONS 9.27.3. TO ADD LANGUAGE RELATED TREE MITIGATION REQUIREMENTS AND TREE REMOVAL REQUIREMENTS OF PUBLIC PROPERTY.

WHEREAS, the applicant, staff of the Town of Burgaw, has requested to amend the Town of Burgaw's Unified Development Ordinance, Chapter 9, Sections 9.27.3., to add language-related tree mitigation requirements and tree removal requirements of public property; and

WHEREAS, Planning Staff has reviewed the proposed text change amendments for consistency with the Town of Burgaw 2030 Comprehensive Land Use Plan and has presented those findings to the Town of Burgaw Planning Board and the Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning Board, at their October 17, 2024, meeting, recommended the adoption of the Draft Comprehensive Plan Consistency Statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the Staff Report and Draft Comprehensive Plan Consistency Statement at their November 12, 2024, meeting and found the proposed text change amendments to be consistent with the Town of Burgaw's 2030 Comprehensive Land Use Plan, being reasonable, and in the public interest; and

NOW, THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed Unified Development Ordinance text amendment is consistent with the Town of Burgaw 2030 Comprehensive Plan by ensuring the town's zoning and development code can accommodate appropriate businesses and industries and a variety of development forms.

Adopted this 12th day of November 2024.

Attest: _____
Kristin Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor

ORDINANCE 2024-31

A TEXT CHANGE AMENDMENT TO THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE REQUESTED BY STAFF OF THE TOWN OF BURGAW TO AMEND CHAPTER 9, SECTIONS 9.27.3. TO ADD LANGUAGE RELATED TREE MITIGATION REQUIREMENTS AND TREE REMOVAL REQUIREMENTS OF PUBLIC PROPERTY.

WHEREAS, the applicant, staff of the Town of Burgaw, has requested to amend the Town of Burgaw's Unified Development Ordinance, Chapter 9, Sections 9.27.3., to add language-related tree mitigation requirements and tree removal requirements of public property; and

WHEREAS, Planning Staff has reviewed the proposed text change amendments for consistency with the Town of Burgaw 2030 Comprehensive Land Use Plan and has presented those findings to the Town of Burgaw Planning Board and the Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning Board, at their October 17, 2024, meeting, recommended the adoption of the Draft Comprehensive Plan Consistency Statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the Staff Report and Draft Comprehensive Plan Consistency Statement at their November 12, 2024, meeting and found the proposed text change amendments to be consistent with the Town of Burgaw's 2030 Comprehensive Land Use Plan, being reasonable, and in the public interest; and

NOW, THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed Unified Development Ordinance text amendment is consistent with the Town of Burgaw 2030 Comprehensive Plan by ensuring the town's zoning and development code can accommodate appropriate businesses and industries and a variety of development forms.

SECTION 1. The Town of Burgaw Unified Development Ordinance is amended as follows:

CHAPTER 9, SECTIONS 9.27.3.

(G) *This section establishes the standards for the removal of trees on public property to promote community aesthetics and protect environmental resources.*

1. Tree Removal Requirements

- *A permit shall be required for the removal of any significant tree on public property.*
- *Applications must include justification for the removal and a description of proposed mitigation measures.*
- *A site plan is required as part of an administrative review process indicating the proposed removal and mitigation requirements. The Planning Director may exempt the site plan if it is determined that the change is not significant enough to validate a site plan review.*

2. Conditions for tree removal

- *Removal shall only be approved under the following circumstances:*
 - *The tree poses a safety hazard or risk to public infrastructure or property.*
 - *The tree is dead, diseased, or otherwise deemed unhealthy.*
 - *The removal is necessary for public improvement projects.*

3. Requested tree mitigation requirements and standards

- *For each significant tree removed, it is requested that they provide the following:*
 - **Tree Replacement:** *Plant one new tree for each significant tree removed, with a minimum caliper of two inches at the time of planting. Trees planted in street yards, buffers, and internal parking landscaping can be counted towards this.*
 - **Alternative Mitigation:** *If planting is not feasible due to site constraints or other mediating factors, a contribution can be made to the municipality's tree fund. In this case, the Town of Burgaw Tree Board will determine how tree funds will be spent in accordance with Section 9.27.3(F) of the UDO.*
 - *Replacement trees shall be selected from the municipality's approved tree list and planted in appropriate locations as determined by the Planning Director.*
 - *Replacement trees shall be maintained for a minimum of three years to ensure survival, including watering and pest management.*

4. Final Approval

- *The town shall conduct a final zoning inspection of planted trees for verification of approved landscaping.*

SECTION 2. These amendments become effective immediately upon adoption of this ordinance on this, 12th day of November 2024.

Attest: _____
Kristin Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor

DRAFT



CASE SUMMARY Board of Commissioners

UDO Text Amendment November 12, 2024

Ron Meredith, 910-663-3451, rmeredith@burgawnc.gov

Staff Recommendation	Approval
Planning Board	10/17/2024; Scheduled
Board of Commissioners	11/12/2024

Request

<i>Code Section(s)</i>	Unified Development Ordinance (UDO) Sections 9.27.3	
<i>Request</i>	To modify the tree inventory requirements by providing an additional option for tree inventory.	
<i>Applicant</i>	Staff	rmeredith@burgawnc.gov 910.663.3451

REQUEST

The proposed UDO amendment would provide applicants with an additional option for tree inventories on parcels proposed for development.

1. History/Background

Current regulations

Chapter 9, Section 9.27.3 establishes procedures for assessing the impact of proposed development on existing tree resources. It requires that developers conduct a tree inventory prior to any tree removal activities.

By requiring this inventory, the regulations facilitate informed decision-making, enabling developers to consider the ecological and visual value of existing trees within any proposed development designs. This approach fosters a responsible balance between meeting development and promoting environmental stewardship.

2. Proposed Amendment

The following is the proposed amendment to the UDO. Additions are below, and no strikethroughs are proposed. This amendment creates a new addition as Section 9.27.3.G.

(A) *Tree Inventory*

- (1) *All applications for grading, building, demolition, or site plan review shall include a tree inventory in addition to the information required for a tree removal permit as outlined in this section.*

A tree inventory 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 inventory must be performed by one of the following methods: 1. a field or ground inventory indicating the GPS or surveyed location, size, and species of



regulated and specimen trees for site; 2. a fixed plot sampling tree inventory of regulated trees, and GPS or surveyed location, size, and species of each specimen tree if forested area(s) on site total more than 40 acres, or 3. A narrative may be submitted by a certified arborist as mentioned in Section 9.27.3.C(4). The tree inventory must be certified by a registered land surveyor, **or** professional engineer, or registered landscape architect, or certified arborist. The survey shall, at a minimum, provide the following information:

- (a) A map that includes the shape and dimensions of the real property to be developed together with the existing and/or proposed locations of structures and improvements; existing and/or proposed utility service; roadways, bikeways, walkways, and parking areas;
- (b) A map that includes the location, caliper, and species of all regulated and specimen trees to be retained or new trees to be planted in accordance with the provisions of this section;
- (c) The proposed relocations of any existing protected tree with a statement of how the tree is to be relocated and maintained;
- (d) 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
- (e) 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.

(3) Fixed Plot Sampling Method (only permitted for sites with forested area(s) more than 40 acres)

A sampling intensity of 10% of each forest stand on site will be achieved with a square grid of 0.10-acre circular lots that have a radius of 37.2 feet, one plot per acre. A forest stand is a forested area in which the composition of the forest in regard to tree species present and the sizes and ages of the trees are relatively uniform. With the forest stand boundary depicted accurately to scale in GIS or CAD, map plot centers in rows with 208.7 feet between plot centers in each row and 208.7 feet between plots in adjacent rows. That process divides the tract into 1.0-acre square blocks with a 0.10-acre circular sample plot at the center of each block. When planning a tree inventory, each stand must be considered separately.

At each plot center, measure the distance to the edge of the circular plot at 8 radii and mark the plot boundary with flagging tape. Then document the location, caliper, and species for each regulated and specimen tree using either GPS or survey. Mark all protected trees in the plot with flagging tape or tree marking paint for ease of locating them in the future. The location, size, and species for all specimen trees must be documented for the entire site regardless of the size.

For blocks that are less than 1.0 square acre, the plot center shall be shifted within the block at the discretion of a registered land surveyor, professional engineer, registered landscape architect, or certified arborist to provide an accurate representation of tree composition for the block. If the block is too small to contain the 37.2-foot radius circular plot, the block is not required to be sampled.



This type of tree inventory shall, at a minimum, include the following:

- (a) A map that includes the shape and dimensions of the real property to be developed, together with the existing and/or proposed locations of structures and improvements; existing and/or proposed utility services; roadways, bikeways, walkways, and parking areas;*
 - (b) A map that includes the location, caliper, and species of all specimen trees to be retained on site or new trees to be planted in accordance with the provisions of this section and the extrapolated number of regulated trees that will be retained for each forest stand;*
 - (c) A map displaying forest stand boundaries and plot centers with a data table including each plot; coordinates of the plot center; each regulated tree, caliper, and species documented during the fixed plot sampling; and the estimated tree data totals for each forested stand;*
 - (d) The proposed relocations of any existing protected tree with a statement of how the tree is to be relocated and maintained;*
 - (e) 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*
 - (f) 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. The Critical Root Zone(s) for regulated trees will be approximated based on data from the fixed plot sampling.*
- (4) As an additional option for tree inventory, a narrative may be submitted by a certified arborist detailing tree species present on the site and identifying any significant trees. This narrative must be accompanied by a map or site plan indicating the general locations of any significant trees as defined by the UDO. The map is not required to adhere to professional land surveying standards and will serve only as an exhibit to the narrative. This narrative should be included in the review process for all development proposals.**
- (5) Residentially zoned properties containing or proposing a detached single-family or two-family dwelling are exempt from tree inventory and tree removal permit requirements. Residential subdivision projects are not included in this exemption.*



2.1 Benchmark Summary

New Hanover County and the City of Wilmington require a tree survey for all protected trees to be identified. Brunswick did require a simple note to be include on their site-specific plan indicating that no significant trees were included on the site.

CONSISTENCY WITH APPROVED PLANS

Town of Burgaw Comprehensive Land Use Plan

The proposed amendment is consistent with the policy intent of the Town of Burgaw Comprehensive Land Use Plan. Policies that are most pertinent to the proposed amendment are below. Not all policies carry equal weight and may depend on the specifics of the proposal. The following symbology is employed:

				
	Strong Support	Modest Support	Modest Non-support	Strong Non-support
Governance				
Goal 1: To improve and streamline the delivery of services to all customers				
Invest in creating a culture of customer service at all staff levels				
ECONOMIC DEVELOPMENT				
Goal 1: To support the profitability and sustainability of existing businesses and industries				
Consider the impacts of the town's policies on Burgaw's economic vitality when making decisions regarding taxes, fees, utility rates, development ordinances, etc., while recognizing the balance between economic development, the maintenance of high-quality services, and the financial health of town government				
Goal 2: To attract businesses and industries that will enhance the economic health and livability of the town				
Ensure the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms				

AT THE PLANNING BOARD

Planning staff presented the proposal. The Planning Board deliberated on UDO Sections 9.27.3 to add an additional option for the tree inventory. A motion was made in favor of the text amendment and a unanimous vote was made to recommend approval.

CONCLUSIONS AND RECOMMENDATION

The proposed modifications to the UDO would allow for an additional option for the tree inventory requirements.

The Town of Burgaw Comprehensive Land Use Plan (LUP) supports this proposal by streamlining the delivery of services to all customers and ensuring the town's zoning and development codes can accommodate appropriate businesses and industries and a variety of development forms.



Given the support identified by the LUP and the support from jurisdictions that contain larger parcels of undeveloped land, planning staff recommends approval of the text amendment as proposed.

As a result, Staff recommends approval of the request and suggests the following motion:

I move to **RECOMMEND APPROVAL** of the proposed amendment to the Town of Burgaw Unified Development Ordinance to allow for an additional option for a tree inventory plan to include a narrative submitted by a certified arborist. I find it to be **CONSISTENT** with the purpose and intent of the Comprehensive Land Use Plan because it provides an additional option for tree inventory. I also find **RECOMMENDING APPROVAL** of the proposed amendment reasonable and in the public interest because it serves the intent of section 9.27.3 of the Unified Development Ordinance and aligns with the overall goals and standards of the Comprehensive Land Use Plan.

Alternative Motion for Denial (If based on information presented at the public hearing or other consideration beyond the scope of staff review, the board finds denial appropriate.)

I move to recommend **DENIAL** of the proposed amendment. While I find it to be generally **CONSISTENT** with the purpose and intent of the Comprehensive Land Use Plan because it provides an additional option for tree inventory, I find recommending **DENIAL** of the amendment request is reasonable and in the public interest because more detail may be needed for a tree inventory plan.

ACTIONS TO DATE

<i>Planning Board</i>	10/17/2024; A unanimous vote was made to recommend approval.
<i>Board of Commissioners</i>	11/12/2024

Attachments

1. Application
2. Consistency statement
3. Resolution
4. Ordinance



Request: To modify Section 9.27.3 of the Unified Development Ordinance, tree inventory requirements by providing an additional option for the tree inventory requirement.

Hearing Date: 11/12/2024

Board of Commissioners Consistency Statement
(To be read into the record as a motion, seconded and voted upon)

I move to **RECOMMEND APPROVAL** of the proposed amendment to the Town of Burgaw Unified Development Ordinance to allow for an additional option for a tree inventory plan to include a narrative submitted by a certified arborist. I find it to be **CONSISTENT** with the purpose and intent of the Comprehensive Land Use Plan because it provides an additional option for tree inventory.

____ Approval – this request is consistent with the goals and policies of the following plan(s) adopted by the Town of Burgaw:

- () Burgaw 2030: Town of Burgaw Comprehensive Land Use Plan
() Other: _____

The Board of Commissioners considers its approval to be reasonable and in the public interest because: (Please provide reasons which can be found in the staff report)

I also find **RECOMMENDING APPROVAL** of the proposed amendment reasonable and in the public interest because it serves the intent of section 9.27.3 of the Unified Development Ordinance and aligns with the overall goals and standards of the Comprehensive Land Use Plan.

____ Rejected – this request is not consistent with the goals and policies of the following plan(s) adopted by the Town of Burgaw:

- () Burgaw 2030: Town of Burgaw Comprehensive Land Use Plan
() Other: _____

I move to recommend **DENIAL** of the proposed amendment. While I find it to be generally **CONSISTENT** with the purpose and intent of the Comprehensive Land Use Plan because it provides an additional option for tree inventory, I find recommending **DENIAL** of the amendment request is reasonable and in the public interest because more detail may be needed for a tree inventory plan.

Therefore, The Board of Commissioners recommends rejection of this request.

Comments:

This report reflects the recommendation of the Town of Burgaw Board of Commissioners, this the 12th day of November 2024.

Attest:

Mayor

RESOLUTION 2024-31

ADOPTING A STATEMENT OF CONSISTENCY REGARDING TEXT AMENDMENTS OF THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE REQUESTED BY STAFF OF THE TOWN OF BURGAW TO AMEND CHAPTER 9, SECTIONS 9.27.3. TO ADD LANGUAGE PROVIDING AN ADDITIONAL OPTION FOR THE TREE INVENTORY.

WHEREAS, the applicant, staff of the Town of Burgaw, has requested the town amend the Town of Burgaw's Unified Development Ordinance, Chapter 9, Sections 9.27.3, to add language providing an additional option for the tree inventory; and

WHEREAS, Planning Staff has reviewed the proposed text change amendments for consistency with the Town of Burgaw 2030 Comprehensive Land Use Plan and has presented those findings to the Town of Burgaw Planning Board and the Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning Board, at their October 17, 2024, meeting, recommended the adoption of the Draft Comprehensive Plan Consistency Statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the Staff Report and Draft Comprehensive Plan Consistency Statement at their November 12, 2024, meeting and found the proposed text change amendments to be consistent with the Town of Burgaw's 2030 Comprehensive Land Use Plan, being reasonable, and in the public interest; and

NOW, THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed Unified Development Ordinance text amendment is consistent with the Town of Burgaw 2030 Comprehensive Plan by ensuring the town's zoning and development code can accommodate appropriate businesses and industries and a variety of development forms.

Adopted this 12th day of November 2024.

Attest: _____
Kristin Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor

ORDINANCE 2024-32

ADOPTING A STATEMENT OF CONSISTENCY REGARDING TEXT AMENDMENTS OF THE TOWN OF BURGAW UNIFIED DEVELOPMENT ORDINANCE REQUESTED BY STAFF OF THE TOWN OF BURGAW TO AMEND CHAPTER 9, SECTIONS 9.27.3. TO ADD LANGUAGE PROVIDING AN ADDITIONAL OPTION FOR THE TREE INVENTORY.

WHEREAS, the applicant, staff of the Town of Burgaw, has requested the town amend the Town of Burgaw's Unified Development Ordinance, Chapter 9, Sections 9.27.3, to add language providing an additional option for the tree inventory, and

WHEREAS, Planning Staff has reviewed the proposed text change amendments for consistency with the Town of Burgaw 2030 Comprehensive Land Use Plan and has presented those findings to the Town of Burgaw Planning Board and the Town of Burgaw Board of Commissioners; and

WHEREAS, the Town of Burgaw Planning Board, at their October 17, 2024, meeting, recommended the adoption of the Draft Comprehensive Plan Consistency Statement to the Board of Commissioners; and

WHEREAS, the Town of Burgaw Board of Commissioners reviewed the Staff Report and Draft Comprehensive Plan Consistency Statement at their November 12, 2024, meeting and found the proposed text change amendments to be consistent with the Town of Burgaw's 2030 Comprehensive Land Use Plan, being reasonable, and in the public interest; and

NOW, THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the proposed Unified Development Ordinance text amendment is consistent with the Town of Burgaw 2030 Comprehensive Plan by ensuring the town's zoning and development code can accommodate appropriate businesses and industries and a variety of development forms.

SECTION 1. The Town of Burgaw Unified Development Ordinance is amended as follows:

CHAPTER 9, SECTIONS 9.27.3.

(A) Tree Inventory

- (1) *All applications for grading, building, demolition, or site plan review shall include a tree inventory in addition to the information required for a tree removal permit as outlined in this section.*

A tree inventory 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 inventory must be performed by one of the following methods:

- 1. a field or ground inventory indicating the GPS or surveyed location, size, and species of*

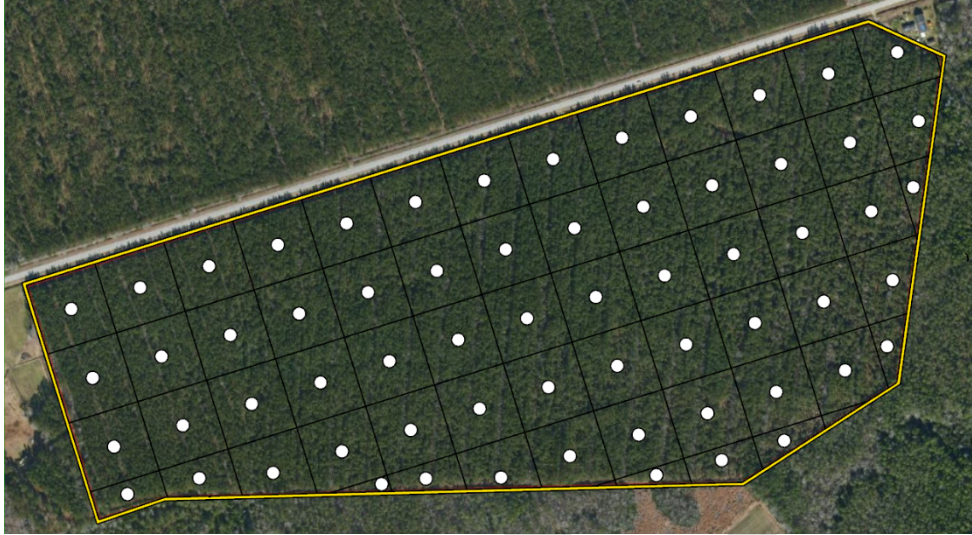
regulated and specimen trees for site; 2. a fixed plot sampling tree inventory of regulated trees, and GPS or surveyed location, size, and species of each specimen tree if forested area(s) on site total more than 40 acres, or 3. A narrative may be submitted by a certified arborist as mentioned in Section 9.27.3.C(4). The tree inventory must be certified by a registered land surveyor, **or** professional engineer, or registered landscape architect, or certified arborist. The survey shall, at a minimum, provide the following information:

- (a) A map that includes the shape and dimensions of the real property to be developed together with the existing and/or proposed locations of structures and improvements; existing and/or proposed utility service; roadways, bikeways, walkways, and parking areas;
- (b) A map that includes the location, caliper, and species of all regulated and specimen trees to be retained or new trees to be planted in accordance with the provisions of this section;
- (c) The proposed relocations of any existing protected tree with a statement of how the tree is to be relocated and maintained;
- (d) 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
- (e) 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.

A sampling intensity of 10% of each forest stand on site will be achieved with a square grid of 0.10-acre circular lots that have a radius of 37.2 feet, one plot per acre. A forest stand is a forested area in which the composition of the forest in regard to tree species present and the sizes and ages of the trees are relatively uniform. With the forest stand boundary depicted accurately to scale in GIS or CAD, map plot centers in rows with 208.7 feet between plot centers in each row and 208.7 feet between plots in adjacent rows. That process divides the tract into 1.0-acre square blocks with a 0.10-acre circular sample plot at the center of each block. When planning a tree inventory, each stand must be considered separately.

At each plot center, measure the distance to the edge of the circular plot at 8 radii and mark the plot boundary with flagging tape. Then document the location, caliper, and species for each regulated and specimen tree using either GPS or survey. Mark all protected trees in the plot with flagging tape or tree marking paint for ease of locating them in the future. The location, size, and species for all specimen trees must be documented for the entire site regardless of the size.

For blocks that are less than 1.0 square acre, the plot center shall be shifted within the block at the discretion of a registered land surveyor, professional engineer, registered landscape architect, or certified arborist to provide an accurate representation of tree composition for the block. If the block is too small to contain the 37.2-foot radius circular plot, the block is not required to be sampled.



This type of tree inventory shall, at a minimum, include the following:

- (a) *A map that includes the shape and dimensions of the real property to be developed, together with the existing and/or proposed locations of structures and improvements; existing and/or proposed utility services; roadways, bikeways, walkways, and parking areas;*
 - (b) *A map that includes the location, caliper, and species of all specimen trees to be retained on site or new trees to be planted in accordance with the provisions of this section and the extrapolated number of regulated trees that will be retained for each forest stand;*
 - (c) *A map displaying forest stand boundaries and plot centers with a data table including each plot; coordinates of the plot center; each regulated tree, caliper, and species documented during the fixed plot sampling; and the estimated tree data totals for each forested stand;*
 - (d) *The proposed relocations of any existing protected tree with a statement of how the tree is to be relocated and maintained;*
 - (e) *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*
 - (f) *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. The Critical Root Zone(s) for regulated trees will be approximated based on data from the fixed plot sampling.*
- (4) As an additional option for tree inventory, a narrative may be submitted by a certified arborist detailing tree species present on the site and identifying any significant trees. This narrative must be accompanied by a map or site plan indicating the general locations of any significant trees as defined by the UDO. The map is not required to adhere to professional land surveying standards and will serve only as an exhibit to the narrative. This narrative should be included in the review process for all development proposals.**
- (5) *Residentially zoned properties containing or proposing a detached single-family or two-family dwelling are exempt from tree inventory and tree removal permit requirements. Residential subdivision projects are not included in this exemption.*

SECTION 2. These amendments become effective immediately upon adoption of this ordinance on this, 12th day of November 2024.

Attest: _____
Kristin Wells, Town Clerk

Signed: _____
G. Olivia Dawson, Mayor

DRAFT



**Town of Burgaw
ITEM REPORT**

Item: 11A

DATE OF MEETING: November 12, 2024 DEPARTMENT OF ORIGIN: Administration	DATE SUBMITTED: 11/06/2024 SUBMITTED BY: James Gantt, Town Manager
AGENDA ITEM DESCRIPTION: Burgaw Business Improvement District (BID) Extension	
SUMMARY STATEMENT: In 2014, the Town of Burgaw Board of Commissioners established a Business Improvement District (BID) / Municipal Service District (MSD) in the Downtown area to be able to offer incentives for the Downtown business and property owners. The approved BID ordinance had a sunset date for 5 years from the adoption. The BID was extended for an additional 5 years in 2019 with it expiring in 2024.	
STAFF RECOMMENDATION AND REQUESTED ACTION: It is staff's recommendation to remove the 5-year sunset period from the program and change the language to "The Downtown Burgaw Business Improvement District and associated rights and privileges shall remain in effect from July 1, 2014 until abolished by the Board of Commissioners pursuant to G.S. 160A-541."	
FINANCIAL IMPACT INCLUDING FUNDING SOURCE:	
FINANCE DIRECTOR COMMENTS:	
ATTACHMENTS (IF ANY): Minutes excerpt Re BID June 2014, Town of Burgaw Business Improvement District Report	

Minutes excerpt regarding the original approval of the BID on June 10, 2014:

Public Hearing #1

Consideration of the implementation of a Business Improvement District (BID) pursuant to N.C.G.S. 160A-535-537 in downtown Burgaw

Chad McEwen, Town Manager advised that several months ago the issue of a Municipal Service District (MSD) (also known as a Business Improvement District (BID)) was discussed with the Board of Commissioners as part of a plan to assist with the revitalization and redevelopment of downtown Burgaw. He said that although rarely used as tool for economic development, particularly the revitalization of a downtown area, a BID would provide the Town with the ability to incentivize private sector investment in properties located in the downtown area, as defined by the map. Mr. McEwen advised the Board that all requirements of the General Statutes have been met and that the purpose of this hearing is for the Board to take comment from the public and to take action on the associated ordinance. Mr. McEwen reminded the Board if the BID is approved; these grants would be provided from the Town's General Fund Fund Balance and would be available for water and sewer impact fees only. Any water and sewer impact fees would involve the transfer of applicable fees from the Town's General Fund Fund Balance to the Water and Sewer Fund. He also pointed out that there would be no tax increase for this district. Mr. McEwen stated all applications for grants would be evaluated on a case by case basis and would take into consideration many factors related to the individual request as well as the present day circumstances of the Town's financial situation.

Mayor Mulligan opened the public hearing at 5:30PM.

Speakers

Mike Taylor spoke in favor of the BID. He acknowledged the hard work of the staff for the well-presented BID documents. He commented that the Town has done a great job in improving infrastructure, walking trails, sidewalks, depot, community house and the old jail. He said he feels the BID is a public investment that would encourage private investment in the downtown area. He reiterated that he is in favor of the BID and is excited about it.

Jacqueline Newton stated she applauds the Board for making the decision to consider the BID and hopes the vote will be favorable. Ms. Newton said she hopes the BID will help bring more restaurants to the downtown area.

Noah Harrell echoed the previous speakers and commented he would like to open a restaurant in the future and the BID would be an asset.

Rochelle Whiteside stated that she echoes the previous speakers. She said this is a great idea and looks forward to positive growth downtown.

Herb Harrell thanked the Board for their innovative thinking on the BID. He said he is in favor of the BID because it will help with impact fees for new business and will benefit everyone.

John Westbrook thanked the Board for their insight. He presented a conceptual drawing of what he would like to do with his building if the BID is approved. He asked that the Board consider not having a sunset clause for the BID to give him and others more time to make their improvements. Mr. Westbrook spoke at length about his plans for the future.

Chris Walker thanked the Board for approving the request by the Arts Council and for their vision for help for the downtown area. He commented that he may consider building an apartment upstairs in his building and asked the Board to please consider approving the BID.

Ross Harrell expressed his gratitude for the Board's consideration to keep the downtown area of Burgaw a vibrant, vital living place. He advised he also echoes the thoughts of others that have already spoken and again thanked the Board for their consideration.

Karen Harding commented that the BID will help with redevelopment. She said the BID is the best measure to get redevelopment started.

There being no further comments from the public, Mayor Mulligan closed the public hearing at 5:47PM.

Comments from Commissioners

Commissioner Dawson advised she is in favor of keeping the sunset provision in the BID.

Commissioner Robbins said he is very much in favor of the BID and feels it is a good tool to use.

Commissioner Walker said he has no problem with the BID but has concerns about businesses outside the district that will not benefit.

Commissioner Tyson said she has a concern that it is not fair to other businesses that are not eligible for the benefit. She there are so many people that have already paid impact fees and they may want or need help but don't qualify because they are not downtown.

Commissioner Rooks commented that one of the issues he has is that the downtown businesses are getting a benefit that other businesses outside the district are not getting. He said the other businesses and citizens will be subsidizing the downtown businesses. Commissioner Rooks spoke at length regarding impact fees and the intended purpose of the fees. He said if our impact fees are too high as compared to other towns, he doesn't have a problem reviewing the fees and possibly lowering them. He also commented that there are no dollar limits on the amount the town would be spending on the requests by the downtown businesses. He said there needs to be limits so he knows what he is voting on.

Mayor Mulligan stated that he understands the concerns presented, but we need to start somewhere.

After a very lengthy discussion, Mayor Mulligan called for a vote on Ordinance 2014-13 "Adopting a Business Improvement District for Downtown Burgaw".

Attorney Kenan recommended some amendments to the ordinance for clarification. He advised additional sections are needed to address properties that would be exempted from the BID and application requirements necessary in order to receive impact fees. There was also much discussion regarding the amount of funds to be set aside for impact fees for each year that the BID in place.

Commissioner Robbins made a motion to approve Ordinance 2014-13 "Adopting a Business Improvement District for Downtown Burgaw" and to allow expenditure of up to 40k per year for impact fees for a period of five years beginning on July 1, 2014 and ending on June 30, 2019 with the addition of Sections 8 and 9 (see amended ordinance below). The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ORDINANCE 2014-13

Ordinance Adopting a Business Improvement District for Downtown Burgaw as Provided by Article 23 Chapter 160A of the North Carolina general Statutes

WHEREAS, the North Carolina General Statutes authorizes Municipal Service Districts per Article V, Sec. 2(4) of the constitution of North Carolina effective July 1, 1973, as this may be cited hereafter as "The Municipal Service District Act of 1973"; and

WHEREAS, the city council of any city may define any number of service districts in order to finance, provide or maintain for the districts one or more of the following services, facilities or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city; and

WHEREAS, a city may appropriate funds for use within defined service districts in addition to those appropriated for use throughout the city, in order to finance, provide or maintain for the district services provided therein in addition to or to a greater extent than those financed, provided or maintained for the entire city; and

WHEREAS, the Town of Burgaw Board of Commissioners has considered the creation of a Municipal Service District (MSD) or Business Improvement District (BID) for the purposes of “Downtown Revitalization” as provided by GS 160A-536 (2); and **WHEREAS**, the proposed downtown Burgaw BID qualifies and meets the required statutory criteria for forming a Business Improvement District as the area can be considered a *downtown revitalization project* by “furthering the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area; and **WHEREAS**, as required by GS 160A-537 (b), the Town of Burgaw has prepared a report containing the following;

- 1) A map of the proposed district showing its proposed boundaries;
- 2) A statement showing that the proposed district meets the standards set out in subsection (a); and
- 3) A plan for providing in the district one or more of the services listed in GS 160A-536.

WHEREAS, in regard to the required report, notices and hearings, the Town of Burgaw following the following schedule;

- 1) April 15, 2014: Feedback and direction from Town Board regarding moving forward with forming a Downtown Business Improvement District. Town Board votes to move forward with the public hearing required for the creation of the BID.
- 2) May 8, 2014: Town Manager mails notification to all property owners in the potential BID. Included in the mailing will be this report which includes the background, purpose, and schedule. By state law, this mailing must occur at least four weeks prior to the required public hearing on the establishment of the BID.
- 3) June 10, 2014: Public Hearing on BID at Town Board meeting. Town Board votes on BID with effective date of July 1, 2014 if approved.

WHEREAS, as documented in the report, the Town of Burgaw does not intend to assess an additional tax on the properties included within the footprint of the proposed BID; and

WHEREAS, as documented in the report, all properties owned by governmental bodies, religious entities, non-profit organizations, and/or other tax-exempt organizations or individuals are exempted from inclusion in the proposed downtown Burgaw BID; and

WHEREAS, the BID is being used to help focus and encourage an increased level of property improvements and revitalization over the next three fiscal years through the mitigation of water and sewer impact fee payments associated with new development activities; and

WHEREAS, to help encourage new property redevelopment and investment by the private sector, the Town is proposing that from the time period covering July 1, 2014 through June 30, 2019 (five fiscal years), water and sewer impact fees associated with new development activities, subject to the restrictions listed herein, within the BID boundary will be paid by the Town of Burgaw based on certain criteria listed below;

- 1) Prior to the commencement of any improvements to property within the proposed Burgaw BID, the property owner and/or business owner would enter into a performance agreement with the Town of Burgaw which would outline the nature of the proposed improvements and outline the amount of impact fees that would transfer from the Town’s General Fund Balance to the Water and Sewer Fund Balance on behalf of the property owner or business owner
- 2) Completion of all requirements listed in the performance agreement including the issuance of certificates of occupancy for subject property
- 3) No transfers of fees paid by the Town of Burgaw will be allowed; and

WHEREAS, all other fees associated with development (plan review fees, building permit fees, legal fees related to performance agreement etc.) would still be due and payable at the applicable time in the development process

NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

Section 1: The Town Council hereby establishes a Business Improvement District (BID) which consists of the properties included in the attached map and address list.

Section 2: The Town of Burgaw creates this Business Improvement District based upon the finding that there is a need for downtown revitalization services within the defined boundary to a demonstrably greater extent than the remainder of the Town.

Section 3: The Business Improvement District created pursuant to this ordinance shall be called the “Downtown Burgaw Business Improvement District”.

SECTION 4: Assistance provided as part of the Downtown Burgaw Business Improvement District shall be limited to payments made by the Town of Burgaw on behalf of business and property owners related to water and sewer impact fees associated with new development activities, subject to the restrictions listed herein.

SECTION 5: The Downtown Burgaw Business Improvement District and associated rights and privileges shall remain in effect from the time period covering July 1, 2014 through June 30, 2019 (five fiscal years).

Section 6: That the boundaries of the downtown municipal service district shall include the properties shown within the boundary of the attached map and included on the attached property list.

Section 7: Consideration of requests made for funding related to the Downtown Burgaw Business Improvement District shall be evaluated by the Town of Burgaw Board of Commissioners on a case by case basis based on the perceived benefit to the Town of Burgaw and the downtown area as well as availability of funds.

SECTION 8: All properties owned by governmental bodies, religious entities, non-profit organizations, and/or other tax-exempt organizations or individuals are exempted from inclusion in the proposed downtown Burgaw BID

SECTION 9: An application shall be deemed submitted to the Town for consideration by the Board of Commissioners when an applicant has completed and signed a performance agreement with the Town that outlines the nature of the proposed improvements, sets forth the amount of impact fees that would have to be assessed and paid from the Town's General Fund Balance account to the Town's Water and Sewer Fund Balance account regarding the impact of such proposed improvements.

If an applicant's application is approved by the Town's Board of Commissioners, the payment of the applicant's impact fees shall be paid upon the issuance of a certificate of occupancy for such improvements from the Town's General Fund to the Town's Water and Sewer Fund Balance Account.

Section 10: That this ordinance shall take effect beginning on July 1, 2014.

(All BID documents are on file in the clerk's office.)

Commissioner Dawson stated that she agrees with a comment made by Commissioner Rooks during discussion regarding the revisiting of impact fees as compared to other surrounding areas. This item was referred to the Policy and Finance Board for further review.

Town of Burgaw

**Town of Burgaw
North Carolina**

**G.S. 160A-537(b)
REPORT**

For the

Downtown Burgaw Municipal Service District

to be referred to as the

Downtown Burgaw Business Improvement District (BID)

**For Board of Commissioners
Consideration with an Effective Date of
July 1, 2014**



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Introduction

This report has been prepared for public inspection by the Town of Burgaw for the establishment of a Municipal Service District (MSD) in downtown Burgaw. This report is to be made available for public inspection according to the following excerpt outlined in “The Municipal Service District Act of 1973.” In 1973 the North Carolina General Assembly approved “Article 23. Municipal Service G.S. 160A-535.”

Report Requirements

160A-537(b) Report – Before the public hearing required by subsection (c), the Town Board shall cause to be prepared a report containing:

- (1) A map of the proposed district, showing its proposed boundaries;
- (2) A statement showing the proposed district meets the standards set out in subsection (a):
[(a) Standards – The City Council of any city may by resolution define a service district upon finding that a proposed district is in need of one or more of the services, facilities, or functions listed in G.S. 160A-536 to a demonstrably greater extent than the remainder of the city.]; and
- (3) A plan for providing in the district one or more of the services listed in G.S. 160A-536

The report shall be available in the office of the Town Clerk for at least four weeks before the date of the public hearing.

A Municipal Service District (MSD), commonly referred to as a Business Improvement District (BID), is a financing mechanism used to provide revenue for a variety of services that enhance, not replace, existing city services. The first BID was established in the French Quarter of New Orleans in the early 1970s. Now, there are more than 1,200 MSDs in North America according to the International Downtown Association. In each case, the services and activities of the BID have been tailored to meet the specific needs identified by the business community that funds them. The Town of Burgaw seeks to establish a downtown BID to facilitate the mitigation of impact fees associated with downtown development for the three year period beginning July 1, 2014 and ending June 30, 2017. There will not be an incremental tax associated with the downtown BID. Funds will be provided for fee mitigation by a transfer of existing fund balance within the Town of Burgaw’s General Fund.

Schedule

The following is the schedule for the proposed downtown Burgaw Business Improvement District:

April 15, 2014:	Feedback and direction from Town Board regarding moving forward with forming a Downtown Business Improvement District. Town Board votes to move forward with the public
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hearing required for the creation of the BID

May 6, 2014: Town Manager mails notification to all property owners in the potential BID. Included in the mailing will be this report which includes the background, purpose, and schedule. By state law, this mailing must occur at least four weeks prior to the required public hearing on the establishment of the BID.

June 10, 2014: Public Hearing on BID at Town Board meeting. Town Board votes on BID with effective date of July 1, 2014 if approved.

Public Hearing Scheduled for Town Board Meeting Thursday June 10, 2014

The public hearing on the establishment of the downtown Burgaw BID will be held during the regular Town Board meeting on Tuesday June 10, 2014 which begins at 5:00 pm in the Board of Commissioner Boardroom, 109 North Walker Street, Burgaw, North Carolina. During this hearing, members of the public are invited to provide comments regarding the resolution to establish the downtown Burgaw Business Improvement District prior to the vote by the Burgaw Board of Commissioners. The BID will become effective July 1, 2014. There is not a service district tax associated with the proposed BID for downtown Burgaw.

Questions

All questions about the downtown Burgaw Business Improvement District should be directed to Chad McEwen, Town Manager, via email at town.manager@townofburgaw.com or by phone at (910) 663-3440.

History of Business Improvement Districts

Communities undertake the establishment of BIDs for a variety of reasons, and indeed one of the strengths of the concept is the ability to tailor the services offered by the BID to the specific needs of a certain community or business district.

Because the service needs of traditional commercial districts are often greater than those generally provided throughout a given municipality, BIDs have proven to be effective tools for enhancing and revitalizing the district and increasing their economic viability. BIDs create a mechanism through which enhanced programs and services are targeted to a geographically defined district's specific needs.

The proposed downtown Burgaw BID qualifies and meets the required statutory criteria for forming a Business Improvement District as the area can be considered a *downtown revitalization project* by "furthering the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area. A downtown revitalization project may also include promotion and developmental activities (such as sponsoring festivals and markets, promoting business investment, helping coordinate public and private actions in the downtown area, and developing and issuing publications

about downtown) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare, and convenience.”

History of Downtown Improvements in Burgaw

In recent years the Town has invested substantial capital in downtown revitalization efforts and enhancements. These improvements have primarily been limited to streetscaping and sidewalk improvements. Most notable improvements are listed below.

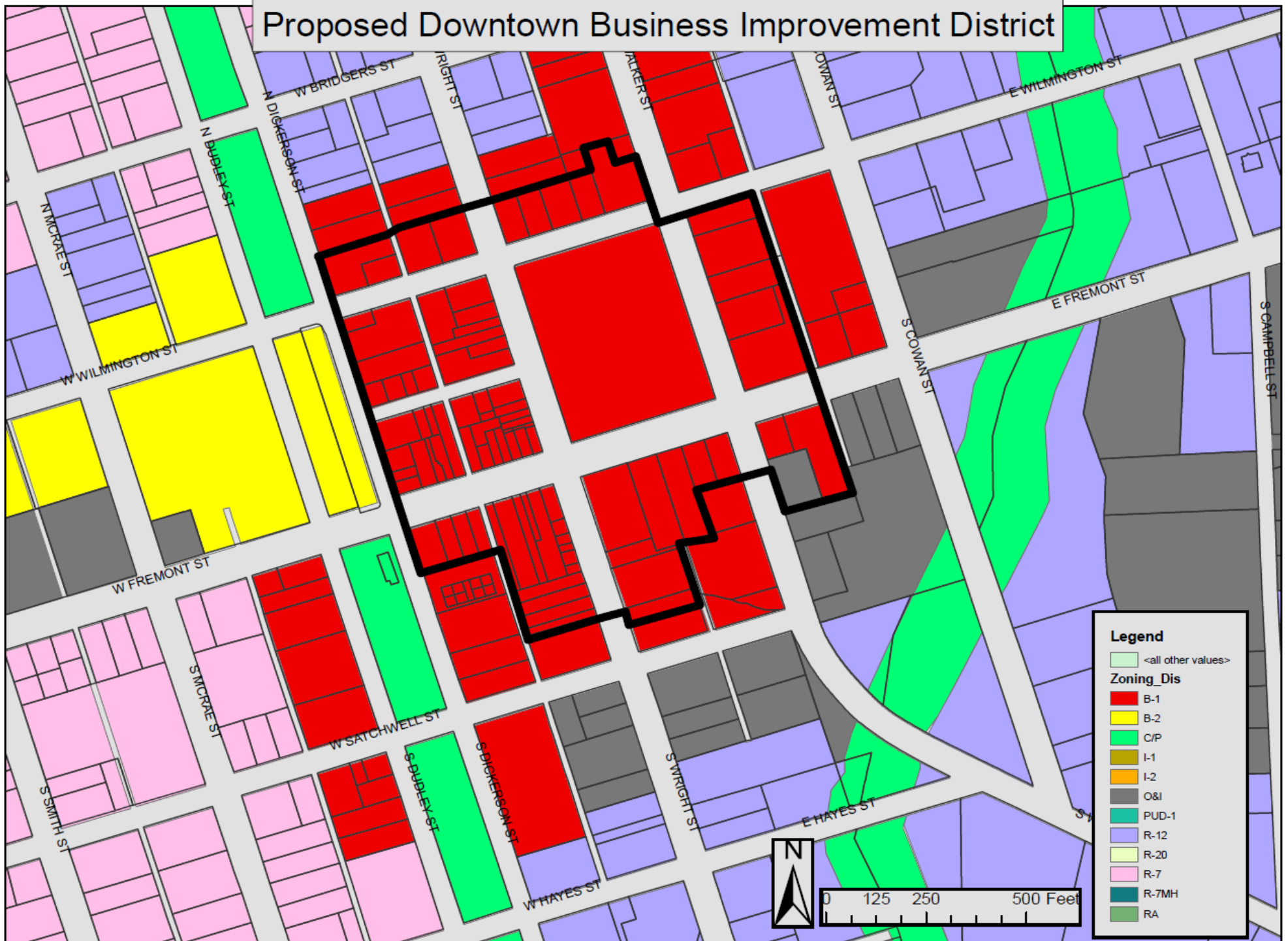
- Renovation of several historically significant structures including the Burgaw Depot, Community House, and Old Jail Property
- Streetscaping and pedestrian improvements along the 100 Block of South Dickerson Street
- Installation of decorative street lighting around the Courthouse Square as well as the 100 Block of South Dickerson Street
- Installation of historic district street signs which include the downtown logo
- Construction of a “Welcome to Historic Downtown Burgaw” sign at Johnson Park
- ADA upfits to numerous sidewalks and ramps as well as installation of designated crosswalks
- Replacement of all sidewalks around the Courthouse Square as well as the interior walkways
- Replacement of many noncompliant and damaged sidewalks with the central business district including Courthouse Avenue, Dickerson Street, and Fremont Street
- Improvements to the mid-block alley between Dickerson and Wright Streets
- Façade grant program offered to downtown businesses which resulted in the improvement of three buildings

The goal of these improvements for the Town was to make the downtown aesthetically and economically appealing to citizens and potential business owners. The creation of the downtown Burgaw BID is envisioned to be an extension of these efforts albeit at the individual property owner level rather than district wide.

Downtown BID Boundary and Map

The map below shows the boundaries of the proposed downtown Burgaw BID. The general center of the proposed BID is Pender County Courthouse.

Proposed Downtown Business Improvement District



A listing of the specific property addresses have been included in Attachment B.

Excluded Properties within the Business Improvement District

All properties owned by governmental bodies, religious entities, non-profit organizations, and/or other tax-exempt organizations or individuals are exempted from inclusion in the proposed downtown Burgaw BID.

What to Expect in the Business Improvement District

A Business Improvement District is allowed to have an incremental tax to fund those activities and services that provide an enhanced level of service above and beyond those properties not included in the BID. The Town of Burgaw is not proposing that an incremental tax be associated with the Downtown Burgaw Business Improvement District. The BID is being used to help focus and encourage an increased level of property improvements and revitalization over the next three fiscal years through the mitigation of water and sewer impact fee payments associated with new development activities.

To help encourage new property redevelopment and investment by the private sector, the Town is proposing that from the time period covering July 1, 2014 through June 30, 2017 (three fiscal years), water and sewer impact fees associated with new development activity within the BID boundary will be paid by the Town of Burgaw. These fees are specifically identified in the Town of Burgaw's adopted budget each year and are due at the time of building permit issuance. However, under the terms of the proposed downtown Burgaw BID, the fees would be paid on behalf of the property owner(s) upon the issuance of a certificate of occupancy related to the proposed improvement. Payment would involve a transfer of the applicable funds from the Town's General Fund Fund Balance to the Water and Sewer Fund Balance.

Prior to the commencement of any improvements to property within the proposed Burgaw BID, the property owner and/or business owner would enter into a performance agreement with the Town of Burgaw which would outline the nature of the proposed improvements and outline the amount of impact fees that would transfers from the Town's General Fund Fund Balance to the Water and Sewer Fund Balance on behalf of the property owner or business owner. Following this transfer, these funds would be restricted to the use of capital infrastructure projects related to the Town's water and sewer system.

All other fees associated with development (plan review fees, building permit fees, etc.) would still be due and payable at the applicable time in the development process.

Lifecycle and Future Changes to the Business Improvement District

"The Municipal Service District Act of 1973" authorizes City Councils in the State of North Carolina to create BIDs for downtown revitalization projects when services are of a greater extent than those provided for the entire city, as part of its annual budget process. If the Burgaw Board of Commissioners supports the establishment of the

downtown Burgaw BID, it will remain in effect until June 30, 2017 or until the Board decides to abolish the downtown BID. The Board may add properties adjacent to the existing BID if 100% of the property owners to be added have signed a petition to do so. This consideration process would take place during the months leading up to the start of each fiscal year so that the changes could take effect on July 1 of the upcoming fiscal year.

Article 23.
Municipal Service Districts.

§ 160A-535. Title; effective date.

This Article may be cited as "The Municipal Service District Act of 1973," and is enacted pursuant to Article V, Sec. 2(4) of the Constitution of North Carolina, effective July 1, 1973. (1973, c. 655, s. 1.)

§ 160A-536. Purposes for which districts may be established.

(a) Purposes. – The city council of any city may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities, or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city:

- (1) Beach erosion control and flood and hurricane protection works.
 - (1a) (For applicability see note) Any service, facility, or function which the municipality may by law provide in the city, and including but not limited to placement of utility wiring underground, placement of period street lighting, placement of specially designed street signs and street furniture, landscaping, specialized street and sidewalk paving, and other appropriate improvements to the rights-of-way that generally preserve the character of an historic district; provided that this subdivision only applies to a service district which, at the time of its creation, had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter.
- (2) Downtown revitalization projects.
 - (2a) Urban area revitalization projects.
 - (2b) Transit-oriented development projects.
- (3) Drainage projects.
 - (3a) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.
 - (3b) (For applicability see note) Lighting at interstate highway interchange ramps.
- (4) Off-street parking facilities.
- (5) Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21.

(b) Downtown Revitalization Defined. – As used in this section "downtown revitalization projects" include by way of illustration but not limitation improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements therefor, the construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street, and other improvements intended to relieve traffic congestion in the central city, improve pedestrian and vehicular access thereto, reduce the incidence of crime therein, and generally to further the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area.

In addition, a downtown revitalization project may, in order to revitalize a downtown area and further the public health, safety, welfare, and convenience, include the provision of city services or functions in addition to or to a greater extent than those provided or maintained for the entire city. A downtown revitalization project may also include promotion and developmental activities (such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare, and convenience. Exercise of the authority granted by this Article to undertake downtown revitalization projects financed by a service district shall not prejudice the city's authority to undertake urban renewal projects in the same area.

(c) Urban Area Revitalization Defined. – As used in this section, the term "urban area revitalization projects" includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term "urban area" means an area that (i) is located within a city and (ii) meets one or more of the following conditions:

- (1) It is the central business district of the city.
- (2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.
- (3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.
- (4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities.

(c1) Transit-Oriented Development Defined. – As used in this section, the term "transit-oriented development" includes the provision within a public transit area of any service or facility listed in this subsection. A public transit area is an area within a one-fourth mile radius of any passenger stop or station located on a mass transit line. A mass transit line is a rail line along which a public transportation service operates or a busway or guideway dedicated to public transportation service. A busway is not a mass transit line if a majority of its length is also generally open to passenger cars and other private vehicles more than two days a week.

The following services and facilities are included in the definition of "transit-oriented development" if they are provided within a transit area:

- (1) Any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section.
- (2) Passenger stops and stations on a mass transit line.
- (3) Parking facilities and structures associated with passenger stops and stations on a mass transit line.
- (4) Any other service or facility, whether public or public-private, that the city may by law provide or participate in within the city, including retail, residential, and commercial facilities.

(d) Contracts. – A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof.

Any contracts entered into pursuant to this paragraph shall specify the purposes for which city moneys are to be used and shall require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period. (1973, c. 655, s. 1; 1977, c. 775, ss. 1, 2; 1979, c. 595, s. 2; 1985, c. 580; 1987, c. 621, s. 1; 1999-224, s. 1; 1999-388, s. 1; 2004-151, s. 1; 2004-203, s. 5(m); 2009-385, s. 1.)

§ 160A-537. Definition of service districts.

(a) Standards. – The city council of any city may by resolution define a servicedistrict upon finding that a proposed district is in need of one or more of the services, facilities, or functions listed in G.S. 160A-536 to a demonstrably greater extent than the remainder of the city.

(b) Report. – Before the public hearing required by subsection (c), the city council shall cause to be prepared a report containing:

- (1) A map of the proposed district, showing its proposed boundaries;
- (2) A statement showing that the proposed district meets the standards set out in subsection (a); and
- (3) A plan for providing in the district one or more of the services listed in G.S. 160A-536.

The report shall be available for public inspection in the office of the city clerk for at least four weeks before the date of the public hearing.

(c) Hearing and Notice. – The city council shall hold a public hearing before adopting any resolution defining a new service district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a map of the proposed district and a statement that the report required by subsection (b) is available for public inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed and his certificate is conclusive in the absence of fraud.

(d) Effective Date. – The resolution defining a service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the city council, except that if the governing body in the resolution states that general obligation bonds are anticipated to be authorized for the project, it may make the resolution effective immediately upon its adoption, but no ad valorem tax may be levied for a partial fiscal year.

(e) In the case of a resolution defining a service district, which is adopted during the period beginning July 1, 1981, and ending July 31, 1981, and which district is for any purpose defined in G.S. 160A-536(1), the city council may make the resolution effective for the fiscal year beginning July 1, 1981. In any such case, the report under subsection (b) of this section need only have been available for public inspection for at least two weeks before the date of the public hearing, and the notice required by subsection (c) of this section need only have been mailed at least two weeks before the date of the hearing. (1973, c. 655, s. 1; 1981, c. 53, s. 1; c. 733, s. 1; 2006-162, s. 25.)

§ 160A-538. Extension of service districts.

(a) Standards. – The city council may by resolution annex territory to any service district upon finding that:

- (1) The area to be annexed is contiguous to the district, with at least one eighth of the area's aggregate external boundary coincident with the existing boundary of the district;
- (2) That the area to be annexed requires the services of the district.

(b) Annexation by Petition. – The city council may also by resolution extend by annexation the boundaries of any service district when one hundred percent (100%) of the real

property owners of the area to be annexed have petitioned the council for annexation to the service district.

(c) Report. – Before the public hearing required by subsection (d), the council shall cause to be prepared a report containing:

- (1) A map of the service district and the adjacent territory, showing the present and proposed boundaries of the district;
- (2) A statement showing that the area to be annexed meets the standards and requirements of subsections (a) or (b); and
- (3) A plan for extending services to the area to be annexed. The report shall be available for public inspection in the office of the city clerk for at least two weeks before the date of the public hearing.

(d) Hearing and Notice. – The council shall hold a public hearing before adopting any resolution extending the boundaries of a service district. Notice of the hearing shall state the date, hour and place of the hearing and its subject, and shall include a statement that the report required by subsection (c) is available for inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, the notice shall be mailed at least four weeks before the date of the hearing to the owners as shown by the county tax records as of the preceding January 1 of all property located within the area to be annexed. The notice may be mailed by any class of U.S. mail which is fully prepaid. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(e) Effective Date. – The resolution extending the boundaries of the district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the council.

(f) **(For applicability see note)** A service district which at the time of its creation had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter may only have its boundaries extended to include territory which has been added to the historic district. (1973, c. 655, s. 1; 1981, c. 53, s. 2; 1987, c. 621, s. 2.)

§ 160A-538.1. Reduction of service districts.

(a) Upon finding that there is no longer a need to include within a particular service district any certain tract or parcel of land, the city council may by resolution redefine a service district by removing therefrom any tract or parcel of land which it has determined need no longer be included in said district. The city council shall hold a public hearing before adopting a resolution removing any tract or parcel of land from a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing.

(b) The removal of any tract or parcel of land from any service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the city council.

(c) **(For applicability see note)** A service district which at the time of its creation had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter may only have its boundaries reduced to exclude territory which has been removed from the historic district. (1977, c. 775, s. 3; 1987, c. 621, s. 3.)

§ 160A-539. Consolidation of service districts.

(a) The city council may by resolution consolidate two or more service districts upon finding that:

- (1) The districts are contiguous or are in a continuous boundary; and
- (2) The services provided in each of the districts are substantially the same; or
- (3) If the services provided are lower for one of the districts, there is a need to increase those services for that district to the level of that enjoyed by the other districts.

(b) Report. – Before the public hearing required by subsection (c), the city council shall cause to be prepared a report containing:

- (1) A map of the districts to be consolidated;
- (2) A statement showing the proposed consolidation meets the standards of subsection (a); and
- (3) If necessary, a plan for increasing the services for one or more of the districts so that they are substantially the same throughout the consolidated district.

The report shall be available in the office of the city clerk for at least two weeks before the public hearing.

(c) Hearing and Notice. – The city council shall hold a public hearing before adopting any resolution consolidating service districts. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a statement that the report required by subsection (b) is available for inspection in the office of the city clerk. The notice shall be published at least once not less than one week before the date of the hearing. In addition, the notice shall be mailed at least four weeks before the hearing to the owners as shown by the county tax records as of the preceding January 1 of all property located within the consolidated district. The notice may be mailed by any class of U.S. mail which is fully prepaid. The person designated by the council to mail the notice shall certify to the council that the mailing has been completed, and his certificate shall be conclusive in the absence of fraud.

(d) Effective Date. – The consolidation of service districts shall take effect at the beginning of a fiscal year commencing after passage of the resolution of consolidation, as determined by the council. (1973, c. 655, s. 1; 1981, c. 53, s. 2.)

§ 160A-540. Required provision or maintenance of services.

(a) New District. – When a city defines a new service district, it shall provide, maintain, or let contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year, after the effective date of the definition of the district.

(b) Extended District. – When a city annexes territory for a service district, it shall provide, maintain, or let contracts for the services provided or maintained throughout the district to the residents of the area annexed to the district within a reasonable time, not to exceed one year, after the effective date of the annexation.

(c) Consolidated District. – When a city consolidates two or more service districts, one of which has had provided or maintained a lower level of services, it shall increase the services within that district (or let contracts therefor) to a level comparable to those provided or maintained elsewhere in the consolidated district within a reasonable time, not to exceed one year, after the effective date of the consolidation. (1973, c. 655, s. 1.)

§ 160A-541. Abolition of service districts.

Upon finding that there is no longer a need for a particular service district, the city council may by resolution abolish that district. The council shall hold a public hearing before adopting a resolution abolishing a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject, and shall be published at least once not less than one week before the date of the hearing. The abolition of any service district shall take effect at the end of a fiscal year following passage of the resolution, as determined by the council. (1973, c. 655, s. 1.)

§ 160A-542. Taxes authorized; rate limitation.

A city may levy property taxes within defined service districts in addition to those levied throughout the city, in order to finance, provide or maintain for the district services provided therein in addition to or to a greater extent than those financed, provided or maintained for the entire city. In addition, a city may allocate to a service district any other revenues whose use is not otherwise restricted by law.

Property subject to taxation in a newly established district or in an area annexed to an existing district is that subject to taxation by the city as of the preceding January 1.

Property taxes may not be levied within any district established pursuant to this Article in excess of a rate on each one hundred dollar (\$100.00) value of property subject to taxation which, when added to the rate levied city wide for purposes subject to the rate limitation, would exceed the rate limitation established in G.S. 160A-209(d), unless that portion of the rate in excess of this limitation is submitted to and approved by a majority of the qualified voters residing within the district. Any referendum held pursuant to this paragraph shall be held and conducted as provided in G.S. 160A-209.

This Article does not impair the authority of a city to levy special assessments pursuant to Article 10 of this Chapter for works authorized by G.S. 160A-491, and may be used in addition to that authority. (1973, c. 655, s. 1.)

§ 160A-543. Bonds authorized.

A city may incur debt under general law to finance services, facilities or functions provided within a service district. If a proposed general obligation bond issue is required by law to be submitted to and approved by the voters of the city, and if the proceeds of the proposed bond issue are to be used in connection with a service that is or, if the bond issue is approved, will be provided only for one or more service districts or at a higher level in service districts than city wide, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire city and by a majority of the total of those voting in all of the affected or to be affected service districts. (1973, c. 655, s. 1; 2004-151, s. 4.)

§ 160A-544. Exclusion of personal property of public service corporations.

There shall be excluded from any service district and the provisions of this Article shall not apply to the personal property of any public service corporation as defined in G.S. 160A-243(c); provided that this section shall not apply to any service district in existence on January 1, 1977. (1977, c. 775, s. 4.)

ATTACHMENT B

Properties Included in the Proposed Downtown Burgaw Business Improvement District

109 W COURTHOUSE AVE,	BATTS BEATRICE HARRIS,	3229-22-9973-0000
100 S DICKERSON ST,	PENDER COUNTY,	3229-23-8211-0000
122 124 126 W FREMONT ST,	LEVKOVA ANNA,	3229-22-9728-0000
N DICKERSON ST,	JORDAN ELLA,	3229-22-9815-0000
114 S DICKERSON ST,	GREGORY REBEKAH,	3229-22-9820-0000
118 W FREMONT ST,	NORTON ALLYNS et al,	3229-22-9874-0000
100 N DICKERSON ST,	BARNHILL DONALD et al,	3229-23-7375-0000
112 W COURTHOUSE AVE,	198 LLC et al,	3229-23-9004-0000
108 W COURTHOUSE AVE,	BONEY MATTHEW L.,	3229-23-9034-0000
106 W COURTHOUSE AVE,	DRAUGHON BARBARA T,	3229-23-9076-0000
105 W WILMINGTON ST,	HOUGH NANCY ISABELLA ETAL,	3229-23-9293-0000
112 W FREMONT ST,	LAMBERT CRAIG,	3229-32-0848-0000
110 W FREMONT ST,	ALK CARDINAL LLC,	3229-32-0889-0000
105 W COURTHOUSE AVE,	DEES PROPERTIES LLC,	3229-32-0978-0000
W COURTHOUSE AVE,	DEES PROPERTIES LLC,	3229-32-1929-0000
COURTHOUSE AVE OFF,	DEES PROPERTIES LLC,	3229-32-1936-0000
115 S WRIGHT ST,	RUSSCORP LLC,	3229-32-1975-0000
215 S WRIGHT ST,	HARDISON CARL E SR,	3229-32-3402-0000
213-B S WRIGHT ST,	BROCK WAYNE,	3229-32-3405-0000
200 WALKER ST S,	BOEHLING LAWRENCE S,	3229-32-8941-0000
205 E FREMONT ST,	PEREZ ALICIA MENDEZ,	3229-32-9942-0000
102 E WILMINGTON ST,	TOWN OF BURGAW,	3229-33-2449-0000
106 E WILMINGTON ST,	PENDER COUNTY OLD JAIL,	3229-33-3542-0000
108 WALKER ST N,	BURGAW PRESBYTERIAN CHURCH OF et al,	3229-33-7283-0000
106 S WALKER ST,	BURGAW PRESBYTERIAN CHURCH,	3229-33-7372-0000
100 S WALKER ST,	AYCOCK LEWIS E et al,	3229-33-7418-0000
102 S WALKER ST,	BIBERSTEIN R V JR TRUSTEE,	3229-33-7431-0000
115 W FREMONT ST,	LOJO PROPERTIES OF BURGAW LLC,	3229-32-0634-0000
114 W FREMONT ST,	BULLARD RENISE B et al,	3229-32-0806-0000
114 W COURTHOUSE AVE,	TOCONIS DEVELOPMENT GROUP INC,	3229-23-8042-0000
N DICKERSON STREET,	PENDER COUNTY MUNICIPAL BUILDING,	3229-23-8178-0000
104 S DICKERSON ST,	ODEDRA HARBHAM et al,	3229-23-8190-0000
113 W FREMONT ST,	BROWN LINDA G,	3229-32-1607-0000
W FREMONT ST,	HARRELL WILLIAM ROSS & ROCHELL,	3229-32-1655-0000
108 W FREMONT ST,	BROWN LINDA G,	3229-32-1826-0000

103 W FREMONT ST,	MULLIGAN EUGENE et al,	3229-32-2589-0000
111 W FREMONT ST,	WHITESIDE ROCHELLE,	3229-32-2602-0000
107 W FREMONT ST,	HORVATH JOE JOHN et al,	3229-32-2627-0000
105 W FREMONT ST,	DURHAM EVERETT L JR,	3229-32-2648-0000
205A S WRIGHT ST,	RUSSCORP LLC,	3229-32-3621-0000
103 S WRIGHT ST,	MERRITT TIMOTHY L,	3229-33-0293-0000
102 W WILMINGTON ST,	WK HOBBS INVESTMENTS LLC,	3229-33-0443-0000
111 S WRIGHT ST,	HEMPHILL PROPERTIES LLC,	3229-33-1072-0000
107 S WRIGHT ST,	HARRELL CHARLES M et al,	3229-33-1124-0000
100 S WRIGHT ST,	PENDER COUNTY MUNICIPAL BUILDING,	3229-33-4149-0000
108 E WILMINGTON ST,	TOWN OF BURGAW,	3229-33-4557-0000
104 W FREMONT ST,	BONEY CHARLIE LEE & VYLICE P,	3229-32-1869-0000
W FREMONT ST OFF,	BONEY CHARLIE et al,	3229-32-1901-0000
113 S WRIGHT ST,	BONEY MATTHEW,	3229-32-1998-0000
213A S WRIGHT ST,	JONES LISA R,	3229-32-2488-0000
100B W FREMONT ST,	HARDING KAREN,	3229-32-2829-0000
WRIGHT ST,	HARDING KAREN,	3229-32-2933-0000
209 S WRIGHT ST,	RUSSCORP LLC,	3229-32-3546-0000
203 S WRIGHT ST,	TRAWICK GARY E et al,	3229-32-3616-0000
204 S WALKER ST,	ARMITAGE MARK SAMUEL,	3229-32-8799-0000
109 S WRIGHT ST,	MULLIGAN EUGENE,	3229-33-0170-0000
105 S WRIGHT ST,	RIVENBARK WALTER RAY et al,	3229-33-0199-0000
100 E WILMINGTON ST,	ANDERSON JORDAN LLC,	3229-33-1487-0000
204 E FREMONT ST,	BURGAW PRESBYTERIAN CHURCH,	3229-33-8122-0000
200 S DICKERSON ST,	JOHNSON JOHNNIE E JR,	3229-22-9683-0000
110 S DICKERSON ST,	U WASH DRY et al,	3229-22-9903-0000
COURTHOUSE AVE,	BULLARD JAMIE LEE,	3229-22-9995-0000
108 W WILMINGTON ST,	MARK SPENCER WILLIAMS LLC,	3229-23-8363-0000
104 WILMINGTON ST E,	PAGE ANNETTE M,	3229-23-9460-0000
115 W FREMONT ST,	LOJO PROPERTIES OF BURGAW LLC,	3229-32-0675-0000
116 W FREMONT ST,	HART DENNIS L & JANET G,	3229-32-0811-0000
106 W FREMONT ST,	BONEY CHARLIE et al,	3229-32-1848-0000
102 W FREMONT ST,	WALKER CHRISTOPHER et al,	3229-32-1899-0000
211 S WRIGHT ST,	THURSTON DANIEL J et al,	3229-32-2581-0000
101 W FREMONT ST,	BOEHLING LAWRENCE S,	3229-32-2785-0000
117 S WRIGHT ST,	WALSH HARRY,	3229-32-2904-0000
100A W FREMONT ST,	HARDING KAREN,	3229-32-2940-0000
207AB S WRIGHT ST,	HUFFMAN LOIS L,	3229-32-3539-0000
205 S WRIGHT ST,	RUSSCORP LLC,	3229-32-3613-0000

107 S WRIGHT ST,	HARRELL CHARLES M SR,	3229-33-0175-0000
101 S WRIGHT ST,	MAKING PLACES LLC,	3229-33-0288-0000
WILMINGTON HWY,	TOWN OF BURGAW,	3229-33-3565-0000
109 E FREMONT ST,	TAYLOR W I JR DR,	3229-32-6854-0000
111 E FREMONT ST,	CORBETT LEON H JR et al,	3229-32-7816-0000
210 S WRIGHT ST,	BROWN CHARLES A et al,	3229-32-5544-0000
212 S WRIGHT ST,	TOWNS HENRY M et al,	3229-32-5467-0000
206 S WRIGHT ST,	LOST TREE LLC,	3229-32-5600-0000
105 E FREMONT ST,	POLLOCK HAROLD L et al,	3229-32-5756-0000
107 E FREMONT ST,	RKH HOLDINGS LLC,	3229-32-6718-0000
101 E FREMONT ST,	FIRST STATES INVESTORS 4100A,	3229-32-4754-0000

The Legal Framework for Business Improvement Districts (BIDs) in North Carolina

1. What is the legal authority for establishing a BID in North Carolina?

- In North Carolina the statutory authority for creating a BID is the Municipal Service District Act, G.S. 160A-535 through 160A-544. This Act permits a municipality to establish one or more municipal service districts and assesses a special tax in each of the districts to be used to fund services or projects in the district. Among the purposes for which municipal service districts may be formed is to fund *downtown revitalization*. **The Town of Burgaw is not assessing a special tax in association with its Downtown BID. The tax rate in the BID will be consistent with the tax rate in the rest of the Town of Burgaw.**

2. What constitutes *downtown revitalization* (that is, what services may be provided in the BID)?

- G.S. 160A-536(b) lists a broad array of potential downtown revitalization projects.¹ And the list is not exclusive. As long as a project or activity benefits the downtown district or benefits the properties or residents in the downtown district, it likely may be funded with BID tax proceeds. Although technically a “service” district, municipalities may use BID tax proceeds to fund capital projects, operating expenses, and other activities in the BID.

¹ G.S. 160A-536(b) states:

Downtown Revitalization Defined. – As used in this section "downtown revitalization projects" are improvements, services, functions, promotions, and developmental activities intended to further the public health, safety, welfare, convenience, and economic well-being of the central city or downtown area. Exercise of the authority granted by this Article to undertake downtown revitalization projects financed by a service district do not prejudice a city's authority to undertake urban renewal projects in the same area. Examples of downtown revitalization projects include by way of illustration but not limitation all of the following:

- (1) Improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements.
- (2) Construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street.
- (3) Construction of public buildings, restrooms, docks, visitor centers, and tourism facilities.
- (4) Improvements to relieve traffic congestion in the central city and improve pedestrian and vehicular access to it.
- (5) Improvements to reduce the incidence of crime in the central city.
- (6) Providing city services or functions in addition to or to a greater extent than those provided or maintained for the entire city.
- (7) Sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area.

- o Common projects and services include enhanced maintenance of streets, sidewalks, and other public facilities; provision of extra security to augment regular police services; downtown marketing and promotion; presentation of special downtown events; management of downtown parking; promotion of downtown business location and expansion; and construction of capital improvements.

3. How are BID boundaries drawn?

- The municipal service district legislation implements N.C. Const. art. V, § 2(4), which allows a municipality to define special service areas in order to assess additional property taxes to fund services, projects or activities within the areas that are additional to the services provided throughout the unit.
- A municipality's governing board has broad discretion to draw BID boundaries within its downtown area. The governing board simply must find that the services, projects, or activities are provided to a greater extent than those financed, provided or maintained for the entire city.
- Districts should include only properties that will benefit from the additional services provided in the district.

4. What is the legal process for establishing a BID?

- The following flowchart depicts the procedural process for establishing a BID:

Step 1:

City council prepares a report which contains:

- a map of the proposed district;
- a statement showing that the services are needed in the district to a demonstrably greater extent than the rest of the city; and
- a plan for providing the proposed services in the district.

(included above in this report)

Step 2:

- Town Manager files a copy of the report with the city clerk at least four weeks before holding a public hearing **(May 6, 2014)**
- Town Manager mails report to each owner of property in the district at least four weeks before holding a public hearing **(May 6, 2014)**

Step 3:

- City prepares and publishes a notice of the public hearing at least one week before the hearing.
(Public Hearing planned for Town Board meeting June 10, 2014)

Step 4:

- City council holds the public hearing.
(Public Hearing planned for Council meeting June 10, 2014)

Step 5:

Town Board may adopt a resolution approving the BID with an effective date of July 1, 2014

Step 6:

- Generally, the district becomes effective at the beginning of the fiscal year commencing after the resolution establishing the district is adopted. **(Planned effective date of BID is July 1, 2012)**
- The Town Board may make the district effective upon its adoption if it anticipates authorizing general obligation bonds for the project (but no *ad valorem* tax may be levied for a partial fiscal year).

Step 7:

- Town provides, maintains, or lets contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year after the effective date of the district. **(The Town of Burgaw is not proposing a separate tax rate associated with this BID. Impact fee mitigation effective from July 1, 2014 through June 30, 2017.)**

5. How are BIDs financed?

- In North Carolina a municipal service district is a property tax district. The city may levy an *ad valorem* (property) tax within the district in addition to the citywide property tax, the proceeds of which finance additional services or projects provided to the district. **The Town of Burgaw is not proposing to levy an additional tax rate within the proposed BID.**
 - o The BID property tax (BID tax) is levied on the same tax base, within the district, on which the citywide property tax is levied. The property tax base includes real and personal property. The same exemptions apply to the BID property tax as apply to the citywide property tax.
- In addition to the district tax, a city may allocate to a BID any other unrestricted revenue. **The Town of Burgaw is planning to fund the impact fee mitigation program with funds allocated from the General Fund fund balance.**

6. May the city levy different BID tax rates within the BID?

- No. The BID tax rate must be uniform throughout the BID. If differential rates are desired for different parts of the downtown, different BIDs must be established. **(No incremental tax rate is being implemented with the Town of Burgaw BID)**

7. May the city exempt certain property in the BID from the district property tax (for example, residential property)?

- No. Only the General Assembly may exempt or otherwise classify property subject to the property tax.
 - The same exemptions apply to the BID tax as apply to the citywide property tax. (Therefore property owned by governments and churches is exempt from the district tax, as is any other tax-exempt property.) Additionally, the personal property of any public service corporation is exempt from the BID tax.
- *Note: to the extent possible, the city should attempt to draw the district boundary to exclude residential property because the city may not exempt residential property from the BID tax. (See Question 3).*

8. Are there any limits on the BID property tax rate?

- The BID tax rate, combined with the property tax rate levied citywide, may not exceed \$1.50 per \$100 valuation, unless approved by a majority of the qualified voters residing in the district.

9. Once a BID is established and becomes effective, when must services be provided in the district?

- Once a BID becomes effective, the city must “provide, maintain, or let contracts for the services for which the residents of the district are being taxed within a reasonable time, not to exceed one year.”

10. May a city create a BID that does not take effect until a future fiscal year?

- Likely yes. G.S. 160A-537 states that “[t]he resolution defining a service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the city council” Thus, the governing board likely may specify in the resolution creating the BID that it will take effect in a future fiscal year. The BID must take effect at the beginning of a fiscal year, though.

11. Does the BID have borrowing authority?

- No. A BID is part of the municipality’s government. It does not have independent borrowing authority.
- A municipality has a variety of funding options to finance capital projects. A city may issue bonds, the proceeds of which are used solely to finance services within a BID.
 - o If the city proposes to issue General Obligation bonds to provide services solely within a BID (and the bonds are going to be retired with BID tax revenue), the bond issuance must be approved by the majority of citizens in the city and by a majority of the citizens within the existing or proposed BID.

12. May the city contract with a private organization or entity to manage the BID?

- Yes. A city may provide services within the BID itself, or it may contract with another governmental agency or a private agency to provide the services.

- o Contracts with other governmental or private agencies must specify the purposes for which the funds must be used and require an accounting for the expenditure of the funds.

13. If a city enters into a contract to provide services within a BID that expands more than one fiscal year, are future city councils bound by the contract?

- Yes, unless the contract provides otherwise. G.S. 159-13(b)(15) requires the city's governing board to appropriate each fiscal year an amount required to meet its obligations under continuing contracts unless the contract language reserves to the city the right to limit or not make such an appropriation.

14. May the city appoint a citizen advisory board for the BID?

- Yes, the city may appoint a citizen advisory board for the BID. The city may grant the advisory board specific powers, however, the city must maintain final authority over the use of the BID's funds. The city council is not legally bound by an advisory board's recommendations.

15. Once it is established and becomes effective, may a BID be extended to include additional property?

- Yes. The city council may annex territory to an existing BID if the area to be annexed is contiguous to the district and it requires the services of the district. (At least one eighth of the area's aggregate external boundary must be coincident with the existing boundary of the BID.)
- The city council also may extend the boundaries of any BID if it receives a petition signed by 100 percent of the real property owners of the area to be annexed.

16. Once a BID is established and becomes effective, may property be removed from the district?

- Yes. The city council may adopt a resolution to redefine a BID by removing property that no longer needs the services provided in the BID.

17. Once a BID is established and becomes effective, may it be abolished?

- Yes. The city council may adopt a resolution abolishing a BID if it finds that it is no longer needed.
- *Note that if a BID is abolished, any unexpended BID tax proceeds must be expended for the purposes for which the BID was established. The BID tax proceeds may not be transferred to the general fund or expended for any other purpose.*

18. Can a BID be established outside a municipality's central downtown?

- No. However, another purpose for which a municipal service district may be established is for "urban area revitalization." Urban area revitalization projects include any projects or services that may be provided in a downtown area as a downtown revitalization project.

An "urban area" is an area that (i) is located within a city and (ii) meets *one or more* of the following conditions:

- (1) It is the central business district of the city.
- (2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.
- (3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any non-residentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.
- (4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities.