

ORDINANCE 2005-10
AMENDING THE CODE OF THE TOWN OF BURGAW CHAPTER 10
REGARDING CEMETERIES

Whereas, The Town of Burgaw does own and maintain a municipal cemetery; and

Whereas, The Town of Burgaw Code of Ordinances Chapter 10, Section 10-1 allows the Board of Commissioners to adopt such ordinances, resolutions and regulations as are deemed necessary to properly operate, maintain, regulate, care for and promote the town cemetery and all matters relative thereto; and

Whereas, currently there are no specific guidelines regarding such matters and the Town of Burgaw Board of Commissioners desires to adopt guidelines that will preserve the beauty and integrity of the Burgaw Cemetery in perpetuity.

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

Chapter 10 to the Code of the Town of Burgaw is amended to contain the amendments as hereinafter set forth and that Sections 10-1 and 10-2 as currently adopted and stated within the Town Code are hereby repealed

ARTICLE I. IN GENERAL

Section 10-1. Title

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

Section 10-2. Definitions

As used in this Chapter:

- (a) *Board of Commissioners* shall mean the elected officials for the Town of Burgaw.
- (b) *Cemetery* shall mean the Burgaw Cemetery located on Ashe Street in the Town of Burgaw bordered by the Burgaw Elementary School and the Town of Burgaw Wastewater Treatment Facility.
- (c) *Stacking* shall mean the burial of a human body on top of a previously buried human body.
- (d) *Town* shall mean Town of Burgaw, a municipal corporation organized and existing under the laws of the State of North Carolina.

Section 10-3. Title and Power to Regulate

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

Section 10-4. Hours of Operation

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

Section 10-5. Activity in the Cemetery

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

Section 10-6. Injuring property

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

Section 10-7. Animals

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

Section 10-8. Vehicles

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

Section 10-9. Speed of Vehicles

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

Section 10-10. Plantings

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

Section 10-11. Removal of Flower Arrangements

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

Section 10-12. Maintenance

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

ARTICLE II. INTERMENTS

Section 10-13. Burial

- (a) Generally. Burial in the cemetery will only be permitted after all permits and fees have been paid to the Town. The minimum size for all gravesites will be 4' x 11'. The Town Board of Commissioners will set the cost of a plot and the cost of perpetual care. No burials will take place without authorization by the Town of Burgaw.
- (b) Usage of Gravesite. Usage of each gravesite shall be limited to one of the following:
 - 1. The interment of one human body unless provided for in Section 10-13(c) of this ordinance;

2. The interment of one human body and one cremation urn;
3. The interment of one or two cremation urns.

(c) **Stacking.** The stacking of graves will be allowed within the cemetery beginning on April 15, 2005, and in graves that do not have a previous buried human body. Any gravesite that will utilize the stacking of human burial shall meet the following requirements;

1. The gravesite must be dug to a depth of at least eight feet seven inches (8'7") to accommodate the burial of the first human body for burial within the gravesite; and
2. A vault must be utilized in the burial of each human body.

(d) **Permit.** No interment or disinterment of a human body or the burial of a cremation urn shall be made without first obtaining a permit from the Town Clerk whose office is located at the Burgaw Town Hall.

Section 10-14. Hours of Interment

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

Section 10-15. Opening and Closing of Graves

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

Section 10-16. Vaults

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

Section 10-17. Minimum Cover

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

Section 10-18. Headstones/Footstones

No head stone and/or footstone shall be set without the person, firm, corporation or entity setting the head stone or footstone obtaining a permit from the Town prior to the erection of the head stone or footstone. It shall be the responsibility of the company setting the stone to contact the Town prior to this activity. The company will be responsible for

cleanup and repair to any area damaged during this activity. All footstones will be set flush with the ground surface and set in a way to prevent the settling of the stone. Perpetual care shall not cover the maintenance and repair to any grave marker, head stone or footstone. Any grave marker, head stone or footstone erected and located within the cemetery is the property of the plot owner.

Section 10-19. Above Ground Burial

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

Section 10-20. Tents and Private Property

If used in the cemetery in connection with a funeral or burial service, any tent, benches or flower stands erected shall not remain at the gravesite for more than seven (7) days from the date that it is erected within the cemetery. Any private equipment other than a tent, benches, and flower stands shall be removed immediately upon the conclusion of the funeral or burial service. The Town shall not assume the responsibility for damage sustained to any private property located within the cemetery.

Section 10-21. Records

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

Section 10-22. Violations

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

ARTICLE III. PERPETUAL CARE FUNDS

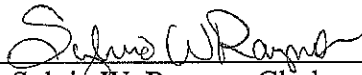
Section 10-23. Perpetual Care Funds

The Board of Commissioners may establish a perpetual care fund for the purpose of maintaining any Town cemetery. The perpetual care fund shall be established and administered by the Board of Commissioners in accordance with N.C.G.S. §160A-347.

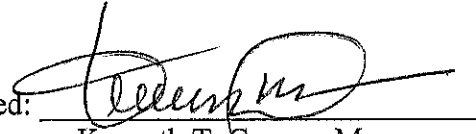
That these amendments become effective upon adoption of this ordinance on this the twelfth day of April 2005.

Witness my hand and the corporate seal of said Town of Burgaw, this the twelfth day of April, 2005.

Attest:


Sylvia W. Raynor, Clerk

Signed:


Kenneth T. Cowan, Mayor