

ARTICLE 22 MISCELLANEOUS

22.1 Garage Sales Ordinance

1. Garage Sale means and includes yard sales, carport sales or similar types of sales on the seller's own premises, involving the sale of used or second hand tangible personal property customarily found in and about the residence, and not including property acquired for resale.
2. Garage sales are permitted in all Residential Districts as long as they do not occur on the same lot for more than two (2) days two (2) times a year. Hours are limited to between 8:00 am and 8:00 pm. A Garage Sale Permit is required for all garage sales in the Town of Belville.

22.2 Adult Entertainment

1. Authority.

The provisions of these regulations are adopted by the Belville Board of Commissioners under authority granted by the General Assembly of the State of North Carolina. From and after the effective date and hereof, these regulations shall apply to every building, lot, tract, or parcel of land within Belville.

2. Intent.

It is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. For the purpose of promoting the health, safety, morals and general welfare of the citizenry of Belville, this article is adopted by the Board of Commissioners to regulate adult and sexually oriented businesses, as hereby defined, located in the jurisdiction of the county. Further the regulations of this article have been made with reasonable consideration, among other things, as to the character of the county and its areas and their peculiar suitability for these businesses.

3. Abrogation.

These regulations shall not repeal, impair, abrogate or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, regulations previously adopted pursuant to law in any established zoning district in Belville. However, where these regulations

impose greater restrictions, the provisions of these regulations shall govern.

4. Application Of Regulations.

Adult and sexually oriented businesses shall be regulated as to location in the following manner in addition to any other requirements of this code:

- a. No adult or sexually oriented business shall be permitted in any building:
 - (a) located within fifteen hundred feet (1,500') in any direction from a building used as a dwelling.
 - (b) located within fifteen hundred feet (1,500') in any direction from a building in which an adult business or a sexually oriented business is located.
 - (c) located within fifteen hundred feet (1,500') in any direction from a building used as a church, synagogue, other house of worship or cemeteries.
 - (d) located within fifteen hundred feet (1,500') in any direction from a building used as a public school or as a state licensed day care center.
 - (e) located within fifteen hundred feet (1,500') in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.
 - (f) located within fifteen hundred feet (1,500') of any publicly owned or operated facility.
- b. No more than one (1) adult or sexually oriented business establishment shall be located in the same building or structure or on the same lot.
- c. Adult and sexually oriented businesses shall be located only in the Industrial Zoning District and shall be established by Special Exception approval of the Planning Board.
- d. Except for signs as permitted in Article 12, promotional displays and presentations shall not be visible to the public from sidewalks, walkways or streets.
- e. All minimum lot requirements of the Industrial Zoning District shall be met.

5. Nonconforming Adult Business And Sexually Oriented Businesses:

Any adult business or sexually oriented business lawfully operating as of the effective date of this ordinance that is in violation of any provision of this ordinance shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two (2) years. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If a nonconforming use is discontinued for a period of one hundred eighty (180) days or more it may not be reestablished. If two (2) or more adult businesses or sexually oriented adult businesses are within one thousand (1,000) feet of one another and otherwise in a permissible location, the business which was first established and continually operating at its present location shall be considered the conforming use and the later established business(es) shall be considered nonconforming. An adult business or sexually oriented adult business lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a dwelling, church, house of worship, day care center, school, playground, public swimming pool or public park.

6. Severability.

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

22.3 PUBLIC NUISANCES

22.3.1: Findings and purpose. Whereas, the commissioners are authorized by Section 160A-174, 160A-175, 160A-192, and 160A-193 of the General Statutes of North Carolina to abate nuisances, NOW THEREFORE,

- 1 The Town Commissioners of the Town of Belville do hereby find that it is necessary to provide for the abatement of conditions which are offensive or annoying to the senses, detrimental to property values and community appearance, an obstruction to or interference with the comfortable enjoyment of adjacent property or premises, or hazardous or injurious to

the health, safety or welfare of the general public in such ways to constitute a public nuisance; and, to provide standards to safeguard life, health and public welfare in keeping with the character of the Town by allowing for the maintenance of property or premises for each of the following purposes:

- a. To safeguard the health, safety and welfare of the people by maintaining property or premises in good and appropriate condition;
- b. To promote a sound and attractive community appearance; and,
- c. To enhance the economic value of the community, and each area in it, through the regulation of the maintenance of property or premises.

2 Accordingly, the Town Commissioners find and declare that the purpose of this Chapter is to:

- a. Reduce the threat to health, safety, welfare, appearance and economic value due to the decline in property condition(s) by lawfully delineating the circumstances under which such condition(s) may be considered illegal and/or abated; and, further finds that,
- b. Abatement of such condition(s) is in the best interest of the health, safety and welfare of the residents of the Town because maximum use and enjoyment of property or premises in proximity to one another depends upon maintenance of those properties or premises at or above the minimum standard.

22.3.2. Public nuisances

1 Property maintenance - public nuisances. It is hereby declared to be a public nuisance for any owner or other person in control of said property or premises to keep or maintain property, premises or rights-of-way in such a manner that any of the following conditions are found to exist:

- a. Abandoned, dismantled, wrecked, inoperable, unlicensed, and discarded objects, equipment or appliances such as, but not limited to vehicles, boats, water heaters, refrigerators, furniture which is not designed for outdoor use, household fixtures, machinery, equipment, cans or containers standing or stored on property or on sidewalks or streets which can be viewed from a public street or walkway, alley or other public property which items are readily accessible from such places, or which are stored on private property in violation of any other law or ordinance;
- b. Discarded putrescibles, garbage, rubbish, refuse, or recyclable items which have not been recycled within thirty (30) days of being deposited on the property which are determined by an Enforcement Officer to constitute a fire hazard or to be detrimental to human life, health or safety;

- c. Oil, grease, paint, other petroleum products, hazardous materials, volatile chemicals, pesticides, herbicides, fungicides or waste (solid, liquid or gaseous) which is determined by an Enforcement Officer to constitute a fire or environmental hazard, or to be detrimental to human life, health or safety;
- d. Lumber (excluding lumber for a construction project on the property with a valid permit), salvage materials, including but not limited to auto parts, scrap metals, tires, other materials stored on premises in excess of seventy-two (72) hours and visible from a public street, walkway, alley or other public property;
- e. Receptacles for discarded materials and recyclables, which are left in the front yard following the day of the regularly scheduled, refuse pick-up for the property;
- f. Swimming pool, pond, spa, other body of water, or excavation which is abandoned, unattended, unsanitary, empty, which is not securely fenced, or which is determined by the Enforcement Officer to be detrimental to life, health or safety;
- g. The uncontrolled growth of noxious weeds or grass to a height in excess of twenty-four (24) inches which is determined by the Enforcement Officer to be detrimental to life, health or safety;
- h. Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- i. Any premises which detrimentally impacts the surrounding neighborhood because of dilapidation, deterioration or decay or is unsafe for the purpose for which it is being used or is not secured or is improperly secured; and,
- j. Any condition on a property, which meets the requirements of subparagraph 1 and 2, below:
 - a) Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property; and,
 - b) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

2 Responsibility for property maintenance.

The owner, occupant, lessee or tenant of any property within the Town shall be responsible for the maintenance of property and premises in a manner consistent with the provisions of this Chapter and the Ordinance of the Town of Belville.

3 Animals

As required by the Brunswick County General Statute 130A-185, all dogs and cats four (4) months of age or older shall be vaccinated against rabies;

- a) Every dog and cat within the Town limits shall be required to wear a collar at all times which includes a rabies vaccination tag;
- b) Enumerated in this section by way of example and not limited to certain types of animals are actions involving animals or conditions maintained or permitted by the animal's owner or possessors which shall constitute prima facie evidence of a public nuisance whether the animals are located on or off the owners or possessors premises;
- c) For the purpose of this section, a dog shall be deemed to run at large while roaming, running, or self hunting off the property of its' owner and not under owners' immediate control. A dog which is for game, for which its owner must hold a hunting license as required by the State of North Carolina shall not be deemed to be running at large nor to be off premises of its' owner and, not under the physical restraint of a competent person during the designated season for the game so hunted.
- d) Any animal which damages the property of anyone other than its' owner including by not limited to turning over garbage containers, damaging gardens, flowers or vegetables;
 - a Any animal, which is defined in this ordinance as a vicious animal.
 - b Maintaining an animal in an environment of unsanitary conditions.
 - c Any animal, which is diseased and not under veterinary care.
 - d Any animal, which jumps on, or chases, snaps at, attacks or threatens pedestrians, bicycles, vehicles, joggers or runners and is not in an enclosure or under restraint.
 - e Failure to confine a female dog while in heat in a building or secure enclosure in such a manner that she will not be in contact with other dogs, nor create a nuisance.
- e) This subsection shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal which is breeding;
- f) It shall be unlawful for any owner of a dog to permit the said dog from running at large and to be off the premises of its owner and not under physical restraint of a competent person;

- g) Upon a Brunswick County Animal Control Officer's receipt of a complaint that a dog is running at large or is off the premises of its owner and not under physical restraint of a competent person, said Officer shall investigate said complaint and upon finding that there is probable cause that a violation of this ordinance has occurred, the Officer may issue a citation or take any other action provided for by North Carolina General Statute 14-45;
- h) Any owner cited for a violation may discharge the citation upon payment of the fee for impoundment (maximum fine of two-hundred and fifty dollars (\$250) payable to Brunswick County) as adopted by Brunswick County Board of Health provided the owner is in compliance with all other applicable provisions.

4 Authority of enforcement officer.

Enforcement of this Ordinance may be accomplished by the Enforcement Officer in any manner authorized by the Ordinance or by any other law, including but not limited to issuance of criminal citations, civil actions and abatement.

5 Abatement of public nuisances.

- a) Non-exclusive authority to abate. The Town may choose to abate any public nuisance or violation of the Town Ordinance through any of the abatement methods set forth in the Town Ordinance or in other local, state or federal law, and nothing contained in this Ordinance shall be construed as limiting, prejudicing or adversely affecting the Town's ability to concurrently or consecutively use any of those proceedings as the Town may deem are applicable. Proceeding under this Section will not preclude the Town from proceeding under other Sections of this Ordinance. Whenever an Enforcement Officer determines that any condition exists in violation of the provisions of this Ordinance, he/she may take enforcement action pursuant to this Section.
- b) Right of entry. The Enforcement Officer may enter any property or premises at all times to perform any duty imposed upon him/her by this Ordinance whenever the Enforcement Officer has cause to believe a violation of provisions of this Ordinance is occurring, provided that:
 - a) The Enforcement Officer shall present proper credentials, state the reason for entry and request entry from the owner or occupant.
 - i. If entry is denied, he/she may seek a court ordered inspection warrant if cause exists.
 - ii. If entry is denied, the Enforcement Officer shall have recourse to every remedy provided by law to secure entry.
 - b) The Enforcement Officer shall make a reasonable effort to locate the owner of unoccupied property or premises, inform the owner of the reasons for entry and request entry.

- c The Enforcement Officer shall not enter any property or premises in the absence of permission to enter, unless an inspection warrant has been issued by a court of competent jurisdiction.

6 No duty to enforce.

Nothing in this Ordinance shall be construed as requiring the Town to enforce the prohibitions in this Ordinance against all or any properties, which may violate the Ordinance. In the Town's prosecutorial discretion, and as the Town's resources permit, this Ordinance may be enforced only as to a limited number of problem properties per year. Nothing in this Section or the absence of any similar provisions from any other Town law shall be construed to impose a duty upon the Town to enforce such other provision of law.

7 Criminal or civil penalty for violation.

Pursuant to the Town's prosecutorial discretion, the Town may enforce violations of the provisions of the Chapter as criminal, civil or abatement actions.

- a) Infraction/misdemeanor. Any person who violates any of the provisions of this Chapter shall be guilty of an infraction and/or misdemeanor. Each and every day, or any part thereof, during which any such violation is committed, continued, or allowed shall be a separate offense.
- b) Prosecution. Every violation of this Ordinance shall be a misdemeanor; provided, however, that where the Town Attorney has determined that such action would be in the best interest of justice, the Town Attorney may specify in the accusatory pleading or citation, that the violation shall be prosecuted as an infraction. The procedure set forth in this ordinance shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this ordinance shall not prevent the Town for proceeding in a criminal action against any form or corporation violating the provisions of this ordinance as provided in General Statute 14-4.
- c) Penalty for infraction. Each and every violation of this Ordinance, which is deemed an infraction, is punishable by:
 - a. A fine not exceeding fifty dollars (\$50.00) for the first violation;
 - b. A fine not exceeding one-hundred dollars (\$100.00) for the second violation of the same or similar provision within one year period; or,
 - c. A fine not exceeding two-hundred dollars (\$200.00) for each additional violation, after the second, of the same or similar provision of this Ordinance within a one year period of the first violation.
 - d. Each day shall constitute a separate offense
- d) Civil Penalties. Any person who intentionally, accidentally, or negligently violates any provision of this Ordinance may be civilly liable to the Town in

the sum of not less than fifty dollars (\$50.00) but not to exceed two-hundred dollars (\$200.00) per day for each day in which such violation occurs or continues. The Town may petition the municipal or superior court to impose, assess and recover such sums. The civil penalty provided in this Section excludes inspection costs and cleanup or abatement costs; is cumulative and not exclusive; and, shall be in addition to all other remedies available to the Town under state law and local ordinances.

8 Emergency cleanup or abatement.

In order to enforce the provisions of this Ordinance, when the Mayor or his/her duly authorized agents and representatives find and determine that the severity of the violation warrants immediate action, he/she may clean up or abate violation thereof. The cost of such cleanup or abatement may be recovered by the Town in a civil action and such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in General Statute 160A-193. Such emergency cleanup or abatement will not relieve the person of further action which may be taken by the Mayor or his/her duly authorized agents and representatives, including but not limited to, liability for any violations of this Ordinance or any other applicable provisions of state law and local ordinances.

9 Costs of enforcement.

In any civil, criminal or administrative appeal, hearing or action commenced by the Town under this Ordinance, the Town shall be entitled to recover from the defendant of such action reasonable attorney's fees, costs of suit, any other costs of enforcement, including, but not limited to, inspection costs and cleanup or abatement costs. If these costs are not paid, then they are a lien on the property where the nuisance occurred and such a lien shall have the same priority and be collected as unpaid ad valorem taxes. These costs, if unpaid, shall also be a lien on any other real property owned by the defendant within or within one mile of the Town's corporate limits except for the defendant's primary residence. Such a lien shall be inferior to all other liens and shall be collected as a money judgment.

10 Conclusive notice.

Mailing of notice of any hearing or order under this Ordinance to the owners of the real property concerned as the owners' names and addresses are shown on the last equalized roll upon which Town taxes are collected shall be conclusively deemed to be the proper persons and addresses for mailing the resolution, and the failure of any or all of the addressees to receive the notice shall not invalidate any of the proceedings. Further, the posting of notice of a hearing or order pursuant to this Ordinance shall be conclusively deemed to be adequate notice to any and all occupants, users or possessors of the property or its contents, and the failure of any such occupant, user, or possessor to see, read, understand or otherwise receive the notice shall not invalidate any of the proceedings."

22.3.3 Severability.

If any provision, clause, sentence, paragraph, or phrase of this Ordinance or the application thereof to any person or circumstances is held, for any reason by a court of competent jurisdiction, to be invalid or unconstitutional, such decision shall not affect the validity of other provisions or applications of the provisions of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

22.3.4 Savings Clause.

The changes provided for in this Ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this Ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this Ordinance.

Article 22.4 Firearms ordinance

It shall be unlawful for any person to fire a gun, rifle, pistol or other firearm, including air rifle, gun or pistol or spring gun or pistol or other similar device which impels with force any shot or pellet of any kind, within the town, except in case of self-defense or necessity. This section shall not apply to:

1. An officer lawfully discharging his duty.
2. Licensed shooting galleries.

Article 22.5 Swimming pool ordinance

Outdoor swimming pools

1. Except as otherwise provided in this section, no person shall construct or maintain in the town any permanent outdoor swimming pool having a depth of water of eighteen (18) inches or greater at its deepest point unless the pool is completely surrounded by a fence or wall not less than four (4) feet in height.
2. The requirements of this section shall not apply to commercial pools and pools operated by hotels that are under constant surveillance.
3. The requirements of this section shall apply to outdoor swimming pools existing within the town on the effective date of this section as well as to swimming pools constructed thereafter. However, owners of outdoor swimming pools existing within the city on the effective date of this section shall not be deemed in violation of this section until after they have been notified in writing of its requirements and have been given a reasonable period of time up to (90) ninety days to place walls or fences around existing pools, and have failed to do so.
4. Openings under and through a fence or wall with the gate(s) closed shall be sized so that a four-and-one-half inch diameter sphere cannot pass through the openings
5. Shrubby or plantings are not acceptable as a fence or barrier.
6. A swimming pool shall be located in the side or rear yard.
7. Swimming pool setbacks shall be measured from the property line to the

- apron of the swimming pool or any permanent construction of the pool which extends closest to the property line.
8. The swimming pool shall not extend beyond the front façade of the principal structure. For a corner lot the swimming pool shall not extend beyond the side façade of the principal structure on the street side of the structure.
 9. Swimming pools shall meet the side and rear yard setbacks of the district in which it is located. If no set backs are specified, the swimming pool must be set back ten (10) feet from the rear property line and ten (10) feet from the side property line.
 10. Entrances through the fence or wall shall be provided with gates that have self-latching mechanisms.

22.6 Electronic Gaming Operations

(A) Authority.

The provisions of these regulations are adopted by the Belville Board of Commissioners under authority granted by the General Assembly of the State of North Carolina, General Statute 160A-385. From and after the effective date and hereof, these regulations shall apply to every building, lot, tract, or parcel of land within Belville.

(B) Intent.

It is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. For the purpose of promoting the health, safety, morals and general welfare of the citizenry of Belville this article is adopted by the Board of Commissioners to regulate electronic gaming operations, as hereby defined, located in the jurisdiction of Belville. Further the regulations of this article have been made with reasonable consideration, among other things, as to the character of Belville and its areas and their peculiar suitability for these businesses.

(C) Abrogation.

These regulations shall not repeal, impair, abrogate or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, regulations previously adopted pursuant to law in any established zoning district in Belville. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.

(D) Application of Regulations.

Electronic Gaming Operations shall be regulated as to location in the following manner in addition to any other requirements of this code:

- (1) No Electronic Gaming Operation shall be permitted in any building:
 - (a) located within fifteen hundred feet (1,500') in any direction from a building used as a dwelling.
 - (b) located within fifteen hundred feet (1,500') in any direction from a

building in which an adult business or a sexually oriented business is located.

- (c) located within fifteen hundred feet (1,500') in any direction from a building used as a church, synagogue, other house of worship or cemeteries.
 - (d) located within fifteen hundred feet (1,500') in any direction from a building used as a public school or as a state licensed day care center.
 - (e) located within fifteen hundred feet (1,500') in any direction from any lot or parcel on which a public playground, public swimming pool, or public park is located.
 - (f) located within fifteen hundred feet (1,500') in any direction of any publicly owned or operated facility.
 - (g) located within fifteen hundred feet (1,500') in any direction from a building in which an Electronic Gaming Operation is located.
- (2) The maximum number of machines, terminals, or computers for any Electronic Gaming Operations is three (3).
 - (3) Electronic Gaming Operations shall be located only in an I (Industrial) Zoning District as a permitted accessory use and shall be established by Special Exception approval of the Planning Board.
 - (4) All minimum requirements of the I Zoning District for the principle use on the lot shall be met.
 - (5) Hours of operation for Electronic Gaming Operations shall be limited to 8:00 AM through 12:00 Midnight, Monday through Saturday, and 12:00 Noon to 12:00 Midnight on Sunday.

(E) Nonconforming Electronic Gaming Operations:

Any Electronic Gaming Operation lawfully operating as of the effective date of this ordinance that is in violation of any provision of this ordinance shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two (2) years. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If a nonconforming use is discontinued for a period of one hundred eighty (180) days or more it may not be reestablished. If on the effective date of this ordinance a lawfully operating Electronic Gaming Operation is located within fifteen hundred feet (1,500') of any other lawfully operating Electronic Gaming Operation, and if both businesses are otherwise in conformance with the provisions of this section, the business which was first established and continually operating at its present location shall be considered the conforming use and the later established business(es) shall be considered nonconforming. An Electronic Gaming Operation lawfully operating as a conforming use shall not be rendered nonconforming by the subsequent location of a dwelling, church, house of worship, day care center, school, playground, public swimming pool or public park.

(F) Severability.

It is hereby declared to be the intention of the board that the sections,

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

Amended May 24, 2010