

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-305
HOUSE BILL 328**

AN ACT TO ADD THE CITY OF ALBEMARLE AND THE TOWNS OF BEAUFORT AND SOUTHERN SHORES TO THE MUNICIPALITIES IN WHICH LAW ENFORCEMENT OFFICERS MAY OPERATE UNREGISTERED ALL-TERRAIN VEHICLES ON HIGHWAYS WITH SPEED LIMITS OF THIRTY-FIVE MILES PER HOUR OR LESS AND THE TOWNS OF DUCK, KILL DEVIL HILLS, KITTY HAWK, AND NAGS HEAD TO THE MUNICIPALITIES IN WHICH LAW ENFORCEMENT OFFICERS AND MUNICIPAL EMPLOYEES MAY OPERATE UNREGISTERED ALL-TERRAIN VEHICLES ON HIGHWAYS WITH SPEED LIMITS OF THIRTY-FIVE MILES PER HOUR OR LESS, TO ALLOW THE TOWN OF ST. JAMES TO EXERCISE PLANNING JURISDICTION WITHIN THE CORPORATE LIMITS IN 2005 AND TO ALLOW EXTRATERRITORIAL PLANNING JURISDICTION IN 2010, TO EXEMPT THE TOWN OF LELAND FROM THE REQUIREMENT THAT AN ABC STORE IN BRUNSWICK COUNTY BE LOCATED NO CLOSER THAN SEVEN MILES FROM A MUNICIPALITY WITH AN EXISTING ABC STORE, TO ADD WASHINGTON COUNTY TO THE COUNTIES IN WHICH IT IS ILLEGAL TO REMOVE OR DESTROY AN ELECTRONIC DOG COLLAR, CLARIFYING THE ORANGE COUNTY VOTING CENTERS ACT, AND TO AUTHORIZE THE TOWN OF MATTHEWS TO ADOPT ORDINANCES REGULATING THE REMOVAL, REPLACEMENT, AND PRESERVATION OF TREES WITHIN THAT TOWN, AND TO VALIDATE ELECTIONS AND ACTIONS OF THE PAMLICO COUNTY BOARD OF EDUCATION, AND TO CHANGE THE OFFICE OF TAX COLLECTOR IN HENDERSON COUNTY FROM ELECTIVE TO APPOINTIVE, AND TO RECONFIRM AND VALIDATE NONPARTISAN ELECTIONS FOR THE ELIZABETH CITY-PASQUOTANK BOARD OF EDUCATION AND VALIDATE ACTIONS OF THAT BOARD, AND TO AUTHORIZE THE TOWN OF BLADENBORO TO GIVE ANNUAL NOTICE TO CHRONIC VIOLATORS OF THE TOWN'S PUBLIC NUISANCE ORDINANCE, AND TO CLARIFY THAT CERTAIN STATE LAND IS SUBJECT TO MUNICIPAL PLANNING JURISDICTION AND THE IMPOSITION OF OVERLAY AND SPECIAL USE DISTRICTS BY THE TOWN OF SOUTHPORT WITHOUT THE APPROVAL OF THE COUNCIL OF STATE, AND TO CLARIFY THAT MOREHEAD CITY MAY ORDER OWNERS OF RESIDENTIAL PROPERTY TO REPAIR RATHER THAN VACATE HOUSING AND TO AUTHORIZE THAT CITY TO ORDER DWELLINGS DETERMINED UNFIT FOR HUMAN HABITATION BE REPAIRED OR DEMOLISHED AFTER A PERIOD OF SIX MONTHS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2004-108 reads as rewritten:

"SECTION 3. Section 1 of this act applies to the City of Albemarle and the Towns of Beaufort, Southern Shores, and Mint Hill only. Section 2 of this act applies to the Towns of Duck, Kill Devil Hills, Kitty Hawk, Nags Head, and the City of Kings Mountain only."

SECTION 2. Section 7.2 of the Charter of the Town of St. James, being S.L. 1999-241, reads as rewritten:

"Section 7.2. **Planning and Regulation of Development.**

Notwithstanding any other provisions of this Charter or the provisions of general law, including the provisions of Article 19 of Chapter 160A of the General Statutes, the Town shall not, prior to ~~December 31, 2009~~, October 1, 2005, adopt any ordinance creating a planning agency, regulating or restricting the subdivision, zoning, or use of any land, or providing for building inspections. During such time, and until the ordinances adopted by the Town become effective, all planning duties, regulation of development, and building inspections within the jurisdiction of the Town shall be conducted by Brunswick County and governed by the applicable ordinances of Brunswick County as if the area was not in the corporate limits of any municipality. Provided further, the Town may not make any such ordinances effective outside the corporate limits of the Town under G.S. 160A-360 or any other provision of law until January 1, 2010. As of December 31, 2009, either the Town or Brunswick County may terminate such powers of Brunswick County within the jurisdiction of the Town upon 60 days' notice whereupon the Town may adopt subdivision and zoning ordinances and shall become responsible for building inspections in accordance with general law."

SECTION 3. Section 2 of Chapter 372 of the 1991 Session Laws, as amended by Chapter 776 of the 1991 Session Laws, reads as rewritten:

"**Sec. 2.** This act applies to Brunswick County ~~only~~, but does not apply to the Town of Leland."

SECTION 4.1. If Senate Bill 98, 2005 Regular Session becomes law, then Section 1 of that act is amended by adding a new subdivision to read:

"(13) If any polling place that had been a satellite voting place in 2004 under G.S. 163-130 is designated as a voting center, the county board of elections may provide in its Plan of Implementation that only voters assigned to the satellite voting place may vote at the voting center there, and that such voters may not vote at any other voting center on election day."

SECTION 4.2. If Senate Bill 98, 2005 Regular Session becomes law, then that act is amended by adding a new section to read:

"**SECTION 1.1.** If no elections are conducted under this act in 2005, then any or all elections occurring in 2007 may also be held under this act in addition to those in 2006."

SECTION 4. G.S. 14-401.17 reads as rewritten:

"**§ 14-401.17. Unlawful removal or destruction of electronic dog collars.**

(a) It is unlawful to intentionally remove or destroy an electronic collar or other electronic device placed on a dog by its owner to maintain control of the dog.

(b) A first conviction for a violation of this section is a Class 3 misdemeanor. A second or subsequent conviction for a violation of this section is a Class 2 misdemeanor.

(c) This act is enforceable by officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and peace officers with general subject matter jurisdiction.

(d) This act applies only to Alamance, Anson, Avery, Beaufort, Brunswick, Buncombe, Burke, Caldwell, Camden, Caswell, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland, Davidson, Graham, Haywood, Henderson, Hyde, Jackson, Macon, Madison, McDowell, Mecklenburg, Mitchell, New Hanover, Orange, Pasquotank, Pitt, Robeson, Rockingham, Swain, Transylvania, Union, Washington, Wilkes, and Yancey Counties."

SECTION 5. Section 6 of S.L. 1997-420 reads as rewritten:

"Section 6. Sections 4, 5, and 6 of this act shall apply only to the Towns of Cornelius, Davidson, Huntersville, Matthews, and Nags Head."

SECTION 6.(a) Section 10 of Chapter 939 of the 1987 Session Laws reads as rewritten:

~~"Sec. 10. In 1990 and quadrennially thereafter, members shall be elected from Districts 3 and 4 for four year terms, In 2006 and quadrennially thereafter, a member shall be elected from District 4 for a four-year term, and two members shall be elected at-large for four-year terms. In 1992, 2008 and quadrennially thereafter, members shall be elected from Districts 1, 2, 3, and 5 for four-year terms."~~

SECTION 6.(b) The elections for the District 3 seat on the Pamlico County Board of Education since January 1, 1996, are validated, notwithstanding the irregularity in the term of office for which the member was elected in 1996 and the fact that subsequent elections were held in 2000 and 2004 rather than in 1998 and 2002, and any and all actions of the District 3 member since January 1, 1996, are ratified and confirmed notwithstanding the irregularity in the manner of election.

SECTION 8.(a) Section 6 of Chapter 42, Public-Local Laws of 1939, is repealed.

SECTION 8.(b) No Tax Collector shall be elected by the voters of Henderson County in 2006 or thereafter.

SECTION 8.(c) A Tax Collector shall be appointed by the Henderson County Board of Commissioners under G.S. 105-349 to serve a term beginning the first Monday in October of 2007. The subsequent appointment of the Tax Collector shall be in accordance with general law. The current Tax Collector of Henderson County shall serve until that date and until a successor is appointed and qualified. Any vacancy in the office of Henderson County Tax Collector occurring before the first Monday in October of 2007 shall be filled by an appointment by the Henderson County Board of Commissioners to serve the remainder of the unexpired term.

SECTION 9.(a) Section 2 of Chapter 29 of the 1967 Session Laws, as amended by Chapter 8 of the 1977 Session Laws, reads as rewritten:

"Sec. 2. The newly constituted and established Elizabeth City-Pasquotank Board of Education shall consist of seven members, and each of said members shall be residents and qualified voters of the townships according to the membership allocations hereinafter made to said townships as follows:

Providence township, Salem township, Newland township, Mount Herman township and other township areas remaining in Pasquotank County shall be entitled to three ~~members except that no two members shall reside in any one township.~~members.

Elizabeth City township and that portion of other township areas within the Elizabeth City city limits shall be entitled to three members.

One member shall be elected from the county at large, without regard to township."

SECTION 9.(b) Section 3 of Chapter 29 of the 1967 Session Laws, as amended by Chapter 8 of the 1977 Session Laws, reads as rewritten:

~~"Sec. 3. At the time of the primary and election of State and county officers for the year 1968, there shall be nominated and elected seven members who shall constitute the Elizabeth City Pasquotank Board of Education. Each of said members shall be residents and electors of the townships as set forth in Section 2 of this Act, and each of said members shall be nominated by the voters of Pasquotank County at large in said primary. The candidates in each township receiving the highest number of votes shall be declared to be nominated, and there shall be no second primary. The persons or candidates so nominated from the townships shall be voted upon by the voters of Pasquotank County at large in said election. Each candidate for nomination for membership on the Elizabeth City Pasquotank Board of Education shall file a notice of candidacy with the Board of Elections showing the township of which said candidate is a resident and also showing the candidate's party affiliation. All candidates for nomination from the various townships shall file such notice of candidacy by noon on or before the sixth Saturday before the date on which the primary is to be held and shall pay a filing fee of ten dollars (\$10.00). The nomination and election of said members of the Elizabeth City Pasquotank Board of Education shall be held, conducted and supervised by the Board of Elections, and except as herein provided the general election laws and regulations for the nomination and election of county officers, and as set forth~~

~~in Chapter 163 of the General Statutes, as amended, shall apply and govern as to the holding of said primary and election. The three candidates whose residence is within the Elizabeth City township and that portion of other township areas within the Elizabeth City corporate limits, who receive the highest number of votes in descending order, shall serve as follows:~~

- ~~(1) Highest vote 6 year term.~~
- ~~(2) Second highest vote 4 year term.~~
- ~~(3) Third highest vote 2 year term.~~

~~The three candidates whose residence is within the Providence township, the Salem township, the Newland township, the Mount Hermon township or other township areas remaining in Pasquotank County, who receive the highest number of votes in descending order, shall serve as follows:~~

- ~~(1) Highest vote 6 year term.~~
- ~~(2) Second highest vote 4 year term.~~
- ~~(3) Third highest vote 2 year term.~~

~~The candidate, running at large, who receives the highest number of votes shall serve a six year term.~~

~~The seven candidates receiving the highest number of votes, as outlined in Section 3, in the election shall be certified and declared by the Board of Elections to be the elected members of the Elizabeth City Pasquotank Board of Education.~~

~~Biennially thereafter, at each primary and election for the nomination and election of State and County officers, the vacancies occurring in the membership of said Board shall be filled by nomination and election as the said terms of the members expire, and all such members so elected shall hold office for terms of four years. The members of said Board nominated and elected in the primary and general election of 1968 shall take office on the first Monday in December, 1968, and the terms of their office shall date and extend from that time. All vacancies in the membership of the Elizabeth City Pasquotank Board of Education by reason of death, resignation or removal from township shall be filled by the remaining members of said Board from area of residence where vacancy occurs for the complete unexpired term within 60 days after vacancy occurs.~~

~~In the event no candidate is elected in the General Election to fill any term which is to expire, then and in that event, the Elizabeth City Pasquotank Board of Education shall declare a vacancy, and such vacancy shall be filled in accordance with Section 3. Three members of the Board shall be residents within the Elizabeth City Township, hereinafter referred to as "inside members", and three members of the Board shall be residents of the other townships outside Elizabeth City Township, hereinafter referred to as "outside members". The remaining member shall hereinafter be referred to as the "at-large member" and shall be a county resident with no residence required within a particular township area.~~

~~Candidates for membership on the Board shall file for office at the same time and on the same terms and conditions as candidates for other county offices. Candidates shall file, based upon residency, for any available "inside member" seats, "outside member" seats, or the "at-large member" seat that they qualify for by virtue of the residency at the time of filing. However, there shall be no primary, and filed candidates for each type of available seat shall be placed on the general election ballot to be voted on by all qualified voters of the county. Each voter shall have the right to vote in each race for "inside member" seats, "outside members" seats, or the "at-large member" seat up to the number of open seats up for election as to each particular type of seat, but may not cast more than one vote for each candidate. The election shall be held on a nonpartisan plurality basis with the candidates receiving the highest number of votes for each type of seat filling the available open seat or seats in descending order of their vote totals. Candidates elected shall take office the first Monday in December, and shall serve a four-year term.~~

All vacancies shall be filled by appointment by the remainder of the Board within 60 days, and the person so appointed shall serve the remainder of the unexpired term.

Terms shall be staggered, with two "inside member" seats and two "outside member" seats being elected in 2006 and every four years thereafter, and one "inside member" seat, one "outside member" seat, and the "at-large member" seat being elected in 2008 and every four years thereafter.

The Elizabeth City-Pasquotank Board of Education shall elect a chairman and vice chairman to preside over its meetings, and the vice chairman shall be entitled to vote in all matters being considered by said Board but neither the chairman nor the vice chairman shall have the authority to cast a vote to create a tie vote and then vote again to break the tie. The Elizabeth City-Pasquotank Board of Education shall control, administer and operate all of the public schools in Pasquotank County, including the public schools now located in the Elizabeth City Administrative Unit, as well as the public schools now located in the Pasquotank County Administrative Unit. The Elizabeth City-Pasquotank Board of Education shall exercise all the powers, authority and duties as are now exercised and performed by city and county boards of education and as provided by Chapter 115 of the General Statutes, as revised and amended, and as the same may hereafter be revised and amended. All members of the said Board shall hold their offices until their successors are elected and qualified."

SECTION 9.(c) The General Assembly reconfirms that it was the intent of Chapter 29 of the 1967 Session Laws to provide for nonpartisan elections for the Elizabeth City-Pasquotank Board of Education, which has been reflected in the conduct of those elections since 1967. The elections for the seats on the Elizabeth City-Pasquotank Board of Education since 1967 are validated, and any and all actions of the members since 1967 are ratified and confirmed.

SECTION 10.(a) A municipality may notify a chronic violator of the municipality's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the municipality shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the municipality gave notice of violation at least three times under any provision of the public nuisance ordinance.

SECTION 10.(b) This section applies to the Town of Bladenboro only.

SECTION 11.(a) G.S. 160A-392 reads as rewritten:

"§ 160A-392. Part applicable to buildings constructed by State and its subdivisions; exception.

All of the provisions of this Part are hereby made applicable to the erection, construction, and use of buildings and land by the State of North Carolina and its political subdivisions.

~~Notwithstanding the provisions of any general or local law or ordinance, no land owned by the State of North Carolina may be included within a conditional use district without approval of the Council of State or its designate.~~

With respect to the docks, buildings, and land at Southport under the control of the State Ports Authority as defined by G.S. 143B-453, all of the provisions of this Part shall apply and are made applicable to those docks, buildings, and land, including those properties being subject to municipal planning and zoning jurisdiction and the imposition of overlay and special use districts."

SECTION 11.(b) This section applies to the Town of Southport only.

SECTION 12.(a) G.S. 160A-443 reads as rewritten:

"§ 160A-443. Ordinance authorized as to repair, closing, and demolition; order of public officer.

Upon the adoption of an ordinance finding that dwelling conditions of the character described in G.S. 160A-441 exist within a city, the governing body of the city is hereby

authorized to adopt and enforce ordinances relating to dwellings within the city's territorial jurisdiction that are unfit for human habitation. These ordinances shall include the following provisions:

- (1) That a public officer be designated or appointed to exercise the powers prescribed by the ordinance.
- (2) That whenever a petition is filed with the public officer by a public authority or by at least five residents of the city charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place within the county in which the property is located fixed not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.
- (3) That if, after notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order,
 - a. If the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the city may fix a certain percentage of this value as being reasonable), requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation; ~~or habitation.~~
 - b. If the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the city may fix a certain percentage of this value as being reasonable), requiring the owner, within the time specified in the order, to remove or demolish such dwelling. However, notwithstanding any other provision of law, if the dwelling is located in a historic district of the city and the Historic District Commission determines, after a public hearing as provided by ordinance, that the dwelling is of particular significance or value toward maintaining the character of the district, and the dwelling has not been condemned as unsafe, the order may require that the dwelling be vacated and closed consistent with G.S. 160A-400.14(a).
- (4) That, if the owner fails to comply with an order to repair, alter or improve ~~or to vacate and close the dwelling~~, the public officer may cause the dwelling to be repaired, altered or ~~improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."~~ Occupation of a building so posted shall constitute a Class 1 ~~misdemeanor.~~ improved.

(5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished. The duties of the public officer set forth in subdivisions (4) and (5) shall not be exercised until the governing body shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Article with respect to the particular property or properties which the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. This ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

~~(5a) If the governing body shall have adopted an ordinance, or the public officer shall have:~~

~~a. In a municipality located in counties which have a population in excess of 71,000 by the last federal census (including the entirety of any municipality located in more than one county at least one county of which has a population in excess of 71,000), other than municipalities with a population in excess of 190,000 by the last federal census, issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order;~~

~~b. In a municipality with a population in excess of 190,000 by the last federal census, commenced proceedings under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a., and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or after such proceedings have commenced,~~

~~then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing body may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:~~

~~a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or~~

- b. ~~If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.~~

~~This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.~~

~~This subdivision only applies to municipalities located in counties which have a population in excess of 71,000 by the last federal census (including the entirety of any municipality located in more than one county at least one county of which has a population in excess of 71,000).~~

~~[This subdivision does not apply to the local government units listed in subdivision (5b) of this section.]~~

- (5b) If the governing body shall have adopted an ordinance, or the public officer shall have:

- a. In a municipality other than municipalities with a population in excess of 190,000 by the last federal census, issued an order, ordering a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of six months ~~one year~~ pursuant to the ordinance or order;

- b. In a municipality with a population in excess of 190,000 by the last federal census, commenced proceedings under the substandard housing regulations regarding a dwelling to be repaired or vacated and closed, as provided in subdivision (3)a., and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of six months ~~one year~~ pursuant to the ordinance or after such proceedings have commenced,

then if the governing body shall find that the owner has abandoned the intent and purpose to repair, alter or improve the dwelling in order to render it fit for human habitation and that the continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the municipality in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and would render unavailable property and a dwelling which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State, then in such circumstances, the governing body may, after the expiration of such six-month ~~one year~~ period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within 90 days; or

- b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this ordinance, the public officer shall effectuate the purpose of the ordinance.

~~This subdivision applies to the Cities of Eden, Greenville, Lumberton, Roanoke Rapids, and Whiteville, to the municipalities in Lee County, and the Towns of Bethel, Farmville, Newport, and Waynesville only.~~

(6) Liens. –

- a. That the amount of the cost of repairs, alterations or improvements, ~~or vacating and closing,~~ or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of this Chapter.
- b. If the real property upon which the cost was incurred is located in an incorporated city, then the amount of the cost is also a lien on any other real property of the owner located within the city limits or within one mile thereof except for the owner's primary residence. The additional lien provided in this sub-subdivision is inferior to all prior liens and shall be collected as a money judgment.
- c. If the dwelling is removed or demolished by the public officer, he shall sell the materials of the dwelling, and any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the public officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

- (7) If any occupant fails to comply with an order to vacate a dwelling, the public officer may file a civil action in the name of the city to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the public officer produces a certified copy of an ordinance adopted by the governing body pursuant to subdivision (5) authorizing the officer to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be

removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the governing body has ordered the public officer to proceed to exercise his duties under ~~subdivisions (4) and subdivision~~ (5) of this section to ~~vacate and close or remove~~ and demolish the dwelling.

- (8) That whenever a determination is made pursuant to subdivision (3) of this section that a dwelling must be ~~vacated and closed, or removed~~ or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition."

SECTION 12.(b) This section applies only to Morehead City.

SECTION 13. Sections 1 through 3 and Sections 5 through 13 of this act are effective when it becomes law. Section 4 of this act becomes effective October 1, 2005, and applies to offenses occurring on or after that date.

In the General Assembly read three times and ratified this the 23rd day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives