

Chapter 12 FIRE PREVENTION AND PROTECTION¹

ARTICLE I. IN GENERAL

Sec. 12-1. Burning trash within town limits prohibited.

No person shall burn or cause to be burned any trash, refuse, shavings, paper, leaves, litter or other material of any kind within the corporate limits of the town.

(Prior Code, ch. III, § 3)

Secs. 12-2—12-24. Reserved.

ARTICLE II. FIRE PREVENTION AND LIFE SAFETY²

Sec. 12-25. Title.

This article shall be known as the "fire prevention and life safety ordinance" of Nash County, North Carolina, and may be cited as such and referred to herein as "this article."

(Ord. of 12-13-2010, § 1)

Sec. 12-26. Intent.

- (a) It is the intent of this article to prescribe regulations consistent with nationally recognized good practices for the safeguarding of life and property within the jurisdiction of Nash County (the county) from the hazards of fire and explosion arising from the storage; handling and use of hazardous substances, materials and devices; and from hazardous conditions in the use or occupancy of buildings or premises.
- (b) To the extent allowed by law, this article shall not be construed to hold the county responsible for any damage to persons or property by reason of:
 - (1) The inspection or re-inspection;
 - (2) Failure to inspect or re-inspect;
 - (3) The issuance or denial of any permits; or
 - (4) The approval or disapproval of any equipment as provided herein.

(Ord. of 12-13-2010, § 2)

¹State law reference(s)—Arson, G.S. 14-58 et seq.; investigation of fires and inspections, G.S. 58-79-1 et seq.; state volunteer fire department, G.S. 58-80-1 et seq.; authority of fire personnel, G.S. 58-82-1; mutual aid, G.S. 58-83-1; fire protection, G.S. ch. 69; fire protection, G.S. 160A-291 et seq.

²State law reference(s)—Investigation of fires and inspections, G.S. 58-79-1 et seq.

Sec. 12-27. Applicability.

This article applies to all unincorporated areas of the county. In addition, this article, in its entirety, may apply within the corporate limits of any municipality located within the county, if a municipality, by resolution, requests that this article be applicable within the municipality and enters into a memorandum of understanding with the county as to applicability and the cost of enforcement of this article.

(Ord. of 12-13-2010, § 4)

Sec. 12-28. Fire marshal to enforce.

This article shall be enforced by the county fire marshal and his authorized representatives (collectively, the "fire marshal") who shall be certified by the state qualifications board and any other board, association or entity required by law.

(Ord. of 12-13-2010, § 5)

Sec. 12-29. Adoption of technical codes and standards by reference; copies on file.

The state fire code, together with all future amendments and modifications thereto (collectively, the "fire code"), is hereby adopted and incorporated herein by reference as if fully set forth in this ordinance. Copies of the fire code shall be filed with, and available for public inspection, in the offices of the clerk of the board of county commissioners and the fire marshal.

(Ord. of 12-13-2010, § 6)

Sec. 12-30. Inspection of buildings and premises.

Subject to the limitations and conditions stated in the state building code, it shall be the duty of the fire marshal to inspect or cause to be inspected, as often as he may deem necessary or appropriate (or as otherwise required by law), all buildings, structures, and premises within his jurisdiction for the purposes of ascertaining and causing to be corrected any condition which may cause fire or explosion, endanger life from fire or explosion, or any violation of the provisions or intent of the fire code or this article. Inspections may be announced or unannounced. The fire marshal may take photographs and videos while conducting an inspection.

(Ord. of 12-13-2010, § 7)

Sec. 12-31. Inspection schedule.

(a) In order to preserve and to protect public health and safety, and to satisfy the requirements of the G.S. 153A-364 and G.S. 153A-351, the county shall have a periodic inspection schedule for the purpose of identifying activities and conditions in buildings, structures and premises that pose danger of fire, explosion, or related hazards as follows:

- (1) Once every year. Hazardous, institutional, high-rise, assembly (except as noted in this section), residential (except one- and two-family dwellings) and only interior common areas of dwelling units of multifamily occupancies.
- (2) Once every two years. Industrial and educational (except public schools).
- (3) Once every three years. Assembly occupancies with an occupant load less than 100; businesses; mercantile; storage; churches; synagogues and miscellaneous group U occupancies.

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- (b) Frequency rates for inspections of occupancies as mandated by state statutes, or any other applicable law, shall supersede this schedule.

(Ord. of 12-13-2010, § 8)

Sec. 12-32. Plans review.

The fire marshal shall review plans for construction, tanks, fire protection systems, fire alarm systems, industrial processes, and any other items requiring compliance with the fire code. Plans submitted for review shall contain complete information and detail. Plans shall be drawn to scale, professionally designed and sealed by a state registered architect and/or professional engineer.

(Ord. of 12-13-2010, § 9)

Sec. 12-33. Permits.

Before a person or entity shall maintain, store, or handle hazardous materials or conduct hazardous processes as defined in the fire code, the person or entity shall first obtain a permit from the fire marshal. The fire marshal shall evaluate all applications and issue or deny such permits. Before a permit may be issued, the fire marshal shall inspect and approve the receptacles, vehicles, buildings, structures, storage areas, devices, processes, and conditions related to the permit.

(Ord. of 12-13-2010, § 10)

Sec. 12-34. Key boxes.

A key box meeting the requirements of the fire marshal shall be installed:

- (1) On all new construction where a fire alarm system and/or a sprinkler system has been installed;
- (2) On existing construction where nuisance or repeated alarms occur;
- (3) On access gates where access may be delayed; and
- (4) On any other occupancy or structure where the fire marshal has determined that necessary access is delayed or a delay occurs when returning fire apparatus back to service.

(Ord. of 12-13-2010, § 11)

Sec. 12-35. Service of orders.

- (a) The fire marshal shall serve orders for violations of the fire code or this article (the "order") as follows. Service of an order shall be made upon the owner, occupant or other person responsible for the premises upon which the violations exist, by:
- (1) Personally delivering a copy of the order to such person; or
 - (2) By delivering the order to and leaving it with any person in charge of the premises; or
 - (3) If such personal service is not possible or is unsuccessful, a copy of the order shall be posted in a conspicuous place upon the door, gate or other entrance to the premises.
- (b) The order shall specify:
- (1) The nature of the violation;
 - (2) The penalty being imposed for the violation;

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- (3) The time period in which the violator must pay the penalty;
 - (4) If applicable, the period of time in which the violator must correct the violation in order to avoid paying the penalty;
 - (5) The time period in which to appeal the order; and
 - (6) Inform the violator that if an appeal is not properly filed, violation is not corrected, or the penalty is not paid within the time set forth in the order, that the fire marshal may have a criminal summons issued against the violator and that the violator shall be subject to any criminal penalty imposed by a court of competent jurisdiction in addition to the civil penalty specified in the order and any other remedy authorized by this article.

(Ord. of 12-13-2010, § 12)

Sec. 12-36. Tank installation; unattended self-service gasoline installations and operations.

- (a) Before any tank for underground or aboveground storage of Class I and Class II liquids shall be installed or removed, a permit must be issued and shall be granted only upon written application made to the county building inspections department (the "inspections department") setting forth the location, character, size and capacity of the tank, and the purpose for which it is to be used. The inspections department and the fire marshal shall have the right to inspect the tanks and appliances before and after installation, and require that the location, installation and operation are in accordance with the fire code, the ordinances of the county and any other applicable law. After the underground storage tank is placed in the excavated ground, and fittings and connections have been attached thereto, the applicant for the permit shall notify the inspections department and the fire marshal and shall wait until the installation of the tank and fittings have been approved by the fire marshal before covering the tank.
- (b) The installation of aboveground tanks storing Class I and Class II liquids at commercial service stations open to the public shall be prohibited. Exception: The storage of K-1 kerosene that complies with the fire code.
- (c) The following standards are hereby established as prerequisites for obtaining a permit from the fire marshal for unattended self-service gasoline installations and operations:
 - (1) Before any one person or entity shall engage in unattended self-service gasoline operations, a permit application must first be submitted to and approved by the fire marshal. If at any time the fire marshal, or his authorized representative, finds the said occupant is operating contrary to these rules, the permit shall be subject to revocation and penalties if not corrected pursuant to an order.
 - (2) Plot and building plans (as applicable) shall be submitted to the fire marshal and inspections department. Such plans shall be approved by the inspections department and fire marshal before any construction begins.
 - (3) Unattended self-service installations and operations shall comply with all applicable codes, ordinances and standards including, but not limited to, the state building code, state fire code, NFPA 30 and NFPA 30A.
 - (4) All unattended self-service gasoline operations shall be located in the proper zoning district. The sale of liquefied petroleum gases or kerosene is prohibited. Limited vehicle services will be permitted such as air, vacuums and vending for motor oils.
 - (5) A representative of the fire marshal and the inspections department shall inspect and approve each facility for compliance with all applicable codes, ordinances, laws and regulations prior to opening for business.
 - (6) Each installation shall be properly lighted during periods of darkness.

(Ord. of 12-13-2010, § 13)

Sec. 12-37. Penalties and appeal.

- (a) *Criminal penalty.* Any person or entity who shall violate or fail to comply with any section of this article or the fire code; or who shall violate or fail to comply with an order, shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with G.S. 14-4 of the state statutes. The maximum fine for a misdemeanor is \$500.00. Each day such violation continues, shall constitute a separate offense.
- (b) *Civil penalty.* Pursuant G.S. 143-139 and G.S. 153A-123, any person or entity who shall violate or fail to comply with any section of this article or the fire code, or who shall violate or fail to comply with an order, shall be subject to a penalty of \$100.00, except as follows:
 - (1) No penalty shall be assessed as part of the first order issued for the overcrowding of an assembly occupancy. However, if any additional orders are issued for the overcrowding of the same assembly occupancy within 12 months after the issuance of the first order (the "additional orders"), the violator shall be subject to a \$100.00 penalty for each person over the posted maximum occupancy. The penalty shall be assessed for each additional order issued during the 12-month period.
 - (2) Each locked or blocked point of egress that is in violation of the fire code shall be subject to a \$250.00 penalty.
 - (3) No penalty shall be assessed as part of the first order issued for the burning of materials in violation of the fire code or any other applicable air quality regulations of the state (the "burning violations"). However, if a second order is issued against the same person or entity for a burning violation within 12 months after the issuance of the first order, the violator shall be subject to a \$250.00 penalty. If a third order is issued against the same person or entity for a burning violation within 12 months after the issuance of the first order, the violator shall be subject to a \$500.00 penalty.
- (c) *Appeal.* Pursuant to G.S. 143-138(e) and G.S. 143-139, appeals from any order shall be taken to the commissioner of insurance or his designee by filing a written notice with the commissioner of insurance and with the fire marshal within a period of ten days after the order is served upon the violator in accordance with section 12-35. Further appeals may be taken to the state building code council or to the courts as provided by law.
- (d) *Enforcement.* Notwithstanding anything contained herein to the contrary, this article may be enforced by any means and remedies set forth in G.S. 153A-123, including, but not limited to, mandatory or prohibitory injunctions, orders of abatement and other equitable remedies. Further, this article may be enforced by any one or more of the remedies authorized by G.S. 153A-123.

(Ord. of 12-13-2010, § 14)

Sec. 12-38. Removal of obstructions; prohibited parking.

Any vehicle or other item found obstructing any fire hydrant, fire protection equipment, marked fire lane, or fire station may be removed or towed away by or under the direction of the fire marshal to a storage area or garage. The owner of such vehicle shall be deemed to have appointed the fire marshal as his agent for the purpose of arranging for the transportation and safe storage of the vehicle. The owner of such vehicle, before obtaining possession thereof, shall pay all reasonable costs and expenses associated with the removal and storage of the vehicle.

(Ord. of 12-13-2010, § 15)

Sec. 12-39. Emergency entry.

The fire marshal, or any fire chief of fire departments serving county fire protection districts, shall have the right to enter any building or premises without permission or warrant in the event of any emergency situation constituting a threat to human life, property or the public safety for the purpose of eliminating, controlling, or abating the dangerous condition or situation.

(Ord. of 12-13-2010, § 16)

Sec. 12-40. Investigation of fires.

The fire marshal shall investigate the cause, origin and circumstances of every fire occurring in the county which is of a suspicious nature, or which involves loss of life, or injury to persons, or when notified by any fire department of a county fire protection district that such circumstances warrant an investigation. Such investigation shall begin immediately upon the occurrence of such fire and, if it appears that such fire is of suspicious origin, the law enforcement agency within the jurisdiction shall be immediately notified and all information obtained pursuant to any such investigation shall be provided to the investigating officer.

(Ord. of 12-13-2010, § 17)

Sec. 12-41. Fire records.

- (a) The fire marshal shall keep a record of all fires investigated pursuant to section 12-40, and any other records as required by law.
- (b) All county fire protection districts shall keep a record of all emergency alarms and submit reports of these alarms to the fire marshal as requested from time to time.

(Ord. of 12-13-2010, § 18)

Sec. 12-42. Miscellaneous.

This article shall not be construed to limit the duties or authority of the fire marshal to the specific items set forth in this chapter.

(Ord. of 12-13-2010, § 19)