

FIRE PREVENTION AND PROTECTION CODE ORDINANCE

Section 1. TITLE AND AUTHORITY

This ordinance shall be known as the Fire Prevention and Protection Code Ordinance of Duplin County, North Carolina, and may be cited as such and referred to as the "ordinance". This ordinance is adopted under the provisions of North Carolina General Statutes 143-138(e), 143-139, 153A-123 and 160a-175.

Section 2. INTENT OF ORDINANCE

It is the intent of the ordinance to prescribe regulations consistent with nationally recognized practices, for the safety of the citizens of Duplin County from the hazards of fire, and explosions, arising from the storage, manufacturing, and handling of flammable materials.

The provisions of the ordinance shall apply to the repair, equipment, use, occupancy, and maintenance of every existing building or structure, other than one or two family dwellings and town homes. The provisions of this ordinance shall apply to the installation of fire protection systems.

The ordinance shall not be construed to hold the county responsible for any damage to persons, or property by reasons of the inspection or re-inspections authorized herein, or failure to inspect or re-inspect, or the permits issued or denied as herein provided, or by reason of the approval or disapproval of any permit authorized herein.

Section 3. DEFINITIONS

- (a) The word "Fire Code Enforcement Official" shall mean Fire Marshal, Assistant Fire Marshal, Fire Inspector and any other designated code enforcement agent.
- (b) The term "qualified" shall mean a person who possesses an appropriate valid certificate issued by the North Carolina Code Officials Qualification Board.
- (c) The term "he" is interchangeable with the term "she".
- (d) Small Business – Less Than 5,000 square feet.
- (e) Large Business – 5,001 square feet and greater.

- (f) Inspections – Visit to occupancy or business to determine if fire codes are met.
- (g) Permits – An official document or certificate issued by the authority having jurisdiction authorizing performance of specified activity based on inspection by the Fire Code Enforcement Official at the time of issuance.
- (h) Re-inspections – A re-visit to determine if corrections(s) have been made to any items deficient during the previous inspection.
- (i) Periodic Inspections – Inspections that occur on a periodic basis as designated by the Fire Code.
- (j) Special Use Permits – Temporary structure, i.e. tents or events not addressed in ordinance.
- (k) Pyrotechnics -- Any and all kinds of fireworks and explosives, which are used for exhibitions or amusement purposes, not including:
- (1) Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (.25) of a gram for each cap.
 - (2) Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning.
 - (3) Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
 - (4) Trick noisemakers which produce a small report designed to surprise the user and which include:
 - a. A party popper, which is a small plastic or paper item containing not in excess of 16 milligrams of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report.
 - b. A string popper, which is a small tube containing not in excess of 16 milligrams of explosive mixture with string protruding from both ends. The strings are pulled to ignite the friction-sensitive mixture, producing a small report.
 - c. A snapper or drop pop, which is a small, paper-wrapped item containing no more than 16 milligrams of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.

- (5) Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item.
- (6) Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used.

Section 4. POWERS OF FIRE MARSHAL – AUTHORITY

Authority. The Fire Marshal and/or their designee(s) is hereby authorized, empowered, and directed to enforce all the provisions of the ordinance and the regulatory codes herein adopted.

- (a) Right-of-Entry. The Fire Marshal shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this ordinance and the regulatory codes, upon presentation of proper credentials.
- (b) Stop Orders. Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in violation of any provision of this ordinance in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit(s) issued therefore, or in such manner as to endanger life or property, the Fire Marshal may order such work to be immediately stopped. Such order shall be in writing to the owner of the property or to his/her agent, or to the person doing the work, and shall state the reasons therefore and the conditions under which the work may be resumed.
- (c) Solid waste ordinance Adopted by the Duplin County Board of Commissioners the 15th day of August, 1994, illegal burning section 43, 80, and 93.3.

Section 5. ADOPTION OF TECHNICAL CODES AND STANDARDS BY REFERENCE, COPIES ON FILE

- (a) There is hereby adopted by reference and incorporated herein that certain code known as and entitled The International Fire Code, with North Carolina Amendments, including but not limited to Appendix C – Fire Hydrant Locations and Distribution, Appendix D – Fire Apparatus Access Roads and Appendix H – Test Requirements for Flame Retardant Chemicals to be Used on Christmas Trees of the International Fire Code. Copies of the Duplin County Fire Prevention and Protection Code Ordinance and all technical codes and standards adopted by reference shall be filed and available for public inspection the Office of the Fire Marshal.
- (b) Amendments to codes and standard adopted by reference herein which are adopted and published by the North Carolina State Building Code Council shall be effective in Duplin County at the time such amendments become a part of the North Carolina Fire Prevention Code of the North Carolina State Building Code.

Section 6. INSPECTION OF BUILDING AND PREMISES

Subject to the limitations, and conditions stated in the North Carolina State Building Code, it shall be the duty of the Fire Code Enforcement Official, in inspect or cause to be inspected as often as deemed necessary, or appropriate all buildings, structures, and premises within his jurisdiction for the purpose of ascertaining and causing to be corrected any condition which may cause a fire, or explosion, endanger life, from fire or explosion, or any violations of the provisions of the code.

Section 7. GENERAL DUTIES OF FIRE CODE ENFORCEMENT OFFICIAL

It shall be the duty of the Fire Marshal to enforce all of the provisions of this ordinance and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this ordinance and such codes are being met.

Section 8. OVERSIGHT NOT TO LEGALIZE VIOLATION

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Fire Marshal's Office shall be deemed to legalize the violation of any provisions of the ordinance or any provisions of any regulatory code herein adopted.

Section 9. CONFLICT OF INTREST

No officer or employee of the Fire Marshal's Office shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building or any part thereof, or in the making of plans or specifications therefore, unless he/she is the owner of such building. No officer or employee of the Fire Marshal's Office shall engage in any work which is inconsistent with his/her duties or with the interests of the County.

Section 10. REPORTS AND RECORDS

The Fire Marshal's Office, and each inspector, shall keep complete, permanent, and accurate records in convenient form of all applications received, permits issued, inspections, and re-inspections made, and all other work and activities of the Fire Marshal's Office. Periodic reports shall be submitted to the Duplin County Board of Commissioners, and to other agencies, as required.

Section 11. TYPES OF PERMITS

There shall be three (3) types of permits as follows:

(a) Operational permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required for either:

- i. A prescribed period.
- ii. Until renewed or revoked.

(b) Construction permit. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required.

(c) Permits For Use of Pyrotechnics at Public Exhibitions.

- i. Indoor Pyrotechnics Permit— no person shall use pyrotechnics in Duplin County in connection with concerts or public exhibitions unless the County Fire Marshal issues a Indoor Pyrotechnics Permit prior to said event. A person, business, display operator or entity applying for an Pyrotechnics Permit for indoor use will be required to show and certify to the County Fire Marshal:
 - (1.) Adequate fire suppression will be used at the site,
 - (2.) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used,
 - (3.) Adequate egress from the building is available based on the size of the expected crowd,
 - (4.) Proof of insurance by the display operator in the amount of \$1,000,000.00 or more of general liability insurance, and

(5.) A release of liability and indemnity agreement holding Duplin County harmless for any and all claims related to the issuance of said permit.

ii. Outdoor Pyrotechnics Permit— no person shall use pyrotechnics in Duplin County in connection with concerts, public exhibitions, fairs, carnivals, and the like, unless the County Fire Marshal issues an Outdoor Pyrotechnics Permit prior to said event. A person, business, display operator or entity applying for an Pyrotechnics Permit for outdoor use will be required to show and certify to the County Fire Marshall:

(1.) The use of the pyrotechnics is for use in connection with the conduct of concerts, public exhibitions, fairs, or carnivals to the satisfaction of the County Fire Marshall,

(2.) Proof of insurance by the display operator in the amount of at least \$1,000,000.00, and

(3.) A release of liability and indemnity agreement holding Duplin County harmless for any and all claims related to the issuance of said permit.

Open burning which requires a permit from the Division of Forest Resources under General Statutes 113-60.24 is allowed without a permit from the county. Open burning which is exempted from the necessity of obtaining a permit from the Division of Forest Resources under General Statutes 113-60.31 is allowed by the county with a permit.

If a person does not have a permit as required by General Statutes 113-60.24 from the Division of Forest Resources, this person will be in violation of this ordinance. Duplin County Emergency Services is an authorized agent of the Division of Forest Resources to provide Open Burning Permits from their administrative office location (209 Seminary St, Kenansville).

Section 12. APPLICATION FOR PERMIT

Written applications shall be made for all permits required by this ordinance, and shall be made on forms provided by the Fire Marshal's Office. Such application shall be made by the owner of the building or structure affected or by his/her authorized agent or representative, and in addition to such other information as may be required by the Fire Marshal to determine whether the permit applied for should be issued, shall show the following:

(a.) Name, residence, and business address of owners;

(b.) Name, residence, and business address of authorized representative or agent, if any;

- (c.) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for such contractors, if such be required for the work involved in the permit for which application is made.

Section 13. ACTION ON APPLICATION

The Fire Marshal shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the Fire Marshal shall reject such application in writing, stating the reasons therefore. If the Fire Marshal is satisfied that the proposed work or operation conforms to the requirements of this Ordinance applicable thereto, the Fire Marshal shall issue a permit therefore as soon as practicable.

Section 14. REFUSAL TO ISSUE PERMIT

If the application for a permit describes a use that does not conform to the requirements of this code and other pertinent laws and ordinances, the Fire Marshal shall not issue a permit, but shall return the application to the applicant with the refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons for the refusal.

Section 15. INSPECTION AUTHORIZED

Before a new operational permit is approved, the Fire Marshal is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used to determine compliance with the Ordinance and any operational constraints required.

Section 16. ISSUANCE OF PERMIT

When a permit application for a permit has been made, and the Fire Marshal is satisfied that the application and the proposed work comply with the provisions of this ordinance and the appropriate regulatory codes, he shall issue such permit, upon payment of the proper fee or fees as adopted by the Duplin County Board of Commissioners.

Section 17. REVOCATION OF PERMITS

The Fire Marshal may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for such revocation. Permits shall be revoked for any material departure from the approved application, plans or specifications; for refusal or failure to comply with proper orders of the Fire Marshal; for refusal or failure to comply with requirements of this ordinance and the appropriate regulatory codes; or false statements or misrepresentations made in securing such permit.

Section 18. CONDITIONS OF A PERMIT

A permit shall constitute permission to maintain, store or handle materials; or to conduct processes which produce conditions hazardous to life or property; or to install equipment utilized in connect with such activities; or to install or modify any fire protection system or equipment or any other construction, equipment installation or modification in accordance with the provisions of this ordinance where a permit is required. Such permission shall not be construed as authority to violate, cancel or set aside any of the provisions of the Ordinance or applicable regulations or laws of the jurisdiction.

Section 19. EXPIRATION OF PERMITS

An operational permit and permits for use of pyrotechnics at public exhibitions shall remain in effect until reissued, renewed, or revoked or for such a period of time as specified in the permit. Permits are not transferable and any change in occupancy, operations, tenancy or ownership shall require that a new permit be issued.

Section 20. CONDITIONAL PERMITS

Where permits are required and upon the request of a permit applicant, the Fire Marshal's authorized to issue a conditional permit to occupy the premises or portion thereof before the entire work or operations on the premises is completed, provided that such portion or portions will be occupied safely prior to full completion or installation of equipment and operations without endangering life or public welfare. The Fire Marshal shall notify the permit applicant in writing of any limitation or restrictions necessary to keep the permit area safe. The holder of a conditional permit shall proceed only to the point for which approval has been given, at the permit holder's own risk and without assurance that approval for the occupancy or the utilization of the entire premises, equipment or operations will be granted.

Section 21. POSTING THE PERMIT

Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the Fire Marshal.

Section 22. COMPLIANCE WITH CODE

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this ordinance shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the Fire Marshal from requiring the correction of errors in the construction documents and other data. Any addition to or alteration of approved construction documents shall be approved in advance by the Fire Marshal, as evidenced by the issuance of a new or amended permit.

Section 23. TIME LIMITATIONS ON VALIDITY OF PERMITS

All construction permits issued under this ordinance shall expire by limitation six (6) months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement, the work is discontinued for a period of twelve (12) months, the permit; therefore, shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

Section 24. EXTENSION OF PERMITS

A construction permit holder having an unexpired construction permit shall have the right to apply for an extension of the time within which the permit holder will commence work under the permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The Fire Marshal is authorized to grant, in writing, one or more extensions of the time period of a permit for periods of not more than 90 days each. Such extensions shall be required by the permit holder in writing and justifiable cause demonstrated.

Section 25. CHANGES IN WORK

After a permit has been issued, changes or deviations from the terms of the application and permit, or changes or deviations from the plans or specifications involving any work under the jurisdiction of this ordinance or any regulatory code adopted herein, shall not be made until specific written approval of such changes or deviations has been obtained from the Fire Marshal.

Section 26. PLANS AND SPECIFICATIONS

Where plans and specifications are deemed necessary by the Fire Marshal in order for him to determine whether the proposed work complies with the appropriate regulatory codes; plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this ordinance and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work site until all authorized operations have been completed and approved by the Fire Marshal.

Section 27. FEE SCHEDULE

- (a) Fees for inspections required by this Ordinance shall be determined by resolution of the Board of County Commissioners. An inspection fee schedule shall be filed with the Clerk of the Board of County Commissioners and the Fire Marshal's Office for public inspection.
- (b) Inspection fees shall be paid at the time of inspection or permit issued.

Section 28. VIOLATIONS AND PENALTIES

- (a) Any person who shall violate any of the provisions of the Ordinance hereby adopted or who shall fail to comply with any judicial warrant, lawful order, or regulation made hereunder, or who builds in violation of any specifications, or plans shall be guilty of a misdemeanor. Each day that such violation continues shall constitute a separate offense. In the name of the County, the County Fire Code Enforcement Official, through the County Attorney, may enjoin the construction or erection of any facility, building, or structure which does not conform to the provisions of the Ordinance.
- (b) This Ordinance may be enforced by any of the remedies set forth in G.S. 153A-123, in addition to others specifically set out herein.
- (c) Any persons who violates this Ordinance subjects the offender to a civil debt if the offender does not pay the penalty within the time prescribed herein after he has been cited for violation of this ordinance. The penalty for a civil violation shall be adopted by the Duplin County Board of Commissioners. Each day of violation constitutes a separate and distinct offense.
- (d) Civil penalties must be paid within seven (7) business days after a citation has been issued by the Fire Code Enforcement Official for a violation. The Fire Code Enforcement Official is authorized to issue written citation(s) in the name of the County for violations.
- (e) If any person shall violate this ordinance or chapter or any provision thereof, he/she shall be guilty of a misdemeanor and shall be imprisoned and fined not more than the maximum imposed by N.C.G.S. 14-4.

Section 29. REMOVAL OF OBSTRUCTIONS PROHIBITED PARKING

Any vehicle found obstructing, any fire hydrant, fire protection equipment, designated and marked fire lane, or fire station, may be issued a citation, removed or towed away by or under the direction of the Fire Code Enforcement Official to a storage area or garage.

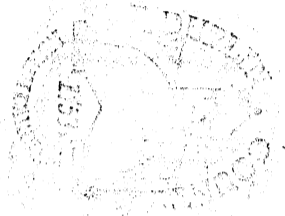
The owner of such vehicle shall be deemed to have appointed the Fire Code Enforcement Official as his/her agent for the purpose of arranging for the transportation and safe storage of the vehicle. The owner of such vehicle, before obtaining possession thereof, shall pay all reasonable cost incidental to the removal and storage of the vehicle due for the violation of prohibited parking. The County assumes no liability for any damages for vehicles towed that are in violation of this section.

Section 30. ADMINISTRATION AND ENFORCEMENT

The County hereby adopts the North Carolina Administration and Enforcement Volume 1-A of the North Carolina State Building Code.

It is the legislative intent of the Board of Commissioners in enacting this Article that each section and subdivision is separate and divisible from any other section, and if any provision hereof should be held or declared by a court of competent jurisdiction to be invalid for any reason, such decision or holding shall not affect the validity of any other section or provision hereof.

Adopted this second day of August, 2010 to become effective the first day of September, 2010.



Cary Turner
Chairman

ATTEST: Mike Aldridge
Clerk