

Chapter 30 FIRE PREVENTION AND PROTECTION¹

ARTICLE I. IN GENERAL

Secs. 30-1—30-25. Reserved.

ARTICLE II. FIRE PREVENTION ORDINANCE²

DIVISION 1. GENERALLY

Sec. 30-26. Purpose.

An ordinance to provide the county with rules and regulations to improve public safety by promoting the control of fire hazards; regulating the installment, use and maintenance of equipment; regulating the use of structures, premises and open areas; providing for the abatement of fire hazards; establishing the responsibilities and procedures for code enforcement; and setting forth the standards for compliance and achievement of these objectives.

This article shall be known as the Buncombe County Fire Prevention Ordinance. This Code adopts by reference North Carolina Building Code: Fire Prevention Code, and its incorporated standards and codes as published in the Building Code. The same are hereby adopted and incorporated as fully as if set out verbatim herein. Not less than one copy of the adopted issue of North Carolina Building Code: Fire Prevention Code and the adopted standards and codes shall be filed in the office of the county fire marshal and the provisions thereof shall be controlling within the unincorporated area of the county and the municipalities that have requested inspections by the county.

(Ord. No. 97-3-7, § 1, 3-18-97; Ord. No. 10-08-25, § 2, 8-17-10)

Sec. 30-27. Fees.

Fees may be established by the county board of commissioners for permits, certificates, approvals and other functions performed under this article and shall be payable to the county. Upon adoption of fee schedule the fee shall accompany each application for permit, approval, certificate, or other fee related code provision. No fee shall be charged for any function unless specifically adopted by the county board of commissioner.

¹Cross reference(s)—Buildings and building regulations, ch. 10; air pollution control and reduction standards.

State law reference(s)—Authority to establish and maintain a fire department and designate fire districts, G.S. 153A-233.

²Editor's note(s)—Ordinance No. 97-3-7, §§ 1—15, replaced §§ 30-26—30-32, 30-41—30-51 with §§ 30-26—30-29, 30-36—30-46. Formerly, such sections pertained to similar provisions and derived from Ord. No. 20466, § 1—16, 18, 20, 8-9-94.

(Ord. No. 97-3-7, § 13, 3-18-97)

Sec. 30-28. Conflicting provisions.

All former ordinances or parts thereof conflicting or inconsistent with the provisions of this article are hereby repealed.

(Ord. No. 97-3-7, § 14, 3-18-97)

Sec. 30-29. Conflicts with State Building Code.

In the event of conflicts between the North Carolina Fire Prevention Code and this chapter, the more restrictive provisions shall prevail.

(Ord. No. 97-3-7, § 15, 3-18-97; Ord. No. 06-11-07, § 1, 11-21-06)

Secs. 30-30—30-35. Reserved.

DIVISION 2. FIRE MARSHAL

Sec. 30-36. Responsibilities.

The county fire marshal, or designee, shall be responsible for the enforcement of this article and all laws and ordinances covering the following:

- ~~(1) The prevention of fires;~~
- ~~(2) The storage, sale and use of combustible, flammable or explosive materials;~~
- ~~(3) The installation and maintenance of automatic and other fire alarm systems, and fire extinguishing equipment;~~
- ~~(4) The maintenance and regulation of fire escapes;~~
- ~~(5) The means and adequacy of exit in case of fire from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters;~~
- ~~(5.1) The adequacy of ingress, egress and regress to and from the construction and/or development of a tract of land into individual residential dwelling units, including mobile homes, modular homes or manufactured homes designed for and occupied by one family only, and being completely detached from other dwellings, and one or more buildings thereon for multifamily use, including but not limited to condominiums, townhouses, row houses, apartments and other forms of group housing.~~
- ~~(6) The investigation of the cause, origin, and circumstances of fires;~~
- ~~(7) The maintenance of fire cause and loss records.~~

The Fire Marshal, or designee, is the Fire Code Official charged with the administration and enforcement of the North Carolina Building Code: Fire Prevention Code and any future iterations thereof, and shall be responsible for the enforcement of this Chapter, the North Carolina Building Code: Fire Prevention Code, and all laws and ordinances covering the following:

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- (1) The prevention of fires.
 - (2) The storage, sale, and use of combustible, flammable or explosive materials.
 - (3) The installation and maintenance of automatic and other fire alarm systems, and fire extinguishing equipment.
 - (4) The maintenance and regulation of fire escapes.
 - (5) The means and adequacy of exit in case of fire from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters.
 - (5.1) The adequacy of ingress, egress, and regress to and from the construction and/or development of a tract of land into individual residential dwelling units, including mobile homes, modular homes or manufactured homes designed for and occupied by one family only, and being completely detached from other dwellings, and one or more buildings thereon for multifamily use, including but not limited to condominiums, townhouses, row houses, apartments and other forms of group housing.
 - (6) The investigation of the cause, origin, and circumstances of fires.
 - (7) The maintenance of fire cause and loss records.

(Ord. No. 97-3-7, § 2, 3-18-97; Ord. No. 06-11-07, § 1, 11-21-06)

Sec. 30-37. Preparation of instructions and forms.

The county fire marshal, or designee, shall prepare instructions and forms for the reports required by this article.

(Ord. No. 97-3-7, § 3, 3-18-97)

Sec. 30-38. Investigations.

~~The county fire marshal, or designee shall investigate the cause, origin, and circumstances of every fire occurring within the jurisdiction of this chapter by which property has been destroyed or damaged, and so far as possible, shall determine whether the fire is the result of carelessness or design. Such investigations shall begin immediately upon the occurrence of such fire. The county fire marshal, or designee, is empowered by this chapter to take possession of any evidence relevant to the fire. Every fire shall be reported in writing to the county fire marshal's office within five days of its occurrence by the fire department primarily responsible for fire protection in the area where such fire has occurred. Such report shall be in the form prescribed by the county fire marshal, and shall contain a statement of all facts relating to the cause, origin, and circumstances of such fire, the extent of the damage thereof, the insurance upon such property, and such other information as may be required, including the injury, death or rescue of persons. All reports of fire department activities shall be submitted to the county fire marshal's office no later than the tenth of the following month.~~

- (1) The Fire Marshal, or designee will be notified by Public Safety Communications of every structure fire occurring in the County.
- (2) The Fire Marshal or designee shall be responsible for investigating the cause, origin, and circumstances of every structure fire occurring within the jurisdiction of this Chapter where property has been destroyed or damaged, and if possible, determine whether the fire is the result of carelessness or design.

- a. Such investigations shall begin immediately upon the occurrence of such fire.
- (3) Any injury or fatality resulting from a fire, the Fire Marshal's Office shall be notified and respond to the scene of the fire.
 - (4) Every fire shall be reported in writing to the Fire Marshal's Office within forty-eight (48) hours of its occurrence by the fire department responsible for fire protection in the area where the fire occurred.
 - (5) Such reports shall be in the form prescribed by the Fire Marshal and shall contain a statement of all facts relating to the cause, origin, and circumstances of such fire, the extent of the damage caused by the fire, the insurance upon such property, and such other information as may be required.
 - (6) If no investigator was requested to the fire scene, the responding fire department must complete the investigation module of the report prior to submittal.
 - (7) All reports of fire department activities shall be submitted to N.C. Office of the State Fire Marshal via the National Fire Incident Reporting System, no later than the tenth of the following month.
 - (8) Brush/woods/wildfires shall be the responsibility of the N.C. Forest Service to be the lead investigative agency, assisted by the Buncombe County Fire Marshal or his designee.
 - (9) Vehicle or machinery fire investigations shall be conducted at the request of the officer in charge of the responding agency.

(Ord. No. 97-3-7, § 4, 3-18-97)

Sec. 30-39. Periodic inspections.

~~The fire marshal, or designee, shall inspect all premises on a periodic basis for compliance with this article and other fire prevention regulations as follows:~~

Semi-annual	Public schools
Annual	Non-public schools, day cares, foster homes, family care homes, hazardous, institutional, high rise and residential other than one and two family dwellings.
Every two years	Industrial, educational, business, mercantile and storage
Every three years	Churches and synagogues

The Fire Marshal, or designee, shall inspect all premises on a periodic basis for compliance with this article and other fire prevention regulations as follows:

Semi-annual	Public schools
Annual	<p>Assembly – Restaurants, clubs, gyms, and places of entertainment, etc.</p> <p>Hazardous – Hazardous materials, flammable liquids and explosives facilities, etc.</p> <p>Institutional – Hospital, nursing homes, licensed care facilities, jails, etc.</p> <p>Residential – Apartments, hotels, motels, dormitories, etc.</p>

	<p>High-Rise Buildings – all use types.</p> <p>Adult and Child Day Care operations.</p> <p>Assisted Family Living and 24-Hour Adult Care Facilities.</p> <p>Substance abuse recovery, violence recovery and protection centers, physical and mental recovery centers.</p>
Every two years	<p>Factory-Industrial Facilities – manufacturing and assembly plants, etc.</p> <p>Educational Facilities – Private schools, except public schools are inspected every six months.</p>
Every three years	<p>Assembly –with an occupant load less than 100.</p> <p>Businesses – Banks, barber and beauty shops, gas stations and self-service, educational occupancies above the 12th grade, print shops, professional service offices (architects, attorneys, dentists, physicians, engineers), etc.</p> <p>Mercantile- Department stores, drug stores, markets, retail or wholesale stores, etc.</p> <p>Storage Facilities – Warehouses, garages, hangers</p> <p>Churches and Synagogues</p> <p>Miscellaneous – Tanks, silos, greenhouses, etc.</p>

(Ord. No. 97-3-7, § 5, 3-18-97)

Sec. 30-40. Remediation.

Whenever any fire inspector shall find in any building, or upon any premises or other places, combustible or explosive matter or dangerous accumulations of waste paper, boxes, shavings, or any highly flammable materials, and which is so situated as to endanger property; or shall find obstructions to or on fire escapes, stairs, passageways, doors, windows, likely to interfere with operations of a fire department or egress of occupants; or any violation listed in the Fire Code of the North Carolina Building Code, the inspector shall order the remediation of same.

Any owner or occupant failing to comply with such order within a reasonable period after service shall be subject to a penalty of ~~\$100.00~~ **\$500.00** for each violation deemed to be "Life Safety" and ~~\$25.00~~ **\$100.00** per violation for every other violation.

Any owner or occupant may appeal said order to the North Carolina Building Code Council through the procedure provided for by the North Carolina Building Code.

The service of any such order may be made upon the occupant of the premises to whom it is directed, either by delivering a copy to such occupant personally, electronic delivery (**email**), or by leaving it with any person in charge of the premises, or if no such person is found upon the premises, by affixing a copy thereof in a conspicuous place or on the door to the entrance of said premises. Where the order cannot be served either by

delivering to or leaving with the person a copy of the order, or if the owner is absent from the jurisdiction of the officer issuing the order, the order may be served by certified mail, return receipt requested, to the owner's last known address.

(Ord. No. 97-3-7, § 6, 3-18-97)

Sec. 30-41. Record of fires.

The county fire marshal shall maintain a record of all fires and facts concerning the same, including injuries, deaths, rescue of persons and statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance, and if so, in what amount. Such records shall be made daily from the reports made by the technical inspectors under the provisions of this ordinance. All such records shall be public.

(Ord. No. 97-3-7, § 7, 3-18-97)

Sec. 30-42. Report of activities.

The county fire marshal shall submit an annual report of activities to the ~~county manager~~ **Emergency Services Director**, which shall contain all proceedings under this ordinance and any recommendations for amendments which the fire marshal deems appropriate.

(Ord. No. 97-3-7, § 8, 3-18-97)

Sec. 30-43. Public and private property.

This article shall apply equally to both public and private property, and all structures and their occupancies, except as otherwise specified; and shall be liberally construed as an exercise of the police powers of the county.

(Ord. No. 97-3-7, § 9, 3-18-97)

Sec. 30-44. Violation; penalty.

~~A violation of this article shall constitute a Class 3 misdemeanor, punishable by a fine of up to \$500.00 or a maximum 30 day's imprisonment as provided in G.S. 14-4. The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. Also such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises. Prosecution or lack thereof of either the owner, occupant or person in charge shall not be deemed to relieve any of the others.~~

(1) A violation of this Chapter shall be a misdemeanor punishable by a fine of not more than \$50.00 or by imprisonment for not more than 30 days or by both such fines and imprisonment.

a. The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue.

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- b. Such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
 - c. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises.
- (2) Violations of the North Carolina Building Code: Fire Prevention Code Sec. 107.6 concerning Overcrowding, as well as any future iterations thereof, may, in addition to the penalties set forth above and/or any other penalties and/or remedies available at law, be punished as a civil penalty as follows:
- a. First Offense – Written Warning or \$50 Fine
 - b. Second Offense - \$100 Fine
 - c. Third Offense - \$500 Fine
- (3) Upon the discovery of any Violation of the North Carolina Building Code: Fire Prevention Code Sec. 107.6 concerning Overcrowding, the Fire Marshal, or designee, is authorized to order the evacuation of a building, premise, or portion thereof to abate the overcrowded condition.
- (4) The County may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure who is in violation of the State Fire Prevention Code or this Ordinance.

rd. No. 97-3-7, § 10, 3-18-97; Ord. No. 22-05-13 , § 12, 5-19-22)

Sec. 30-45. General requirements.

- (a) During the installation of new water lines, fire hydrants shall be installed every 500 feet.
- (b) Private roadways, driveways, and areas adjacent thereto shall be properly maintained and kept free of all obstructions that would reduce or limit access of fire apparatus and other emergency vehicles.
- (c) Repeated false alarms due to alarm malfunctions, improper care of fire protection equipment or testing of systems may result in a fine not to exceed \$100.00 per alarm.
- (d) Street numbers that are visible from the road shall be posted at each residence. Structures off of main roads will have the number posted at the road and at the structure.

(Ord. No. 97-3-7, § 11, 3-18-97)

Sec. 30-46. Warning signs of hazardous materials.

The fire marshal ~~may~~ shall require warning signs wherever hazardous materials are stored, processed, or handled. Such warning signs shall be conspicuously lettered in accordance with NFPA 704, Identification of the Fire Hazards of Materials; however, nothing in this section shall be held in conflict with G.S. Chapter 95, Article 18.

(Ord. No. 97-3-7, § 12, 3-18-97)

Sec. 30-47. Appendix D, Fire Apparatus Access Roads.

The terms and conditions of Appendix D, Fire Apparatus Access Roads, as contained in The North Carolina Fire Code, as adopted and published by the North Carolina State Building Code Council, is hereby specifically adopted by reference into this Buncombe County Fire Prevention Ordinance subject to the following amendments.

(1) For the purposes of the Buncombe County Fire Prevention Ordinance, Appendix D is amended by deleting the following sections:

Section D101, General;

Sub-Section D103.1 Access road width with a hydrant;

Sub-Section D103.2, Grade;

Sub-Section D103.6.1, Roads 20 to 26 feet in width;

Section D104, Commercial and Industrial Developments (in its entirety); and

Section D105, Aerial Fire Apparatus Access Roads (in its entirety);

(2) For the purposes of the Buncombe County Fire Prevention Ordinance, Appendix D is further amended as sections:

Section D103.6.2, Roads more than 26 feet in width is amended and shall read as follows:

D103.6.2, Roads more than 20 feet in width. Fire apparatus access roads more than 20 feet (6096 mm) shall be posted on one side of the road as a fire lane.

(3) Upon request made to the County Fire Marshal, minor variances from the requirements of Sections D106.1, D106.2 and D107.1 may be granted. Any such variance is made at the sole and complete discretion of the County Fire Marshal, or designee, and is not appealable.

The terms and conditions of Appendix D, Fire Apparatus Access Roads, as contained in The North Carolina Fire Code, as adopted and published by the North Carolina State Building Code Council, is hereby specifically adopted by reference into this Buncombe County Fire Prevention Ordinance. The Fire Marshal has the authority to approve alternative methods of compliance in accordance with the North Carolina Fire Code.

(Ord. No. 06-11-07, § 1, 11-21-06)

Sec. 30-48. Appendix B, Fire-Flow Requirements For Buildings.

The terms and conditions of Sub-Section B103.3 of Appendix B, Fire-Flow Requirements For Buildings, as contained in The North Carolina Fire Code, as adopted and published by the North Carolina State Building Code Council, is hereby specifically adopted by reference into this Buncombe County Fire Prevention Ordinance. Said Sub-Section reads as follows:

Section B103.3, Areas without water supply systems. For information regarding water supplies for fire fighting purposes in rural and suburban areas in which adequate and reliable water supplies systems do not exist, the fire official is authorized to utilize NFPA 1142.

The terms and conditions of Appendix B, Fire-Flow Requirements for Buildings, as contained in The North Carolina Fire Code, as adopted and published by the North Carolina State Building Code Council, is hereby specifically adopted by reference into this Buncombe County Fire Prevention Ordinance. The Fire Marshal has the authority to approve alternative methods of compliance in accordance with the North Carolina Fire Code.”

§ 30-49. Control and Prohibition of Open Burning

- (1) **General.** A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this ordinance and Asheville-Buncombe Air Quality Agency Code, Chapter 4, Section 1900 or as amended. Any conflict between this Ordinance and any State Code or regulation, the State Code or regulation shall prevail.
- (2) **Prohibited open burning.** The Fire Marshal shall have the authority to issue a County Wide Open Burn Ban when atmospheric conditions or local circumstances make such fires hazardous. Exception: Prescribed burning for the purpose of reducing the impact of wildland fire when authorized by the fire code official or fire suppression and mitigation agency.
- (3) **Permit required.** A permit shall be obtained from the fire code official in accordance with Section 105.6 of the N.C. Fire Prevention Code prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.
- (4) **Authorization.** Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air quality management authority, provided that all conditions specified in the authorization are followed.
- (5) **Extinguishment authority.** Where open burning creates or adds to a hazardous situation, the fire code official, a County Service District Fire Chief, or their designee is authorized to order the extinguishment of the open burning operation.
- (6) **Location.** The location for open burning shall be not less than 50 feet (15 240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15 240 mm) of any structure.
- (7) **Exceptions:**
 - a. Fires in approved containers that are not less than 15 feet (4572 mm) from a structure.
 - b. The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.
- (8) **Bonfires.** A bonfire shall not be conducted within 50 feet (15 240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions that could cause a fire to spread within 50 feet (15 240 mm) of a structure shall be eliminated prior to ignition. A bonfire shall require a permit and inspection prior to occurrence by the fire code official.

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- (9) Recreational fires. Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions that could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.
 - (10) Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material. Exception: Portable outdoor fireplaces used at one- and two-family dwellings.
 - (11) Attendance. Open burning, bonfires, recreational fires, and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher with a minimum 4-A rating **or** other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water container, shall be available for immediate utilization.
 - (12) Violation. A violation of this ordinance may result in the assessment of a civil penalty up \$500.00 per violation. In addition, a violation of this Chapter shall constitute a Class 3 misdemeanor as set forth in N.C. Gen. Stat. §G.S. 14-4. The maximum fine for a violation under this Chapter is \$500.00 or a maximum thirty (30) days imprisonment. These penalties are SEPARATE AND APART FROM ADDITIONAL PENALTIES IMPOSED BY OTHER LOCAL, STATE, OR FEDERAL AGENCIES.