

**FIRE PREVENTION ORDINANCE  
OF  
SAMPSON COUNTY, NORTH CAROLINA**

**ARTICLE I. GENERAL PROVISIONS**

**Sec. 1.0. Title.**

This ordinance shall be known and cited as the "Fire Prevention Ordinance of Sampson County, North Carolina."

(Ord. adopted 9-8-09)

**Sec. 1.2. Purpose.**

(a) The purpose of this chapter is to adopt and incorporate the provisions of the North Carolina Fire Prevention into the Fire Prevention Ordinance of Sampson County and to provide the county with the organization and regulations for enforcement of such ordinance.

(b) The intent of this ordinance is to prescribe regulations consistent with nationally recognized best practices for safeguarding life and property within the jurisdiction of 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.

(c) This chapter shall not be construed to hold the county responsible for any damage to persons or property by reason of any inspection, re-inspection, failure to inspect or re-inspect, or the issuance or denial of any permit authorized or required by this ordinance.

(Ord. adopted 9-8-09)

**Sec. 1.3. State fire code incorporated.**

(a) The provisions of the *North Carolina Fire Code* as adopted by the North Carolina Building Code Council on March 11, 2008, together with Appendix B, entitled "Fire-Flow Requirements for Buildings;" Appendix E, entitled "Hazard Categories;" and Appendix F, entitled Hazard Ranking;" as it may be, from time to amended, is hereby adopted and incorporated in this ordinance by reference, such fire prevention code being a technical code. Copies of this ordinance and the technical code incorporated herein shall be filed with, and made available for public inspection in the office of the clerk to the board and the fire marshal.

(b) Amendments to codes and standards adopted by reference in this ordinance which are adopted and published by the State Building Code Council shall be effective in the county at the time such amendments become a part of the North Carolina Administration and Enforcement Requirements Code and the *North Carolina Fire Code*.

(Ord. adopted 9-8-09)

**Sec. 1.4. Territorial jurisdiction.**

This ordinance shall be applicable to all parts of the county not within a municipality.

(Ord. adopted 9-8-09)

**Sec. 1.5. Interpretation.**

(a) This ordinance shall be deemed an exercise of the police power of the county for the preservation and protection of the public health, safety and welfare and for enforcement of the state building code. All the provisions of this chapter shall be liberally construed for that purpose.

(b) Nothing in this chapter shall be construed to conflict with the provisions of the North Carolina General Statutes pertaining to fire prevention; in the event of an ambiguity between this chapter and a provision of the statutes, the latter shall prevail.

(Ord. adopted 9-8-09)

**Sec. 1.6. Definitions.**

(a) As used in this ordinance:

*Fire prevention* means those services and actions undertaken to eliminate fire hazards and perils, reduce the risk of occurrence of fire, and passively protect property and persons from damage and injury and reduce the extent of the same in the event of fire.

*Hazardous material emergency* means a sudden and unexpected release of any substance which is defined in state or federal law or regulations as a hazardous material presenting threat to the public health or safety or to the environment or which otherwise, because of its quantity, concentration, or physical, chemical, or infectious characteristics, presents a direct and immediate threat to public health or safety or to the environment and requires immediate action to abate the threat.

*Intentionally caused fire emergency* means a fire willfully and maliciously started or caused to be started by a person with the intent to damage the property on or within which the fire occurred or to damage property adjacent thereto.

(b) Other words, phrases and terms used in this ordinance, to the extent possible, shall be given the meaning set forth in the *North Carolina Fire Code*.

(Ord. adopted 9-8-09)

**Sec. 1.7. Effective date.**

This ordinance shall be effective upon enactment by the Board of Commissioners.

(Ord. adopted 9-8-09)

**ARTICLE II. FIRE PREVENTION**

**Sec. 2.0. County fire marshal to enforce ordinance.**

This ordinance and any fire protection laws in the North Carolina General Statutes shall be enforced within the territorial jurisdiction of this ordinance by the county fire marshal and his authorized representatives or as otherwise provided in this ordinance. The county fire marshal is designated as the fire code official for the county for these purposes. The fire marshal is hereby authorized to establish procedures necessary to enforce this chapter.

(Ord. adopted 9-8-09)

**Sec. 2.1. Duties and responsibilities of the fire marshal.**

The fire marshal shall have the following fire prevention duties and responsibilities:

(Ord. adopted 9-8-09)

**Sec. 2.1.1. Enforcement of fire prevention ordinance.**

(a) The duties and responsibilities of the fire marshal and authorized representatives with regard to administration and enforcement of this chapter shall include receiving applications for permits and issuing or denying permits, assessing and collecting fees, making necessary inspections, issuing or denying certificates of compliance, issuing orders, including stop orders and orders to correct violations, issuing civil penalty citations for violations and collecting such penalties, bringing or causing to be brought civil and criminal judicial actions against actual or threatened violations, keeping adequate records of administrative and enforcement activities, and taking any other actions that may be required to fulfill the intent and purpose of this chapter.

(b) The fire marshal shall make such other inspections as are required by this ordinance consistent with funds and personnel provided to his office.

(Ord. adopted 9-8-09)

**Sec. 2.1.2. Inspections of schools and other facilities.**

(a) The fire marshal shall make periodic inspections of buildings, institutions, facilities and premises required to be inspected by the *North Carolina Fire Code* and G.S. § 115C-525(b), as follows:

(i) One every year: Hazardous, institutional, high rise, assembly and residential, except one and two-family dwellings and only interior common areas of dwelling units of multifamily occupancies.

(ii) One every two years: Industrial and educational, except public schools.

(iii) Once every three years: Assembly occupancies with an occupant load less than 100, business, mercantile, storage, churches and synagogues, and miscellaneous Group U occupancies.

(iv) Twice every year: Public and private schools.

Frequency rates for inspections of occupancies as mandated by the General Statutes shall supersede the above schedule.

(b) The fire marshal shall make the minimum fire prevention inspections of the removal, installation, or retrofitting of underground storage tanks as provided by the *North Carolina Fire Code*.

(Ord. adopted 9-8-09)

**Sec. 2.1.3. Coordination and information gathering.** The fire marshal shall have the further duty and responsibility of establishing a system of communication and coordination with the chiefs of rural volunteer fire departments and other agencies performing fire protection services in the county for the purpose of receiving reports of possible violations of the fire prevention code observed by members of such departments, to include possible violations noted in the course of fighting a fire.

(Ord. adopted 9-8-09)

**Sec. 2.1.4. Record keeping and reporting.** The fire marshal shall compile and maintain a record of all reports of alleged violations and of all fires to which rural volunteer fire departments and other agencies have responded. Such records shall be public records and shall be used to make an annual report covering the fire prevention and fire protection activities conducted in the county. The report shall be submitted with advice and recommendations for improvement of fire prevention and protection to the county

manager. This report may include any such recommendations suggested by the fire chiefs of the volunteer fire departments with regard to improving fire prevention and fire protection activities in the county.

(Ord. adopted 9-8-09)

**Sec. 2.1.5. Public information and education.**

(a) The fire marshal shall plan and cause a public education program to be executed for the purpose of acquainting the public with the standards and requirements of this ordinance. The fire marshal, in coordination with rural volunteer fire departments and other interested agencies, shall also engage in a public education program with respect to individual fire prevention and safety measures. The fire marshal shall establish a system for receiving complaints of violations of this ordinance from the public.

(b) The volunteer fire departments may and are encouraged to engage in a public fire safety education program related to their fire protection programs.

(Ord. adopted 9-8-09)

**Sec. 2.1.6. Coordination with inspection department.** The fire marshal shall have no responsibility for administration and enforcement of any part of the North Carolina State Building Code other than that set forth above, provided that the fire marshal shall coordinate administration and enforcement of the fire prevention code, including issuance of permits, with the county inspection department in accordance with rules of procedure promulgated jointly by the two departments and approved by the county manager.

(Ord. adopted 9-8-09)

**Sec. 2.2. Permits and fees.**

(a) The fire marshal shall establish a procedure for the issuance of such permits as may be required or authorized by this ordinance. Any permitting procedure and the form of any permit shall be approved by the board of commissioners before any permit is issued.

(b) The fire marshal shall charge and collect such fees as the board of county commissioners shall authorize for issuing permits, for inspections, and for other services performed by the office of the fire marshal. The purpose of the fees shall be to defray, wholly or in part, the cost of providing fire prevention services. The specific fees and the amount thereof shall be fixed in a schedule of fire prevention fees approved by the board of commissioners. The fee schedule adopted by the board of commissioners on August 4, 2008, shall continue in place upon adoption of this ordinance until amended by action of the board of commissioners

(c) The fees shall be due and payable as provided in rules promulgated by the fire marshal. The fire marshal shall pay over and account to the county for fees collected hereunder in accordance with rules promulgated by the county finance director.

(Ord. adopted 9-8-09)

**ARTICLE III. ABATEMENT AND COST RECOVERY**

**Sec. 3.0. Public health nuisances declared.**

Every hazardous materials emergency and every intentionally caused fire emergency, as defined herein, which occurs within the territorial jurisdiction of this ordinance is found to be a condition dangerous and detrimental to the health, safety and welfare of the

citizens of the county and to the peace and dignity of the county and therefore are hereby declared public health nuisances within the meaning and intent of sections 153A-121 and 153A-140 of the North Carolina General Statutes.  
(Ord. adopted 9-8-09)

**Sec. 3.1. Abatement of public health nuisances.**

The county shall effect the abatement of public nuisances found and declared as set forth in section 3.0 hereof in the following manner:  
(Ord. adopted 9-8-09)

**Sec 3.1.1. Hazardous materials emergencies.** Any authorized rural volunteer fire department, municipal fire department, county emergency response team, or municipal emergency response team responding to a hazardous materials emergency within the territorial jurisdiction of this ordinance in accordance with its obligations under a contract, a mutual aid agreement or interlocal agreement, and having reasonable cause to believe that a hazardous materials emergency exists, shall remove, abate or remedy such emergency to the extent of its authority and capabilities.  
(Ord. adopted 9-8-09)

**Sec. 3.1.2. Intentionally caused fires.** Any authorized rural volunteer fire department or municipal department responding to a fire within the territorial jurisdiction of this ordinance in accordance with its obligations under a contract, mutual aid agreement or interlocal agreement, and having reasonable cause to believe that such fire was intentionally caused, shall fight such fire and otherwise remove, abate or remedy such emergency to the extent of its authority and capabilities.  
(Ord. adopted 9-8-09)

**Sec. 3.2. Recovery of abatement expenses.**

Expenses incurred in the abatement of hazardous materials emergencies and intentionally caused fire emergencies shall be recovered as follows:  
(Ord. adopted 9-8-09)

**Sec. 3.2.1. Responsibility.** The expense of the abatement of a hazardous materials emergency or an intentionally caused fire shall be charged to and paid by the person owning, storing or transporting the hazardous materials which were released or by the person whose intentional act caused the fire. Expenses shall include the actual labor costs, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials expended, costs of disposal, the cost of any contract labor and materials, and the costs, including attorney's fees, of collecting unpaid expenses.  
(Ord. adopted 9-8-09)

**Sec. 3.2.2. Determination that nuisance existed.**

(a) The fire marshal or the official in charge of a county or municipal hazardous materials response team, whose fire department or response team responded to a hazardous materials emergency or an intentionally caused fire emergency within the territorial jurisdiction of this ordinance and removed, abated or remedied such emergency, shall determine the amount of the expenses incurred by the fire department or response team in effecting such abatement and the identity of the person there is

reasonable cause to believe is responsible for payment of such expenses pursuant to subsection 3.3.1.

(b) Following such determinations, the fire official or official in charge of the response team shall issue a demand for payment upon the responsible person, which demand shall set forth the nature of the emergency, the abatement action taken, a detailed accounting of the expenses incurred by the fire department or response team. The demand shall set a time certain, not less than 30 days, and place to make the payment and inform the person believed responsible for payment that if payment is not made within the allotted period, the demand will be referred to the county for collection. The demand shall further inform such person of the right to a hearing on the matter before the fire marshal of the county, provided a request for such hearing is made to the fire marshal within the time allotted for payment on the demand. A copy of the demand shall be sent to the fire marshal.

(c) If payment in full is made on the demand, such payment shall constitute an admission that the person making the payment was responsible for making it. Such payment shall be reported to the fire marshal. If payment is not made within the allotted period, the delinquency shall be reported to the fire marshal for further collection action.

(d) The fire marshal, upon receipt of a report of delinquency or a request for a hearing, shall schedule the hearing required by section 153A-140 of the North Carolina General Statutes, upon not less than ten days' notice to the person to whom the demand for payment was issued and to the person requesting the hearing, if other than the person upon whom demand was made. Notice shall also be given to the fire official in charge of the scene at which the emergency occurred and the official in charge of any emergency response team which acted at such scene.

(e) The fire marshal shall preside at the hearing and shall give all those given notice an opportunity to be heard and provide testimony and evidence relating to the emergency, its abatement and the expenses incurred. Upon conclusion of the hearing, the fire marshal shall make a written determination whether or not a nuisance in fact occurred, whether or not such nuisance was dangerous or prejudicial to the public health, and the amount of the expenses of abatement and issue an order directing or denying payment of the expenses. Upon a determination that the nuisance existed and was dangerous or prejudicial to the public health, the order shall further provide that the expenses of abatement, if not paid, shall be a lien upon the land or premises of the responsible person where the nuisance arose and shall be collected as unpaid taxes pursuant to section 153A-140 of the North Carolina General Statutes. Such written determination and order shall be served on all parties to the hearing.

(f) The determination and order of the fire marshal may be appealed by any party aggrieved thereby to General Court of Justice by a petition for review filed not later than ten days following the date of the determination and order.

(Ord. adopted 9-8-09)

**Sec. 3.2.3. Collection of unpaid abatement expenses.** Unpaid abatement expenses shall be collected by a civil action by the county in the appropriate division of the General Court of Justice or, if secured by a lien, by any remedy authorized in the North Carolina Tax Machinery Act for the collection of unpaid taxes.

(Ord. adopted 9-8-09)

**Sec. 3.2.4. Reimbursement of abatement expenses.** Abatement expenses incurred by organizations conducting the abatement and collected by the county as set forth above shall be remitted to such organizations upon collection less any costs of collection incurred by the county.  
(Ord. adopted 9-8-09)

#### **ARTICLE IV. STORAGE TANKS**

**Sec. 4.0. Tank installation, removal or retrofitting.**

(a) Before any tank or lines for underground or aboveground storage of volatile flammable or combustible liquids or any other hazardous material covered by the provisions of the *North Carolina Fire Code* shall be installed, removed or retrofitted, a permit must be issued and shall be granted only upon written application made to the fire marshal setting forth therein the location, character, size and capacity of the tank or lines, and the purpose for which it is to be used or removed and an agreement that the applicant or user will conform to all the provisions of the *North Carolina Fire Code* and all other regulations then existing, and in case a pump is to be used in connection therewith, the application shall state its location with respect to the tanks and with respect to the property line. The fire marshal office is hereby authorized to issue a stop work order if work is performed before a permit has been issued. The person engaged in installing, removing or retrofitting a tank or line shall cease work immediately.

(b) The fire marshal shall have five working days to determine whether the proposed tank or work on the line complies with the provisions of the *North Carolina Fire Code* and shall issue the permit if he finds there is compliance. The fire marshal shall have the right to inspect the tanks, lines and appliances before and after installation, to determine that the location, installation and operation are in accordance with the *North Carolina Fire Code*. After the tank and lines are placed in the excavation, and fittings and connections have been attached thereto, and before it has been covered or concealed from inspection, the applicant for the permit shall notify the fire marshal and shall wait until the installation of the tank connections, lines and fittings have been approved by the fire marshal before covering them. The fire marshal is hereby authorized to order the unearthing of tanks or lines that have not been inspected pursuant to this section.

(c) Failure to abide by the provisions of this section shall constitute a violation of this ordinance by the owner of the property on which the work was done, the person performing the work and the tenant of the premises.

(Ord. adopted 9-8-09)

#### **ARTICLE V. FIREWORKS**

**Sec. 5.0. Fireworks.**

(a) The county fire marshal is hereby delegated and granted the authority, given to the board of county commissioners by G.S. § 14-413, to issue permits for use of pyrotechnics (fireworks) within the county.

(b) No person shall use pyrotechnics without first completing an application and obtaining a permit from the fire marshal ten days in advance of such use. The names and

addresses of all operators must appear on the application and they must be approved by the fire marshal's office before any display or use of the pyrotechnics.

(c) The fire marshal shall issue the permit upon a determination that the requirements of chapter 33 of the *North Carolina Fire Code* and the insurance requirements of N.C.G.S. 14-413(d) have been met and the appropriate fees for issuance of the permit have been paid.

(Ord. adopted 9-8-09)

## **ARTICLE VI. FIRE HYDRANTS**

**Section 6.0. Reserved.**

## **ARTICLE VII. VIOLATIONS AND REMEDIES**

### **Sec. 7.0. Violations of fire prevention code.**

Any violation of the provisions of the *North Carolina Fire Code* adopted herein is a violation of this ordinance.

(Ord. adopted 9-8-09)

### **Sec. 7.1. Violations a misdemeanor.**

A violation of this ordinance is punishable as a misdemeanor and shall subject the offender to a fine of \$500.00 for a major violation and \$100.00 for a minor violation and to confinement as the law of North Carolina may, from time to time, provide. A major violation is any violation in or on premises, which, if a fire or explosion occurred, could reasonably cause serious injury or death to occupants of the premises. Any other violation is a minor violation. Each day's continuing violation shall constitute a separate offense for the purpose of such prosecution.

(Ord. adopted 9-8-09)

### **Sec. 7.2. Civil penalties.**

(a) A violation of this chapter shall subject the offender to the assessment of a civil penalty in an amount set forth in the schedule of civil penalties to be adopted, from time to time, by the board of commissioners of the county. Penalties assessed shall be recovered by the county in a civil action in the nature of debt if the offender does not pay the civil penalty within 30 days after the offender has been cited for the violation. Each day's continuing violation shall constitute a separate offense for the purpose of assessing a civil penalty. The civil penalties adopted by the board of commissioners on August 4, 2008, shall continue in place until upon adoption of this ordinance until amended by action of the board of commissioners.

(b) The fire marshal is authorized as a public official to investigate violations of this ordinance and, upon a determination that a violation has occurred, issue civil penalty citations. The fire marshal shall include written procedures for investigating violations, issuing citations, and collecting penalties. Such written procedures must be approved by the board of commissioners before any citation is issued.

(Ord. adopted 9-8-09)



**Sec. 7.3. Other remedies.**

This ordinance may be enforced by any other remedy at law or equity which the county is authorized to pursue, to include actions in the General Court of Justice for injunctive relief, other remedies authorized in Chapter 153A, Article 18, Part 3, of the North Carolina General Statutes and remedies authorized in the *North Carolina Fire Code*. The civil penalties, criminal prosecution, and other remedies provided in this chapter are cumulative and not exclusive, and may be independently and separately pursued against the same person for the activity constituting a violation of this chapter. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies in other provisions of this Code or other laws and regulations.

(Ord. adopted 9-8-09)

**Sec. 7.4. Authority to enter upon premises.**

**Sec. 7.4.1. Generally.** For the purpose of conducting inspections, responding to complaints and making investigations pursuant to this chapter, the fire marshal and his officers are hereby authorized to enter upon private premises, including any building or other structure subject to this chapter, after obtaining the consent of the owner or occupant. If consent to enter is withheld or denied by the owner or occupant, the fire marshal or his designated representative shall seek an administrative inspection warrant.

(Ord. adopted 9-8-09)

**Sec 7.4.2. Emergency entry.** The county fire marshal or his authorized representatives or any fire chief or their authorized representatives of fire departments serving 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. adopted 9-8-09)

Adopted upon unanimous vote at the regular meeting held September 8, 2009.



Sampson County Board of Commissioners

by

*Jarvis McLamb*  
Jarvis McLamb, Chairman

Attest:

*Susan Holder*  
Susan Holder, Clerk to the Board