

Chapter 16

FIRE PREVENTION AND PROTECTION*

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***State law references**—Fire protection, G.S. Ch. 69; municipal fire protection, G.S. § 160A-291 et seq.; fire limits, G.S. § 160D-1128

ARTICLE I. IN GENERAL**Sec. 16-1. Statewide fire code.**

The North Carolina Fire Prevention Code as adopted by the North Carolina Building Code Council and as amended in the future, is hereby adopted and legally enforceable in the corporate limits and extraterritorial jurisdiction of the town.

(Code 1982, § 9-40; Ord. No. 00-008, § 1, 4-13-2000; Ord. No. 2010-Code-03, 5-13-2010)

Sec. 16-2. Regulation of open burning.

(a) *Purpose.* The purpose of this section is to regulate certain open burning in order to protect the public from the hazards of fires and air pollution.

(b) *Scope.* This regulation shall apply to all operations involving open burning except those specifically exempted by this section.

(c) *No open burning allowed.* No person shall cause, suffer, allow or permit open burning of refuse or other combustible material except as may be allowed in compliance with this section. Furthermore, the town of Cary burning permit must remain on the premises during the hours of burning.

(d) *Permissible open burning with required permit.* While recognizing that open burning contributes to air pollution, certain types of open burning may reasonably be allowed in the public interest. The authority to conduct open burning under the provision of this section does not exempt or excuse a person from the consequences, damages or injuries which may result from such conduct nor does it excuse or exempt any person from complying with all applicable laws, ordinances, regulations, and orders of other governmental entities having jurisdiction even though the open burning is conducted in compliance with this section. The following types of burning are permissible with a town of Cary burning permit:

- (1) Fires purposely set to agricultural lands for disease and pest control and other accepted agricultural or wildlife management practices.
- (2) Fires purposely set to forest lands for accepted forest management practices.
- (3) Fires purposely set in rural areas for rights-of-way maintenance.
- (4) Camp fires and fires used solely for outdoor cooking and other recreational purposes or for ceremonial occasions or human warmth and comfort. These fires shall be confined to containers approved by the town of Cary fire department.
- (5) The burning of waste materials, trees, brush and other vegetable matter in connection with construction projects and the clearing of land or rights-of-way and with the following limitations:

- a. Prevailing winds at the time of burning must be away from any city or town or built-up area, the ambient air of which may be significantly affected by smoke, fly-ash, or other air contaminants from the burning;
 - b. The location of the burning must be at least 1,000 feet from any dwelling located in a predominantly residential area other than a dwelling or structure located on the property on which the burning is conducted;
 - c. The amount of dirt on the material being burned must be minimized;
 - d. Heavy oils, asphaltic materials, items containing natural or synthetic rubber or any materials other than plant growth may not be burned;
 - e. Initial burning may generally be commenced only between the hours of 9:00 a.m. and 3:00 p.m., and no combustible material may be added to the fire between 3:00 p.m. of one day and 9:00 a.m. of the following day, except that under favorable meteorological conditions deviation from the above-stated hours of burning may be granted by the air pollution control agency having jurisdiction. It shall be the responsibility of the owner or operator of the open burning operation to obtain written approval for burning during periods other than those specified above. At no time during the burning operation shall the permittee fail to have the fire tended or guarded.
- (6) Motor vehicle salvage operations may be continued subject to the following limitations:
- a. Permission to burn must be granted in writing by the state department of natural resources and community development;
 - b. No automobile tires shall be burned or used in starting a fire.
- (7) Open burning of leaves, tree branches or yard trimmings originating on the premises of private residences and burned on those premises in areas where no public pickup facilities are available, and such burning is done between 9:00 a.m. and 3:00 p.m. and does not create a nuisance.
- (8) Permits or permissions granted by the town under this section shall be subject to continued review and may be withdrawn at any time.
- (Code 1976, § 8-26; Code 1982, § 9-47; Ord. No. 86-19, § 3, 5-8-1986)

Sec. 16-3. Combustible landscaping material prohibited.

No pine straw or any other landscape cover material with a fire rate of spread more than 24 inches per minute shall be placed, kept, or stored within 10 feet of buildings with combustible exterior construction including, but not limited to, vinyl, aluminum, masonite, or wood siding.

(a) *Exception:* Detached residential structures not utilized as an "R-4 Home Daycare" or "R-4 Residential Care Home" as defined in the North Carolina Building Code.

(b) *Civil penalties:* Violations not abated within seven days of a written notice shall constitute a \$250.00 per day fine.

(Ord. No. 2010-Code-03, 5-13-2010; Ord. No. 2022-Code-01, 4-28-2022)

Secs. 16-4—16-18. Reserved.

ARTICLE II. FIRE DEPARTMENT

Sec. 16-19. Established.

The fire department of the town is hereby established. It shall consist of a chief and such other officers as the town council may deem necessary for the effective operation of the department.

(Code 1976, § 8-1; Code 1982, § 9-16)

Sec. 16-20. Appointment of officers.

(a) The chief and all other officers shall be appointed by the town manager for an indefinite period, and their tenure of office shall depend upon good conduct and efficiency.

(b) The chief shall be held accountable to the town manager and shall make written and verbal reports thereto as the manager may require. All other officers shall be accountable to the chief.

(Code 1976, § 8-2; Code 1982, § 9-17)

Sec. 16-21. Duties of fire chief.

(a) The fire chief shall formulate a set of rules and regulations to govern the fire department and shall be responsible to the town manager for the personnel, morale and general efficiency of the department.

(b) The chief shall determine the number and kind of companies of which the department is to be composed and shall determine the response of such companies to alarms.

(c) The chief shall cause to be conducted a continuing program of training, including suitable drills and instruction in the operation and handling of equipment, first aid and rescue work, salvage, a study of buildings in the town, fire prevention, water supplies and all other matters generally considered essential to good firemanship and safety of life and property from fire.

(d) The chief shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel and other information about the work of the department.

(Code 1976, § 8-4; Code 1982, § 9-19)

Sec. 16-22. Police powers.

(a) All regularly appointed members of the fire department are hereby given the necessary special police powers for the purpose of enforcing the provisions of this chapter.

(b) It is hereby made the special duty of the chief of police and/or other peace officers who may be on duty and available for fire duty, to respond to all fire alarms and assist the fire department in the protection of life and property, regulating traffic, maintaining order and in enforcing observance of all sections of this chapter.

(Code 1976, § 8-8; Code 1982, § 9-21)

Sec. 16-23. Apparatus, equipment and supplies.

No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having the special permission of, an officer or authorized member of the department.

(Code 1976, § 8-9; Code 1982, § 9-22)

Secs. 16-24—16-53. Reserved.

ARTICLE III. HAZARDOUS MATERIAL EMERGENCIES

DIVISION 1. GENERALLY

Sec. 16-54. Purpose and intent.

The duties of the fire department shall include controlling and eliminating hazardous waste emergencies as provided in this article. The fire department shall have the authority to summarily remove, abate or remedy hazardous material emergencies in the town limits, or within one mile thereof, that are dangerous or prejudicial to the public health or public safety. The expense of the action shall be paid by the person in default.

(Code 1982, § 9-62; Ord. No. 88-7, § 1, 4-14-1988)

Sec. 16-55. Charges.

(a) The town will not charge for removal, abatement or remedy of hazardous waste material emergencies which accrue \$500.00 or less in charges.

(b) The town will charge for removal, abatement or remedy of hazardous waste material emergencies which accrue more than \$500.00 in charges. In all cases, the first \$500.00 of expenses shall not be charged to the person in default.

(c) The charges for removal, abatement or remedy of hazardous waste material emergencies, as defined in this article, shall be prescribed annually in the town's budget for the fiscal year.

(Code 1982, § 9-63; Ord. No. 88-7, § 1, 4-14-1988)

Secs. 16-56—16-83. Reserved.

DIVISION 2. DATA STORAGE BOXES

Sec. 16-84. Purpose.

The town is empowered and required under G.S. 166A-7 to provide for management of local emergencies. Federal super fund regulations and state right-to-know laws provide special reporting and handling requirements for businesses that generate or store substantial quantities of hazardous substances. Emergencies such as fires, spills and explosions involving hazardous substances present a particularly grave threat to the health of the environment and the citizens of the county, as well as to workers responding to the emergency. Access to current information concerning the type, amount and location of hazardous substances during such an emergency is necessary to adequately protect human life and the environment.

(Code 1982, § 9-70; Ord. No. 92-30, § 1, 4-9-1992; Ord. No. 2010-Code-02, 3-10-2010)

Sec. 16-85. Required.

All commercial enterprises or industries in the town which use, store or manufacture hazardous materials that must be reported under the Hazardous Chemicals Right to Know Act (G.S. 95-173 et seq.) or under Title III of the Federal Super Fund Amendments and Reauthorization Act and the regulations promulgated thereunder must have an approved on-site hazardous materials data storage box(es) at each facility where hazardous materials may be found.

(Code 1982, § 9-71; Ord. No. 92-30, § 1, 4-9-1992)

Sec. 16-86. Contents, types, location.

(a) The data storage boxes may contain keys providing access to secured portions of the facility. The boxes shall contain current specific information to assist fire department and hazardous materials teams responding to emergencies at the facility. The boxes shall include, but not be limited to, facility maps or plans showing the type and location of hazardous materials, Tier II forms, material safety data sheets, lists of chemicals with CAS numbers, telephone numbers for facility employees and other persons to be contacted in case of such emergencies.

(b) All information requested on county emergency management data storage sheets must be provided on the forms provided by the county or in a substantially similar format and must be placed in the data storage box. Such information must be updated continuously to ensure its accuracy.

(c) The data storage boxes themselves shall be of the type designated and approved by the county local emergency planning committee and shall be located at or near the primary vehicle entrance to the facility and installed in accordance with directives of the chief of the fire department serving the facility.

(d) A hazardous identification placard, approved by the town fire marshal, must be attached to the exterior of the cabinet.

(Code 1982, § 9-72; Ord. No. 92-30, § 1, 4-9-1992)

Sec. 16-87. Violation; enforcement.

Enforcement actions may be initiated by the town fire marshal, the county emergency management director, or chief of the town fire department.

(Code 1982, § 9-73; Ord. No. 92-30, § 1, 4-9-1992)