

Chapter 12 - FIRE PROTECTION AND LIFE SAFETY

ARTICLE I. - INTERFERENCE WITH FIREFIGHTING ACTIVITIES

Sec. 12-1. - Interference with firefighters.

(a) As provided in G.S. 58-82-1, no person may willfully interfere in any manner with firemen engaged in the performance of their duties. A person commits interference with a firefighter, emergency medical service provider, or rescue personnel when by using or threatening to use violence, force, or physical interference, or an obstacle, knowingly obstructs, impairs, hinders, or interferes with the prevention, control, or abatement of fire by a firefighter, while such person is acting under color of his or her official authority; or knowingly obstructs, impairs, hinders, or interferes with the administration of medical treatment or emergency assistance by an emergency medical service provider or rescue personnel, while such person is acting under color of his or her official authority.

Sec. 12-2. - Riding on fire department apparatus.

No person other than a member of the fire department may mount or ride upon any fire engine, tanker truck or aerial apparatus before it leaves the station or while on its way to or from a fire or at any other time, except by permission of the driver or officer in command.

Sec. 12-3. - Congregating at fires.

It shall be unlawful for persons to congregate on the streets, sidewalks, or other areas adjacent to a fire so as to interfere with the operations of members of the fire department.

Sec. 12-4. - False alarms.

(a) Purpose.

- (1) The purpose of this section is to establish standards and controls relating to alarm devices, encouraging the alarm user to maintain the operational reliability and proper use of alarm systems in limiting the unnecessary dispatch of emergency service personnel to false alarms.
- (2) This section applies to all types of alarms in which law enforcement, fire service or other emergency service agencies respond. It provides penalties for violation and sets conditions for suspension or loss of alarm dispatch of emergency service personnel.

(b) Severability.

If any provision of this article or the application thereof to any person or circumstance for any reason is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end, the provisions of this article are declared to be severable.

(c) Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alarm signal or notification, means a detectable signal, either audible or visual, or an automatic dialing service, or an automatic telephone dialing alarm system, including other systems designed to be initiated purposely by a person, or an alarm system that responds to a stimulus characteristic of unauthorized intrusion, or fire conditions to which a law enforcement, fire service or other emergency service agency in Hillsborough is expected to respond.

Alarm system, means a device or system that emits, transmits, or relays a signal intended to summon, or that would reasonably be expected to summon a law enforcement, fire service or other emergency service agency providing service in the Town of Hillsborough.

Alarm user, refers to an individual, corporation, partnership, proprietorship, association, governmental or educational entity or any other entity owning or leasing an alarm system or on whose premises an alarm system is maintained for the protection of such premises.

Auxiliary alarm power supply, is also known as an "uninterrupted power supply" or "UPS" and should be of sufficient capacity to operate the alarm system for 15 minutes without failure.

False alarm, means any activation of an alarm system through mechanical failure, malfunction, improper installation, without an unlawful entry or other condition which the alarm is designed to detect, or through the negligent or intentional acts of the owner or lessee of an alarm system or of the employees or agents or other causes, which activates to summon law enforcement, fire service or other emergency service personnel unless the Orange County Communications Center, or other dispatcher, was contacted by the alarm user or his agent before dispatch, to indicate that no emergency exists. A false alarm shall not include:

- (1) Alarms occurring during electrical storms, hurricanes, tornadoes, blizzards and any other similar acts of nature.
- (2) Intermittent disruption or disruption of the telephone circuits beyond the control of the alarm company and/or alarm user when equipped with a UPS that was overridden and did not prevent the alarm.
- (3) Electrical power disruption or failure that causes the alarm to be activated even though it operates through a UPS.
- (4) Alarms activated during an alarm system testing procedure shall not be considered false alarms, if the alarm user first notifies the user's alarm company, or designee, and Orange County 911 of the test so that no response is caused.

- (5) Other extraordinary circumstances not reasonably subject to control of the alarm system owner or user.

Knox Box, means a secure rapid entry program specifically developed for fire department to provide nondestructive emergency access to commercial buildings and properties.

Local alarm, refers to an alarm system that emits audible or visible signals that do not transmit to a monitored station and relies on an occupant, passerby or a neighbor to recognize and call 911.

- (d) Alarm user information.

Whenever the information provided on the alarm user call back or notification roster changes, the correct information must be provided by the alarm user to the fire marshal within 30 days of the change. Failure to make the changes to the call back or notification roster with correct information will cause the alarm user/key holder not to be contacted upon activation of the alarm resulting in extended on-scene time for the responding agency. Upon such event, the alarm user will be required to install a Knox Box.

- (e) As provided in G.S. 14-286, no person may wantonly and willfully give a false alarm or damage fire alarm, detection, or any extinguishing equipment.

- (f) Response to alarm; determination of validity.

- (1) Whenever an alarm is activated and law enforcement, fire department or other emergency service agency responds, the responder on the scene of the activated alarm system shall inspect the area and shall determine whether the response was in fact necessary as indicated by the alarm system or whether the alarm was a false alarm. An alarm is false when evidence indicates that no unauthorized entry or threat to life or property from fire or other emergency exist which would have activated a properly functioning alarm system.
- (2) No alarm may be silenced or reset without the authorization of the fire marshal or the on-scene incident commander from the responding agency. Evacuation of the premises per the occupancy's evacuation plan should be initiated and continued until the fire marshal or his designee on the scene orders otherwise.
- (3) If the response agency at the scene of the activated alarm system determines the alarm to be false, the response unit will notify communications of the false alarm. The fire marshal shall notify the alarm user by letter of false alarm determination.
- (4) The fire marshal shall, when requested by the alarm user, review the determination that an alarm was false. Such review shall be conducted by the fire marshal only if the alarm user requests such review in writing, within ten days of the date that the false alarm occurred. The written request for review of a false alarm shall include the following information:

- a. Alarm user name;
- b. Address at which alarm is installed;
- c. Date of false alarm being contested;
- d. Summary of reason for the request for review of the false alarm.

(g) Civil penalty assessment for false alarms.

It is hereby found and determined that more than three false alarms within any 12-month period is excessive and constitutes a public nuisance. The failure of owners or users of premises to repair alarm systems, as defined in this section, may result in such owner or user being charged a civil penalty for creating a false call.

(1) The fourth false alarm at a location within a 12-month period will be assessed a \$50.00 civil penalty. The fifth call, and any subsequent calls, within a 12-month period will result in a \$200.00 civil penalty, and each subsequent call within a 12-month period shall constitute a misdemeanor punishable in accordance with North Carolina General Statutes § 14-4.(G.S. 14-4). Each civil penalty incurred as a result of false alarms at the premises assigned to the alarm use shall be paid within 30 days from the date of receipt of the invoice.

(2) After four false alarms to a location within a 12-month period, the agency with the legal responsibility to respond to the alarm may request in writing to the fire marshal that the problem alarm be placed in suspension. The fire marshal will notify the communications center by letter to suspend dispatching responses to the alarm, giving the effective date, alarm type, alarm location by address, and occupancy contact person. The communications center shall document all calls from an alarm in suspension but shall not dispatch the call until authorized to do so by the fire Marshal.

(3) Alarms that were required by Code for the occupancy they protect will not be placed on suspension at any time, but will have in addition to the remedies set forth in this section a letter of notification sent to the insurance company who has written coverage for the owner and or occupant, protected by the problem alarm.

(4) Any charges imposed by this article may be collected by the Town of Hillsborough in a civil action in the nature of debt if the alarm user fails to make payment within 30 days from the receipt of notification.

ARTICLE II. - FIRE PREVENTION

Sec. 12-5. - Adoption of fire prevention code.

(a) There is hereby adopted by the Board of Commissioners of the Town of Hillsborough for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code, known as the North Carolina Fire Prevention Code, also known as the "International Fire Code" with North Carolina Amendments as currently adopted by the North Carolina Building Code Council. Additionally, the Board adopts all permits contained in section 105, both operational and construction, both optional and mandatory. Further, the

Board adopts Appendix B Fire Flow Requirements for Buildings, Appendix C Fire Hydrant Locations and Distribution, Appendix D Fire Apparatus Access Roads and Appendix H Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) Instructions.

- (b) Not less than three copies of the adopted codes are on file in the office of the town clerk and the same are hereby adopted and incorporated as fully as if set out in length herein and the provisions of the fire prevention code and standards shall control within the limits of the city and the extraterritorial jurisdiction.

Secs. 12-6. Records of Inspection of Fire Protection Systems

- (a) Pursuant to section 104.7.2 of the NC Fire Prevention Code, the Town of Hillsborough designates Life Safety Inspection Vault LLC, as the third-party single point repository of testing, service, maintenance and installation documentation for fire protection systems within the town's jurisdiction.
- (b) Record Keeping. All certified contractors providing services, testing, installations, repair and/or maintenance of fire prevention systems to commercial facilities within the town are required to enroll and utilize the town approved single-point repository service company for reporting the rendered service information. This reporting information must be filed with the single-point repository service within five (5) working days of the completion of services to the commercial facility.
- (c) The single-point repository service company shall organize, maintain and monitor the received records, providing information to the town and the commercial facility pertaining to the records status and timely notifications on required inspection timetables. Fees for this service shall be paid directly from the certifying contractor to the town approved single-point repository service company.
- (d) In addition, a copy of the record of each periodic inspection, test, servicing, repairs and maintenance shall be maintained on the commercial facilities premises, or other approved location, for a period of not less than three (3) years, unless a different period of time is specified in the NC Fire Prevention Code or other appropriate standard. On site records shall be made available to the Fire Code Official, upon request.

Secs. 12-7—12-8. - Reserved.

Sec. 12-9. - Inspection of premises for fire hazards.

- (a) As provided in N.C.G.S. 58-79-20, the fire marshal, chief of police in the absence of the fire marshal or building inspector may enter into all buildings and premises during reasonable hours to inspect for combustible materials or inflammable conditions dangerous to the safety of such building or premises.
- (b) When any officer making an inspection in accordance with subsection (a) of this section, discovers combustible materials in inflammable conditions, he shall order the occupant or person in charge of the premises to remove or remedy such materials or conditions. Unless the person to whom the order is

directed appeals to the commissioner of insurance within 24 hours, as provided in G.S. 58-79-20, the order shall be complied with forthwith.

Sec. 12-10. - Blocking or obstructing exits.

(a) No person may block or obstruct, partially or totally, any fire escape, balcony, hallway, stairway, aisle, corridor, ramp, or other passageway or means of egress from any building, other than a single-family residence, during the hours such building is occupied.

(b) No person having control over any fire escape or other area listed in subsection (a) of this section may cause, suffer, or permit any such area to be blocked or obstructed, partially or totally, while the building to which these areas relate is occupied.

(c) No person may lock doors in means of egress against the path of exit travel when the building served by the means of egress is occupied.

Sec. 12-11. - Marking and lighting of exits.

(a) In rooms accommodating or designed to accommodate more than 50 persons, doorways, other than those normally used for entrance or clearly visible from all points in the room, shall be marked by exit signs approved by the fire marshal that are sufficiently illuminated to be readily visible when the room or space is occupied.

(b) Where the exit doorways are not visible from all locations in public corridors, directional signs approved by the fire marshal shall be placed on walls or otherwise displayed in conspicuous locations to direct occupants to exit doorways.

(c) Fire escapes, stairways, hallways, and other means of egress shall be adequately lighted, not less than 1.0 foot-candle on walking surface, at all times that the building served thereby is occupied.

Sec. 12-12. - Number of occupants permitted.

(a) All rooms accommodating or designed to accommodate 50 or more persons shall be posted with a legible sign, conspicuously located, stating the maximum number of persons permitted in that room.

(b) The owner or other person having control of the assembly of persons in any room where a sign is posted pursuant to subsection (a) of this section shall prevent occupancy of that room by more people than is authorized.

(c) The number of permitted occupants shall be determined by the building inspector and the fire marshal.

Sec. 12-13. - Fire extinguisher required.

The owner or other person in charge of any premises shall install sufficient portable fire extinguishers, of a kind and in locations prescribed in the current edition of NFPA 30. The fire marshal may require additional extinguishers to afford reasonable protection to persons and property.

Sec. 12-14. - Open burning.

(a) Except as otherwise provided in this section, no person may burn or cause to be burned any material outside of a building without a permit issued by the town's fire marshal. The fire marshal will notify the fire department and the Hillsborough Police Department immediately upon issue of a burning permit.

(b) No burning shall be allowed without a permit, which shall be valid for a period of up to 72 hours, as specified on the permit, and shall be obtained from the fire marshal. The fire marshal shall inquire of the North Carolina Forest Service as to whether, given the weather conditions, burning shall be allowed on particular days.

- (1) The fire marshal may issue a permit to allow open burning in the form of a campfire or campfires as part of a cultural event or celebration conducted by a not-for-profit organization on public property.
- (2) Such a permit may allow open burning in the form of a campfire or campfires for a period no longer than 72 consecutive hours.
- (3) Each such campfire shall be constantly attended, and the person in charge shall have a garden hose or fire extinguishing equipment readily available for use.

(c) Burning shall be permitted only on property owned or occupied by the person doing the burning, or his agent, and only in accordance with the terms of the permission. Burning shall not be allowed within 50 feet of any structure, except as provided in subsection (f) of this section.

(d) Outdoor fires shall be constantly attended, and the person in charge shall have a garden hose or other fire extinguishing equipment readily available for use.

(e) Subject to subsection (i) of this section, burning of debris or materials resulting from the clearing for or construction of roads, or the clearing for or construction of new buildings, shall not be permitted.

(f) Outdoor burning of leaves, brush, grass, etc., is not allowed within the town limits. Residents within the towns extraterritorial jurisdiction may burn vegetative yard waste on property owned or occupied by the person doing the burning. A permit is required, except that burning is permissible without the permit required by subsection (b) of this section, if done within a container approved by the fire marshal, so long as the container is located not less than 15 feet from any structure. Any amounts of leaves or brush too large for burning within said container may be burned between 50 to 100 feet from any structure.

(g) The State of North Carolina prohibits the burning of any construction materials.

(h) The requirements of this section shall not apply to burning done by the local fire department for training purposes.

(i) Nothing in this section shall relieve any person of the requirements of any other provision of law governing outdoor burning or pollution from burning.

(j) The burning of trees, brush and other vegetable matter in connection with construction projects and the clearing of land or rights-of-way may be permitted with the following limitations:

- (1) The areas to be cleared must be no less than 20 acres in size;
- (2) The only types of burns allowed are those referred to as "pit burns";

- (3) The pits dug for the burns shall be a minimum size of seven feet deep, nine feet wide, and 35 feet in length;
- (4) The location of the pit must be approved by the fire marshal before a permit is approved and burning is allowed to commence;
- (5) Fans shall be properly used in the pit burn method to ensure that a high enough heat level is attained to minimize the amount of smoke and ash produced from the procedure;
- (6) Prevailing winds at the time of burning shall not exceed ten miles per hour;
- (7) The location of the burning must be at least 1,000 feet from any dwelling location, business, or occupied structure;
- (8) The amount of dirt on the material being burned must be minimized;
- (9) Heavy oils, asphalt materials, construction materials, items containing natural or synthetic rubber or any materials other than plant growth may not be burned;
- (10) Initial burning may be commenced only between the hours of 7:00 a.m. to 7:00 p.m., and no combustible material may be added to the fire between 7:00 p.m. and 7:00 a.m. of the following day the next day;
- (11) Burning shall only be allowed Monday through Friday;
- (12) At no time shall the permittee fail to have the fire tended and guarded;
- (13) Permits will be issued by the town's fire marshal;
- (14) Permittee must check with the North Carolina Forestry Service to ensure there are no burning bans or additional burning restrictions in effect before a permit is issued;
- (15) Permittee must inform the fire department each day that burning will be occurring.

(k) The fire marshal, any town police officer or firefighter, the town manager or acting town manager may revoke a permit issued under this section at the site where such permit authorized the burning if hazardous conditions are present at the burning site or if such burning causes a threat to the public health or safety or otherwise causes annoyance or discomfort to any person or damage to any property.

(l) As provided in section 12-24, the provisions of this section may be enforced by the issuance of civil penalties. Such civil penalties may be issued by the fire marshal, any town police officer or firefighter, the town manager, acting town manager, or any other employees designated by the town manager.

Sec. 12-15. - Fire lanes, fire apparatus access roads.

(a) Defined. For the purpose of this code, when reference is made to the term "fire lane," it is inclusive of the term "fire apparatus access road" and they carry the same meaning as defined in the North Carolina Fire Prevention Code section 502.

(b) Objective. To provide clear and suitable emergency access to buildings, events, processes and facilities for police, emergency medical service and fire apparatus.

(c) Consistent with pertinent provisions of the North Carolina State Fire Prevention Code, no person may park a motor vehicle in, or otherwise obstruct a fire lane that is designated and marked as provided in this section.

(d) Whenever the fire marshal determines that a portion of a street, road, access way, driveway or parking lot located adjacent to, near to, or leading to a building should be designated as a fire lane, he shall specifically describe to the person in control of such area, the owner, occupant, or managing agent, the precise dimensions and location of such area, and require such person to mark such area in accordance with the provisions of the North Carolina State Fire Prevention Code and the provisions of this Code using his best professional judgment in the furtherance of the objective stated.

(e) Marking of fire lanes shall be as follows:

(1) If the fire lane is designated adjacent to a curb, the lane shall be marked by painting the curb yellow for the entire length of the fire lane and by posting legible signs alongside of the fire lane within five feet of the curb that state, "No Parking, Fire Lane, Tow-Away Zone." These signs shall be placed not lower than four feet from the ground nor higher than seven feet. Sufficient signs shall be placed so that no portion of the yellow pavement marking designating the fire lane is more than 50 feet from such a sign. When designated, the fire lane shall comprise an area 20 feet wide, running adjacent to the yellow curb marking.

(2) If the fire lane is designated adjacent to the edge of a travel lane along which there is no curb but along which signs may be placed without obstructing flow of traffic, then the lane shall be marked by posting legible signs alongside the fire lane within three feet of the edge of the travel lane that states "No Parking, Fire Lane, Tow-Away Zone." These signs shall be placed no lower than four feet from the ground and no higher than seven feet. Such signs shall be placed at the extreme limits of the fire lane and at intervals of not more than 80 feet. When so designated, the fire lane shall comprise an area 20 feet wide running adjacent to the edge of the travel lane where fire lane signs are posted.

(3) If the fire lane is designated in an area not adjacent to a curb and not in an area where signs can be conveniently posted, lanes shall be marked by outlining the perimeter of the lane with a yellow line not less than three inches wide and painting on the pavement within the fire lane the words "No Parking, Fire Lane, Tow-Away Zone" in letters not less than six inches high, so that no portion of the fire lane is more than 30 feet from the painted words "Fire Lane."

(f) If the fire marshal determines that the manner of marking fire lanes as prescribed in subsection (e) of this section is impracticable, unnecessarily cumbersome or difficult or causes an unnecessary hardship because of the peculiar circumstances affecting a particular fire lane and that adequate notice of the existence of the fire lane can be given in some other way, he may authorize the person exercising control over the area of the fire lane to mark the lane in some other satisfactory manner. The fire marshal shall inform such person in writing why the deviation is authorized and how the fire lane must be marked.

(g) Appendix D of the North Carolina Fire Prevention Code is adopted as a requirement for this section of the town Code. The North Carolina Fire Prevention Code and its Appendix D supersede any requirement of this section found to be in conflict.

(h) Pursuant to N.C.G.S. 20-162, the owner of a vehicle parked unlawfully in a fire lane shall be deemed to have appointed a law enforcement officer as his agent for the purposes of having the vehicle towed from such fire lane. A town officer who has a vehicle removed under this subsection shall comply with the notification requirements set forth in section 11-28 of the town Code.

(i) Fire lanes and fire apparatus access roads shall be operational and approved for use prior to any construction progressing above the slab.

(j) Streets, fire lanes or access roadways shall be installed and approved by the fire marshal at such time that construction has progressed to completion of the foundation. Any modification to this timing must be requested in writing and approved in writing by the fire marshal.

(1) The erection of combustible construction (framing) or the storage of combustibles shall be accessible within 150 feet of any dedicated public or private street, fire lane or access roadway.

(2) All streets, fire lanes, or access roadways shall be accessible to fire apparatus with an approved paved driving surface with an unobstructed width not less than that prescribed in Appendix D of the NC Fire Prevention Code. Fire lanes or access roadways extending greater than 150 feet in length shall either connect at both ends to a dedicated city street or be provided with an approved turn around or hammerhead. (See Appendix D)

(3) It will be the responsibility of the construction superintendent to identify the fire lanes or access roadways during the developments construction phase and to mark them in a manner suitable to the fire marshal.

(Prior Code, § 12-15; Ord. of 12-2-2002; Ord. of 7-10-2006, § 12-15; Ord. No. 20130909-9.C, § 1, 9-9-2013)

Sec. 12-16. - Control of hazardous materials.

(a) Removal and abatement of discharges. This article provides for the control of hazardous materials as well as the removal and abatement of any discharge of hazardous materials on the land or in waters of the Town of Hillsborough.

(1) Intent and purpose. It is the purpose of this article to promote the health, safety and welfare of the citizens of the Town of Hillsborough by protecting the land and the waters over which the town has jurisdiction from pollution by hazardous materials. It is not the intention of this article to exercise jurisdiction over any matter as to which the United States government or the state has exclusive jurisdiction, and no provision of this article shall be so construed. The town further declares that it is the intent of this article to support and complement applicable provisions of the Federal Water Pollution Control Act, 33 USC 1251 et seq., as amended; the National Contingence Plan for removal of oil adopted pursuant to that act; and the state Oil Pollution and Hazardous Substances Control Act of 1978, G.S. 143-215.75 et seq., as amended; the EPA 112r Clean Air Act 42 USC 7401 et seq.

(2) Authority. Further, it is the intent of this article that the fire marshal or his designees shall have the authority to summarily abate or remedy hazardous materials discharged into the environment in such a manner as to endanger the health, safety or welfare of the general public or in such a way as to constitute a public health nuisance. The fire marshal or his designee shall determine the type, amount and quantity of equipment and personnel required to adequately abate and remedy all hazardous materials discharged into the environment.

(b) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bailee means any person who accepts oil or other hazardous substances to hold in trust for another for a special purpose and for a limited period of time.

Bona fide farm purposes means the production and activities relating to or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or a foreign market.

Carrier means any person who engages in the transportation of hazardous materials for compensation.

Discharge means, but is not limited to, any emission, spillage, leakage, pumping, pouring, emptying or dumping of hazardous materials into waters of the town or upon the land of the town, but shall not include amounts less than the quantities that may be harmful to the public health or welfare as determined pursuant to G.S. 143-215.77A.

Having control over hazardous materials means, but is not limited to, any person using, transferring, storing or transporting hazardous materials immediately prior to a discharge of such hazardous material onto the land or into the waters of the town, and specifically shall include carriers and bailees of such hazardous materials.

Hazardous materials means any substance that when discharged in any quantity may present an imminent and substantial danger to the public health, safety or welfare, as designated pursuant to G.S. 143-215.77A, or constitutes a public health nuisance.

Oil means oil of any kind and in any form, including but specifically not limited to petroleum, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste, oil sludge, petroleum related products or byproducts, and all other liquid hydrocarbons, regardless of specific gravity, whether singly or in combination with other substances, and are considered to be hazardous materials.

Person means any and all natural persons, firms, partnerships, associations, public or private institutions, municipalities or political subdivisions, governmental agencies, federal or state governments, or private or public corporations organized or existing under the laws of this state or any other state or county.

Premises means any real or personal property involved in a discharge contrary to the provisions of this article.

Public health nuisance includes any discharge determined to be dangerous or prejudicial to the public health.

Restoration and restore means any activity or project undertaken in the public interest or to protect the public interest or to protect public property or to promote the public health, safety or welfare for the purpose of restoring any lands or waters affected by a hazardous material discharge as nearly as is possible or desirable to the condition that existed prior to the discharge or to abate a public health nuisance.

Superior court means the county superior court.

Waters means any stream, river, creek, brook, run, canal, swamp, lake, reservoir, waterway, wetlands, or any other body or accumulation of water, surface or underground, public or private, natural or artificial, contained within, flowing through, or bordering upon this town.

(c) Exceptions; this article shall not be construed to prohibit the use of oil or other hazardous substances, oil-based products, or chemicals on the land or waters by the state or county government agency in any program of mosquito or other pest control, or their use by any person engaged in a bona fide farm purpose on a bona fide farm or accepted forestry practices, or in connection with aquatic weed control or structural pest and rodent control, in a manner approved by the state, county or local agency charged with authority over such uses, shall not constitute a discharge. The use of a pesticide regulated by the state pesticide board in a manner consistent with the state pesticide law, as amended, shall not constitute a discharge for purposes of this article.

(d) Parking and garaging of tank and cargo vehicles.

(1) Except in an emergency, no tank or cargo vehicle carrying hazardous materials shall be left unattended on any street, highway, avenue or alley, provided that this shall not prevent a driver from the necessary absence from the truck in connection with the delivery of his load, except that during actual discharge of the liquid some reasonable person shall be present at the vehicle, nor shall it prevent stops for meals during day or night if the street is well lighted at the point of parking.

(2) Tank or cargo vehicles carrying hazardous materials shall not be left unattended at any time on residential streets, or within 500 feet of a residential area, educational facility, care facility or hospital. Tank vehicles shall not be left unattended at any other place that would, in the opinion of the fire marshal, present an extreme life safety hazard.

(d) Enforcement procedures.

(1) Inspections and investigations. The fire marshal or his designee is empowered to conduct such inspections and investigations as shall be reasonably necessary to:

(i) Determine compliance with the provisions of this article;

(ii) Determine the persons responsible for violation of this article;

(iii) Determine the nature and location of any hazardous materials discharged to the land or waters of this town; and

(iv) Enforce the provisions of this article.

(2) Entry upon land. The fire marshal or his designee are empowered upon presentation of identification to enter upon any private or public property for the purpose of inspection or investigation

or in order to conduct any project or activity to contain, collect, disperse or remove hazardous materials discharge or to perform any restoration necessitated by the hazardous materials discharge.

(3) Confidentiality. Any information relating to a secret process device or method of manufacturing or production discovered or obtained in the course of an inspection, investigation, project or activity conducted pursuant to this article shall not be revealed except as may be required by law or lawful order or process.

(4) Discharges.

(i) Unlawful discharges. It shall be unlawful, except as otherwise provided in this article, for any person to discharge or cause to be discharged hazardous material into or upon any waters or lands within the town, or into any sewer, surface water drain or other waters that drain into the waters of this town, regardless of the fault of the person having control over the oil or other hazardous substances, or regardless of whether the discharge was the result of intentional or negligent conduct, accident or other cause. Any discharge occurring in violation of this section constitutes a public health nuisance and is determined to be detrimental to the health, safety and welfare of the citizens of the town.

(ii) Exceptions. This section shall not apply to discharges of hazardous materials in the following circumstances:

1. When the discharge was authorized by law, either statutory or regulatory.
2. When any person subject to liability under this article proves that a discharge was caused by any of the following:
 - a. An act of God.
 - b. An act of war or sabotage.
 - c. Negligence on the part of the United States government or the state or its political subdivisions, including a county or town.
 - d. Any act or omission by or at the direction of a law enforcement officer or firefighter.

(5) Removal of prohibited discharges.

(i) Person discharging. Any person having control over hazardous materials discharged in violation of this article shall immediately undertake to collect and remove the discharge and to restore the area affected by the discharge as nearly as may be to the condition existing prior to the discharge. If it is not feasible to collect and remove the discharge, the person responsible shall take all practicable actions to contain, treat and disperse the discharge; but no chemicals or other dispersant or treatment materials that will be detrimental to the environment or natural resources shall be used for such purposes unless they shall have been previously approved by the state environmental management commission. The owner of an underground storage tank who is the owner of the tank only because he is the owner of the land on which the underground storage tank is located, who did not know or have reason to know that the underground storage tank was located on his property, and who did not become the owner of the land as the result of and participate in a transfer to avoid liability for the underground storage tank shall not be deemed to be responsible for a release or discharge from the underground storage tank.

(ii) Removal by town. The town is authorized and empowered to utilize any staff, equipment and materials under its control or supplied by any other cooperating federal, state or local agencies and to contract with any agent or contractor that it deems appropriate to take such actions as are necessary to collect, investigate, perform surveillance over, remove, contain, treat or disperse hazardous materials discharged onto the land or into the waters of the town and to perform the necessary restoration regardless of whether the discharge is in violation of this article. The fire marshal shall keep a record of all expenses incurred in carrying out any project or activity authorized under this section, including actual expenses incurred for services performed by the town's personnel and for use of the town's equipment and material. The authority granted by this subsection shall be limited to projects and activities that are designed to protect the public health, safety or welfare, or public property, or abate a public health nuisance, and shall be compatible with the National Contingency Plan established pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq.

(iii) Cooperation with town. In any removal undertaken by the town, the person having control over such hazardous materials shall assist in the abatement, removal and remedial measures associated with the hazardous material discharge. Assistance shall consist of any or all of the following:

1. Shall comply with the direction and orders of the fire marshal.
2. Shall supply any emergency response plan information available for the site of any discharge.
3. Shall supply emergency response equipment, personnel and materials available on the site.

(e) Required notice. Every person owning or having control over hazardous materials discharged in any circumstances other than pursuant to a rule adopted by the state environmental management commission, a regulation of the U.S. Environmental Protection Agency, or the Federal Water Pollution Control Act, upon notice that such discharge has occurred, shall immediately notify the Town of Hillsborough, Orange County Emergency Management and the State of North Carolina of the nature, location and time of the discharge and of the measures being taken, or proposed to be taken to contain and remove the discharge. If the discharged material is a pesticide regulated by the state pesticide board, the fire marshal shall immediately inform the chair of the pesticide board. Removal operations under this section of substances identified as pesticides defined in G.S. 143-460 shall be coordinated in accordance with the pesticide emergency plan adopted by the state pesticide board; provided that in instances where entry of such hazardous substances into waters of the town is imminent, the fire marshal may take such actions as are necessary to physically contain or divert such substances so as to prevent entry into the surface waters.

(f) Criminal penalties. Any person who violates the provisions of this article or fails to comply with any of its requirements shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in G.S. 14-4.

(g) Civil penalties.

1. Any person who intentionally or negligently discharges oil or other hazardous substances, or knowingly causes or permits the discharge of oil in violation of this article or fails to report a discharge as required by subsection (e) of this section, or who fails to comply with the requirements of subsection (d)(5)(i) of this section, or orders issued by the fire marshal as a result of violations of such requirements, shall incur, in addition to any other penalty provided by law, a penalty in the amount of

\$1,000.00 for every such violation. Every act or omission that causes, aids or abets a violation of this subsection shall be considered a violation under the provisions of this subsection, subject to the penalty provided in this section.

2. The penalty provided in this section shall become due and payable when the person incurring the penalty receives a notice in writing from the Town of Hillsborough describing the violation with reasonable particularity and advising such person that the penalty is due. A person may contest a penalty by filing a written request for reconsideration with the town manager within 30 days after receiving notice of the penalty. If any civil penalty has not been paid within 30 days after notice of assessment having been served on the violator, or within 30 days of the town manager deciding any request for reconsideration, the town manager shall cause that a civil action in superior court be initiated to recover the amount of the assessment.

(h) Determination of expenses. Upon completion of any hazardous materials removal or restoration project or activity or abatement conducted pursuant to the provisions of this article, each agency that has participated by furnishing personnel, equipment or material shall deliver to the fire marshal a record of the expenses incurred by the department. Upon completion of any hazardous material removal or restoration project or activity, the fire marshal shall prepare a statement of all expenses and costs of the project or activity expended by the town and shall transmit this to the town manager and finance director.

(i) Demand for payment. Upon receipt of the statement of expenses and costs from the fire marshal the finance director shall make demand for payment upon the person having control over the hazardous materials discharged to the land or waters of the town unless the discharge has occurred due to any of the reasons stated in section (d)(4)(ii)(2) of this section, or if the discharge is one resulting from a bona fide farm purpose that has occurred on a bona fide farm.

(j) Contested charges. A person contesting a demand for payment made pursuant to this section shall have ten days from receipt of the demand for payment to request that the matter be considered by the town manager. The final decision of the town manager may be appealed to the superior court within 30 days of the date of that decision in an action in the nature of certiorari.

(k) Collection. Any person having control of hazardous materials discharged to the land or waters of the town in violation of the provisions of this article and any other person causing or contributing to the discharge of hazardous materials shall be directly liable to the town for the necessary cleanup projects and activities arising from such discharge, and the town shall have a claim to recover from any and all such persons. If the person having control over the hazardous materials discharged shall fail or refuse to pay the sum expended by the town, the amount shall be a lien upon the land or premises where the discharge occurred and shall be collected as unpaid taxes.

Sec. 12-17. – Automatic Fire Sprinkler System Requirements.

This section shall specify where automatic fire sprinkler and fire alarm systems are required in addition to those already required by the North Carolina State Fire Prevention Code. Any system required by this Code shall meet the provisions of the North Carolina State Fire Prevention Code and the applicable NFPA Standards.

(a) Intent and purpose.

(1) It is the purpose of this article to promote the health, safety and welfare of the citizens the Town of Hillsborough by protecting them from the peril of fire and explosion through requirements for the installation of automatic fire sprinkler systems and fire alarms.

(2) The Town of Hillsborough finds that automatic fire sprinklers increase the level of fire protection by controlling or extinguishing fires thereby allowing occupants more time to escape and provides additional protection to property.

(b) Definitions. The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Automatic fire sprinkler means any system that is designed and installed in accordance with the standards set forth in the most recent versions of the North Carolina State Fire Prevention Code and the National Fire Protection Association (NFPA) 13, Standard for the installation of Sprinkler Systems, to detect a fire and subsequently discharge an extinguishing agent without human activation or direction.

Board means the Board of Commissioners of the Town of Hillsborough, North Carolina.

Building means any structure, either temporary or permanent, designed or built for the support, enclosure shelter or protection of persons, chattels or property of any kind.

Commercial means property utilized for commercial, manufacturing, industrial or any nonresidential use. The term "commercial" shall also include all dwelling units located within a multifamily residential structure consisting of three or more dwelling units, which are owned by a single entity.

Gross Floor Area means the gross area measured in feet from the interior faces of exterior walls, or other exterior boundaries of the building, and shall include each additional floor.

New commercial construction means any building or structure, or any addition to an existing building or structure that is utilized for commercial uses, for which a building permit is issued after the effective date of the ordinance adopting this Code.

(c) Automatic fire sprinkler systems. Approved automatic fire sprinkler systems shall be required to be installed in all new commercial construction exceeding 3,600 sqft. Plans must be approved by the fire marshal and a permit obtained prior to the commencement of the installation. The following shall also require the installation of a fire sprinkler system;

- (1) Additions to existing buildings, that increase the building square footage to 3,600 sqft or greater. The system must be installed throughout the building.
- (2) Any change of occupancy in an existing building where the occupancy classification changes from Groups (B, F, H, M S or U) to Groups (A, E, I or R), shall have an automatic sprinkler system installed throughout the building.
- (3) Group A occupancies hereafter constructed that have an occupancy rating of 100 or more persons and serves alcohol.
- (4) Exception;
 1. Buildings constructed with 3-hour fire walls dividing portions of the building into areas 3,600 square feet or less, are not required to install sprinklers when one of the following conditions are met;

- (i) Fire Doors and Shutters located in the 3-hour wall have fusible link or fire alarm activated hold open devices, installed and tested annually.
- (ii) Fire Doors and Shutters located in the 3-hour walls having magnetic hold open devices that release with the activation of the building fire alarm, or smoke detection associated with the door or shutter.

(d) Water Supply.

(1) Fire hydrants shall be installed in areas zoned residential for single-family and duplex apartments at a distance not to exceed 600 feet from such locations to any part of a structure, excluding outbuildings. Fire hydrants shall be installed in areas other than single-family and duplex apartments so as that no part of any structure, aboveground tanks or fueling stations shall not be more than 400 feet, from a fire hydrant as measured along the right-of-way of a public street or along an approved fire lane as the fire hose is laid off the fire truck. Fire hydrants may be 600 feet when the buildings served are fully protected by an automatic fire sprinkler system.

- (i) A single fire hydrant either public or private shall be located within 100' of the Fire Department Connection.

(2) The North Carolina State Fire Prevention Code requires that buildings hereafter constructed or additions to existing buildings or facilities must have a water supply capable of providing the required fire flow for that building. This fire flow may be reduced by 75 percent if the building is equipped with an approved automatic sprinkler system the water supply must meet the demand of the system to include the inside and outside hose demands. The 75 percent reduction does not apply to NFPA 13R or 13D systems.

(e) Acceptance testing and inspections.

1. All sprinkler system valves shall be properly marked in accordance with NFPA 13. Newly installed sprinkler systems require a 200-psi hydrostatic test for two hours. The testing procedure for existing sprinkler systems, is a two-hour hydrostatic test at 150-psi. The hydrostatic acceptance test shall be witnessed and approved by the fire marshal. If an existing system is extensively altered, the system shall be retested.

2. Existing hydraulically calculated systems shall be recalculated when any number of additional sprinkler heads are required. Calculations shall be provided to the fire marshal for review.

3. The underground supply line to the sprinkler riser, along with the fire department connection line shall be flushed and hydrostatically tested with the results being provided to the fire marshal. The fire marshal shall be notified of the day and time the flushing and hydrostatic test will occur.

4. Sprinkler piping and hangers shall not be covered or concealed by any means prior to being inspected and approved by the fire marshal.

5. The permit fee shall be paid at the Town Hall Annex located at 137 N. Churton Street, Hillsborough, NC 27278. The permit fee covers the plans review and one cycle of acceptance testing.

(f) Monitoring of sprinkler systems. All systems required by this section shall be monitored in accordance with section 903.4 of the North Carolina Fire Prevention Code.

Secs. 12-18—12-20. - Reserved.

ARTICLE III. - MISCELLANEOUS

Sec. 12-21. - Fire limits.

(a) The primary fire limits shall be shown on the fire zone map as approved and modified from time to time by the Board. A copy of this map shall be maintained in the office of the town clerk.

(b) The International (NC) Building Code "Appendix D" Fire Districts, designed and adopted by the State of North Carolina, was duly adopted by the Hillsborough Town Board effective July 12, 2004, to include any and all future amendments as deemed appropriate by the state of North Carolina.

State Law reference— City council may establish fire limits, G.S. 160A-435.

Sec. 12-22. - Fire marshal.

When used in this chapter, the term "fire marshal" refers to the town fire marshal, the police chief, the code enforcement officer, or any other designee approved and appointed by the town manager to perform the duties assigned to the fire marshal by this chapter.

Sec. 12-23. - Fire prevention inspection fee established.

(a) There is hereby established an inspection fee for inspections conducted by or on behalf of the town, as authorized by the North Carolina State Fire Prevention Code. The amount of the fee for inspections shall be set and may be amended from time to time, by the Board of Commissioners included in the town's adopted fee schedule.

(b) The party responsible for payment of the inspection fee shall be the person in possession of the premises that are inspected. Payment of the inspection fee shall be due within 15 days after the date that a statement for the inspection services is sent by the town.

(c) The inspection fee is due regardless of whether the premises are in compliance with the fire prevention code or not. Nonpayment of the inspection fee constitutes noncompliance with the fire prevention code.

(d) A failure to pay the inspection fee in a timely fashion shall subject the offender to the penalties and remedies set forth in section 12-24 of this chapter. In addition, when the person responsible for payment of the inspection fee is also a utility customer of the town, the amount of any fee that has become delinquent may be added to the customer's utility bill and collected as provided in section 14-13 of the town Code.

Sec. 12-24. - Penalties and remedies.

(a) A violation of any of the following sections shall constitute a misdemeanor, punishable as provided in G.S. 14-4: sections 12-2, 12-3, 12-10, 12-11, 12-12, 12-13, 12-14, and 12-23.

(b) A violation of any of the sections listed in subsection (a) of this section, as well as a violation section 12-15 of this chapter or any provision of the North Carolina State Fire Prevention Code, shall subject the offender to a civil penalty as outlined in Tal FS-1 Complaint Fees. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing civil action in the nature of debt.

(c) The town may seek to enforce this chapter through any appropriate equitable action.

(d) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(e) The town may seek to enforce this chapter by using one or more combinations of the foregoing remedies.

TABLE FS-1 COMPLAINT FEES

Illegal Burning

No permit \$50.00 per day, Illegal materials as defined by EPA/NC Air Quality \$100.00 per day.
Burning of a structure or vehicles that have no value by the owner \$500.00 per day.

Work without a permit-Twice the cost of the required permit

*Class 1 violations	\$500.00 per exit
*Class 2 violations	\$250.00 per
*Class 3 violations	\$50.00 per
*Class 4 violations	\$25.00 per

Description of class 1—4

*Class 1 \$500.00 per violation written

This includes any violation of chapter 10, pertaining to means of egress, of the North Carolina State Fire Prevention Code. Most notable are locked or blocked exits and exit aisles. This includes any violation of the Hillsborough Town Code, sections 12-10, Blocking or Obstructing Exits, section 12-12, Number of Occupants Permitted.

Exception: Emergency and Exit Lights

*Class 2 \$250.00 per violation written

This includes any serious violation of: chapter 9 pertaining to fire protection systems, chapter 10, pertaining to means of egress and emergency lighting and exit lighting, chapter 33, pertaining to explosives and fireworks, chapter 37, pertaining to highly toxic and toxic materials, chapter 39, pertaining to organic peroxides, chapter 40, pertaining to oxidizers, chapter 41, pertaining to pyrophoric material, chapter 42, pertaining to pyroxylin plastics or cellulose nitrate, chapter 43, pertaining to unstable reactive materials, chapter 44, pertaining to water reactive solids and liquids, of the North Carolina State Fire Prevention Code. This includes any violation of the Hillsborough Town Code, section 12-11, Marking and Lighting of Exits.

*Class 3 \$50.00 per violation written

This includes violations of chapter 3, pertaining to fire precautions, chapter 4, pertaining to emergency planning, chapter 5, pertaining to fire service, chapter 7, pertaining to fire resistance construction, chapter 8, pertaining to interior finishes, chapter 9, pertaining to fire protection systems, chapter 14, pertaining to fire safety during construction and demolition, chapter 15, pertaining to flammable finish chapter 19, pertaining to lumber yards and woodworking shops, chapter 20, pertaining to manufacture of organic coatings, chapter 23, pertaining to high piled combustible storage, chapter 25, pertaining to tire rebuilding and storage, chapter 26, pertaining to welding and cutting, chapter 27, pertaining to hazardous materials, chapter 28, pertaining to aerosol products, chapter 29, pertaining to combustible fibers, chapter 30, pertaining to compressed gases, chapter 31, pertaining to corrosive materials, chapter 32, pertaining to cryogenic fluids, chapter 34, pertaining to flammable and combustible liquids, chapter 35, pertaining to flammable gases, chapter 36, pertaining to flammable solids, of the North Carolina State Fire Prevention Code.

*Class 4 \$25.00 per violation written

This includes violations of chapter 6, pertaining to building services and systems, chapter 16, pertaining to fruit and crop ripening, chapter 17, pertaining to fumigation and insecticidal fogging, chapter 18, pertaining to semiconductor fabrication facilities, of the North Carolina State Fire Code. This class also includes violations of any chapter not already covered in the North Carolina Fire Prevention Code or the Hillsborough Town Code, chapter 12, pertaining to fire protection.