

ORDINANCE 25-01

ORDINANCE AMENDING THE TOWN OF SHALLOTTE'S CODE OF ORDINANCES AMENDING CHAPTER 98, OPEN BURNING ORDINANCE

WHEREAS, the act of open burning is regulated through Article 78 of the NC General Statutes and Section .1900- of the NC Administrative Code;

WHEREAS, the Town of Shallotte, to set out the provisions and conditions under which open burning can occur, has consulted with NC Environmental Quality regarding the regulation of open burning; and

WHEREAS, to be consistent with the NC Administrative Code and NC General Statutes, language within Chapter 93: Fire Prevention of the Town of Shallotte Code of Ordinances must be amended,

THEREFORE, be it ordained by the Board of aldermen of the Town of Shallotte that the following sections of the Code of Ordinances pertaining to Chapter 98: Open Burning be amended:

98.01 PROHIBITED BURNING

98.02 OUTDOOR GRILL/SMALL OPEN FIRES

98.03 RESIDENTIAL BURNING

98.04 CONSTRUCTION AND LAND-CLEARING BURNING

WITHOUT A PERMIT FOR THE GREATER OF PUBLIC
GOOD

98.05 CONSTRUCTION AND LAND-CLEARING
BURNING BY PERMIT ONLY

98.06 PENALTY

§ 98.01 PROHIBITED BURNING

It shall be unlawful for any person or business to set fire or cause to be set fire within the Town or extra-territorial jurisdiction that:

(A) Violates any federal, state or local Air Quality Open Burning Regulations. Provisions of the North Carolina Administrative Code, Section .1900- Open Burning and [NCGS Article 78. Regulations of Open Fires](#) must be adhered to and hereby adopted by reference by the Town of

Shallotte Board Aldermen.

(B) Specifically violates any provisions of the North Carolina State Building Code: Fire Prevention Code.

(C) At the Fire Marshal's and/or Fire Chief's discretion when atmospheric conditions or local circumstances make such fires hazardous or whenever the Town of Shallotte's Fire Marshal determines that an open burning is not in the best interest of the safety and welfare of the general public as provided in the North Carolina State Building Code: Fire Prevention Code. When the North Carolina Forest Service, Brunswick County, or other government agencies banned burning for the area.

(D) Endangers the safety of any person or property.

(E) Endangers the health of any person at the discretion of the Town of Shallotte's Fire Marshal and/or Fire Chief;

(F) Contains any of the following materials as referenced in 15A NCAC 2D .1903(b)(C).

- (1) Household solid waste;
- (2) New or used vehicle tires;
- (3) Petroleum products;
- (4) Hazardous waste;
- (5) Construction or demolition waste;
- (6) Garbage or municipal solid waste;
- (7) Any lumber or woods products that are called or sold as treated lumber or treated wood;
- (8) Any lumber or wood that has been treated with or contains creosote;
- (9) Carpet;
- (10) Electrical wire;
- (11) Appliances;
- (12) Animal carcasses; or
- (13) Any other item thought by federal, state or local government to be public nuisance or hazard.

- Trash
- Metal, including wire
- Plastic
- Newspaper, cardboard or paper
- Untreated dimensional lumber
- Tires and other rubber products
- Heavy oils
- Asphalt shingles
- Paints and household or agricultural chemicals
- Buildings, including outbuildings and mobile homes
- Any man-made, artificial or synthetic items

The burning of non-vegetative materials, such as household garbage, treated or coated wood, or any other synthetic materials is not permissible.

§ 98.02 OUTDOOR GRILLS/SMALL OPEN FIRES.

As per 15A NCAC 02D .1903(b)(3), campfires and fires used solely for outdoor cooking and other recreational purposes, ceremonial occasions, or for human warmth and comfort and that do not create a nuisance and do not use synthetic materials, refuse, or salvageable materials for fuel are permissible.

Commercial and Multi-Family Residential - It shall be unlawful and prohibited for any person or business to set, or cause to be set, or ignite any charcoal and/or gas grills, or any type of open fire, on any outside porch, patio or landing above ground level or within ten feet of combustible materials. A competent person shall constantly attend grills until the fire is extinguished as set forth in the North Carolina State Building Code: Fire [Prevention Code](#).

§ 98.03 RESIDENTIAL BURNING.

Residential burning shall be allowed as follows:

(A) A residential open burning permit is not required for one- and two-family dwellings within the town or extraterritorial jurisdiction involving open burning [within 100 feet of an](#)

occupied dwelling or structure.

(B) The following should be taken into consideration by the owner or occupant that is to perform the open burn:

(1) Provide courtesy notification to the Fire Department of the physical address and approximate time period(s) that open burning will be conducted;

(2) Burn only natural vegetative debris, to include but not limited to leaves, tree branches and yard debris;

(3) Limit burning when it is evident that smoke will create a nuisance to neighboring properties;

(4) Constantly attend the fire until it is extinguished;

(5) Piles of vegetative debris should be of reasonable size to maintain control of the area of fire origin; and

(6) Fire extinguishing equipment should be available on site to contain fire to area of origin. Equipment includes but is not limited to a water source such as a garden hose or bucket and hand tools such as a shovel or rake.

(7) Initial burning may generally be commenced only between the hours of 8:00 a.m. and 4:00 p.m.

§ 98.04 CONSTRUCTION AND LAND-CLEARING BURNING WITHOUT A PERMIT. FOR THE GREATER OF PUBLIC GOOD.

No construction and/or land-clearing burning shall be allowed except as follows with state government approval:

(A) The purpose is to burn materials generated as a result of a natural disaster. Burning under this section shall require that a state of emergency has been declared;

(B) Burning for the purpose of training firefighting personnel;

and

(C) The town, for the greater public good, initiates the burning of land-clearing debris.

§ 98.05 CONSTRUCTION AND LAND-CLEARING BURNING BY PERMIT ONLY.

Permissible open burning with required permit. While recognizing that excessive open burning can contribute to air pollution, certain types of open burning may reasonably be allowed. The authority to conduct open burning under the provisions 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. A permit fee schedule will be set periodically by the Town Board of Aldermen.

The following types of open burning shall be permissible with a town burning permit to be issued by the Fire Code Official.

- (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; and
- (4) 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, provided that the following conditions are reviewed by the Fire Code Official and/or Fire Chief and are adhered to as follows:
 - (a) Prevailing winds at the time of the burning

must be away from the town or built-up areas within the town or the town's extraterritorial jurisdiction, 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 shall 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 shall be minimized;

(d) Provided that no items listed in § 98.01(F) of this subchapter and no heavy oils, asphaltic materials, items containing natural or synthetic rubber or any other materials other than plant growth shall 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 shall be added to the fire between 3:00 p.m. of the day that the burning commences and 9:00 a.m. of the following day. It shall be the responsibility of the owner or operator of the burning operation (permittee) to have adequate control measures to extinguish the fire as determined by the Fire Code Official and/or Fire Chief;

(f) At no point shall the owner or operator of the open burning operation (permittee) fail to have the fire tended or guarded until it has been fully extinguished;

(g) Owner or operator of the open burning

operation shall obtain a required town burning permit, for a set fee as periodically adopted and amended by the Board of Aldermen, from the Fire Code Official and/or Fire Chief. At no time shall such open burning operation begin without the authorized permission of the town;

(h) Permits or permission granted by the town under this section shall be subject to continued review and may be withdrawn at any time at the discretion of the Fire Code Official and/or Fire Chief. At which time, the open burning shall be extinguished by the operator of the open burning operation (permittee);

(i) A copy of the permit shall be visibly displayed on-site at all times and a copy of the permit be kept on the possession of the responsible party tending the burning operation; and

(j) Provided that all federal, state and local regulations, all applicable laws, ordinances, regulations and orders of other governmental entities having jurisdiction.

Land clearing is defined as the uprooting or clearing of vegetation in connection with construction, land development, or mining, or the initial clearing of vegetation to enhance property value. As a general rule, the vegetation should originate on the site where the burn is taking place.

An open burning permit issued by the North Carolina Forest Service shall be obtained. Land clearing burning by permit shall be conducted in accordance with NCGS Article 78. § 106-942 and NCAC 2D. 1900.

§ 98.05 PENALTY.

The Town of Shallotte Fire Marshal or someone designated by the Fire Marshal shall cite any person who habitually violates any provision of

§98.01 through §98.05 of this chapter who shall be referred to the appropriate authority and subject to a civil penalty as specified in the North Carolina Administrative Code, Section 2D .1900- and NCGS Article 78. § 106-948. The offender shall pay civil penalty into the Office of the Town Clerk within seventy-two (72) hours following the receipt of the civil citation. Each days continuing violation shall be separate and distinct civil offense and shall be subject to a civil penalty as follows:

Commercial Violators

- (A) First Offense \$250
- (B) Second Offense \$500
- (C) Third Offense \$750
- (D) Fourth Offense \$1,000

If said civil penalty is not paid within seventy-two (72) hours, in accordance with G.S. 160A-175, violations of any provision of §98.01 through §98.04 of this chapter shall be a Class 3 misdemeanor as provided in G.S. 14-4 punishable upon conviction by a fine not to exceed \$500.00 or by imprisonment not exceeding thirty (30) days.

This Ordinance may also be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such order as may be appropriate, and it shall not be a defense to the application of the Town for

93.01 ADOPTION OF THE NORTH CAROLINA FIRE CODE AND BRUNSWICK COUNTY FIRE PREVENTION CODE ORDINANCE BY REFERENCE

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The North Carolina State Building Code: International Fire Code with NC Amendments Volume V – Fire Prevention and associated appendices are most current edition of the North Carolina Fire Code and most current edition of the Brunswick County Fire Prevention Ordinance are hereby adopted by reference as fully as though set forth herein as the Fire Prevention Code for the Town. An official copy of the code shall be kept in the office of the Fire Marshal.

**93.02 NORTH CAROLINA GENERAL STATUTES
GOVERNING FIRE PROTECTION WITHIN THE
TOWN**

**§ 93.02 NORTH CAROLINA GENERAL STATUTES GOVERNING
FIRE PROTECTION WITHIN THE TOWN**

Most of the statutory provisions relating cities and Towns are contained in Chapter 160A of the North Carolina General Statutes. Articles 14 and 19 of that chapter, respectively entitled "Fire Protection" and "Planning and Regulation of Development," specifically apply to fire protection within corporate limits. These statutes and the Town ordinances govern the operation of the fire department.

93.06 FIRE INSPECTIONS FEES

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The **Town's Fire Marshal Brunswick County Fire Marshal's Office by contract** is responsible for inspecting businesses and Town properties to insure that business owners, employees and the general public are safe from fire and safety hazards in accordance **with the current edition of the Brunswick County Fire Prevention Ordinance and the most current edition of the North Carolina Building Code (International Fire Code with NC Amendments) and all associated appendices as adopted by the North Carolina Building Code Council.**

INTRODUCED at a regular meeting of the Board of Aldermen on October 01, 2024 and adopted at a regular meeting of the Board of Aldermen on October 01, 2024.

SIGNED THIS _____ DAY OF _____, 2024.

TOWN OF SHALLOTTE, NORTH CAROLINA

Mayor

ATTEST:

Town Clerk