
**Resolution Approving An Ordinance Concerning
the Fire Code, Fire Marshal, and Outdoor Burning**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF RUTHERFORD COUNTY IN REGULAR SESSION ASSEMBLED:

WHEREAS, Rutherford County desires to assure the public health and safety of its citizens through improved fire safety; and

WHEREAS, the State of North Carolina has adopted the fire prevention code of the North Carolina State Building Code for the fire safety of buildings and certain outdoor burning to protect homeowners and citizens from the physical and financial harm potentially resulting from fire; and

WHEREAS, local decisions on the enforcement of outdoor burning is in the best interests of the citizens of Rutherford County; and

WHEREAS, Rutherford County is authorized to appoint a fire marshal, employ persons as assistants, and to set the duties pursuant to N.C. Gen. Stat. §153A-234; and

WHEREAS, pursuant to N.C. Gen. Stat. §153A-123(c1) and §143-139(b1), Rutherford County may by ordinance provide for the recovery of and levy a civil penalty by the County for a violation of the fire prevention code of the North Carolina State Building Code; and

WHEREAS, Rutherford County may enforce ordinances concerning unsafe buildings by criminal penalty pursuant to N.C. Gen. Stat. §153A-123(b)(1);

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF RUTHERFORD COUNTY ordains and adopts the following Article II and hereby adds this article to Chapter 6 of the Rutherford County Code of Ordinances.

ARTICLE II. FIRE CODE; FIRE MARSHAL; and OUTDOOR BURNING

Sec. 6-16. Definitions.

Board of commissioners means the Rutherford County Board of Commissioners.

Bonfire means an outdoor fire utilized for ceremonial purposes.

County means Rutherford County, North Carolina.

County manager means the County Manager of Rutherford County.

Department of inspections means the Rutherford County Department of Building Inspections.

Fire Code means the Fire Prevention Code of the North Carolina State Building Code, as amended.

Fire marshal means the Rutherford County Fire Marshal.

Open burning means any burning of materials that emits products of combustion directly into the atmosphere without passing through a stack or chimney from an enclosed chamber and does not include road flares or smudge pots associated with safety or occupational uses or recreational fires.

Outdoor burning means any open burning, bonfire or recreational fire.

Recreational Fire means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

Sheriff means the Rutherford County Sheriff.

Sec. 6-17. Adoption of fire prevention code.

The fire prevention code of the North Carolina State Building Code, as amended and including appendices C, D, and H, is hereby adopted by the county and shall be enforced by the department of inspections.

Sec. 6-18. Special fees.

The fees for fire inspections and permits shall be set forth by the board of commissioners in the county's schedule of fees, which is on file in the finance department.

Sec. 6-19. Appointment and dismissal of fire marshal; duties of fire marshal.

- (a) The fire marshal shall be appointed and dismissed by the county manager, and he or she shall be subject to all applicable personnel policies and rules governing county employees.
- (b) The board of commissioners shall set the duties of the fire marshal. The fire marshal's duties include, but are not limited to, the following:
 - (1) Keeping the county manager and board of commissioners informed of the purpose and development of rural fire departments.
 - (2) Acting as a liaison between fire departments, the county manager, and the board of commissioners.
 - (3) Aiding in the organization and development of new fire departments.
 - (4) When possible, providing assistance with training programs for fire departments, upon request.
 - (5) Advising fire departments on the availability of surplus equipment.
 - (6) Investigating, along with other fire and law enforcement officials, fires of a suspicious or unknown nature to determine their cause and origin.
 - (7) When possible, assisting fire departments in developing and delivering fire prevention and fire education programs throughout the county, upon request.
 - (8) Determining the most appropriate fire department to be the primary responder when a property line lies within more than one (1) fire district.
 - (9) Performing any other duties required by the board of commissioners of the fire marshal.

Sec. 6-20. Outdoor burning; open burning.

- (a) The Fire Code shall regulate the permitting, approval, requirements, and restriction of all outdoor burning except as specifically further required in this ordinance.

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- (b) Permits are required for open burning, including for the burning of leaves, tree branches or yard trimmings originating on the premises, pursuant to the Fire Code and requires a permit to be issued by the North Carolina Forest Service.
- (c) The burning site for any open burning in the County shall only be permitted as follows:
- (1) The location of the material to be burned shall be a minimum of fifty feet (50') from any structure on the property of which the burning is done. If any potential hazard exists, an increased distance may be required prior to a permit being issued.
 - (2) Piles of material to be burned should be done in a safe manner.
 - (3) An area ten feet (10') wide shall be completely cleared around the material to be burned.
 - (4) Only natural materials, such as limbs, brush, grass or leaves, may be burned. Heavy oils, asphalt materials, construction materials, polar solvents, treated lumber, trash, paper, items containing natural or synthetic rubber, or any materials other than plant growth shall not be burned.
 - (5) A competent person of at least eighteen (18) years of age shall constantly attend the fire until such fire is extinguished.
 - (6) A garden hose with suitable water supply or other fire extinguishing equipment, as deemed acceptable by any official responsible for issuing the permit, shall be readily available for immediate use during the course of the fire until such fire is extinguished.

Sec. 6-21. Burning ban.

- (a) A burning ban on all outdoor burning within 100 feet of a structure of any type, including residential, may be issued by the fire marshal in the event that atmospheric conditions or local circumstance make such fire conditions hazardous to life or property.
- (1) Atmospheric conditions that warrant a burning ban include, but are not limited to:
 - (i) extended periods of low humidity;
 - (ii) high winds;
 - (iii) elevated temperatures; and/or
 - (iv) lack of substantial rainfall.
 - (2) Local conditions that may warrant a burning ban include, but are not limited to:
 - (i) flammable and/or combustible liquid spills or leaks close to a burning site;
 - (ii) a hazardous materials incident where the proximity of the burn site could cause a possible ignition source or prove hazardous to operations controlling the incident;
 - (iii) the proximity of adjacent structures or other hazards.
- (b) In the event that the fire marshal issues a ban on outdoor burning within 100 feet of a structure, then in accordance with state law all open burning permits issued shall be deemed invalid with no issuance of new permits until such ban is lifted by the fire marshal. During a burning ban, no outdoor burning shall be conducted at all within 100 feet of a structure; this includes any outdoor burning at residences. A civil citation for a Type 3 Violation may be issued for violations of the burning ban.
- (c) In the event a burning ban is issued, notice of the burning ban shall be posted on the Rutherford County website, through the news media, or in person that a burning ban is in place, and fires shall be extinguished immediately. In conjunction with North Carolina Forest Service burning ban, the fire marshal shall issue a burning ban of all-open burning within 100 feet of a structure and all fires shall be extinguished immediately. The local press shall be notified by the fire marshal that such ban is in effect and that no permits will be issued until such ban is lifted and no outdoor burning will be allowed.

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- (d) Any burning ban by the fire marshal shall be repealed in the same manner.

Sec. 6-22. Extinguishing illegal fires.

- (a) The fire marshal and any official of the fire marshal's office, emergency management, any responding fire department and law enforcement have the authority to extinguish illegal fires under the Fire Code, this ordinance, or any outdoor burning when a burning ban is in effect.
- (b) The fire marshal or authorized representative of Rutherford County does not have to be present to extinguish a fire that is in violation of the Fire Code or this ordinance.
- (c) The fire marshal's office or law enforcement having appropriate jurisdiction will respond to any illegal fires under the Fire Code, this ordinance, or any outdoor burning when a burning ban is in effect when the individual(s) responsible for the fire will not allow the fire department to extinguish the fire.
- (d) Any citations issued under this ordinance will be by the fire marshal's office or by the Rutherford County Sheriff's Office.

Sec. 6-23. Violations.

- (a) Any person shall be subject to all penalties allowed by law if the person:
- (1) Violates or fails to comply with the provisions of the Fire Code or this ordinance;
 - (2) Violates or fails to comply with any order made under the Fire Code or this ordinance;
 - (3) Builds in violation of any detailed statement of specifications or plans submitted and approved under the Fire Code or any certificate or permit issued thereunder; or
 - (4) Fails to comply with such an order as affirmed or modified by the enforcing officer or by a court of competent jurisdiction, within the time affixed.
- (b) In addition to any civil penalties or remedies that may apply, any person who commits any violation listed in subsection (a) of this section may be subject to criminal penalties for a misdemeanor pursuant to G.S. § 14-4(a), to the extent permitted by G.S. § 153A-123(b1)(1), except for a violation of any adopted appendices.

Sec. 6-24. Penalties.

- (a) The minimum civil penalty for a violation of this article shall be a civil penalty of fifty dollars (\$50.00), and the maximum civil penalty shall be five hundred dollars (\$500.00). Each violation, as well as each day a violation exists, shall constitute a separate and distinct offense.
- (b) For violations of the Fire Code, if a person has not been cited within the previous twelve (12) months for violations and the violations are corrected within seventy-two (72) hours of him or her being notified of the violations, the fine shall be waived. The citation and penalties shall be in writing, signed by the enforcing officer and shall be delivered to the violator.
- (c) Each day's violation of the Fire Code or this ordinance shall be considered a separate and distinct offense. Civil penalties may be recovered in a civil action in the nature of debt collection if not paid within thirty (30) days after being cited for a violation.
- (d) The types of violations and the related civil penalties are as follows. The enforcing officer shall determine what type of violation applies in a given case.
- (1) *Type 1 Violations (\$50.00)*. These violations generally increase the likelihood of a fire or injury. They include, but are not limited to, failure to:
 - a. Obtain proper permits for required uses as listed under the permit fees.
 - b. Maintained properly operating exist or emergency lights.

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- c. Maintain a clear, unobstructed access to fire protection equipment.
 - d. Properly cover or close electrical junction boxes.
 - e. Limit or restrict use of electrical extension cords improperly used.
- (2) *Type 2 Violations (\$100.00)*. These violations represent a general threat to property. They include, but are not limited to, failure to:
- a. Safely maintain proper storage of combustibles outside of a business.
 - b. Maintain a clear, unobstructed access to electric panels.
 - c. Properly maintain automatic closing fire and smoke doors.
 - d. Properly maintain and inspect portable fire extinguishers.
 - e. Properly maintain unobstructed accesses to hydrants, risers, and fire department connections.
- (3) *Type 3 Violations (\$250.00)*. These violations directly affect the safety of persons within an occupancy, the probability of heavy property loss, and/or increased risk of fire spread beyond the occupancy or property if a fire occurs. They include, but are not limited to, failure to:
- a. Maintain a clear, unobstructed access to and from exist doors, both inside and outside.
 - b. Install, test, or properly maintain required smoke and fire alarm systems.
 - c. Install or properly maintain or test existing/required automatic sprinkler systems and extinguishing systems.
 - d. Properly store or use flammable, combustible, or hazardous materials.
 - e. Limit the number of persons in a place of assembly to the maximum posted number allowed.
 - f. Comply with Fire Code and ordinance provisions concerning outdoor burning, open burning, bonfires, recreational fires, portable outdoor fireplaces, burning of non-vegetative materials.
 - g. Comply with a burning ban on outdoor burning declared by the fire marshal.
- (4) *Type 4 violations (\$500.00)*. These violations are where, despite prior notice, corrections have not been made, multiple violations of the same code or ordinance occur within a 12 month period of time, and/or previous fines have not been paid.
- (e) The application of penalties in subsection (d) shall not be held to prevent the enforcement of or removal of the prohibited conditions. In addition to the penalties listed in subsection (d), the Fire Code, burning ban and outdoor burning regulations under this ordinance may be enforced by any of the following:
- (1) An appropriate equitable remedy issuing from a court of competent jurisdiction.
 - (2) An injunction and order of abatement.
 - (3) Criminal punishment as a misdemeanor pursuant to G.S. § 14-4, to the extent permitted by G.S. § 153A-123(b1)(1), except for the provisions of any adopted appendices.
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ADOPTED this the 6th day of July, 2026.

Approved: _____

Chairman Bryan A. King

Rutherford County Board of Commissioners

ATTEST: _____

Clerk to the Board

(Seal)