

Chapter 14 Building and Building Regulations, Article V Fire Prevention and Protection

Sec. 14-157.1 Open Burning for Land Clearing Operations

(a) Definitions.

The term *Land clearing* as used in this Ordinance means the uprooting or clearing of vegetation in connection with construction for buildings, agricultural, residential, commercial, institutional, or industrial development: mining activities; or the initial clearing of vegetation to enhance property value. This term does not include regularly scheduled maintenance or property clean-up activities.

The term *Open burning* as used in this Ordinance means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a stack, chimney, or a permitted air pollution control device.

(b) Statutory authorization.

The Town has authority to (1) adopt per N.C.G.S. § 160A-174 ordinances that define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of their jurisdictions and to define and abate nuisances, (2) per N.C.G.S. § 106-949, adopt ordinances related to open burning within its boundaries, and (3) adopt ordinances related to remedies and enforce the remedies provided in those ordinances, as authorized by N.C.G.S. § 160A-175.

(c) Purpose and Findings.

This ordinance is intended to promote the protection of air quality, reduce potential fire hazards and wildfires, and improve public health within the Town by restricting open burning for land clearing purposes.

The Town finds that open burning for land clearing purposes poses significant risks to public health, safety, and welfare. The smoke from open burning for land clearing purposes can create emotional and physical distress for residents with respiratory and other health conditions. It can also create potentially dangerous conditions for motorists by impeding visibility on roadways.

(d) Open Burning Prohibited.

Open burning for land clearing purposes, is prohibited in the corporate limits of the Town.

(e) Fire Chief Powers Preserved

Nothing in this ordinance limits the powers otherwise granted to the Town's fire chief or his designee(s) by North Carolina State Statute or by other Town Ordinances.

(f) Limitations and exemptions.

This Ordinance shall not apply to:

1. Open burning of residential yard waste as described in 15A NCAN 02D .1903 (b) (1) for residential purposes only; or
2. Open burning for campfires, residential or personal heating, or the use of open-flame cooking devices used in accordance with the provisions of the North Carolina Fire Prevention Code; or
3. Open burning conducted pursuant to a valid permit issued by the North Carolina division of Air Quality pursuant to 15A NCAC 2D .1900; or
4. Forestry management burning conducted according to North Carolina Forestry Services guidelines with applicable state permits; or
5. Firefighting training operations conducted by municipal fire departments; or
6. Any permitted burning authorized by state or federal law for agricultural, silvicultural or wildlife management purposes.

(g) Land clearing alternate disposal methods.

Land clearing debris may be disposed of by any other approved method, such as removal to a permitted solid waste facility, chipping and mulching, or composting at approved facilities.

(h) Enforcement.

1. Failure to comply with the provisions of this ordinance shall constitute a misdemeanor under N.C.G.S. § 160A-175 and 14-4.

2. The fire chief or his designee may issue immediate correction orders for violations of this ordinance. The immediate correction order shall also state that if the violation is not corrected within 24 hours, a civil complaint for injunctive relief, collection of penalties and any unpaid fees owed under this chapter may be initiated and that other legal proceedings including criminal prosecution related to the violation may be initiated.

3. Failure to correct such violation within 24 hours shall result in imposition of a civil charge in the amount of \$500.00 per day, per violation, until the violation has been completely corrected and the fire chief's correction order to correct shall so state.

4. The civil charges provided herein may be recovered by the Town in a civil action in the nature of debt.

5. The Town Council finds that the civil charges herein are reasonably related to the Town's costs in enforcing the ordinance

6. The Town may enforce the provisions of this ordinance in civil court and seek any and all remedies authorized by N.C.G.S. § 160A-175.

Sec. 14-149. - Enforcement of chapter.

With the exception of Section 14-157.1 wherein enforcement procedures for that ordinance are provided, the Town may enforce the other ordinances of this chapter as follows:

- (a) Failure to comply with the provisions of this chapter shall constitute a misdemeanor under G.S. 160A-175 and G.S. 14-4. Additionally, the fire chief or his designee may enforce the provisions of this article in civil court and seek any and all appropriate remedies authorized by G.S. 160A-175. Each day's continuing violation shall constitute a separate and distinct offense.