

AN ORDINANCE AMENDING CHAPTER 96, SECTIONS 96.02, 96.04, 96.06,  
AND 96.99, OF THE TOWN CODE OF THE TOWN OF DUCK, NORTH CAROLINA  
RELATING TO DEFINITIONS, FIRES, ALARM SYSTEMS, ALARM SYSTEM  
PERMITTING, AND ALARM SYSTEM FEES  
Ordinance No. 25-02

**WHEREAS**, the Duck Town Council has found that amendments to Chapter 96, Sections 96.02, 96.04, 96.06, and 96.99 of the fire prevention and protection standards are necessary for the Town of Duck, North Carolina to protect life, property, and the public health, safety, and welfare.

**NOW THEREFORE BE IT ORDAINED** by the Town Council for the Town of Duck, North Carolina, that the Town Code shall be amended by the adoption of the following changes:

**§ 96.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***ALARM SYSTEM BUSINESS.*** Any person properly licensed by the North Carolina Alarm Systems Licensing Board who sells or leases and installs, services or maintains automatic protection devices, signaling devices or automatic protection systems which transmit alarms upon receipt of a stimulus from a detection apparatus.

***AUTOMATIC PROTECTION SYSTEM.*** Any mechanical or electrically operated installation in or for commercial or residential premises consisting of an automatic protection device or devices designed to monitor and/or detect fire, unauthorized intrusion, or an emergency situation, and/or signaling device which detects emergency situations and transmits an alarm by any means.

***AUTOMATIC PROTECTION SYSTEM USER.*** Any person on whose premises an alarm system is installed.

***BONFIRE.*** An outdoor fire having a total fuel area of more than three feet in diameter and two feet or more in height.

***BUSINESS UNIT.*** A building or structure or any portion thereof used for the transaction of business or the rendering or receiving of professional services, including offices.

***CODE OFFICIAL.*** Individual(s) authorized by the Town Manager who hold valid certificates issued by the North Carolina Code Officials Qualification Board.

***CONTAINED FIRE.*** An outdoor fire where the fuel being burned is contained in a fireproof container such as an incinerator, burn barrel, outdoor fireplace or barbecue grill.

**DWELLING UNIT.** One or more habitable rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.

**EMERGENCY SITUATION.** A fire, unauthorized intrusion, criminal activity, automobile accident, medical emergency, hurricane evacuation, or similar emergency situation requiring prompt, official response to protect or assist individuals or property.

**FALSE ALARM.**

- (1) A visual and/or audible alarm transmitted by a signaling device which indicates the existence of an emergency situation when in fact no like emergency situation exists; or a visual and/or audible alarm transmitted by a signaling device which is not a supervisory function of that device.
- (2) **FALSE ALARMS** include negligently or accidentally activated alarms; alarms which are the result of faulty, malfunctioning or improperly installed or maintained equipment; alarms which are purposely activated to summon the police or fire in non-emergency situations; and alarms for which the actual cause is not determined.

**FIRE CHIEF.** The chief officer of the Fire Department authorized by the Town Manager, or a duly authorized representative.

**FIRE PREVENTION CODE.** The North Carolina Fire Prevention Code, current edition, adopted by the North Carolina Building Code Council, as amended from time to time.

**FIREWORKS AND PYROTECHNICS DISPLAYS.** Any device, used customarily for entertainment or celebratory displays, containing explosive or flammable materials or compounds which explode, rise into the air or travel laterally, fires projectiles, discharges sparks into the air, or transports open flames.

**HAZARDOUS MATERIALS.** Class I through class III liquids as defined in the N.C. Fire Prevention Code.

**KNOX BOX.** A small, wall-mounted safe that holds building keys for fire, police, and emergency services departments to retrieve in emergency situations. The Fire Department holds master keys to all boxes in their response area so that they can quickly enter a building without having to force entry.

**OCEAN BEACH.** That land between the mean low ocean water mark and the eastern toe of the primary dune (the dune closest to the ocean).

**OPEN BURNING.** The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an

enclosed chamber. **OPEN BURNING** does not include road flares, smudge pots and similar devices associated with safety.

**PIT FIRE.** Any fire started or set for the purpose of outside cooking, picnics or any recreational purpose, including but not limited to, beach fires, wiener roasts, marshmallow roasts and camping fires; provided, however, that contained fires are excluded from the provisions of this section.

**RECREATIONAL FIRE.** An outdoor fire burning materials other than rubbish or yard debris where the fuel being burned is not contained in an incinerator, burn barrel, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of less than three feet or less than two feet in height.

**SIGNALING DEVICE.** An electrically operated instrument which automatically transmits an alarm over a regular telephone line, cellular telephone line, or internet network, or produces a visual or audible signal, upon detection of a fire, unauthorized intrusion or other emergency situation.

**SKY LANTERN.** Miniature, unmanned hot air balloon which are launched into the atmosphere customarily to celebrate weddings and other special events. **SKY LANTERNS** rely on an open flame to heat the air inside a balloon causing it to lift into the atmosphere.

**SOUND BEACH.** The land between the mean low water mark and the private property line.

**§ 96.04 FIRES.**

(A) *Prohibited fires.*

(1) It shall be unlawful for any person to build or set a bonfire, pit fire, recreational fire or conduct open burning.

(2) *Beach fires.* It shall be unlawful for any person to start or set a fire of any kind on the ocean or sound beaches.

(B) *Allowed fires.* The following activities involving contained burning shall be allowed provided all fire safety precautions are observed, the burning is conducted under responsible supervision, as specified below, and the activities are not detrimental to the community:

- (1) Fires built or set by the Fire Department for the training of its personnel.
- (2) Fires built or set in emergency situations, as designated in writing by the Town Manager to dispose of combustible materials that cannot otherwise be reasonably removed.
- (3) Burns conducted by the N.C. Forest Service or U.S. Fish and Wildlife Service for hazard mitigation purposes.

(4) A contained fire is allowable under the following conditions specified below:

(a) The occupant of a permanent dwelling may build or set a contained fire.

(b) No fire of any type shall be built or set on unimproved property (any property where a permanent dwelling or business unit does not exist).

(c) An outdoor fireplace or barbeque grill may be used in accordance with the manufacturer's instructions but not within 10 feet of a structure or combustible material.

(d) The occupant of a permanent dwelling may set a contained fire to burn small amounts of refuse, tree branches, or brush using a fireproof container such as a burn barrel, provided the fire is not located within 25 feet of a structure or combustible material.

(e) Contained fires used to burn small amounts of refuse, tree branches, and brush shall only be allowed only between the hours of 8:00 a.m. and 6:00 p.m.

(f) All fires of the type described in this section must be monitored by a competent person 16 years of age or older who must remain in attendance at the fire until it is completely extinguished.

(g) An extinguishing agent (i.e., fire extinguisher) or water source sufficient to extinguish the fire shall be readily available within 25 feet of the contained fire.

(h) Upon the issuance of a "Red Flag" warning by the National Weather Service, or upon the order of the Fire Chief all fires will be prohibited.

(C) *Prohibited items.*

(1) It shall be unlawful for any person to burn any materials that produce heavy dense smoke such as that generated by the burning of automobile tires, inner tubes, tar paper, asphalt, shingles, or by the burning of synthetic materials that produce irritating and/or hazardous fumes.

(2) Except as otherwise provided in this section, it shall be unlawful for any person to use, ignite or explode any firework, pyrotechnic display, or sky lantern as defined in this section. These provisions shall not be applicable to town sponsored events or signal flares for emergency use.

**§ 96.06 AUTOMATIC PROTECTION SYSTEMS.**

(A) *False alarms.*

(1) *Responsibility.* Each automatic protection system user shall be responsible for any false alarm transmitted by an automatic protection system.

(2) *Records.*

(a) The Police Department or Fire Department shall maintain a record of all false alarms transmitted.

(3) *Fees.*

- (a) An automatic protection system user shall be charged a fee, as specified in the regularly adopted fee schedule of the Town, for each false alarm in excess of one in a 30-day period transmitted by any automatic protection system.
- (b) The fee shall be remitted to the Town by the automatic protection system user upon receipt of a statement for the fee.
- (c) All fees assessed against the automatic protection system user shall be due and owing to the Town. In the event legal action is necessary to collect the service fees, the automatic protection system user shall be required to pay the fees and any and all legal fees, attorney's fees and court costs required to collect the monies.

*(4) Periodic Testing of Automatic Protection System.*

- (a) An automatic protection systems user, or their designee, may conduct periodic testing of an automatic protection system during normal business hours after providing the Police or Fire Department, whichever is appropriate, a minimum of 30 minutes notice or ensure the system does not transmit an alarm that would generate a police or fire response during the duration of testing.
- (b) If an automatic protection system user, or their designee, fails to provide the Police or Fire Department, whichever is appropriate, a minimum of 30 minutes notice prior to conducting a periodic test of an automatic protection system, or fails to take the necessary steps to prevent initiating a police or fire response, the activation shall be deemed a false alarm and the automatic protection system user will be subject to a fee as set forth in § 96.06(2).

*(B) Liability.*

(1) The Town assumes no liability for any defects in the operation of an automatic protection system or signaling device, nor for any failure or neglect to respond appropriately upon receipt of an alarm from a like source, nor for the failure or neglect of any person in connection with the installation and operation of equipment, the transmission of alarm signals and prerecorded alarm messages or the relaying of the signals and messages.

(2) Neither the Town, the Fire Department, Police Department nor any member thereof acting in an official capacity shall be liable for damage to any premises caused by entry to the premises in response to an alarm generated by an automatic protection system.

*(C) Duties of automatic protection system users.*

(1) Automatic protection system users shall instruct employees, tenants or others who may have occasion to activate an alarm that automatic protection systems are to be

activated only in emergency situations to summon an immediate police or fire response and shall instruct as to the operation of the automatic protection system, including setting, activation, deactivation and resetting of the system.

(2) The automatic system user shall be responsible for maintaining the automatic protection system in proper working order.

(3) An automatic protection system user who allows the system to continue to emit an audible signal for 30 minutes after notification of the alarm commencing to emit, shall be subject to a fee as set forth in § 96.06(3).

(5) For purposes of assessing a fee, each 30-minute period that an audible signal continues to sound after the initial 30-minute period, shall be considered a subsequent false alarm within a 30-day period.

(D) *Subscription charges.*

(1) Nothing in this chapter shall preclude an alarm system business from charging an automatic protection system user for all equipment at their location and connection fees to the monitoring system and maintenance charges necessitated by the installation and operation of the signaling device receiver in the monitoring system.


(2) The alarm system business supplying, maintaining, and monitoring an automatic protection system shall have the right to charge subscribers a reasonable fee for connection to and maintenance of the system.

**§ 96.99 PENALTY.**

(A) *Violations generally.* Any person who shall violate or fail to comply with any provision of this chapter or of the Fire Prevention Code, as adopted, amended, or augmented by this chapter, or who shall violate or fail to comply with any order made under this chapter or the North Carolina State Building Code, or who shall build in violation of any detailed statement of specifications or plans submitted under this chapter or the Fire Prevention Code, or any certificate or permit issued thereunder, shall subject the violator to civil penalties in accordance with § 10.99.

  
Don Kingston, Mayor

ATTEST:

  
Lori Ackerman, Town Clerk



Date adopted: April 2, 2025

Motion to adopt by: Brenda Chasen

Vote: 5 AYES 0 NAYS