

Attachment 1

High explosive. Explosive material, such as dynamite, which can be caused to detonate by means of a No. 8 test blasting cap when unconfined.

Low explosive. Explosive material that will burn or deflagrate when ignited. It is characterized by a rate of reaction that is less than the speed of sound. Examples of low explosives include, but are not limited to, black powder; safety fuse; igniters; igniter cord; fuse lighters; fireworks, 1.3G (Class B special) and propellants, 1.3C.

UN/DOtn Class 1 explosives. The former classification system used by DOtn included the terms "high" and "low" explosives as defined herein. The following terms further define explosives under the current system applied by DOtn for all explosive materials defined as hazard Class 1 materials. Compatibility group letters are used in concert with the Division to specify further limitations on each division noted, (i.e., the letter G identifies the material as a pyrotechnic substance or article containing a pyrotechnic substance and similar materials).

Division 1.1. Explosives that have a mass explosion hazard. A mass explosion is one which affects almost the entire load instantaneously.

Division 1.2. Explosives that have a projection hazard but not a mass explosion hazard.

Division 1.3. Explosives that have a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard.

Division 1.4. Explosives that pose a minor explosion hazard. The explosive effects are largely confined to the package and no projection of fragments of appreciable size or range is to be expected. An external fire must not cause virtually instantaneous explosion of almost the entire contents of the package.

Division 1.5. Very insensitive explosives. This division is comprised of substances that have a mass explosion hazard but which are so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of transport.

Division 1.6. Extremely insensitive articles which do not have a mass explosion hazard. This division is comprised of articles that contain only extremely insensitive detonating substances and which demonstrate a negligible probability of accidental initiation or propagation.

EXPLOSIVE MATERIAL. The term "explosive" material means explosives, blasting agents, and detonators.

FALLOUT AREA. The area over which aerial shells are fired. The shells burst over the area, and unsafe debris and malfunctioning aerial shells fall into this area. The fallout area is the location where a typical aerial shell dud falls to the ground depending on the wind and the angle or mortar placement.

FIREWORKS. Any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration, or detonation that meets the definition of 1.4G fireworks or 1.3G fireworks as set forth herein.

Fireworks, 1.4G. (Formerly known as Class C, Common Fireworks.) North Carolina General Statute 14-414. The following fireworks are allowed to be sold, used or possessed without a permit:

1. Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (0.25) of a gram for each cap:

2. Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning:

3. Smoke devices consisting of tube or sphere containing a pyrotechnic mixture that produce white or colored smoke:

4. Trick noise makers which produce a small report designed to surprise the user which include:

(A) A party popper which is a small plastic or paper item containing not in excess of 16 milligrams of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report.

(B) A string popper which is small tube containing not in excess of 16 milligrams of explosive mixture with a string protruding from both ends. The strings are pulled to ignite the friction-sensitive mixture, producing a small report.

(C) A snapper or drop pop which is a small, paper-wrapped item containing no more than 16 milligrams of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.

5. Wire sparklers consisting of wire or stick coated with nonexplosive mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item:

6. Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube or not more than a total of 200 grams of chemical compound if multiple tubes are used.

Fireworks, 1.3G. (Formerly Class B, Special Fireworks.) Large fireworks devices, which are explosive materials, intended for use in fireworks displays and designed to produce audible or visible effects by combustion, deflagration, or detonation. Such 1.3G fireworks include, but are not limited to, firecrackers containing more than 130 milligrams (2 grains) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other

Attachment 2

AN ORDINANCE AMENDING ORDINANCE NO. 02-13 ENTITLED AN ORDINANCE DEFINING AND PROHIBITING DISORDERLY CONDUCT; REGULATING THE USE OF FIREARMS, EXPLOSIVES AND FIREWORKS; DEFINING AND PROHIBITING CONDUCT THAT CONSTITUTES DISTURBANCE OF THE PEACE; AND DEFINING AND REGULATING CAMPING WITHIN THE TOWN DUCK

Ordinance No. 02-21

WHEREAS, pursuant to N.C. Gen. Stat. §160A-174 a town may by ordinance define, prohibit, regulate or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town; and

WHEREAS, pursuant to N.C. Gen. Stat. §§160A-183 a town may by ordinance restrict, regulate or prohibit the sale, possession, storage, use or conveyance of any explosive, corrosive, inflammable, or radioactive substances, or any weapons or instruments of mass destruction; and

WHEREAS, the unregulated use of fireworks or pyrotechnics within the town has resulted in brush fires and medical emergencies requiring 200 hours of Duck Volunteer Fire Department response time and more brush fires during the Summer of 2002 than in the past seven to eight years; and

WHEREAS, due to the wind and vegetation throughout the town there exists great risk that the use of fireworks or pyrotechnics will result in fire of such intensity as to destroy life and property; and

WHEREAS, the unregulated use of fireworks or pyrotechnics on the town's beach has resulted in the degradation of the beach due to firework litter and debris left by those persons discharging fireworks and which litter and debris is found to be a danger to persons traversing the beach and nesting sea turtles which upon hatching may become entwined on such litter and debris thereby preventing their escape to the ocean; and

WHEREAS, the unregulated use of fireworks or pyrotechnics from dark until the early morning hours is found to create noise of such character, intensity or duration as to be detrimental to the peace and dignity of the town and which tends to annoy, disturb or frighten citizens.

NOW, THEREFORE, BE IT ORDAINED by the Town Council for the Town of Duck, North Carolina as follows:

PART I. Ordinance No. 02-13 "An Ordinance Defining and Prohibiting Disorderly Conduct; Regulating the Use of Firearms, Explosives and Fireworks; Defining and Prohibiting Conduct That Constitutes Disturbance of the Peace; and Defining and Regulating Camping Within the Town of Duck" is amended as follows:

a. Section 2. Firearms, explosives, etc. is rewritten to read as follows:

(a) *Discharge in town restricted.* It shall be unlawful for any person to fire or discharge shotguns, rifles, pistols or any other firearm, or discharge any explosive device, by whatever name called, within the corporate limits of the town.

(b) *Enforcement.* Subsection (a) is enforceable by the town police department.

(c) *Exceptions.* The provisions of subsection (a) shall not apply to:

(1) Police officers and other duly authorized police and peace officers of the county, state and the United States of America, or the armed forces of the United States of America, while in the performance of their duties as such;

~~(2) Fireworks display while conducted under the provisions of state law regulating such exhibitions and displays.~~

(d) *Carrying of concealed handgun prohibited.* The carrying of a concealed handgun as defined in article 54B of chapter 14 of the North Carolina General Statutes in any building or appurtenant premises owned, leased or occupied by the town for governmental purposes, and in all municipal parks, recreation areas and beach access areas, is prohibited.

(e) *Posting of prohibition.* The prohibition against carrying a concealed handgun shall be enforceable in any government building and appurtenant premises and on any park described in subparagraph (d) above upon the posting of a notice stating "the carrying of a concealed handgun on these premises is prohibited and illegal." This notice shall be posted in a conspicuous location near the entrance to any such premises.

(f) *Violations.* Violations of any provision of this section shall be a misdemeanor and punishable as provided in section 14-4 of the General Statutes of North Carolina. Notwithstanding the forgoing, violation of subparagraph (d) above shall be punishable as provided in section 14-415.21(b) of the General Statutes of North Carolina.

b. A new Section 6. is added to read as follows:

Section 6. Fireworks and pyrotechnic displays unlawful; exceptions.

(a) Except as otherwise provided in this section it shall be unlawful for any person to use, ignite or explode any firecracker, torpedo, sky rocket, sparkler, or other substance or device that contains any explosive or flammable compound or substance, and is intended or commonly known as fireworks, and which explodes, rises into the air or travels laterally, fires projectiles or discharges sparks into the air.

(b) The provision of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the Duck Volunteer Fire Department Fire Chief for the public or private display of fireworks or pyrotechnics, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit.

(c) Any person requesting a permit from the Duck Volunteer Fire Department Fire Chief as described in the preceding subsection shall submit a written application to the Fire Chief at least thirty (30) days prior to the date of the requested activity. Such application shall contain at a minimum the following information:

(1) A letter or original certificate from the insurance company of the person applying

for the fireworks display permit certifying that liability insurance in a minimum of one million dollars (\$1,000,000.00) is in force at the time and date of the fireworks display and will cover damage to persons and/or property at and in the vicinity of the area of the fireworks display.

(2) A diagram of the area showing where the display discharge area will be and its relationship and distance to the nearest structures, power or telephone lines and highways. Such diagram shall also include the specific location of the fireworks to be discharged.

(3) The name of the organization sponsoring the display, if any, together with the names of the persons actually in charge of the display.

(4) The manner and place of storage of such fireworks prior to the fireworks display.

(5) The specific number and types of fireworks to be discharged.

(6) The date and time of day at which the display is to be held.

(7) A statement of the name, ages, experience, addresses and home and business telephone numbers of all persons who are to participate in the actual discharge of the fireworks.

(d) Upon receipt of an application in proper form, the Duck Volunteer Fire Department Fire Chief shall make an inspection of the proposed site to ensure that all provisions of this Section are met.

(e) All persons involved in discharging such fireworks shall be at least twenty-one (21) years of age and licensed or approved in accordance with applicable statutes, rules and regulations. Any person assisting with the handling or discharge of the fireworks, but not directly involved in the discharge of fireworks, shall be at least eighteen (18) years of age.

(f) If the Duck Volunteer Fire Department is required to provide a stand-by vehicle or other service, the applicant shall pay the cost of such service. Payment for such service shall be made no later than ten (10) days prior to the date of the scheduled display.

(g) The Duck Volunteer Fire Department Fire Chief or his/her authorized designee is authorized to cancel the display if the requirements of this section are not met by the applicant, weather conditions are not favorable or in the event of other circumstances which the Duck Volunteer Fire Department Fire Chief or his/her designee deems to create a hazard for the town.

(h) Any permit fees paid for a fireworks display are non-refundable.

(i) Any person violating any provision of this section shall be guilty of a Class 3 misdemeanor and shall be fined \$250.00.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance shall be in full force and effect upon its adoption.

ADOPTED the 2nd day of October, 2002.

Paul F. Keller, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted: October 2, 2002

Motion to adopt by: Mayor Pro Tempore Caviness

Vote: 4 AYES 0 NAYS

Attachment 3

AN ORDINANCE AMENDING ORDINANCE NO. 13-2 ENTITLED AN ORDINANCE DEFINING AND PROHIBITING DISORDERLY CONDUCT; REGULATING THE USE OF FIREARMS, EXPLOSIVES AND FIREWORKS; DEFINING AND PROHIBITING CONDUCT THAT CONSTITUTES DISTURBANCE OF THE PEACE; AND DEFINING AND REGULATING CAMPING WITHIN THE TOWN NAGS HEAD

Ordinance No 13-2

WHEREAS, pursuant to N.C. Gen. Stat. §160A-174 a town may by ordinance define, prohibit, regulate or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town; and

WHEREAS, pursuant to N.C. Gen. Stat. §§160A-183 a town may by ordinance restrict, regulate or prohibit the sale, possession, storage, use or conveyance of any explosive, corrosive, inflammable, or radioactive substances, or any weapons or instruments of mass destruction; and

WHEREAS, the unregulated use of fireworks or pyrotechnics within the town has resulted in brush fires requiring Nags Head Fire & Rescue Division response time with more brush fires occurring during the Summer of 2002 than in the past seven to eight years; and

WHEREAS, due to the wind and natural vegetation throughout the town there exists great risk that the use of fireworks or pyrotechnics will result in fire of such intensity as to destroy life and property; and

WHEREAS, the unregulated use of fireworks or pyrotechnics on the town's beach has resulted in the degradation of the beach due to firework litter and debris left by those persons discharging fireworks and which litter and debris is found to be a danger to persons traversing the beach and nesting sea turtles which upon hatching may become entwined on such litter and debris thereby preventing their escape to the ocean and

WHEREAS, the unregulated use of fireworks or pyrotechnics from dark until the early morning hours is found to create noise of such character, intensity or duration as to be detrimental to the peace and dignity of the town and which tends to annoy, disturb or frighten citizens.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for the Town of Nags Head, North Carolina as follows:

PART I. Ordinance No.13-2 "An Ordinance Defining and Prohibiting Disorderly Conduct; Regulating the Use of Firearms, Explosives and Fireworks; Defining and Prohibiting Conduct That Constitutes Disturbance of the Peace; and Defining and Regulating Camping Within the Town of Nags Head" is amended as follows:

a. Section 13- 2. Firearms, explosives, etc. is rewritten to read as follows:

(a) *Discharge in town restricted.* It shall be unlawful for any person to fire or discharge shotguns, rifles, pistols or any other firearm, or discharge any explosive device, by whatever name called, within the corporate limits of the town. The Town firing range shall be excluded from this

provision.

(b) *Enforcement.* Subsection (a) is enforceable by the town police department.

(c) *Exceptions.* The provisions of subsection (a) shall not apply to:

(1) Police officers and other duly authorized police and peace officers of the county, state and the United States of America, or the armed forces of the United States of America, while in the performance of their duties as such;

(2) Shooting contests such as turkey shoots, target practice and other contests after a permit has been issued therefore by the chief of police and while the same is under the direct supervision of the chief of police or designated officer of the law;

~~(3) Fireworks display while conducted under the provisions of state law regulating such exhibitions and displays.~~

(d) *Carrying of concealed handgun prohibited.* The carrying of a concealed handgun as defined in article 54B of chapter 14 of the North Carolina General Statutes in any building or appurtenant premises owned, leased or occupied by the town for governmental purposes, and in all municipal parks, recreation areas and beach access areas, is prohibited.

(e) *Posting of prohibition.* The prohibition against carrying a concealed handgun shall be enforceable in any government building and appurtenant premises and on any park described in subparagraph (d) above upon the posting of a notice stating "the carrying of a concealed handgun on these premises is prohibited and illegal." This notice shall be posted in a conspicuous location near the entrance to any such premises.

(f) *Violations.* Violations of any provision of this section shall be a misdemeanor and punishable as provided in section 14-4 of the General Statutes of North Carolina. Notwithstanding the forgoing, violation of subparagraph (d) above shall be punishable as provided in section 14-415.21(b) of the General Statutes of North Carolina.

b. A new Section 13-2A. is added to read as follows:

Section 13-2A. Fireworks and pyrotechnic displays unlawful; exceptions.

(a) Except as otherwise provided in this section it shall be unlawful for any person to use, ignite or explode any firecracker, torpedo, sky rocket, sparkler, or other substance or device that contains any explosive or flammable compound or substance, and is intended or commonly known as fireworks, and which explodes, rises into the air or travels laterally, fires projectiles or discharges sparks into the air.

(b) The provision of this section shall not be applicable to any organization or group of individuals which has been granted a permit by the Nags Head Director of Public Safety for the public or private display of fireworks or pyrotechnics, provided that such fireworks are stored, handled, transported and used in compliance with the terms and conditions of such permit.

(c) Any person requesting a permit from the Nags Head Director of Public Safety as described

in the preceding subsection shall submit a written application to the Director of Public Safety at least thirty (30) days prior to the date of the requested activity. Such application shall contain at a minimum the following information:

(1) A letter or original certificate from the insurance company of the person applying for the fireworks display permit certifying that liability insurance in a minimum of one million dollars (\$1,000,000.00) is in force at the time and date of the fireworks display and will cover damage to persons and/or property at and in the vicinity of the area of the fireworks display.

(2) A diagram of the area showing where the display discharge area will be and its relationship and distance to the nearest structures, power or telephone lines and highways. Such diagram shall also include the specific location of the fireworks to be discharged.

(3) The name of the organization sponsoring the display, if any, together with the names of the persons actually in charge of the display.

(4) The manner and place of storage of such fireworks prior to the fireworks display.

(5) The specific number and types of fireworks to be discharged.

(6) The date and time of day at which the display is to be held.

(7) A statement of the name, ages, experience, addresses and home and business telephone numbers of all persons who are to participate in the actual discharge of the fireworks.

(d) Upon receipt of an application in proper form, the Nags Head Fire Department Fire Marshal shall make an inspection of the proposed site to ensure that all provisions of this Section are met.

(e) All persons involved in discharging such fireworks shall be at least twenty-one (21) years of age and licensed or approved in accordance with applicable statutes, rules and regulations. Any person assisting with the handling or discharge of the fireworks, but not directly involved in the discharge of fireworks, shall be at least eighteen (18) years of age.

(f) If the Nags Head Fire & Rescue Division is required to provide a stand-by vehicle or other service, the applicant shall pay the cost of such service. Payment for such service shall be made no later than ten (10) days prior to the date of the scheduled display.

(g) The Nags Head Fire & Rescue Division Chief Officer or his/her authorized designee is authorized to cancel the display if the requirements of this section are not met by the applicant, weather conditions are not favorable or in the event of other circumstances which the Nags Head Fire & Rescue Division Chief Officer or his/her designee deems to create a hazard for the town.

(h) Any permit fees paid for a fireworks display are non-refundable.

(i) Any person violating any provision of this section shall be guilty of a Class 3 misdemeanor and shall be fined \$250.00.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance shall be in full force and effect upon its adoption.

ADOPTED the day.

Robert Muller, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted

Attachment 4

#113

PYROTECHNICS ORDINANCE**SECTION I.****Purpose and Statutory Authority**

The purpose of this ordinance is to regulate the sale, possession, use and conveyance of pyrotechnics in Ocracoke Township, Hyde County, North Carolina. This ordinance is adopted pursuant to the authority contained in G.S. 153A § 121 and G.S. 153A § 128.

SECTION II.**Territorial Jurisdiction**

Due to the remoteness and physical isolation of Ocracoke Island, the density of residential housing and commercial development, the high percentage of exterior wood or wood based siding, decks, porches and patios, the denseness and nearness of underbrush and other vegetation, to the constancy of wind, the aridness of the climate and the limitedness of fire fighting capabilities, the Hyde County Board of Commissioners believes a total ban on pyrotechnics subject only to the exceptions allowed herein, is necessary to protect the health, safety, welfare and property of the citizens of Ocracoke Township, but not necessary as to the protection of the County's other townships

This ordinance, however, shall not apply to the lands owned by the United States of America and the State of North Carolina and located in Ocracoke Township.

SECTION III.**Definitions**

A. **Pyrotechnics:** For the proper construction of the provisions of this Article, "pyrotechnics" as is herein used, shall be deemed to be and include any and all kinds of fireworks and explosives which are used for exhibitions or amusement purposes: provided, however, that nothing herein contained shall prevent the manufacture, purchase, sale, transportation and use of explosives or signaling flares used in the course of ordinary business or industry, or shells or cartridges used as ammunition in firearms. This ordinance shall not apply to the sale, use or possession of explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (.25) of a gram for each cap.

This ordinance shall apply to all other exempted pyrotechnics as outlined in G.S. §14-414 (2)(3)(4)(5)(6) and to any other pyrotechnic or explosive not specifically exempted herein.

B. **Expert:** An expert shall be any person who has a certificate of completion of a comprehensive pyrotechnics class or seminar from an entity which covers the National Fire Protection Association - Aerial Fireworks regulations as outlined in NFPA §11.23 and the execution of pyrotechnics in said seminar or class or who possesses a federal or state license for the possession and discharge of explosives, if required.

C. **Board:** The then duly elected Hyde County Board of Commissioners.

D. **Application Agent:** That person or persons designated by this ordinance to act as application agent for permitting purposes under this ordinance.

SECTION III.

Prohibited Activities

It shall be unlawful for any individual, firm, partnership, corporation, limited liability company or any other legal entity to engage in any of the following activities with regard to pyrotechnics:

- A. Possess;
- B. Transport;
- C. Receive;
- D. Advertise;
- E. Use;
- F. Manufacture;
- G. Purchase;
- H. Sell;
- I. **DISCHARGE** or cause to be discharged; except as exempted and permitted herein.

SECTION IV.

Permits

The County Board of Commissioners may approve and issue permits for use in connection with the conduct of public exhibitions, festival or celebrations provided the Board has received a fully executed application, the pyrotechnics used will be supervised by an expert and there will be insurance in force to cover injury to persons or property as a result of the pyrotechnic use.

The County Manager, County Fire Marshal and Ocracoke Fire Chief shall be the designated application agents. Any person or entity seeking a permit must get an official application from one of the application agents and must submit an original application and two copies to an agent.

Application Agents shall submit the original application to the County Manager for consideration by the Board at its next meeting and a copy to each of the other applications agents for their review prior to the Board's consideration.

Fees: Every application shall be accompanied by an application fee, which shall initially be \$100.00 and which may be changed from time to time by resolution made and adopted by the Board.

SECTION V.

Enforcement

A. **Criminal penalty:** Any person violating this ordinance shall be guilty of a misdemeanor punishable by a fine of not to exceed \$500 or imprisonment for not more than 30 days, or both. Each day's violation shall be treated as a separate offense.

B. **Civil penalty:** Any person who is found in violation of this ordinance shall be subject to a civil penalty of not to exceed \$500 as provided in G.S. 153-A-123. Each day's violation shall be treated as a separate offense.

C. **Remedies:** This ordinance may be enforced by equitable remedies, and any unlawful condition existing or in violation of this ordinance may be enforced by injunction and order of abatement in accordance with G.S. 153-A-123.

SECTION VI.

Adoption

This ordinance will become effective June 24, 2002 with the exception of Article III Subsections A and B which shall become effective September 1, 2002.

Adopted as stated above the 24 day of June, 2002, upon motion by Nathan Sears, seconded by Scott Cable and passed by a 4 to 0 vote.

Connie Burleson
Connie Burleson
Clerk to Hyde County Board of Commissioners

Attachment 5

FIRE PREVENTION AND PROTECTION

§ 8-34

in the sole discretion of the town shall be paid by each fireman. If required by the insurance carrier providing the insurance, the town will pay the required premiums to the insurance carrier and collect the premiums so paid from each fireman. The town will adopt rules specifying the manner by which firemen will make payments of premiums due for the medical care insurance. Any fireman who elects not to be covered by medical care insurance provided by the town must sign a waiver indicating that the fireman does not want the coverage because he or she is covered by other available medical care insurance. Any fireman who fails to pay the required premiums when due or who refuses to execute a required waiver shall be terminated as a member of the fire department. If a full time employee of the town is also a volunteer member of the fire department, the town may, in the sole discretion of the board of commissioners, provide health insurance coverage for the dependents of such member not to exceed fifty (50) percent of the premium rates. (Ord. No. 94-005, § 1, 12-14-94; Ord. No. 00-009, § 8, 12-13-00)

Sec. 8-34. Limitation on use of fireworks within the town.

(a) It shall be unlawful for any person to possess, store, offer for sale, use or explode any fireworks or pyrotechnic devices within the town limits except pursuant to a permit issued by the fire marshal.

(b) Any person requesting a permit from the fire marshal as described in the preceding subsection shall submit a written application to the fire marshal at least thirty (30) days prior to the date of the requested activity. Such application shall contain at a minimum the following information:

- (1) A letter or original certificate from the insurance company of the person applying for the fireworks display permit certifying that liability insurance in a minimum of one million dollars (\$1,000,000.00) is in force at the time and date of the fireworks display and will cover damage to persons and/or property at and in the vicinity of the area of the fireworks display.

- (2) A diagram of the area showing where the display discharge area will be and its relationship and distance to the nearest structures, power or telephone lines and highways. Such diagram shall also include the specific location of the fireworks to be discharged.
- (3) The name of the organization sponsoring the display, if any, together with the names of the persons actually in charge of the display.
- (4) The manner and place of storage of such fireworks prior to the fireworks display.
- (5) The specific number and types of fireworks to be discharged.
- (6) The date and time of day at which the display is to be held.
- (7) A statement of the name, ages, experience, addresses and home and business telephone numbers of all persons who are to participate in the actual discharge of the fireworks.

(c) Upon receipt of an application in proper form, the fire marshal shall make an inspection of the proposed site to ensure that all provisions of the Code are met.

(d) All persons involved in discharging such fireworks shall be at least twenty-one (21) years of age and licensed or approved in accordance with applicable statutes, rules and regulations. Any person assisting with the handling or discharge of the fireworks, but not directly involved in the discharge of fireworks, shall be at least eighteen (18) years of age.

(e) If the fire department is required to provide a stand-by vehicle or other service, the applicant shall pay the cost of such service. Payment for such service shall be made no later than ten (10) days prior to the date of the scheduled display.

(f) The fire marshal or his/her authorized designee is authorized to cancel the display if the requirements of this section are not met by the applicant weather conditions are not favorable or in the event of other circumstances which the fire marshal or his/her designee deems to create a hazard for the town.

§ 6-34

TOPSAIL BEACH CODE

(g) Any permit fees paid for a fireworks display are non-refundable.
(Ord. No. 00-009, § 9, 12-13-00)

Attachment 6

FIREWORKS FAST FACTS

Inspector Information on Fireworks in North Carolina

What are the laws for fireworks and how are the fireworks laws enforced?

North Carolina General Statutes 14-410 through 14-415 are the legal basis for fireworks in North Carolina. Enforcement of Display and Consumer Fireworks laws is covered under the N.C. Fire Prevention Code, Chapter 20. Fireworks are classified and labeled in accordance with regulations of the Federal Government Department of Transportation.

The fireworks law in North Carolina is essentially a "zero tolerance" law which prohibits everything except Display Fireworks and Consumer Fireworks specifically exempted by statute. Consumer Fireworks are small ground based pyrotechnic devices specifically allowed by the North Carolina General Statutes. They are allowed by exception, as the General Statutes specifically exempts them from compliance with the requirements for Display Fireworks. Display Fireworks are larger ground based and aerial pyrotechnic displays which require a permit and must be presented by trained, competent operators. Persons exhibiting Fireworks for public or private displays are required to:

1. Obtain a permit from the County Fire Prevention Bureau -
2. The permit for these displays is issued under the authority of the Board of County Commissioners, and the inspector operates under General Statute 153A-352, item 4 "Other matters that may be specified by the board of commissioners".
3. Meet the requirements of NFPA 1123 and/or NFPA 1126
4. Furnish a bond or certificate of insurance
5. Be at least 21 years old. (From NFPA 1123 Section 6-1.1)

The Fire Prevention code references several National Fire Protection Association standards for Fireworks. The requirements of NFPA 1123 are intended to provide safety to exhibitors, audience, the general public, and property for outdoor displays where the audience is not close to the fireworks. NFPA 1123 is required where aerial displays are used. NFPA 1123 requirements include Display Fireworks construction, display site selection, operation of the display, and operator qualifications. The appendices to this standard provide an excellent description of the various types of fireworks and their classification.

The requirements of NFPA 1126 are intended to provide safety to exhibitors, audience, the general public, and property for indoor displays, and outdoor displays where the audience is close to the display.

What kinds of Consumer Fireworks are legal for use in North Carolina?

Consumer Fireworks are labeled in accordance with rules from the Federal Government, and cover both ground and aerial pyrotechnics. Not all Consumer Fireworks that are labeled "SAFE AND SANE" are legal in North Carolina. The types of Consumer Fireworks, which are permissible for use in North Carolina, are specified by North Carolina law [G.S. 14-414], and are reproduced in the definition of "Fireworks" in the Fire Prevention Code. In general, sparklers, fountains, and novelty fireworks items that do not have a report (explode) or are not intended to spin or to leave the ground and fly through the air, are permissible for use in North Carolina. Fireworks items such as firecrackers, ground spinners, roman candles, rockets (including bottle rockets), mortars and the like are not legal anywhere in North Carolina. North Carolina law requires the purchaser of Consumer Fireworks to be at least 16 years old.

Is there a list of the Consumer Fireworks that may be sold in North Carolina?

No. Because of the dozens of vendors selling hundreds of products each, there are thousands of products available for purchase. As with any fire prevention code item, the Department of Insurance can be called for an informal interpretation (such an interpretation will be interactive, since you will be looking at the fireworks and we will be looking at the fire code – 919-733-3901)

What is required to sell Consumer Fireworks in North Carolina?

Anyone holding a business license can sell Consumer Fireworks in North Carolina without a fireworks permit. A business license is required, just as in any other sales organization for sales tax purposes. Some jurisdictions may have sign ordinances or sign permits that must also be complied with.

Often Consumer Fireworks are sold from tents or other temporary structures. If the fireworks are sold from a tent, the tent must meet the requirements of the Fire Prevention Code Chapter 39, and may be required to have a tent permit from the local fire prevention bureau.

No specific fee is required to sell Consumer Fireworks. Other business license fees or structure permit fees may be required if selling from a tent or other temporary structure.

What are the storage requirements for Consumer Fireworks?

Consumer Fireworks are not required to be stored in an explosives magazine. In the form in which they are produced, they will burn rapidly, but will not explode.

What are the storage requirements for Display Fireworks?

In general, Display Fireworks are treated as low explosives, and must be kept in Type 1, Type 2, or Type 4 magazines. Specific requirements are found in NFPA 1124 "Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles", Chapter 3.

What are the penalties for violating the fireworks laws, and who can enforce them?

General Statute 14-415 sets the penalties as a Class 2 misdemeanor, which may be punishable by a fine not to exceed \$ 500.00 and/or imprisonment not less than 30 days or more than six months. The laws cover transport, display, storage, sale, possession, and use of fireworks. In particular, General Statute 14-412 states the possession of pyrotechnics, other than as permitted, is prima facie evidence of violation.

The following guidance is set forth for handling potential violations of General Statutes:

1. When notified of a potential violation, the fire inspection department shall conduct an inspection.
2. The following recommendations are offered to assist the fire inspector in dealing with cases involving illegal fireworks:
 - a) If the quantity of illegal fireworks is **small and possess a low hazard**, ask the owner or occupant to surrender the illegal fireworks. Also provide the individual with a written notice . This written notice will serve as a warning to that individual. (Ex. Individuals shooting off fireworks in the backyard, disturbing neighbors, etc,)
 - b) If the quantity of illegal fireworks is **large or the situation is hazardous or dangerous**, ask the owner to surrender the fireworks to the inspector. If the owner does not wish to surrender the fireworks, request the assistance of local law enforcement to arrange for the seizure of the illegal fireworks and arrest the owner in violation of General Statute 14-415. (Ex. Truck or trailer parked on the side of the road selling fireworks)
 - c) If the situation concerns a **reputable vendor operating in a commercial setting**, the fire inspector should use common sense in determining whether or not to seize the fireworks and whether or not to coordinate with local law enforcement to charge the owner or occupant with a violation of General Statute 14-415. The inspector shall issue a written notice . (Ex. A store in a large chain operating in other states where fireworks may be legal to sell.)

The N.C. General Statutes does not say what is to become of the fireworks. The N.C. Fire Prevention Code Section 2005 authorizes the fire inspector to seize fireworks that violate Chapter 20. The fireworks may be disposed of immediately **only** if hazardous to life or property. Otherwise, the fireworks must be held until final disposition as directed by the courts.

Where can I get more information?

NFPA standards 1123, 1124, and 1126 are excellent background information about fireworks.

ARTICLE 54. Sale, etc., of Pyrotechnics.

14-410. Manufacture, sale and use of pyrotechnics prohibited; exceptions; sale to persons under the age of 16 prohibited.

- a) It shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use or cause to be discharged any pyrotechnics of any description whatsoever within the State of North Carolina: provided, however, that it shall be permissible for pyrotechnics to be exhibited, used or discharged at public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations: provided, further, that the use of said pyrotechnics in connection with public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, shall be under supervision

of experts who have previously secured written authority from the board of county commissioners of the county in which said pyrotechnics are to be exhibited, used or discharged; provided, further, that such written authority from the board of commissioners is not required for a public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill; provided, further, that it shall not be unlawful for a common carrier to receive, transport, and deliver pyrotechnics in the regular course of its business.

- b) Notwithstanding the provisions of G.S. 14-414, it shall be unlawful for any individual, firm, partnership, or corporation to sell pyrotechnics as defined in G.S. 14-414 (2), (3), (4) c., (5), or (6) to persons under the age of 16.

(1947, c. 210, s. 1; 1993 (Reg. Sess., 1994), c. 660, s. 3; 1995, c. 475, s. 1.)

14-411. Sale deemed made at site of delivery.

In case of sale or purchase of pyrotechnics, where the delivery thereof was made by a common or other carrier, the sale shall be deemed to be made in the county wherein the delivery was made by such carrier to the consignee.

(1947, c. 210, s. 2.)

14-412. Possession prima facie evidence of violation.

Possession of pyrotechnics by any person, for any purpose other than those permitted under this article, shall be prima facie evidence that such pyrotechnics are kept for the purpose of being manufactured, sold, bartered, exchanged, given away, received, furnished, otherwise disposed of, or used in violation of the provisions of this article.

(1947, c. 210, s. 3.)

14-413. Permits for use at public exhibitions.

For the purpose of enforcing the provisions of this Article, the Board of County Commissioners of any county is hereby empowered and authorized to issue permits for use in connection with the conduct of public exhibitions, such as fairs, carnivals, shows of all descriptions and public exhibitions, but only after satisfactory evidence is produced to the effect that said pyrotechnics will be used for the aforementioned purposes and none other. Provided that no such permit shall be required for a public exhibition authorized by The University of North Carolina or the University of North Carolina at Chapel Hill and conducted on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill.

(1947, c. 210, s. 4; 1993 (Reg. Sess., 1994), c. 660, s. 3.1; 1995, c. 509, s. 11.)

14-414. Pyrotechnics defined; exceptions.

For the proper construction of the provisions of this Article, "pyrotechnics," as is herein used, shall be deemed to be and include any and all kinds of fireworks and explosives, which are used for exhibitions or amusement purposes: provided, however, that nothing herein contained shall prevent the manufacture, purchase, sale, transportation, and use of explosives or signaling flares used in the course of ordinary business or industry, or shells or cartridges used as ammunition in firearms. This Article shall not apply to the sale, use, or possession of the following:

1. Explosive caps designed to be fired in toy pistols, provided that the explosive mixture of the explosive caps shall not exceed twenty-five hundredths (.25) of a gram for each cap.

2. Snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a large, snake-like ash when burning.
3. Smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke.
4. Trick noisemakers which produce a small report designed to surprise the user and which include:
 - a. A party popper, which is a small plastic or paper item containing not in excess of 16 milligrams of explosive mixture. A string protruding from the device is pulled to ignite the device, expelling paper streamers and producing a small report.
 - b. A string popper, which is a small tube containing not in excess of 16 milligrams of explosive mixture with string protruding from both ends. The strings are pulled to ignite the friction-sensitive mixture, producing a small report.
 - c. A snapper or drop pop, which is a small, paper-wrapped item containing no more than 16 milligrams of explosive mixture coated on small bits of sand. When dropped, the device produces a small report.
5. Wire sparklers consisting of wire or stick coated with nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition. These items must not exceed 100 grams of mixture per item.
6. Other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, do not spin, are hand-held or ground-based, cannot propel themselves through the air, and contain not more than 75 grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used.
(1947, c. 210, s. 5; 1955, c. 674, s. 1; 1993, c. 437, s. 1.)

14-415. Violation made misdemeanor.

Any person violating any of the provisions of this Article, except as otherwise specified in said Article, shall be guilty of a Class 2 misdemeanor.

(1947, c. 210, s. 6; 1969, c. 1224, s. 3; 1993, c. 539, s. 288; 1994, Ex. Sess., c. 24, s. 14(c).)

For more information please call North Carolina Office of State Fire Marshal – 919-733-3901



Commissioner Jim Long, State Fire Marshal
Tim Bradley, Senior Deputy Fire Marshal