

Town of Wilkesboro



Outdoor Fire Ordinance

Purpose

The purpose of this ordinance is to provide education and guidelines for town citizens regarding the various types of fires, both permitted and restricted within the city limits for the Town of Wilkesboro. Penalties could be enforced for non-permitted or noncompliant fires; information regarding penalties is also referenced.

Outdoor Fires

Recreational fires, portable outdoor fireplaces/fire pits, stationary outdoor fireplaces and stationary outdoor fire pits are regulated by the North Carolina Fire Prevention Code and DO NOT require an open-burning operational permit. Fire safety is still the responsibility of the individual setting a fire regardless to whether a permit is required or not. (NCFC 307)

Recreational Fires

Recreational fires are defined by the North Carolina Fire Prevention Code as fires 3 feet or less in diameter and 2 feet or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes. Recreational fires are NOT considered open burning and do not require an open burning operational permit. (NCFC 307.4.2)

- Recreational fires shall be at least 25 feet from a structure or combustible material.
- Conditions which could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition.
- Shall not be used to burn rubbish, yard waste, or burn material contained in an incinerator. If found or reported would be a punishable violation of this town ordinance.
- Outdoor fireplaces, barbecue grills, barbecue pits, or bonfires are not considered recreational fires

Portable Outdoor Fireplaces/Fire Pits

- Portable outdoor fireplaces/fire pits are defined by the North Carolina Fire Prevention Code as a portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design or may be equipped with a small hearth opening and a short chimney or chimney opening in the top.
- Portable outdoor fireplaces are NOT considered open burning and do not require an open burning operational permit.

- Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions.
- Portable outdoor fireplaces shall not be operated within 25 feet of a structure or combustible material.
- Shall not be used to burn rubbish or yard waste.

(NCFC 307.4.3)

Stationary Outdoor Fireplaces

Stationary outdoor fireplaces are site constructed, permanent in nature, solid-fuel-burning, and may be constructed of stone, brick, concrete, clay, or other noncombustible material. A stationary outdoor fireplace will normally have a hearth, fire box, and chimney or stack. Stationary outdoor fireplaces are NOT considered open burning and do not require an open burning operational permit.

- Stationary outdoor fireplaces must be at least 5 feet from property lines and require a building permit for construction if it is located less than 10 feet from any building or roofed structure or if the length or width of the fireplace is greater than 12 feet.
- If the fireplace is within 10 feet of any building or roofed structure, the chimney of the fireplace must extend at least 2 feet above the building or roofed structure.
- Shall not be used to burn rubbish or yard waste.

Stationary Outdoor Fire Pits

Stationary outdoor fire pits are site constructed, permanent in nature, solid-fuel-burning and may be constructed of stone, brick, concrete, metal, or other noncombustible material. The stationary outdoor fire pit may be dug in the ground or above ground and is designed to contain a fire and prevent it from spreading.

- Stationary outdoor fire pits are NOT considered open burning and do not require an open burning operational permit.
- Stationary outdoor fire pits must be at least 5 feet from property lines.
- At least 15 feet from structures to include decks.
- Shall not be used to burn rubbish or yard waste.

(NCFC 307.1)

Open Burning

Open burning in the Town of Wilkesboro is regulated by the North Carolina Fire Prevention Code and the Town of Wilkesboro Code of Ordinances and is prohibited unless an open burning operational permit is issued by the Fire Marshal of the Town of Wilkesboro.

- The North Carolina Fire Prevention Code defines open burning as 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.

- When necessary and as deemed appropriate by the Fire Marshal of the Town of Wilkesboro, the Wilkesboro Fire Department will start, maintain and extinguish a permitted open burn by trained and certified fire department staff.

Bonfires

Bonfires are defined by the North Carolina Fire Prevention Code as an outdoor fire utilized for ceremonial purposes. These are typically large fires in conjunction with a planned event such as a school prep rally or holiday event.

- Bonfires ARE considered open burning and do require an open burning operational permit.
- A bonfire shall not be conducted within 50 feet of a structure or combustible material and conditions, which could cause the fire to spread within 50 feet of a structure shall be eliminated prior to ignition.
- Shall not be used to burn rubbish or yard waste.
(NCFC 307.4.1)

Land Clearing

- Outdoor burning for land clearing activities due to site development in the Town of Wilkesboro jurisdiction is regulated by the Town of Wilkesboro Fire Marshal and the North Carolina Department of Environmental Quality (DEQ).
- Outdoor burning for the purpose of land clearing IS considered open burning and does require an open burning operational permit.
- Open burning for land clearing requires 1,000-foot separation to any dwelling or structure not on the property.
(GS 106 – 940)

Penalties

Enforcement

1. Civil Penalties
 - a. Violations of any of the provisions of this section will result in the following civil penalties:
 1. First offense in any 12 month period: \$100
 2. Subsequent offense in any 12 months. \$500.
 - b. The manager's designee may issue a notice of violation assessing civil penalties. The notice shall be issued in writing and shall set forth with reasonable specificity the basis for the civil penalty. The notice of violation shall be served by registered or certified mail, or by personal service.
 - c. If the person fails to pay any civil penalty within 30 days, the town may recover the penalty, together with all costs allowed by law, by

filing a civil action in the General Court of Justice in the nature of a suit to collect debt.

2. Appeals

- a. A party aggrieved may appeal any decision under this section to the Town Manager within 15 calendar days after the penalty notification. An appeal must be made in writing and shall contain the reasons supporting the appeal and any evidence that supports it. The person appealing may review the evidence that is the basis of the penalty or violation during the town's normal business hours. The Town Manager or his designee shall review the information provided and shall issue a written decision regarding penalty.
- b. After receiving a determination from the Town Manager or his designee, a party aggrieved may appeal to the Town Council within 21 calendar days after the Town Manager's decision (or the decision of the designee) was mailed. The scope of the Town Councils review shall be limited to verifying facts supporting a written decision or findings of fact made regarding the penalty. If the Town Council finds that the facts as found are correct, the civil penalty and administrative fee(s) shall not be disturbed.