

CHAPTER 33: TRYON FIRE DEPARTMENT

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GENERAL PROVISIONS

33.01 ESTABLISHMENT.

There is hereby created a Fire Department organized for the purpose of protecting the lives and property of the people. The Fire Department shall be composed of a Fire Chief and such other officers, employees and volunteer firefighters as shall be deemed necessary by the Board of Commissioners.

33.02 ADOPTING BYLAWS.

The members of the Fire Department shall propose bylaws, rules and regulations for the Department for approval by the Board of Commissioners. The same shall be published and each member of the department shall familiarize himself with such bylaws, rules and regulations.

33.03 FIRE CHIEF.

The chief administrative officer of the Fire Department shall be the Fire Chief who shall be appointed by the Town Manager and who shall serve in accordance with such general personnel rules, regulations, policies or ordinances as the Board of Commissioners may adopt. The Fire Chief shall have the following duties and responsibilities:

(A) He shall be responsible for the discipline and efficiency of the Fire Department. All orders shall pass through him and he shall see that all orders, rules and regulations applicable to the Fire Department are fully carried out and performed;

(B) He shall have control of the Fire Department and apparatus, including radio communication equipment and fire alarm systems;

(C) He shall take charge and supervise the fighting and extinguishing of all fires and shall have the authority to keep away from the vicinity of all fires any and all idle, disorderly or suspicious persons;

(D) He shall inspect or cause to be inspected, at least once a month all apparatus, supplies and equipment to ascertain that they are appropriate and in proper condition;

(E) He shall inspect or cause to be inspected at least every 12 months all fire hydrants and similar equipment;

(F) He shall submit to the Town Manager requests for and recommendations on improvements and corrections pertaining to apparatus and equipment;

(G) He shall perform all duties under the general laws as the same are now or may hereafter be enacted with respect to the inspection of buildings;

(H) He shall make annual reports to the Board of Commissioners concerning his duties; and

(I) He shall have such other duties as shall be assigned from time to time by the Town Manager.

§ 33.04 VOLUNTEER FIREFIGHTERS: MEMBERSHIP QUALIFICATION.

Volunteer firefighters must not be less than 18 years of age, must be in good health, and must have a valid North Carolina or South Carolina driver's license. The Fire Department shall not discriminate on the basis of race, color, religion, sex, age or national origin.

(Ord. 1981; Am. Ord. 2005-7, passed 6-24-05; Am. Ord. 2005-14, passed 12-20-05)

§ 33.05 PERSONS AUTHORIZED TO RIDE FIRE TRUCKS.

No person other than a bona fide member of the Fire or Police Department shall mount any fire engine, wagon or apparatus before it leaves the station or while on its way to or from a fire, or at any other time, unless by permission of the driver or officer in command of such engine or other apparatus.

§ 33.06 LIGHTS ON VEHICLES.

Colored lights as may be authorized by state law may be affixed to the private vehicles of Fire Department members. Such lights shall be used only when such vehicle is proceeding to a fire.

§ 33.07 EXCLUSIVE RIGHT-OF-WAY.

In the event of an alarm of fire, the apparatus of the Fire Department shall have the exclusive right-of-way in and upon the streets, alleys, squares and railroad crossings in going to any fire.

§ 33.08 FIRE DEPARTMENT JURISDICTION.

The Fire Department shall have the same jurisdiction outside the Town limits, as within, upon Town owned, leased or controlled property, and as provided by the general laws of North Carolina.

§ 33.09 LIABILITY FOR PAYMENT OF UTILITIES.

Career and volunteer firefighters shall receive from the Town credit on their utility bills in an amount approved by the Board of Commissioners.

SCENE OF FIRE

§ 33.20 COMMANDING OFFICER; AUTHORITY TO SUMMON AID

The officer in command at the scene of a fire shall be the senior firefighter who shall first arrive at the scene of the fire. He shall remain in command until relieved by a senior officer in the Fire Department and shall have authority to summon aid.

§ 33.21 INTERFERING WITH FIREFIGHTING ACTIVITIES BY CONGREGATING IN STREETS

It shall be unlawful to congregate on the streets, alleys or squares near a fire in a manner which would interfere with the activities of the Fire Department.

Penalty, see § 10.99

§ 33.22 FALSE FIRE ALARMS.

No person shall give or cause to be given any false alarm.

§ 33.23 PROHIBITED ACTS.

The activities noted in this section are prohibited within the limits of the Town's primary fire district, as established pursuant to G.S. 160A-435. The prohibited activities are as follows:

- (1) The storage of explosives and blasting agents;
- (2) New bulk plants for flammable or combustible liquids;
- (3) The bulk storage of liquefied petroleum gas; and
- (4) The storage of other hazardous materials as determined by the Fire Chief.

FIRE SERVICE OUTSIDE TOWN LIMITS

§ 33.30 CONTRACTING FOR SERVICE.

The Fire Department and all equipment used by the department is provided and maintained out of taxes levied by the town on taxpayers in the town limits and for the protection of property in and the inhabitants of the town. There is, therefore, no obligation on the part of the town or its officials to send the Fire Department equipment and personnel beyond the town limits. The town may, on a contractual basis, agree to furnish limited service beyond the town limits as hereinafter provided or to furnish service to a rural fire district which includes the town.

§ 33.31 LIMITATIONS ON SCOPE OF SERVICE.

The fire service authorized by this subchapter shall not be extended to any property located more than five airline miles beyond the town limits, nor to any property which is not readily accessible by a good road. The town shall not be liable for any failure to extinguish or control a fire to which the Fire Department has been dispatched, nor for any property or other damage caused as a result of an undertaking to fight or control a fire. Nothing herein shall prohibit the dispatch of the Fire Department and equipment to assist another town with which the town has a mutual or reciprocal firefighting agreement.

§ 33.32 CONTRACTS WITH PROPERTY OWNERS LOCATED BEYOND TOWN LIMITS.

The Town Manager may enter into an agreement with property owners located beyond the town limits to provide service available at the time by the town Fire Department upon agreement to pay an amount determined by the Board of Commissioners for each fire responded to by the Fire Department or for standby service in the event of an imminent danger caused by a conflagration or a woods fire. It shall be further agreed that the equipment and personnel may be recalled in the event of need in the town. The Town Manager shall satisfy himself of the responsibility of the property owners but may accept a valid insurance policy containing a clause to pay for Fire Department service in the amount determined by the Board of Commissioners in lieu of any bond of performance. All such agreements shall be indexed and made available to the Fire Chief.

§ 33.33 AUTHORITY TO ENTER INTO RECIPROCAL AGREEMENTS.

With the mutual approval of the Fire Chief representing the volunteer firefighters and the Board of Commissioners, the town may enter into an agreement with another town to dispatch fire equipment outside the town limits on a mutual aid or reciprocal basis.

§ 33.34 MAYOR'S EMERGENCY AUTHORITY.

In an emergency, the Mayor may authorize the dispatch of Fire Department equipment and personnel beyond the town limits.

(Ord. 1981; Am. Ord. 2005-7, passed 6-24-05)

FIRE ALARM ORDINANCE

§ 33.40 ESTABLISHMENT.

(A) This jurisdiction finds that a high incidence of False Fire Alarms and/or Nuisance Fire Alarms causes a significant misuse of the manpower and resources of the public safety agencies by causing the dispatch of emergency units to the scene of a Nuisance Fire Alarm or False Fire Alarm, which renders them out of service and unavailable to respond to legitimate emergency situations; and,

(B) This jurisdiction finds that the continued high incidence of False Fire Alarms and/or Nuisance Fire Alarms are a threat to the health, safety and welfare of the citizens of the County of Polk; and,

(C) This jurisdiction finds that the procedures and Fees for multiple False Fire Alarms and Nuisance Fire Alarms would serve the public health, safety and welfare.

§ 33.41 PURPOSE.

(A) The purpose of this Ordinance is to encourage Owners and Alarm Businesses to properly use and maintain the operational effectiveness of Fire Alarm Systems in order to improve the reliability of Fire Alarm Systems and reduce or eliminate False Fire Alarms and Nuisance Fire Alarms.

(B) This Ordinance governs Fire Alarm Systems intended to summon fire personnel, and requires registration, assessment of fees for excessive False Fire Alarms and Nuisance Fire Alarms, provides procedures for repeat offenders, provides for the severability of the parts hereof if declared invalid, and provides an effective date.

(C) This Ordinance does not govern the individual homeowner installing his own fire alarm system. If, once installed, the fire alarm system becomes a monitored system as defined in this Ordinance, it will then be governed by this Ordinance.

§ 33.42 DEFINITIONS.

As used in this Ordinance, the following words and terms shall have the following meanings:

ADOPTED CODE(S) means code adopted by the jurisdiction and in the absence of adopted code, the National Fire Protection Association, National Fire Alarm Code 72 (NFPA 72) and the National Fire Protection Association Life Safety Code 101 (NFPA 101) and the Town of Tryon Fire Prevention Ordinance.

ALARM BUSINESS means any individual, partnership, corporation or other entity that is appropriately licensed in the state/jurisdiction and installs, causes to be

installed, permits to be installed, alters, maintains, repairs, replaces or services (including Runner Services) any Fire Alarm System.

ALARM INITIATING DEVICE means a device that is designed to respond either manually or automatically to smoke, fire, or activation of a fire suppression system.

FIRE ALARM SYSTEM means a system or portion of a combination system consisting of components and circuits arranged to monitor and/or exterior annunciate the status of an alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals.

COMMERCIAL means concerning business or marketing.

ENFORCEMENT OFFICIAL means the Fire Chief or their designated representative.

FALSE FIRE ALARM means the activation of any Fire Alarm System which results in a response by a public safety agency and which is caused by the negligence or intentional misuse of the Fire Alarm System by the Owner, its employees, agents or any other activation of a Fire Alarm System not caused by heat, smoke or fire, exclusive of a Nuisance Fire Alarm.

FEE means the assessment of a monetary charge payable to the Town, fire department or jurisdiction authorized pursuant to this Ordinance, to defray the expenses of responding to a False Fire Alarm or Nuisance Fire Alarm.

FIRE ALARM ACTIVATION REPORT means a document issued by the Enforcement Official indicating that the activation was deemed to be the result of fire alarm activation due to fire, a Nuisance Fire Alarm, or a False Fire Alarm.

MONITORED SYSTEM means the process by which an Alarm Business receives signals from a Fire Alarm System and notifies emergency forces and/or a fire alarm system that once it is installed has the ability to notify emergency forces either through an alarm business or through dialing 911.

NUISANCE FIRE ALARM means the activation of any Fire Alarm System, which results in a response by the fire department, caused by mechanical failure, malfunction, improper installation, lack of proper maintenance or any other response for which the public service personnel are unable to determine the apparent cause of the alarm activation.

OWNER means any person who owns the Premises in which a Fire Alarm System is installed or the person or persons, who lease, operate, occupy or manage the Premises.

PREMISES mean any building, structure or combination of buildings and structures.

QUALIFIED ALARM TECHNICIAN means any person who inspects, installs, repairs or performs maintenance on Alarm Systems. This person shall be: a) factory trained and certified; b) National Institute of Certification in Engineering Technologies (NICET) Fire Alarm Level II certified; or c) licensed or certified by state or local authority.

RECORD OF COMPLETION means the completion of a form equivalent to the record of completion form included in the National Fire Protection Association's National Fire Alarm Code (NFPA 72).

REGISTRATION means the notification by an Owner to the Town of Tryon that a Fire Alarm System has been installed and is in use.

REPORT OF SERVICE/REPAIR means appropriate documentation in a format acceptable to the Enforcement Official that verifies proper repairs or maintenance have been performed by both the Alarm Business and the Owner.

SERVE shall mean hand-delivery of written notification by a representative of the jurisdiction to the Owner or authorized representative who responded to the Premises as the result of the alarm. In the event the Owner or authorized representative fails to respond to the Premises within thirty (30) minutes, Serve shall mean placing the form or other matter in the United States mail; postage prepaid, addressed to the Owner or authorized representative.

§ 33.43 REGISTRATION OF FIRE ALARM SYSTEM.

(A) A one-time Registration shall be required for Fire Alarm Systems and whenever a Record of Completion is prepared, in accordance with Adopted Codes.

(B) Upon receipt of a completed Registration form, a Fire Alarm Permit shall be issued. Fire Alarms operating prior to October 16, 2007 are required to have a permit within one hundred twenty (120) days from the effective date of the ordinance.

(1) The Owner shall be assessed a fee of as set forth in the Town's Schedule of Fees and Charges if he fails to register an alarm system as set forth in this Ordinance.

(C) The Owner shall be required to re-register whenever there is a change in the Alarm Business responsible for maintaining, servicing, and/or monitoring the Fire Alarm System.

(D) Registrations shall not be transferable from one Premise to another or from one Owner to another.

(E) Every Alarm Business shall notify the Polk County Communications Office of the existence of a Fire Alarm System prior to the Fire Alarm System being put into operation. It shall be the responsibility of the installing Alarm Business to provide the Owner with notice of the existence of this Ordinance, a Registration form and a copy of the Fire Alarm System operation instructions in accordance with Adopted Codes, and the manufacturer's instructions.

(F) The Registration form shall include the following information:

(1) The name(s), address of the Premises, mailing address (if different from the address of the Premises), business and home telephone number of the Owner, lessee, operator, manager or person in possession of the Premises wherein the Fire Alarm System is installed;

(2) The name, address and telephone number of a minimum of two (2) persons who can be notified by the Enforcement Official, in the event of the activation of the Fire Alarm System, who shall be capable of responding to the Premises within 30 minutes, and who are authorized to enter the Premises to ascertain the status thereof.

(3) The name, address and telephone number of the Alarm Business which has contracted to service the Fire Alarm System and proof of proper state licensing/registration with the Enforcement Official, if required. Proof of proper state licensing may be a valid state licensing number.

(4) The date the Registration is signed or the Fire Alarm System is placed in operation for any reason; and,

(5) Any other documentation that is required by the Adopted Codes.

(G) A Registration Fee set forth in the Town's Schedule of Fees and Charges, as amended from time to time, shall be paid at the time of Registration or Re-Registration.

(H) When any of the information required in §34.43(F)(1), 3(F)(2), or 3(F)(3) has changed, it shall be reported to the Town of Tryon by the Owner within thirty (30) days of the Owner becoming aware of such change;

(I) The Owner shall complete and deliver the Alarm System Registration in the required format to the Town of Tryon before the Fire System is activated or placed into service. The Alarm Business, when authorized by the Owner, may assist the Owner in accomplishing this submission of the Fire Alarm Registration to the Town of Tryon.

§ 33.44 INSPECTION, TESTING & MAINTENANCE.

(A) The Owner shall ensure that all Fire Alarm Systems are inspected and tested at least once per year in accordance with Adopted Codes.

(B) The Owner shall ensure that all Fire Alarm Systems are periodically maintained per manufacturer specifications and Adopted Codes.

§ 33.45 FIRE ALARM ACTIVATION; RESPONSE.

(A) The Owner shall be responsible for the activation of a Fire Alarm System.

(B) A response to the activation of a Fire Alarm System shall result when any officer or member of a public service agency is dispatched to the Premises where the Fire Alarm System has been activated.

(1) At the time of response, the Enforcement Official shall notify any person identified in the Registration required pursuant to §34.43(F) (1-3) of the activation of the Fire Alarm System and shall require such person to respond to the Premises.

(2) In the event the Fire Alarm System is a Monitored System, it is the responsibility of the company monitoring the Fire Alarm System to notify any person identified in the Registration at the request of the Enforcement Official.

(3) In the event the household Fire Alarm System is a Monitored System, it is the responsibility of the Alarm Business to offer the owner the option to verify the Fire Alarm signal before dispatch, as allowed by Adopted Code.

(C) The officer or member of the public service agency who responded to said Premises shall serve the Owner or authorized representative with a Fire Alarm Activation Report.

§ 33.46 NUISANCE FIRE ALARMS.

In the event the activation of a Fire Alarm System is deemed by the Enforcement Official to be a Nuisance Fire Alarm, the Owner shall be served with a Fire Alarm Activation Report by an officer or member of the public service agency, indicating that the activation was deemed to be the result of a Nuisance Fire Alarm.

§ 33.47 SERVICE FEES.

(A)The provisions of this Section shall not apply to any newly installed Fire Alarm System for a period of forty-five (45) days from the date of installation, but shall apply from and after the expiration of the initial forty-five (45) day period following installation.

(B) Should any Fee assessed pursuant to this Ordinance remain unpaid in excess of ninety (90) days from the date Fee is billed, the Town shall have the right to levy a lien upon the land or the premises where the response arose and the levy shall be collected in the same manner as unpaid taxes pursuant to authority of North Carolina General Statute 160A-193.

(C) Fees should be paid according to established policy (See Appendix A-Service Fee Policy).

(D) False Fire Alarm

(1) No fee shall be assessed for the first two (2) False Fire Alarms at the same Premises responded to by a public service agency each calendar year. Thereafter, the Owner shall pay the Fees for False Fire Alarms set forth in the Town's Schedule of Fees and Charges, as amended from time to time, for such alarms responded to by the public service agency at the same Premises during each calendar year.

(2) Notwithstanding the provisions of §33.47(D)(1), the Alarm Business shall be assessed a Fee, set forth in the Town's Schedule of Fees and Charges, if an Enforcement Official determines that a False Fire Alarm was directly caused by an onsite employee or representative of the Alarm Business. In this event, no False Fire Alarm shall be counted against the Owner and the Owner shall not owe any fee for such alarm.

(3) False Fire Alarms activated by any components connected to the Fire Alarm System shall be included in computing the total number of False Fire Alarms for purposes of this subsection.

(4) The activation of a Fire Alarm System will not be considered a False Fire Alarm if the alarm is activated due to malicious causes beyond the control of the Owner.

(E) Nuisance Fire Alarms

(1) The Owner shall pay the Fees for Nuisance Fire Alarms set forth in the Town's Schedule of Fees and Charges, as amended from time to time, for such alarms responded to by the public service agency at the same Premises during each calendar year.

(2) In the event the Premises are equipped with an Alarm System with over one hundred (100) Alarm Initiating Devices, the Enforcement Official may waive one Nuisance Fire Alarm per calendar year.

§ 33.48 REMEDIES AND PENALTIES.

(A) The Enforcement Official shall have the authority to direct the Owner of the Premises to silence an activated Alarm System, have corrective action taken and thereafter reset it.

(B) Anyone convicted of falsifying reports as required under this Ordinance is subject to maximum penalty as established by state law.

§ 33.49 CONFIDENTIALITY.

Any information supplied to the Enforcement Official shall be held in confidence by all employees or representatives of the Enforcement Official and by any third-party administrator or employees of a third-party administrator with access to such information.

§ 33.50 APPEAL.

(A) Any fire alarm user who has been assessed a penalty or whose application for a permit has been denied, or whose permit has been revoked under this ordinance may request in writing, a hearing with the Board of Commissioners of the Town of Tryon within ten (10) days of the issuance of the penalty or denial. The Board of Commissioners shall schedule a hearing on the matter within a reasonable time from the date the notice of appeal is filed.

(B) Failure to perfect an appeal within the time and in the manner provided for in this section shall constitute a waiver of the right to appeal.

(C) Appeal of decisions render by the Board of Commissioners of the Town of Tryon will be as allowed by North Carolina General Statute and North Carolina case law.

§ 33.51 GOVERNMENT IMMUNITY.

Registration of a Fire Alarm System is not intended to, nor will it, create a contract, duty or obligation, either express or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. When registering a Fire Alarm System, the Owner acknowledges that the public service agency response may be based on factors such as: availability of fire department units, priority of calls, weather conditions, traffic conditions, emergency conditions, and staffing levels. The Town, its officers, employees and agents shall not assume any duty or responsibility for the installation, maintenance, operation, repair or effectiveness of any privately owned Alarm System, those duties or responsibilities being solely those of the Owner of the Premises.

§ 33.52 SEVERABILITY.

The provisions of this Ordinance are severable. If a court determines a word, phrase, clause, sentence, paragraph, subsection, section, or other provision invalid or that the application of any part of the same to any person or circumstance is invalid, the remaining provisions and the application of those provisions to other persons or circumstances are not affected by that decision.

(Ord. 2007-25, passed 10-16-07; Am. Ord. 2010-04, passed 02-16-10)