

**TOWN OF FREDERICA
ORDINANCE NO. 22-01**

**AN ORDINANCE ESTABLISHING CHAPTER 200 OF THE
FREDERICA CODE RELATING TO FIRE PREVENTION AND
PROTECTION**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN
OF FREDERICA IN COUNCIL MET:

That Chapter 200 of the Frederica Code be established to read as follows:

Article I – In General.

§200-1. – Definitions.

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automatic telephone dialing device and digital alarm communicator system means an alarm system which automatically sends a prerecorded voice message or coded signal over regular telephone lines, by direct connection or otherwise, indicating the existence of the emergency situation that the alarm system is designed to detect.

Barbecuing—Commercial means the preparation and cooking of food by way of gas grill, charcoal grill, or other apparatus used for the cooking of food by way of flame produced through wood, charcoal, or gas for the purpose of cooking food for the sale to and/or consumption by the general public.

Barbecuing—Recreational means the preparation and cooking of food by way of gas grill, charcoal grill, or other apparatus used for the cooking of food by way of flame produced through wood, charcoal, or gas for the purpose of cooking food for the consumption by a family and/or guests or by the membership of a private organization or church congregation.

Bollard means a solid post that conforms to the dimensions outlined in this section which is constructed of concrete, steel, or other durable material

approved by the Code Enforcement, cored into a hard surface that is buried in the ground, designed to protect buildings and utilities by absorbing the impact of a motor vehicle collision.

Code enforcement officer shall mean fire marshal, police officers, and inspectors employed by the Town.

Emergency shall mean any situation where the Frederica Fire Department or any assisting fire department is called to perform firefighting, rescue, or lifesaving operations within the limits of the Town.

Fire alarm installation report means a report, in a form approved by the fire marshal and/or Code Enforcement officer, with the following minimum information:

- (1) The name, address, business and home telephone number of the owner, lessee, operator, manager, or person in possession of the premises wherein the alarm system is installed.
- (2) The name, address, and telephone number of a minimum of two persons who can be notified by the Frederica Fire Company in the event of the activation of the 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.

Fire alarm malfunction means the activation of any alarm, which results in the response of the fire department, caused by mechanical failure, malfunction, improper installation, or lack of proper maintenance.

Fire alarm system means any mechanical, electrical or radio-controlled device which is designed to emit a sound or transmit a signal or message when activated or any such device which emits a sound and transmits a signal or message when activated because of smoke, heat or fire. Without limiting the generality of the foregoing, the term "fire alarm system" shall be deemed to include audible alarms at the site of the installation of the detection device, proprietor alarms and automatic telephone direct dial devices or digital alarm communicator systems. A single station alarm device shall not be deemed to be an alarm system under this section.

Fire alarm technician means any person who inspects, installs, repairs or performs maintenance on fire alarm systems and is licensed by the state or works under a state licensed alarm contractor.

Fire protection system shall include any electronic or mechanical system designed and installed to detect and alert, suppress, or seal off smoke and fire from the occupants of a building.

Impact protection means any bollards, walls, concrete barriers or other devices, subject to the approval of the fire marshal or Code Enforcement, used to stop vehicles or equipment in motion.

Impairment means any effective lessening of the equipment to operate as designed, including times of maintenance and annual testing.

Means of egress means the most current edition of the National Fire Prevention Association Life Safety Code shall be used to determine the definition of the term "means of egress."

Open burning means 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.

Operative alarm system means an alarm system which the owner of a premises is required to maintain in an operative condition pursuant to statute, law, ordinance, rule, or regulation of the State or the Town.

Outdoor fireplace means any homemade or commercially produced fireplace, fire pit, or fire ring used for the kindling of wood.

Owner means any person who owns the premises in which an alarm system is installed or the person or persons who lease, operate, occupy or manage the premises.

Premises means any building or structure, or combination of buildings and structures, which serve as dwelling units, single-family or multifamily, or any other area within a building or structure, or combination thereof, which is used for any purpose, other than residential, wherein an alarm system is installed.

Preventable alarm means the activation of any alarm, which results in the response of the fire department, caused by the negligence or intentional misuse of the system by the owner or his/her employees, servants or agents; or any other activation not caused by heat, smoke or fire, exclusive of a "fire alarm malfunction" as defined in this section. An alarm is not considered a preventable alarm if the alarm is activated due to malicious causes beyond the control of the owner.

Serve means hand-delivery, by a representative of either the fire department or police department, to the owner or authorized representative who responded to the premises. In the event the owner or authorized representative fails to respond to the premises within 30 minutes, the term "serve" shall mean placing the form or other matter in the United States mail, addressed to the owner or authorized representative.

Single-station alarm device means an assembly incorporating the detector, control equipment and alarm-sounding device in one unit, operated from a power supply either in the unit, or obtained at the point of installation.

§200-2. – Means of egress.

(a) Obstructions. The means of egress for an occupancy shall be kept continuously free of all obstructions or impediments to full instant use in case of fire or emergency.

(b) Exit doors. All required exit doors shall be unlocked and under the control of the occupants within the building or area. This subsection is to include fenced-in outdoor events.

(c) Duty of owner, manager. It shall be the responsibility of the owner, manager, principal, or any other person responsible for the day-to-day operations of the occupancy to ensure that exits are unobstructed and unlocked prior to the opening of the occupancy to the general public.

(d) Merchandise in exits. In mercantile occupancies, merchandise is prohibited from being displayed in any required exit access, exit, or exit discharge. Merchandise may be displayed in the exit access, exit, or exit discharge of mercantile occupancies that have submitted a written plan for the display of such merchandise and the plan has been reviewed and approved by the fire marshal's office and/or code enforcement.

(e) Penalties. If any exit access, exit, or exit discharge, with the exception of a locked exit door, is found to be in violation of this section, a fine in the amount of \$100.00 for the first offense, and \$200.00 for the second or subsequent offense shall be issued. Any required exit door found to be locked against egress shall be in violation of this section and a \$100.00 fine for each locked exit shall be issued for a first offense, \$200.00 for any subsequent offense.

§200-3. – Obedience to state fire and safety laws and regulations.

(a) Health and safety laws. No person shall violate any of the provisions of Title 16, Chapter 65—74, part VI of the Health and Safety of the Delaware Code (16 Del. C. §§ 6501—7418). The penalties for such violations issued by the Town shall be in accordance with those issued by the State for the same offense.

(b) Fire prevention regulations. No person shall violate any of the provisions of the most recently adopted State Fire Prevention regulations as now or hereafter amended. The penalties for such violations shall be in accordance with those issued by the State for the same offense.

§200-4. – Impairment of fire protection equipment.

(a) Prohibited. It shall be a violation of this Chapter for any owner, renter, lessor, or contractor, after having been notified, in writing, by the fire marshal or Code Enforcement officer of any impairment to fire protection equipment, including but not limited to fire hydrants, fire alarm systems, sprinkler systems, commercial cooking ventilation and fire suppression systems, standpipes, and smoke removal or pressurization systems, to allow it to remain impaired for any time beyond that allowed by the fire marshal, or Code Enforcement officer.

(b) Impairment of fire protection systems. All fire protection systems, devices, units, and service equipment shall be maintained in an operational condition at all times, and it shall be unlawful for any person owning, controlling, or otherwise having charge of any fire protection system, to willfully or knowingly tamper with or impair the system from operating as designed without proper approval. An approval form may be obtained from Code Enforcement or the fire marshal's office. Approvals will not be required for temporary impairments caused by periodic testing and inspection. Any impairment which will render the system non-operational or

out of service for more than eight hours for testing and inspection purposes must be approved prior to the start of work.

(c) Notification required. The owner, tenant, or contractor shall notify the Frederica Fire Company of any impaired fire protection equipment, and shall renotify the Frederica Fire Company when the fire protection equipment has been restored to normal service. Certification from the repairing contractor shall be required to verify that the system has been fixed and is functioning as designed.

(d) Fire watch required. When any impairment would cause a sprinkler system not to operate or a fire alarm system not to detect and signal a fire, and if the building is to remain occupied, a fire watch shall be established in that building or that portion of a building affected. It shall be the responsibility of the owner or tenant to set up the fire watch. The fire watch shall consist of an hourly check of the building or portion of the building affected, and a log kept, there stating the date, time of the checks, and who was making the checks. This log shall be accessible for immediate inspection by the fire marshal or Code Enforcement officer.

(e) Authority of fire marshal and Code Enforcement officer. The fire marshal and/or the Code Enforcement officer is authorized to close any such building or property where fire protection equipment is found to be impaired or non-operational to ensure the life safety of the occupants.

(f) Fines. Any owner, occupant, contractor or body corporate found to be in violation of this section shall be issued a \$100.00 fine for the first offense and \$200.00 fine for second and subsequent offense.

§200-4. - Impact protection of natural gas and LP gas devices.

All natural gas and LP gas installations shall be installed per adopted NFPA and International codes, with the following amendments:

(a) When required. The installation of natural gas and LP gas meters, regulators, valves, and LP gas bottles shall be protected from impact damage by impact protection. Natural gas and LP gas meters, regulators, and valves located inside structures shall have impact protection, except when located in separate protected utility rooms. The Code Enforcement officer and/or chief building inspector shall reserve the right to apply this section whenever

it is deemed necessary to provide impact protection to address a life or fire hazard.

(b) Dimensions of bollards. Bollards shall be a minimum of six-inch diameter filled with concrete. The bollard shall be set into the ground at a depth of at least 36 inches embedded in concrete at a minimum of 18 inches surrounding the bollard. The bollards must be a least 48 inches in height above the finish grade elevation. Any deviation of the stated requirements must be approved by the Code Enforcement officer and/or chief building inspector. The above dimensions shall serve as the requirement for installation; however, the Code Enforcement officer and/or chief building inspector shall have the authority to require more stringent dimensions to fit the needs of devices warranting impact protection.

(c) Color of bollards. Bollards should be of the following colors; yellow, amber or orange. All colors shall be of fluorescent or have a reflective coating. Any deviation of the stated requirements must be approved by the Code Enforcement officer and/chief building inspector.

(d) Responsibility. It shall be the responsibility of the property owner and/or contractor for the new installation to ensure that natural gas and LP gas meters, regulators, and valves are protected in accordance with these regulations.

(e) Compliance period. All new construction projects shall comply with the provisions of this section. All existing multiple dwellings, schools, nursing homes, hospitals, and day care centers shall be protected in accordance with this section. All other existing structures shall be protected when deemed a life or fire hazard by the Code Enforcement officer or fire marshal.

(f) Exemptions. Single-family homes, including townhouses, duplexes, and manufactured housing, except where natural gas and LP gas devices are located directly in front of head-in parking spaces and driveways, and where the Code Enforcement officer or fire marshal deems that impact protection is not necessary, shall be exempt from this section.

§200-5. - Open burning.

- (a) Permit required. Open burning of structures, brush, or bonfires shall not be permitted without a permit obtained from the fire marshal or Code Enforcement officer.
- (b) Fire dimensions. Open burning, when permitted, shall be kindled in such a manner as not to be a danger to other campers, recreational vehicles, tents, or structures, and shall not be of a size greater than 18 inches by 18 inches by 18 inches. Height of the fire shall be measured from the ground or from the bottom of the inside of the container being used to kindle the fire. Open burning shall not be kindled directly on the ground unless contained in a fire ring.
- (c) Fire clearances and time restrictions. Outdoor fireplaces shall have 36 inches clearance from all combustibles when in use. Portable fireplaces, fire pits, or fire rings shall be extinguished in a residential area between the hours of 12:00 midnight and 8:00 a.m.
- (d) Commercial barbecuing. Commercial barbecuing shall be permitted under the following conditions:
- (1) The location has been approved by Town licensing and inspections and/or the Code Enforcement officer, and an outdoor public gathering permit has been obtained.
 - (2) One fire extinguisher of not less than five pounds ABC is to be located within ten feet of the cooking area. Cooking area and cooking fuels shall be secured from public access.
 - (3) Approval from the board of public health has been obtained.
 - (4) The operator shall make all reasonable attempts to avoid causing a nuisance to nearby property owners with smoke, fumes, or sparks.
 - (5) All compressed flammable gas containers used for cooking shall be secured in such a way as to prevent them from being knocked, tipped, or blown over.

Any commercial barbecuing operations which are a continual nuisance because of smoke, fumes, or sparks shall be terminated by the Code Enforcement officer or fire marshal and the outdoor public gathering permit revoked until such time as the planning and zoning and/or code enforcement is satisfied that the problem has been corrected.

Barbecuing of any kind shall not be kindled within 200 feet of any fuel pump or storage tank fill. Cooking grease shall not be disposed of by placing it directly on the ground or in storm water drains.

(e) Prohibited.

(1) Multifamily residential dwelling units. In apartment buildings, condominiums, or any other multifamily residential dwelling of three or more units by any other name, the storage of propane tanks inside units or on balconies is prohibited. Recreational barbecuing shall be prohibited on any balcony or under any overhanging portion or within 15 feet of any structure, except that the use of electrical ranges or electrical grills shall be permitted. The use of outdoor fireplaces on balconies is prohibited.

(2) Unattended burning. It shall be prohibited for open burning, commercial barbecuing, and outdoor fireplaces to be unattended at any time. In the event that any open burning, commercial barbecuing, or outdoor fireplaces are found to be unattended, the fire marshal or Code Enforcement officer shall order the open burning extinguished.

(f) Fines. Any owner, occupant, contractor, or body corporate found to be in violation of this section shall be issued a fine not less than \$50.00, nor more than \$1,000.00.

(g) Authority of the fire marshal and Code Enforcement officer(s). The fire marshal and/or Code Enforcement officer is authorized to impose a ban on open burning if weather conditions do not safely permit open burning. The fire marshal or Code Enforcement officer may order any fire extinguished that is deemed unsafe or not in compliance with this section of the Frederica Code.

§200-5. - False fire alarms generally.

(a) Prohibited. No person shall willfully make, or cause to be made, any false alarm of fire by means of the fire alarm telegraph system, or by means of any public or private alarm system, or by telephone, or by word of mouth, or by any other means of communication whatsoever.

(b) Tests. This section shall not apply to Town, State, or Federal employees who are testing such alarms or are otherwise working with the same in their normal course of employment.

§200-6. - Preventable and malfunctioning alarms to the fire company.

(a) Responsibility for malfunctioning and preventable alarms, owner response, and corrective action.

(1) Generally. The responsibility for a preventable or malfunctioning alarm shall be that of the owner of the premises in which the fire alarm system is installed. A response to a preventable or malfunctioning alarm shall result when any fire marshal or member of the fire department shall be dispatched to the premises where the alarm has been activated or learns of the activation of the alarm system, by any means whatsoever, and responds thereto by traveling to that premises. After responding to a malfunctioning or preventable alarm, the responding official shall notify the owner or his/her authorized representative and such person shall thereupon travel to the premises to ascertain the status thereof. Should the person notified fail to appear at said premises within 30 minutes after being notified to do so, the fire marshal or code enforcement officer may issue the owner of the premises a fine in the amount of \$100.00. The official or member of the fire department who responded to said premises shall notify the Code Enforcement officer.

(2) Malfunction. In the event of a fire alarm deemed by the responding official to be the result of a fire alarm malfunction, the owner will be served a notice of violation form, indicating that the activation was deemed to be the result of a fire alarm malfunction, and requiring the owner to provide documentation that the fire alarm component that caused the fire alarm malfunction has been corrected, to the satisfaction of the Code Enforcement officer, and that the fire alarm system in question has actually been examined by a fire alarm technician and that a bona fide attempt has been made to identify and correct any defect of design, installation, or operation of the fire alarm system which was identifiable as the cause of the fire alarm malfunction. Failure to return documentation of service/repair

within the period of time stated on the notice of violation, which is satisfactory to the Code Enforcement officer, will result in assessment against the owner of a fine for the fire alarm malfunction.

- (b) Fine charges; multiple fire alarm malfunctions or preventable alarms.
 - (1) Amount of fine. A \$100.00 fine shall be assessed for the third and subsequent malfunctioning or preventable alarms at the same premises responded to by the fire department within the prior 12-month period. Thereafter, the fourth subsequent offense shall be a \$200.00 fine, a fifth subsequent offense shall be a \$250.00 fine, and any offense greater than the fifth shall be a \$250.00 fine for each alarm. The fine(s) shall be paid by the owner for each preventable or malfunctioning fire alarm responded to by the fire department at the same premises during a 12-month period beginning with the date of the first alarm.
 - (2) Panel reset. Once a preventable alarm or fire alarm malfunction has been responded to by the fire department, it shall be unlawful for the alarm panel to be reset by any person until the authorization of the fire department has been obtained. A \$50.00 fine may be assessed to the owner of a premises where the fire alarm has been reset before the fire department or assisting fire department arrives, and \$100.00 for second or subsequent offenses.
 - (3) Insufficient alarms. When any premises are protected by a fire alarm system that, in the opinion of the Code Enforcement officer, or his/her designee(s), will not safely alarm the occupants of a fire, the Code Enforcement officer or his/her designee(s) may close said building, or a portion of said building, to human occupancy until the problem with the fire alarm is corrected and a written report from a licensed fire alarm company is submitted to the Code Enforcement officer.

§200-7. - Maintaining a known violation or hazard.

- (a) Known violation or hazard. Any person is guilty of maintaining a known violation or hazard if:

- (1) After having been informed in writing by a Code Enforcement officer of a violation of the fire code, property maintenance code, a Town ordinance, or state law existing on property he or she owns or occupies, he or she fails to correct the said violation;
- (2) He or she prevents a fire protection system from functioning as designed;
- (3) He or she knows that a fire protection system will not function as designed and takes no action to repair the fire protection system;
- (4) He or she interferes with any occupant's egress from a building;
- (5) He or she knows of an obstruction that would interfere with any occupant's egress from a building and takes no action to remove the obstruction;
- (6) He or she engages in any act, written or verbal, within Town limits that obstructs, delays, hinders or interferes with the operations of the fire department during an emergency.

(b) Penalties.

- (1) Any fines issued for violation of this section shall not be less than \$25.00, nor more than \$1,000.00.
- (2) Occupancies that continue to maintain a known violation or hazard may be closed by the code enforcement officer until such time as all violations and hazards have been corrected.

§200-8. - Report of fires required; spreading of alarm.

It shall be the duty of the owner, manager, occupant, responsible person or any person in direct control of any building or premises of any kind, upon discovery of a fire, or evidence of there having been a fire even though it has apparently been extinguished, or upon receiving information that there is or was a fire on the premises, to immediately and with all reasonable dispatch and diligence call or otherwise notify the fire department of the existence, circumstances, and location of such fire and to spread an alarm to all occupants of the building. This requirement shall not be construed to forbid any person to use all diligence necessary to extinguish such fire prior to the arrival of the fire department.

§200-9. - Unlawful regulation or order.

No person shall make, issue, post, or maintain any regulation or order, written or verbal, that would require any person to take any unnecessary delaying action prior to reporting a fire to the fire department.

Article II – Public Occupancies

§200-15. – Compliance required.

No person shall use or permit to be used any public occupancy structure which does not comply with the most currently published edition of NFPA Life Safety Code 101. Public Occupancies shall include but not be limited to:

- (a) Assembly occupancy (facilities used for gathering of 50 or more people to include, but not be limited to auditoriums, assembly halls, auditoriums, bowling lanes, club rooms, college and university classrooms with 50 or more persons, conference rooms, courtrooms, dance halls, drinking establishments, exhibition halls, gymnasiums, libraries, mortuary chapels, motion picture theaters, museums, passenger stations and terminals of air, surface, underground, and marine public transportation facilities, places of religious worship, pool rooms, recreational piers, restaurants, skating rinks, special amusement buildings, theaters)
- (b) Educational occupancy (academies, kindergartens, schools)
- (c) Day Care occupancy (adult, child, homes, nursery)
- (d) Health Care occupancy (hospitals, limited care facilities, nursing homes)
- (e) Ambulatory Health Care occupancy (facilities used to provide services or treatment simultaneously to four or more patients that provides, on an outpatient basis, one or more of the following: 1. Treatment for patients that renders the patients incapable of taking action for self-preservation

under emergency conditions without the assistance of others 2. Anesthesia that renders the patients incapable of taking action for self preservation under emergency conditions without the assistance of others 3. Treatment for patients who, due to the nature of their injury or illness, are incapable of taking action for self-preservation under emergency conditions without the assistance of others.)

(f) Residential occupancy (lodging or rooming houses, hotel, dormitory, apartment buildings, bed and breakfast inns, short term rentals)

(g) Residential Board and Care occupancy (group housing, facilities for social rehabilitation, alcoholism, drug abuse or mental health; assisted living)

(h) Mercantile occupancy over 10,000 square feet (auction rooms, department stores, drugstores, restaurants with fewer than 50, shopping centers, supermarkets)

(i) Business occupancy over 10,000 square feet (Town halls, college and universities instructional buildings, classrooms under 50 persons and laboratories, courthouses, dentist's office, doctor's office, general office, outpatient clinics (ambulatory), town halls)

(j) Industrial occupancy (dry-cleaning plant, factories of all kinds, food processing plants, gas plants, hangars, laundries, power plants, pumping stations, refineries, sawmills, telephone exchanges)

(k) Storage occupancy over 10,000 square feet (barns, bulk oil storage, cold storage, freight terminals, grain elevators, hangars, parking structures, truck and marine terminals, warehouses)

(l) Assembly occupancy - special provisions 1 (to include, but not be limited to outdoor facilities which are not part of the normal every day operation of the building/land use and are subject to a Town of Frederica

current special event permit)

(m)Assembly occupancy - special provisions 2 (to include, but not be limited to Special Amusement Buildings, carnivals, circus, fireworks, pyrotechnic displays, outdoor music concerts/festivals, special events)

Repealer: All ordinances and part of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Effective Date: This ordinance shall become effective thirty days after adoption.

ORDAINED AND ENACTED INTO THE LAW by a majority vote of the Council Members present at a regular session of Frederica Town Council, Delaware on the 2 day of February, A.D. 2022.

First Reading: January 19, 2022

Public Hearing and Second Reading: February 2, 2022

Published: March 2, 2022



William C. Glanden, Mayor

I do hereby certify that the foregoing is a true and correct copy of the Ordinance passed by the Town Council at its meeting on February 2, 2022 at which meeting a quorum was present and voting throughout that the same is still in full force and effect.



Clerk

SYNOPSIS

This Ordinance establishes Chapter 200 of the Code related to Fire Prevention and Protection.