

**CHAPTER III - FIRE PREVENTION**

**SECTION I FIRE AND LIFE SAFETY CODES**

- A. The provisions of the New Hampshire State Fire Code Saf-C 6000 (NFPA 1) shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.
- B. The provisions of the New Hampshire State Fire Code Saf-C 6000 (NFPA 1) and the referenced codes and standards therein are hereby adopted as part of this Chapter, as allowed under the provisions of RSA 153:14, except where amended or modified herein.

**C. EXCEPTIONS AND VARIANCES to the STATE FIRE CODE**

The state fire marshal shall retain exclusive authority to grant exceptions or variances to the state fire code to the extent that such action will provide a degree of safety substantially equivalent to that provided under the provisions from which the exception or variance is granted.

**D. PLACES OF ASSEMBLY**

Pursuant to the provisions of RSA 155:1 no "Places of Assembly" shall be erected or used in any manner as to endanger the health and safety of persons who may occupy them. No person shall own or operate a place of assembly within the Town of Londonderry unless licensed so to do by the licensing agency, in accordance with the provisions of RSA 155:18.

**SECTION II DEFINITIONS - Add the following definitions to all codes adopted by reference in this ordinance:**

- A. The terms "authority having jurisdiction" "official" and "fire official" shall mean the Fire Chief as delegated by the state fire marshal and his designee or designees.
- B. The terms "designee" or "designees" shall mean anyone appointed by the Fire Chief to enforce the provisions of this Chapter.

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**SECTION II DEFINITIONS (Cont'd)**

- C. "Licensing agency" shall mean the chief of the fire department, or the Fire Chief's designee.
- D. "Places of assembly" , as defined by RSA 155:17, shall mean a room or space in which provision is made for the congregation or assembly of 100 or more persons for religious, recreational, educational, political, social or amusement purposes or for the consumption of food or drink.

**SECTION III INSPECTION RESPONSIBILITIES**

**A. SCHOOL BUILDINGS**

It shall be the responsibility of the Fire Chief, or his designee, to annually inspect all school buildings in the Town of Londonderry, as required by the provisions of RSA 153:14, II. (b). The Fire Chief shall submit a written report to the state fire marshal detailing any state fire code compliance issues no later than December 15<sup>th</sup> each year. A copy of the report shall be provided to the school superintendent and school board members.

**B. PLACES OF ASSEMBLY**

All "Places of Assembly", in the Town of Londonderry shall be required to obtain a license to operate from the "Licensing Agency" annually. The "Licensing Agency" is authorized to conduct inspections, in accordance with the provisions of RSA 155:34, and to issue written orders for correction of any life safety deficiencies.

**C. OTHER BUILDINGS (non-residential)**

Any building equipped or to be equipped with a fire suppression system or fire detection system shall be inspected by the fire department for the purpose of assuring that the system is properly functioning, annually tested and meets the New Hampshire State Fire Code Saf-C6000.

Any building that contains processes or storage of materials that are considered dangerous, hazardous, combustible or flammable shall be inspected by the fire department to determine that all are in compliance with the New Hampshire State Fire Code Saf-C6000.

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**SECTION IV PENALTY**

- A. Penalty for Violation. Any person, firm or corporation violating any of the provisions of any code or referenced standard adopted by this Chapter shall be subject to the fines and penalties as prescribed by RSA 674:15 and 676:17.

**SECTION V FIRE PERMITS, FEE SCHEDULE**

- A. The Town has voted to adopt a fee schedule for the issuance of permits by the Londonderry Fire Department. Said permits will be issued in accordance with the State Fire Code Saf-C 6000, as allowed under the provisions of RSA 153:5.
- B. Existing occupancies with renewable permits will be assessed permit fees as existing permits are renewed.
- C. The permit fee for all other permits required by adopted fire codes, with the exception of the above, shall be no greater than fifty dollars (\$50).
- D. There shall be no fee charged for permits for outside burning.
- E. Town-owned buildings shall be exempt from all permit fees.
- F. The Chief of the Fire Department or his/her designee, upon passage of this ordinance, will establish Administrative Rules governing the issuance of permits. The Town Council will review and adjust the fees as necessary every two years.

**SECTION VI MUTUAL AID SYSTEM, PUBLIC SAFETY SERVICES**

- A. Pursuant to RSA 154:30-a, the Town authorizes the Fire Department to enter a District Fire/Hazardous Materials Mutual Aid system.

**SECTION VII CONTROL AND CONTAINMENT OF HAZARDOUS MATERIALS**

- A. Authority -This ordinance is enacted under the authority of RSA 31:39, RSA 41:11, RSA 47:17 VI, and RSA 154.

**CHAPTER III - FIRE PREVENTION (Cont'd)**

**SECTION VII CONTROL AND CONTAINMENT OF HAZARDOUS MATERIALS (Cont'd)**

- B. Purpose - To provide for the control and containment of hazardous materials after accident or discharge. The purpose of this ordinance is not to impose upon the Town, or any of its officers and agents, any obligation to secure or remove any hazardous material from the Town, once safe containment of the material is made; and that nothing in the ordinance is intended to relieve any owner or person in possession of hazardous material of any obligation imposed by State or Federal law; and specifically, that nothing in this ordinance shall be deemed to permit the possession, storage, or use of hazardous materials, except in conformance with all State, Federal or Local laws.
- C. Application - This ordinance shall apply to all incidents involving hazardous waste or hazardous materials within the boundaries of the Town of Londonderry and to all persons who may possess such materials found within the Town except as prevailing State or Federal laws or regulations may take precedence and control over any such incident or person. (See RSA 146-A, RSA 147 and RSA 265:115-118 for examples of such prevailing State law at the time this ordinance is adopted).
- D. Definitions-For the purpose of this ordinance, the following definitions shall apply:
1. **Hazardous Materials.** Those substances or materials in such quantity or form which may pose an unreasonable risk to health and safety or property, which may include, but are not limited to, explosives, radioactive materials, etiologic agents, flammable liquids and solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gases which are listed by the Materials Transportation Bureau of the United States Department of Transportation in Title 49 of the Code of Federal Regulations, and any amendment thereto.
  2. **Person.** Any individual, corporation, partnership, trust or other legal entity.
  3. **User.** Any person who manufactures or transports, or owns, uses, handles, stores, or has the legal authority to control hazardous materials, specifically including their officers, directors, employees and agents.
  4. **Responsible Party.** Any individual, partnership, corporation, association, trust, or other entity partially or solely responsible for the release of any hazardous material within the Town.

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**SECTION VII CONTROL AND CONTAINMENT OF HAZARDOUS MATERIALS (Cont'd)**

5. **Cleanup.** The management, control, containment, recovery, removal or neutralization of any released hazardous material for the purpose of promoting or protecting public health or safety.

**SECTION VIII DUTY TO REPORT**

- A. Any person who causes or has knowledge of any discharge or release of hazardous materials from their safe container, in any manner which poses an actual or potential threat to people, animals, wildlife, vegetation, property, or the environment, shall immediately report the incident to the Londonderry Fire Department.

**SECTION IX CLEANUP**

- A. The user or transporter of a hazardous material which is intentionally or accidentally discharged or released within the Town shall, in addition to reporting the accident as required by Section VII of this Chapter, take immediate action to cause the discharge or release to be cleaned up in an environmentally safe and scientifically sound manner, and to restore the site and the surrounding environment.

**SECTION X INTENTIONAL DISCHARGE OR RELEASE**

- A. The intentional discharge or release of a hazardous material within the Town of Londonderry is strictly prohibited.

**SECTION XI COST RECOVERY**

- A. Upon the completion of any cleanup in which Town employees participated, all costs incurred by the Town, either within the Town or outside of the Town pursuant to the provisions of the Mutual Aid System, shall be itemized by each Town Department involved, including the Fire Department. Such costs shall include, but are not limited to
  1. The cost of cleaning, repair, restoration or replacement of any Town material or equipment used in the cleanup,
  2. The costs of any illness or injury sustained by any employee who participated in the cleanup, involved in the emergency response, and
  3. The cost of the Fire, Police, Public Safety and Municipal personnel

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**SECTION XI COST RECOVERY (Cont'd)**

4. The costs of all contracted services utilized in the cleanup.
- B. The Fire Department shall, upon receipt of these itemizations, submit a bill for the full cost of the cleanup or emergency response activities, to the responsible party or parties within thirty (30) days after the Town's response is concluded. The bill shall include a description of costs incurred. Bills for less than the full amount of these costs shall be allowed, provided that the responsible party is advised of the reason therefore and the approximate date by which it can expect to receive a complete bill.
- C. Each responsible party shall be jointly and severally liable to the Town for the costs of the cleanup for which they are responsible. Such costs may be collected by any lawful means including, but not limited to, appropriate court proceedings. All funds received from responsible parties shall be forwarded to the Finance Department for deposit in the Town treasury.
- D. Any and all costs recovered from a responsible party shall be separate from and in addition to any penalty that may be assessed for any violation of any provision of this article.

**SECTION XII PENALTIES**

- A. Any person who fails to report, as required by Section VII A. of this Chapter shall be assessed a penalty not to exceed one thousand (\$1,000.00) dollars, as provided by RSA 31:39. Each 24-hour period that the incident is not reported shall constitute a separate violation.
- B. Any person who intentionally discharges or releases, or causes another to discharge or release any hazardous materials from their safe container, in any manner which poses an actual or potential threat to people, animals, wildlife, vegetation, property, or the environment, shall be assessed a penalty not to exceed one thousand (\$1,000.00) dollars, as provided by RSA 31:39.
- C. Any person who fails to take the action required by Section VIII A. of this Chapter shall be assessed a penalty not to exceed one thousand (\$1,000.00) dollars, as provided by RSA 31:39. Each 24-hour period that a person fails to take action to cause the discharge or release of a hazardous material to be cleaned up, shall constitute a separate violation.

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**SECTION XIV REMEDY NOT EXCLUSIVE**

- A. Nothing in this ordinance shall be construed to limit any other remedy the Town may have to collect from a responsible party the cost of control and containment of hazardous materials incidents.

**SECTION XV USE OF COSTS AND PENALTIES COLLECTED**

- A. All costs and penalties collected under this ordinance shall be placed in the General Fund.

**SECTION XVI EMERGENCY OPERATIONS**

- A.. The Fire Chief of the Town of Londonderry, or his designated representative(s), shall take, and be in control of, any actions necessary to mitigate a hazardous materials incident within the Town of Londonderry, except where State or Federal agencies have jurisdiction by law.

**SECTION XVII ENFORCEMENT**

- A. The Fire Department of the Town of Londonderry shall be responsible for enforcing this ordinance.

**SECTION XVIII REPEAL**

- A. Any provision of any ordinance which is inconsistent with this ordinance is hereby repealed.

**SECTION XIX SEVERABILITY**

- A. If any section, subsection, sentence, clause, phrase, or part of this ordinance should be held invalid for any reason whatsoever, such decision shall not affect the remaining portions; which shall remain in full force and effect; and, to this end, the provisions of this ordinance are severable.

**~~End of Chapter~~**