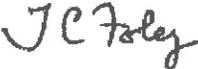


# COUNTY OF ALBEMARLE

## EXECUTIVE SUMMARY

<b>AGENDA TITLE:</b> Ordinance to Amend the Open Burning provisions in Chapter 6, Fire Protection, of the County Code	<b>AGENDA DATE:</b> January 9, 2013
<b>SUBJECT/PROPOSAL/REQUEST:</b> Adoption of an ordinance to amend Section 6-403, Definitions; Section 6-404, Prohibitions on Open Burning; Sec. 6-406, Permissible Open Burning; and Section 6-407, Permits, of Chapter 6, Fire Protection, of the County Code	<b>ACTION:</b> X <b>INFORMATION:</b>
<b>STAFF CONTACT(S):</b> Messrs. Foley, Elliott, Davis, Eggleston, Oprandy and Lagomarsino	<b>CONSENT AGENDA:</b> <b>ACTION:</b> <b>INFORMATION:</b>
<b>PRESENTER (S):</b> Mr. Howard Lagomarsino	<b>ATTACHMENTS:</b> Yes
<b>LEGAL REVIEW:</b> Yes	<b>REVIEWED BY:</b> 

### BACKGROUND:

A public hearing was held on November 14, 2012 on an ordinance to prohibit the open burning of household refuse. After the public hearing, the Board determined that it was in favor of adopting the ordinance and directed staff to submit the proposed ordinance to the Air Pollution Control Board for its approval before presenting the proposed ordinance to the Board for final consideration and adoption.

### STRATEGIC PLAN:

Goal 5. Ensure the health and safety of the Community.

### DISCUSSION:

The proposed ordinance:

1. prohibits the open burning of household waste throughout the County; and
2. updates the definitions in Section 6-403 to be consistent with the definitions set forth in the applicable sections of the Virginia Administrative Code.

Additional background information regarding the ordinance is included in the attached July 11, 2012 executive summary (Attachment B).

### BUDGET IMPACT:

Should the Board adopt the proposed ordinance, staff expects only a minor increase of 10-20 hours of Court time annually if the County continues to follow a complaint-driven model, and believes this is manageable within current budget and staffing.

### RECOMMENDATIONS:

Staff recommends that the Board adopt the attached ordinance (Attachment C) to amend the open burning provisions of the County Code.

### ATTACHMENTS:

- A – November 14, 2012 Executive Summary
- B – July 11, 2012 Executive Summary
- C – Ordinance to Chapter 6, Fire Protection, of the County Code

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# COUNTY OF ALBEMARLE

## EXECUTIVE SUMMARY

<b>AGENDA TITLE:</b> Ordinance to Amend the Open Burning provisions in Chapter 6, Fire Protection, of the County Code	<b>AGENDA DATE:</b> November 14, 2012
<b>SUBJECT/PROPOSAL/REQUEST:</b> Public hearing to consider an ordinance to amend Section 6-403, Definitions; Section 6-404, Prohibitions on Open Burning; Sec. 6-406, Permissible Open Burning; and Section 6-407, Permits, of Chapter 6, Fire Protection, of the County Code	<b>ACTION:</b> X <b>INFORMATION:</b>
<b>STAFF CONTACT(S):</b> Messrs. Foley, Elliott, Davis, Eggleston, Brown, Oprandy and Lagomarsino	<b>CONSENT AGENDA:</b> <b>ACTION:</b> <b>INFORMATION:</b>
<b>PRESENTER (S):</b> Mr. Howard Lagomarsino	<b>ATTACHMENTS:</b> Yes
<b>LEGAL REVIEW:</b> Yes	<b>REVIEWED BY:</b> 

### BACKGROUND:

On July 11, 2012, the Board received an executive summary on the issue of open burning of household refuse by owners and tenants of property in the County (Attachment A). The Board instructed staff to draft an ordinance prohibiting such open burning of household refuse for its consideration. On September 5, 2012, staff presented a draft ordinance (Attachment B) to the Board for its consideration and to be set for public hearing.

### STRATEGIC PLAN:

Goal 5. Ensure the health and safety of the Community.

### DISCUSSION:

The proposed ordinance:

1. prohibits the open burning of household waste throughout the County; and
2. updates the definitions in Section 6-403 to be consistent with the definitions set forth in the applicable sections of the Virginia Administrative Code.

### BUDGET IMPACT:

Should the Board adopt the proposed ordinance, staff expects only a minor increase of 10-20 hours of Court time annually if the County continues to follow a complaint-driven model, and believes this is manageable within current budget and staffing, as set forth in the July 11, 2012 Executive summary (Attachment A).

### RECOMMENDATIONS:

After the public hearing, staff recommends that the Board reach consensus on the proposed attached draft ordinance (Attachment B) and authorize staff to submit a proposed ordinance to the Air Pollution Control Board for its approval. After such approval the ordinance will be presented to the Board for final consideration and adoption.

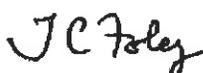
### ATTACHMENTS:

- A - Executive Summary dated July 11, 2012
- B - Proposed Ordinance

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# COUNTY OF ALBEMARLE

## EXECUTIVE SUMMARY

<b>AGENDA TITLE:</b> Open Burning of Household Waste & Refuse	<b>AGENDA DATE:</b> July 11, 2012
<b>SUBJECT/PROPOSAL/REQUEST:</b> Prohibit Open Burning of Household Waste & Refuse	<b>ACTION:</b> X <b>INFORMATION:</b>
<b>STAFF CONTACT(S):</b> Messrs. Foley, Elliott, Davis, Brown, Eggleston, Oprandy & Lagomarsino	<b>CONSENT AGENDA:</b> <b>ACTION:</b> <b>INFORMATION:</b>
<b>PRESENTER (S):</b> Howard Lagomarsino	<b>ATTACHMENTS:</b> Yes
<b>LEGAL REVIEW:</b> Yes	<b>REVIEWED BY:</b> 

### BACKGROUND:

This agenda item concerns the ability of citizens within certain parts of the County to continue to legally burn their household refuse. Currently, Chapter 6, Article IV of the County Code permits the burning of household refuse by homeowners and tenants when there is no regularly scheduled public or private refuse collection service available at the adjacent street or public road. The Board has the authority, subject to certain procedural requirements described below, to amend the County Code to prohibit all burning of household refuse in the County.

Open burning in Virginia is regulated by a complex combination of federal and state statutes and regulations and local ordinances. For purposes of this agenda item, the Board can focus on two bodies of law; Article 1, Chapter 13, Title 10 of the Code of Virginia and Chapter 6, Article IV of the County Code.

Several definitions set out in Section 6-403 of the County Code are critical to the discussion of open burning laws in the County.

1. *Open burning* is defined as "the burning of any matter in such a manner that the products resulting from the combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney."
2. *Household refuse* is defined as "waste or refuse normally accumulated by a household during normal day to day living."
3. *Garbage* is defined as "rotting animal and vegetable matter accumulated by a household in the course of ordinary day to day living."

State regulations use the term *household waste* instead of *household refuse*. 9 VAC-130-20 defines *household waste* as "any waste material, including garbage, trash and refuse derived from households." This executive summary will use the term household refuse.

Article 1, Chapter 13, Title 10 of the Code of Virginia establishes the Air Pollution Control Board (the APCB) and authorizes the APCB to implement regulations governing open burning in Virginia. The APCB has enacted regulations starting at 9 VAC 5-130-10. These regulations generally prohibit all open burning of refuse in Virginia, but create certain exceptions to this prohibition. Relevant to this agenda item is 9 VAC 5-130-40(A)(6), which permits open burning for the on-site destruction of household waste by homeowners or tenants in areas which do not have regularly scheduled public or private refuse collection services at the adjacent street or public road. The County Attorney's Office and the APCB both interpret "regularly scheduled public or private refuse collection service" to mean regularly scheduled public or private collection service provided by entities such as the County or a property owners association.

9 VAC-130-100 permits any locality to adopt an ordinance regulating open burning within its jurisdiction. Localities may adopt a model ordinance developed by the APCB. The County adopted APCB's then model ordinance in 1988 as Article IV, Chapter 6 of the County Code. Note that animal carcasses, animal waste and garbage, as defined above, may not be openly burned in the County.

**AGENDA TITLE: Open Burning of Household Waste & Refuse**

July 11, 2012

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A locality has the option of adopting an open burning ordinance which is stricter than the APCB model ordinance, but to do so must first obtain approval of the ordinance by APCB.

**STRATEGIC PLAN:**

Goal 5. Ensure the health and safety of the Community.

**DISCUSSION:**

Since 2008, citizen complaints have generated approximately 37 investigative actions for the County Fire Marshal's Office, which involved the officers opening a file and/or taking some enforcement action. The open burning of household trash and refuse has been of particular concern to certain residents for two reasons: (1) they don't like smoke and (2) the fear of plastics and other materials that may be included as "household refuse" and burned. Twenty-seven of the citizen complaints were related to the open burning of household refuse. Three of those investigations led to charges being filed in court. There was one investigation of open burning of household refuse that led to a notice of violation, essentially a warning, but this was related to the violation of County Code provisions regarding leaving the fire unattended and not to the materials being burned.

Concerns about the open burning of household refuse have led at least two citizens to contact members of the Board. This prompted the Board to request additional information from the Fire and Rescue Department on this issue.

The Virginia Code and County Code prohibit the open burning of waste materials that are hazardous or injurious to the environment and air quality. There are a number of items listed, which include hazardous materials, wastes associated with construction materials, such as wood products impregnated with chemical treatments, and petroleum-based products. Although open burning of hazardous materials, including petroleum and many petroleum based products, is prohibited, it is legal to open burn all items that are considered "household refuse". Citizens are surprised to find out that certain materials fall under the definition of household refuse and may legally be burned.

Additional research examined what similar jurisdictions are doing about open burning of household refuse. Comparable jurisdictions used in this research included Chesterfield County, Hanover County, Henrico County, Roanoke County, Rockingham County, Stafford County, and Spotsylvania County. The research found that none of these localities allow the open burning of household refuse under any circumstances.

Staff considered the option of restricting or limiting open burning in certain geographic areas of the County as a way to address the problem. A logical idea would be to prohibit open burning of household refuse in the designated growth areas. This is not a viable option as the urban/growth areas are a relatively small area of the County and limiting burning in those areas would do little to address the issue. Further, data shows that complaints are overwhelmingly associated with the rural areas.

Staff also considered the option of the Board amending the Code to completely ban the open burning of household refuse and waste in the County. This ban would not include the open burning of natural wood, leaves, yard waste, wastes associated with land clearing, forest management, and government firefighting training. Such a ban would be the easiest to manage and enforce. This option would ban the open burning of all household waste or refuse, making violations clear, as anyone burning trash would be in violation of the Code. This would provide the avenue to ensure compliance and to sustain an enforcement action if needed.

Should the Board decide to amend the Code to include a complete ban on the open burning of household refuse in the County, staff must first submit the ordinance proposed by the Board to the APCB for approval before adoption of the ordinance. Because the County would be strengthening its ordinance beyond the requirements of the Virginia Administrative Code, the request would be handled administratively by APCB staff rather than require approval of the full APCB.

**BUDGET IMPACT:**

Currently Fire and Rescue staff is already responding to open burning related incidents.

Other jurisdictions have adopted a "complaint driven" model. This means they do not actively search out violations or utilize any type of patrol to identify violations. They respond to and handle complaints as they are received. Therefore, those jurisdictions did not experience an increase in workload. If the Board amends the Code to ban all open burning

**AGENDA TITLE: Open Burning of Household Waste & Refuse**

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of household refuse, staff proposes following a similar model, and therefore does not anticipate an increase in complaint volume or investigative workload.

Workload will increase regarding court time for violations. If charges are filed, court time requires approximately two to four additional hours per incident. Due to the approach that the Fire Marshal's office will take, the number of court cases annually is predicted to be less than five. The Fire Marshal's office, in all enforcement cases, seeks compliance through education. More often than not, a simple discussion or notice of violation is enough to achieve compliance. Court action is reserved for those rare cases where compliance is not being achieved. Based on the history of complaints and investigations, staff expects only a minor increase of 10-20 hours of court time annually if the Board adopts an ordinance to prohibit the open burning of all household refuse that follows a complaint driven model. This is manageable within current budget and staffing.

**RECOMMENDATIONS:**

This Executive Summary was prepared in response to requests by Board members and is presented for informational purposes. If the Board decides to proceed, staff will present a draft ordinance to the Board for its consideration and for Board authorization to submit the ordinance to the APCB for its approval.

**ATTACHMENTS:**

- A- Albemarle County Code Section 6 Article IV
- B- Virginia Administrative Code 9VAC5-130-30
- C- Virginia Administrative Code 9VAC5-130-40
- D- Virginia Administrative Code 9VAC5-130-20
- E- Stafford County Open Burning Guidelines
- F- Albemarle County Land Use Map

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**ORDINANCE NO. 13-6(1)**

AN ORDINANCE TO AMEND CHAPTER 6, FIRE PROTECTION, ARTICLE IV, BURNING OF BRUSH, ETC., OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 6, Fire Protection, Article IV, Burning of Brush, etc., is hereby amended and reordained as follows:

By Amending:

- Sec. 6-403 Definitions
- Sec. 6-404 Prohibitions on open burning
- Sec. 6-406 Permissible open burning
- Sec. 6-407 Permits

**Chapter 6. Fire Protection**

**Article IV. Burning of Brush, etc.**

**Sec. 6-403 Definitions.**

For the purpose of this article and subsequent amendments or any orders issued by Albemarle County, the words or phrases shall have the meaning given them in this section.

(1) *Automobile graveyard.* The term “automobile graveyard” means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

(2) *Built-up area.* The term “built-up area” means any area with a substantial portion covered by industrial, commercial or residential buildings.

(23) *Clean burning waste.* The term “clean burning waste” means waste ~~that which does not produce dense smoke when burned~~ and is not prohibited to be burned under this ordinance ~~and that consists of only (i) 100% wood waste, (ii) 100% clean lumber or clean wood, (iii) 100% yard waste, or (iv) 100% mixture of only any combination of wood waste, clean lumber, clean wood or yard waste.~~

(4) *Clean lumber.* The term “clean lumber” means wood or wood products that have been cut or shaped and includes wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

(5) *Clean wood.* The term “clean wood” means uncontaminated natural or untreated wood. Clean wood includes, but is not limited to, byproducts of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders or resins; or painted, stained or coated.

(6) *Commercial waste.* The term “commercial waste” means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, waste resulting from the operation of stores, markets, office buildings, restaurants

and shopping centers.

(37) *Construction waste.* The term “construction waste” means solid waste which is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings and other structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials ~~shall~~ must be in accordance with the regulations of the Virginia Waste Management Board.

(48) *Debris waste.* The term “debris waste” means wastes resulting stumps, wood, brush, and leaves from land clearing operations. Debris wastes include but are not limited to stumps, wood, brush, leaves, soil and road spoils.

(59) *Demolition waste.* The term “demolition waste” means that solid waste ~~that~~ which is produced by the destruction of structures, or and their foundations, or both, and includes the same materials as construction waste.

(610) *Garbage.* The term “garbage” means readily putrescible discarded materials composed of rotting animal, and vegetable or other organic matter accumulated by a household in the course of ordinary day-to-day living.

(711) *Hazardous waste.* The term “hazardous waste” means a “hazardous waste” as described in 9 VAC 20-60 (Hazardous Waste Management Regulations). Refuse or combination of refuse which, because of its quantity, concentration or physical, chemical or infectious characteristic may:

— (a) — cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or

— (b) — pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

(812) *Household waste refuse.* The term “household waste refuse” means any waste material, including garbage, and trash and normally accumulated by a refuse derived from households in the course of ordinary day-to-day living. For purposes of this regulation, households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage) that is regulated by other state agencies.

(913) *Industrial waste.* The term “industrial waste” means any solid all waste generated on the premises of by manufacturing and or industrial process that is not a regulated hazardous waste operations such as, but not limited to, those carried on in factories, processing plants, refineries, slaughter houses, and steel mills. Such waste may include, but is not limited to waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(14) *Junk.* The term “junk” means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

~~(1015)~~ *Junkyard*. The term “junkyard” means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

~~(1116)~~ *Landfill*. The term “landfill” means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Part 1 (9 VAC 20-81-10 et seq.) of 9 VAC 20-81 Virginia (Solid Waste Management Regulations) (VR-672-20-10) for further definitions of these terms.

~~(1217)~~ *Local landfill*. The term “local landfill” means any landfill located within the jurisdiction of a local government.

~~(1318)~~ *Open burning*. The term “open burning” means ~~the burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney~~ the combustion of solid waste without:

1. Control of combustion air to maintain adequate temperature for efficient combustion;
2. Containment of the combustion reaction in an enclosed device to produce sufficient residence time and mixing for complete combustion; and
3. Control of the combustion products’ emission.

~~(1419)~~ *Open pit incinerator*. The term “open pit incinerator” means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion by-products emitted into the atmosphere. The term also includes trench burners, air curtain destructors and over draft incinerators.

~~(1520)~~ *Refuse*. The term “refuse” means all solid waste products having the characteristics of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up spoils or contamination or other discarded materials ~~garbage and other forms of solid or liquid waste, including, but not limited to, wastes resulting from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management and emergency operations.~~

~~(1621)~~ *Salvage operation*. The term “salvage operation” means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

~~(1722)~~ *Sanitary landfill*. The term “sanitary landfill” means an engineered land burial facility for the disposal of household waste that is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction, demolition, or debris waste and nonhazardous industrial solid waste. See Part I (9 VAC 20-81-10 et seq.) of 9 VAC 20-81 Virginia (Solid Waste Management Regulations) (VR-672-20-10) for further definitions of these terms.

~~(1823)~~ *Smoke*. The term “smoke” means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

~~(1924)~~ *Special incineration device*. The term “special incineration device” means ~~a~~ an open pit incinerator, conical or tepee burner, or any other device specifically designed to provide good combustion

performance.

(25) Wood waste. The term “wood waste” means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

1. Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

2. Construction, renovation, or demolition wastes.

3. Clean lumber.

(26) Yard waste. The term “yard waste” means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include (i) construction, renovation, and demolition wastes or (ii) clean wood.

(Code 1988, § 9-21.3; Ord. 98-A(1), 8-5-98)

**Sec. 6-404 Prohibitions on open burning.**

A. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of refuse except as provided in this ordinance.

B. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

C. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of hazardous waste or containers for such materials.

D. No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the disposal of commercial/industrial waste.

E. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of household waste or garbage.

EF. Open burning or the use of special incineration devices permitted under the provisions of this ordinance does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this ordinance. In this regard special attention should be directed to § 10.1-1142 of the Forest Fire Law of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.

FG. Upon declaration of an alert, warning or emergency stage of an air pollution episode as described in Part VII of the Regulations for the Control and Abatement of Air Pollution or when deemed advisable by the State Air Pollution Control Board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special

incineration device; and any in process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.  
(Code 1988, § 9-22; Ord. 98-A(1), 8-5-98)

**Sec. 6-406 Permissible open burning.**

A. Open burning is permitted for the disposal of leaves and tree, yard and garden trimmings located on the premises of private property, provided that the following conditions are met:

1. the burning takes place on the premises of the private property; and
2. the location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted.

~~B. Open burning is permitted for the disposal of household refuse by homeowners or tenants, provided that all of the following conditions are met:~~

- ~~1. the burning takes place on the premises of the dwelling;~~
- ~~2. animal carcasses or animal wastes are not burned;~~
- ~~3. garbage is not burned; (and)~~
- ~~4. the location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; and~~
- ~~5. no regularly scheduled public or private collection service for such refuse is available at the adjacent street or public road.~~

EB. Open burning is permitted for disposal of debris waste resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or any other ~~from another~~ clearing operations which may be approved by the fire official, provided that all of the following conditions are met:

1. all reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles approved by the fire official;
2. the material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;
3. the burning shall be at least 500 feet from an occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted;
4. the burning shall be conducted at the greatest distance practicable from highways and air fields;
5. the burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;
6. the burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and

7. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

DC. Open burning is permitted for disposal of debris on the site of local landfills provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas provided that all of the following conditions are met:

1. the burning shall take place on the premises of a local sanitary landfill which meets the provisions of the regulations of the Virginia Waste Management Board;
2. the burning shall be attended at all times;
3. the material to be burned shall consist only of brush, tree trimmings, yard and garden trimmings, clean burning construction waste, clean burning debris waste, or clean burning demolition waste;
4. all reasonable effort shall be made to minimize the amount of material that is burned;
5. no materials may be burned in violation of the regulations of the Virginia Waste Management Board or the State Air Pollution Control Board.

The exact site of the burning on a local landfill shall be established in coordination with the regional director and the fire official; no other site shall be used without the approval of these officials. The fire official shall be notified of the days during which the burning will occur.

(Code 1988, § 9-22.1; Ord. 98-A(1), 8-5-98)

**Sec. 6-407 Permits.**

A. When open burning of debris waste (section 6-406(CB)) or open burning of debris on the site of a local landfill (section 6-406(DC)) is to occur within Albemarle County, the person responsible for the burning shall obtain a permit from the fire official prior to the burning. Such a permit may be granted only after confirmation by the fire official that the burning can and will comply with the provisions of this ordinance and any other conditions which are deemed necessary to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by fire official.

B. Prior to the initial installation (or reinstallation, in cases of relocation) and operation of special incineration devices, the person responsible for the burning shall obtain a permit from the fire official, such permits to be granted only after confirmation by the fire official that the burning can and will comply with the applicable provisions in Regulations for the Control and Abatement of Air Pollution and that any conditions are met which are deemed necessary by the fire official to ensure that the operation of the devices will not endanger the public health and welfare. Permits granted for the use of special incineration devices shall at a minimum contain the following conditions:

1. all reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood;
2. the material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;
3. the burning shall be at least 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted;

burning shall be conducted at the greatest distance practicable from highways and air fields. If the fire official determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased;

4. the burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials;

5. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area;

6. the use of special incineration devices shall be allowed only for the disposal of debris waste, clean burning construction waste, and clean burning demolition waste; and

7. permits issued under this paragraph shall be limited to a specific period of time deemed appropriate by the fire official.

C. An application for a permit under section 6-407(A) or 6-407(B) shall be accompanied by a processing fee as set forth in the fee schedule maintained by the fire official, as may be amended from time to time.

(Code 1988, § 9-24; Ord. 98-A(1), 8-5-98)

...

I, Ella W. Jordan, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of \_\_\_\_ to \_\_\_\_, as recorded below, at a regular meeting held on \_\_\_\_\_.

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