

COUNTY OF ALBEMARLE

EXECUTIVE SUMMARY

AGENDA TITLE: Open Burning of Debris Waste	AGENDA DATE: July 2, 2008
SUBJECT/PROPOSAL/REQUEST: Approve staff-recommended option to strengthen existing regulations regarding open air burning.	ACTION: X INFORMATION:
STAFF CONTACT(S): Messrs Tucker, Elliott, Davis, Eggleston, and Barber	CONSENT AGENDA: ACTION: INFORMATION:
LEGAL REVIEW: Yes	ATTACHMENTS:
	REVIEWED BY:

BACKGROUND:

The County Executive's Office requested Fire and Rescue staff to provide information to the Board regarding open burning in the development areas of the County, as well as options to address citizen concerns about open burning. Open burning has been a topic of Board discussion for some time; however, the issue has not been presented to the Board for official discussion or action.

STRATEGIC PLAN:

Goal 1: Enhance the Quality of Life for All Citizens

Goal 2: Protect the County's Natural Resources

DISCUSSION:

Overview of Permit Process. The County's burn ordinance, County Code §§6-400 to 408, generally prohibits the open burning of debris waste except under certain circumstances. Residents and contractors may openly burn "debris waste," which is defined as "stumps, wood, brush, and leaves from land clearing operations," once a permit is obtained from the Department of Fire and Rescue. Staff issues permits after evaluating the proposed burn site and determining whether the burn plan would meet all state and local requirements under County Code §6-406(C).

Currently, the County generally charges a \$325 fee for debris waste burn permits in order to offset the cost of inspection and administration. In Fiscal Year 2007, Fire Rescue issued a total of 157 burn permits requiring fees.

Complaints and Current Enforcement. The Department of Fire and Rescue and individual Board members have received complaints about smoke and ash fallout from open burning sites in developed areas of the County; Still Meadows, Belvedere, Pantops and Fontana are a few recent examples. Over the past two years, the complaints Fire and Rescue has received for contractors clearing land have come almost exclusively from the development areas (nine of nine complaints in FY 2007 and nine of ten complaints in FY 2008).

If a complaint raises substantive concerns, staff requires the permittee to take any steps needed to remedy the problem. If the complaint cannot be addressed adequately through that process, staff requires the burning to cease until conditions change. Every effort is made to work with the developer and the residents to reach a mutually acceptable solution.

Under the current County Code requirements:

1. Contractors are not required to utilize an open pit incinerator (pit) and air curtain device (blower) to minimize the smoke and ash; this is currently optional. In the development areas, however, staff generally requires that contractors use a pit and blower as a condition of their burn permit. This process involves digging a pit of specified width, length, and depth in accordance with the air curtain manufacturers' specifications. Air curtain devices direct the air flow around the burn and minimize the particulate matter released during the burning process.
2. Contractors must have written permission from residents of all occupied dwellings within 500 feet of the burn location.
3. The County does not currently require the contractor to provide a site plan showing the location of the burn.

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Options for Board Consideration. Staff wishes to present two options for the Board's consideration:

Option one: Ban all open burning in the development areas.

At this time, staff does not recommend banning open burning entirely for several reasons:

1. Complaints will continue – An alternative to burning would be grinding the material on site. This operation results in considerable noise and dust, which may generate complaints from nearby residents similar to those for burning.
2. Increased truck traffic – Another alternative is to truck the material off site, which would result in increased large truck and dump truck traffic throughout neighborhoods and main roadways to and from the site.
3. Cost – Other methods are believed to be more costly, although estimated differences are not available to staff at this time.
4. Comparable localities have not gone this far in prohibiting open burning altogether in development areas.

Option two: Strengthen current debris waste regulation in the development areas.

Staff believes this may be the best option, as it addresses concerns from both the development community and the residential community. Most of the complaints concern offensive smoke odor or off-site ash. Staff proposes two changes to the current practices:

1. Currently, Fire and Rescue generally requires through burn permit conditions that developers utilize a pit and air curtain. This practice could be made a uniform requirement in the ordinance itself.
2. Currently, contractors must have written permission from residents of all occupied dwellings within 500 feet of the burn location. This distance could be expanded to 1000 feet, which would potentially reduce the number of complaints for two reasons. First, the increased communications between the developer and residents would increase awareness and understanding of the burn and its consequences. Secondly, any resident within 1000 feet of the proposed burn with a strong opposition to the burn could prevent it from occurring.

Staff does not recommend requiring the contractor to provide a site plan at this time, as staff is currently able to conduct a physical visit of the site for each permit request.

Staff has discussed their concerns, as well as possible solutions, with four prominent area contractors that regularly conduct open burning. These contractors all agreed that burning is the most cost effective method for clearing land. Additionally, each voiced concerns that banning open burning would make land clearing and development more costly, although most concede that alternatives to open burning exist. Further, these contractors believe that using a pit and blower is the most effective way to reduce the smoke and ash from a typical burn operation, and that adhering to such a requirement is more desirable than other, more costly alternatives.

In addition, staff has researched how some other localities that regulate burning in developed areas address open debris waste burning. The relevant results are below:

County	Allow burning in densely populated areas?	If so, do you require pit and blower?	If so, what is the notification distance?	Other relevant requirements?
Stafford	Yes	No	500 feet	Site plan
Henrico	Yes	No	300 feet	Site plan
Hanover	Yes	No	500 feet	
Loudon	Yes	No	500 feet	
Roanoke	Yes	No	500 feet	
Albemarle	Yes	No	500 feet	Burn plan
Spotsylvania	Yes	No	500 feet	
Prince William	Yes	Yes	1000 feet	

BUDGET IMPACT:

The County currently assesses a fee of \$325 for a burn permit specific to land clearing. Should the Board decide to strengthen the existing regulation there will be no budget impact. Should the Board desire to ban burning completely, the budget impact is predicted to be minimal; however, a specific estimate would have to be developed. At this time, it is unknown how many of the total burn permits issued annually are issued within the development area.

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RECOMMENDATIONS:

Staff recommends that the Board strengthen existing open burning regulations as outlined in option two above: requiring contractors to use burn pits and blowers and increasing the resident permission distance from 500 to 1000 feet. If the Board approves this action, staff will bring forward an executive summary introducing appropriate language in the burn ordinance at a future Board meeting. Under Virginia Code §10.1-1321 and State Air Pollution Control Board regulations, a locality that seeks to deviate in a substantive manner from the State Air Pollution Control Board's model ordinance must obtain that board's prior approval. Accordingly, staff would need to seek approval from the Board of Supervisor, present the proposed ordinance to the State Air Pollution Control Board for its approval, and then bring the ordinance back to the Board of Supervisors for adoption.