

ORDINANCE NO. 18-6(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. 6-402 Adoption of Virginia State air pollution control board regulations.
- Sec. 6-404 Prohibitions on open burning.
- Sec. 6-406 Permissible open burning.
- Sec. 6-407 Permits.
- Sec. 6-408 Penalties for violation.

CHAPTER 6. FIRE PROTECTION

ARTICLE IV. BURNING OF BRUSH, ETC.

State law reference--For state law similar to provisions of this article, see Va. Code § 10.1-1142.

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Sec. 6-402 Adoption of Virginia State ~~a~~Air ~~p~~Pollution ~~e~~Control ~~b~~Board regulations.

The Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, Part IV, Emissions Standards for Open Burning (~~Rule 4-40~~ 9VAC5, Ch. 130), in current form and as amended in the future, are hereby adopted and incorporated by reference; provided, however, any county regulation specified in this article more restrictive than such state regulations shall apply and take precedence over the state regulations. Any permits required by such state regulations may be issued by the county, if authorized by the state agency otherwise responsible.

(Code 1988, § 9-21.1; Ord. 98-A(1), 8-5-98)

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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.

F. 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.

~~G. 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.~~

Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous as described in Chapter 70 of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution, Air Pollution Episode Prevention. When open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the Fire Marshal is authorized to order the extinguishment of the open burning operation.

(Code 1988, § 9-22; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13)

Sec. 6-405 Exemptions.

The following activities are exempted to the extent covered by the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution:

1. open burning for training and instruction of government and public fire fighters under the supervision of the designated official and industrial in-house firefighting personnel;
2. open burning for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers;
3. open burning for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack;
4. open burning for forest management and agriculture practices approved by the State Air Pollution Control Board; and
5. open burning for the destruction of classified military documents.

(Code 1988, § 9-22.1; 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 originating from and 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 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 clearing operations which may be approved by the ~~F~~ire ~~o~~fficial, 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 ~~F~~ire ~~o~~fficial;
2. the material to be burned shall consist of brush, stumps, and similar debris waste originating from and located on the premises, and shall not include demolition material;
3. the burning shall be at least ~~500~~ 2,000 feet, ~~or 1,000 feet when using an incinerator device~~, from any occupied building not on the same property on which the burning is conducted, unless the occupants of the building has ~~have~~ given prior written permission for the burning, ~~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 between 8:00 a.m. and 8:00 p.m.;
8. the burning shall be conducted only Monday through Friday;
9. the burning shall not be conducted during the restricted dates of February 15 through April 30 of each year; and
- ~~10.~~ 7. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

C. 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 ~~F~~ire ~~O~~fficial; 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; Ord. 13-6(1), 1-9-13)

State law reference – Va. Code § 10.1-1142.

Sec. 6-407 Permits.

A. Permit for open burning required. When open burning of debris waste (section 6-406(B)) or open burning of debris on the site of a local landfill (section 6-406(C)) is to occur within Albemarle County, the person responsible for the burning shall obtain a permit from the ~~F~~ire ~~O~~fficial prior to the burning.

B. Application for permit. The person responsible for the burning shall submit a complete application for a permit, which shall include proof of liability insurance in an amount of no less than \$1.5 million and must be issued by a company registered with the Virginia Bureau of Insurance. A written site and burn plan shall be submitted with any application.

C. Issuance of permit. Such a permit may be granted only after confirmation by the ~~F~~ire ~~O~~fficial 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 the ~~F~~ire ~~O~~fficial and in conformance with this article.

D. Number of permits. No more than three permits shall be issued per year for any parcel.

~~E.B.~~ Permit for use of special incineration device. 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 ~~F~~ire ~~O~~fficial, such permits to be granted only after confirmation by the ~~F~~ire ~~O~~fficial 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 ~~F~~ire ~~O~~fficial 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~~ 1,000 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 ~~F~~ire ~~O~~fficial 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 ~~F~~ire ~~O~~fficial and in conformance with this article.

~~E.C.~~ Fees. An application for a permit under section 6-407(~~A~~B) or 6-407(~~B~~E) shall be accompanied by a processing fee as set forth in the fee schedule maintained by the ~~F~~ire ~~O~~fficial, as may be amended from time to time. An application is not complete without payment of the processing fee.

(Code 1988, § 9-24; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13)

Sec. 6-408 Penalties for violation.

A. Any violation of this ordinance is punishable as a class 1 misdemeanor.

B. Each separate incident may be considered a new violation.

C. The ~~F~~ire ~~O~~fficial shall enforce the terms and conditions of this ordinance.

(Code 1988, § 9-25; Ord. 98-A(1), 8-5-98)

I, Claudette K. Borgersen, 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 _____.

Clerk, Board of County Supervisors

	Aye	Nay
Mr. Dill	_____	_____
Mr. Gallaway	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____