

**AGENDA DATE: 1/16/2019**

**TITLE: Yard Maintenance Open-Air Burning Discussion**

**SUBJECT/PROPOSAL/REQUEST: Yard Maintenance Open-Air Burning**

**ITEM TYPE: Regular Information Item**

**STAFF CONTACT(S): Richardson, Walker, Kamptner, Farley, Eggleston, Oprandy, Lagomarsino**

**PRESENTER (S): Howard Lagomarsino**

**LEGAL REVIEW: Yes**

**REVIEWED BY: Jeffrey B. Richardson**

**BACKGROUND:**

Citizen complaints and Board of Supervisors concerns regarding open-air burning processes and laws in Albemarle County have generated discussion and changes over recent months. In framing the discussion, staff has referred to three types of open burning: commercial open-air burning (large scale, land clearing for development), Certified Burn Program (predominantly maintenance of land involved in agricultural or farming operations or the ACE program), and yard maintenance open-air burning (yard maintenance and garden trimmings). Although State and local codes regulate these types of burning, there are differences in processes and requirements. For further description of each and their associated processes, please see Attachment B – Open-air Burning Explained.

The Board discussed commercial open-air burning during its December 6, 2017; April 4, 2018; and June 6, 2018 meetings, and then enacted changes to the County Code on October 3, 2018. Throughout the conversation about commercial open-air burning, concerns and issues were discussed that are relevant to the Certified Burn Program and yard maintenance open-air burning as well. To further understand these issues ahead of the Board work session on the Certified Burn Program and yard maintenance open-air burning, staff engaged directly with individual Board members and residents to capture not only their concerns, but ideas for solutions as well. The purpose of this work session is to review those concerns and ideas, provide context where possible, and identify possible actions (along with pros and cons) the Board may wish to take as a means for addressing the concerns or issues.

**STRATEGIC PLAN:**

*Natural Resource Stewardship:* Thoughtfully protect and manage Albemarle County's ecosystem and resources both in the rural and development areas to safeguard the quality of life for current and future generations. *Quality Government Operations:* Ensure the County's capacity to achieve high quality service that achieves Community priorities.

**DISCUSSION:**

The following are some of the specific concerns or issues which have been identified from either public discussion of open-air burning or specific conversations with a Board member or County resident on the topic:

- Negative environmental impact of open-air burning – carbon footprint.
- Negative effects on the health and welfare of residents (respiratory problems, smoke nuisance).
- Impact on adjoining property – ash and ember fallout.
- Burning of illegal material (plastics, rubber, etc.) and/or material from another property.
- Risk of fire spread in the urban/wildland interface. This is a concern on both sides of the issue. Those burning may have a fire burn out of control. On the other hand, if burning is not allowed or is heavily regulated, some argue that property maintenance will be discouraged, thereby increasing the risk of fire spread through land which has not been well maintained (downed or piled trees, limbs, and other trimmings left to rot that dry burn easily and may significantly contribute to fire spread, particularly to buildings, during a brush or woods fire).

- Neighbors are often put in the position of having to be the “bad guy” when an open-air burn is a concern. Or, neighbors don’t say anything at all in fear of upsetting others.
- There are alternatives to burning (grinding, mulching, hauling) and those alternatives should be promoted by the County and utilized by residents.
- When it comes to open-air burning, a “one-size fits all” solution is not prudent. The issues facing a resident in the urban area of Albemarle County are different than those being faced in rural areas.
- Burning is an economical solution that allows those without the means (no vehicle for hauling, limited income for paying tipping fees or mulching service) to dispose of materials otherwise.
- The Certified Burn Program (see Attachment B for program description) allows for too long a period between re-certification. Effectively, this provides a land owner a permit to conduct burns for one year.

Based on the concerns noted above and ideas submitted by residents and Board members, staff has compiled a list of possible actions to change the County Code provisions and/or processes related to open burning within Albemarle County. Each will have an impact on the practice of open-air burning and may have other consequences as well. There are too many details and intricacies associated with each suggestion to list all the pros, cons, questions, or issues related to implementation at this point. During the work session a presentation will be made outlining each possibility and some considerations for discussion. It is the goal of staff that the Board will provide further direction on these suggestions so that a more detailed analysis of impact may be returned later to the Board for possible decision and implementation.

The list below includes possible actions that staff believes are worth further consideration at this point, either due to the ability to implement these options with existing resources and/or the limited burden these options pose to residents. Attachment C includes a list of options that are not recommended by staff due to the lack of staff capacity to handle the workload, as well as the burden placed on residents. All the following considerations will be discussed/explained during the work session:

- **Option One:** Increase burn pile distance requirements from buildings (occupied or not). See attachment A and B for further information on current requirements:
  - This option will effectively eliminate yard maintenance open-air burning in densely built areas depending on the distance decided upon. This may place a burden on property owners to dispose of yard waste and debris in other ways.
- **Option Two:** Remove the allowance for permission to be granted to burn within 300 feet of an occupied structure:
  - This option removes the ability for someone to be granted permission to burn closer to an occupied structure. This effectively eliminates one of the “neighbor in the middle” scenarios where a resident may feel pressured to grant permission to burn when in fact he/she does not wish to grant permission.
- **Option Three:** Require a permit for any/all burning. An on-line self-permitting process may be possible for yard maintenance open-air burning (lawn/leaf/garden).
  - This option will require significant staff work. Staff estimates more than 6 months will be needed for implementation.
  - Staff recommends implementing this option with an online self-permitting process:
    - This will allow for online education of every resident who wishes to burn, which may help reduce improper burning techniques, increase adherence to codes and guidelines, and provide information on the frequency and location of burns.
- **Option Four:** Impose burning time constraints and/or time limits for length of any burn:
  - For example, limiting yard maintenance open-air burning to Monday and Wednesday evenings and on weekends.
  - This option may allow for neighborhoods and neighbors to more easily plan for the effects of burns, as they will occur on a narrower schedule.
  - This may not curb the number of overall burns.

**BUDGET IMPACT:**

Each possible action may or may not have a budget impact; the budget impact will be assessed once the Board provides direction as to what changes it would like to see proposed for implementation.

**RECOMMENDATION:**

Staff recommends that the Board provide direction to staff as to which of the options above shall be considered for additional analysis and possible implementation at a future date.

**ATTACHMENTS:**

Att. A. Albemarle County Code Fire Protection Article IV Burning of Brush, Etc.

Att. B. Open Burning Explained

Att. C. Possible Options Not recommended by Staff

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### **ARTICLE IV. BURNING OF BRUSH, ETC.**

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

#### **Sec. 6-400 Title.**

This article shall be known as the Albemarle County Ordinance for the Regulation of Open Burning.

(Code 1988, § 9-21; Ord. 98-A(1), 8-5-98)

#### **Sec. 6-401 Purpose.**

The purpose of this article is to protect public health, safety, and welfare by regulating open burning within Albemarle County to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development.

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

#### **Sec. 6-402 Adoption of Virginia State Air Pollution Control 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 (9VACS, 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; Ord. 18-6(1), 10-3-18)

#### **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.

(3) *Clean burning waste.* The term "clean burning waste" means waste that 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.

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- (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.
- (7) *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 plastic if the metal or plastic 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 be in accordance with the regulations of the Virginia Waste Management Board.
- (8) *Debris waste.* The term "debris waste" means wastes resulting from land clearing operations. Debris wastes include but are not limited to stumps, wood, brush, leaves, soil and road spoils.
- (9) *Demolition waste.* The term "demolition waste" means that solid waste that is produced by the destruction of structures, or their foundations, or both, and includes the same materials as construction waste.
- (10) *Garbage.* The term "garbage" means readily putrescible discarded materials composed of animal, vegetable or other organic matter.
- (11) *Hazardous waste.* The term "hazardous waste" means a "hazardous waste" as described in 9 VAC 20-60 (Hazardous Waste Management Regulations).
- (12) *Household waste.* The term "household waste" means any waste material, including garbage, trash and refuse derived from households. 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 (seepage) that is regulated by other state agencies.
- (13) *Industrial waste.* The term "industrial waste" means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. 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.
- (15) *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.
- (16) *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 (Solid Waste Management Regulations) for further definitions of these terms.
- (17) *Local landfill.* The term "local landfill" means any landfill located within the jurisdiction of a local government.

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(18) *Open burning.* The term "open burning" means 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.

(19) *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.

(20) *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 spills or contamination or other discarded materials.

(21) *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.

(22) *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 (Solid Waste Management Regulations) for further definitions of these terms.

(23) *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.

(24) *Special incineration device.* The term "special incineration device" means an open pit incinerator, conical or teepee 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; Ord. 13-6(1), 1-9-13)

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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. 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; Ord. 18-6(1), 10-3-18)

### **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)

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### **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 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 originating from and located on the premises, and shall not include demolition material;
3. the burning shall be at least 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 occupant of the building has given prior written permission for the burning;
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;
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. 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;



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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; Ord. 13-6(1), 1-9-13; Ord. 18-6(1), 10-3-18)

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 Fire Official 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 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 and in conformance with this article.

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

E. *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 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 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 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;

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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 and in conformance with this article.

F. *Fee.* An application for a permit under section 6-407(B) or 6-407(E) 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. 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; Ord. 18-6(1), 10-3-18)

### **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 Fire Official shall enforce the terms and conditions of this ordinance.

(Code 1988, § 9-25; Ord. 98-A(1), 8-5-98; Ord. 18-6(1), 10-3-18)

## **ARTICLE V. EMERGENCY MEDICAL SERVICES COST RECOVERY**

### **Sec. 6-500 Purpose.**

Pursuant to Virginia Code §32.1-111.14, it is hereby determined that the powers set forth herein must be exercised in order to assure the provision of adequate and continuing emergency services and to preserve, protect and promote the public health, safety and general welfare.

(Ord. 09-6(1), 9-9-09)

State law reference—Virginia Code § 32.1-111.14.

### **Sec. 6-501 Definitions.**

"Agency" means any person engaged in the business, service or regular activity, whether or not for profit, of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless, or of rendering immediate medical care to such persons.

"Ambulance" means any vehicle, vessel or aircraft, which holds a valid permit issued by the Office of Emergency Medical Services, that is specially constructed, equipped, maintained and operated, and is intended to be used for emergency medical care and the transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless. The word "ambulance" may not appear on any vehicle, vessel or aircraft that does not hold a valid permit.

"Emergency medical services vehicle" means any vehicle, vessel, aircraft, or ambulance that holds a valid emergency medical services vehicle permit issued by the Office of Emergency Medical Services that is equipped, maintained or operated to provide emergency medical care or transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless.

(Ord. 09-6(1), 9-9-09)

State law reference—Definitions, Virginia Code § 32.1-111.1.

# Open Air Burning- Explained

To manage open air burning and the associated laws and processes in Albemarle County, burning has been broken down into three categories:

1. **Commercial burning:** Larger scale open-air burning projects that involve land-clearing operations for development. This category of open-air burning always requires a permit and adherence to guidelines identified in Albemarle County Code that are stricter than Virginia State regulations for open-air burning.

Commercial open-air burning has been addressed recently by the Board and, though pertinent to the conversation overall, is not the focus of this work session and therefore will not be discussed specifically in this document.

2. **Certified Burn Program (CBP):** Generally, involves larger tracts of land that are involved in agricultural or farming operations, but may include properties in the ACE program. It involves an annual permit, annual review of burn/site plan and a bi-annual education program. By their very nature, these are usually larger in scale, therefore, the education program provided by the Office of the Fire Marshal includes a review of open-air burn safety, process requirements, legalities, including Virginia and Albemarle County Code requirements, and techniques to limit the impacts of open-air burning on neighbors and the environment. The purpose of this program is to allow property maintenance to avoid invasive plant/animal life, infestations, fire hazard mitigation, storm clean-up or to enhance operations (creation of more farmable/pasture land, protect crops from frost etc.).

Once all requirements are satisfied, an annual open-air burn permit for that property is issued and is specific to approved sites on that property. The permit allows burning of approved materials generated on that property. The certification and permit can be issued to a land owner or an employee specific to an agricultural operation on a property only (no contractors) and is not transferrable to other persons or properties. Any changes in materials, personnel, processes, or locations on the property require additional approval before being allowed.

The success of this program is evidenced by the fact that burns associated with the CBP do not typically generate complaints (2 in the past five years). CBP burns account for approximately 20 permits per year.

3. **Yard Maintenance Open-Air Burning:** Characterized by generally smaller tracts of land and typically involve yard maintenance, including garden trimmings, and leaf disposal. By their very nature, these open-air burns are small. There are currently no permit requirements for this type of open-air burning, but homeowners' burns must adhere to Virginia State and County of Albemarle guidelines pertaining to this type of open-air burning, including air pollution mitigation and fire safety concerns.

General guidelines (derived from State and County code) for yard maintenance open-air burning:

1. The burning shall take place on the premises of the private property.
2. The burning shall take place not less than 300 feet from any occupied building unless the occupants have given prior permission (The permission is not necessary if the occupied building is on the property conducting the burning).
3. The burning shall be attended at all times.
4. A minimum of 50 feet from any other trees or wood line must be maintained.

The following is a list of possible actions that can be taken to address concerns for open-air burning. These options were weighed by considering citizen impact, ability of citizens to comply, environmental impacts, fiscal impacts, staff impact, staff capacity, and likelihood of successful implementation. A more thorough analysis on these same considerations would need to be conducted to fully vet each of these options before deciding on implementation. On the surface, many seem viable, but initial consideration has identified concerns leading staff to forgo recommending the options listed below at this time:

- Require an inspection/Fire Marshal presence prior to the ignition of any burn pile, each time it is lit:
  - Significant impact on staff workload and/or re-prioritization of existing priorities:
    - Using the roughly 40-50 commercial permits/annually as an example:
      - Permits are for 60 days.
      - Due to travel and ignition process, roughly 1- 2 hrs. commitment.
      - 2400-4800 staff hrs./annually to achieve for commercial open-air burning alone.
      - This calculated impact does not include any other type of open-air burning.
- Increase enforcement efforts by patrolling neighborhoods and rural areas to enforce County Code and State Law on open-air burning:
  - This option requires a paradigm shift from our current complaint driven model to a more proactive model, however, the scope of the problem may not justify the paradigm switch.
    - Between 2011 and 2018 open-air burning complaints accounted for 69 (32%) of the 214 total complaints investigated by the Office of the Fire Marshal:
      - A majority of the open-air burning complaints were related to commercial open-air burning (40 of the 69). Recent changes in County Code have been enacted to address issues identified in these commercial burning complaints.
      - A total of about 30 complaints were received over the seven-year period related to non-commercial burns (an average of less than five each year).
- Ban all yard maintenance open-air burning (option to exclude the certified open burn program):
  - Incentivize alternatives by providing vouchers or other cost reduction methods (ie. waive fees at the Ivy Material Utilization Center).
  - Promote alternatives (chipping, mulching, hauling).
  - Though this will solve issues associated with open burning, it may create other issues associated with trucking, noise, and decreased property maintenance (relative to fire load) particularly for those with less means to handle maintenance otherwise.
  - The impact of the Certified Burn Program and yard maintenance burning is smaller in magnitude than commercial burning. Is banning CBP and Yard maintenance burning while allowing commercial burning a concern?
  - Staff Impact will vary depending on options desired and scope of ban.
- Change the Certified Burn Program (see Attachment B):
  - Increase or decrease the scope, stop the program, or change the length of time between certification.
  - Relatively easy implementation – process change.
  - The CBP is a successful program – only 2 complaints associated with program since 2001, which were easily resolved with additional education.
  - Unless the program is stopped, changes to this program will not decrease the number of burns conducted each year.