



# Albemarle County

## Legislation Details (With Text)

**File #:** 18-344      **Version:** 1      **Name:**  
**Type:** Ordinance      **Status:** Passed  
**File created:** 5/22/2018      **In control:** Board of Supervisors  
**On agenda:** 6/6/2018      **Final action:** 6/6/2018  
**Title:** Open Air Burning Regulations for Land Clearing and Development Operations. To receive public comment on its intent to adopt an ordinance to amend Chapter 6, Fire Protection, Article IV, Burning of Brush, etc., of the Albemarle County Code. The proposed ordinance, authorized by 9 VAC 5-130-100, would amend the open burning regulations related to the development of land to: i) increase the required distance of a burning from an occupied building from 500 feet to 2,000 feet unless the occupants have given prior permission, or to 1,000 feet if a special incinerator device is used; ii) require the approval of a written site and burn plan; iii) require proof of a minimum of \$1.5 Million in liability insurance; iv) restrict burning completely during the Virginia Department of Forestry restriction from February 15 to April 30; v) restrict burning to Monday through Friday between 8 a.m. and 8 p.m. from May 1 through February 14 when the Virginia Department of Forestry has no burning restrictions in place; and vi) limit the number of burn permits allowed to three permits per parcel per year.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Att.A Va Air Pollution Board Regs, 2. Att.B April 4, 2018 ES, 3. Att.C Proposed Ordinance

Date	Ver.	Action By	Action	Result
6/6/2018	1	Board of Supervisors	approved	Pass

**AGENDA DATE: 6/6/2018**

**TITLE:**

Open Air Burning Regulations for Land Clearing and Development Operations

**SUBJECT/PROPOSAL/REQUEST:** Approve strengthening County regulations regarding open air burning

**ITEM TYPE:** Regular Action Item

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

**PRESENTER (S):** Howard Lagomarsino

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Jeffrey B. Richardson

**BACKGROUND:** Albemarle County regulations for open-air burning conform to applicable Federal Codes, Virginia State Code, the Statewide Fire Prevention Code, and regulations promulgated by the Virginia Air Pollution Control Board (Attachment A). Burning regulations are codified in Albemarle County Code, Chapter 6, Article IV and allow open-air burning under specific circumstances. Open-air burning occurs as part of agriculture management practices, cleanup of yard waste, land maintenance, storm cleanup, and the clearing of land for development. A permit is not required for burning associated with private residence yard

maintenance or land maintenance on agricultural/larger properties where owners/staff have attended the County's Certified Open Burn class. Permits are required for land clearing operations associated with construction and land development.

The Board has addressed open-air burning on a number of occasions. The Board was briefed on open-air burning associated with land clearing on July 02, 2008, barring open-air burning of trash on January 09, 2013, increasing open-air burning permit fees associated with land clearing on March 04, 2015, and additional regulation on December 6, 2017. The Board most recently discussed strengthening permit requirements and introducing additional commercial restrictions on April 4, 2018 (Attachment B). During the April 4, 2018 meeting, the Board requested staff return with a draft ordinance incorporating the suggested changes to the Chapter 6, Article IV ("Burning of Brush, etc.") of the County Code.

**STRATEGIC PLAN:** *Natural Resources 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 focus of open-air burning regulation in Albemarle County is fire safety and healthy air quality. Current County regulations are more stringent than federal, state, and Air Pollution Control Board regulations. In general, open-air burning is limited to untreated, clean, natural wood, vegetation, and brush though there are very limited circumstances where other items may be burned (e.g. agricultural practices dealing with land management or disease control).

To address the concerns of citizens and members of the Board, the Fire Marshal's Office previously recommended changes to the County Code that would further restrict open burning by date, time, distance, and number of permits issued. In addition, applications for commercial open burning will also require proof of liability insurance. The Board directed staff to incorporate the recommendations of the Fire Marshal's Office into the County Code as an amended ordinance (Attachment C).

Any action that results in changes to the Albemarle County open-air burn regulations must receive approval from the Virginia Air Pollution Control Board and a public hearing process.

**BUDGET IMPACT:** The budget impact will be some additional workload but significant budget impact is not anticipated at this time.

**RECOMMENDATION:**

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

**ATTACHMENTS:**

Attachment A - Virginia Air Pollution Control Board

Attachment B - April 4, 2018 Exec Summary

Attachment C - Proposed draft ordinance