



Albemarle County

Legislation Text

File #: 19-116, **Version:** 1

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