

ADOPTED

JUN 24 1997

ORDINANCE NO. 9A-10

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 6, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, FIRE PREVENTION CODE, SECTION 6-1, ADOPTION OF VIRGINIA STATEWIDE FIRE PREVENTION CODE; SECTION 6-2, DEFINITIONS; SECTION 6-3, AMENDMENTS; AND SECTION 6-4, OPEN BURNING OF YARD WASTE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 6, Fire Protection, is hereby amended and reordained by amending Section 6-1, Adoption of Virginia Statewide Fire Prevention Code; Section 6-2, Definitions; Section 6-3, Amendments; and Section 6-4, Open burning of yard waste.

Chapter 6. Fire Protection

Article I. Fire Prevention Code

Sec. 6-1. Adoption of Virginia Statewide Fire Prevention Code.

Pursuant to section 27-97 of the Code of Virginia, ~~the 1996 edition of~~ the Virginia Statewide Fire Prevention Code is adopted by James City County, except as otherwise modified or amended in this article, and the same is hereby incorporated fully by reference. This code shall be referred to in this chapter as the "fire prevention code." The fire department shall enforce the fire prevention code under the direction of the fire official.

Sec. 6-2. Definitions.

The following words and terms used in the fire prevention code shall have the definitions ascribed to them in this section:

Chief appointing authority or appointing authority shall mean the James City County Board of Supervisors.

Chief authority or chief administrative officer shall mean the county administrator of James City County.

Deputy shall mean the James City County Deputy Fire Marshal.

Fire official shall mean the fire marshal of the county or his duly authorized representative. For the purposes of this code, the term code official shall also mean fire official.

Yard waste shall include leaves, brush, grass, stumps, scrub vegetation, bushes, and twigs or branches less than one inch in diameter.

Sec. 6-3. Amendments.

The fire prevention code is hereby amended, modified and changed as set out in the following subsections of this section.

- (1) Section ~~F-104.2~~ ~~F-107.2.3~~, *Permits required*, is hereby amended to read as follows:

Permits shall be obtained, when required, from the fire official. Permits shall be available at all times on the premises designated in the permit for inspection of the fire official. Fees for such permits, and for inspections, shall be in such amounts as are from time to time established by resolution of the board of supervisors.

(2) *Section F-107.2.3.1 Permits required, is hereby added:*

With exception of mandatory permits for explosives and blasting agents, the county shall require permits issued as a part of the Statewide Fire Prevention Code for the following:

(a) *Fireworks*

(b) *Open burning of debris waste as a result of land clearing, refuse as result of agricultural and forestal management practices, and bonfires.*

(3) *Section F-107.2.4.1 Local Fees is hereby amended:*

(a) *\$50.00 per event or \$100.00 per calendar year (at same site with similar displays) for fireworks.*

(b) *With exception to fireworks permits, no fees are required for Statewide Fire Prevention Code permits issued by the fire department.*

(2 ~~4~~) ~~Section F-105.1., Local appeals F-113.2.1.1., Board of Appeals,~~ is hereby amended to read as follows:

(a) The James City County ~~Building Board of Appeals~~ *Board of Building Code Appeals* is hereby constituted as and shall serve as the James City County ~~Fire Prevention Code Appeals Board~~ *of Fire Prevention Code Appeals*.

~~(b) The chairman and secretary of the James City County Building Board of Appeals shall serve in that same capacity for the James City County Fire Prevention Appeals Board. A majority of the members of the board shall constitute a quorum. The board shall operate in accordance with the applicable provisions of the Administrative Process Act set forth in section 9-6.14 of the Code of Virginia. All board hearings shall be open to the public.~~

~~(c) The fire official shall provide clerical support to the board within personnel and budgeting limits.~~

~~(d) Appeals to the board may be made by any person aggrieved by any decision or interpretation of the fire official made under the provisions of this code. The board shall meet within thirty days of receipt of an appeal application by the board.~~

(5) *Section F-113.2.3 Chairman is hereby amended to read:*

The chairman of the James City County Board of Building Code Appeals shall also serve as chairman of the James City County Board of Fire Prevention Code Appeals.

(6) *Section F-311.1.1 Specifications is hereby amended to read:*

Fire lanes, when required, shall conform to the specifications issued by the fire official. The fire official shall maintain records of those properties which are required to establish and maintain fire lanes.

(37) *Section F403.3., Allowable burning, is hereby amended to read:*

Open burning shall be allowed without prior notification to the fire official for recreational fires, highway safety flares, smudge pots and similar occupational needs, and the burning of yard waste, twigs or branches one inch or greater in diameter and household debris, except garbage, when conducted in accordance with this code; provided, however, pursuant to section 10.1-1142 of the Code of Virginia, that:

(a) It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or

lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris or other inflammable material upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.

- (b) During the period beginning February 15 and ending ~~May 1~~ *April 30* of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful in this county for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire located in or within three hundred feet of any woodland, brushland or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set on ~~rights-of-way of railroad companies by their authorized employees~~ *federal lands and, between February 15 and March 1 of each year, on lands owned by the Department of Game and Inland Fisheries.*

- (c) Any person who builds a fire in the open air, or uses a fire built by another in the open air, within one hundred fifty feet of any woodland, brushland or field containing dry grass or other inflammable material shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.
- (d) Any person violating any of the provisions of subsections (a), (b) or (c) of this section shall be guilty of a Class 3 misdemeanor for each separate offense. *If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in*

addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the State Forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.

(4 8) Section F-403.5, *Location requirements*, is hereby amended to read:

The location for any open burning shall not be less than 50 feet from any structure and provisions shall be made to prevent the fire from spreading to within 50 feet of any structure. Fires in approved containers shall be permitted; provided, that such fires are not less than 15 feet from any structure.

Exception: The location of any open burning conducted for the disposal for land clearing refuse which has been permitted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality shall not be less than 500 feet from an occupied dwelling.

(5 9) Section ~~F-403.7.1~~ ~~F-403.5.1~~, *Open burning prohibited-Construction sites*, is hereby added:

Open burning of construction waste, demolition waste, refuse or any other type of waste is prohibited when located at a construction or demolition site. The removal of such waste from a construction or demolition site and the subsequent burning of the same at another location in James City County is also prohibited.

Exception: Approved open burning for the disposal of land clearing refuse shall be allowed on construction sites when conducted in accordance with the regulations concerning open burning issued by the Virginia Department of Environmental Quality and this Code.

(6 10) *Section F-403.8 F-403.6, Open burning stipulations, is hereby amended to read:*

Notwithstanding any other provision of this ~~article~~ *chapter*, open burning shall not be used for waste disposal purposes, the quantity, of material to be burned shall not exceed five feet in any dimension, and the fuel shall be chosen to minimize the generation and emission of air contaminants.

Exception: Approved burning for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.

(7 11) *Section F-3101.2, Permit required, is hereby amended to read:*

A permit shall be obtained from the ~~county administrator~~ *fire official* for the display or discharge of fireworks. Upon written application by an organization or association representing a fair or amusement park or by any administrator, organization or group of individuals to the county *fire department*, a permit may be issued for the display of fireworks; provided, that such display shall be held under proper supervision and at a location safe to persons and property. Such application ~~shall be made at least fifteen days in advance of the date of display or discharge of the fireworks and~~ shall include a description of the types of fireworks to be displayed and the location to be used to ensure the safety of those in attendance. The permittee shall furnish a bond in the

amount required by section F-3103.4 of the Virginia Statewide Fire Prevention Code. A permit, when issued, shall be for a stated period. No such permit shall be issued by the ~~county administrator~~ *fire official* to any organization or association or group of individuals unless the ~~county administrator~~ *fire official* is satisfied that the display will be held at an appropriate site. A member of the fire department shall, prior to the issuance of such a permit, inspect the scene for its appropriateness for the display of fireworks. ~~and make a recommendation to the county administrator.~~ The ~~county administrator or an~~ *As* authorized member of the fire department may revoke any such permit during the display if such is conducted in any manner not in keeping with the application or in compliance with this section and the display shall thereupon be immediately stopped.

~~In order to cover administrative and inspection costs, the applicant shall pay, prior to issuance of the permit, a fee of fifty dollars per event or one hundred dollars for an annual permit to hold multiple events, during a calendar year, in the same location with similar fireworks, projectiles, launchers and height limits.~~

(~~8~~ *12*) *Section F-3102.1, Definitions, general definition,* is hereby amended to read:

~~The following words and terms shall, for the purpose of this chapter and as stated elsewhere in this code, have the meanings shown herein.~~

"Fireworks" shall mean and include any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or ~~inflammable~~ *flammable* compound or substance and is intended or commonly known as fireworks and which explodes, rises into the air, or travels laterally, or fires projectiles into the air. The term "fireworks" shall also include pinwheels, sparklers, fountains or Pharaoh's serpents. The term "fireworks" shall not include auto flares or caps for pistols.

(13) Section F-3103.1 General is amended to read:

The rules and regulations for fireworks shall be in accordance with NFPA 1123, 1224 and 1126 listed in Chapter 44.

(14) Section F-3103.4 Bond for display is amended to read:

The permit holder shall furnish a bond at a minimum in the amount of \$1,000,000.00 for the payment of all potential damage caused by either to the person or property due to the permitted display, and arising from any acts of the permit holder or agent of the permit holder. The property owner shall agree in writing to the bond amount prior to the permit being issued.

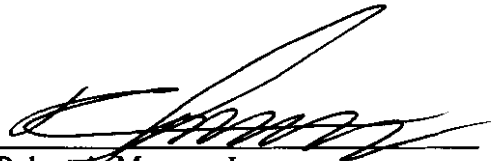
Sec. 6-4. Open burning of yard waste.

The fire prevention code is hereby amended, modified and changed as set out in the following subsection of this section:

(1) *Section F-403.3.1. Burning yard waste, is hereby added.*

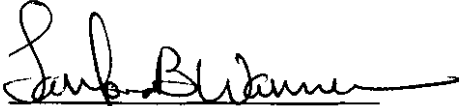
(a) Notwithstanding any other provision of this Code, open burning of yard waste by any person shall be unlawful within the county except in those areas zoned A-1, General Agriculture; provided, however, even within A- 1 acres, yard waste shall not be burned in platted

subdivisions consisting of five or more lots of which at least three lots have occupied dwellings or in manufactured home parks. In those areas where the open burning of yard waste is otherwise permitted, it shall be unlawful for any person to burn yard waste during the period beginning February 15 and ending ~~May 1~~ April 30 of each year, except between the hours of 4:00 p.m. and 12:00 midnight.



Robert A. Magoon, Jr.
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
EDWARDS	AYE
TAYLOR	AYE
SISK	AYE
DEPUE	AYE
MAGOON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of June,
1997.