

AUG 16 1993

ORDINANCE NO. 9A-7

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, BY AMENDING SECTION 6-2, DEFINITIONS; SECTION 6-3, AMENDMENTS, AND SECTION 6-3.1, BURNING LEAVES.

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 6-2, Definitions; Section 6-3, Amendments; and Section 6-3.1, Burning yard waste.

Chapter 6. Fire Protection

Article I. Fire Prevention Code.

Section 6-2. Definitions.

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

Fire official shall mean the fire marshal of the county or his duly authorized representative.

Jurisdiction shall mean the County of James City, Virginia.

Legal counsel of the jurisdiction shall mean the county attorney or an attorney appointed by the board of supervisors to represent the county in legal matters.

Open burning shall mean any burning wherein the products of combustion are emitted directly into the ambient air without passing thorough a stack or chimney from an enclosed chamber. A chamber shall be regarded as enclosed when, during the time combustion takes place, only apertures, ducts, stacks, flues, or chimneys necessary to provide air and to permit the escape of exhaust gas are open.

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

Section 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., 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-105.1., Local appeals, is hereby amended to read as follows:

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

"(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 (30) days of receipt of an appeal application by the board."

(3) Section F-301.2., 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 ~~leaves, twigs~~ yard waste, twigs or branches one inch or greater in diameter and household debris, except garbage, when conducted in accordance with this Code, ~~in small and contained quantities;~~ 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 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 March 1 and ending May 15 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.

"(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."

(4) *Section F-301.7, 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 through the Virginia Department of Environmental Quality shall not be less than 500 feet from an occupied dwelling.

- (5) *Section F-302.7.1, 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) *Section F-301.8, Open burning stipulations, is hereby amended to read:*

Notwithstanding any other provision of this Article, 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.

(4) (7)Section F-2700.2., Permit required, is hereby amended to read:

"A permit shall be obtained from the county administrator 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, 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 (15) 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-2701.2 of the Virginia State-wide Fire Prevention Code. A permit, when issued, shall be for a stated period. No such permit shall be issued by the county administrator to any organization or association or group of individuals unless the county administrator 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 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 (~~\$50.00~~) per event or one hundred dollars (~~\$100.00~~) for an annual permit to hold multiple events, during a calendar year, in the same location with similar fireworks, projectiles, launchers and height limits."

(5)(8) Section 201.0, General definition, is hereby amended to read:

" '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 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."

Section 6-3.1 *Open B burning leaves yard waste.*

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

(1) *F-301.2.1 Burning yard waste, is hereby added.*

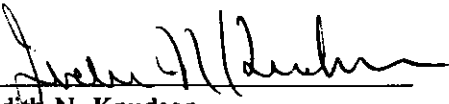
- (a) Notwithstanding any other provision of this Code, ~~it shall be unlawful for any person to burn leaves in the~~ open burning of yard waste by any person *shall be unlawful* within the County except in those areas zoned A-1, General Agriculture; provided, however, even within A-1 areas, ~~leaves yard waste~~ shall not be burned in platted subdivisions consisting of five ~~(5)~~ or more lots of which at least three ~~(3)~~ lots have occupied dwellings or in manufactured home parks. In those areas

where ~~leaf burning~~ *the open burning of yard waste* is otherwise permitted, it shall be unlawful for any person to burn ~~leaves~~ *yard waste* during the period beginning March 1 and ending May 15 of each year, except between the hours of 4:00 p.m. and 12:00 midnight.

(b) ~~Leaf burning~~ *Open burning of yard waste* performed in an area permitted in paragraph (a) shall comply with any applicable provisions of state law and this article.

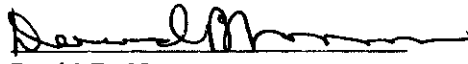
(c) *Notwithstanding paragraphs (a) and (b), open burning of yard waste shall be allowed for farming activities and pursuant to a permit for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in a accordance with regulations concerning open burning issued by the Virginia Department of Environmental Quality.*

State law references-- Code of Va., §§ 27-97 and 10.1-1142.



Judith N. Knudson
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 16th day
August, 1993.

Fire.Ord