

OCT 14 2003

ORDINANCE NO. 9A-12

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 9, FIRE PROTECTION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, FIRE PREVENTION CODE, SECTION 9-1, ADOPTION OF VIRGINIA STATEWIDE FIRE PREVENTION CODE; SECTION 9-2, DEFINITIONS; SECTION 9-3, AMENDMENTS; AND SECTION 9-4, OPEN BURNING OF YARD WASTE.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 9, Fire Protection, is hereby amended and reordained by amending Article I, Fire Prevention Code, Section 9-1, Adoption of Virginia Statewide Fire Prevention Code; Section 9-2, Definitions; Section 9-3, Amendments; and Section 9-4, Open burning of yard waste.

Chapter 9. Fire Protection

Article I. Fire Prevention Code*

Sec. 9-1. Adoption of Virginia Statewide Fire Prevention Code.

Pursuant to section 27-97 of the Code of Virginia, the ~~1996~~ 2000 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" or "SFPC." The fire department shall enforce the fire prevention code under the direction of the fire official.

Cross reference-Fire protection requirements in subdivisions, § 19-63.

***State regulation reference**-13 Virginia Administrative Code 5-51-Virginia Statewide Fire Prevention Code.

Sec. 9-2. 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.~~ *Local governing body.* The James City County Board of Supervisors.

~~Chief authority or chief administrative officer.~~ *The county administrator of James City County.*

~~Deputy.~~ *The James City County Deputy Fire Marshal.*

Fire official. 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.

IFC. International Fire Code /2000

Jurisdiction. The County of James City, Virginia.

~~Legal counsel department of the jurisdiction.~~ *The county attorney or an attorney appointed by the board of supervisors to represent the county in legal matters.*

~~*Open burning.* Any burning wherein the products of combustion are emitted directly into the ambient air without passing through 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 gas are open.~~

Yard waste. Include leaves, brush, grass, stumps, scrub vegetation, bushes, and twigs or branches.

Sec. 9-3. Amendments.

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

(1) ~~SFPC Section F-107.2.3~~ 107.2, *Permits required*, is hereby ~~amended to read as follows~~ *added*:

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.

(32) ~~Section F-107.2.4.1, Local Fees SFPC Table 107.2 - Operational Permit Requirements~~ is hereby ~~amended~~ *added*:

- (a) \$100.00 per event or \$200.00 per calendar year (at same site with similar displays) for fireworks.
- (b) \$50.00 for each waste open burning permit.
- (c) \$25.00 for each bonfire permit.

~~State law reference - Authority of county to adopt fire prevention code, Code of Va., §27-97.~~

(43) ~~Section F-113.2.1.1, Board of Appeals SFPC Section 112.1, Local Board of Fire Prevention Code Appeals (BFPCA)~~ , is hereby ~~amended to read~~ *added*:

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

(54) ~~Section F-113.2.3 SFPC Section 112.2.1, Chairman~~ is hereby ~~amended to read~~ *added*:

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.

(65) ~~IFC Section F-311.1.1 503.2.2, Specifications Authority~~ is hereby ~~amended to read~~ *added*:

Fire ~~lanes~~ *apparatus access roads*, 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~~ *apparatus access roads*.

(76) IFC Section ~~F-403.3~~ 307.2.2, ~~Allowable burning~~ *Prohibited open burning*, is hereby amended to read *added*:

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, 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) *Except as provided in subsection (c),* ~~During~~ during the period beginning February 15 and ending April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful in this county *or any portion thereof organized for*

forest fire control under the direction of the state forester, 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 federal lands. ~~and, between February 15 and March 1 of each year, on lands owned by the Department of Game and Inland Fisheries.~~

(c) Subsection (b) shall not apply to any fire set between February 15 and March 1 of each year, if:

- 1. The fire is set for "prescribed burning" that is conducted in accordance with a "prescription" and managed by a "certified prescribed burn manager" as those terms are defined in Va. Code section 10.1-1150.1;*
- 2. The burn is conducted in accordance with Va. Code section 10.1-1150.4;*
- 3. The state forester has, prior to February 1, approved the prescription for the burn;
and*
- 4. The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year;*

(ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year; or (iii) management necessary for natural heritage resources.

The state forester may on the day of any burn planned to be conducted pursuant to this subsection revoke his approval of the prescription for the burn if hazardous fire conditions exist. The state forester may revoke the certification of any certified prescribed burn manager who violates any provision of this subsection.

(cd) Any person who builds a fire in the open air, or uses a fire built by another in the open air, within 150 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.

(de) 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.

(87) *IFC Section ~~F-403.5-307.3~~, Location requirements, is hereby amended to read is added:*

~~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.

(98) ~~IFC Section F-403.5.1 1404.3, 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.

(109) ~~IFC Section F-403.6, 307.2.2 Open burning stipulations Prohibited open burning~~ is hereby amended to read *added*:

~~Notwithstanding any other provision of this 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.

(~~11~~10) *SFPC Section ~~F-3101.2~~ 3301.2, Permit required,* is hereby ~~amended to read~~ *added:*

A permit shall be obtained from the 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 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 *or certificate of insurance* in the amount required by section ~~F-3103.4~~ 3301.2.4.2 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 fire official to any organization or association or group of individuals unless the 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. 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.

(1211) ~~SFPC Section F-3102.1~~ 3302.1, *Definitions, general*, 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 a~~ Any item known as a firecracker, torpedo, skyrocket or other substance or thing, of whatever form or construction, that contains any explosive or 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.

"Permissible fireworks." Any 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, 1124 and 1126 listed in Chapter 44.~~

(1412) ~~SFPC Section F-3103.4~~ 3301.2.4.2, *Bond for display Fireworks display* is amended to read:

The permit holder shall furnish a bond *or certificate of insurance* 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,

employees, or agent of the permit holder. The property owner shall agree in writing to the bond *or certificate of insurance* amount prior to the permit being issued.

Sec. 9-4. Open burning of yard waste.

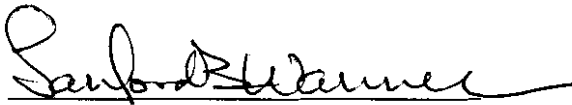
The fire prevention code is hereby amended, modified and changed as set out in the following subsection of this section:

- (1) *IFC Section ~~F-403.3.1~~ 307.2.2, ~~Burning yard waste~~ Prohibited open burning*, 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 April 30 of each year, except between the hours of 4:00 p.m. and 12:00 midnight.
- (b) 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.

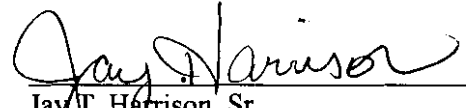
- (c) Notwithstanding paragraphs (a) and (b), open burning of yard waste shall be allowed for farming activities and pursuant to a permit for forest management and agriculture practices and open burning for disposal of land clearing refuse when conducted in accordance with regulations concerning open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

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

ATTEST:



Sanford B. Wanner
Clerk to the Board



Jay T. Harrison, Sr.
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
MCLENNON	AYE
BROWN	AYE
GOODSON	AYE
KENNEDY	ABSENT
HARRISON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of October, 2003.