

ALBEMARLE COUNTY CODE

CHAPTER 6

FIRE PROTECTION

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ARTICLE I. IN GENERAL

Sec. 6-100 Office of the fire marshal created; appointment, oath and powers of the fire marshal and his duties.

A. Pursuant to Virginia Code § 27-30, the Office of the County Fire Marshal is hereby established. The board of supervisors shall appoint the fire marshal and such assistant fire marshals as the board deems necessary.

B. The fire marshal and his assistants shall, before entering upon their duties, take an oath, before any officer authorized to administer oaths, to faithfully discharge the duties of their offices.

C. The fire marshal and his assistants, in addition to such other duties as may be prescribed by law, shall be authorized to exercise all powers granted pursuant to Virginia Code § 27-34.2:1.

D. While any fire department or fire company is in the process of answering an alarm or operating at an emergency incident where there is imminent danger or the actual occurrence of fire or explosion, or the uncontrolled release of hazardous materials that threaten life or property, or in other emergency situations, the fire marshal and his assistants, or other officer in charge of such fire department or company at that time, shall have the authority to:

1. maintain order at such emergency incident or in its vicinity;
2. notwithstanding the provisions of Virginia Code § 46.2-890, keep bystanders or other persons at a safe distance from the incident and emergency equipment;
3. facilitate the speedy movement and operation of emergency equipment and firefighters;
4. cause an investigation to be made into the origin and cause of the incident; and
5. until the arrival of a police officer, direct and control traffic, in person or by deputy, and facilitate the movement of traffic.

The fire marshal or other officer in charge shall display his firefighter's badge or other proper means of identification.

E. Notwithstanding any other provision of law, the authority granted by this section shall extend to the activation of traffic control signals designed to facilitate the safe egress and ingress of emergency equipment at a fire station.

F. Any person refusing to obey the orders of the fire marshal or his assistants, or other officer in charge at that time, shall be guilty of a class 4 misdemeanor. The fire marshal and his assistants, or other officer in charge, shall have the authority to make arrests for violation of the provisions of this section.

G. The authority granted under the provisions of this section may not be exercised to inhibit or obstruct members of law-enforcement agencies or rescue squads from performing their normal duties when operating at such emergency incident. Personnel from the news media, when engaged in news-gathering activities, may enter at their own risk into the incident area only when the officer in charge has deemed the area safe and only into those areas of the incident that do not, in the opinion of the fire marshal or his assistants, or other officer in charge, interfere with the fire department or rescue workers dealing with such emergencies, in which case the fire marshal or his assistants, or other officer in charge, may order such persons from the scene of the emergency incident.

(Code 1988, § 9-1; Ord. 98-A(1), 8-5-98)

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State law reference--Va. Code § 27-15.1; § 27-30; § 27-36.

Sec. 6-101 General precautions to prevent spread of fire; penalties.

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 shall have 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 land other than those owned or leased by him. It shall be unlawful for any employee, agent, representative or licensee 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 shall have taken similar precautions to prevent the spread of such fire to any other land.

B. During the period beginning February 15 and ending April 30 of each year, even though the precautions required by this section have been taken, it shall be unlawful 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 five hundred (500) feet of any woodland, brushland or field containing dry grass or other flammable material, except between the hours of 4:00 p.m. and 12.00 midnight.

C. The provisions of this section shall not apply to fires which may be set within the corporate limits of any incorporated town, nor to fires set on rights-of-way of railroad companies by their duly authorized employees.

D. Any person violating any provisions of this section shall be guilty of a class 3 misdemeanor for each separate offense. In addition, such person shall be liable for the full amount of all expenses incurred in fighting the fire.

(Code 1988, § 9-2; Ord. 98-A(1), 8-5-98)

State law reference--For similar state law, see Va. Code § 10.1-1142.

Sec. 6-102 Junior Firefighter Programs.

Persons sixteen years of age or older are authorized to participate in a volunteer fire company duly authorized to operate within the County of Albemarle under the following conditions.

Any person sixteen years of age or older may work with or participate fully in all activities of a voluntary fire company, provided that, if such person is less than eighteen years of age, such person shall first:

A. Supply to the chief fire officer of the volunteer fire company written confirmation that such person has parental or guardian approval; and

B. Attain certification under National Fire Protection Association 1001, level one, fire fighter standards as administered by the Department of Fire Programs.

(Ord. 01-6(2), 12-05-01)

State law reference -- Virginia Code § 40.1-79.1.

ARTICLE II. FIRE PREVENTION CODE

Sec. 6-200 Adoption of Virginia Statewide Fire Prevention Code.

Pursuant to Virginia Code § 27-97, the Virginia Statewide Fire Prevention Code, in its current form and as amended in the future, is adopted by the County of Albemarle, except as otherwise modified or

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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 official shall enforce the fire prevention code.

(Code 1988, § 9-4; Ord. 98-A(1), 8-5-98)

Sec. 6-201 Definitions

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

(1) *Fire official.* The term "fire official" means the Fire Marshal and/or his assistants.

(2) *Jurisdiction.* The term "jurisdiction" means the County of Albemarle, Virginia.

(3) *Legal counsel of the jurisdiction.* The term "legal counsel of the jurisdiction" means the county attorney or an attorney appointed by the board of supervisors to represent the county in legal matters.

(Code 1988, § 9-4.1; Ord. 98-A(1), 8-5-98)

Sec. 6-202 Local appeals.

Appeals concerning the application of the Fire Prevention Code shall be governed as follows:

A. The Albemarle County Building Code and Appeals Board is hereby constituted as, and shall serve as the Albemarle County Fire Prevention Code Appeals Board.

B. The chairman and secretary of the Albemarle County Building Code and Appeals Board shall serve in that same capacity for the Albemarle County Fire Prevention Appeals Board.

C. The fire official shall provide clerical support to the Albemarle County Building Code and Appeals Board on matters pertaining to the fire prevention code within personnel and budgeting limits.

D. Appeals to the Fire Prevention Appeals Board may be made by any person aggrieved by any decision or interpretation of the fire official made under the provisions of the fire prevention code.

(Code 1988, § 9-4.2; Ord. 98-A(1), 8-5-98)

Sec. 6-203 Permits required.

Permits shall be obtained, when required, from the fire official. Permits shall be available for inspection by the fire official at all times on the premises designated in the permit. Fees for such permits, for inspections and services shall be in such amounts as are from time to time established by resolution of the board of supervisors, and a fee schedule setting forth such fees will be maintained by the fire official. Such fee schedule shall also include fees to defray costs of enforcement and appeals concerning the Fire Prevention Code.

(Code 1988, § 9-4.3; Ord. 98-A(1); 8-5-98)

Sec. 6-204 Fire lanes.

A. The fire official may require both public and private fire lanes, as deemed necessary for the efficiency and use of fire and rescue apparatus. Fire lanes shall have a minimum width of 18 feet. No person shall stand or park a motor vehicle within any fire lane established and designated in a parking lot or travel lane open to the public.

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B. Designated fire lanes shall be free of obstructions, vehicles and marked in a manner prescribed by the fire official.

C. All designated fire lane signs or marking shall be maintained in a clear and legible condition at all times and replaced when necessary to ensure adequate visibility.

D. The County Police and the fire official shall have concurrent jurisdiction to enforce the provisions of this section, and each shall have the authority to issue parking citations for any violation of this section.

E. Any police officer or the fire official who finds any vehicle in violation of this section shall also have the authority to remove such vehicle at the owner's risk and expense. This authority shall extend to any fire or rescue officer in charge of a fire or rescue operation who finds any such violation to be interfering with such emergency operations.

F. Violation of this section shall be punishable by a twenty-five dollar (\$25.00) fine. The contest of such fine any person shall be governed by the provisions of section 9-118 of this Code.

(Code 1988, § 9-7; Ord. 98-A(1), 8-5-98)

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Sec. 6-205 Fire protection systems.

A. Any person or persons engaged in selling, servicing, testing, leasing, installing, inspecting, altering, modifying, repairing or removing any portable or fixed fire protection, suppression or detection equipment and systems in the county shall be required to register and obtain a permit from the fire official.

B. Each registrant will provide the fire official with proof of adequate general liability insurance, including product or completed operations liability insurance, in order to protect the public (both from property damage and personal injury) from negligence of the registrant's personnel performing the aforementioned activities, considering the nature and extent of the registrant's proposed activities.

C. Any person or persons engaged in the aforementioned activities shall demonstrate proof of qualification, in a manner prescribed by the fire official.

D. All servicing, inspection, testing, installing, altering, modifying, repairing, or removing of such equipment and systems, shall be done in accordance with the practices, standards, codes and requirements of the National Fire Protection Association, the Statewide Fire Prevention Code and Virginia Uniform Statewide Building Code and the orders of the fire official.

E. Failure to comply with this section shall be cause for revocation of the permit and shall be a violation of the Statewide Fire Prevention Code.

(3-20-75; 4-13-88; Code 1988, § 9-8; Ord. 98-A(1), 8-5-98)

ARTICLE III. FIREWORKS

State law reference--As to fireworks generally, see Va. Code §§ 59.1-142 to 59.1-148.

Sec. 6-300 Purpose of article.

The purpose of this article is to provide administrative procedures for the regulation of the use, possession, manufacture, discharge, storage and sale of fireworks.

(Code 1988, § 9-9; Ord. 98-A(1), 8-5-98; Ord. 01-6(1), 6-6-01)

Sec. 6-301 Manufacture, sale, discharge, etc., of certain fireworks prohibited.

Except as otherwise provided in this article, it shall be unlawful for any person to transport, manufacture, store, sell, offer for sale, expose for sale, buy, use, ignite, possess or explode any 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, other than sparks, and other than those fireworks excepted under the provisions of section 6-302.

(Code 1967, § 10-4; 4-13-88; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-10; Ord. 98-A(1), 8-5-98; Ord. 01-6(1), 6-6-01)

State law reference--Va. Code § 59.1-142.

Sec. 6-302 Article not applicable to certain fireworks.

The provisions of this article shall not apply to sparklers, fountains, Pharaoh's serpents, caps for pistols or pinwheels, commonly known as whirligigs or spinning jennies, when used or exploded on private property with the consent of the owner of such property; nor shall the provisions of this article apply to the use of fireworks by any railroad company for signal purposes or illumination; nor shall the provisions of

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this article apply to the sale or use of blank cartridges for a show or theater or for signal or ceremonial purposes in athletics or sports or for use by military organizations.

(Code 1967, § 10-5; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-11; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code §§ 59.1-146, 59.1-147.

Sec. 6-303 Fireworks permits--Required.

A. Notwithstanding the other provisions of this article, public displays of fireworks may be given by fair associations, amusement parks or by any organization or group of individuals in accordance with a permit from the fire official. It shall be unlawful for any person to hold, present or give any such public display of fireworks without first having obtained such a permit from the fire official.

B. Any person, business, organization or other entity engaged in the sale, storage, distribution, manufacture or public display of fireworks anywhere in the County of Albemarle must obtain a permit from the fire official and must comply with all terms and conditions imposed by the fire official in connection with the permit prior to engaging in any sale, storage, distribution, manufacture or public display of fireworks. The fee for such permit shall be as established in the fee schedule maintained by the fire official, as may be amended from time to time.

(Code 1967, § 10-6; 4-13-88; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-12; Ord. 98-A(1), 8-5-98; Ord. 01-6(1), 6-6-01)

State law reference--For state law as to authority of county to adopt this section, see Va. Code § § 27-98 and 59.1-144.

Sec. 6-304 Fireworks permits--Application.

Any person, business, organization or other entity required by section 6-303 to obtain a permit shall make application to the fire official at least thirty (30) days prior to the date of such fireworks display or other activity requiring a permit. Such application shall be on forms provided by the fire official. The applicant shall furnish such information as may be required by the fire official, comply with all terms and conditions imposed by the fire official and pay the required fee(s).

(Code 1967, § 10-7; 4-13-88; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-13; Ord. 98-A(1), 8-5-98; Ord. 01-6(1), 6-6-01)

Sec. 6-305 Fireworks permits--Investigation; issuance or refusal.

Upon filing of an application for a permit required by section 6-303, the fire official shall make an investigation to determine whether the applicant is properly qualified to present a public fireworks display or engage in other activities requiring a fireworks permit and whether such activities can occur within the County of Albemarle without danger to property or person. If the fire official is satisfied with the results of such investigation, and the applicant complies with all requirements imposed by this chapter and any applicable regulations or procedures, the fire official shall issue the permit. If he is not satisfied with the results of such investigation, or if the applicant has not complied with any or all requirements imposed by this ordinance and any applicable regulations or procedures, the fire official shall refuse to issue such permit.

(Code 1967, § 10-8; 4-13-88; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-14; Ord. 98-A(1), 8-5-98; Ord. 01-6(1), 6-6-01)

Sec. 6-306 Fireworks permits--Conditions.

The fire official may specify, in any permit issued pursuant to section 6-303, any conditions that he shall deem necessary to protect persons and property. Such conditions may include, but shall not be limited

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to, the type of fireworks to be used in a fireworks display, the hours when such display may be presented, required fire extinguishing equipment, the presence of trained fire fighters and police officers at such display, the manner, place or other conditions of storage of fireworks by anyone required to obtain a permit pursuant to section 6-303 and any other requirement that the fire official may deem necessary.

(Code 1967, § 10-9; 4-13-88; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-15; Ord. 98-A(1), 8-5-98; Ord. 01-6(1), 6-6-01)

Sec. 6-307 Fireworks permits--Liability insurance or bond required.

Each person, business, organization or other entity required by section 6-303 to apply for and obtain a permit (the "permittee") shall file with the fire official evidence of a valid policy of liability insurance from an insurance company authorized to conduct business in the Commonwealth of Virginia or a bond in an amount deemed adequate by the fire official to insure the payment of all damages which may be caused either to persons or to property by reason of the permitted display, sale, storage or other activity subject to the requirements of this article and arising from any acts of the permittee or his agents, employees or subcontractors.

(Code 1967, § 10-10; 4-13-88; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-16; Ord. 98-A(1), 8-5-98; Ord. 01-6(1), 6-6-01)

Sec. 6-308 Fireworks permits--Nontransferable.

No permit issued pursuant to section 6-303 shall be transferable.

(Code 1967, § 10-11; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-17 Ord. 98-A(1), 8-5-98; Ord. 01-6(1), 6-6-01)

Sec. 6-309 Disposal of unused fireworks after public display.

Any fireworks remaining unfired at the end of any public display shall be immediately disposed of in a manner safe for that particular type of fireworks.

(Code 1967, § 10-12; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-18; Ord. 98-(A), 8-5-98)

Sec. 6-310 Sale, discharge, etc., prohibited in certain locations.

It shall be unlawful for any person, firm, corporation, organization or group to sell, offer for sale, store, display, manufacture, possess or discharge any fireworks within one hundred (100) feet of any gasoline pump, propane distribution tank, or other inflammable liquid distribution pump or apparatus, except in a fully enclosed building where fireworks are permitted for such sale or use.

The term "fully enclosed building" shall not be construed to include any outdoor stands or other similar structures that have been set up to sell, offer for sale, store or display any fireworks.

(Code 1967, § 10-13; Ord. No. 95-9(1), 5-3-95; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-19; Ord. 98-A(1), 8-5-98)

Sec. 6-311 Seizure and destruction of certain fireworks.

Any law enforcement officer arresting any person for the violation of any provision of this article shall seize any article mentioned in section 6-301 which is in the possession of or under the control of the person so arrested, and shall hold the same until final disposition of any criminal proceedings against such person. If a judgment of conviction is entered against such person, the court shall, in addition to any other penalty imposed, order destruction of such articles upon expiration of the time allowed for appeal of such judgment of conviction.

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(Code 1967, § 10-14; Ord. No. 97-9(1), 1-8-97; Code 1988, § 9-20; Ord. 98-A(1), 8-5-98)

State law reference--For state law basis of this section, see Va. Code § 59.1-143.

ARTICLE IV. BURNING OF BRUSH, ETC.

State law reference--For state law similar to provisions of this article, see Va. Code § 10.1-1142.

Sec. 6-400 Title.

This article shall be known as the Albemarle County Ordinance for the Regulation of Open Burning.

(Code 1988, § 9-21; Ord. 98-A(1), 8-5-98)

Sec. 6-401 Purpose.

The purpose of this article is to protect public health, safety, and welfare by regulating open burning within Albemarle County to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development.

(Code 1988, § 9-21.1; Ord. 98-A(1), 8-5-98)

Sec. 6-402 Adoption of Virginia State air pollution control board regulations.

The Commonwealth of Virginia State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution, Part IV, Emissions Standards for Open Burning (Rule 4-40), in current form and as amended in the future, are hereby adopted and incorporated by reference; provided, however, any county regulation specified in this article more restrictive than such state regulations shall apply and take precedence over the state regulations. Any permits required by such state regulations may be issued by the county, if authorized by the state agency otherwise responsible.

(Code 1988, § 9-21.1; Ord. 98-A(1), 8-5-98)

Sec. 6-403 Definitions.

For the purpose of this article and subsequent amendments or any orders issued by Albemarle County, the words or phrases shall have the meaning given them in this section.

(1) *Automobile graveyard.* The term “automobile graveyard” means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

(2) *Clean burning waste.* The term “clean burning waste” means waste which does not produce dense smoke when burned and is not prohibited to be burned under this ordinance.

(3) *Construction waste.* The term “construction waste” means solid waste which is produced or generated during construction of structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials must be in accordance with the regulations of the Virginia Waste Management Board.

(4) *Debris waste.* The term “debris waste” means stumps, wood, brush, and leaves from land clearing operations.

(5) *Demolition waste.* The term “demolition waste” means that solid waste which is produced by the destruction of structures and their foundations and includes the same materials as construction waste.

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(6) *Garbage*. The term “garbage” means rotting animal and vegetable matter accumulated by a household in the course of ordinary day to day living.

(7) *Hazardous waste*. The term “hazardous waste” means refuse or combination of refuse which, because of its quantity, concentration or physical, chemical or infectious characteristics may:

(a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or

(b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.

(8) *Household refuse*. The term “household refuse” means waste material and trash normally accumulated by a household in the course of ordinary day to day living.

(9) *Industrial waste*. The term “industrial waste” means all waste generated on the premises of manufacturing and industrial operations such as, but not limited to, those carried on in factories, processing plants, refineries, slaughter houses, and steel mills.

(10) *Junkyard*. The term “junkyard” means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(11) *Landfill*. The term “landfill” means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Virginia Solid Waste Management Regulations (VR 672-20-10) for further definitions of these terms.

(12) *Local landfill*. The term “local landfill” means any landfill located within the jurisdiction of a local government.

(13) *Open burning*. The term “open burning” means the burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney.

(14) *Open pit incinerator*. The term “open pit incinerator” means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion by-products emitted into the atmosphere. The term also includes trench burners, air curtain destructors and over draft incinerators.

(15) *Refuse*. The term “refuse” means trash, rubbish, garbage and other forms of solid or liquid waste, including, but not limited to, wastes resulting from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management and emergency operations.

(16) *Salvage operation*. The term “salvage operation” means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

(17) *Sanitary landfill*. The term “sanitary landfill” means an engineered land burial facility for the disposal of household waste which is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, and nonhazardous industrial solid waste. See Virginia Solid Waste Management Regulations (VR 672-20-10) for further definitions of these terms.

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(18) *Smoke*. The term “smoke” means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

(19) *Special incineration device*. The term “special incineration device” means a pit incinerator, conical or tepee burner, or any other device specifically designed to provide good combustion performance.

(Code 1988, § 9-21.3; Ord. 98-A(1), 8-5-98)

Sec. 6-404 Prohibitions on open burning.

A. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of refuse except as provided in this ordinance.

B. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

C. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of hazardous waste or containers for such materials.

D. No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the disposal of commercial/industrial waste.

E. Open burning or the use of special incineration devices permitted under the provisions of this ordinance does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this ordinance. In this regard special attention should be directed to § 10.1-1142 of the Forest Fire Law of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.

F. Upon declaration of an alert, warning or emergency stage of an air pollution episode as described in Part VII of the Regulations for the Control and Abatement of Air Pollution or when deemed advisable by the State Air Pollution Control Board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special incineration device; and any in process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.

(Code 1988, § 9-22; Ord. 98-A(1), 8-5-98)

Sec. 6-405 Exemptions.

The following activities are exempted to the extent covered by the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution:

1. open burning for training and instruction of government and public fire fighters under the supervision of the designated official and industrial in-house firefighting personnel;

2. open burning for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers;

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3. open burning for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack;
4. open burning for forest management and agriculture practices approved by the State Air Pollution Control Board; and
5. open burning for the destruction of classified military documents.

(Code 1988, § 9-22.1; Ord. 98-A(1), 8-5-98)

Sec. 6-406 Permissible open burning.

A. Open burning is permitted for the disposal of leaves and tree, yard and garden trimmings located on the premises of private property, provided that the conditions are met:

1. the burning takes place on the premises of the private property; and
2. the location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted.

B. Open burning is permitted for the disposal of household refuse by homeowners or tenants, provided that all of the following conditions are met:

1. the burning takes place on the premises of the dwelling;
2. animal carcasses or animal wastes are not burned;
3. garbage is not burned; (and)
4. the location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; and
5. no regularly scheduled public or private collection service for such refuse is available at the adjacent street or public road.

C. Open burning is permitted for disposal of debris waste resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or from another clearing operations which may be approved by the fire official, provided that all of the following conditions are met:

1. all reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles approved by the fire official;
2. the material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;
3. the burning shall be at least 500 feet from an occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted;
4. the burning shall be conducted at the greatest distance practicable from highways and air fields;

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5. the burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;

6. the burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and

7. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

D. Open burning is permitted for disposal of debris on the site of local landfills provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas provided that all of the following conditions are met:

1. the burning shall take place on the premises of a local sanitary landfill which meets the provisions of the regulations of the Virginia Waste Management Board;

2. the burning shall be attended at all times;

3. the material to be burned shall consist only of brush, tree trimmings, yard and garden trimmings, clean burning construction waste, clean burning debris waste, or clean burning demolition waste;

4. all reasonable effort shall be made to minimize the amount of material that is burned;

5. no materials may be burned in violation of the regulations of the Virginia Waste Management Board or the State Air Pollution Control Board.

The exact site of the burning on a local landfill shall be established in coordination with the regional director and the fire official; no other site shall be used without the approval of these officials. The fire official shall be notified of the days during which the burning will occur.

(Code 1988, § 9-22.1; Ord. 98-A(1), 8-5-98)

Sec. 6-407 Permits.

A. When open burning of debris waste (section 6-406(C)) or open burning of debris on the site of a local landfill (section 6-406(D)) is to occur within Albemarle County, the person responsible for the burning shall obtain a permit from the fire official prior to the burning. Such a permit may be granted only after confirmation by the fire official that the burning can and will comply with the provisions of this ordinance and any other conditions which are deemed necessary to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by fire official.

B. Prior to the initial installation (or reinstallation, in cases of relocation) and operation of special incineration devices, the person responsible for the burning shall obtain a permit from the fire official, such permits to be granted only after confirmation by the fire official that the burning can and will comply with the applicable provisions in Regulations for the Control and Abatement of Air Pollution and that any conditions are met which are deemed necessary by the fire official to ensure that the operation of the devices will not endanger the public health and welfare. Permits granted for the use of special incineration devices shall at a minimum contain the following conditions:

1. all reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood;

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2. the material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;

3. the burning shall be at least 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If the fire official determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased;

4. the burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials;

5. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area;

6. the use of special incineration devices shall be allowed only for the disposal of debris waste, clean burning construction waste, and clean burning demolition waste; and

7. permits issued under this paragraph shall be limited to a specific period of time deemed appropriate by the fire official.

C. An application for a permit under section 6-407(A) or 6-407(B) shall be accompanied by a processing fee as set forth in the fee schedule maintained by the fire official, as may be amended from time to time.

(Code 1988, § 9-24; Ord. 98-A(1), 8-5-98)

Sec. 6-408 Penalties for violation.

A. Any violation of this ordinance is punishable as a class 1 misdemeanor.

B. Each separate incident may be considered a new violation.

C. The fire official shall enforce the terms and conditions of this ordinance.

(Code 1988, § 9-25; Ord. 98-A(1), 8-5-98)