

ALBEMARLE COUNTY CODE

CHAPTER 6

FIRE PROTECTION

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ARTICLE I. COORDINATED FIRE AND RESCUE SYSTEM

DIVISION 1. IN GENERAL

Sec. 6-100. Purpose.

The board of supervisors, determined to provide for the public safety, health and welfare of Albemarle County citizens and communities, hereby establishes a coordinated and integrated fire and emergency medical service system currently composed of the following, volunteer fire companies, volunteer rescue squads and the Albemarle County Department of Fire and Rescue:

- Charlottesville-Albemarle Rescue Squad
- Crozet Volunteer Fire Department
- Earlsville Volunteer Fire Company
- East Rivanna Volunteer Fire Company
- North Garden Volunteer Fire Company
- Scottsville Volunteer Fire Department
- Scottsville Volunteer Rescue Squad
- Seminole Trail Volunteer Fire Department
- Stony Point Volunteer Fire Company
- Western Albemarle Rescue Squad

In taking this measure to assure the most efficient and effective service possible and to meet the challenges of the growth and development of the jurisdiction, the board of supervisors specifically recognizes the essential and historical contributions of volunteers and the necessity of continuing and expanding volunteer participation, without which the county could not discharge its responsibilities.

The coordinated fire and rescue system shall work to develop an integrated and seamless systems approach to the provision of emergency services; promote the interests and welfare of county citizenry and communities; perform with maximum cost-effectiveness consistent with safety objectives; account for service delivery and resource utilization; and communicate and consider all views regarding the system.

(Ord. 11-6(1), 4-20-11)

Sec. 6-101. Definitions.

For the purposes of this article and, unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

Albemarle County Department of Fire and Rescue means the county agency responsible for delivering fire, rescue and emergency medical services in partnership with the volunteer organizations within the coordinated fire and rescue system.

Board or board of supervisors means the Board of Supervisors of Albemarle County.

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Company means a volunteer fire company or department located in Albemarle County. Each individual fire-fighting organization within the county shall be defined as a “fire company,” as provided in Virginia Code §27-8.1.

County employees or County staff means employees of the Albemarle County Department of Fire and Rescue who provide fire, rescue, and emergency medical services as members of the coordinated fire and rescue system.

County volunteers mean volunteers of the Albemarle County Department of Fire and Rescue who provide fire, rescue and emergency medical services as members of the coordinated fire and rescue system. County volunteers are not members of incorporated fire companies or rescue squads.

Executive Committee means a committee of the FEMS Board as provided in section 6-108.

Fire EMS Board or FEMS Board means the Albemarle County Fire and Emergency Medical Services (EMS) Board, formerly known as the Albemarle County Fire and Rescue Advisory Board, which advises the fire and rescue chief and performs additional functions as provided in sections 6-106 and 6-107.

Fire and rescue chief or chief means the director of the Albemarle County Coordinated Fire and Rescue System, as established in section 6-104.

Policies mean the rules and regulations of the coordinated fire and rescue system, including standard operating guidelines and standard administrative procedures.

Rescue squad means a volunteer rescue squad or emergency medical services organization, as described by Virginia Code §32.1-111.1 *et seq.*, that is located in Albemarle County, as well as the Charlottesville-Albemarle Rescue Squad, which has its principal place of business in the City of Charlottesville.

Volunteers mean non-employee volunteer members of the several fire companies and rescue squads set forth in section 6-100.

(Ord. 11-6(1), 4-20-11)

State law reference—Definitions, Virginia Code § 32.1-111.1

DIVISION 2. ESTABLISHMENT OF THE COORDINATED FIRE AND RESCUE SYSTEM

Sec. 6-102. Establishment and composition of the coordinated fire and rescue system.

(a) The Albemarle County Coordinated Fire and Rescue System (“the system” or “the coordinated fire and rescue system”) is hereby established pursuant to Virginia Code §27-6.1. The coordinated fire and rescue system shall provide comprehensive fire, rescue, and emergency medical services throughout the county in accordance with state laws, county ordinances, and duly adopted policies issued by the system.

(b) The coordinated fire and rescue system shall be a combined force of non-employee volunteer members of the several fire companies and rescue squads, county employees, and county volunteers of the Albemarle County Department of Fire and Rescue. The following volunteer fire companies and rescue squads, and any others that may be duly established in the future, along with county volunteers, constitute an indispensable part of the public safety program for the county: Charlottesville-Albemarle Rescue Squad, Crozet Volunteer Fire Department, Earlysville Volunteer Fire Company, East Rivanna Volunteer Fire Company, North Garden Volunteer Fire Company, Scottsville Volunteer Fire Department, Scottsville Volunteer Rescue Squad, Seminole Trail Volunteer Fire Department, Stony Point Volunteer Fire Company, and Western Albemarle Rescue Squad.

(Ord. 11-6(1), 4-20-11)

State law reference – Virginia Code §§27-6.1, 27-8.1

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Sec. 6-103. Responsibilities of the coordinated fire and rescue system.

The coordinated fire and rescue system shall:

(1) Manage the delivery of prehospital emergency patient care and services through policy development and implementation consistent with state emergency medical services regulations and the guidance of each organization's operational medical director.

(2) Manage the provision of system-wide fire prevention, protection, investigation, suppression, education and rescue services, and services relating to hazardous materials and other hazards posing a threat to life and property, through policy development and implementation.

(3) Provide any additional, related, system-wide services that are essential for the provision of high-quality fire and emergency medical services.

(4) Perform and deliver services consistent with state laws, county ordinances, and duly adopted policies of the coordinated fire and rescue system.

(Ord. 11-6(1), 4-20-11)

State law reference – Virginia Code §§27-7, 27-14, and 32.1-111.14

Sec. 6-104. Fire and Rescue Chief.

The director of the coordinated fire and rescue system shall be known as the fire and rescue chief, who shall be appointed by the board of supervisors upon recommendation by the county executive following a selection process that includes representation from both the fire and emergency medical services membership as designated by the FEMS Board. The fire and rescue chief shall:

(1) Provide general oversight and management of the system's functions through:

a. Strategy development, in collaboration with the FEMS Board, for the retention and expansion of the volunteer base within the system to ensure that the health of the volunteer system remains a high priority for the fire and rescue chief.

b. Policy development, in collaboration with the FEMS Board, of system-wide policies that are essential to the effective and equitable provision of high-quality, countywide fire and rescue services, and overseeing the implementation of those system-level policies. All policies of the coordinated fire and rescue system shall be developed through the collaborative policy procedures established by section 6-109 and shall include, but not be limited to:

i. Standard operating guidelines for the system's delivery of fire, rescue, and emergency medical services;

ii. System performance standards, such as minimum staffing and response goals;

iii. A seamless command structure and incident command system that complies with federal and state incident management standards;

iv. Minimum personnel, training, licensure, and reporting requirements for the welfare of county and volunteer personnel and the delivery of high-quality fire and rescue services;

v. System fleet size, deployment, and functions;

vi. Minimum standards regarding apparatus and equipment;

vii. System funding by the county and system budget matters; an

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viii. A process for setting and maintaining first due areas, response districts and apparatus response orders.

(2) Make day-to-day operational decisions necessary for the coordinated system on matters not specifically addressed by system-wide policies. Prior to any significant decision affecting the coordinated system, however, the fire and rescue chief shall consult with the executive committee and consider all reasonable recommendations from the executive committee to the maximum extent possible. If exigent circumstances do not permit such prior consultation with the executive committee, the fire and rescue chief shall advise the executive committee as soon as practicable after the decision is made and seek its recommendations for future actions. The FEMS Board may at any time discuss and review significant system-wide decisions made by the fire and rescue chief without its prior consultation.

(3) Serve as the executive of the system to support the FEMS Board by leading and facilitating the executive committee; participating fully in FEMS Board meetings, communications, programs and activities; providing and managing county staff support, as needed, for the FEMS Board and executive committee; and overseeing the preparation of FEMS Board and executive committee agendas and meeting documents. The fire and rescue chief shall also be a full voting member of the FEMS Board. In no way shall this subsection diminish the authority of the county executive to supervise the fire and rescue chief.

(4) Provide general management, planning, preparation, response and recovery for any disaster relating to fires, hazardous materials, rescues or emergency medical services that may occur in the county.

(5) Assume responsibility, under the authority of the county executive, for actions necessary to implement and carry out agreements for mutual aid, disaster preparedness and the provision of services related to hazardous materials, rescues, fire suppression, investigation, medical services or other emergency response services deemed necessary in the judgment of the fire and rescue chief in events exceeding the capabilities of an individual locality or government agency.

(6) Exercise all powers authorized by state law as necessary for the provision of fire and emergency medical services.

(Ord. 11-6(1), 4-20-11)

State law reference – Virginia Code §§27-6.1, 27-7.

Sec. 6-105. Volunteer fire companies and rescue squads; volunteer chiefs.

(a) *General; authority to create by-laws.* Volunteer fire companies and rescue squads may be formed, named and dissolved in accordance with state law and board approval. They shall operate in conformity with state laws, county ordinances, and the duly adopted policies of the coordinated fire and rescue system. Boards and governing authorities of volunteer companies and squads shall have full authority to adopt policies, guidelines and protocols for the governance of their stations, except where specifically constrained by state law, county ordinances, or policies of the coordinated fire and rescue system as they are duly adopted. Nothing in this article is intended, nor shall it be construed, to make any member of a volunteer company or squad an employee of the county.

(b) *Responsibilities.* Volunteer fire companies and rescue squads shall have all the powers and duties granted to them by state law. They shall also execute the following responsibilities in conformity with their respective organizational by-laws, chains of command, and the duly adopted policies of the coordinated fire and rescue system:

1. Managing performance by the company or squad, including directing station activity and operations as needed;

2. Assuming or delegating the role of incident commander within the system's integrated incident command structure;

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3. Providing management of response districts and apparatus response orders;
4. Selecting and promoting officers and other personnel;
5. Recruiting, retaining and advocating on behalf of volunteer members;
6. Managing officers and personnel, including disciplining, training, and keeping records;
7. Preparing their annual budgets for submission to the county, and managing their budgets;
8. Fundraising and managing all funds and assets that derive from private or non-county sources;
9. Collecting and forwarding to the fire and rescue chief such data, statistics and other information as may be necessary to assure the efficient and economical operation of the coordinated fire and rescue system;
10. Caring for and maintaining station facilities, apparatus and equipment; and
11. Managing station procurement of supplies and coordinating station procurement and stewardship of county-supported apparatus, equipment, and tools.

(c) *Chiefs.* The operational head of each volunteer fire company and rescue squad within the coordinated fire and rescue system shall be selected according to the by-laws of the company or squad and shall be known as the chief. Volunteer chiefs shall exercise the authority granted to them by state law and the by-laws of their organizations, so long as their actions do not conflict with the provisions of this article or the duly adopted policies of the coordinated fire and rescue system.

(Ord. 11-6(1), 4-20-11)

State law reference – Virginia Code §§15.2-955, 27-9, 27-10, and 32.1-111.14

Sec. 6-106. Establishment and composition of FEMS Board.

(a) The Albemarle County Fire and EMS Board (“FEMS Board”) is hereby established to accomplish the following:

1. Collaborate with and advise the fire and rescue chief concerning the delivery of fire, rescue and emergency medical services as representatives of the volunteer companies and squads and as described by this article;
2. Facilitate communication and collaboration between the volunteer and county-employed members of the coordinated fire and rescue system; and
3. Communicate issues of importance to the fire and rescue chief concerning individual volunteer organizations or the coordinated fire and rescue system.

Nothing in this article abridges the First Amendment rights of private citizens to communicate directly with the county executive or the board of supervisors.

(b) The FEMS Board shall be composed of the highest ranking operational leader of each of the volunteer organizations listed in section 6-102 of this article and the fire and rescue chief, who shall also serve as the executive of the system in accordance with section 6-104. Nothing in this section shall be construed to prevent the FEMS Board from adopting by-laws concerning voting rights and the delegation of duties.

(Ord. 11-6(1), 4-20-11)

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Sec. 6-107. Responsibilities of the FEMS Board.

The FEMS Board shall perform the following duties:

(1) Adopt by-laws for its operation consistent with this article, including, but not limited to, by-laws concerning the voting rights of members and the delegation of member responsibilities.

(2) Review all proposed policies affecting the coordinated fire and rescue system and provide comments and advice to the fire and rescue chief through the collaborative procedures established in section 6-109 and ensure the communication of duly adopted system-level policies to all companies and squads.

(3) Appoint a committee or committees to meet regularly with the fire and rescue chief, county staff and, if appropriate, county volunteers, in order to consider concerns and provide input regarding:

- a. Incident management;
- b. Non-conformance with duly adopted system policies; and
- c. Assurance of quality in the delivery of emergency services.

(4) Appoint such additional committees as may be necessary, as well as committees that may be useful to facilitate communication regarding matters of importance to the coordinated fire and rescue system in the performance of its essential mission, including county staff and county volunteers in such committees, as appropriate.

(5) Appoint an executive committee to perform the responsibilities outlined in section 6-108.

(6) Review and provide input and recommendations to the fire and rescue chief regarding new initiatives for the system's operating and capital improvement budgets.

(7) Develop, in collaboration with the fire and rescue chief, a broadly supported grievance procedure for chiefs of volunteer organizations to contest decisions of the fire chief to the county executive or his designee in matters affecting individual volunteers, who are not employees of the county, in accordance with section 6-109. The general management and discipline of volunteers shall be a station-level responsibility, as provided in section 6-107.

(8) Meet on a regular basis in order to perform its responsibilities under this section, and present a report at least annually to the board of supervisors regarding the health and welfare of the volunteer system.

Nothing in this article abridges the First Amendment rights of private citizens to communicate directly with the county executive or the board of supervisors.

(Ord. 11-6(1), 4-20-11)

Sec. 6-108. Executive committee of the FEMS Board.

(a) *Composition.* The executive committee of the FEMS Board shall be composed of the chair and vice-chair of the FEMS Board, a fire representative selected by the FEMS Board in accordance with its by-laws, and a rescue representative selected by the FEMS Board in accordance with its by-laws. The fire and rescue chief shall lead and facilitate the executive committee. Executive committee members must be active members in good standing with their respective volunteer companies and squads.

(b) *Terms of service.* The FEMS Board shall determine the terms of service for committee members, who shall serve at the pleasure of the FEMS Board.

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(c) *Responsibilities.* The executive committee shall advise the fire and rescue chief in a timely manner on all proposed policies of the coordinated fire and rescue system and on any other system matter for which the fire and rescue chief requests input and advice. In addition, the executive committee shall perform other functions delegated by the FEMS Board in accordance with this article and FEMS Board by-laws. The executive committee shall meet as frequently as needed to discharge these responsibilities.

Sec. 6-109. Procedure for developing policies of the coordinated fire and rescue system.

(a) *Purpose.* In adopting this article the board of supervisors recognizes that, to have full effect, policies must be developed through a collaborative process and enjoy the support of a majority of the elements of the coordinated fire and rescue system. The procedures in this section are intended to assist the fire and rescue chief, the FEMS Board, and the executive committee in the collaborative and careful development of policies for the system. These procedures may be changed at any time by agreement of the fire and rescue chief and the FEMS Board by a majority vote. In addition, the fire and rescue chief may at any time seek more input and advice from the executive committee or FEMS Board than this section requires.

(b) *Initiative and Drafting.* Any member of the coordinated fire and rescue system may suggest new policies or policy amendments to the fire and rescue chief and the FEMS Board through the member's chain of command. In cooperation with the executive committee, the fire and rescue chief shall oversee the preparation of new system-level policies and the review of all existing system-level policies. Policies that affect only county employees or county volunteers will not be considered by the executive committee. Draft policies, prepared by the fire and rescue chief, shall be submitted to the executive committee for joint consideration and collaborative development. The draft will be accompanied by a written report summarizing the rationale for the policy and the impacts, if any, on volunteer budgets and volunteer members' time.

(c) *Executive Committee Role in Policy Development.* The executive committee shall review and evaluate all draft policies proposed by the fire and rescue chief or others in light of the following standard: whether the policy is essential to the effective and equitable provision of high-quality, countywide fire and rescue services (hereinafter, "system policy standard"). Within thirty (30) calendar days of receiving the initial draft policy, barring unforeseen circumstances, the executive committee shall review the draft and decide to: support the policy as worded; support the policy with specific revisions; or decline to support the policy. The committee may accompany its decision with a written explanation of its position, although it must provide a written explanation in the event it declines to support the policy.

The fire and rescue chief shall consider the comments and recommendations of the executive committee and shall incorporate such recommendations for revision which, in his judgment, meet the system policy standard. The fire and rescue chief shall then re-submit the draft, with any revisions, to the executive committee for additional review and comment, repeating this process until he is satisfied that the resulting draft meets the system policy standard and addresses the reasonable concerns of the executive committee. Should the chief decline to accept any material recommendation for revision from the executive committee, he shall provide a written explanation of his decision to the executive committee and attempt to reach a consensus with the committee prior to submitting the proposed policy to the FEMS Board.

During the collaborative process described above, the executive committee shall brief other members of the FEMS Board on the progress of its work with the fire and rescue chief and solicit from the FEMS Board any questions, concerns and suggestions for introduction to the chief.

(d) *FEMS Board Deliberations.* After completing collaborative consultations with the executive committee as described above, the fire and rescue chief shall submit the proposed policy, along with any annotations he considers necessary, to the full FEMS Board for its review. If, after following the collaborative process described above, the executive committee wishes to advance a policy which the fire and rescue chief has declined to issue, as evidenced in written notice to the executive committee, the

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executive committee shall submit the policy to the FEMS Board for its review. The fire and rescue chief may submit an alternative policy or a written summary of the reasons for his decision to decline issuance with the executive committee's policy for simultaneous review by the FEMS Board. If both the fire and rescue chief and the executive committee submit policies for simultaneous review by the FEMS Board, the FEMS Board shall consider and vote on both policies at the same meeting.

Provided that the proposed policy is submitted to the FEMS Board at least fourteen (14) calendar days before any monthly meeting, the FEMS Board shall take action on the policy at that meeting unless the FEMS Board decides, by a majority vote, to require a second reading of the policy at the following meeting. After considering the draft policy in light of the system policy standard defined in §6-109(c), the FEMS Board shall take one of the following actions by majority vote, which shall be reflected fully in the minutes of the FEMS Board:

1. Accept the draft policy as worded.
2. Support the policy in principle, but with specific revisions.
3. Decline to accept the policy. If the FEMS Board subsequently votes to appeal the policy, it must provide a clear explanation for its vote at that meeting, and may, at its discretion, follow with a written explanation of the reasons for its opposition.

After the FEMS Board votes to take an action described in numbers 2 or 3 above on a policy proposed by the fire and rescue chief, the chief shall reconsider the draft policy in light of the system policy standard defined in §6-109(c) and incorporate such revisions from the FEMS Board which, in his judgment, meet that standard. The chief shall then submit any revised draft policy to the FEMS Board or the executive committee for additional review and consider any further recommendations, repeating this process until he is satisfied that the resulting draft policy meets the system policy standard and addresses the reasonable concerns of the FEMS Board. The chief shall submit his final draft policy to the FEMS Board at least fourteen (14) calendar days before their next meeting for final consideration.

(e) *Adoption of Policies.* The fire and rescue chief shall be authorized to adopt and issue a policy of the coordinated fire and rescue system immediately after a vote by the FEMS Board to support the policy as worded. Should the FEMS Board vote to support the policy with revisions, or to decline to support the policy, the chief shall be authorized to, but need not, issue the proposed policy as submitted after providing written notice to the FEMS Board at least fourteen (14) days prior to the next FEMS Board meeting. In that event, the policy shall take effect the day after the next FEMS Board meeting or later, if the policy specifies a later effective date. Any vote by the FEMS Board to appeal a policy shall immediately suspend the adoption and issuance of the policy.

(f) *Appeals of Policies.* Appeals of proposed policies will be taken in accordance with this section. The FEMS Board may vote to appeal either a proposed policy of the fire and rescue chief, or to appeal the chief's decision to decline issuance of the executive committee's proposed policy, by a majority vote taken no later than the next meeting following the introduction of the policy to the FEMS Board or the meeting following the second reading of the policy, if a second reading has been required by the FEMS Board. The minutes of the FEMS Board shall reflect the vote to appeal and a summary of all statements made during the deliberation of the policy. Within seven (7) calendar days of any vote to appeal, the chairman of the FEMS Board shall submit a written notice of appeal, including a statement of the basis for the appeal, to the county executive. If the appeal arises from the chief's decision to decline to issue the executive committee's proposed policy, both the executive committee's proposed policy and any alternative proposed policy of the fire and rescue chief shall be submitted for joint review throughout the appeal process.

Within ten (10) calendar days of receiving the notice of appeal, the county executive or his designee shall provide a written decision to the FEMS Board and the fire and rescue chief. Decisions shall be based on whether the proposed policy or policies meet the system policy standard as defined in §6-109(c). A decision that the appeal has merit may also provide guidance to the fire and rescue chief and the executive committee regarding further work to be undertaken on the disputed policy. A decision that the

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appeal is without merit may be appealed to the board of supervisors by a majority vote of the FEMS Board at its next meeting.

Within seven (7) calendar days of the vote to appeal to the board of supervisors, the chairman of the FEMS Board shall submit a written notice of appeal, including a statement of the basis for the appeal, to the clerk of the board of supervisors. The written notice of appeal will be accompanied by a packet, compiled by county staff, containing a copy of the following: all documents submitted by the FEMS Board, fire and rescue chief, and the county executive as part of the appeal process; the proposed policy or policies; and the minutes, if any, reflecting FEMS Board deliberations on the proposed policy or policies. Any party may include such other documents it believes would be helpful for the board of supervisors to consider by providing them to the clerk of the board of supervisors prior to the expiration of the seven (7) calendar days described above. The board of supervisors shall consider the appeal at a subsequent meeting and issue a decision that the appeal should be sustained or not sustained, in whole or in part. The basis for the decision shall be whether the proposed policy or policies meet the system policy standard as defined by §6-109(c).

(Ord. 11-6(1), 4-20-11)

Sec. 6-110. Noncompliance with system policies.

(a) *Purpose.* A peer-accountability procedure for enforcing duly-adopted system policies applicable to volunteer fire companies and rescue squads is hereby established to accomplish the following:

1. full and consistent adherence to system policies by all member organizations;
2. fair, equitable, and objective consideration of all potential material noncompliance violations in accordance with this section;
3. management of discipline and compliance remediation efforts by the chief of the noncompliant organization to the greatest extent possible; and
4. promotion of open and ongoing communication by and between member organizations about policy compliance matters.

(b) *Definition of Material Noncompliance.* “Material noncompliance” or “materially noncomplying” with system policies means a failure to adhere to a system policy adopted in accordance with section 6-109 which: (i) is committed on two or more separate occasions, or on a single occasion if the alleged conduct involves either civil legal violations or actions by multiple members of the organization’s leadership, or is committed intentionally after notice that the conduct would violate system policy; and (ii) does one or more of the following:

1. threatens the health, safety or welfare of county citizens, volunteers or county staff;
2. impairs the operational readiness of the coordinated fire and rescue system to deliver fire and emergency medical services;
3. violates any applicable civil federal, state or local law; or
4. involves the violation of a policy provision regarding public funds.

(c) *Informal Resolution of Concerns.*

1. The chiefs of all member organizations and the fire and rescue chief shall be entitled to communicate concerns about noncompliance with system policies to the chiefs of those organizations believed to be noncompliant.

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2. For all noncompliance concerns that rise to the level of “material noncompliance,” as defined by this section, the complaining chief must first notify the chief of the noncompliant organization and make reasonable efforts to achieve a mutually agreeable resolution, consistent with system policies and this article, with that chief prior to initiating the procedures for formal resolution of material noncompliance. The complaining chief shall also apprise the executive committee and the fire and rescue chief of the compliance concern and resolution efforts, and may seek assistance from the fire and rescue chief for such efforts.

3. Should such efforts to achieve a mutually agreeable resolution of material noncompliance fail, the complaining chief shall initiate a formal procedure for material noncompliance in accordance with subsection (d).

(d) *Formal Resolution of Material Noncompliance Complaints.*

1. *Initiating Complaint.* After completing the informal resolution process established in subsection (c), the chief of any member organization or the fire and rescue chief may initiate a formal Complaint of Material Noncompliance with System Policy (“Complaint”) by submitting the Complaint in writing to the executive committee. The Complaint must state, at a minimum, which policy or policies has been violated, and a summary of the facts supporting the violation.

2. *Investigation of the Complaint.* As soon as practicable after receiving the Complaint, the executive committee and the fire and rescue chief shall consider the Complaint and determine whether reasonable cause exists to believe that the charged organization has materially noncomplied with a system policy. If the executive committee decides, by a majority vote, that reasonable cause exists, the executive committee shall undertake a formal investigation of the Complaint or appoint a committee to conduct the investigation. The investigation shall be concluded as soon as practicable and no later than thirty (30) calendar days after receiving the charge to investigate the Complaint, unless extraordinary circumstances justify the need for a longer investigative period. Should the fire and rescue chief disagree with the majority vote of the executive committee as to whether reasonable cause exists, the investigation shall be conducted as described in this section.

3. *Determination of Material Noncompliance.* The executive committee, or the committee appointed by the executive committee to conduct the investigation, shall prepare a written report summarizing the investigation and its factual conclusions and submit the report to the executive committee and the fire and rescue chief no later than ten (10) calendar days following the conclusion of the investigation. As soon as practicable following receipt of the report, the executive committee shall determine whether the charged organization has materially noncomplied with system policy. If the executive committee determines, by majority vote, that the charged organization has materially noncomplied with system policy, with the concurrence of the fire and rescue chief, the steps described in subsection (d)(iv) (Remediation) shall be followed. Should the fire and rescue chief disagree with the majority vote of the executive committee, the chief shall be authorized to take, but need not take, any action permitted by subsection (g) (Authority Reserved for Immediate Action) as needed to act in the best interest of the system.

4. *Remediation.* As soon as practicable following a determination of material noncompliance, the executive committee shall, in consultation with the fire and rescue chief, design a plan for remediating the noncompliance. The executive committee shall communicate the plan to the charged organization and oversee implementation of the plan. Should the charged organization substantially fail to implement the plan, the fire and rescue chief may modify the plan, discontinue the plan, implement an alternative plan, and/or take other action as needed. Prior to taking these steps, however, the fire and rescue chief must consult the executive committee about his intended action and consider its recommendations except when immediate action under subsection (g) is required, in which case he shall consult with the executive committee as soon as practicable after such action.

5. *Referral for Dissolution or Reduction in Funding.* If the executive committee and fire and rescue chief determine that the nature of the material noncompliance is so serious as to merit

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consideration of dissolution of the organization or reduction in its funding by the board of supervisors, they shall apprise the FEMS Board of the investigation and their recommendation for such action. After such appraisal, a recommendation may be made by the fire and rescue chief to the county executive for referral to the board of supervisors, which shall retain at all times the sole authority to dissolve a fire or rescue organization, pursuant to Virginia Code §27-10, and to determine annual appropriations.

(e) *Appeal Procedure for Determinations of Material Noncompliance.*

1. *Filing of Appeal.* Once the determination of material noncompliance has been made and the plan of remediation has been issued to the charged organization, the charged organization may appeal, in writing, the determination of material noncompliance, the plan of remediation, or both, to the county executive within thirty (30) calendar days of receiving the plan of remediation. The appeal must state the decision being appealed and the basis for the appeal. The charged organization may be assisted in its appeal by any member of the FEMS Board or by any individual.

2. *FEMS Board Review.* At the request of the charged organization, the FEMS Board shall review and discuss the Complaint, investigation report, determination of material noncompliance, and plan of remediation at its next meeting. After such consideration, the FEMS Board may, but need not, decide by a majority vote to provide a recommendation to the fire and rescue chief and to the county executive concerning the appeal.

3. *County Executive's Decision.* Within thirty (30) calendar days of receiving a timely appeal from a charged organization, the county executive or his designee shall issue a written decision to the charged organization, the fire and rescue chief, and the FEMS Board. A decision that the appeal has merit may also provide guidance to the fire and rescue chief and the executive committee regarding the determination of material noncompliance, the plan for remediation, or both. The decision of the county executive shall end the appeal process.

(f) *Disqualification from Voting.* No representative of an organization charged with material noncompliance may participate in the investigation of any Complaint or vote as provided in this section concerning its organization. In the event that a member of the executive committee belongs to a charged organization, the executive committee shall appoint a substitute member from an organization within the system to discharge all executive committee responsibilities of that member which are required by this section.

(g) *Authority Reserved for Immediate Action.* Notwithstanding the provisions in this section, the fire and rescue chief shall be authorized at all times to take immediate action to prevent or mitigate imminent harm to the health, safety, or welfare of county citizens, volunteers or county staff; to ensure operational readiness of the coordinated fire and rescue system to deliver fire and emergency medical services; to comply with all applicable laws; and to exercise any authority otherwise provided in section 6-104. Such immediate action may be taken concurrently with the procedures for informal resolution, formal resolution and appeal described in this section.

(Ord. 11-6(1), 4-20-11)

Sec. 6- 111 Office of the Fire Marshal.

(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 shall be authorized to exercise all of the powers authorized by Title 27, Chapter 3 of the Virginia Code.

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(Code 1988, § 9-1; Ord. 98-A(1), 8-5-98, § 6-100; Ord. 11-6(1), 4-20-11)

State law reference – Virginia Code §§27-30, *et seq.*

Sec. 6- 112 Junior Firefighters Program.

Any person sixteen years of age or older is authorized to participate fully in all activities of a volunteer fire company duly authorized to operate in the county after he or she:

- (a) Becomes a member of the volunteer fire company;
- (b) Supplies to the chief fire officer of the volunteer fire company written confirmation that such person is a resident of the Commonwealth of Virginia and has parental or guardian approval; and
- (c) Attains 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, § 6-102; Ord. 11-6(1), 4-20-11)

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

Sec. 6-113. Physical examinations for firefighters and other operational members.

The county shall employ physicians to perform physical examinations of (a) every salaried and volunteer firefighter and (b) every operational member participating in any fire, rescue, or EMS service delivery activities that may occur in a potentially hazardous environment. Such physical examination shall occur when such firefighter or operational member enters the service of the coordinated fire and rescue system.

(Ord. 13-6(3), 7-3-13)

State law reference—Performance of physical examinations, Virginia Code § 27-40.1:1.

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 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)

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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.

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 §§ 15.2-974 and 27-95 to 27-100.1.

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 § 15.2-974.

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 § 15.2-974.

Sec. 6-303 Fireworks permits--Required.

A. Notwithstanding the other provisions of this article, 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. Except as provided in section 6-302, it shall be unlawful for any person to hold, present or give any such display of fireworks without first having obtained such a permit from the fire official.

B. Except as provided in section 6-302, any person, business, organization or other entity engaged in the sale, storage, distribution, manufacture or 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 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; Ord. 13-6(2), 5-8-13)

State law reference--For state law as to authority of county to adopt this section, see Va. Code § 15.2-974.

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 display.

Any fireworks remaining unfired at the end of any 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; Ord. 13-6(2), 5-8-13)

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.

(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 § 15.2-974.

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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 (9VAC5, Ch. 130), 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; Ord. 18-6(1), 10-3-18)

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) *Built-up area.* The term “built-up area” means any area with a substantial portion covered by industrial, commercial or residential buildings.

(3) *Clean burning waste.* The term “clean burning waste” means waste that is not prohibited to be burned under this ordinance and that consists of only (i) 100% wood waste, (ii) 100% clean lumber or clean wood, (iii) 100% yard waste, or (iv) 100% mixture of only any combination of wood waste, clean lumber, clean wood or yard waste.

(4) *Clean lumber.* The term “clean lumber” means wood or wood products that have been cut or shaped and includes wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

(5) *Clean wood.* The term “clean wood” means uncontaminated natural or untreated wood. Clean wood includes, but is not limited to, byproducts of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders or resins; or painted, stained or coated.

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(6) *Commercial waste.* The term “commercial waste” means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

(7) *Construction waste.* The term “construction waste” means solid waste which is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings and other 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 shall be in accordance with the regulations of the Virginia Waste Management Board.

(8) *Debris waste.* The term “debris waste” means wastes resulting from land clearing operations. Debris wastes include but are not limited to stumps, wood, brush, leaves, soil and road spoils.

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

(10) *Garbage.* The term “garbage” means readily putrescible discarded materials composed of animal, vegetable or other organic matter.

(11) *Hazardous waste.* The term “hazardous waste” means a “hazardous waste” as described in 9 VAC 20-60 (Hazardous Waste Management Regulations).

(12) *Household waste.* The term “household waste” means any waste material, including garbage, trash and refuse derived from households. For purposes of this regulation, households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Household wastes do not include sanitary waste in septic tanks (seepage) that is regulated by other state agencies.

(13) *Industrial waste.* The term “industrial waste” means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(14) *Junk.* The term “junk” means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(15) *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.

(16) *Landfill.* The term “landfill” means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Part 1 (9 VAC 20-81-10 et seq.) of 9 VAC 20-81 (Solid Waste Management Regulations) for further definitions of these terms.

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

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(18) *Open burning*. The term “open burning” means the combustion of solid waste without:

1. Control of combustion air to maintain adequate temperature for efficient combustion;
2. Containment of the combustion reaction in an enclosed device to produce sufficient residence time and mixing for complete combustion; and
3. Control of the combustion products’ emission.

(19) *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.

(20) *Refuse*. The term “refuse” means all solid waste products having the characteristics of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up spoils or contamination or other discarded materials.

(21) *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.

(22) *Sanitary landfill*. The term “sanitary landfill” means an engineered land burial facility for the disposal of household waste that 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, construction, demolition, or debris waste and nonhazardous industrial solid waste. See Part I (9 VAC 20-81-10 et seq.) of 9 VAC 20-81 (Solid Waste Management Regulations) for further definitions of these terms.

(23) *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.

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

(25) *Wood waste*. The term “wood waste” means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

1. Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.
2. Construction, renovation, or demolition wastes.
3. Clean lumber.

(26) *Yard waste*. The term “yard waste” means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include (i) construction, renovation, and demolition wastes or (ii) clean wood.

(Code 1988, § 9-21.3; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13)

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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. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of household waste or garbage.

F. 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.

G. Open burning shall be prohibited when atmospheric conditions or local circumstances make such fires hazardous as described in Chapter 70 of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution, Air Pollution Episode Prevention. When open burning creates or adds to a hazardous situation, or a required permit for open burning has not been obtained, the Fire Marshal is authorized to order the extinguishment of the open burning operation.

(Code 1988, § 9-22; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13; Ord. 18-6(1), 10-3-18)

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;

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)

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Sec. 6-406 Permissible open burning.

A. Open burning is permitted for the disposal of leaves and tree, yard, and garden trimmings originating from and located on the premises of private property, provided that the following 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 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 any other 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 originating from and located on the premises, and shall not include demolition material;
3. the burning shall be at least 2,000 feet, or 1,000 feet when using an incinerator device, from any occupied building not on the same property on which the burning is conducted, unless the occupant of the building has given prior written permission for the burning;
4. the burning shall be conducted at the greatest distance practicable from highways and air fields;
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;
7. the burning shall be conducted only between 8:00 a.m. and 8:00 p.m.;
8. the burning shall be conducted only Monday through Friday;
9. the burning shall not be conducted during the restricted dates of February 15 through April 30 of each year; and
10. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

C. 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;

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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; Ord. 13-6(1), 1-9-13; Ord. 18-6(1), 10-3-18)

State law reference – Va. Code § 10.1-1142.

Sec. 6-407 Permits.

A. *Permit for open burning required.* When open burning of debris waste (section 6-406(B)) or open burning of debris on the site of a local landfill (section 6-406(C)) is to occur within Albemarle County, the person responsible for the burning shall obtain a permit from the Fire Official prior to the burning.

B. *Application for permit.* The person responsible for the burning shall submit a complete application for a permit, which shall include proof of liability insurance in an amount of no less than \$1.5 million and must be issued by a company registered with the Virginia Bureau of Insurance. A written site and burn plan shall be submitted with any application.

C. *Issuance of permit.* 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 and in conformance with this article.

D. *Number of permits.* No more than three permits shall be issued per year for any parcel.

E. *Permit for use of special incineration device.* 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;

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 1,000 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;

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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 and in conformance with this article.

F. *Fees.* An application for a permit under section 6-407(B) or 6-407(E) 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. An application is not complete without payment of the processing fee.

(Code 1988, § 9-24; Ord. 98-A(1), 8-5-98; Ord. 13-6(1), 1-9-13; Ord. 18-6(1), 10-3-18)

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; Ord. 18-6(1), 10-3-18)

ARTICLE V. EMERGENCY MEDICAL SERVICES COST RECOVERY

Sec. 6-500 Purpose.

Pursuant to Virginia Code §32.1-111.14, it is hereby determined that the powers set forth herein must be exercised in order to assure the provision of adequate and continuing emergency services and to preserve, protect and promote the public health, safety and general welfare.

(Ord. 09-6(1), 9-9-09)

State law reference—Virginia Code § 32.1-111.14.

Sec. 6-501 Definitions.

"Agency" means any person engaged in the business, service or regular activity, whether or not for profit, of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless, or of rendering immediate medical care to such persons.

"Ambulance" means any vehicle, vessel or aircraft, which holds a valid permit issued by the Office of Emergency Medical Services, that is specially constructed, equipped, maintained and operated, and is intended to be used for emergency medical care and the transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless. The word "ambulance" may not appear on any vehicle, vessel or aircraft that does not hold a valid permit.

"Emergency medical services vehicle" means any vehicle, vessel, aircraft, or ambulance that holds a valid emergency medical services vehicle permit issued by the Office of Emergency Medical Services that is equipped, maintained or operated to provide emergency medical care or transportation of patients who are sick, injured, wounded, or otherwise incapacitated or helpless.

(Ord. 09-6(1), 9-9-09)

State law reference—Definitions, Virginia Code § 32.1-111.1.

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Sec. 6-502 Permits required.

No agency shall charge fees for transport services provided by a private emergency medical services vehicle within the county in response to a call for service originating from the county without first obtaining a permit pursuant to this section. Permits shall be issued in accordance with section 32.1-111.14 of the Virginia Code, as amended, by the county executive or his designee, upon such terms and conditions as may be needed to ensure the public health, safety and welfare. No permit shall be required for any person acting pursuant to a mutual aid agreement with the county or while assisting the county during a state of emergency. Agencies permitted pursuant to this article shall comply with all terms and conditions of their permits.

(Ord. 09-6(1), 9-9-09)

State law reference—Virginia Code § 32.1-111.14.

Sec. 6-503 Fees for emergency medical services vehicle transports.

(a) Reasonable fees shall be charged for transport services provided by emergency medical services vehicles operated by the department of fire and rescue or by any private agency permitted under this article. The schedule of fees shall be established by resolution of the board. In no event shall a person be denied transport for emergency medical services due to his or her inability to pay.

(b) The county executive shall establish policies and procedures to implement this section in accordance with applicable law, including payment standards for persons demonstrating economic hardship.

(Ord. 09-6(1), 9-9-09)